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Contact Officer:

John Armstrong, Democratic Services Manager

13 September 2021

Dear Councillor

Your attendance is requested at a meeting of the **EXECUTIVE** to be held in the Council Chamber - Millmead House on **TUESDAY, 21 SEPTEMBER 2021** at 7.00 pm.

Yours faithfully

James Whiteman
Managing Director

MEMBERS OF THE EXECUTIVE

Chairman:

Councillor Joss Bigmore ((Leader of the Council and Lead Councillor for Service Delivery))

Vice-Chairman:

Councillor Jan Harwood ((Deputy Leader of the Council and Lead Councillor for Climate Change))

Councillor Tim Anderson, (Lead Councillor for Resources)
Councillor Tom Hunt, (Lead Councillor for Development Management)
Councillor Julia McShane, (Lead Councillor for Community and Housing)
Councillor John Redpath, (Lead Councillor for Economy)
Councillor John Rigg, (Lead Councillor for Regeneration)
Councillor James Steel, (Lead Councillor for Environment)

WEBCASTING NOTICE

This meeting will be recorded for live and/or subsequent broadcast on the Council's website in accordance with the Council's capacity in performing a task in the public interest and in line with the Openness of Local Government Bodies Regulations 2014. The whole of the meeting will be recorded, except where there are confidential or exempt items, and the footage will be on the website for six months.

If you have any queries regarding webcasting of meetings, please contact Committee Services.

QUORUM 3

THE COUNCIL'S STRATEGIC FRAMEWORK

Vision – for the borough

For Guildford to be a town and rural borough that is the most desirable place to live, work and visit in South East England. A centre for education, healthcare, innovative cutting-edge businesses, high quality retail and wellbeing. A county town set in a vibrant rural environment, which balances the needs of urban and rural communities alike. Known for our outstanding urban planning and design, and with infrastructure that will properly cope with our needs.

Three fundamental themes and nine strategic priorities that support our vision:

- | | |
|---------------------|--|
| Place-making | Delivering the Guildford Borough Local Plan and providing the range of housing that people need, particularly affordable homes |
| | Making travel in Guildford and across the borough easier |
| | Regenerating and improving Guildford town centre and other urban areas |
| Community | Supporting older, more vulnerable and less advantaged people in our community |
| | Protecting our environment |
| | Enhancing sporting, cultural, community, and recreational facilities |
| Innovation | Encouraging sustainable and proportionate economic growth to help provide the prosperity and employment that people need |
| | Creating smart places infrastructure across Guildford |
| | Using innovation, technology and new ways of working to improve value for money and efficiency in Council services |

Values for our residents

- We will strive to be the best Council.
- We will deliver quality and value for money services.
- We will help the vulnerable members of our community.
- We will be open and accountable.
- We will deliver improvements and enable change across the borough.

AGENDA

ITEM NO.

1 APOLOGIES FOR ABSENCE

2 LOCAL CODE OF CONDUCT - DISCLOSABLE PECUNIARY INTEREST

In accordance with the local Code of Conduct, a councillor is required to disclose at the meeting any disclosable pecuniary interest (DPI) that they may have in respect of any matter for consideration on this agenda. Any councillor with a DPI must not participate in any discussion or vote regarding that matter and they must also withdraw from the meeting immediately before consideration of the matter.

If that DPI has not been registered, the councillor must notify the Monitoring Officer of the details of the DPI within 28 days of the date of the meeting.

Councillors are further invited to disclose any non-pecuniary interest which may be relevant to any matter on this agenda, in the interests of transparency, and to confirm that it will not affect their objectivity in relation to that matter.

3 LEADER'S ANNOUNCEMENTS

4 APPROVAL OF THE LAND DISPOSALS POLICY AND GUIDANCE DOCUMENT (Pages 5 - 32)

5 POLICY ON DEBT RECOVERY (Pages 33 - 48)

6 COLLECTION OF COUNCIL TAX ARREARS GOOD PRACTICE CITIZENS ADVICE BUREAU (CAB) PROTOCOL (Pages 49 - 74)

7 COUNCILLOR EMAIL SIGNATURE GUIDANCE (Pages 75 - 80)

8 WEYSIDE URBAN VILLAGE DEVELOPMENT * (Pages 81 - 106)

Key Decisions:

Any item on this agenda that is marked with an asterisk is a key decision. The Council's Constitution defines a key decision as an executive decision which is likely to result in expenditure or savings of at least £200,000 or which is likely to have a significant impact on two or more wards within the Borough.

Under Regulation 9 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, whenever the Executive intends to take a key decision, a document setting out prescribed information about the key decision including:

- the date on which it is to be made,
- details of the decision makers,
- a list of the documents to be submitted to the Executive in relation to the matter,
- how copies of such documents may be obtained

must be available for inspection by the public at the Council offices and on the Council's website at least 28 clear days before the key decision is to be made. The relevant notice in respect of the key decisions to be taken at this meeting was published as part of the Forward Plan on 24 August 2021.

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Executive Report

Ward(s) affected: All

Report of Director of Strategic Services Dawn Hudd

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Lead Councillor responsible: Tim Anderson

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Date: 21 September 2021

Approval of the Land & Property Disposals Policy and Guidance Document

Executive Summary

The Council owns a range of properties which it periodically reviews to ascertain whether they are required for the Council's purposes. The Council also receives unsolicited applications from existing occupiers to acquire land and assets.

Local authorities have the freedom to dispose of their land in any manner they wish but this is closely regulated by law. This, together with a desire to ensure consistency and fairness, has highlighted the need for the Council to revise and formally adopt a policy setting out how it will dispose of land in the future.

Recommendation to Executive

That the Executive formally approves the Land & Property Disposal Policy and Guidance Document ('the Policy') shown in Appendix 1 to this report.

Reason(s) for Recommendation:

To adopt a formal policy in respect of the mechanism of land disposal in order to ensure that relevant legislation is complied with and enable the Council to ensure its land disposal procedures are transparent, whilst making the best use of its resources and achieving best value, therefore underpinning the Council's strategic framework and the delivery of the corporate plan.

Is the report (or part of it) exempt from publication?

No

1. Purpose of Report

- 1.1 Officers request that the Executive formally approves the Land & Property Disposals Policy and Guidance Document, shown in Appendix 1 to this report, to ensure its land disposal mechanisms are transparent, whilst making the best use of its resources.

2. Strategic Priorities

- 2.1 The Land & Property Disposal Policy and Guidance Document supports the Council's commitment to be open and accountable as set out in the Council's strategic framework and the Council's mission within its Corporate Plan to be "an efficient, innovative and transparent Council that listens and responds quickly to the needs of our community".
- 2.2 Having in place a Land & Property Disposal Policy will enable the Council to ensure its land disposal procedures are transparent, whilst making the best use of its resources, therefore underpinning the Council's strategic framework and the delivery of the Corporate Plan.

