

DECLARATION OF INTEREST - CHECKLIST FOR ASSISTANCE OF MEMBERS – 2007 OVERVIEW AND SCRUTINY

Name: Councillor

Executive Overview and Scrutiny Committee:

Date: 1 October 2009

Item No: Item Title:

Nature of Interest:

A Member with a personal interest in any business of the Council must disclose the existence and nature of that interest at commencement or when interest apparent except:

- Where it relates to or is likely to affect a person described in 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose the existence and nature when you address the meeting on that business.
- Where it is a personal interest of the type mentioned in 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- Where sensitive information relating to it is not registered in the register, you must indicate that you have a personal interest, but need not disclose the sensitive information.

A Member with a prejudicial interest must withdraw, **either** immediately after making representations, answering questions or giving evidence where 4 or 6 below applies **or** when business is considered and must not exercise executive functions in relation to that business and must not seek to improperly influence a decision.

Please tick relevant boxes

Notes

	Overview and Scrutiny only		Notes
1.	I have a personal interest* but it is not prejudicial.	<input type="checkbox"/>	<i>You may speak and vote</i>
2.	I have a personal interest* but do <u>not</u> have a prejudicial interest in the business as 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.	<input type="checkbox"/>	<i>You may speak and vote</i>
(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.	<input type="checkbox"/>	<i>You may speak and vote</i>
(iii)	Statutory sick pay where I am in receipt or entitled to receipt of such pay.	<input type="checkbox"/>	<i>You may speak and vote</i>
(iv)	An allowance, payment or indemnity given to Members	<input type="checkbox"/>	<i>You may speak and vote</i>
(v)	Any ceremonial honour given to Members	<input type="checkbox"/>	<i>You may speak and vote</i>
(vi)	Setting Council tax or a precept under the LGFA 1992	<input type="checkbox"/>	<i>You may speak and vote</i>
3.	I have a personal interest* and it is prejudicial because it affects my financial position or the financial position of a person or body described in 8 overleaf 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 8 overleaf 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 4 or 7 below</i> <i>You cannot speak or vote and must withdraw unless you have also ticked 4 or 7 below</i>
4.	I have a personal and prejudicial 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>
5.	I must regard myself as having a personal and prejudicial interest in the business because it relates to a decision made (whether implemented or not) or action taken by the Cabinet or another of the Council's committees or sub-committees and, at the time the decision was made or action was taken, I was a member of the Cabinet, committee or sub-committee and I was present when that decision was made or action was taken	<input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you are a Cabinet member attending under section 21(13) of the LGA 2000 when you may speak to answer questions</i>

6.	I must regard myself as having a personal and prejudicial interest in the business because it relates to a decision made (whether implemented or not) or action taken by the Cabinet or another of the Council's committees or sub-committees and, at the time the decision was made or action was taken, I was a member of the Cabinet, committee or sub-committee and I was present when that decision was made or action was taken, however I am attending the meeting for the purpose of making representations, answering questions or giving evidence relating to the business as the public are also allowed to attend the meeting for this purpose, whether under a statutory right or otherwise	<input type="checkbox"/>	<i>You may make representations, answer questions or give evidence but must leave the room once you have finished and cannot vote</i>
7.	A Standards Committee dispensation applies.	<input type="checkbox"/>	<i>See the terms of the dispensation</i>

* **“Personal Interest”** in the business of the Council means either it relates to or is likely to affect:

- 8(1)(a)(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 -
- (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) 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 employment or business carried on by you;
- (iv) any person or body who employs or has appointed you;
- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- (ix) any land in your authority's area in which you have a beneficial interest;
- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
- (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer.

or

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 relevant 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 relevant 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 8(1)(a)(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)(b) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.

EXECUTIVE OVERVIEW AND SCRUTINY COMMITTEE

**AGENDA ITEM: 6
HELD: 2 JULY 2009**

Start: 7.30pm
Finish: 9.45pm

PRESENT:

Councillor Bailey (Chairman)
Hammond (Vice Chairman)

Councillors Baldock Griffiths
Mrs. Blake McKay
Cotterill Melling
Coyle O'Toole
Cropper R.A. Pendleton
Mrs. Evans Pope
Gartside J. Roberts
Grice W.G. Roberts

In Attendance Grant Leader
Councillor: Fowler Portfolio Holder- Community Services and Health
Mrs. Hopley Portfolio Holder – Housing
Owens Portfolio Holder – Regeneration and Estates

Officers Executive Director Housing and Property Maintenance Services (Mr B Livermore)
Head of Leisure & Cultural Services (Mr J Nelson)
LDF Project Manager (Mr I Gill)
Policy & Performance Manager (Mr P Hamlin)
Commercial Safety Manager (Mr M Tasker)
Estates & Valuation Manager (Mrs R Kneale)
Group Accountant (Mr M Kostrzewski)
Strategic Manager (Homelessness) (Ms L Gee)
Community Leisure Officer (Mrs P Campbell)
Principal Solicitor (Mr T Broderick)
Senior Member Services Officer (Mrs S Griffiths)

1. APOLOGIES

There were no apologies for absence.

2. MEMBERSHIP OF THE COMMITTEE

In accordance with Council Procedure Rule 4, Members noted the termination of membership of Councillors Carson, Duffy and Vickers and the appointment of Councillors Coyle, Cotterill and Ms. Melling for this meeting only, thereby giving effect to the wishes of the Political Groups.

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

There were no items of urgent business.

4. DECLARATIONS OF INTEREST

It is noted that the Code of Conduct in relation to personal and prejudicial interests of Cabinet Members when they have taken a decision is overridden by Section 21(13) of the Local Government Act 2000.

1. Councillors Bailey, Cropper and O'Toole declared personal interests in relation to item 13 (Appointments to Lancashire Scrutiny Partnerships Forum), as Members of Lancashire County Council.
2. Councillor Bailey declared a personal interest in relation to a paragraph within item 11 (LDF Core Strategy Draft Options Paper) in view of him having a relative employed at Edge Hill University.

5. DECLARATIONS OF PARTY WHIP

There were no declarations of a party whip.

6. MINUTES

RESOLVED: That the minutes of the last meeting of the Committee held on 8 April 2009 be approved as a correct record and signed by the Chairman.

7. CALLED IN ITEMS

Consideration was given to the following called in items, as circulated and contained on pages 7 – 116 of the Book of Reports.

8. LITTLE DIGMOOR PLAY AREA

Consideration was given to the report of the Council Secretary and Solicitor advising that a decision of Cabinet in relation to the above item (minute 11 refers) had received two call in requisitions, each signed by five Members of the Committee. The report set out the two reasons given for the call in, together with the two alternative decisions put forward by the 5 Members concerned on each of the requisition notices.

Members noted the two reasons for the decision being called in, namely a) that the 12 month timeframe was too long and a more robust approach was required and b) that insufficient account taken of the urgent need to resolve the situation.

During the ensuing discussion on the item, Members referred to the following issues:-

- Possible costs/benefits of installing CCTV
- Implications of the removal of the “sitter”
- Effects of anti social behaviour on local residents and the involvement of the Police/Maps team

RESOLVED: That Cabinet be requested to amend resolution 11 (B) of its meeting held on 16 June 2009 to confirm that the review be undertaken within three months.

9. SALE OF SMALL PLOTS OF LAND OWNED BY THE COUNCIL

Consideration was given to the report of the Council Secretary and Solicitor advising that a decision of the Cabinet in relation to the above item (minute 7 refers) had been called in by 5 Members of this Committee. The report set out the reasons given for the call in, together with an alternative decision put forward by the 5 Members concerned.

Members noted the reason for the decision being called in, namely that the methodology was insufficiently robust which would lead to potential problems and unintended consequences.

During the ensuing discussion on the item, Members referred to the following issues:-

- Possible discrimination against residents renting property being able to purchase land
- Possible implications of owner occupiers living/next to rented properties purchasing land in relation to street scene, neighbour relations
- Planning conditions to ensure adequate maintenance and appearance
- Future land use and development in context of covenant case law
- Possible ring fencing of receipts in appropriate Ward
- Ward Member involvement in sales decisions

RESOLVED: That Cabinet be requested to amend resolution 7 (A) of its meeting held on 16 June 2009 to confirm that the methodology for the sale of small parcels of land as set out in Appendices A and B attached to the report, include Ward Members as consultees.

10. FOOD SAFETY SERVICE PLAN 2009/2010

Consideration was given to the report of the Council Secretary and Solicitor advising that a decision of the Cabinet in relation to the above item (minute 12 refers) had been called in by 5 Members of this Committee. The report set out the reasons given for the call in, together with an alternative decision put forward by the 5 Members concerned.

Members noted the reason for the decision being called in namely to request that the Corporate Overview and Scrutiny Committee be included within the consultation to approve the Food Safety Plan.

During the ensuing discussion Members were advised of the status of the document together with the requirements of the Food Standards Agency in relation to Member consultation.

RESOLVED: That this Committee does not wish to ask for a different decision in relation to this item.

11. REVIEW OF THE HOUSING ALLOCATIONS POLICY

Consideration was given to the report of the Council Secretary and Solicitor advising that a decision of the Cabinet in relation to the above item (minute 13 refers) had been called in by 5 Members of this Committee. The report set out the reasons given for the call in, together with an alternative decision put forward by the 5 Members concerned.

Members noted the reason for the decision being called in, namely that the draft housing allocations policy as drafted does not take full account of housing need.

RESOLVED: That this Committee does not wish to ask for a different decision in relation to this item.

12. RELEVANT MINUTES OF CABINET

Consideration was given to the minutes of the meeting of Cabinet held on 16 June 2009.

Min. 8 – Rural Development Programme for England (RDPE) 2007-2013 – Local Development Strategy Implementation – Lancashire West Local Action Group (LAG)

A question was raised on the above minute seeking clarification on funding and areas to benefit from this. The Portfolio Holder – Regeneration and Estates gave an undertaking that he would seek further information on this issue and the Executive Manager would write to Members to clarify the position.

RESOLVED: That the minutes of the meeting of the Cabinet held on 16 June 2009 be noted.

13. KEY DECISION FORWARD PLANS - 1 MAY - 31 AUGUST, 1 JUNE - 30 SEPTEMBER AND 1 JULY - 31 OCTOBER 2009

Members noted that no items had been placed on the agenda from the Key Decision Forward Plan for the above-mentioned periods. Members also noted a summary of the procedure for reviewing the Key Decision Forward Plan.

14. CORPORATE PERFORMANCE PLAN AND SUITE OF INDICATORS 2009/10

Consideration was given to the report of the Assistant Chief Executive as circulated and contained on pages 127 – 172 of the Book of Reports on which she sought the views of the Committee on the above-mentioned item, which would be forwarded to Council on 15 July 2009.

RESOLVED: That the Committee's comments in relation the following items be forwarded to Council:-

- i) BV12 (working days lost due to sickness absence)
 - Propose reporting of this indicator identified as short term/long term/aggregate and received on a quarterly basis
 - Propose target remains at 8.08 as per 2008/09 target
- ii) BV89 (satisfaction with cleanliness of streets)
 - Clarification of dashes for target figures
- iii) WL86 (affordable housing development – Ormskirk, Aughton & Burscough)
 - Propose that performance information be provided to Members

15. LDF CORE STRATEGY DRAFT OPTIONS PAPER

Consideration was given to the report of the LDF Project Manager as circulated and contained on pages 173 – 286 of the Book of Reports on which he sought the views of the Committee on the above-mentioned item, which would be forwarded to Cabinet for consideration on 15 July 2009.

RESOLVED: That the Committee's comments in relation the following items be forwarded to Cabinet:-

- i) Para 2.39
Propose - add short description/transport links
Propose – settlements listed are not close to each other and should be referred to elsewhere
- ii) Para 2.40
Propose – add Hurlston Green and Carr Cross
- iii) Page 277 – Cultural and Leisure – “tow” path

16. REGULATION OF INVESTIGATORY POWERS ACT 2000 - CONSOLIDATING ORDERS AND CODES OF PRACTICE - PUBLIC CONSULTATION PAPER

Consideration was given to the report of the Council Secretary and Solicitor as circulated and contained on pages 287 – 293 of the Book of Reports on which she sought the views of the Committee on the above-mentioned item in order to prepare a response to the Consultation.

RESOLVED: That the report be noted.

17. APPOINTMENTS TO LANCASHIRE SCRUTINY PARTNERS FORUM

Consideration was given to the above-mentioned report of the Council Secretary and Solicitor as circulated and contained on pages 295 –297 of the Book of reports seeking representatives to serve on the Lancashire Scrutiny Partners Forum.

- RESOLVED: A. That Councillors Cotterill and Vickers be appointed as Link Members to serve on the Lancashire Scrutiny Partners Forum in addition to the Link Officer.
- B. That Constitution 4.1C be updated accordingly.

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CHAIRMAN

CABINET

HELD:

AGENDA ITEM: 9

15 SEPTEMBER 2009

Start:

7.30pm

Finish:

9.00pm

PRESENT

Councillor Grant (Leader of the Council, in the Chair)

Councillors		<u>Portfolio</u>
I Ashcroft		Human Resources
M Forshaw		Planning and Transportation
A Fowler		Community Services and Health
P Greenall		Street Scene Management
Mrs V Hopley		Housing
A Owens		Deputy Leader & Regeneration and Planning
D Westley		Finance and Performance Management

In attendance Councillors: P Cotterill I McKay R Pendleton

Officers
Chief Executive (Mr W Taylor)
Deputy Chief Executive (Mr L Abernethy)
Council Secretary and Solicitor (Mrs G Rowe)
Assistant Chief Executive (Ms K Webber)
Executive Manager Housing & Property Maintenance Services (Mr R Livermore)
Executive Manger Community Services (Mr D Tilleray)
Executive Manager Planning, Regeneration & Estates (Mrs J Traverse)
Treasurer (Mr M Taylor)
Exchequer Services Manager (Revenues, Benefits & Payments) (Mr P Blakey)
Assistant Member Services Manager (Mrs J Denning)

34. APOLOGIES

There were no apologies for absence.

35. SPECIAL URGENCY (RULE 16 ACCESS TO INFORMATION PROCEDURE RULES)

RESOLVED: That the following item be dealt with as an urgent item in accordance with Constitution 6, Rule 16 (special urgency):

36. LOCAL AUTHORITY HOUSING DEVELOPMENT - HCA BID

Councillor Mrs V Hopley introduced the report of the Executive Manager Housing and Property Maintenance Services which detailed the outcome of a bid made by the Council to the Homes and Community Agency for Social Housing Grant to fund a Council House building project in Tanhouse and sought approval to deliver the project.

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 contents of the report including the details of the grant offer be noted.
- B. Subject to the finalisation of the budget provision, that the Executive Manager Housing and Property Maintenance Services in consultation with the Council Secretary and Solicitor and the Executive Manager Planning, Regeneration and Estates (Interim) and relevant Portfolio Holders be authorised to agree the terms of the grant and to deliver the project as described in the report (and in accordance with the grant agreement) such delivery to include approval of extent of the land to be utilised; the obtaining/execution of all necessary consents and agreements; seeking necessary quotations, tenders or use of a framework agreement (in accordance with the Contract Procedure Rules and the Financial Regulations of the Council).
- C. That this item is not available for call in as the report is being submitted to the Extraordinary Meeting of Council on 16 September 2009 for consideration and the project needs to be commenced without delay to meet the terms of the grant offer.

37. DECLARATIONS OF INTEREST

The following declarations of interest were received:

1. Councillor Westley declared a personal interest in Agenda Item 5(b) 'Residents' Parking' and 5(c) 'Mid Lancashire Multi Area Agreement' as a Member of Lancashire County Council.
2. Councillors Ashcroft, Fowler, Grant and Westley declared a personal interest in Agenda Item 5(o) 'Capital Programme Outturn 2008/2009' with reference to Parish Councils as they are Members of Hesketh-with-Becconsall Parish Council, Scarisbrick Parish Council, Aughton Parish Council and Halsall Parish Council respectively.
3. Councillor Ashcroft declared a personal interest in Agenda Item 8(c) 'Linear Park Feasibility Study, Tarleton/Hesketh Bank' as a Parish Councillor at Hesketh-with-Becconsall Parish Council.

38. MINUTES

RESOLVED: That the minutes of the meetings of Cabinet held on 16 June and 15 July 2009 be received as a correct record and signed by the Leader.

39. MATTERS REQUIRING DECISIONS

Consideration was given to reports relating to matters requiring decisions, as contained on pages 423 to 730 of the Book of Reports.

40. WEST LANCASHIRE HERITAGE STRATEGY

Councillor Forshaw introduced the report of the Executive Manager Planning, Regeneration and Estates (Interim) which detailed the results of the public consultation exercise on the Draft West Lancashire Heritage Strategy and sought approval of the strategy document.

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 West Lancashire Heritage Strategy appended to the report be approved.
- B. That the Executive Manager Planning, Regeneration and Estates (Interim) in consultation with the Portfolio Holder for Planning and Transportation be given delegated authority to make the necessary arrangements to publish the finalised document.

41. RESIDENTS' PARKING

Councillor Forshaw introduced the report of the Technical Services Manager which outlined the current arrangements for delivery of residents' parking schemes within West Lancashire and the County Councils proposed changes to these arrangements.

Councillor Forshaw expressed concern regarding the number of parking permits that would be issued to residents of multiple occupancy properties and felt that this should be addressed in the County Council's Policy.

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

- RESOLVED: A. That the County Council be requested to progress the proposed residents' parking scheme in Queen Street, Bridge Street, Bridge Avenue, South Terrace, Small Lane and Moorgate, Ormskirk as an experimental order for 12 months, subject to the reimbursement of all Borough Council costs expended in the administration of such schemes.
- B. That the County Council be asked to note:
- The concerns raised by the local business community in the recent consultation survey and as such remove Aughton Street from the proposed experimental order.
 - The concerns of the Council regarding multiple occupancy dwellings and the implications for the supply of parking spaces and ask that they address this through Policy and provide feedback.

- C. That the County Council be asked to note the results of the recent consultation survey in Wolverton, Skelmersdale and to give due consideration to whether or not this scheme should be progressed any further in line with their existing policies and procedures for any new residents' parking proposals.
- D. That all future requests for residents' parking proposals within the Borough be referred directly to the County Council, as highway authority, for processing in accordance with their agreed policies and procedures.
- E. That the Council undertakes no further duties in connection with the administration of the existing schemes in Dyers Lane and Chapel Street.
- F. That the results of the latest survey for the proposed introduction of additional residents' parking schemes in Ormskirk and Skelmersdale be noted.

40. MID LANCASHIRE MULTI AREA AGREEMENT

Councillor Owens introduced the report of the Executive Manager Planning, Regeneration & Estates (Interim) which detailed the proposed Multi Area Agreement (MAA) for Mid Lancashire and sought approval to enter into discussions with Government, with a view to signing up to an MAA for Mid Lancashire.

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 contents of the report be noted.
 - B. That the submission of an initial Mid Lancashire MAA proposal to Government in September 2009 in line with the priority areas, set out in Appendix 1 to the report, be approved.
 - C. That any further MAA developments and final approval, including the agreement of Governance Arrangements, be delegated to the Executive Manager Planning, Regeneration & Estates (Interim), in consultation with the Leader and Portfolio Holder for Regeneration & Estates.
 - D. That the Executive Manager Planning, Regeneration & Estates (Interim) continue discussions with the Merseyside Local Authorities to pursue observer status in the Liverpool City Region (MAA) governance structure.

41. COMMUNITY SERVICES AND CORPORATE ENFORCEMENT POLICIES

Councillor Fowler introduced the report of the Executive Manager Community Services which sought approval for a new Corporate Enforcement Policy and revised Community Services Enforcement Policy.

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 Corporate Enforcement Policy, attached at Appendix 1 to the report, be approved, subject to any comments from the Executive Overview and Scrutiny Committee which are agreed at Council on 21 October 2009.
 - B. That the Community Services Enforcement Policy, attached at Appendix 2, be approved, subject to any comments from the Executive Overview and Scrutiny Committee which are agreed at Council on 21 October 2009.
 - C. That delegated authority be given to the Executive Manager Community Services, in consultation with the relevant Portfolio Holder, to update the Corporate and Community Services Policies in accordance with any new or revised government legislation or Statutory Guidance.
 - D. That it be noted, that following the adoption of the Corporate Policy it is likely that other Divisional/Sectional Policies will appear before Members for Approval and that other Divisions have their own specific enforcement guidance, although not necessarily in a single document ready for approval.
 - E. That call in is not appropriate as the report will be considered by Executive Overview and Scrutiny Committee on 1 October 2009.

42. APPROVAL OF REVISED DRAFT STATEMENT OF LICENSING POLICY UNDER THE GAMBLING ACT 2005.

Councillor Fowler introduced the report of the Executive Manager Community Services which requested necessary action to be taken in order to consult upon the revised draft Statement of Licensing Policy as required by the Gambling Act 2005.

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 draft Statement of Licensing Policy be approved.
 - B. That the Executive Manager Community Services be given delegated authority to publish the draft Statement of Licensing Policy and conduct a period of public consultation prior to returning the final policy for approval before the 31 January 2010

43. REFORM OF COUNCIL HOUSING FINANCE

Councillor Mrs Hopley introduced the report of the Executive Manager Housing and Property Maintenance Services which sought views on the Government's consultation on reform of Council Housing Finance.

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 views expressed in paragraph 8 of the report be endorsed.
 - B. That the report be considered by the Executive Overview and Scrutiny Committee and their agreed comments conveyed to the Portfolio Holders for Finance and Housing.
 - C. That the views of tenants be sought from the Tenant and Resident Forum.
 - D. That the Executive Manager Housing and Property Maintenance Services, in consultation with the Portfolio Holders for Finance and Housing, after considering the comments sought of Cabinet, Executive Overview and Scrutiny Committee and the Tenant and Resident Forum, be given delegated authority to respond on behalf of the Council to the Consultation Paper.
 - E. That the call in procedure is not appropriate for this item as the report is being submitted to the Executive Overview and Scrutiny Committee for their comments on 1 October 2009.