3. Background

- 3.1 The Council owns a range of properties for occupational, strategic and investment purposes.
- 3.2 The Council periodically reviews all its properties (investment and operational) to ascertain whether they are required for the Council's purposes and in response to the need to significantly reduce expenditure. This will lead to a decision to retain or dispose of the land or property.
- 3.3 The Council also receives unsolicited applications from existing occupiers of properties and from unrelated third parties enquiring as to the availability of Council land and assets.
- 3.4 Local authorities have the freedom to dispose of their land in any manner that they wish subject to certain provisos prescribed within the following major Acts, other Acts and General Consents:
- s123 (Disposal of land by principal councils) and s127 (Disposal of land held by parishes and communities) of the Local Government Act 1972;
 - s32 of the Housing Act 1985 (as amended); and
 - s25 of the Local Government Act 1988.
- 3.5 The Local Government & Social Care Ombudsman (LG&SCO) considers it good practice for local authorities to have in place a comprehensive set of guidelines outlining their own approach to land disposals.

- 3.6 The above regulations, together with a desire to ensure consistency and fairness, has highlighted the need for the Council to revise and formally adopt a policy setting out how it will dispose of land in the future.
- 3.7 This Policy will be subject to regular review by the Head of Asset Management (Climate Change Lead) with the aim of seeking continual improvement in the standard of asset disposal across all Council services. Any changes to the Policy will be considered and discussed with the Lead Legal Specialist and, where relevant, the Head of Housing.
- 3.8 The success of the Policy will be measured by the number of times each year the Council receives a formal complaint relating to the disposal of a Council asset. The Head of Asset Management (Climate Change Lead) will monitor any issues that may arise that do not reach the seriousness of a formal complaint but warrant a further look at improving processes outlined in this Policy.

4. Consultations

- 7.1 The Lead Councillor for Resources has been consulted as have the Executive/Management Team Liaison Group, Corporate Management Team, relevant Services, the Legal team and Policy team. As this is an internal document, no public consultation has taken place.

5. Key Risks

- 5.1 The key risk to the Council of not adopting a formal policy for the disposal of land is that it may fall foul of compliance with its statutory obligations and potentially not receive best value for its assets.

6. Financial Implications

- 6.1 It is considered that approval of this report will not have any specific financial implications. However, each project/disposal will have significant financial implications for the Council, as there should be capital receipts from the sale of any land or assets.

7. Legal Implications

- 7.1 Local authorities have the freedom to dispose of their land in any manner that they wish subject to certain provisos prescribed within the following major Acts, other Acts and General Consents:
- s123 (Disposal of land by principal councils) and s127 (Disposal of land held by parishes and communities) of the Local Government Act 1972;
 - s32 of the Housing Act 1985 (as amended); and
 - s25 of the Local Government Act 1988.
- 7.2 This document covers Guildford Borough Council's policy and internal guidance relating to land disposal. "Disposal" in this case means the sale of a freehold

- interest, an assignment of a lease (which at the date of the assignment there is more than seven years to run), the grant of a lease for more than seven years, and the granting of easements and options.
- 7.3 Whilst the purpose of the document is to make the Council's land disposal procedures transparent, it is important to note that each land disposal should be treated on its own merits and nothing in the Policy will bind the Council to a particular course of action in respect of a land disposal. Alternative methods of disposal, not specifically mentioned in this policy, may be used where appropriate, subject to obtaining proper authority.
- 7.4 It should also be noted that this document is not intended to cover the criteria or decision making process on what land or property is to be retained or disposed of but purely the mechanism by which land or buildings are to be disposed of.
- 7.5 The Council's Constitution prescribes the procedures that the Council must adopt for the disposal of land. Where statutory provisions for land disposal apply, these must take precedence over the Council's internal policies and guidelines.
- 7.6 For major General Fund disposals not delegated to the Head of Asset Management (Climate Change Lead), recommendations are presented to Executive, with the committee taking the final decision as to whether and how to dispose of land. Ultimate responsibility for strategic management of the Council's property portfolio rests with the Executive.
- 7.7 For major Housing Revenue Account disposals not delegated to the Director of Service Delivery, recommendations are presented to Executive, who take the final decision as to whether and how to disclose of the land.
- 7.8 Decisions taken by the Executive are recorded in the minutes of the meeting and may be inspected on the Council's website. Decisions taken by officers under delegated powers are documented (including appropriate authorisations) and records maintained and unless commercially sensitive published on the Council's website. These decisions are to be taken in consultation as appropriate with the relevant Councillors in accordance with the Constitution.
- 3.9 This policy will be subject to regular review by the Head of Asset Management (Climate Change Lead) with the aim of seeking continual improvement in the standard of asset disposal across all Council services. Any changes to the policy will be considered and discussed with the Lead Legal Specialist and, where relevant, the Head of Housing.
- 3.10 The facts of each intended disposal and the precise relationship between the parties are likely to be different at least in detail of each case and the guidance must be applied in the light of specific circumstances. Where any disposal is being considered the Council must obtain specific legal advice before proceeding.

8. Human Resource Implications

8.1 No HR implications apply.

9. Equality and Diversity Implications

9.1 Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies.

9.2 To understand the potential impact of the recommendations and proposals on equality, an Equalities Impact Assessment was produced and is shown in Appendix 1 of the attached Policy.

10. Climate Change/Sustainability Implications

10.1 Where there are wider public benefits, consistent with the principles of Best Value, the Policy considers disposal of assets at less than Market Value taking into account wider value considerations such as economic, environmental and social value factors.

13. Summary of Options

13.1 To adopt a formal policy in respect of land disposal to ensure that relevant legislation is complied with and enable the Council to ensure its land disposal procedures are transparent, whilst making the best use of its resources.

13.2 Not to adopt the Policy, which may cause the Council to fall foul of compliance with its statutory obligations and potentially not receive best value for its assets.

14. Conclusion

14.1 This report sets out that to ensure compliance with the law, a fair and consistent approach to disposals, and to obtain best value, the Council should consider adopting a formal policy for the disposal of Council owned land.

14.2 The Land & Property Disposal Policy and Guidance Document shown in Appendix 1 to this report will ensure that land disposal procedures are transparent, whilst making the best use of the Council's resources.

15. Background Papers

None.

16. Appendices

Appendix 1 – The Land & Property Disposal Policy and Guidance Document

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GUILDFORD BOROUGH COUNCIL

LAND AND PROPERTY DISPOSALS POLICY AND GUIDANCE DOCUMENT

Revised 2021

Document Information

Origination/author:	Asset Management and Legal Services
Policy Owner – Service:	Asset Management
This document replaces:	Land Disposals Policy And Guidance Document 2012
Committee approval:	
Last Review Date:	
Next Review Date:	2024

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1.0 EXECUTIVE SUMMARY

- 1.1 The Council's actions in disposing of land are subject to statutory provisions in particular powers under:
- Section 123 of the Local Government Act 1972 to dispose of land using whatever method it chooses as long as it meets its overriding duty to obtain the best consideration that can be reasonably obtained for the land;
 - Section 32 of the Housing Act 1985 (as amended) to dispose of land held for the purposes of Part II of that Act; and
 - Section 25 of the Local Government Act 1988, assistance for private let housing.
- 1.2 These provisions are subject to certain exceptions that are set out in General Consents; namely The General Disposal Consent (England) 2003 and The General Housing Consents 2013. These stipulate that exceptions will normally be subject to the approval of the Secretary of State although prior approval is given in certain circumstances.
- 1.3 Depending on the status of the land being disposed of statutory provisions may apply for the disposal of the Council's land.
- 1.4 In line with the Local Government & Social Care Ombudsman's advice, this document sets out Guildford Borough Council's policies and guidance regarding the disposal of its assets (such as land or buildings).
- 1.5 The six methods for disposal of land undertaken by the Council are by:
- Private sale;
 - Formal tender;
 - Informal or negotiated tender;
 - Public auction; and
 - Exchange of land.
- 1.6 Part A sets out the policies by which the Council disposes of land, which include:
- Statutory provisions and General Consents;
 - The Council's Corporate Objectives and Priorities;
 - The policies and procedures recorded in its Constitution; and
 - The proper council authority having been obtained.
- 1.7 Part B provides guidance for each of the major methods of disposal.

2.0 INTRODUCTION

- 2.1 Local authorities have the freedom to dispose of their land in any manner that they wish subject to certain provisos prescribed within the following major Acts, other Acts and General Consents:
- s123 (Disposal of land by principal councils) and s127 (Disposal of land held by parishes and communities) of the Local Government Act 1972;
 - s32 of the Housing Act 1985 (as amended); and
 - s25 of the Local Government Act 1988.
- 2.2 The Local Government & Social Care Ombudsman (LG&SCO) considers it good practice for local authorities to have in place a comprehensive set of guidelines outlining their own approach to land disposals.
- 2.3 This document covers Guildford Borough Council's policy and internal guidance relating to land disposal. "Disposal" in this case means the sale of a freehold interest, an assignment of a lease (which at the date of the assignment there is more than seven years to run), the grant of a lease for more than seven years, and the granting of easements and options.
- 2.4 Whilst the purpose of the document is to make the Council's land disposal procedures transparent, it is important to note that each land disposal should be treated on its own merits and nothing in this document will bind the Council to a particular course of action in respect of a land disposal. Alternative methods of disposal, not specifically mentioned in this policy, may be used where appropriate, subject to obtaining proper authority (see section [7] below).
- 2.5 This policy will be subject to regular review by the Head of Asset Management (Climate Change Lead) with the aim of seeking continual improvement in the standard of asset disposal across all Council services. Any changes to the policy will be considered and discussed with the Lead Legal Specialist and, where relevant, the Head of Housing.
- 2.6 The success of the policy will be measured by the number of times each year the Council receives a formal complaint relating to the disposal of a Council asset. The Head of Asset Management (Climate Change Lead) will monitor any issues that may arise that do not reach the seriousness of a formal complaint but warrant a further look at improving processes outlined in this policy.

3.0 LAND DISPOSAL TYPES USED BY THE COUNCIL

- 3.1 The Council will usually choose one of the following five methods for disposing of land. An outline of which method to choose is examined in more detail in Part B.
- (1) Private sale - a sale of land negotiated with one or a small number of purchasers at a price agreed between the parties usually, but not always, following a marketing exercise. A binding legal agreement is created on 'exchange of contracts' between the Council and the purchaser.
 - (2) Formal Tender - a sale of land by a process of public advertisement and tenders submitted by a given date. A binding legal agreement is created upon the acceptance of a tender by the Council.

- (3) Informal or Negotiated Tender - a sale of land after a public advertisement that requests informal offers or bids, subject to contract, that meet a given specification or set of objectives. The Council may then negotiate further or more detailed terms with one or more individuals submitting the most advantageous bid or bids. A binding legal agreement is not created until the exchange of contracts between the Council and the chosen bidder.
 - (4) Public Auction - a sale of land by open auction is open to all parties. The sale will be publicly advertised in advance. A binding legal agreement is created upon the acceptance of a bid by the auctioneer.
 - (5) Exchange of Land - a transaction involving the exchange of Council owned land with another landowner. The land acquired by the Council will meet at least one of its corporate objectives and will be 'equal' to the land exchanged or if not, the transaction will involve payment by way of a balancing sum referred to as an "equality of exchange".
- 3.2 A contract for sale may be conditional upon planning and in those circumstances the Council recognises the importance of keeping its responsibility as planning authority entirely separate to its role as landowner.

PART A – POLICY

4.0 POLICY STATEMENTS

- 4.1 The Council will dispose of land in accordance with:
- National statutory provisions and General Consents;
 - The Council Corporate Objectives and Priorities;
 - The policies and procedures recorded in its Constitution; and
 - The proper council authority having been obtained in accordance with the Constitution.

5.0 STATUTORY AND OTHER PROVISIONS

Local Government Act 1972 – Best consideration

- 5.1 Under s123 of the Local Government Act 1972, the Council has wide powers for the disposal of its property assets. The overriding requirement is to obtain the best consideration that can be reasonably obtained for the land. The Act does not apply to the disposal of a short-term tenancy with a term of less than seven years or the assignment of a tenancy with a term, which at the date of the assignment has not more than seven years to run.
- 5.2 The duty to seek best consideration is subject to certain exceptions. These are conveyed in the Local Government Act 1972: General Disposal Consent (England) 2003 (the Consent), which makes provision for the Council to dispose of land where the consideration is less than the best that can reasonably be obtained, known as an 'under-value'. In these circumstances, the Council must obtain consent from the Secretary of State. Specific consent is not required where the difference between the unrestricted value (market value) of the land to be disposed of and the consideration accepted (the under-

value) is £2Million or less. Whilst not superceding section 123 of the Local Government Act 1972, section 3 of the Local Government Act 2000 provides well-being powers for an authority in certain circumstances to accept a disposal at undervalue within the £2 million provided for by the Consent, where the authority deems the sale to be for a proper reason/purpose (i.e. for a use to aid wider community benefits but lower value) or where there is an identifiable need to use the capital funds raised by the disposal by a particular time.