44. ENERGY ACTION PLAN FOR CORPORATE BUILDINGS

Councillor Forshaw introduced the report of the Executive Manager Housing and Property Maintenance Services which provided data on energy consumption in corporate buildings in 2008/09, detailed achievements of the Energy Action Plan 2008/09 and sought approval of a new energy action plan for future years.

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 energy consumption figures presented and the progress made against the 2008/09 action plan, as shown in Appendix A to the report, be noted.
 - B. That the new Energy Action Plan for 2009-2012, as shown in Appendix B to the report, be approved.

45. APPOINTMENT OF OLDER PEOPLE'S CHAMPION

Councillor Mrs Hopley introduced the report of the Executive Manager Housing and Property Maintenance Services which sought endorsement for the appointment of an Older People's Champion for the Borough and advised on the broad agenda for older people's services and proposals to focus on key activities.

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 appointment of Councillor Mrs Blake, as the designated Older People's Champion for the Borough, be endorsed.
- B. That the proposals, outlined in Paragraph 4 of the report, be approved.

46. FUNDING OF VOLUNTARY BODIES AND OTHER ORGANISATIONS WORKING GROUP - 13 JULY 2009

Councillor Fowler introduced the minutes of the meeting held on 13 July 2009 of the Funding of Voluntary Bodies and Other Organisations Working Group which sought approval of the recommendations at Minute 5 'Amalgamation of Play Monies/Sports Grants with Community Chest' and Minute 6 'Review of Revenue Grants to Voluntary Organisations'.

In respect of Minute 5, Councillor Fowler advised that the Working Group considered a revised set of general criteria and application form and agreed to recommend to Cabinet a new approach to the voluntary sector grants pots the Council has which would see the administration of grant applications and decisions being brought together in one place to make it easier for applicants and for decision making. He informed Cabinet that the new approach would be publicised in January 2010 in time for the subsequent grant round and that it would be trialed initially for one year with grant making rounds in March, July and November 2010.

In respect of Minute 6, Councillor Fowler advised that the Cabinet were being asked to endorse the process for the review of the Revenue Grants to the 8 organisations the Council funds on an ongoing basis, and the 7 organisations funded through the Strategic Fund as set out in Appendix 2 to the minutes.

In reaching the decision below, Cabinet considered the minutes of the Working Group and Appendix 1 and 2 before it and accepted the reasons contained therein and the reasons provided by Councillor Fowler.

- RESOLVED: That the recommendations at Minute 5 'Amalgamation of Play Monies/Sports Grants with Community Chest' and Minute 6 'Review of Revenue Grants to Voluntary Organisations' be approved.

47. QUARTERLY PERFORMANCE INDICATORS (APRIL 2009 TO JUNE 2009)

Councillor Westley introduced the report of the Assistant Chief Executive which detailed the quarterly performance monitoring data for the quarter ended 30 June 2009.

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 overall trend of improvement shown by the performance indicator data for the quarter ended 30 June 2009 be noted.
 - B. That the report be forwarded to the Corporate Overview and Scrutiny Committee.
 - C. That call-in is not appropriate as this report is to be considered by the Corporate Overview & Scrutiny Committee.

48. PROGRESS ON THE ICT DEVELOPMENT PROGRAMME 2008/09 AND PROPOSED DEVELOPMENT PROGRAMME 2009/10

Councillor Westley introduced the report of the Assistant Chief Executive which detailed progress on the ICT development programme in 2008/09 and set out the programme for 2009/10.

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

RESOLVED: That the ICT development programme detailed in the report, be endorsed, taking account of the capital funding available in 2009/10.

49. RISK MANAGEMENT REPORT AND REGISTER

Councillor Westley introduced the report of the Council Secretary and Solicitor which considered the position on 'key risks' and sought approval of the updated Risk Management Policy and Strategy.

Cabinet was advised that the Risk Management Policy and Strategy had also been submitted to the Audit and Governance Committee.

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 Risk Management Policy and Strategy, as set out in Appendix A, be approved.
 - B. That the progress made in relation to the management of the risks shown in the Key Risk Register (Appendix B), be noted.

- C. That call in is not appropriate as this report is being taken directly to the Executive Overview and Scrutiny Committee on 1 October 2009.

50. FINANCIAL OUTTURN

Councillor Westley introduced the report of the Council Secretary and Solicitor which set out the key features of the financial outturn position for the 2008-09 financial year.

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 outturn position as presented, including contributions to and from balances and reserves, be noted and endorsed.
 - B. That call in is not appropriate for this item as the report is being submitted to Executive Overview and Scrutiny Committee on 1 October 2009.

51. REVENUE MONITORING

Councillor Westley introduced the report of the Council Secretary and Solicitor which provided an early assessment of the financial position on the Revenue Accounts in the new 2009/10 financial year.

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 financial position of the Revenue Accounts be noted.
 - B. That call in is not appropriate for this item as the report is being submitted to Executive Overview and Scrutiny Committee on 1 October 2009.

52. CAPITAL PROGRAMME OUTTURN 2008/2009

Councillor Westley introduced the report of the Council Secretary and Solicitor which provided a summary of the capital outturn position for the 2008/2009 financial year.

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 financial position, including slippage, on the Capital Programme for the 2008/09 financial year, be noted and endorsed.
 - B. That call in is not appropriate for this item as the report is being submitted to Executive Overview and Scrutiny Committee on 1 October 2009.

53. CAPITAL PROGRAMME MONITORING 2009/2010

Councillor Westley introduced the report of the Council Secretary and Solicitor which provided an overview of the current progress on the Capital Programme 2009/10.

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 progress of the Capital Programme, as at the end of July 2009, be noted.
- B. That call in is not appropriate for this item as the report is being submitted to Executive Overview and Scrutiny Committee on 1 October 2009.

54. KEY DECISION FORWARD PLAN - QUARTERLY REPORT ON SPECIAL URGENCY DECISIONS - 1 APRIL - 30 JUNE 2009

The Leader introduced the report of the Council Secretary and Solicitor which advised that no decisions had been made during the last quarter in respect of Access to Information Procedure Rule 16 (Special Urgency).

- RESOLVED: That it be noted that Access to Information Procedure Rule 16 (Special Urgency) was not exercised during the quarter period ending 30 June 2009.

55. EXCLUSION OF PRESS AND PUBLIC

- RESOLVED: That under Section 100A(4) 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 3 of Part 1 of Schedule 12A of that Act and as, in all the circumstances of the case, the public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

56. MATTERS REQUIRING DECISIONS

Consideration was given to reports relating to matters requiring decisions, as contained on pages 731 to 750 of the Book of Reports.

57. INVESTMENT CENTRE MAJOR PLANT & EQUIPMENT WORKS

Councillor Owens introduced the report of the Executive Manager Planning, Regeneration and Estates (Interim) which advised of the need to draw down monies to undertake the following essential work at the Investment Centre:

- a) replacement of a compressor in the chiller plant;
- b) installation of additional ventilation to the catering kitchen;
- c) commissioning of a consultant to produce a medium to long-term maintenance plan for the building.

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 delegated authority be given to the Executive Manager Planning, Regeneration and Estates, in consultation with the Portfolio Holder for Regeneration and Estates, to accept the lowest quote that has been received through a competitive tender process for the replacement of a compressor in the chiller plant.
 - B. That delegated authority be given to the Executive Manager Planning, Regeneration and Estates, in consultation with the Portfolio Holder for Regeneration and Estates, to accept the lowest most suitable quote to the Council for the installation of additional ventilation to the catering kitchen.
 - C. That delegated authority be given to the Executive Manager Planning, Regeneration and Estates, in consultation with the Portfolio Holder for Regeneration and Estates, to accept the lowest most suitable quote to the Council for the commissioning of a consultant to produce a medium to long-term maintenance plan for the building.

58. CIVICA SYSTEM UPGRADE

Councillor Westley introduced the report of the Assistant Chief Executive which detailed the implications of changes required by the Payment Card Industry in relation to the security arrangements when dealing with electronic payments and sought agreement to a way forward to ensure that the Council complies with these requirements.

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 Assistant Chief Executive be authorised to vary the current contract in accordance with its terms, to acquire the Civica hosted services option (as described in paragraphs 4.4 – 4.7 of the report).
 - B. That funding from Council Reserves of £27,749 be approved for a higher level of annual maintenance costs plus one off set up costs as set out at paragraph 8.2 of the report, in relation to the upgrade to the Civica Icon Cash Receipting system.
 - C. That consideration be given in the budget setting process for 2010/11 to fund the increase in ongoing maintenance costs for the Civica Icon Cash Receipting system.

- D. That as this matter is one where urgent action is required because a final decision is required in order to benefit from price discounts offered if signed for before 30 September 2009 and to ensure that the Council confirms its intentions to comply with the required changes in the Payment Card Industry before October 2009 the call in procedure shall not apply.

59. LINEAR PARK FEASIBILITY STUDY, TARLETON/HESKETH BANK

Councillor Forshaw introduced the report of the Executive Manager Planning, Regeneration and Estates (Interim) which sought approval to employ consultants to prepare a feasibility study examining the potential to create a Linear Park along the Canal and River Douglas in Tarleton and Hesketh Bank.

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 Executive Manager Planning, Regeneration & Estates be authorised to invite quotations from suitable consultants to carry out a feasibility study examining the potential to create a Linear Park along the Canal and River Douglas in Tarleton and Hesketh Bank.
- B. That the Executive Manager Planning, Regeneration & Estates, in consultation with the Portfolio Holders for Regeneration & Estates and Planning & Transportation and other partners, be given delegated authority to accept the quotation that offers the most advantageous terms for the preparation of a Feasibility Study for the Tarleton/Hesketh Bank Linear Park.
- C. That the maximum contribution from the Council's Local Development Framework budget be £7,500.

THE LEADER



AGENDA ITEM: 11

**EXECUTIVE OVERVIEW AND
SCRUTINY COMMITTEE:**

1 October 2009

COUNCIL: 21 October 2009

Report of: Council Secretary and Solicitor

Relevant Portfolio Holder: Councillor Fowler

**Contact for further information: Mrs Jacky Denning (extn. 5384)
(E-mail: jacky.denning@westlancs.gov.uk)**

**SUBJECT: CORPORATE AND COMMUNITY SERVICES DIVISIONAL
ENFORCEMENT POLICIES**

District wide interest

1.0 PURPOSE OF THE REPORT

1.1 To advise of the decision of the Cabinet meeting held on 15 September 2009.

**2.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW & SCRUTINY
COMMITTEE**

2.1 That consideration be given to the Corporate Enforcement Policy and the Community Services Enforcement Policy and agreed comments be forwarded to Council on 21 October 2009.

3.0 RECOMMENDATIONS TO COUNCIL

3.1 That the Corporate Enforcement Policy be approved, subject to consideration of any comments from Executive Overview and Scrutiny Committee.

3.2 That the Community Services Enforcement Policy be approved, subject to consideration of any comments from Executive Overview and Scrutiny Committee.

3.3 That delegated authority be given to the Executive Manager Community Services, in consultation with the relevant Portfolio Holder, to update the Corporate and Community Services Policies in accordance with any new or revised government legislation or Statutory Guidance.

3.4 That it be noted, that following the adoption of the Corporate Policy it is likely that other Divisional/Sectional Policies will appear before Members for Approval and

that other Divisions have their own specific enforcement guidance, although not necessarily in a single document ready for approval.

3.0 BACKGROUND

3.1 The report of the Executive Manager Community Services, attached as an Appendix to this report, was considered at Cabinet on 15 September .

3.2 The minute of that meeting reads as follows:-

“41. COMMUNITY SERVICES AND CORPORATE ENFORCEMENT POLICIES

Councillor Fowler introduced the report of the Executive Manager Community Services which sought approval for a new Corporate Enforcement Policy and revised Community Services Enforcement Policy.

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 Corporate Enforcement Policy, attached at Appendix 1 to the report, be approved, subject to any comments from the Executive Overview and Scrutiny Committee which are agreed at Council on 21 October 2009.
 - B. That the Community Services Enforcement Policy, attached at Appendix 2, be approved, subject to any comments from the Executive Overview and Scrutiny Committee which are agreed at Council on 21 October 2009.
 - C. That delegated authority be given to the Executive Manager Community Services, in consultation with the relevant Portfolio Holder, to update the Corporate and Community Services Policies in accordance with any new or revised government legislation or Statutory Guidance.
 - D. That it be noted, that following the adoption of the Corporate Policy it is likely that other Divisional/Sectional Policies will appear before Members for Approval and that other Divisions have their own specific enforcement guidance, although not necessarily in a single document ready for approval.
 - E. That call in is not appropriate as the report will be considered by Executive Overview and Scrutiny Committee on 1 October 2009.”
-
-

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

Report of the Executive Manager Community Services.



AGENDA ITEM: 11

CABINET: 15 September 2009

**EXECUTIVE OVERVIEW &
SCRUTINY COMMITTEE:
1 October 2009**

COUNCIL: 21 October 2009

Report of: Executive Manager Community Services

Relevant Portfolio Holder: Councillor A Fowler

**Contact for further information: Mr A Hill (Extn. 5243)
(E-mail: a.hill@westlancs.gov.uk)**

**SUBJECT: CORPORATE AND COMMUNITY SERVICES DIVISIONAL
ENFORCEMENT POLICIES**

CAB38/CAL

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To obtain approval for a new Corporate Enforcement Policy and revised Community Services Enforcement Policy.

2.0 RECOMMENDATIONS TO CABINET

2.1 That the Corporate Enforcement Policy be agreed, subject to any comments from the Executive Overview and Scrutiny Committee.

2.2 That the Community Services Enforcement Policy be agreed, subject to any comments from the Executive Overview and Scrutiny Committee

2.3 That delegated authority be given to the Executive Manager for Community Services, in consultation with the relevant Portfolio Holder, to update the Corporate and Community Services Policies in accordance with any new or revised government legislation or guidance.

2.4 That call in is not appropriate as this report will be considered by Executive Overview and Scrutiny Committee.

3.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW & SCRUTINY COMMITTEE

- 3.1 That consideration be given to the Corporate Enforcement Policy and the Community Services Enforcement Policy and that agreed comments be forwarded to Council.

4.0 RECOMMENDATIONS TO COUNCIL

- 4.1 That any comments made by the Executive Overview and Scrutiny Committee be noted.
- 4.2 That the Corporate Enforcement Policy be noted.
- 4.3 That the Community Services Enforcement policy be noted.
- 4.4 That delegated authority be given to the Executive Manager for Community Services, in consultation with the relevant Portfolio Holder, to update the Corporate and Community Services Policies in accordance with any new or revised government legislation or guidance.
-
-

5.0 BACKGROUND

- 5.1 In March 1998 the Cabinet Office, in partnership with the Local Government Association, business and consumer groups, published the Central and Local Government Concordat on Good Enforcement (the Enforcement Concordat). Following this West Lancashire District Council “signed up” to the document and in 2002, an enforcement policy for Community (then Environmental) Services was produced.
- 5.2 At the time this document was discussed with business groups and has been used to guide enforcement activities ever since.

6.0 CURRENT POSITION

- 6.1 Since the Community Services policy was introduced, new areas of enforcement (Street Scene) have commenced. In addition, there has been new guidance on the approaches that should be taken to enforcement.
- 6.2 In particular, the Department for Business Enterprise and Regulatory Reform has produced a Statutory Code of Practice for Regulators. The code aims to “promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on businesses”. In other words, enforcement against businesses should be proportionate, consistent and appropriate.
- 6.3 Whilst reviewing the Community Services plan, the idea of a Corporate plan was explored. In order to promote consistency across the Council, Chief Officers agreed that the idea was sound and should be pursued. Community Services, as

regular user of enforcement action, took the lead on this matter, having operated their own detailed policy for several years.

- 6.4 As a result, relevant officers from Divisions that undertake enforcement action met and were consulted with respect to draft documents. For clarification, this group included officers from Environmental Health, Planning Enforcement, Private Sector Housing, Housing Services, Building Control, Financial Services and Legal Services.
- 6.5 The proposed documents are included as Appendices 1 & 2.
- 6.6 It must be noted that the Corporate Policy provides the principles of the Council's approaches to enforcement. Any individual Divisional or Sectional policies that are positioned beneath this Policy, will contain more specific interpretation in relation to legislation approaches etc.
- 6.7 Delegated Authority is requested so that minor changes to legislation and guidance can be dealt with efficiently. Any wholesale changes in guidance or legislation resulting in major changes to the policy will be brought back for approval.

7.0 IMPACTS OF THE CORPORATE POLICY

- 7.1 As guided by Government, Council officers will need to give consideration to the greater use of 'simple' cautions for first time offenders. This is a more streamlined process than a full prosecution, but still can be brought to the attention of Magistrates if a further case is brought before them.
- 7.2 Following the adoption of the Corporate Policy it is likely that other Divisional/Sectional Policies will appear before Members for Approval. It must be noted that other Divisions have their own specific enforcement guidance, although not necessarily in a single document ready for approval.

8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 8.1 There are no sustainability implications/community strategy.

9.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 9.1 It is not expected that the adoption of these policies will result in additional expenditure for enforcement. Indeed if more cautions are issued it may result in less legal time dealing with issues.

10.0 RISK ASSESSMENT

- 10.1 The use of Enforcement Policies reduces the risk of inconsistency which may prompt cases to be lost in court.

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

- Appendix 1 - WLBC Corporate Enforcement Policy
- Appendix 2 - Community Services Enforcement Policy

West Lancashire Borough Council



Corporate Enforcement Policy

July 2009

VERSION 1.

1.0 **West Lancashire Borough Council and Enforcement**

- 1.1 Set in the heart of the North West of England, West Lancashire is home to a growing number of UK and international businesses. It's world class for business and can help companies succeed and grow. Companies are reaping competitive advantage thanks to:
- Cost-effective land and property
 - Outstanding communication links
 - Quality of life for work and pleasure.
- 1.2 The Council seeks to maintain a balance between the businesses operating in its area, the residents living in its area and the people visiting the area. Accordingly, the Council is seeking to provide an attractive Borough. By engaging and consulting with the community, the Council is seeking to:
- Improve the quality of life for all in the Borough;
 - Reduce the levels of crime and disorder in the Borough;
 - Promote a strong and sustainable economy;
 - Aim to reduce levels of poverty and social exclusion in the Borough by developing a more inclusive community;
 - Help to improve the health and well being of the Borough's residents.
- 1.3 The Council acts as a regulatory body across a wide range of services including Building Control, Community Safety, Environmental Health, Financial Services, Housing and Planning.
- 1.4 This Council supports the use of statutory enforcement powers. This includes the use of a wide range of enforcement options, as an effective means of ensuring that the practices and activities of individuals and local premises comply with statutory requirements. This is to attempt to ensure that the health, safety and well being of the general public, employees, consumers and the environment are not put at risk.
- 1.5 The Department for Business Enterprise and Regulatory Reform (B.E.R.R.) published a Regulators' Compliance Code in 2007. This document stated that "Effective and well targeted regulation is essential in promoting fairness and protection from harm. However, the Government believes that in achieving these and other legitimate objectives, regulation, and its enforcement should be proportionate and flexible enough to allow or even encourage economic progress".
- 1.6 The Council regards prevention as better than cure. It offers (and encourages the request of) information and advice to those it regulates and seeks to secure co-operation avoiding bureaucracy, ensuring efficient compliance with legislation, whilst, at the same time, minimising the burden on businesses and individuals to put safety and welfare first and to integrate good working practices into normal working methods.
- 1.7 This policy sets out the general principles, which the Council intends to follow, in relation to its enforcement options. It is intended to be used in conjunction with any more-detailed guidance on enforcement practice issued by or for the various specific functions of the Council.

2.0 Influences on our approach

2.1 Various bodies/reviews/documents and agreements have and will continue to influence the approach to enforcement taken by the Council. These include:-

- **The Human Rights Act 1998.** This places Enforcement Bodies under a duty to interpret all legislation compatibly with the Convention Rights incorporated by The Act and requires West Lancashire Borough Council, as a Public Authority, to act in accordance with the Convention Rights. Authorised Officers will, accordingly, ensure that respect for human rights is at the core of their day-to-day work.
- **The Government's Enforcement Concordat.** West Lancashire Borough Council has formally adopted the Government's Enforcement Concordat on good enforcement. The principles underlying the Concordat require a policy of firm but fair regulation. Commitment to these principles will be demonstrated by:-
 - Taking all enforcement decisions in a proportionate manner.
 - Striving for high standards of consistency.
 - Ensuring that all enforcement staff are helpful, courteous and efficient.
 - Measuring performance against agreed standards, where appropriate.
- **The Macrory Review.** This review sets out that regulators should:-
 - Aim to change the behaviour of the offender.
 - Aim to eliminate any financial gain or benefit from non-compliance.
 - Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction.
 - Be proportionate to the nature of the offence and the harm caused.
 - Aim to restore the harm caused by regulatory non-compliance, where appropriate, and
 - Aim to deter future non-compliance.

This document also suggests that, where possible, all enforcement action will be managed on an outcomes rather than output basis. For example, the serving of notices will relate to the number of notices complied with, not just the number served.

- **The Department for Business Enterprise and Regulatory Reform (BERR) Regulators Compliance Code** and any recommendations from the Local Better Regulation Office (part of the BERR). The Code supports the Government's better regulation agenda and is based on the recommendations in the Hampton Report. Its purpose is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes, without imposing unnecessary burdens on business, the third sector (charities etc.) and other regulated entities, and
- **The Hampton Review.** This supports the idea that businesses should be supported by regulators to comply with regulations. In

addition it details the principle that it is important that business activity is properly regulated, encouraging the economy to thrive, while protecting public health and supporting consumer interests.

2.2 Good enforcement secures compliance with regulations and as a result Council Officers will seek to use a combination of assistance, advice and formal action.

3.0 **Principles of our approach**

3.1 **Economic Progress.**

3.1.1 This Authority fully supports the principles of the Hampton review and the idea that businesses should be supported by regulators to comply with regulations. In addition, the principle that it is important that business activity is properly regulated, encouraging the economy to thrive, while protecting public health and supporting consumer interests. It will make sure that any enforcement action it takes is strictly proportionate to the risks posed and to the seriousness of any breach of law. Consideration will also be given to the costs of any regulation.

3.2 **Proportionality.**

3.2.1 In general, the concept of proportionality is included in much of the regulatory system through the balance of action to protect the employee, the environment, or the public against risks and costs. Achieving proportionality requires that the enforcement action taken is directly related to the risks involved or where there is no alternative.

3.3 **Consistency.**

3.3.1 Consistency means taking a similar approach in similar circumstances to achieve a similar result. All those involved need to know that they are being treated fairly. Businesses in particular need to know that they are competing with others on level terms. The Council will endeavour to ensure that all its enforcement decisions are uniform. In coming to a decision to take enforcement action, the factors in Section 4.6 below will be considered, along with the issues detailed in section 4.8 and Appendix 1 or 2 below.

3.3.2 The Council will continue to develop the necessary arrangements to promote consistency, including the effective arrangements for liaison with other enforcement agencies, such as the police. In relation to "Enviro-crimes" such as littering, waste offences, dog-fouling etc., the Council will continue to follow a "zero-tolerance" approach and therefore aims to assist building safer cleaner communities.

3.4 **Targeting of Resources.**

3.4.1 Targeting of resources means making sure that regulatory effort is directed primarily towards those whose activities give rise to the most serious risks or where the hazards are poorly controlled or against

deliberate or organised crime or guided by legislation, where appropriate. Action will be primarily focused on those that break the law or those directly responsible for the risk and who are best placed to control it. In addition, issues or locations where greater numbers of substantiated complaints are received, will merit greater attention. Planning Services will respond to all issues brought to their attention. This action will, however, be prioritised in accordance with the seriousness of the breach and ensure breaches of planning control are rectified in the most appropriate manner.

3.4.2 Systems have been introduced for prioritising regulatory effort. They include guidance contained in Codes of Practice and legislation, the response to complaints from the public about regulated activities, the assessment of risks posed by a person's operations and the gathering and acting on intelligence about illegal activities.

3.4.3 In evaluating the likelihood of non-compliance in non-planning related matters, the Council will give consideration to all relevant factors, including:

- Past compliance records and potential future risks
- The existence of good systems for managing risks, in particular within regulated entities or sites
- Evidence of recognised external accreditation, and
- Management competence and willingness to comply

3.5 Transparency of Regulatory advice and guidance.

3.5.1 The Council will endeavour to ensure that all legal requirements relating to its regulatory activities, as well as changes to them, are promptly communicated to relevant organisations. It will also provide general information, advice and guidance to make it easier for regulated entities to understand and meet their regulatory obligations. This information, advice and guidance will be provided in clear, concise and accessible language, using a range of appropriate formats and media

3.5.2 Where a remedial intervention is required, it will be clearly explained (and confirmed in writing, if requested) why the action is necessary and when it must be carried out; a clear distinction will always be made between legal requirements and best practice advice. Opportunity will be provided to discuss the circumstances of the case, clarify what is required to comply with the law and if possible, resolve any points of difference, before formal enforcement action is taken, unless urgent action is required, for example, to prevent serious harm or prevent evidence being destroyed.

3.5.3 Where prompt action is required, a written explanation of the reasons will be provided as soon as practicable after the event where appropriate and certainly upon request.

3.5.4 Written explanation will be given of any rights of appeal against formal enforcement action at the time the action is taken. This will explain the appeal procedure, where and when an appeal may be made as well as

confirming the grounds on which it may be brought. It will make clear whether action will be suspended pending the outcome of the appeal. Information from the Council can be provided on audio tape, in large print, in Braille or in other languages if requested and a large portion of it is available on the Council's website (www.westlancs.gov.uk).

- 3.5.5 This document and any enforcement policies produced by individual Divisions or Services, is/are freely available to businesses and individuals and we will actively promote this.

3.6 **Helpfulness.**

- 3.6.1 Advice and assistance are regarded as central to the implementation of the enforcement policy and are used to inform both businesses and residents of their rights and responsibilities. Help will be given to businesses, voluntary or community groups, workplace representatives and the public to assist them to comply with statutory requirements. By adopting this approach and by positively encouraging businesses and others to seek advice and information it is hoped that many issues can be resolved without having to resort to more formal stages of enforcement action.

- 3.6.2 A courteous approach and efficient service will be provided with all staff identifying themselves by name. The purpose of any visit will be properly explained and a contact point or telephone number for any further dealings will be given when required. Applications for licences, registrations, approvals notifications and requisitions for information etc., will be dealt with efficiently and promptly. Every effort will be made to ensure that, wherever practicable, the Council's enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

- 3.6.3 The Council offers a flexible approach to service delivery, which takes account of the diverse needs of the public and business community. Services will, if necessary, be made available by prior arrangement, possibly out of office hours and will be tailored to meet the specific needs of both the public and businesses. In delivering the service, special arrangements will be made, wherever appropriate, to accommodate ethnicity, disability, gender and age. The Council has access to translation services and will use them where necessary.

3.7 **Accountability.**

- 3.7.1 The Council recognises that it is accountable to government, citizens, and Parliament for its actions. Policies and Standards have been adopted against which it can be judged, along with effective and easily accessible mechanisms for dealing with comments and handling complaints.

3.8 Information requirements.

- 3.8.1 The Council will endeavour to request only the information it needs and will, where possible, share relevant data in order to reduce the burden, on businesses or individuals, of providing data.

4.0 Enforcement Options and Decision Making.

- 4.1 There are four main types of enforcement options available to the Council. These are
- Advice and guidance, including the provision of leaflets and verbal or written guidance.
 - Informal warnings, including advice in relation to acts or omissions or minor contraventions.
 - Formal action, including the use of legal notices and licensing.
 - Legal proceedings, including cautions, prosecutions and injunctions.

In some cases a combination of these options may be appropriate.

- 4.2 A hierarchical approach will be adopted in selecting the most appropriate enforcement sanctions. Although decisions will clearly vary depending upon the circumstances, non-criminal sanctions will always be considered before criminal sanctions.
- 4.3 As a general rule, legal proceedings will not be undertaken without the offender being given reasonable opportunity to comply with the law. It is recognised, however, that there are circumstances where a contravention is particularly serious and would result in harm to members of the public or the environment or there is a blatant or reckless disregard for the law, in which case legal proceedings may take place without a prior warning. Failure to comply with a Statutory Notice, will normally result in legal proceedings, except in cases where works in default may be more appropriate
- 4.4 It is recognised that the instigation of legal proceedings is a serious and important part of enforcement that should only be taken after full consideration of the implications and consequences. Decisions about legal proceedings will take account of Council policies and procedures and the Code for Crown Prosecutors.
- 4.5 For non-planning matters, legal proceedings will not be commenced or continued unless there is sufficient admissible and reliable evidence that the offence has been committed and that there is a realistic prospect of a conviction. A bare prima facie case is not enough. If the case does not pass this evidential test, it will not go ahead, no matter how important or serious it may be. In addition, any possible defence, which could successfully be utilised, will be considered and may prevent a case being taken. The issue of a caution will not be used as an alternative in such circumstances. There is likely to be a greater use of cautions in future and guidance is available on this course of action

from a variety of sources. (The Community Services Division has its own guidance note on this area of work).

4.6 The circumstances that are likely to warrant legal proceedings may be characterised by one or more of the following:-

- There has been a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it.
- The gravity of the offence taken with the general record and approach of the offender warrants a strong legal sanction. For example, a reckless disregard for standards, repeated breaches or persistent poor standards.
- Where the offence and or the circumstances leading to it are reasonably foreseeable.
- It is considered to be an appropriate way of drawing attention to the need for compliance with the law and the maintenance of standards, especially where there would be a normal expectation that a prosecution would be taken.
- The offender and particularly others may be deterred from similar failures through the conviction.
- Evidence of wilful intent of the offender, individually and/or corporately.
- There has been a previous history of offending, poor standards or lack of co-operation.
- The poor attitude of the offender, particularly in respect of any explanations offered and any remedial action taken.
- If the prosecution is successful, a significant penalty is likely to result.
- The particular contravention or circumstances have caused serious public concern or alarm.
- Prosecution would serve the public interest.
- The offence is contrary to the Councils aims and priorities.
- The lack of ability to establish a robust defence.
- The offence, although not serious in itself is widespread in the area where it is committed and requires attention.
- In cases of obstruction or where officers safety has been put in doubt, prosecution will always be considered, especially where undue delay, or additional works/costs/visits have arisen.
- West Lancashire Borough Council, as opposed to another authority or agency, is the most appropriate body to institute proceedings.

4.7 These factors are not exhaustive and those that apply will depend on the particular circumstances of each case and each case will be judged on its merits. The importance of each factor will be determined in the circumstances of each case and will be used to make an overall assessment.

4.8 In making a decision about whether or not to undertake legal proceedings, an officer will use one of the pre-prosecution assessment forms contained at Appendix 1, or a relevant similar document specific to an individual service. The officer will fill in the relevant form for an

individual or a company. The form will assist the officer and their relevant manager to decide if a prosecution is the most appropriate course of action. There is no hard and fast rule in relation to how many items are needed for a prosecution, as some issues will be more important than others. Space is available for further comment. The assessment should be included with the prosecution file that is sent to the Legal Services Division. This will assist them recognise the officer thought process as to why a prosecution is necessary.

- 4.9 All investigations into alleged breaches of legislation will follow best professional practice and the requirements of the legislation listed below or successive legislation:
- The Human Rights Act 1998 (HRA)
 - The Regulation of Investigatory Powers Act 2000 (RIPA)
 - The Police & Criminal Evidence Act 1984 - Codes of Practice
 - The Criminal Procedures & Investigations Act 1996 (CPIA)
 - The Code for Crown Prosecutors
- 4.10 Where necessary, criminal proceedings will be taken against those persons responsible for the offence. Where a Company is involved, it will be usual practice to prosecute the Company where the offence resulted from the Company's activities. However, any part played in the offence by the officers of the Company, including Business Proprietors, Directors, Managers, and the Company Secretary or employees of the Company will also be considered.
- 4.11 Action may also be taken against such officers (as well as the Company) where it can be shown that the offence was committed with their consent, was due to their neglect or they had "turned a blind eye" to the offence or the circumstances leading to it. In appropriate cases, consideration will be given to seeking the prohibition of the business proprietor under the appropriate specific statutes.
- 4.12 Enforcement action against employees will receive special consideration. Where appropriate, a warning letter will be issued unless the matter is serious and/or that the employee had received a prior warning from either his employer or the Council.

NOTE

The Exchequer Services Division of the Council has a separate Benefit Sanctions and Prosecution Policy approved by Members. This governs their action taken against benefit fraudsters and is based on specific legislation covering this area of work. Enforcement action in this area of work may therefore deviate from this policy. For further details, the Exchequer Services Manager can be contacted via 01695 577177.

The Planning and Development Division has an enforcement protocol, which is based on Planning Circular 10/97 and the 1997 Good Practice Guide. For further details contact the Planning Enforcement section via 01695 577177.

5.0 Individual Divisional/ Sectional policies.

- 5.1 The Council has several sections/Divisions that can and do take enforcement action. Officers undertake some of this work, under a scheme of delegation approved by Council. These enforcement interventions cover a wide range of regulatory activities. These include:-
- The Community Services Division, which undertakes regulatory activity in relation to noise pollution, food safety, health and safety, public health matters, licensing issues, fly tipping and litter, amongst other issues.
 - The Planning Services Division, which undertakes regulatory activity in relation to planning and building control matters.
 - The Housing and Property Maintenance Services Division, who undertake action in relation to breaches of tenancy (including the recovery of debt and anti-social behaviour), housing standards and caravan sites
 - The Exchequer Services section, which undertakes the recovery of debts relating to Business Rates, Council Tax, Sundry Debts and Benefits in accordance with relevant regulations and good practice.
 - Anti-social behaviour unit which investigates complaints regarding anti-social behaviour from the public and relevant partners, and takes appropriate action ranging from education up to enforcement including Acceptable Behaviour Contracts (ABC's), injunctions, evictions and Anti-Social Behaviour Orders (ASBO's).
 - Technical Services unit which supervises external contractors to enforce "off street" parking offences and the regulation of any markets in Ormskirk.
- 5.2 These sections may have individual policy documents, which provide further details on their enforcement action, however they will all follow the broad principles of this policy. Divisional Managers will check and keep updated these policies.

6.0 Complaints against Officers/the Service.

- 6.1 The Council has a clear and well-defined procedure that deals with complaints. Any complainant has the ability to "appeal" against a decision that has been made or against the response they may have had in reply to a letter. In the first instance the Divisional Manager or Service Manager would investigate the response. If the complainant still feels that their complaint has not been answered satisfactorily the Chief Executive of the Council would investigate the matter. If, after the response of the Chief Executive, the complainant was still aggrieved they could ultimately request the attention of the Local Government Ombudsman. Full details of this procedure are available on the Council's website (www.westlancs.gov.uk)
- 6.2 There is also an appeal procedure through the relevant Court in relation to Court Convictions following prosecutions.

7.0 Departure From The Enforcement Policy

- 7.1 All authorised officers will abide by this Policy when making enforcement decisions.
- 7.2 Any departure from the Policy will only be accepted in exceptional circumstances, capable of justification, and only after full consideration and authorisation by the relevant Executive Manager, or designated alternative officer.

PRE PROSECUTION ASSESSMENT - INDIVIDUAL

OFFICER:.....DATE OF OFFENCE:.....
NAME:.....
ADDRESS:.....
.....

DETAILS OF
OFFENCE:.....
.....

- Has previous legal action been taken against the by WLBC? YES / NO /?
- Has previous legal action been taken regarding a similar matter? YES /NO /?
- Is there evidence of previous written warnings being issued re this matter? YES /NO /?
- Has there been blatant disregard for the law to gain economic advantage? YES /NO /?
- Was a poor attitude to officers demonstrated? YES /NO /?
- Is a significant penalty likely? YES /NO /?
- Has the contravention(s) caused serious public alarm/concern/disturbance? YES /NO /?
- Would the prosecution serve the public interest? YES /NO /?
- Is a defence available? YES /NO /?
- Is the contravention contrary to the Council’s aims and priorities? YES /NO /?
- Is the issue widespread and requires targeting? YES /NO /?
- Was the safety of the officer in any doubt? YES /NO /?
- Was the officer obstructed in the course of his/her duties? YES /NO /?
- Is there a public expectation that the prosecution will be taken? YES /NO /?
- Is a prosecution warranted to deter others via ensuing publicity? YES /NO /?
- Would a prosecution result in bad publicity for the Council? YES /NO /?
- Is a caution appropriate? YES /NO /?
- Recommendation from Officer - PROSECUTE YES /NO /?

Reason:.....
.....
(Continue overleaf if necessary)

Recommendation from the Officer in Charge
of the investigation – PROSECUTE YES / NO /?

Reason:
.....
.....

Decision of EM – PROSECUTE YES / NO /?

Notes:
.....

PRE PROSECUTION ASSESSMENT - BUSINESS

OFFICER:.....DATE OF OFFENCE:.....
COMPANY:.....
ADDRESS:.....

.....
DETAILS OF
OFFENCE:.....
.....

- Has previous legal action been taken against the Company by WLBC? YES /NO /?
- Has previous legal action been taken regarding a similar matter? YES /NO /?
- Is there evidence of previous written warnings being issued re this matter? YES /NO /?
- Has there been blatant disregard for the law to gain economic advantage? YES /NO /?
- Was a poor attitude to officers demonstrated? YES /NO /?
- Is a significant penalty likely? YES /NO /?
- Has the contravention(s) caused serious public alarm/concern/disturbance? YES /NO /?
- Would the prosecution serve the public interest? YES /NO /?
- Is a defence available (e.g. BPM)? YES /NO /?
- Is the contravention contrary to the Council's aims and priorities? YES /NO /?
- Is the issue widespread and requires targeting? YES /NO /?
- Was the safety of the officer in any doubt? YES /NO /?
- Was the officer obstructed in the course of his/her duties? YES /NO /?
- Is there a public expectation that the prosecution will be taken? YES /NO /?
- Is a prosecution warranted to deter others via ensuing publicity? YES /NO /?
- Is the issue likely to be a problem again? YES /NO /?
- Is a caution appropriate? YES /NO /?
- Recommendation from Officer - PROSECUTE YES /NO /?

Reason:.....
.....

(Continue overleaf if necessary)
Recommendation from Officer in Charge
of the Investigation – PROSECUTE YES / NO /?

Reason:.....
.....

Decision of EM – PROSECUTE YES / NO /?
Reason:

.....
.....

WEST LANCASHIRE BOROUGH COUNCIL



COMMUNITY SERVICES ENFORCEMENT POLICY

JULY 2009

ENFORCEMENT POLICY

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1.0 Introduction

1.1 It is the aim of West Lancashire Borough Council's Community Services Division, referred to within this document as "The Service", to protect the public and improve the local environment, promote health, safety and welfare and enhance the quality of life of all residents, workers and visitors to the Borough. Much of this will be achieved through education, by providing advice and by regulating the activities of others. Whilst securing compliance with legal regulatory requirements, using enforcement powers, including prosecution, is an important part of achieving this aim, it will be undertaken in an equitable, practical and consistent manner.

1.2 The regulatory services delivered by the Division are extensive. They include:-

- Noise control – the investigation and taking of enforcement action to deal with noise from residential, commercial and industrial premises, such as loud music, barking dogs, entertainment from pubs and clubs and noise from machinery.
- Pollution and public health matters - investigation and taking of enforcement action to deal with complaints about bonfires, smoke, drainage, rubbish and smells, monitor air quality and issue Permits to certain industrial processes.
- Food Safety - including inspections of food businesses, sampling of foodstuffs, infectious disease control and investigation of consumer complaints about food and food premises.
- Health and safety enforcement - in premises allocated by law to the local authority for enforcement such as offices, shops, warehouses, catering establishments.
- Licensing - involving the consideration, issue and control of licences, certificates and permits for licensed premises and persons for the purposes of selling/supplying alcohol, providing regulated entertainment, or serving late night hot food or drink. The Service also issues licenses in respect of gaming and gambling premises as well as the issue and control of licences for private hire and hackney carriage vehicles and their drivers. In addition, licences are provided for animal welfare establishments.
- Street Scene enforcement - the investigation and enforcement of litter and fly-tipping offences and other offences regarding commercial and household waste.
- Dog control - the investigation and enforcement of offences relating to dog control orders, for example fouling.
- Public Health – the investigation and rectifying of problems where the health of an individual or the public at large may be affected. Premises that are infested by vermin, are filthy and unwholesome or have drainage problems may all warrant attention.
- Anti-social behaviour unit – the investigation of complaints regarding anti-social behaviour from the public and relevant partners, and appropriate action ranging from education up to enforcement including Acceptable Behaviour Contracts (ABC's), injunctions, evictions and Anti-Social Behaviour Orders (ASBO's).
- Technical Services unit – the supervision of external contractors to enforce "off street" parking offences and the regulation of any markets in Ormskirk.

1.3 The Services' staff work with Central Government and other Regulators and guidance providers to ensure coherent regulation. They may also work adopting a multi-agency problem solving approach with statutory and non-statutory partners in order to achieve common goals.

1.4 This Policy sets out the general principles, which the Service intends to follow, in relation to enforcement and prosecution. It is to be used in conjunction with any more-detailed guidance on enforcement practise issued in respect of various specific functions of the Service. The implementation and effectiveness of the Policy, as well as the adherence to its requirements, will be monitored and reported on through the Council's relevant committee structure. The Council has a Corporate Enforcement policy on which this document is based which is available to business and residents and this will be actively promoted.

2.0 Purposes and Method of Community Services Enforcement

2.1 The purpose of enforcement is to ensure that the preventative or remedial interventions are taken to protect the public/the environment/employees/workers or to secure compliance with a regulatory system. The need for enforcement may stem from a failure to comply with statutory obligations and the likely risk to health, safety or the environment. Enforcement action will not, therefore, constitute a punitive response to minor technical contravention of legislation. Although the Council expects full voluntary compliance with relevant legislative requirements, it will not hesitate to use its enforcement powers where necessary.

2.2 It is recognised that enforcement activity will depend upon prevailing circumstances, level of risk, political and stakeholder will as well as other external influences. The Service will, nevertheless, treat everyone fairly and with respect for their privacy and dignity. The particular interests of consumers, businesses, employees and the public, particularly those with special needs, will be taken into account.

2.3 All officers undertaking enforcement duties will ensure that all recipients of the service receive fair and equitable treatment irrespective of their race, age, ethnicity, gender, disability or sexuality.

3.0 Responsibilities and Authorisation

3.1 Responsibility for implementation of the Policy rests with the Service. Authorised officers within the Service carry out day-to-day enforcement activities. Officers, authorised in accordance with relevant Legislation, Codes of Practice or National Guidance, carry out inspections, interventions, patrols, sampling, complaints investigations, deal with requests for service and, where necessary, offer advice or training. The relevant Service Manager is responsible for the planning, organisation and subsequent monitoring of all aspects of the Policy.

3.2 All officers are authorised in accordance with their qualifications, experience and competency. Such officers are authorised in writing by the Executive Manager Community Services (EMCS) or a Service Manager who will specify the legal provisions under which they are entitled to act.

- 3.3 The issue of a Caution and any decision to prosecute will only be administered or approved by the EMCS or one of the Service Managers. Separate guidance is available for officers on the use of Cautions.
- 3.4 All statutory notices will be authorised by the EMCS or, in his absence, the Relevant Service Manager, with the exception of Food Safety and Health and Safety Enforcement Notices and hackney carriage and private hire licensing stop notices, which will be served by the duly authorised officer, (although these notices should be checked or reviewed by the EMCS, or Service Manager).
- 3.5 The Council's Street Scene and Dog Control Officers are authorised to issue fixed penalty notices if an offence arises during a patrol and is witnessed by them, to persons over the age of eleven. Where it is known that the offender is under the age of eighteen, a letter will also be sent to their parents or guardians, to inform them of the action taken.