- 5.3 The Council must comply with its duty to obtain the best consideration for land disposed of at under-value. The Council must test whether an offer is the best that can reasonably be obtained having regard to any restrictions or the effect on value of any conditions/ placed on the use of the land, the basis of relevant professional advice including whether the offer under consideration is reliable, advice on possible changes to the price that may flow from changes to the planning situation and other evidence.
- 5.4 Technical help on valuing land for disposal can be found in the following:
- The detailed valuation requirements are set out in the technical appendix to the Consent, which specifically incorporates guidance in the *Royal Institution of Chartered Surveyors (RICS) Valuation – Global Standards: UK National Supplement* and the definition of market value in VPS 4 in the *RICS Valuation – Global Standards* (known as the Red Book);
 - Additional guidance is provided in Circular 06/03: Local Government Act 1972 General Disposal Consent (England) 2003 - Disposal of land for less than the best consideration that can reasonably be obtained. However, it includes a caveat “as not being exhaustive and does not purport to be an authoritative interpretation of the law”.
- 5.5 It remains the responsibility of the Council to seek its own legal or other professional advice on land disposal as it feels appropriate. It must comply with normal and prudent commercial practices including obtaining the view of a professionally qualified valuer as to:
- what financial consideration it should expect to achieve;
 - the likely amount of any under-value; and
 - the most appropriate method of disposal to encourage bidders to offer the best consideration.
- 5.6 The Council is aware that best consideration does not necessarily mean the highest financial offer available. The decision whether or not to accept any offer(s) will take into account an evaluation of the financial considerations as well as the substance and strength of any supporting material submitted with the offer (excluding sale by public auction where supporting material is not an option). Supporting information can lead the Council to accept a lower offer where it has justifiable doubts, for example, about the financial security of a bidder or a bidder’s commitment to a proposed scheme.
- 5.7 The Council has an approved procedure that it follows when considering and approving disposal of land and buildings for less than best value under officer delegation.

Public Procurement Considerations

- 5.8 Case law, including the Court of Appeal judgment in *Faraday Development Ltd v West Berkshire Council* [2018] EWCA Civ 2532, provides that a sale of

land will qualify as a public works contract where each of the following tests are satisfied:

- The developer must assume an obligation to carry out works;
- Those works must correspond to the requirements specified by the contracting authority; and
- The works must confer an economic benefit on the contracting authority

5.9 If a transaction is structured as an exempt land transaction as per Regulation 10(1)(a) of the Public Contracts Regulations 2015 (PCR) then it does not constitute a "public works contract" and the Council will not have to go through a Find a Tender/procurement exercise.

5.10 Regulation 4 of the PCR sets out rules on the treatment of mixed contracts. In short, whether or not the Council is required to apply the PCR is contingent on whether the land sale and the public works are objectively separable. Pursuant to Regulation 4(2)(a)(iii), where the different parts of a mixed contract are objectively separable and the Council chooses to award a single contract, the PCR will apply to that contract irrespective of the value of the parts and the legal regime those parts would otherwise have been subject to. Regulation 4(2)(b), on the other hand, provides that *"where the different parts of a given contract are objectively not separable, the applicable legal regime shall be determined in the basis of the main subject-matter of that contract."*

State aid considerations

5.11 From 1 January 2021, the European Union State Aid rules no longer apply to funding and other forms of support measures such as disposal of land at an undervalue granted to business by the Council. The only exception to this is for aid that is caught by the award of funding that include contributions from EU Structural Funds.

5.12 In place of the European Union State Aid rules, when disposing of Council property at an undervalue, the Council will comply with a domestic subsidy control regime that will be introduced by the government. *NOTE: As at the date of writing this policy, the domestic subsidy control has not yet been introduced – it is likely to be brought in approximately August 2021.*

5.13 Until such time as the abovementioned domestic subsidy control regime is introduced, the Council will apply the following principles when determining whether or not a sale at undervalue will contravene any international commitments accepted by the United Kingdom under the World Trade Organisation (WTO) Rules and/or the Trade and Co-operation Agreement (TCA) with the European Union:

- In consultation with the Council's Legal Services Team, evaluate whether the measure(s) related to the disposal is/are regarded as a prohibited subsidy under World Trade Organisation Rules;
- If a measure related to the disposal is in the scope of the TCA, assess the subsidy against the principles contained in the TCA;
- In consultation with the Council's Legal Services Team, assess the likelihood of triggering a dispute under the WTO rules; and

- If it is determined to award the subsidy, record the award of the subsidy and authorize the subsequent disposal in accordance with the Council's constitution.

Housing Act 1985 (as amended)

- 5.14 Under s32 the local authority has the power to dispose of land and dwellings held for housing purposes. Secretary of State consent will be required unless the disposal is covered by the General Housing Consents 2013, and the correction issued 6/6/13: s32 of the Housing Act 1985, which covers:
- The General Consent for the Disposal of Land held of the purposes of Part II of the Housing Act 1985 – 2013
 - The General Consent for the Disposal of Dwelling-houses to Tenants who have the Right to Buy acquiring with others 2013
 - The General Consent for the Disposal of Non-Part II Dwelling-houses 2013
 - The General Consent for the Disposal of Reversionary Interests in Houses and Flats 2013.
- 5.15 Disposals are to be at market value, but discounts may be applicable to qualifying applicants.

Local Government Act 1988

- 5.16 Under s25 a local authority may provide a Registered Social Landlord (RSL) with any financial assistance or gratuitous benefit of land for development as housing accommodation. Secretary of State Consent will be required unless the disposal is covered by the following General Consents under section 25 of the Local Government Act 1988:
- Local Authority assistance for privately let housing) 2010 (“the 2010 General Consent); and
 - Local Authority assistance for privately let housing) 2014 (“the 2014 General Consent”).
- 5.17 The 2010 Consent includes:
- consent to dispose of land for development or access, easements and rights;
 - consent to dispose of dwelling houses for refurbishment;
 - provision of financial assistance for prevention of homelessness; and
 - loans to RSLs.
- 5.18 The aggregate value of financial assistance or gratuitous benefit provided by the disposal or grant shall not exceed £10 million.
- 5.19 The 2014 General Consent includes a new consent:
- General Consent AA - The general consent under section 25 of the Local Government Act 1988 for the disposal of vacant housing land to non-registered providers at less than market value, and amends
 - General Consent B - The general consent under section 25 of the Local Government Act 1988 for the disposal of vacant dwellings to other

Registered Providers of Social Housing (including local authority landlords) regulated by the Regulator for Social Housing at less than market value 2014. This removes the requirement that a property should be in need of renovation before disposal to a registered provider at less than market value. It also removes the cap that limited the number of properties that could be disposed of in this way.