4.0 **Enforcement Options**

- 4.1 There are a wide variety of Enforcement options available to Community Services staff, which include:-

- Advice (possibly in writing)
- Verbal warning
- Warning letter
- Acceptable Behaviour Contracts (ABC's)
- Collection of parking fines
- Fixed penalty notice
- Improvement notice
- Remedial action notice
- Tenancy enforcement
- Service of statutory notice
- Seizure
- Variation of "licence" conditions
- Suspension or revocation of "licence"
- Prohibition notice (where there is imminent or serious risk)
- Emergency prohibition notice
- Anti-Social Behaviour Order (ASBO)
- Formal caution
- Prosecution
- Criminal Anti Social Behaviour Order on Conviction (CRASBO)
- Works undertaken in default
- Injunctive restraint

In some cases a combination of these options may be appropriate.

Note: "licence" could include a licence relating to the following work areas – hackney carriage and private hire licensing, premises licensing, industrial process permitting, food premises licensing or animal welfare licensing.

A hierarchical approach will be adopted in selecting the most appropriate enforcement sanctions. Although decisions will clearly vary depending upon the circumstances, non-criminal sanctions will always be considered before criminal sanctions. For offences where a fixed penalty notice is available (such as littering, dog fouling and various other waste issues) these may be utilised without prior

warning to assist to improve the local environment for residents in accordance with one of the Council's priorities.

- 4.2 To maintain consistency, officers will adhere strictly to the information contained within specific guidance notes, work instructions and other supportive notes that affect their areas of enforcement. A Quality System covers the majority of the activities of the Environmental Health Services.
- 4.3 As a general rule, legal proceedings will not be undertaken without the offender being given reasonable opportunity to comply with the law. It is recognised, however, that there are circumstances where a contravention is particularly serious and would result in harm to members of the public or the environment or there is a blatant or reckless disregard for the law, in which case prosecutions may take place without a prior warning. Failure to comply with a Statutory Notice, will normally result in a prosecution, except in cases where works in default may be more appropriate. Fixed penalty notices offer the opportunity to discharge legal proceedings by payment within a given time. Non-payment will normally result in a prosecution being taken.
- 4.4 When deciding upon the best course of action, regard will be had to the specific guidance on enforcement action contained in various Codes of Practice Guidelines and Guidance Documents issued by the relevant co-ordinating bodies and the Crown Prosecution Service. In particular the Department for Business Enterprise and Regulatory Reform (BERR) Regulators compliance code, the Enforcement Concordat (see Section 5.3) and its relevant guidance and any recommendations from the Local Better Regulation Office will be given due regard.
- 4.5 Where a criminal offence has been committed, in addition to any other enforcement action, the EMCS, or one of the Service Managers, will consider instituting a Prosecution or administering a Formal Caution, or other appropriate activity – see Section 7.

5.0 **Broad Principles of Approach.**

- 5.1 The Council regards prevention as better than cure. It offers (and encourages the request of) information and advice to those it regulates and seeks to secure co-operation avoiding bureaucracy, ensuring efficient compliance with legislation, whilst, at the same time, minimising the burden on businesses and individuals to put safety and welfare first and to integrate good working practices into normal working methods.
- 5.2 This policy sets out the general principles, which the division intend to follow, in relation to its enforcement options, including prosecution. It is intended to be used in conjunction with any more-detailed guidance on enforcement practice issued by or for various specific functions of the service.
- 5.3 Various bodies/reviews/documents and agreements have and will continue to influence the approach to enforcement taken by the Council. These include:-
- **The Human Rights Act 1998.**
 - **The Government's Enforcement Concordat.**
 - **The Macrory Review.**

- **The Department for Business Enterprise and Regulatory Reform (BERR) Regulators Compliance Code**
- **The Hampton Review.**
- **The Regulatory Enforcement and Sanctions Act 2008**

5.4 Further details of how these documents steer our approaches to enforcement can be found in the Corporate Enforcement Policy.

5.5 Good enforcement secures compliance with regulations and as a result Council Officers will seek to use a combination of assistance, advice and formal action.

5.6 In particular the following issues will be considered.

5.7 **Economic Progress.**

5.7.1 This Authority fully supports the principles of the Hampton review and the idea that businesses should be supported by regulators to comply with regulations. In addition, the principle that it is important that business activity is properly regulated, encouraging the economy to thrive, while protecting public health and consumer interests is supported.

5.8 **Proportionality.**

5.8.1 In general, the concept of proportionality is included in much of the regulatory system through the balance of action to protect the employee, the environment, or the public against risks and costs. Achieving proportionality requires that the enforcement action taken is directly related to the risks involved or where there is no alternative.

5.8.2 Some duties are specific and absolute whereas others require action "so far as reasonably practicable". Deciding what is reasonably practicable to control risks requires the exercise of judgement. Where risks must be controlled so far as reasonably practicable, regard will be had to the protection measures necessary to comply, the degree of risk involved and the cost, whether in money, time or trouble involved in averting the risk. Unless it can be shown that there is a gross disproportion between these factors and that the risk is significant in relation to the cost, measures must be taken and costs incurred to reduce the risk.

5.9 **Consistency.**

5.9.1 Consistency means taking a similar approach in similar circumstances to achieve a similar result. All those involved need to know that they are being treated fairly. Businesses in particular need to know that they are competing with others on level terms.

5.9.2 It is, however, recognised that consistency does not mean simple uniformity. Officers need to take account of many variables, the scale of impact upon health or the environment, the attitude and actions of those responsible and the history of previous incidents or breaches. Decisions on enforcement action are a matter of professional judgement and the Service, through its officers, needs to exercise discretion. The Service will continue to develop arrangements to promote consistency including effective arrangements for liaison with other enforcement agencies. In relation to "Enviro-crimes" such as littering, waste offences, dog

fouling etc., it has been agreed that the Council takes a "zero-tolerance" approach and therefore aims to assist building safer cleaner communities.

5.10 Targeting of Resources.

5.10.1 Targeting of resources means making sure that regulatory effort is directed primarily towards those whose activities give rise to the most serious risks or where the hazards are poorly controlled or against deliberate or organised crime. Action will be primarily focused on those that break the law or those directly responsible for the risk and who are best placed to control it. In addition, issues or locations, where greater numbers of substantiated complaints are received, will merit greater attention.

5.10.2 Systems have been introduced for prioritising regulatory effort. They include guidance contained in Codes of Practice, the response to complaints from the public about regulated activities, the assessment of risks posed by a person's operations and the gathering and acting on intelligence about illegal activities.

5.10.3 In evaluating the likelihood of non-compliance, the Service will give consideration to all relevant factors, including:

- Past compliance records and potential future risks
- The existence of good systems for managing risks, in particular within regulated entities or sites
- Evidence of recognised external accreditation, and Management competence and willingness to comply.

5.10.4 Relevant commercial premises will therefore receive regular inspection visits in accordance with their perceived risk so that the public can be assured that potentially serious risks continue to be effectively managed. Models and tools to enable risk to be assessed and compared will continue to be developed. Inspection/visit frequency may also be altered as a result of national or local initiatives targeting particular activities.

5.11 Transparency of Regulatory advice and guidance.

5.11.1 The Council will ensure that all legal requirements relating to its regulatory activities, as well as changes to them, are promptly communicated or otherwise made available to relevant regulated entities. It will also provide general information, advice and guidance to make it easier for regulated entities to understand and meet their regulatory obligations. This information, advice and guidance will be provided in clear, concise and accessible language, using a range of appropriate formats and media.

5.11.2 Where a remedial intervention is required, it will be clearly explained (and confirmed in writing, if requested) why the action is necessary and when it must be carried out; a clear distinction will always be made between legal requirements and best practice advice. Opportunity will be provided to discuss the circumstances of the case, clarify what is required to comply with the law and if possible, resolve any points of difference, before formal enforcement action is taken, unless urgent action is required, for example, to 'prevent' or 'protect from serious harm' or prevent evidence being destroyed.

5.11.3 Where urgent action is required, a written explanation of the reasons will be provided as soon as practicable after the event where appropriate and always on request.

5.11.4 Written explanation will be given of any rights of appeal against formal enforcement action at the time the action is taken. This will explain the appeal procedure, where and when an appeal may be made as well as confirming the grounds on which it may be brought. It will make clear whether action will be suspended pending the outcome of the appeal. Information from the Council can be provided on audio tape, in large print, in Braille or in other languages if requested and a large portion of it is available on the Council's website (www.westlancs.gov.uk).

5.11.5 This document and any other enforcement policies produced for individual divisions or services, is/are freely available to businesses and individuals.

5.12 Helpfulness.

5.12.1 Advice and assistance are regarded as central to the implementation of the enforcement policy and are used to inform both businesses and individuals of their rights and responsibilities. Help will be given to businesses, voluntary or community groups, workplace representatives and the public to assist them to comply with Statutory requirements. By adopting this approach and by positively encouraging businesses and others to seek advice and information it is hoped that many issues can be resolved without having to resort to more formal stages of enforcement action.

5.12.2 A courteous approach and efficient service will be provided with all staff identifying themselves by name. The purpose of any visit will be properly explained and a contact point or telephone number for any further dealings will be given when required. Applications for licences, registrations, approvals etc., will be dealt with efficiently and promptly and every effort will be made to ensure that, wherever practicable, the Council's enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

5.12.3 The Division offers a flexible approach to service delivery, which takes account of the diverse needs of the public and business community. Services will, if necessary, be made available by prior arrangement, possibly out of office hours and will be tailored to meet the specific needs of both the public and businesses. In delivering the service, special arrangements will be made, wherever appropriate, to accommodate ethnicity, disability, gender and age. The Council has access to translation services and will use them where necessary.

5.13 Accountability.

5.13.1 The Council recognises that it is accountable to government, citizens, and Parliament for its actions. Policies and Standards have been adopted against which it can be judged, along with effective and easily accessible mechanisms for dealing with comments and handling complaints.

5.14 Information requirements.

5.14.1 The Council will endeavour to request only the information it needs and will, where possible, share relevant data in order to reduce the burden, on businesses or individuals, of providing data.

6.0 Legal Proceedings

6.1 It is recognised that the instigation of a prosecution is a serious and important part of enforcement that should only be taken after full consideration of the implications and consequences. Decisions about prosecution will take account of Council policies and procedures and the Code for Crown Prosecutors.

6.2 A prosecution will not be commenced or continued unless there is sufficient admissible and reliable evidence that the offence has been committed and that there is a realistic prospect of a conviction. A bare prima facie case is not enough. If the case does not pass this evidential test, it will not go ahead, no matter how important or serious it may be. In addition, any possible defence, which could successfully be utilised, will be considered and may prevent a case being taken. The issue of a caution will not be used as an alternative in such circumstances.

6.3 The circumstances that are likely to warrant prosecution may be characterised by one or more of the following:-

- There has been a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law abiding are placed at a disadvantage to those who disregard it.
- The gravity of the offence taken with the general record and approach of the offender warrants a strong legal sanction. For example, a reckless disregard for standards, repeated breaches or persistent poor standards.
- Where the offence and or the circumstances leading to it are reasonably foreseeable.
- It is considered to be an appropriate way of drawing attention to the need for compliance with the law and the maintenance of standards, especially where there would be a normal expectation that a prosecution would be taken.
- The offender and particularly others may be deterred from similar failures through the conviction.
- Evidence of wilful intent of the offender, individually and/or corporately.
- There has been a previous history of offending, poor standards or lack of co-operation.
- The poor attitude of the offender, particularly in respect of any explanations offered and any remedial action taken.
- If the prosecution is successful, a significant penalty is likely to result.
- The particular contravention or circumstances have caused serious public concern or alarm.
- Prosecution would serve the public interest.
- The offence is contrary to the Councils aims and priorities.
- The lack of ability to establish a robust defence.
- The age of the offender.
- The offence, although not serious in itself is widespread in the area where it is committed and requires attention.

- In cases of obstruction or where officers safety has been put in doubt, prosecution will always be considered, especially where undue delay, or additional works/costs/visits have arisen.
- West Lancashire Borough Council, as opposed to another authority or agency, is the most appropriate body to institute proceedings.

6.4 These factors are not exhaustive and those that apply will depend on the particular circumstances of each case and each case will be judged on its merits. The importance of each factor will be determined in the circumstances of each case and will be used to make an overall assessment.

6.5 In making a decision about whether or not to undertake a prosecution, an officer will use one of the pre-prosecution assessment forms contained at Appendix 1. The officer will fill in the relevant form for an individual or a company. The form will assist the officer and their relevant manager to decide if a prosecution is the most appropriate course of action. There is no hard and fast rule in relation to how many items are needed for a prosecution, as some issues will be more important than others. Space is available for further comment. The assessment should be included with the prosecution file that is sent to the Legal Services Division. This will assist them recognise the officer thought process as to why a prosecution is necessary.

6.6 Officers who have a prosecution approved, should complete a file in accordance with QAP5 from the QA system as soon as possible.

6.7 Where necessary, criminal proceedings will be taken against those persons responsible for the offence. Where a Company is involved, it will be usual practice to prosecute the Company where the offence resulted from the Company's activities. However, any part played in the offence by the officers of the Company, including Business Proprietors, Directors, Managers, and the Company Secretary or employees of the Company will also be considered.

6.8 Action may also be taken against such officers (as well as the Company) where it can be shown that the offence was committed with their consent, was due to their neglect or they had "turned a blind eye" to the offence or the circumstances leading to it. In appropriate cases, consideration will be given to seeking the prohibition of the business proprietor under the appropriate specific statutes.

6.9 Enforcement action against employees will receive special consideration. Where appropriate, a warning letter will be issued unless the matter is serious and/or that the employee had received a prior warning from either his employer or the Council.

7.0 **Caution**

7.1 In cases where a prosecution is not considered to be the most appropriate course of action, the issue of a Caution will be considered as an alternative, depending on the circumstances.

7.2 A Caution is the written acceptance by an offender that they have committed an offence and may only be used where a prosecution could properly have been

brought. It will be brought to the court's attention if the offender is convicted of a subsequent similar/relevant offence.

- 7.3 As with a prosecution, additional enforcement mechanisms may also be used in conjunction with a Formal Caution.

8.0 Court Proceedings

- 8.1 In cases of sufficient gravity, for example, serious breaches of food safety or health and safety legislation, where circumstances allow, consideration will be given to requesting the magistrates to refer the case to the Crown Court. The same factors as listed in 6.3 above will be used, as well as consideration of the sentencing powers of the Magistrates Court.

- 8.2 The existing law gives the courts considerable scope to punish offenders and to deter others. Unlimited fines and, in some cases, imprisonment may be imposed by the higher courts. The Council will continue to raise the awareness of the courts to the gravity of specific offences brought before them and will encourage the courts to make full use of their powers.

- 8.3 The Service will always seek to recover the full costs of investigation and Court proceedings or at least a contribution towards them.

9.0 Promotion, Prevention and Publicity

- 9.1 Promotion is an essential part of the policy as it raises awareness of the Divisions' services, informs people of their legal responsibilities and encourages co-operation between officers and the regulated. A strong element of self-regulation is considered essential and support for this will be provided through newsletters, direct contact, the Council's website and, where appropriate, seminars.

- 9.2 Proactive inspections of various types of business premises are carried out each year to a frequency determined by risk. This system of inspections is seen as a means of building positive relationships between the Service and businesses.

- 9.3 Officers from Community Services will, where possible, following a successful prosecution, name companies and individuals that have been convicted of breaking the law. In the case of those offenders who have contravened the relevant legislation in relation to litter, fly-tipping, other waste offences or dog fouling, following the issue of a fixed penalty notices, either having paid it or were found guilty in a magistrates court, a list of those offenders will be published quarterly. Publicity can be drawn to individuals who, through their actions have been given Anti-Social Behaviour Orders by the courts and the provisions of these will be made known to assist the Police with their compliance monitoring, however, each case is assessed on its merits.

10.0 Working With Other Regulators

- 10.1 Every effort will be made to avoid duplicating work that is the responsibility of other authorities and the Officers will aim to avoid the duplication of work for businesses dealing with different regulators. The Service will not generally investigate or enforce where another regulatory body enforces more specific

legislation. The Service will, however, liaise with that other body, to ensure effective co-ordination, to avoid inconsistencies or duplication and to ensure that any action is taken by the most appropriate body and for the most appropriate legislative breach. The Council has a local working agreement with the Environment Agency in relation to fly-tipping and liaises with them on a regular basis. There is also a statement of intent with the Health and Safety Commission / Health and Safety Executive.

11.0 Home Authority / Lead Authority / Primary Authority Partnership

11.1 West Lancashire Borough Council subscribes to the Home Authority Principle in respect of food safety matters and the Lead Authority Partnership in respect of health and safety matters and will seek to promote them in accordance with any relevant guidance. In addition WLBC supports the Primary Authority principle as outlined in the Regulatory Enforcement and Sanctions Act 2008, and its requirements and supplementary guidance.

11.2 The purpose of the schemes is to help businesses avoid contravention of food and health and safety laws by officers from this Council offering advice, at source, and encouraging any other enforcement authorities to work in liaison with the Council on enforcement issues concerning that business thereby ensuring consistency. In enforcing against activities included in one of the above partnerships, WLBC will take all the necessary consultative steps as outlined in the relevant requirements and supplementary guidance

12.0 Complaints against Officers/the Service

12.1 The Council has a clear and well-defined procedure that deals with complaints. Any complainant has the ability to "appeal" against a decision that has been made or against the response they may have had in reply to a letter. In the first instance the Divisional Manager or Service Manager would investigate the response. If the complainant still feels that their complaint has not been answered satisfactorily the Chief Executive of the Council would investigate the matter. If, after the response of the Chief Executive, the complainant was still aggrieved they could ultimately request the attention of the Local Government Ombudsman. Full details of this procedure are available on the Council's website (www.westlancs.gov.uk).

12.2 There is also an appeal procedure through the relevant Court in relation to Court Convictions following prosecutions.

13.0 Departure From The Enforcement Policy

13.1 All authorised officers will abide by this Policy when making enforcement decisions.

13.2 Any departure from the Policy will only be accepted in exceptional circumstances, capable of justification, and only after full consideration and authorisation by the Executive Manager Community Services, or designated alternative officer.

PRE PROSECUTION ASSESSMENT - INDIVIDUAL

OFFICER:..... DATE OF OFFENCE:.....

NAME:.....

ADDRESS:.....

DETAILS OF OFFENCE:.....

Has previous legal action been taken against the by WLDC? YES / NO /?

Has previous legal action been taken regarding a similar matter? YES / NO /?

Is there evidence of previous written warnings being issued re this matter? YES / NO /?

Has there been blatant disregard for the law to gain economic advantage? YES / NO /?

Was a poor attitude to officers demonstrated? YES / NO /?

Is a significant penalty likely? YES / NO /?

Has the contravention(s) caused serious public alarm/concern/disturbance? YES / NO /?

Would the prosecution serve the public interest? YES / NO /?

Is a defence available? YES / NO /?

Is the contravention contrary to the Council's aims and priorities? YES / NO /?

Is the issue widespread and requires targeting? YES / NO /?

Was the safety of the officer in any doubt? YES / NO /?

Was the officer obstructed in the course of his/her duties? YES / NO /?

Is there a public expectation that the prosecution will be taken? YES / NO /?

Is a prosecution warranted to deter others via ensuing publicity? YES / NO /?

Would a prosecution result in bad publicity for the Council? YES / NO /?

Is a caution appropriate? YES / NO /?

Recommendation from Officer - PROSECUTE YES / NO /?

Reason:

(Continue overleaf if necessary)

Recommendation from the Officer in Charge
of the investigation – PROSECUTE YES / NO /?

Reason:

Decision of EM – PROSECUTE YES / NO /?

Notes:

PRE PROSECUTION ASSESSMENT - BUSINESS

OFFICER:..... DATE OF OFFENCE:.....
 COMPANY:.....
 ADDRESS:.....

DETAILS OF OFFENCE:.....

- Has previous legal action been taken against the Company by WLDC? YES / NO /?
- Has previous legal action been taken regarding a similar matter? YES / NO /?
- Is there evidence of previous written warnings being issued re this matter? YES / NO /?
- Has there been blatant disregard for the law to gain economic advantage? YES /NO /?
- Was a poor attitude to officers demonstrated? YES /NO /?
- Is a significant penalty likely? YES NO /?
- Has the contravention(s) caused serious public alarm/concern/disturbance? YES / NO /?
- Would the prosecution serve the public interest? YES / NO /?
- Is a defence available (e.g. BPM)? YES / NO /?
- Is the contravention contrary to the Council’s aims and priorities? YES / NO /?
- Is the issue widespread and requires targeting? YES / NO /?
- Was the safety of the officer in any doubt? YES / NO /?
- Was the officer obstructed in the course of his/her duties? YES / NO /?
- Is there a public expectation that the prosecution will be taken? YES / NO /?
- Is a prosecution warranted to deter others via ensuing publicity? YES / NO /?
- Is the issue likely to be a problem again? YES / NO /?
- Is a caution appropriate? YES / NO /?
- Recommendation from Officer - PROSECUTE YES /NO /?

Reason:

(Continue overleaf if necessary)

Recommendation from Officer in Charge
 of the Investigation – PROSECUTE YES / NO / ?

Reason:

Decision of EM – PROSECUTE YES / NO / ?

Reason:



AGENDA ITEM: 12

CABINET:
15 September 2009

EXECUTIVE OVERVIEW &
SCRUTINY COMMITTEE
1 October 2009

Report of: Executive Manager Housing and Property Maintenance Services

**Relevant Portfolio Holders: Councillor Mrs V. Hopley
Councillor D. Westley**

**Contact for further information: R.V. Livermore (Extn. 5200)
(E-mail: bob.livermore@westlancs.gov.uk)**

SUBJECT: REFORM OF COUNCIL HOUSING FINANCE

RVL/EH2899cabexeco&s
4 September 2009

District wide interest

1.0 PURPOSE OF THE REPORT

1.1 The purpose of this report is to seek Members views on the Government's consultation on reform of Council Housing Finance.

2.0 RECOMMENDATIONS

2.1 That Cabinet endorse the views expressed in paragraph 8 of this report.

2.2 That this report be considered by the Executive Overview and Scrutiny Committee and their agreed comments conveyed to the Portfolio Holders of Finance and Housing.

2.3 That the views of tenants be sought from the Tenant and Resident Forum.

2.4 That the Executive Manager Housing and Property Maintenance Services, in consultation with the Portfolio Holders for Finance and Housing after considering the comments sought of Cabinet, Executive Overview and Scrutiny Committee and Tenant and Resident Forum be given delegated authority to respond on behalf of the Council to this Consultation Paper.

2.5 That call-in not apply as this report is being sent to the Executive Overview and Scrutiny Committee for their comments.

3.0 BACKGROUND

- 3.1 The Government launched an initial consultation about a review of Council Housing Finance on 12 August 2008.
- 3.2 Members had the opportunity of attending a Workshop on 23 September 2008 to look at the various issues.
- 3.3 The matter was considered by the Executive Overview and Scrutiny Committee on 2 October 2008 and their comments conveyed to Cabinet.
- 3.4 Cabinet at its meeting on 18 November 2008 considered the feedback from the Workshop held by Councillors, feedback from the Workshop held by tenants, comments from the Executive Overview and Scrutiny Committee. Cabinet resolved to respond to the Consultation which is attached (Appendix 1).

4.0 CURRENT POSITION

- 4.1 Government have considered the feedback from the initial consultation and have commissioned various pieces of research in order to help make some proposals on how Council housing finance should look and work in the future.
- 4.2 The Government have now issued a further Consultation Paper on Reform of Council Housing Finance on 21 July 2009. The deadline for making comments is 27 October 2009.

5.0 CONSULTATION DOCUMENTS

- 5.1 The proposals are complex and the consultation consists of the following documents:
 - (a) Reform of Council Housing Finance Consultation (60 pages)
 - (b) Review of the Major Repairs Allowance (47 pages)
 - (c) Evaluation of Management and Maintenance Costs – Report of Findings (90 pages)
 - (d) Evaluation of Management and Maintenance Costs – Summary Report (37 pages)
 - (e) Review of Council Housing Finance – Analysis of Rents (100 pages)
 - (f) Tenants' attitudes towards Council Housing Finance and Rent Policy (45 pages)
 - (g) Review of Council Housing Finance – Impact Assessment (23 pages)
 - (h) Review of Council Housing Finance – Summary of Commissioned Research (8 pages)
 - (i) Options for dealing with housing loan debt in the local authority sector (16 pages)

These documents can be downloaded from the Department of Communities and Local Government website. A copy of each of these documents is available on request.

- 5.2 The Council is a member of ARCH (Association of Retained Council Housing) and I attach a Briefing Paper which covers the main issues raised in the Consultation Paper. (Appendix 2)

6.0 UNDERLYING PROPOSALS

- 6.1 As Members will be aware the HRA Subsidy System is extremely complex and results in around 150 of the 200 Local Authorities within the Subsidy System having to pay into the system by way of “negative subsidy”. This Council subsidises the system to the tune of £5.6m out of the rents that we collect.
- 6.2 The Government acknowledge in the Consultation Paper that £300m raised from the system (about 5% of total guidelines rent income) makes a surplus for the Treasury.
- 6.3 If the HRA Subsidy System continues unchanged it is projected that these surpluses will increase. The Government have declared their intention to dismantle the HRA Subsidy System. Equally, it is recognised that this will be difficult to achieve.
- 6.4 The preferred approach would be to create a new baseline where Local Authorities would have sufficient resources to be able to sustain and manage their homes on an equitable basis. Essentially Local Authorities would be able to keep their rents in return for accepting a one off amount of debt.
- 6.5 The Consultation Papers do not indicate the level of debt to be apportioned to each Local Authority.
- 6.6 The Minister has indicated that if Local Authorities agree to work on this principle the new system is capable of being introduced quickly but if not it will require primary legislation to make the proposed changes.
- 6.7 The proposals also mention changes to the framework for allocating costs between the HRA and the General Fund. At this stage it is not yet known the effects this may have on the interaction between the two accounts and how this may change from the current financial arrangements. Also, the proposals mention the tightening and strengthening of the HRA ring-fence mechanism, relating to capital receipts.

7.0 ISSUES FOR CONSIDERATION

7.1 Costs and Standards of Council housing in future

- 7.1.1 The review investigates current levels of funding through management and maintenance allowances and concludes that these need to be increased by 5% overall. The Government accept that further work is necessary in certain areas like regional differences.
- 7.1.2 The review recognises that the Decent Homes Standard should be a long term minimum standard and recommends that certain changes be made to improve the methodology and to extend the remit to things like lifts and communal areas. Overall there is a recognition that the allowance needs to be raised by £157 per property per annum on average to fully meet the Decent Homes Standard. Additionally, £116 per property to tackle backlog in components requiring replacement in

2010 and a further £91 per property to cover statutory compliance with disabled adaptations and asbestos.

7.2 Rents Policy

7.2.1 There are no proposals to move away from the current methods of assessing rents.

7.3 Options for fundamental reform of the system

7.3.1 The Government offer two modules for reform:

- (a) Improvements to a National System for funding Council Housing.
- (b) A devolved system (self-financing).

7.3.2 All options would share the same characteristics:

- Costs, standards and rents would be based on the same principles.
- Local Authorities would be required to draw up 30 year business plans based on updated stock condition surveys following the completion of their Decent Homes Programmes.
- All Housing Capital Receipts would be retained locally and would be accounted for alongside housing revenues.
- Any option which is taken forward will be fully compliant with the Government's new burdens procedures.

7.3.3 The proposals for improvement to the current system would:

- 3-5 year determination of finance where no annual charges would be made.
- Some safeguards would be put in place to protect against inflation etc.
- Debt would **NOT** be written off.

Either

- Debt would be reallocated to Local Authorities in proportion to the value of their stock.

Or

- Debt would be held centrally and Government would charge each Council for the cost of servicing this based on the assumption made if debt had been reallocated.
- All monies paid into system would be redistributed.

7.3.4 The proposals for the self financing options are:

- Local Authorities to keep rents.
- Local Authorities would accept a "one-off" reallocation of housing debt based on its ability to service this.

- Debt allocated could be higher or lower than the current debt in the system. This would be dependent on the value of the stock and the assumptions made on costs and income.
- Debt would be allocated on the tenant market value of the stock.

7.4 **Other matters**

7.4.1 The Consultation Paper then looks at potential models for debt allocation, borrowing under self-financing, managing risk under self-financing, capital receipts, disabled facilities in local authority housing, implication of self-financing for transfer and ALMO Policy, implication for ALMOs, Local Housing Companies and Equality Impact Assessments.

7.5 I have deliberately not gone into too much detail on the issues raised in the above paragraph as I believe the fundamental issues highlighted in 7.1 – 7.3 are of significant interest. However, I am more than happy to go into those matters if Members wish.

8.0 COMMENTS OF THE EXECUTIVE MANAGER HOUSING AND PROPERTY MAINTENANCE SERVICES

8.1 Overall, I agree that the current system is not fit for purpose and that change is necessary.

8.2 I agree that the costs associated with management and maintenance together with Major Repairs Allowance need to be increased to reflect the issues highlighted within the Appendix to the Consultation Paper.

8.3 I feel that there should be a national framework for rent setting but think there is some scope for local flexibilities and the Government should be asked to reconsider their approach.

8.4 I welcome the Government's approach to ensuring that any surpluses within the system will be used for housing.

8.5 In principle I support a devolved system (self-financing) but this would need to be conditional on a number of points being agreed as part of the process. The areas of concern that will need to be satisfied are:

- (i) That the debt associated with self-financing is no more than would have been the case if stock transfer was the preferred route.
- (ii) Any debt would need to be serviced by payments from the HRA only and no cost fall on the General Fund.
- (iii) Any historic debt associated with an enhanced Decent Homes Standard, Private Finance Initiative or leasing arrangements should be removed from the system.

Subject to the above being agreed this would allow tenants to benefit from the new system in a similar way to the benefits that stock transfer would have brought.

8.6 I had intended, as part of this report, to draw a comparison between the proposed system and that of stock transfer but the Consultation Paper appears to have closed the door to this possibility, although I am seeking clarification on this point.

9.0 SUSTAINABILITY IPLICATIONS/COMMUNITY STRATEGY

9.1 The current HRA Subsidy System is not sustainable and the proposed system, subject to the concerns that need to be addressed in 8.5, would provide a system which allows tenants to benefit from financial stability.

9.2 The Community Strategy recognises that residents of West Lancashire want good quality homes and the new system, subject to amendment, will provide a financial vehicle which starts to deliver this in the public sector.

10.0 FINANCIAL AND RESOURCE IMPLICATIONS

10.1 The current proposals, if implemented unamended, would create a burden on the General Fund. It is estimated that this would have an annual revenue consequence of at least £600,000. Clearly this is unacceptable.

10.2 In 8.5 alternatives are suggested that would, rightly, in my opinion, allow any debt to be serviced from rental income from the HRA.

10.3 If the Government were not prepared to amend this aspect the Council would need to oppose the self-financing model and request that the improvements to a national system be implemented.

11.0 RISK ASSESSMENT

11.1 A devolved system (self-financing) carries greater risk but would allow the Council to manage these and be the masters of their own destiny.

11.2 In any business planning model these risks need to be factored in and managed.

11.3 The fact that the Council has a good track record of prudent financial management gives a degree of comfort and balances the risks associated with taking redistributed debt.

12.0 CONCLUSION

12.1 Overall, the proposed changes are broadly welcomed. However, the devil will be in the detail. However, providing the Government address the concerns in 8.5, I believe we could commit to this system. However, if the concerns cannot be negotiated then we should oppose the new system and force the Government to legislate.

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

Appendix 1 – Cabinet Report Review of Council Housing Finance – 30 October 2008 +
Appendix

Appendix 2 - ARCH Briefing Report – July 2009



AGENDA ITEM:

CABINET

18 NOVEMBER 2008

Report of: Executive Manager Housing and Property Maintenance Services

**Relevant Portfolio Holder: Councillor Val Hopley
Councillor David Westley**

**Contact: Bob Livermore (Extn. 5200)
(E-mail: bob.livermore@westlancsdc.gov.uk)**

SUBJECT: REVIEW OF COUNCIL HOUSING FINANCE

RVL/BC/2858cab(3)
30 October 2008

District wide interest

1.0 PURPOSE OF THE REPORT

1.1 The purpose of this report is to give further information to Cabinet and a suggested response in consideration of the issues outlined in the report that was submitted to the Executive Overview and Scrutiny Committee on 2 October 2008 and which is being presented with this report to Cabinet tonight, (Appendix 1).

2.0 RECOMMENDATIONS

2.1 That the response in Appendix 2 be the Council's response to the Government's Review of Council Housing Finance.

3.0 BACKGROUND

3.1 The Executive Overview and Scrutiny Committee considered the report which is being presented to Cabinet this evening and decided not to make a firm recommendation to Cabinet on how to respond to this issue.

3.2 In the light of the comments made at the Workshop Session and the discussion at the Executive Overview and Scrutiny Committee, I have considered the matter further and in order to assist Cabinet have prepared a draft response that I would recommend that you send. (Appendix 1)

4.0 FINANCIAL AND RESOURCE IMPLICATIONS

4.1 There are no direct financial and resource implications arising from this report but should the Government accept the Council's recommendations it would mean that the Housing Revenue Account would benefit by £4.6m (current position financial year 2008/9).

5.0 RISK ASSESSMENT

5.1 There are no major risks arising from this report.

6.0 CONCLUSION

6.1 In conclusion, I would recommend the response to Government as set out in Appendix 1 of this report.

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>
E-mail	Review of Council Housing Finance	

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

Appendix 2 – Council's response to Council Housing Finance and Rents Policy



Bob Livermore FCIH
Executive Manager Housing and
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Review of Council Housing Finance Team
Communities and Local Government
1/B1
Bressenden Place
London
SW1E 5DU

Date: 22 September 2008

Your ref:
Our ref: RVL/TB/BC
Please ask for: R V Livermore
Direct dial no: 01695 585200
Extension: 5200

Dear Sir or Madam

Review of Council Housing Finance – Focus Group meeting

Please find attached a report highlighting the main points, which arose from a Focus Group meeting, which was held to discuss tenant's attitudes towards Council housing finance and rents policy.

If you require any further information please do not hesitate to contact me.

Yours sincerely

A handwritten signature in purple ink, appearing to read 'R V Livermore'.

R V LIVERMORE
EXECUTIVE MANAGER
HOUSING AND PROPERTY MAINTENANCE SERVICES

Chief Executive: William J. Taylor BA (Hons) M.Soc.Sc.F.I.P.D.
Deputy Chief Executive: Les Abernethy BSc MCD MRTPI

**COUNCIL’S RESPONSE
TO
COUNCIL HOUSING FINANCE AND RENTS POLICY**

The overarching view of this Council is that the outcome of the review should enable Council housing to have sufficient finance to adequately run the service and deliver things that are important to tenants.

Indeed The Community Strategy wishes to ensure that good quality housing is available and it is important that the review delivers sufficient finance locally to ensure this aspiration is achieved.

1. National redistributive HRA Subsidy System vs A Local system

Whilst the Council is minded that the current national redistributive HRA subsidy System is a risk averse approach and provides security to the Local Authority and its stakeholders, there is strong opinion that it carried with it the following major disadvantages:

- It is not transparent or readily understood by the Council and its stakeholders, including tenants, who may see this as a form of indirect tax;
- It disadvantages the majority of local authorities who are required to pay DCLG negative subsidy;
- It does not reward positive management practice, hides inefficiencies, and does not actively encourage innovative approaches to stock investment;
- It does not , based on the current policy of guideline rents and allowances, provide adequate protection to a local authority against increased subsidy withdrawal, to such an extent that it will cause long term financial difficulties for many local authorities;
- it does not enable long term planning to take place because HRA subsidy settlements are one year settlements only which results in reactive rather than proactive business planning

For these reasons, together with the fact that there both tenants and Members are of the view that the rent tenants pay to the Council landlord should be entirely spent on their housing needs and the needs of the local community, the Council would wish to seriously explore the possibility of withdrawing from the national redistributive HRA subsidy System and to self-finance Housing Service provision.

2. National vs Local Rent Setting Policy

The Council and tenants alike understand and appreciate the rationale that underpinned the reasons for the implementations of a national model for rent setting:

- it is formula driven and clearly understood;
- it removes inequality for charging;
- subject to rent convergence with formula and more affordable housing comes on stream it will provide tenants with choice as to where they wish to live and which landlord they wish to engage with

However, as there is no longer a tangible link between rents and costs of the service, there is a view that rents , whilst based on a set formula, should be determined locally based on local service needs with greater involvement of local tenants and stakeholders.

3. Service charges

There is general consensus that service charges should be fair and reasonable and should reflect the actual cost of services being provided.

However, the regulations currently in place restrict the local service provider from introducing new or improved services as this will result in clawback if it exceeds the current RPI + 0.5% annual increase limit for rents and service charges thereby penalising innovation and provision of better services for tenants.

4. Capital investment

The Council is of the opinion that rents should generate sufficient investment opportunity to maintain homes and improve tenants living conditions not just to 2010 but beyond and to a higher standard than the current minimal decent homes Standard (DHS). The review of the Major Repairs allowance within the current national redistributive HRA subsidy System direct impinges on the affordability of a local authority's capital investment and thereby revenue programmes.



ARCH Member Briefing: July 2009

Reform of council housing finance: consultation

Key issues

Current HRA subsidy system to be dismantled
Greater financing flexibility and responsibility for local authorities
Impacts on risk management, borrowing, capital receipts and
management options
Request for comments from ARCH members to the consultation paper

1. Introduction

The review of council housing finance was announced in December 2007 and launched by ministers in March 2008. ARCH has been involved in the review process already by supplying papers on elements of the review and through ARCH representatives on the 4 work streams.

Recent announcements have been made by the Prime Minister Gordon Brown and Housing Minister John Healey outlining changes to housing policy in response to continued lobbying around the problems with the supply of social housing and concerns about the redistributive Housing Revenue Account system. Since coming to the post of Housing Minister, John Healey has made significant progress both in terms of specific initiatives and the review. This consultation document is the latest step in the review process.

It follows on from a number of initiatives providing resources for new build schemes and changes to HRA arrangements for new build, purchased and refurbished homes.

2. The consultation document

The consultation document refers to England and is available at <http://www.communities.gov.uk/documents/housing/pdf/1290620.pdf>

The foreword to the document by John Healey re-iterates the scale of the investment made in the council and housing association stock since 1997 and government's commitment to the Decent Homes programme. It states that reform of the system that finances council housing is imperative if improvements made to date are to be maintained.

The Minister states that his 'intention is to dismantle the Housing Revenue Account subsidy system and replace it with a devolved system of responsibility and funding' and is very clear about his objectives around providing more flexibility in finances and more transparency in the operation of the system, devolving control from central to local government and, in return, increasing local responsibility and accountability for long term planning, asset management and for meeting the housing needs of local people.

The Minister goes on to summarise his proposals which are a devolved self-financing alternative to the current system which will remove the need to redistribute revenue nationally while continuing to ensure that all councils have sufficient resources. Councils will finance their own businesses from their own rents and revenues, in exchange for a one-off allocation of housing debt. It will be a once-and-for-all settlement to create a new baseline for all local authorities currently in the HRA subsidy system, from which each will be able to sustain and maintain their homes on an equitable basis.

3. Background to the review

Section 1 notes the background to the review, how the Homes and Communities Agency and Tenant Services Agency have been created and the expected future role of local authorities but that the financing arrangements for local authority housing have remained substantially unchanged for over 20 years.

It notes some of the steps taken so far in the review and the four work streams:

- costs and standards for social housing:
- rents and service charges:
- rules governing a local authority's Housing Revenue Account and capital:
- mechanisms for delivering funding:

4. The current housing finance system

Section 2 identifies some elements and problems associated with the current system explaining the background to the HRA and the subsidy system. It states that 'There is a clear rationale for redistribution of income between landlords' and

states the reasons for this including differing spending needs and capacity to raise income.

It goes on to discuss issues around notional, debt, capital expenditure and receipts, borrowing, standards and rents. It notes some of the problems which have been identified as the system has evolved over time and these are the main arguments which have been made against the system by local authorities.

5. Costs and standards of council housing in future

Section 3 attempts to look at a range of costs and how they will impact on the financing of the service in future. It notes that the Government has concluded that provision nationally for management and maintenance needs to increase by 5% above current levels. It also states that BRE concluded that the MRA tackling newly arising need should be uplifted by an average of 24 per cent

The issue of core and non-core activities is addressed with the document noting that research undertaken for the review showed that at least 40 per cent of general management costs are additional to core management costs. It notes that defining a list of non-core activities is difficult and not something the Government intends to do but it does wish to establish a series of principles to enable local authorities to decide whether the service should be paid for through the HRA or the general fund.

There is a section which considers standards and it is noted that future funding will be provided to at least continue to deliver the Decent Homes standard for all social stock. Furthermore funding for items that were missing from the original standard such as lifts and common areas will be provided. The impact of climate change is also noted and improving energy performance in the sector is discussed.

There is a section about service charges and the use of sinking funds.

6. Options for fundamental reform of the system

Improvements to the current system

The paper looks first at improving the current arrangements. One of the options noted would be to move to longer determination periods, of between three to five years, during which time assumptions made about costs and income would not change. Some triggers could be built into the determination so that if a variable, for example inflation, moved outside a range, it would trigger a revised determination. This could be combined with measures to address debt in order to reduce the need for redistribution over a longer period. Housing debt could be allocated between local authorities to leave them with debt in proportion to the value of their stock.

As a result these councils would instead have debt that they could manage themselves rather than indefinitely paying the interest on debt held elsewhere under the current system. An alternative to reallocating debt between councils

would be to take debt into central Government and instead to charge each council for the cost of servicing an amount equal to the sum they would have been allocated.

A self-financing option

The second option looked at is self financing under which each local authority would keep the money raised locally from rents and use it to run their stock.

The paper notes that self-financing would require a one-off reallocation of housing debt in order to put all councils in a position where they could support their stock from their rental income in future. Without this reallocation of debt, the paper claims, some councils would either have to cut services or increase rents. But with this settlement on debt, the review found that rents set in line with current social rent policy would generate sufficient income to sustain the stock in all local authorities at the higher funding levels identified as necessary.

Housing debt would be allocated to councils on the basis of each council's ability to service it, using the same updated figures for costs of management, maintenance, major repairs and income that would be used to calculate subsidy if the current arrangements were to remain. Under this option:

- each council would produce a 30 year business plan.
- the value of the stock would be calculated from the present value of the cash flows in the business plan
- each council's housing debt would be adjusted to reflect the value of its stock, entailing either a capital payment to or from Government

The paper states that the principle of debt allocation is that it should achieve neutrality with the subsidy position, to the extent that this can be achieved in commuting an income stream into a capital sum.

It envisages that the debt settlement would take the following form:

- the value of the landlord business would be based on the present value of the cash flows in the business – excluding any existing housing debt
- if this value was lower than the current notional debt supported by subsidy (the subsidy capital financing requirement), a payment would be made by Government to the council sufficient to reduce the notional debt to the level of the valuation.
- if the value of the stock was higher than the current notional debt level, new debt would be imposed on the council to bring it up to the level of the valuation.

A number of associated costs are identified and the paper notes that it is the Government's intention to identify any additional costs which would fall on either the HRA or the general fund as a result of the debt reallocation and to provide a settlement that funds these. The paper states that there are detailed accounting and treasury management issues to be worked through if we implement self-financing.