Other statutory provisions

5.20 Depending on the status of the land held by the Council, other statutory provisions may have a bearing on the procedures to be followed if the Council seeks to dispose of the land. These include:

- s233 Town and Country Planning Act 1990 – provisions are set out in this Act for the disposal of land held for planning purposes, which follow principles similar to those of s123 of the Local Government Act 1972 and its requirement to obtain best consideration reasonably obtainable. However, it must be noted that the General Disposal Consent (England) 2003 does not apply and a specific consent from the Secretary of State will be required if the Council is considering disposal at an undervalue.
- Green Belt (London and Home Counties) Act 1938 – The Council must obtain the consent of the Secretary of State to dispose of green belt land held under this Act.
- s123 (2A) Local Government Act 1972 – the Council must follow certain statutory requirements to advertise the disposal of land that consists of or forms part of an open space.
- Charities Act 2011 – the Council is trustee of charitable lands and properties originally gifted to it under the terms of trust deeds. When dealing with disposals of these lands and properties, the Council has additional responsibilities which arise from its role as trustee and will be subject to the disposal requirements set out in the Charities Act 2011. It is for the Council's Executive Shareholder and Trustee Committee to consider whether charitable land and/or property should be disposed of. Any decision by the Executive Shareholder and Trustee Committee to dispose of charitable land and/or property, including by long term leasehold, must be in accordance with the requirements of the Charities Act 2011, any directions issued by the Charity Commission and professional advice.
- s233 (2) Town and Country Planning Act 1990 – The Council must obtain the consent of the Secretary of State to dispose of common land, which may involve the requirement to provide land in exchange.
- Allotment Acts 1908 to 1950 – For disposal of land held under these Acts, the Council must obtain the consent of the Secretary of State for disposal other than for use as allotments.
- Thames Basin Heaths Special Protection Areas (SPA) – where the land has been designated in the Council's SPA Avoidance Strategy as Suitable Alternative Natural Green Spaces (SANGS), this land can at the time of writing only be disposed of subject to its continued use as SANGS in line with Habitats Regulations (Conservation of Species and Habitats Regulations 2017), and the associated planning permission which will restrict the use of the land.

- Housing Act 1980 – introduced the ‘Right to Buy’ and the disposal of homes to qualifying secure tenants of the local authority.

Non-statutory provisions

- 5.21 The Crichel Down Rules (Rules) are non-statutory rules that regulate the disposal of government land that has become surplus to requirements and has been identified for disposal by the government. The Rules can now be found in MHCLG Guidance:
<https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance>
- 5.22 The Rules only relate to government land acquired in either of the following ways:
- By, or under the threat of compulsory purchase.
 - Under the statutory blight provisions.
- 5.23 The Rules apply to all freehold disposals and to the creation and disposal of a lease of more than seven years.
- 5.24 Although the Rules are non-statutory and for guidance only, the courts have repeatedly held that the importance of the Rules and the need to adhere to them "cannot be underestimated", and that former owners have a legitimate expectation that the Rules will be applied (*R v SoS for Defence ex p Wilkins (2000) 40 EG 180*).

6.0 CORPORATE PLAN OBJECTIVES

- 6.1 The Council’s mission within its Corporate Plan is to be “an efficient, innovative and transparent Council that listens and responds quickly to the needs of our community”. Having in place a Land Disposal Policy will enable the Council to ensure its land disposal procedures are transparent, whilst making the best use of its resources and it therefore underpins the Council’s strategic framework and the delivery of the corporate plan.
- 6.2 The Council’s Property Review Group (PRG) is a working group made up of senior officers and Councillors with responsibility for effective asset management of the Council Property Portfolio.
- 6.3 A primary responsibility of PRG is to make recommendations (but the group does not have any decision-making powers) for the retention, disposal or acquisition of individual General Fund properties that support the implementation of the Council’s corporate objectives and priorities.
- 6.4 Another function of the PRG is to review our whole estate to identify opportunities to optimise use or gain additional value from it, whether by potential redevelopment, intensification or disposal; and review business cases on acquisitions of new properties.
- 6.5 The Council’s Asset Strategy, including the basis for acquiring, disposing or developing assets, will drive the direction and create the fundamental need for

significant regeneration programmes, which will form part of the Council's Strategic Property Asset Management Plan.

7.0 COUNCIL PROCEDURES

- 7.1 The Council's Constitution prescribes the procedures that the Council must adopt for the disposal of land. The complete Constitution can be inspected on the Council's website at <http://www2.guildford.gov.uk/councilmeetings/ieListDocuments.aspx?CId=183&MId=382&Ver=4&Info=1>.
- 7.2 Where statutory provisions for land disposal apply, these must take precedence over the Council's internal policies and guidelines.
- 7.3 For major General Fund disposals not delegated to the Head of Asset Management (Climate Change Lead), recommendations are presented to Executive, with the committee taking the final decision as to whether and how to dispose of land. Ultimate responsibility for strategic management of the Council's property portfolio rests with the Executive.
- 7.4 For major Housing Revenue Account disposals not delegated to the Director of Service Delivery, recommendations are presented to Executive, who takes the final decision as to whether and how to disclose of the land.
- 7.5 Decisions taken by the Executive are recorded in the minutes of the meeting and may be inspected on the Council's website. Decisions taken by officers under delegated powers are documented (including appropriate authorisations) and records maintained and unless commercially sensitive published on the Council's website. These decisions are to be taken in consultation as appropriate with the relevant Councillors in accordance with the Constitution.

PART B – GUIDANCE

The facts of each intended disposal and the precise relationship between the parties are likely to be different at least in detail of each case and the guidance must be applied in the light of specific circumstances. Where any disposal is being considered the Council must obtain specific legal advice before proceeding.

8.0 DISPOSAL BY PRIVATE TREATY/SALE

- 8.1 The main characteristics of a sale by private treaty are:
- The timescales for completion of the transaction are not fixed until exchange of contracts.
 - Offers are made subject to contract.
 - Offers are, or may, not all be received at the same.
 - It is usual for the asking price to be quoted unless presented on an ‘any offer’ basis.
- 8.2 Private sale should generally be used when there is a buyer's market, where there is a special purchaser or where there is to be an element of joint venture, for example, claw back or profit sharing.
- 8.3 A disposal by private sale may take place after a period of extensive marketing including advertising (through an agent or directly) and, where appropriate, negotiating bids. In this case, the Council will normally consider the highest bid as representing the best consideration that can be reasonably obtained, subject to ensuring any conditions attached to bids are reflected in the final evaluation. The process for disposal by private treaty can still include a closing date and be by way of sealed bids if considerable interest is anticipated.
- 8.4 A sale of land by private treaty may be appropriate where the Council is seeking obligations to be placed on the successful bidder that are clear and capable of specification in advance, for example, the leasing out of an asset whereby the tenant will be required to perform a particular function or activity. The evaluation of bids received may include qualitative assessment as part of a scoring mechanism to assess the preferred bidder, such evaluation criteria being set out at the time of advertising.
- 8.5 The Council may place a public advertisement seeking bids for the property/site and publicise any selection criteria by which it will evaluate bids.
- 8.6 If land is to be sold by private sale without being marketed, then the reasons justifying a private sale must be recorded in writing. In some circumstances the Council may seek an independent valuation to verify that ‘best consideration’ is being obtained or if considering the disposal of land and buildings (including leases) for less than best consideration, follow the Council’s procedure. A private sale without the land being marketed may be justified where:
- a. The land to be disposed of is relatively small in size and an adjoining or closely located landowner is the only potential or likely purchaser(s).

- b. The nature of the Council's land ownership and that of the surrounding land ownership is such that the land must be sold to adjoining or surrounding landowners if best consideration is to be obtained.
 - c. The Council's corporate objectives and best consideration can best be achieved by a sale to a particular purchaser.
 - d. The sale is to a non-profit making organisation and the role of that organisation is conducive to the improvement of public services and facilities available within the Borough.
 - e. The disposal is as a result of the Right to Buy scheme.
 - f. The Council's land is part of a larger area of land that is proposed for development, redevelopment or regeneration. Also, the nature and complexity of the proposed development of the overall site is such that the Council's corporate objectives and best consideration can only be achieved by a sale to a purchaser with an existing interest in land in the area.
- 8.7 A legally binding agreement will not be concluded until either contracts for the lease or sale of land are exchanged or a development agreement is signed.

9.0 DISPOSAL BY FORMAL TENDER

- 9.1 A sale of land by formal tender may be appropriate where:
- the land ownership is not complex; and
 - the Council is seeking obligations to be placed on the successful tenderer that are clear and capable of specification in advance, for example, the disposal of land to a developer with an obligation to build industrial units for lease or, the conservation of a listed building, or in the case of lettings, an obligation on the tenant to enter into an operational management agreement to run alongside a lease.
- 9.2 Formal tenders will not be appropriate where the land ownership position is complex or the development proposals for the land are insufficiently identified or otherwise incapable of detailed specification at the pre-tender stage.
- 9.3 In a formal tender process a legally binding relationship is formed when the Council accepts a tender in writing. It is essential therefore, that every aspect of the disposal is specified in the tender documents. The tender documents should include a contract for sale or lease, which should be completed with the tenderer's details, the tender price and be signed by the tenderer. It will be released unconditionally to the Council on submission of the tender.
- 9.4 Sale of land by formal tender will require a detailed specification to be drawn up. This needs to specify the land to be sold, any requirements to be met by the tenderer and any obligations that must be met. The Council may seek formal best and final bids if two or more tenders score closely in the evaluation process.
- 9.5 The Council will place a public advertisement seeking expressions of interest for the property/site and publicise the selection criteria by which it will evaluate tenders. Selected tenderers will then be invited to submit their tender bids, in accordance with the tender procedure outlined.

10.0 DISPOSAL BY INFORMAL / NEGOTIATED TENDER

- 10.1 A disposal by informal/negotiated tender differs from a formal tender in that neither the Council nor the successful bidder is legally obliged to enter into a contract for the disposal of the land. The informal process allows the Council to identify one preferred bidder with whom it may then negotiate further detailed terms or proposals.
- 10.2 The Council may, as a part of the disposal process, still request best and final offers for a sale, or informal development proposals for land that either meet a given specification, or a request for proposals. This process is particularly useful for large or complex development or regeneration sites requiring development and where the proposals may need to be developed in co-operation with the preferred bidder to meet the Council's corporate objectives and to achieve the best consideration that can be reasonably obtained.
- 10.3 This method is suited to sales where there are uncertainties, particularly around Planning, and allows for use of conditional contracts, including clauses which can allow for further sums to become payable upon grant of planning permission at different points in the future.
- 10.4 A binding legal agreement is not created until the exchange of contracts for sale or lease or the signing of a development agreement.
- 10.5 The evaluation of bids received may include qualitative assessment as part of a scoring mechanism to assess the preferred bidder, such evaluation criteria being set out at the time of advertising.
- 10.6 The Council will place a public advertisement seeking bids for the property/site and publicise any selection criteria by which it will evaluate bids.

11.0 DISPOSAL BY PUBLIC AUCTION

- 11.1 Sale by public auction may be appropriate for disposal of smaller properties or those that present difficulties, for example, where no planning consent has been forthcoming so that it is difficult to establish a clear idea of value, or there is no obvious potential purchaser and where speed and best price can be publicly demonstrated.
- 11.2 Exceptions to the usual tendering process must be authorised and recorded in accordance with the Council's Procurement Procedure Rules.
- 11.3 Before the sale, the property should be listed and the marketing agent should be asked to recommend a reserve price to ensure that a property is not sold below certain agreed levels, which will be confidential and known only to the vendor and the auctioneer.
- 11.4 The contract for sale or lease, EPC (if applicable), replies to standard pre-contract enquiries and all appropriate searches must be provided and be ready for exchange at the auction.
- 11.5 The binding contract will be made on the acceptance of the highest bid providing it has reached the reserve price. Contracts for the sale or lease will immediately be signed and exchanged.

12.0 DISPOSAL BY EXCHANGE OF LAND

- 12.1 Disposal by exchange of land will be appropriate when it is advantageous to the Council and other parties to exchange land in their ownerships and will achieve best consideration for the Council.
- 12.2 The exchange will usually be equal in value. However, any inequality in land value may be compensated for by the receipt of a balancing payment or other means of consideration as appropriate. For example, where the Council in exchange for a larger piece of land receives a smaller piece of land but the recipient of the larger plot agrees to build industrial units on the Council's smaller area to equalise the consideration. In such circumstances the Council will always obtain an independent valuation to verify that 'best consideration' will be obtained.
- 12.3 A binding legal agreement will be created when a contract is exchanged.

13.0 EXCEPTIONS

- 13.1 Other methods of disposal may be used where circumstances warrant, for example delivering housing for people with special needs that might otherwise not be assisted through housing development opportunities. In such cases, authority needs to be obtained in accordance with section 7 above.