Borrowing under self-financing

The paper notes additional borrowing under the current system could only be achieved by sustained improvements in operating surplus over the assumed surplus in the HRA. Ending the current subsidy system and moving to a self-financing model without constraints could therefore enable a significant increase in prudential borrowing. It goes on to say that if this borrowing were not controlled, it would be of serious concern to Government, so, in moving to a self-financing model for council housing, it will be necessary to retain some controls. The principle underpinning any controls is that surpluses generated under self financing would be retained locally to spend on local housing services. The issue is around how these surpluses might be used, and in particular whether there would need to be restrictions on any new borrowing financed from these surpluses.

The Government sees a system continuing in which a strict ring fence around the HRA would provide a framework that enabled control over the scale of borrowing. The department would therefore need to ration or limit in some way any additional borrowing over what was implied by the notional initial business plan and would have to adjust its expenditure on other housing programmes to accommodate this. The Government is considering how to ensure that the overall fiscal position for itself is not undermined under self financing.

Managing risk under self financing

The paper notes how self-financing would give councils the ability to manage their business better and how this would be accompanied by extra risk. It notes how central Government would have an ongoing interest in ensuring that it was managed well and that tenants' interests were protected and highlights that any local failure could have a cost nationally, as it would be difficult to leave tenants exposed to the consequences of a major problem arising within a council landlord. It identifies The Tenant Services Authority, working in support of the local government performance framework, as the organisation providing the framework for managing these risks.

The need to build capacity in some councils to take on the responsibility and accountability of self-financing is also mentioned

Capital receipts

The paper states that the Government think there are strong arguments for allowing councils to retain all of their capital receipts and so end the current arrangements for pooling housing receipts, on the basis that it is sensible that councils should keep the capital receipts arising on disposal of those operating assets that they would now support the debt on.

The Government's preference under self financing is to allow local authorities to keep 100 percent of their Right to Buy receipts, keeping the local discretion over

how the 25 per cent currently retained is split between the general fund and the HRA assets, but requiring the additional 75 per cent to be reinvested in housing.

It is noted that this would have the overall impact of reducing the resources available for centrally funded housing programmes.

Implications of self-financing for transfer and ALMO policy

The paper notes that self-financing would create a level playing field between transfer and retention in terms of public funding support. The valuation of a transfer proposal should follow the same principles that apply in valuing the stock and setting standards in a self-financing settlement.

The HCA will continue to consider existing transfer proposals to ensure that they are good value for Government and the local authority, and have the support of tenants. We would expect all transfer proposals to proceed to completion where tenants have already voted in favour of a change in landlord. For further cases, we will only fund transfers at standards materially the same as those proposed for self-financing.

Implications for ALMOs and LHCs

The paper notes that it sees a strong future for ALMOs and that self-financing would provide for financial flexibility and the resources to plan ahead and prosper. It also states that self-financing will provide another option for councils who want to put their land and income into schemes to deliver new housing.

7. Timetable for change

Depending on the outcome of this consultation, the Government would wish to move swiftly to have a self financing option up and running and some changes have already been made to the revenue and capital rules for new build using powers in the Housing and Regeneration Act 2008 and through secondary legislation. The powers in the 2008 Act allow for individually negotiated agreements between local authorities and central Government to exclude specified stock from the HRA subsidy system. This could, in principle, be used to bring about voluntary self financing. To achieve this would need:

- an agreement about the costs of running the stock at the local level
- an understanding about the operational practicalities of the HRA ring fence in the context of self-financing; and
- any significant transaction costs from taking on or writing off debt to be reflected in the proposed debt settlement

Government feels it would be possible to set out the terms of such an offer by spring 2010, subject to satisfactory working with local authorities. They do not however think it would be practical to conduct negotiations with over 200 local authorities and the claim that this could only work if all stock owning authorities

accepted the terms. If this could not be brought about, then primary legislation would need to be secured to achieve a national settlement and they feel that subject to Parliamentary time, a self financing system could be legislated for and be in operation from 2012-13.

The ability to deliver early departures using current powers would depend on the willingness of councils to accept some clear principles up front and to work positively with Government towards an agreement based on these principles. Whatever deal was agreed in voluntary agreements would have to be sustainable for all

8. Consultation questions

Core and non-core services

1. We propose that the HRA ring fence should continue and, if anything, be strengthened. Do you agree with the principles for the operation of the ring fence set out in paragraph 3.28?
2. Are there any particular ambiguities or detailed concerns about the consequences?

Standards and funding

3. We propose funding the ongoing maintenance of lifts and common parts in addition to the Decent Homes Standard. Are there any particular issues about committing this additional funding for lifts and common parts, in particular around funding any backlog through capital grant and the ongoing maintenance through the HRA system (as reformed)?
4. Is this the right direction of travel on standards and do you think the funding mechanisms will work or can you recommend other mechanisms that would be neutral to Government expenditure?

Leaseholders

5. We propose allowing local authorities to set up sinking funds for works to leaseholders' stock and amending HRA rules to permit this. Will there be any barriers to local authorities taking this up voluntarily, or would we need to place an obligation on local authority landlords?

Debt

6. We propose calculating opening debt in accordance with the principles set out in paragraphs 4.22- 4.25. What circumstances could lead to this level of debt not being supportable from the landlord business at the national level?
7. Are there particular circumstances that could affect this conclusion about the broad level of debt at the district level?
8. We identified premia for repayment and market debt as issues that would need to be potentially adjusted for in opening debt. How would these technical issues need to be reflected in the opening debt? Are there any others? Are there other ways that these issues could be addressed?
9. We propose that a mechanism similar to the Item 8 determination that allows interest for service borrowing to be paid from the HRA to the general fund should continue to be the mechanism for supporting interest payments. Are there any technical issues with this?

10. Do you agree the principles over debt levels associated with implementing the original business plan and their link to borrowing?

11. In addition to the spending associated with the original business plan, what uncommitted income might be generated and how might councils want to use this?

Capital receipts

12. We have set out our general approach to capital receipts. The intention is to enable asset management and replacement of stock lost through Right to Buy. Are there any risks in leaving this resource with landlords (rather than pooling some of it as at present)?

13. Should there be any particular policy about the balance of investment brought about by capital receipts between new supply and existing stock?

14. Are there concerns about central Government giving up receipts which it currently pools to allow their allocation to the areas of greatest need?

Equality impact assessment

15. Would any of our proposed changes have a disproportionate effect on particular groups of people in terms of their gender or gender identity, race, disability, age, sexual orientation, religion or (non-political) belief and human rights?

16. What would be the direction (positive or negative) and scale of these effects and what evidence is there to support this assessment?

17. What would be necessary to assemble the evidence required?

9. ARCH Comment

ARCH has consistently argued for a level playing field for stock retaining councils and the move to self-financing arrangements is cautiously welcomed.

Overall ARCH sees the proposals as a positive step in the development of a transparent and local-based finance system for housing management where the responsibility for management is retained by the local council who are best able to deliver a service for local people taking into account local circumstances. A radical attempt to address the failings of the system (some of which are highlighted in this paper) has been a long time coming and ARCH is happy to work alongside the department to see effective change.

ARCH looks forward to the change in approach from the Government which these proposals appear to signal whereby councils are left to manage their housing assets and income in as they see fit with appropriate involvement from the TSA and other regulatory bodies. ARCH sees this as potentially a real step forward both for housing services and for the 'place-shaping' role of councils of which housing makes up such a significant element.

Clearly the detail of the formula which will allocate debt amongst councils must be appropriate and individual allocations are likely to be a disruptive factor for specific councils. An ideal solution for councils would have been the write-off of the debt but ARCH realises this is unlikely to take place under any administration.

Whilst welcoming the spirit of the consultation paper, ARCH does however wish to introduce an element of caution. Self-financing/self-determination indeed sounds a suitable way forward but the funding noted in the paper, such as £12.3bn of spending uplift, would have to survive the next Comprehensive Spending Review and the next Government's economic hardship.

There are issues around the self-financing arrangements that are not entirely straightforward and differ in important respects from what was anticipated. ARCH is concerned that what is proposed is not a redistribution of existing debt but rather the calculation of buy-out debt based on the commuted value of future cash flows. This could have a further impact at individual authority level where spend above subsidy allowances financed locally risks being excluded from settlement business plans and commuted into new debt.

Under the proposals, only spend that is allowed into settlement business plans will be available to resource future HRA spend. All income, including locally retained rents will be commuted into the debt allocated, so never really add to resources (as it would if only existing debt had been redistributed). There are clear signals about moving 'non-core' service costs out of the HRA in the paper. Depending on the approach taken to settlement business plans this might not extend for all categories of spend to allowing meeting the cost from existing miscellaneous income sources such as non-dwelling rents, tenant service charges, and existing reserves. ARCH also feels that the TMV actuals approach is inappropriate and a calculation based on uplifted notional subsidy allowances and guideline rents would be a better method to use. Under the TMV approach existing use of freedoms and flexibilities discretion may be swept away in a new rebasing of the system based solely on standard costs.

ARCH is further concerned that interest rate risk on the £18bn debt will pass to councils. AS such they need access to fixed rate long term loans made available from the Public Works Loans Board in order to neutralise this very material risk.

Finally, in welcoming the independence of self-financing, ARCH notes the statement that says "there would also need to be a mechanism to re-open the debt settlement, following consultation, in the event of major changes on either long terms rent policy or the standards that applied to social housing". The review of housing finance should be considered by all as a one-off exercise. Providing Government with an opportunity to intervene under certain criteria runs against the grain of the paper. There are arrangements in place for the TSA and others to play an overseers role and Government should not be looking to build in methods of intervention.

ARCH appreciates the need to increase the overall level of housing supply and specifically the number of council housing units. The Association also supports the changes as long as they are able to allow for greater borrowing freedom for new build by local councils.

ARCH would encourage all members to provide their thoughts on the consultation paper so that the Association can provide a comprehensive response on behalf of all members. Ideally this would be in the form of a comment on each of the questions with additional text as appropriate.

10. Consultation Response

ARCH will be sending a joint response to this consultation document on behalf of its members and all comments should be sent by 1 October 2009 by e-mail to pbrennan@apse.org.uk

The consultation period will run from 21 July to 27 October, 2009.

Further questions can be directed to

councilhousingfinance@communities.gsi.gov.uk or 0207 944 3425

If individual councils wish to respond to the consultation document they can be submitted to

Review of Council Housing Finance
Communities and Local Government
Zone 1/J9
Eland House
Bressenden Place
London
SW1E 5DU

Or emailed to councilhousingfinance@communities.gsi.gov.uk

John Bibby (ARCH)
Phil Brennan (APSE)



AGENDA ITEM: 13

CABINET: 15 September 2009

**EXECUTIVE OVERVIEW &
SCRUTINY COMMITTEE:
1st October 2009**

Report of: Council Secretary and Solicitor

Relevant Portfolio Holder: Councillor David Westley

**Contact for further information: Mrs Natasha Bryan (Extn. 5098)
(E-mail: natasha.bryan@westlancs.gov.uk)**

SUBJECT: RISK MANAGEMENT

Borough Wide Interest

1.0 PURPOSE OF THE REPORT

1.1 To seek approval of the updated Risk Management Policy and Strategy and to consider the position on key risks facing the Council.

2.0 RECOMMENDATIONS TO CABINET

2.1 That the revised Risk Management Policy and Strategy as set out in Appendix A be approved.

2.2 That the progress made in relation to the management of the risks shown in the Key Risk Register (Appendix B) be noted.

2.3 That call in is not appropriate as this report is being taken directly to the Overview and Scrutiny Committee.

3.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW & SCRUTINY COMMITTEE

3.1 That the updated risk Management Policy and Strategy together with the Key Risks Register be noted.

4.0 BACKGROUND

4.1 Over the last few years the Council has come a long way in establishing and developing its Risk Management framework. In the Audit Commission's last Use of Resources Assessment (UoR) the Council's Risk Management arrangements scored a level 3, which means that our arrangements are effective and performing well. It is a best practice requirement that the Risk Management Policy and

Strategy and the Key Risks Register is reviewed and reported to Members on a regular basis.

- 4.2 Members first approved the original Risk Management Policy and Strategy on 29th November 2005. The policy and strategy was updated earlier this year and the Audit & Governance Committee endorsed it for submission to Cabinet at its meeting on 29th January 2009.

5.0 RISK MANAGEMENT POLICY & STRATEGY

- 5.1 Whilst the current arrangements have worked well, over time it was established that there was still scope to make further improvements in order to streamline the process and make it more efficient and effective.
- 5.2 Originally two officer Risk groups were established, the “high level” Risk Management Group to determine risk strategy and a Risk Coordinators Group that was made up of representatives from all Divisions to consider more operational issues. These groups have now been merged to form the Risk Management Working Group. A revised Risk Management Policy and Strategy was produced to reflect these arrangements, changes in management structure and a number of other minor issues and was endorsed by the Audit & Governance Committee in January.
- 5.3 Since that time the policy has been further updated to reflect the new management structure agreed by Council in July and borough status. Members are now asked to approve the Policy and Strategy as set out in Appendix A.

6.0 KEY RISKS REGISTER

- 6.1 In December 2008 all Members were invited to a Risk Training refresher course followed by a risk identification exercise. These sessions advised Members of the risk management process and then led on to work on identifying key risks.
- 6.2 Key Risks are defined as the highest priority risks that will prevent the Council from achieving its priorities / objectives or may result in failure of a service, failure to comply with legislation.
- 6.3 Members identified a number of keys risks and these have been combined with those identified by Divisional Managers to produce a “Key Risks Register” for the Council. The Key Risks Register as set out in Appendix B gives a summary of these risks and the work that is being undertaken to mitigate them. The register contains 12 risks, many of which have already been subject of separate committee reports.

Some of the key risks worth noting are as follows:

- The Organisational Downsizing initiative will deliver significant savings and has sought to minimise the impact on front line services. Human Resources together with Divisional Managers and the Unions are working to ensure staff are kept informed, deadlines are met and savings are achieved.

- Reduced Income due less Government Funding & the Global Economic Downturn – The Council has a good track record of setting robust budgets that take full account of financial pressures and include savings targets that are prudent and achievable. The Downsizing Initiative that has recently been agreed will help secure the Council’s medium term financial position. This demonstrates that the difficult financial climate was recognised at an early stage and the challenge to adapt to it has been taken head on.
- Treasury Management investments may prove riskier – the Council has not lost any money in its investments and is achieving a good rate of return despite difficult market conditions.

6.4 In line with the risk management process Business Continuity plans have been established and have considered a number of potential risks that could impact on service delivery including any flu pandemic. These plans have been tested and it is deemed that the Authority has adequate controls in place to mitigate these risks.

7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

7.1 The information set out in this report aims to help the Council to improve service performance and is consistent with the Community Strategy aim of providing good quality services that are accessible to all.

8.0 FINANCIAL AND RESOURCE IMPLICATIONS

8.1 There are no direct financial or resource implications arising from the recommendations within this report, but resource implications are set out in Appendix B.

9.0 RISK ASSESSMENT

9.1 The Risk Management process is designed to manage the key risks facing the Authority. If we fail to continue to monitor and control the Risk Management process there is a danger that at our next UoR assessment we will lose the current score of 3, but more importantly we may fail to manage key risks or miss out on significant opportunities and thereby endanger the achievement of our primary objectives.

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

Appendix A – Revised Risk Management Policy and Strategy

Appendix B – Key Risks Register



Risk Management Policy & Procedure

Date first approved	29 th November 2005
Date Revised	11 th August 2009
Author	Natasha Bryan
Date of Next Review	August 2010
Related documents	<p>Constitution (Financial Regulations and Procedures)</p> <p>Audit & Governance Committee Terms of Reference</p> <p>Risk Management Group Terms of Reference</p> <p>Business Continuity Plan / Disaster Recovery Plan</p>

UK Council of the Year
2009/10
(LGC Highly Commended)

“Excellent”
As rated by the
Audit Commission

Statement

West Lancashire Borough Council is committed to providing an area in which people will choose to live and work and engages with many organisations, both public and private, in order to achieve its aims. Risk is an inevitable feature of such engagements, but need not deter the Authority in its aspirations.

Risk is a part of everyday life. Risk can be defined as the likelihood of an event and its impact. Risk Management has traditionally been viewed as a negative factor but robust risk management can also identify positive opportunities. Proper risk management can have a beneficial impact in many areas.

The Authority recognises that there are risks involved in everything it does and that it has a duty to manage these risks. This duty is to employees, residents and people working in the borough, service users, partners and funding agencies.

Aims

The policy aims to ensure we have a planned and systematic approach to identify, evaluate and manage the whole range of risks and opportunities facing the Authority. The policy is underpinned by procedures that detail our responsibilities, process and structure for delivering effective risk management.

The Authority will use Risk Management to maintain and improve the quality of services within the Borough. The Risk Management Strategy has the following aims and objectives: -

- Integration of Risk Management into the culture of the Authority
- Raising awareness of the need for Risk Management with all those connected with the delivery of services (including Partners etc.).
- Enabling the Authority to anticipate and respond to changing Political, Economical, Social, Legislative and Environmental conditions.
- Minimisation of injury, damage, loss and inconvenience to residents, employees, service users, assets etc. arising from or connected with the delivery of Council services.
- Ensuring this is a robust framework and procedures for the identification, analysis, assessment and management of risk.
- Minimising of the cost of risk.

The policy statement and strategy will be reviewed annually to ensure it is “fit for purpose” and to assess performance against the aims and objectives set out above.

Outcomes

Outcomes should reflect specific objectives and be measured against these objectives on a regular basis. The Risk Management Working Group will conduct a review of the success of controls and looks to achieve:

- Adding value to all Council activities
- Delivering Council objectives
- Managing opportunities to improve front line services
- Help deliver value for money by informing decision making
- Protecting the image and reputation on the Council

RISK MANAGEMENT STRATEGY

West Lancashire Borough Council's Risk Management Strategy seeks to minimise losses and embrace opportunities in relation to its assets, finances, operational capacity, reputation, employees and citizens. It also seeks to maximise the rewards that can be gained through managing risk.

The Authority's Risk Management Strategy has the following aims and objectives: -

- Embed risk management into the culture of the Authority.
- Raise awareness of the need for Risk Management for all those connected with the delivery of services including Partner organisations.
- Anticipate and respond to changing Political, Economical, Social, Legislative and Environmental requirements.
- Minimisation of injury, damage, loss and inconvenience to residents, staff, service users, assets etc arising from or connected with the delivery of the Council's services.
- Maximise the rewards that can be gained through risk management.
- Ensure this a robust framework and procedures for identification, analysis, assessment and management of risk, and the reporting and recording of events.

These objectives will be achieved by:

- Establishing clear accountabilities, roles and reporting lines across all services and divisions.
- Acquiring and developing the necessary skills and expertise.
- Developing and maintaining a Risk Register to manage the ranking of risks and to ensure all relevant players actively partake in this process.
- Assessment of risk in all decision-making processes of the Authority.
- Developing a framework for allocating resources to identified priority risk areas.
- Ensuring risk assessments are included as an integral part of the Council's strategic planning processes.
- Ensuring that risks are explicitly considered as part of the Council's financial planning processes.
- Ensuring that risk assessments are explicitly considered in relation to proposed projects including partnership arrangements.
- Ensuring risks are explicitly considered during policy making.
- Linking the risk management process to the Council's performance management system.
- Improving co-ordination of Risk Management activity throughout the Authority.
- Developing arrangements to measure performance of Risk Management activities against aims and objectives.
- To make all partners, and other providers aware of the Council's expectations on risk, both generally as set out in the Risk Management Policy, and where necessary in particular areas of service delivery.
- Reducing duplication between divisions by managing overlapping risks, whilst ensuring gaps are identified and managed too.

Accountabilities, Roles and Reporting Lines

Cabinet

To ensure the effective management of risk by the Council. To receive regular reports on keys risks and the risk management framework.

Audit & Governance Committee

The key task for this Committee is to monitor the effectiveness of the Council's risk management arrangements. Reports will be submitted to Audit and Governance on an annual basis.

Individuals

The Chief Executive will be accountable to Members for the effective management of risk within the Authority. The Council Secretary & Solicitor will be responsible for ensuring that appropriate procedures, resources and skills are in place to achieve this on a day-to-day basis. The portfolio holder for finance and performance will be the lead member in relation to risk management initiatives.

Risk Management Working Group

Divisional risks are best managed by the very people who manage the delivery of the service. Key risks are best managed at Chief Officer level. However, to enhance the linkages between Divisional and Key risks there will be a clear process for reporting them within the Risk Working Group.

This group will be the "driving force" behind developing and implementing the Council's Risk Management Strategy. The Group will comprise of the Council Secretary & Solicitor together with representatives to be composed of Divisional Managers' nominees (Risk Co-ordinators) and other officers as required. This Group will examine risk management methods and maintain a formal system for risk management in the authority. This group will also identify and monitor key risks to the authority's business activities and explore controls, which might be implemented to mitigate these risks.

Internal Audit

To provide assurance by assessing the Risk Management process periodically and reporting to CMB on relevant findings.

Employees

To manage risk effectively in their role and report threats / risks to their managers.

Risk Management Framework

A framework has been implemented that will address the following issues: -

- The different types of risk – Key and Divisional.

- Allocating responsibility for the management of identified risks.
- Corporate and Divisional roles and accountabilities.
- The need for a “driving force” within the Council.
- Prompt reporting of accidents, losses etc.

Skills and Expertise

Having established roles and accountabilities for risk management, the Council must ensure that it has the skill and expertise necessary. This is being accomplished through a programme of risk management awareness/training, which addresses the needs of staff.

This programme has also included more detailed and intensive risk appreciation seminars for Elected Members and Senior Managers, focusing on best practice in risk management together with workshops to identify the Council’s key risks.

Risks and the Decision Making Process

Risks need to be addressed at the point at which decisions are being taken. Where Elected Members and Officers are asked to make decisions they should be advised of the risks associated with recommendations being made. The training provided will enable this to happen.

The Authority needs to be able to demonstrate that it has taken reasonable steps to consider the risk involved in a decision. All reports requiring key decisions, including new and amended policies and strategies, include a section to demonstrate that risks have been addressed.

Current reports to Elected Members are expected to address any appropriate options that have been considered. This would be an appropriate place at which to address the risks involved with those options. This doesn’t guarantee that decisions will always be right but the important point is to demonstrate that the risks have been considered and to have evidence that will support this.

Resources Allocation Framework

Resources for risk management need to be invested where they will make most difference. The Risk Management Working Group will consider how resources are used to add extra value to existing projects or initiatives.

Procedures and Guidelines

Risk management training has been provided to all risk co-ordinators and they have been provided with guidance on their roles. Terms of Reference for the Risk Management Group have also been drawn up and agreed. Risk management issues will be communicated to Divisions through the risk co-ordinators and they will inform the risk management process in relation to developments within the divisions.

Making Others Aware of Risk Management

The Authority recognises the potential for benefits and rewards from partnership working and it also recognises the risks involved. Whilst this risk can be managed by the Authority through formal contracts and partnership agreements that clearly allocate risks to the appropriate parties, failure by either or any one of those parties to manage their risks can have serious consequences for the other(s).

Before entering into the partnership, joint working or business contract arrangements, the prospective partners and contractors should be asked to state their approach to risk management and to provide certain minimum evidence to support their response. This kind of approach already exists within the Authority's procurement arrangements e.g. prospective contractors must submit evidence regarding issues such as Health and Safety, Financial Stability and Insurance. In addition we should always consider the Council's good reputation".

Performance Management

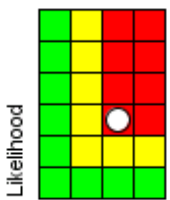
The reporting of Key risks to Cabinet will ensure that the effectiveness of the risk management system is reviewed on a regular basis.

Appendix B - Key Risks Register - Cabinet September 2009



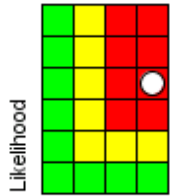
Risks are assessed for impact and likelihood and plotted onto the risk matrix. The impact is measured as being negligible, marginal, critical or catastrophic. The likelihood is measured as being almost impossible, very low, low, significant, high or very high. Risks scored in the bottom left hand corner would be almost impossible to materialise and would have a negligible impact. However if a risk were to be scored in the top right hand corner it would have a very high chance of materialising and would have a catastrophic affect on the Council.

Division	Title	Potential Effect	Internal Controls	Assigned To	Latest Note	Risk Matrix
Human Resources Division	OD Initiative	The Organisational Downsizing initiative will deliver significant savings and has sought to minimise the impact on front line services. Human Resources together with Divisional Managers and the Unions are working to ensure staff are kept informed, deadlines are met and savings are achieved.	HR, Divisional Managers and unions are working together to deadlines identified	Executive Manager Human Resources	Council approved OD Initiative process at meeting. Process for potential redundancies approved at CMB Meeting on 21st July 2009. Potential redundancies proposed for Jan -Mar 2010. Trade Unions fully consulted and consultations with staff and trade unions continue.	<p>Likelihood</p> <p>Impact</p>
Legal, Democracy and Financial Management Division	Reduced Income due to less Government Funding & the Global Economic Downturn	Reduced income will have a significant impact on the Council's budget	Factor into budget setting and medium term financial forecasts	Borough Treasurer	A balanced budget has been set for 2009/10 taking into account these factors and an Organisational Downsizing Initiative agreed to secure the Council's medium term future. Budgets are also being closely monitored to ensure that the Council's finances are controlled.	<p>Likelihood</p> <p>Impact</p>
Legal, Democracy and Financial Management Division	Treasury Management Investments may prove riskier	In light of the recent collapse of the Icelandic Banks this has become more of a risk	The importance of safeguarding public money has been re-emphasised	Borough Treasurer	There is a Treasury Management Code of Practice already in place and operational arrangements have been reviewed and updated in light of the current market conditions	<p>Likelihood</p> <p>Impact</p>

Division	Title	Potential Effect	Internal Controls	Assigned To	Latest Note	Risk Matrix
Housing & Property Services Division	Failure to deliver Affordable Housing Strategy 2008-2013	A series of plans outlining our future affordable housing interventions programme funded in part by the Transitional Capital Receipts. Housing needs data to help in negotiation affordable housing provision on mixed development sites. Identified plots of land that may be suitable for affordable housing development.	Activity has been incorporated into work plans.	Housing Strategy and Development Programme Manager	In order to minimise the risk attached to the delivery of our affordable housing strategy 2008 - 2013 an affordable housing cabinet panel was established to drive the overall policy formulation side of the work. The panel is responsible for; Driving forward the Council's work on developing affordable housing by ensuring that the local affordable housing policy is conducive to realising positive affordable housing outcomes, ensuring appropriate housing need and housing market information is available to support need for affordable housing interventions, including LDF policy formulation, exploring delivery mechanisms that will enable maximum benefit of Transitional Housing Capital Receipt (THCR) and any other funding that is levered in to West Lancashire, commissioning appropriate research to further the affordable housing agenda, using THCR to invest in appropriate affordable housing schemes.	 <p>Likelihood</p> <p>Impact</p>

Division	Title	Potential Effect	Internal Controls	Assigned To	Latest Note	Risk Matrix
Housing & Property Services Division	The HRA Subsidy Review does not address the financial issues for the Council	New debt burden for the HRA; no real discretion over rent & service charge policy; potential for impact on Council's Prudential borrowing if interest payments on debt allocation greater than current subsidy payment to Government; servicing of debt may not be sustainable over the long term particularly if Council House sales increase; may involve additional investment requirement to meet new Decent Homes Standard; continuity of HRA ring fence arrangements, if any, have yet to be announced.	Full options appraisal to be undertaken when detailed proposals are released under consultation. Strong budgetary measures and treasury controls are in place to monitor and manage known risks.	Housing - Group Accountant	The details of the Government's proposals are not yet clear. Initial understanding is that it is proposed that capital receipts from Council house sales and rental income can be retained by the Council in return for taking on a share of Government's national housing debt (presumably based on the current debt supported through the HRA subsidy System). The nature and type of debt and the basis of and sum allocated is not yet known. At the time of writing it is not known what interest rate will be applicable to the debt nor the terms upon which the debt is to be allocated and/or redeemed. Members may wish to consider all available options to mitigate impact including revisiting Stock transfer (LSVT), Special Purpose vehicle (SPV or Housing company), ALMO.	<p>Likelihood</p> <p>Impact</p>
Housing & Property Services Division	Failure to address the emerging issues relating to the Tenant Services Authority (TSA)	Not yet known although the TSA will be the Housing Regulator	Engaged with the "National Conversation" and part of shaping agenda for the new regulatory framework	Housing Operations Manager	The new regulatory framework is not yet known. Tenants will be key to developing the framework for how services will be delivered. A member workshop has been organised to feedback results of a nationwide "conversation", which the TSA commissioned to ascertain tenants views & priorities. Once the framework has been agreed the Council will need to develop a plan, this will need additional resources to ensure that any risk to the Council will be mitigated.	<p>Likelihood</p> <p>Impact</p>

Division	Title	Potential Effect	Internal Controls	Assigned To	Latest Note	Risk Matrix
Housing & Property Services Division	TV signal is not available to residents of Skelmersdale at Digital Switchover	No TV for those in certain areas	Following action plan and looking at the number of complaints received	Senior Programmed Works Surveyor	Planning permission approved for additional booster station located at the Beacon. Work to start on site 3 August 09 and expected to be completed for 11 September 09. Tender documents for the erection of the remaining TV aerials have been prepared and the closing date for responses is 17 July 2009, with work anticipated to start 10 August 09. It has been indicated that by maintaining the communal aerial system after switchover, all properties will still be able to receive the main 5 channels, i.e. it isn't critical that we have all the aerials installed in time for the switchover.	
Human Resources Division	Post JE consequences	Cost to authority is unclear until final pay line is drawn	HR and unions are working together to deadlines identified	Human Resources Manager	Both Unions have balloted. Unison have voted to accept whilst GMB have voted not to accept. Talks are ongoing with both Unions and legal advice has been sought.	
Regeneration & Estates Division	Failure to continue to facilitate Business Watch Schemes, Estate Radio Scheme & encourage Secured by Design Awards	By reviewing all business networks, some may cease/cease to have involvement from this division.	Ongoing monitoring will ensure that this risk is being controlled.	Economic Regeneration Manager	Target exceeded 2008/09 which resulted in employer engagement. Remains a key risk since staff re-structure and ongoing re-prioritisation of work will result in a review of all business networks, some of which may cease/cease to have involvement from this division.	

Division	Title	Potential Effect	Internal Controls	Assigned To	Latest Note	Risk Matrix
Deputy Chief Executive	Failure to deliver Skelmersdale Town Centre Regeneration	The Housing and Communities Agency (HCA) or the Council owns the majority of land. Minor land holdings are with LCC, the college, the ecumenical centre, Asda, Police and LCP.	The scheme could proceed using HCA and Council land only (although this would not be the ideal solution). As HCA and the Council have come together as joint "clients" for the scheme this should virtually guarantee that a scheme of some type is viable. We will continue to engage with the "other" landowners to encourage their participation in the scheme.	Procurement and Projects Manager	The Kirkby report, which has significantly slowed progress on this project, is now expected in November 2009.	 <p>Likelihood</p> <p>Impact</p>

Division	Title	Potential Effect	Internal Controls	Assigned To	Latest Note	Risk Matrix
Deputy Chief Executive	Failure to deliver Abbotsford Regeneration	Regeneration does not take place or will have to be done in a different way.	<ol style="list-style-type: none"> 1. Striving to agree reasonable terms with partner whilst protecting the Council's position. 2. Beginning to explore development on our own land. 3. Considering additional borrowing bearing in mind the advantageous rates currently available 	Procurement and Projects Manager	Planning permission currently being sought by Atkinson Kirkby. Decision envisaged September 2009. Final decision on progress of project will be made after September.	<p>Likelihood</p> <p>Impact</p>



AGENDA ITEM: 14

CABINET: 15 September 2009

**EXECUTIVE OVERVIEW AND
SCRUTINY: 1 October 2009**

Report of: Council Secretary and Solicitor

Relevant Portfolio Holder: Councillor D. Westley

**Contact for further information: Marc Taylor (Extn. 5092)
(E-mail: marc.taylor@westlancs.gov.uk)**

SUBJECT: FINANCIAL OUTTURN

Borough wide interest

1.0 PURPOSE OF THE REPORT

1.1 To set out key features of the financial outturn position for the last financial year.

2.0 RECOMMENDATIONS

2.1 That the outturn position as presented including contributions to and from balances and reserves be noted and endorsed.

2.2 That call in is not appropriate for this item as it is to be submitted to the next meeting of Executive Overview and Scrutiny Committee.

3.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW AND SCRUTINY COMMITTEE

3.1 That the outturn position be noted.

4.0 BACKGROUND

4.1 Members received regular monitoring reports on the budget position during the course of the 2008-09 financial year. This report draws together details of the final outturn for that year and its impact on the level of balances and reserves. The audit of the accounts by our External Auditors is nearing completion but they have not raised any significant issues on the accounts to date. However if any issues are raised then these will be reported back to Members in due course.

5.0 GENERAL REVENUE ACCOUNT POSITION

- 5.1 The Council set an original budget of £16.258m for the year. The final outturn position shows an overall favourable variance of £330,000, which is equivalent to 2.0% of the total budget. This continues the track record of delivering outturn performance in line with the budget that has consistently been realised by the Council, and means that another year's successful performance has been achieved.
- 5.2 The difficult medium term financial position facing the Council has been recognised for some time. Divisional Managers have been working to manage their outturn and to deliver savings that will assist in handling this situation. A breakdown of the outturn position by division is set out in Appendix 1 and shows that every division either achieved or exceeded their budget targets.
- 5.3 In overall terms while income budgets came under pressure during the year this has been more than offset by savings on staffing. In this respect the slow down in recruitment to vacant posts that has taken place has had an impact, both in terms of generating savings and reducing levels of activity.
- 5.4 The last quarterly monitoring report projected that the outturn would be a favourable budget variance of £140,000. Consequently the final position of a variance of £330,000 shows an improvement of £190,000. This repeats the pattern of previous years where there is a significant improvement in the budget position at the year-end.
- 5.5 As part of the budget for 2009-10 it was agreed to use a projected £70,000 favourable variance on Housing to fund the cost of a private sector housing stock survey that must be undertaken once every 5 years in accordance with the Housing Act 2004. In addition it was agreed at Council in December 2008 to use part of the projected favourable variance within Regeneration and Estates to meet potential exit costs from restructuring, and this will more than provide for the £60,000 of redundancy payments to employees that were incurred in the year.
- 5.6 This leaves a managed underspend of £200,000 from the overall favourable variance of £330,000, which has been added to the Restructuring reserve, in order to meet exit costs from the organisational downsizing initiative.

6.0 HOUSING REVENUE ACCOUNT POSITION

- 6.1 The final outturn for the HRA is a small surplus of £64,000, which will be added to HRA balances. This outturn position includes additional income from a combination of the slow down in Right to Buy Council House sales and management action to control voids. The continued active management of staffing levels and vacancies has also generated favourable variances.
- 6.2 This position is a significant improvement from the last monitoring report where it was expected that balances would need to be used to support the revenue budget. The improvement is mainly a result of a large reduction in insurance fund contributions resulting from an actuarial review of the Insurance Fund and because investment income has not reduced as much as was initially anticipated.

6.3 Effective management action has helped to deliver a successful outturn performance. However looking to the current year not all of these savings will be repeatable, and the financial position for the HRA remains challenging.

7.0 RESERVES AND BALANCES

7.1 The structure and level of reserves has now been updated to reflect the reserves strategy agreed by Council in February. Appendix 2 shows the year end values of reserves and includes the transfer of £1m from the Insurance Fund to the Restructuring reserve agreed by Council to meet potential exit costs from Organisational Downsizing. The overall position on reserves and balances continues to be very healthy.

8.0 SUMMARY

8.1 The GRA and HRA have met their budget targets for the year and this continues the trend of strong financial performance achieved by the Council over many years. Despite limited government funding and reductions in external income levels due to the credit crunch a managed underspend has been delivered.

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

Appendix 1 – GRA Outturn Position
Appendix 2 - Year End Balances and Reserves

**APPENDIX 1
GRA OUTTURN POSITION**

Budget area	Net Budget £000	Variance from Budget £000	Variance %
Assistant Chief Executive	156	-37	See note
Community Services	4,868	-156	-3.2%
Financial Services	4,386	-128	-2.9%
Housing and Property Maintenance	838	-88	-10.5%
Human Resources	5	-30	See note
Legal & Member Services	1,287	0	0.0%
Planning & Development Services	1,881	-56	-3.0%
Regeneration and Estates	-384	-130	-33.9%
Street Scene	5,822	-117	-2.0%
Central Savings targets	-420	420	See note
Central Budget Items	-2,181	-8	-0.4%
TOTAL BUDGET REQUIREMENT	16,258	-330	-2.0%

NOTES

The Assistant Chief Executive and Human Resources divisions have relatively small net budget requirements because they contain support services and consequently recharge most of their costs to other service areas.

Central savings targets cover budgets for staff efficiency, Gershon efficiency improvements and savings from Organisational Re-engineering. The actual savings that are made in relation to these items are contained within Divisions. Consequently savings made elsewhere will offset the apparent variances on these budget items.

The budget figures for each Division have been updated to include year-end capital accounting adjustments (excluding impairment) and the allocation of central budget items to divisions. These are technical accounting adjustments that do not affect the bottom line budget requirement, which has remained unchanged during the year at £16.258m.

**APPENDIX 2
YEAR END BALANCES AND RESERVES**

Reserves	Amount £000
GRA Balances	
CORE BALANCES	900
CONTINGENCY BALANCES	774
Insurance Fund	
INSURANCE RESERVE	3,350
LABGI Reserve	
LABGI FUNDING	1,225
Corporate Reserves	
MAJOR PROJECTS	806
CENTRAL CONTINGENCIES	86
BUDGET EQUALISATION	337
STRATEGIC IT	138
CORPORATE INCOME	126
RESTRUCTURING	1,526
COMMUTATION EQUALISATION	150
BUDGET AND EFFICIENCY SAVINGS	988
Specific Grant Reserves	
BENEFITS INITIATIVES	213
HOUSING GRANTS	17
PLANNING DELIVERY GRANT	287
AREA BASED GRANT	115
Ring Fenced Reserves	
COMMUNITY SAFETY	55
LACEHO	4
INDUSTRIAL PORTFOLIO FUND	339
INVESTMENT CENTRE	330
Reserves to support the 2009-10 budget	
INTEREST EQUALISATION ACCOUNT	156
ETHNIC MINORITY CONSULTATION	10
PRIVATE SECTOR HOUSING	20
DEVELOPMENT CONTROL EQUALISATION	72
PLANNING RESERVE ACCOUNT	15
Repairs and Renewals	
CRA PORTFOLIO – REPAIRS AND RENEWALS FUND	198
PAY & DISPLAY MACHINE REPLACEMENT FUND	28
Housing Revenue Account	
HRA BALANCES	981
SUPPORTING PEOPLE	54
SPECIFIED RESERVES	638
HEATING CHARGES	0
DECOMMISSIONING TV AERIALS	344
REGENERATION	200
RENT ALLOWANCE	401



AGENDA ITEM: 15

CABINET: 15 September 2009

**EXECUTIVE OVERVIEW AND
SCRUTINY: 1 October 2009**

Report of: Council Secretary and Solicitor

Relevant Portfolio Holder: Councillor D. Westley

**Contact for further information: Marc Taylor (Extn. 5092)
(E-mail: marc.taylor@westlancs.gov.uk)**

SUBJECT: REVENUE MONITORING

Borough wide interest

1.0 PURPOSE OF THE REPORT

1.1 To provide an early assessment of the financial position on the Revenue Accounts in the new financial year.

2.0 RECOMMENDATIONS TO CABINET

2.1 That the financial position of the Revenue Accounts be noted.

2.2 That call in is not appropriate for this item as it is to be submitted to the next meeting of Executive Overview and Scrutiny Committee.

3.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW AND SCRUTINY COMMITTEE

3.1 That the financial position of the Revenue Accounts be noted.

4.0 BACKGROUND

4.1 In February 2009 the Council approved budgets for the Housing and General Revenue Accounts for the 2009-2010 financial year. It is good practice that monitoring reports are produced on a regular basis to ensure that Members are kept informed of the financial position of these accounts.

5.0 PREVIOUS YEAR PERFORMANCE

- 5.1 The revenue outturn report contained elsewhere on this agenda shows that budget targets were successfully met for both the GRA and the HRA in the previous year. This continues the Council's track record of good financial management that has been achieved over many years.
- 5.2 Consequently it can reasonably be expected that this strong financial performance will be carried forward, in many cases, into the new year. However the downturn in the economy will undoubtedly make income targets difficult to achieve and this will be a key factor in this year's budget position.

6.0 PAY AWARD

- 6.1 Employee costs form a significant proportion of the Council's total budget and consequently are very important from a budget management perspective. To put this into context each 1% increase in the pay bill will increase costs in the GRA by around £160,000, and costs in the HRA by around £30,000.
- 6.2 The budget estimates for 2008-09 were based on an assumed 2.5% pay increase but the final pay award was higher at 2.75%, and this higher level of increase was determined too late to be included in the current year's budget. The budget for 2009-10 included an estimated 2.5% pay award but the actual pay award for this year is not yet known.
- 6.3 Negotiations between the employers and the unions are currently taking place, and the employers have recently made an offer of a 1% pay award with 1.25% for the lowest paid staff. If this offer was agreed it would mean a net saving of around 1.25% on the pay bill for 2009-10, which would equate to around £200,000 for the GRA and £37,000 for the HRA. It may however be some time before the pay award is finalised and so this saving cannot be guaranteed at this time.

7.0 GENERAL REVENUE ACCOUNT (GRA) POSITION

- 7.1 The Council has set a revenue budget of £16.322m for the General Revenue Account for the year. This budget was based on a 2.0% increase in the Council tax, which was well below the national average increase of 3.0%.
- 7.2 In recent years an annual savings target for staff efficiencies of £250,000 has been included in the GRA budget. In 2009-10 this was increased by £200,000 to reflect anticipated part year savings that would be generated from organisational downsizing.
- 7.3 Initial forecasts are projecting that these targets will be met and exceeded by the end of the year. A significant proportion of these savings will come from reductions in senior management costs following the restructuring report agreed by Council in July. Further savings will come from Organisational Downsizing as proposals are implemented during the course of the year. In addition there are also savings being made from holding vacant posts open to maximise the chances of redeployment for staff that have been declared at risk and to minimise the number of redundancies.

- 7.4 This year's budget included an increase of £207,000 to meet anticipated additional costs arising from the job evaluation process. However as job evaluation has not yet been implemented it means that this remains an area of potential volatility. In addition there is also the potential for staff to submit equal pay claims once job evaluation has been completed, and consequently this area will need to be kept under close scrutiny.
- 7.5 The external income that the Council generates can be one of the most volatile areas of the budget, with income going up and down due to factors outside our direct control. This area is particularly volatile at the moment given the state of the economy and the credit crunch. However at the current time income levels, while under pressure, are currently performing close to budget in the vast majority of areas.
- 7.6 The main exception to this position is in relation to planning application income which is significantly below budget up to the middle of August. This position could improve significantly if any large scale applications come through but at the current time there aren't any in the pipeline. Income in relation to Building Regulation income is however broadly on line with its budget target.
- 7.7 In April 2008 the national statutory concessionary travel scheme for the elderly and disabled was extended to provide free travel at off peak times. Spending came in below the budgeted level in 2008-09 but the position in the current year is less certain as a number of bus operators have applied for a judicial review of the County wide travel scheme. If the bus operators are successful in challenging the reimbursement rates that are currently paid to them for each journey then it could lead to a significant increase in expenditure.
- 7.8 Since the economic downturn started during the course of last year there has been a considerable increase in benefits expenditure, and payments are continuing to rise at the current time. While the majority of this expenditure is funded by government grant a small element of these payments must be picked up by the Council and consequently this budget heading is likely to be over spent at the year end.
- 7.9 Putting all of these factors together, at the current time it is expected that the bottom line position for the GRA will be within its overall budget target, although with some favourable and some adverse variances. However there are a number of areas of possible variation within the budget, as highlighted above, and these will continue to be monitored closely.