14.0 OTHER CONSIDERATIONS

Transparency and Freedom of Information

- 14.1 All data held and managed by local authorities should be made available to the public unless there are specific sensitivities (e.g., protecting vulnerable people or commercial and operational considerations) to doing so. The Local Government Transparency Code 2015 ("Transparency Code") ensures the public can now see and access data covering (1) how money is spent, (2) use of assets (including details of land and property which is "surplus to requirement", (3) decision making and (4) issues important to local people. The Council must comply with the requirements of the Transparency Code, along with any of the government approved optional information that the Council decides to publish (as set out in Part 3 of the Transparency Code) - <https://www.gov.uk/government/publications/local-government-transparency-code-2015> .
- 14.2 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 came into force on 10 September 2012 and places a requirement that all meetings of "a decision-making body" are to be held in public unless an exception applies. A "decision-making body" under the regulations includes: a local authority's executive and its committees and sub-committees; joint committees where all the Councillors are members of a local authority executive; sub-committees of such joint committees, and area committees of local authority executives.
- 14.3 The regulations also include a requirement that the public should be excluded from a meeting of a decision-making body if confidential information is likely to be disclosed or if a resolution has been passed to exclude the public because exempt information is likely to be disclosed or if a lawful power is used to

exclude members of the public in order to maintain orderly conduct or prevent misbehaviour. “Confidential information” is defined as information provided to the local authority by a Government department on terms which forbid the disclosure of the information to the public or information the disclosure of which is prohibited by or under any enactment or a court order. “Exempt information” is defined by reference to section 100I of the Local Government Act 1972.

- 14.4 The principle of access to information relating to local authority decisions is well established and some of the provisions of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 reinforce obligations with which local authorities are familiar. Local authorities generally aim to be transparent in their activities and restrict access to information only where this is necessary to comply with obligations. However, some of the regulations do potentially increase the obligations on local authorities and they need to ensure that they are meeting their obligations.
- 14.5 Potential buyers (and others) are also entitled to request wider information under the Freedom of Information Act 2000 ("FOIA") than an authority is required to disclose under the debriefing obligations. Commercially sensitive information may be able to be withheld if it falls within one of the exemptions.
- 14.6 A contracting authority has 20 working days from receipt of a FOIA request to respond.

Equalities Act 2010

- 14.7 In respect of any disposal the Council must comply with its legal obligations under the Equalities Act 2010, which include positive duties to have regard to the need to eliminate unlawful disability, gender, race and religious discrimination and promote equality of opportunity. As is required for all Council policies an Equalities Impact Assessment screening has been carried out for this document. The result of that screening is attached at Appendix 1.

Late Bids

- 14.8 Any 'late bid' must be considered in the context of the individual circumstances at the time. The Council's approach to 'late bids' will vary depending upon the method of land disposal used. In each case, its overriding duty will be to obtain best consideration that it can reasonably obtain (subject to any exceptions in the General Disposal Consents).
- 14.9 Consideration of a late bid does not mean that it will necessarily be accepted even if it is the 'highest' bid. The Council will take into account the likelihood of the late bid proceeding to completion in a timely manner and the possibility of late bids being used as a spoiling or delaying tactic.

APPENDIX 1

Equality Impact Assessment

The purpose of an assessment is to understand the impact of the Council’s activities* on people from protected groups and to assess whether unlawful discrimination may occur. It also helps to identify key equality issues and highlight opportunities to promote equality across the Council and the community. The assessment should be carried out during the initial stages of the planning process so that any findings can be incorporated into the final proposals and, where appropriate, have a bearing on the outcome.

(*Activity can mean strategy, practice, function, policy, procedure, decision, project or service)

Name of person completing the assessment	Deputy Head of Asset Management	Date of assessment	21/01/21
--	---------------------------------	--------------------	----------

Name of the proposed activity being assessed	Land Disposals Policy	Is this a new or existing activity?	Existing
--	-----------------------	-------------------------------------	----------

Who will implement the activity and who will be responsible for it?	Councillors and officers responsible for the policy and its implementation
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1. Determining the relevance to equality

What are the aims, objectives and purpose of the activity?	The document sets out Guildford Borough Council's policies and guidance for the disposal of Council owned land and includes the sale of freehold or leasehold interests, assignment of applicable leases and the granting of easements
--	--

Is this a major activity that significantly affects how services or functions are delivered?	No	Who will benefit from this activity and how?	Councillors and officers and all other interested parties; professional advisors; contractors; and members of the public
--	----	--	--

Does it relate to a function that has been identified as being important to people with particular protected characteristics?	No	Who are the stakeholders? Does the activity affect employees, service users or the wider community?	Councillors, officers, professional advisors, contractors, members of the public
---	----	---	--

Based on the above information, is the activity relevant to equality?

Yes – continue to section 2	Yes
------------------------------------	-----

No – please record your reasons why the activity is not relevant to equality	
---	--

2. Is the proposed activity accessible for all the protected groups listed below?
(Consider in what ways the activity might create difficulties or barriers to parts of the workforce, community or protected groups. How might one or more groups be excluded because of the activity?)

Protected groups	Yes	No	Evidence
Disability	Yes		When considering the disposal of any Council owned land the Council has an overriding duty to obtain the best consideration that can reasonably be obtained for the land in question which is a pure economic assessment and an objective test not in any way linked to the identity of the bidder. However, in circumstances where tenders are sought following public advertisement to be evaluated against selection criteria it is essential that the criteria do not include any assessment linked to any of the equality strands of race, age, disability, gender, sexuality or religion. The requirement to publicise all selection criteria by which the Council will evaluate tenders at the time of inviting tenders to submit their bids would guard against this.
Race	Yes		Please see above
Gender	Yes		Please see above
Sexual orientation	Yes		Please see above
Age	Yes		Please see above
Religion or belief	Yes		Please see above
Transgender or transsexual	Yes		Please see above
Marriage and civil partnership	Yes		Please see above
Pregnancy or maternity	Yes		Please see above

3. Is it likely the proposed activity will have a negative impact on one or more protected groups?

Guildford Borough Council – Land & Property Disposals Policy and Guidance Document 2021

Protected groups	Yes	No	Evidence
Disability	No		
Race	No		
Gender	No		
Sexual orientation	No		
Age	No		
Religion or belief	No		
Transgender or transsexual	No		
Marriage and civil partnership	No		
Pregnancy or maternity	No		

4. What action can be taken to address any negative impact? What measures could be included to promote a positive impact? (*Consider whether it is possible to amend or change the activity due to the likely adverse impact whilst still delivering the objective. Is it possible to consider a different activity which still achieves the aims but avoids an adverse impact? Is an action plan required to reduce any actual or potential adverse impact?*)

N/A

5. What are the main sources of evidence that have been used to identify the likely impacts on the different protected groups? (*Use relevant quantitative and qualitative information that is available from sources such as previous EIA's, engagement with staff and service users, equality monitoring, complaints, comments, customer equality profiles, feedback, issues raised at previous consultations and known inequalities*).

Data used from previous EIA for early revisions of this policy.

6. Has any consultation been carried out (e.g. with employees, service users or the wider community)? Please provide details

N/A

7. Is further consultation required as a result of any negative impact identified? If so, what groups do you intend to engage with and how?

No

8. Conclusion of Equality Impact Assessment - please summarise your findings

The policy requires all disposals of land to be in accordance with the Council's corporate objectives and to publicise all selection criteria against which it will evaluate bids for the acquisition of the land.