8.0 HOUSING REVENUE ACCOUNT (HRA) POSITION

- 8.1 The Council set an original budget for the Housing Revenue Account based on generating external income of £21.093m.
- 8.2 The first quarter has seen the HRA Day-to-Day, Programme Maintenance and Void Repair budgets all come under severe pressure. The principle reasons relate to the need to carry out unforeseen health and safety work to central heating systems, and the consequences of having to carry out more stringent electrical testing at the time of a void re-let. The Housing and Finance Portfolio Holders have approved the transfer of £60,000 from Working Balances to

mitigate these pressures on the HRA. This area of work will be continually reviewed during the course of the financial year.

- 8.3 On a more positive note the number of Council House Sales is well below the estimate and this will improve the level of rental income that will be generated. There will also be further savings on insurance contributions following the actuarial review of the Insurance Fund, and the active management of staff vacancies will also contribute to the benefit of the HRA.

9.0 RESERVES AND BALANCES

- 9.1 A list of reserves and balances at the start of the year is included in the Revenue outturn report included elsewhere on the agenda. There are a number of uses of these reserves that have been previously agreed but two new items have developed so far this year.
- 9.2 Proposals for a new Waste Transfer Station at Stanley Depot were the subject of a report to Council on 22nd April. It was agreed to negotiate with Lancashire County Council and enter into necessary agreements and obtain any necessary consents to enable the development of this new Transfer facility. That report stated that the new waste disposal arrangements involving the Waste Transfer Facility would save the Borough Council £60,000 per annum in operating costs.
- 9.3 There are a number of restrictive covenants on the Stanley Depot site that rest with the Homes and Communities Agency (HCA), that currently limit how the site can be developed. Officers have been in negotiations with the HCA in respect of the covenants, and the HCA have agreed to release the covenants on the whole of the site for a negotiated price of £65,000
- 9.4 Consequently the development of the Transfer facility will require a one off payment of £65,000 to be made, but this investment will enable ongoing annual savings of £60,000 to be achieved, and so will deliver good value for money. It is intended that this payment will be met from the Major Projects Fund, which is an appropriate use of this reserve.
- 9.5 Provision has also been made for legal costs of up to £40,000 that may be incurred in relation to noise abatement and planning issues regarding Leisure Lakes, Mere Brow.

10.0 SUSTAINABILITY IMPLICATIONS / COMMUNITY STRATEGY

- 10.1 There are no direct sustainability implications arising from this report.

11.0 RISK ASSESSMENT

- 11.1 The formal reporting of performance on the General and Housing Revenue Accounts is part of the overall budgetary management and control framework that is designed to minimise the financial risks facing the Council.

12.0 CONCLUSIONS

12.1 At this stage in the financial year the overall picture is that the GRA and the HRA are broadly on course to meet their budget targets, although the economic downturn and other factors could have a significant impact on the final outturn.

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



AGENDA ITEM: 16

CABINET: 15 September 2009

**EXECUTIVE OVERVIEW &
SCRUTINY COMMITTEE:
1 October 2009**

Report of: Council Secretary and Solicitor

Relevant Portfolio Holder: Councillor D Westley

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

SUBJECT: CAPITAL PROGRAMME OUTTURN 2008/2009

Wards Affected: Borough wide

1.0 PURPOSE OF REPORT

1.1 To provide a summary of the capital outturn position for the 2008/2009 financial year.

2.0 RECOMMENDATIONS TO CABINET

2.1 That the final position, including slippage, on the Capital Programme for the 2008/2009 financial year be noted and endorsed.

2.2 That the call in procedure is not appropriate for this item as it is being referred to the next meeting of the Executive Overview and Scrutiny Committee.

3.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW AND SCRUTINY COMMITTEE

3.1 That the final position on the Capital Programme for the 2008/2009 financial year be noted.

4.0 BACKGROUND

4.1 Members have been kept informed of the financial position of the Capital Programme throughout the year with regular monitoring reports. The last such Report was presented to Cabinet in March 2009 and Executive Overview and Scrutiny in April 2009 and reported on a Capital Programme of £10.502m. This report provides Members with the final position on capital schemes for the 2008/2009 financial year.

4.2 It should be noted that the final accounts for the 2008/2009 year are subject to audit and the figures contained in this report are, potentially, subject to change. However, the Audit is nearing completion and no issues have been raised on the capital programme to date. Members will be informed in due course of any significant matters arising from the Audit.

4.3 The position on the current Programme is discussed elsewhere on this Agenda.

5.0 CAPITAL PROGRAMME

5.1 Since the last Capital Programme report, the overall size of the Programme has increased by £0.099m. This relates to the transfer from revenue of the capital element of the Lancashire Local Area Agreement which is fully funded by external partners.

5.2 The Capital Programme at the end of the 2008/2009 financial year was, therefore, £10.601m. This is analysed by Division in Appendix A.

5.3 The key results for the year on the capital programme are that reasonable progress has been made in delivering schemes and that spending is within budget with no significant issues on overspends. The level of capital receipts generated has, however, reduced significantly in line with the economic downturn and this issue will need to be reviewed when setting future programmes.

6.0 CAPITAL EXPENDITURE

6.1 The total capital expenditure for 2008/2009 was £7.656m. This represents 72% of the total Budget for the year and compares to 87% in 2007/2008 and 76% for 2006/2007. Whilst this is a lower spend than in recent years, it still represents a reasonable performance and analyses of spending, scheme progress and slippage are provided in the appendices.

6.2 100% spend against the Budget is never anticipated due mainly to reasons beyond the Council's control. For example, some schemes are reliant on a significant amount of match funding and external contributions and others are demand led or dependant upon decisions made by partners. It is recognised that in such cases, schemes can be subject to considerable lead in times and delays because of the decision making processes in other organisations. As such, these schemes only start when their funding details have been finalised. Another reason is that some contracts include retentions or contingencies that will only be spent some time after completion of the contract. Approvals for schemes that are affected by such issues are to be slipped into the 2009/2010 Programme and are discussed in section 8.

7.0 CAPITAL RESOURCES

7.1 A breakdown of the resources of £10.601m identified to fund the programme is shown in Appendix A.

- 7.2 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 sales) that are available to fund capital expenditure. These receipts can vary significantly depending on the number and value of assets sold.
- 7.3 Members have been advised that, due to a significant reduction in the level of Council house sales, useable receipts would be below the target of £0.45m for the year. In fact, receipts generated against this target slumped to £0.326m which left a shortfall of £0.124m from this source. There have, however, been sufficient receipts arising from asset sales in previous years to fund the 2008/2009 Programme.
- 7.4 In addition to receipts from Council house sales, other asset sales in the year generated a further £0.208m of capital receipts. This has been earmarked for the Abbotsford Regeneration and Office Refurbishment schemes in accordance with Council's resolution in February 2009. This funding has not yet been used.

8.0 SLIPPAGE OF APPROVALS

- 8.1 Schemes that are not completed within the financial year for which they are scheduled are slipped into the following financial year along with their unused expenditure and resource approvals.
- 8.2 The total slippage figure for capital schemes from 2008/2009 is £2.675m. This is an increase from the £1.687m slipped from the 2007/2008 Programme but compares favourably to the £3.607m slipped from the 2006/2007 Programme.
- 8.3 Further analysis on the slippage is provided in the appendices.

9.0 EXPLANATION OF VARIANCE

- 9.1 Divisional Managers have considered the position of individual schemes at the year-end and have taken the opportunity of revising budget allocations to take account of new information affecting the spending profiles of their schemes. This has facilitated the funding of small scheme overspends against approvals from those schemes that have underspent against their approvals.
- 9.2 The budgeted expenditure for the 2008/2009 Capital Programme was £10.601m. Taking account of expenditure of £7.656m and slippage of £2.675m, there is a total budget requirement of £10.331m. This means that there is an overall favourable variance on programmed approvals of £0.27m that is no longer required.
- 9.3 The variance is due to a reduction in demand for the Inspire projects (£0.309m) along with cost savings on Burscough CCTV (£35,000) and Pay and Display (£23,000), funded overspends on Kitchens and Bathrooms (£14,000) and Professional Fees (£63,000) and £20,000 of other minor variances.
- 9.4 Most of the funding of the variance is from external grants and revenue contributions and the capital pot funding variance has been reprofiled from 2010/2011 approvals. Therefore, no additional funding has been made available

for the Programme. The remaining capital programme is being delivered within the budget that has set and there are no significant issues with scheme overspends.

10.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

10.1 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.

11.0 RISK ASSESSMENT

11.1 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.

12.0 SUMMARY

12.1 The capital programme is being delivered on time and within budget. The budget for 2008/2009 was £10.601m, and expenditure for the year was £7.656m. This represents 72% and shows reasonable performance in delivering the programme. £2.675m of approvals have been slipped into the 2009/2010 Programme when the expenditure will be incurred.

12.2 Sufficient capital resources were available to fully fund the capital expenditure incurred in 2008/2009.

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

- A Capital Expenditure and Resources Compared to Budget
- B Divisional Manager Comments
- C Analysis of Significant Slippage

2008/2009 CAPITAL PROGRAMME OUTTURN
EXPENDITURE AND RESOURCES

	Budget Approval	Actual		Slippage		Variance	
	£'000	£'000	%	£'000	%	£'000	%
<u>Divisional Expenditure</u>							
Parish Capital Schemes	106	32	30%	74	70%	0	0%
Assistant Chief Executive	361	152	42%	209	58%	0	0%
Corporate Property	601	309	51%	292	49%	0	0%
Regeneration and Estates	1,629	1,125	69%	164	10%	340	21%
Community Services	1,083	672	62%	427	39%	-16	-1%
Planning & Development Services	266	129	48%	113	42%	24	9%
Housing Private Sector	1,364	862	63%	502	37%	0	0%
Housing Public Sector	5,191	4,375	84%	894	17%	-78	-2%
<u>Expenditure Total</u>	10,601	7,656	72%	2,675	25%	270	3%
<u>Financed by:</u>							
Capital Receipts							
General	2,092	1,000	48%	1,108	53%	-16	-1%
Transitional Pooling	1,004	331	33%	673	67%	0	0%
Specific Capital Grants	1,867	1,419	76%	159	9%	289	15%
Housing Allocation	742	558	75%	184	25%	0	0%
Major Repairs Allowance	3,927	3,529	90%	398	10%	0	0%
Internal Contributions							
Housing Revenue Account	382	458	120%	0	0%	-76	-20%
General Revenue Account	587	361	61%	153	26%	73	12%
<u>Resources Total</u>	10,601	7,656	72%	2,675	25%	270	3%

2008/2009 CAPITAL PROGRAMME OUTTURN
DIVISIONAL MANAGER COMMENTS

Parish Capital Schemes
Spending is determined by the progress that Parish Councils make on individual schemes. Unspent approvals have been slipped for use in the 2009/2010 Programme.
Assistant Chief Executive
The rollout of Electronic Document Management is continuing and the ICT Infrastructure and EGovernment Programme are progressing. Good progress has been made on further developing key systems including the website, Contact Centre (CRM), Geographic Information System (GIS), Planning, Building Control, and Geographic Mapping Systems. This has enabled the realisation of service improvements and savings across the Council. Progress was slower in 2008/2009 than anticipated on some projects however, notably Server Virtualisation and Consolidation, due to unplanned or Government required work, and this impacted on spend. Unused approvals have been slipped into 2009/2010 when further expenditure will be incurred.
Corporate Property
Schemes are progressing but slippage has occurred due to a moratorium on capital investment at a number of Council owned properties where their long-term future is uncertain. The Office Refurbishment is progressing and is scheduled for completion in Autumn 2009.
Regeneration and Estates
Asbestos Management at Gladden Place, Burscough CCTV, European Objective 2 projects, and Greenhey Place are complete as is part of Gorsey Place Re-roofing. The remaining Gorsey Place Re-roofing along with Inspire projects and the Investment Centre Car Park works are progressing and approvals have been slipped into 2009/2010. IIB projects completed within budget for the year and will continue in the new year. There are delays in the preparatory phase on the Abbotsford Regeneration project and the approval has also been slipped into 2009/2010. A further £10,000 of environmental works was identified on Burscough Town Centre. This is fully funded by external grant and will continue into 2009/2010.

2008/2009 CAPITAL PROGRAMME OUTTURN
DIVISIONAL MANAGER COMMENTS

Planning & Development
Contributions have been made to Ormskirk Railway Station Improvements and the West Lancs Community Rail Partnership and the Pay and Display Machines have been installed. Works on Conservation Area Enhancements, Preservation of Buildings at Risk, Ormskirk Clock Tower/Aughton Street, and Free Tree Scheme are ongoing and unspent approvals have been slipped into 2009/2010. Design/safety issues have caused a delay on Cycle Projects resulting in programme slippage and tenders have only been received recently for Ormskirk Market Stalls causing slippage of the scheme.
Community Services
Alder Lane Landfill Site, Community Environmental Acton, and equipment for the Gallery Refurbishment are complete. Beacon Park Portacabin and Driving Range schemes are also complete but incurred minor overspends which have been funded from underspends elsewhere. Approvals for the year were fully utilised for the Leisure Trust and Contaminated Land Schemes and both schemes will continue in the 2009/2010 programme. Richmond Park, Coronation Park, Play Area Improvements, and implementation of the Health Computer System are progressing and unspent approvals have been slipped into 2009/2010 when completion is expected. An overspend of £15,000 on the Playing Pitch Improvements at Liverpool Road has been funded from the uncommitted approval for Play Areas from the 2010/2011 element of the Medium Term Programme. Funding from the Local Lancashire Area Agreement has been fully spent.
Housing Private Sector
The Disabled Facility Grants Programme for the year was delivered in full. Renovation Grant approvals for the year are committed and the budget approval for the Loans Scheme have been slipped as the scheme is not yet operational. The Clearance Programme has been slipped into 2009/2010 due the need to complete legal procedures. Funding of £13,000 has been reprofiled from 2009/2010 to facilitate the acquisition of a property within the Affordable Housing Budget.
Housing Public Sector
There have been unspent approvals on most schemes which have all been slipped into the 2009/2010 Programme for completion early in the year. Overspends on Kitchens and Bathrooms, Professional Fees, and Demolitions were funded by HRA contribution.

2008/2009 CAPITAL PROGRAMME OUTTURN
ANALYSIS OF SIGNIFICANT SLIPPAGE

Scheme	Division	Amount of Slippage	Reason for Slippage
		£'000	
Parish Capital Schemes	FS	74	Dependent on Parish Councils completing individual schemes
E-Government	ACE	137	Server Visualisation Project delayed following re-prioritizing of senior staff on unplanned Government Connect and Licence Audit work
Coronation Park Phase 4	CS	122	Entrance Feature Project due for implementation Summer 2009
Richmond Park	CS	78	CCTV and new Changing Facility due for completion summer 2009
Playground Improvements	CS	212	Progress delayed on three schemes due to the need for consultation with residents and staff shortages through long term sickness
Corporate Property Investment Programme	Prop Svcs	219	Moratorium placed on capital investment at the Council's buildings where their long term future is uncertain and a transfer of officer time and resources to the Office Refurbishment
Office Refurbishment	Prop Svcs	73	Works progressing and due for completion Autumn 2009
Abbotsford Regeneration	R&E	82	Delays in signing the development agreement
Housing renewal Grants/Loans	Hsg Priv	400	Loans scheme due to commence 2009/2010
Clearance Programme Skelmersdale	Hsg Priv	100	Delay in completing legal procedures
Sheltered Housing Upgrades	Hsg Pub	285	Schemes running late due to late start of 6-year rolling refurbishment programme
Heating System Upgrades	Hsg Pub	96	Contractor finished on site and final account agreement expected early 2009/2010
Electrical Upgrades	Hsg Pub	182	Contractor finished on site and final account agreement expected early 2009/2010
Re-roofing Works	Hsg Pub	54	Contractor finished on site and final account agreement expected early 2009/2010
Structural Works	Hsg Pub	234	Late commencement of contract due to design/tender issues at Dearden Way. Contract due to start early 2009/2010



AGENDA ITEM: 17

CABINET: 15 September 2009

**EXECUTIVE OVERVIEW &
SCRUTINY COMMITTEE:
1 October 2009**

Report of: Council Secretary and Solicitor

Relevant Portfolio Holder: Councillor D Westley

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

SUBJECT: CAPITAL PROGRAMME MONITORING 2009/2010

Wards Affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To provide an overview of the current progress on the Capital Programme.

2.0 RECOMMENDATIONS TO CABINET

2.1 That Members note the progress of the Capital Programme as at the end of July, 2009.

2.2 That the call in procedure is not appropriate for this item as it is being referred to the next meeting of the Executive Overview and Scrutiny Committee.

3.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW AND SCRUTINY COMMITTEE

3.1 That Members note the current progress of the Capital Programme.

4.0 BACKGROUND

4.1 It is an agreed policy and best practice that monitoring reports are produced on a regular basis to ensure that Members are kept informed of the financial position of the Capital Programme. This is the first such report for the 2009/2010 financial year.

5.0 CAPITAL PROGRAMME BUDGETS

- 5.1 A Capital Programme totalling £12.127m was approved at Council on 25th February 2009.
- 5.2 Since the Council meeting in February, the Government have announced the Regional Housing Allocation. This has enabled £0.407m of new capital expenditure to be added to the 2009/2010 Programme along with funding existing commitments. This has been allocated to schemes in accordance with the Medium Term Capital Programme report to Council in February 2009.
- 5.3 Also since the February Council meeting, the Executive Manager Housing and Property Maintenance Services in consultation with the Housing Portfolio Holder, successfully bid for £1m of MRA funding to be brought forward from the 2010/2011 Programme to fund expanded Windows and Door and Heating Programmes in 2009/2010.
- 5.4 Slippage totalling £2.675m from the 2008/2009 Programme into 2009/2010 is included for consideration elsewhere on this Agenda and has been added to the 2009/2010 Programme.
- 5.5 Other adjustments made to the 2009/2010 Programme during the summer include an additional £0.035m for further environmental works to complete the Burscough Town Centre Project (funded £0.015m grant and £0.02m section 106 monies) and the reprofiling of £0.332m from the 2008/2009 HRA for Windows (£0.07m) and Communal Areas (£0.262m).
- 5.6 Taking account of these amendments means the total Capital Programme for 2009/2010 is now £16.576m. This is analysed under the new Divisional structure in Appendix A.

6.0 CAPITAL EXPENDITURE

- 6.1 Normally, new 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. Here, 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.
- 6.2 This pattern has been repeated in the current year with £1.2m of expenditure having been incurred by the end of July. This compares to £1.5m at the same point in both 2008/2009 and 2007/2008. There is also currently around £0.250m of committed expenditure. It is anticipated that most schemes, including those funded by the additional Government allocations, will progress and use their approval for the year. All schemes, however, will be reviewed over the coming months and a Revised Medium Term Programme will be reported to Members in the autumn.

7.0 CAPITAL RESOURCES

- 7.1 Total budgeted resources for the year are £16.576m. This is analysed in Appendix A and includes funding for the slippage and the other adjustments discussed in section 5.
- 7.2 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.
- 7.3 The budget for usable capital receipts to be generated from Council House sales in the year is £0.3m from 30 sales. This represents 1.8% of the total programme of £16.576m. However, due to reasons beyond the control of the Council, at the beginning of August only two sales had been completed. Consequently, it looks unlikely at the current time that this budget target will be achieved. In addition, there was also a shortfall of £0.124m from receipts generated in 2008/2009 which is discussed elsewhere on this agenda.
- 7.4 This income position is being closely monitored and if the current trend continues then the medium term Capital Programme will be reviewed to address this situation. The Council has a large Capital Programme and consequently any income variations can be managed over a medium term timescale. Members will be updated on this issue in the next monitoring report.

8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 8.1 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 monitors progress against the plans.

9.0 RISK ASSESSMENT

- 9.1 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 or decisions are not started until funding is secured and other resources that are subject to fluctuation are monitored closely to ensure availability.

10.0 CONCLUSIONS

- 10.1 The Capital Programme for 2009/2010 has a total budgeted expenditure of £16.576m, including slippage from the 2008/2009 Programme and additional Government Allocations awarded after the budget was set. While a relatively small

amount of capital expenditure has been incurred to date, it is expected that most schemes will spend in line with their approvals during the course of the year.

10.2 The level of capital receipts being generated from Council House sales is significantly less than anticipated and will be monitored closely and reviewed over the next few months.

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

A Divisional Capital Programme and Resource Budgets

2009/2010 CAPITAL PROGRAMME
EXPENDITURE AND RESOURCES BUDGET
at end July 2009

	£'000
<u>Divisional Expenditure</u>	
Parish Capital Schemes	114
Assistant Chief Executive	316
Property Management	1,131
Street Scene	40
Planning, Regeneration and Estates	4,328
Community Services	956
Private Sector Housing	2,412
Public Sector Housing	7,279
<u>Expenditure Total</u>	16,576
<u>Financed by:</u>	
Capital Receipts	
General	2,847
Transitional Pooling	1,937
Specific Capital Grants	1,037
Housing Allocation	959
Major Repairs Allowance	5,757
Internal Contributions	
Housing Revenue Account	732
General Revenue Account	457
Land Sales / Prudential Borrowing / Reserves & Balances	2,850
<u>Resources Total</u>	16,576