Name of person completing assessment:

Melissa Bromham

Date: 21/01/21

Job title: Deputy Head of Asset Management

Signature:



Senior manager name:

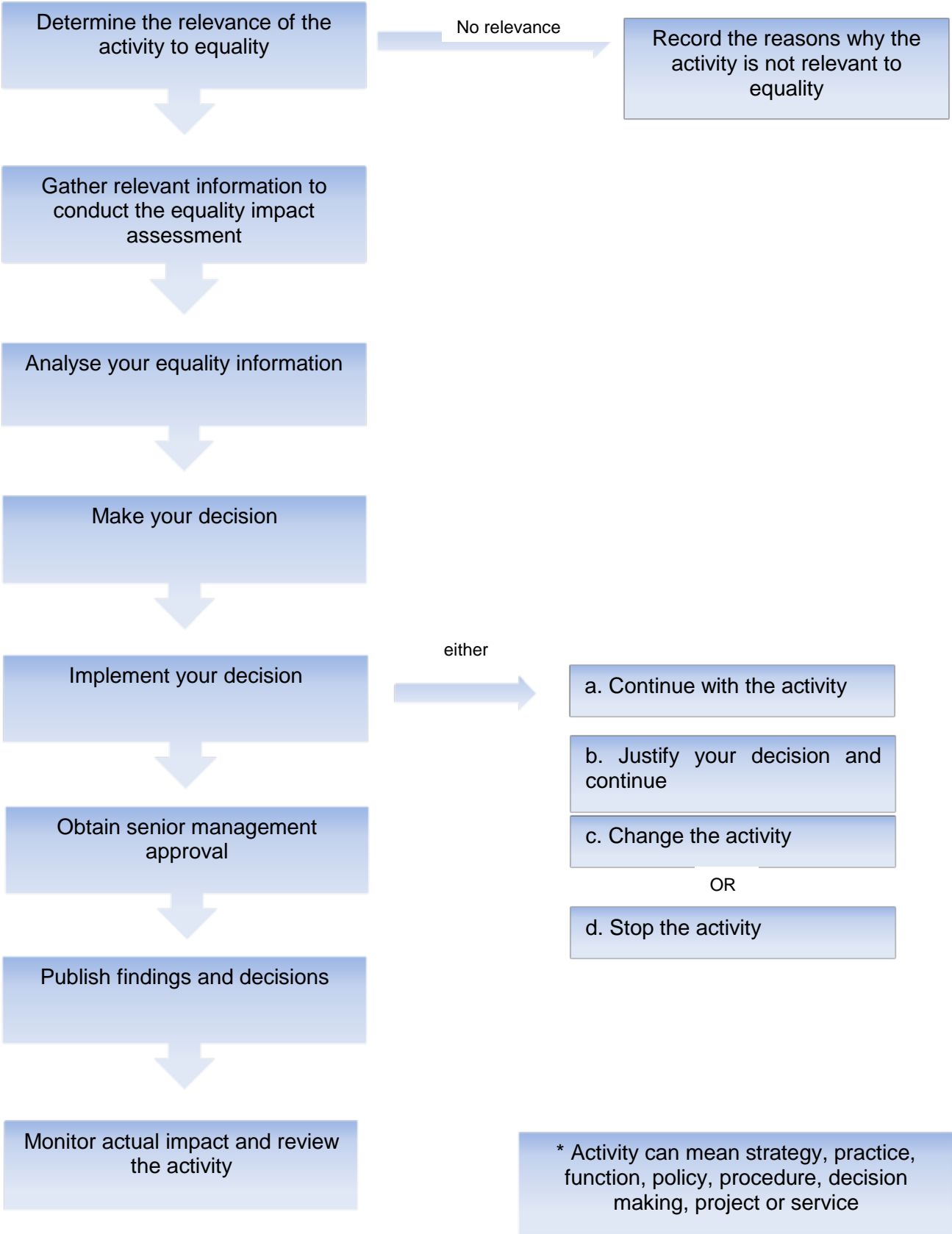
Marieke van der Reijden

Date: 21/01/21

Signature:



Assessing the impact of your activity* on equality



Executive Report

Ward(s) affected: All

Report of Director of Service Delivery

Author: Belinda Hayden Revenues & Benefits Lead/Siobhan Rumble Neighbourhood Housing Lead

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Date: 21 September 2021

Policy on Debt Recovery

Executive Summary

Officers were asked to look at a Corporate Debt Recovery Policy prior to the pandemic. The perception was that there was a conflict between the collection of Council Tax and Council Rents – specifically where a debtor was in arrears for both. Officers found no evidence of a problem.

As part of their investigation, officers reviewed a range of policies that are publicly available.

They found that:

- Policies vary in length and detail
- Some lack clarity
- It is not always obvious who the audience is, or who the material is appropriate to.

There is a common expectation that:

- All debts should be paid on time
- Recovery should be efficient and effective, timely and proportionate
- Income collection must be maximised
- Debtors should be treated fairly and consistently.

Not all Councils have a Debt Recovery Policy, however officers believe a policy could deliver the following benefits:

- A policy would ensure a consistent approach across the Council and establish a way forward for customers with multiple debts.
- A policy will give customers clarity, provided it is clear.
- If the policy sets out not only what we will do, but what we expect debtors to do it will be a useful document for officers when collecting debts. Specifying debtors' responsibilities is also consistent with the Future Guildford model of self service.

They concluded that it would only deliver these benefits if it was read by customers and officers and did not create an administrative burden that could not be delivered on.

To that end the proposed Debt Recovery Policy:

- Is as short and clear as possible
- Is as timeless as possible.
- Acknowledges that different legislation applies to different debts and focuses on principles and general expectations.

To ensure that the policy is inclusive and relevant to all debts all Service Leaders have been consulted. The report and draft policy have also been considered by the Service Delivery EAB. As a result of which some amendments have been made. The EAB recommends the adoption of the policy.

Recommendation to Executive *(delete as appropriate)*

That the Executive adopts the Corporate Debt Recovery Policy as set out in Appendix 1

Reason(s) for Recommendation:

Adopting a short, clear policy setting out both Council and Debtor responsibilities could deliver the following benefits:

- A consistent approach across the Council, and a way forward for any customers with multiple debts
- Clarity for customers
- A tool to help in the debt collection process

Is the report (or part of it) exempt from publication? *(delete as appropriate)*

No

1. Purpose of Report

- 1.1 To introduce and explain the proposed Debt Recovery Policy that the Executive is being asked to adopt.

2. Strategic Priorities

- 2.1 The proposed Debt Recovery Policy contributes to the theme of community by making clear that the Council does provide support for the more vulnerable and less advantaged people in our community when recovering debts.

3. Background

- 3.1 The report writers were asked to look at a corporate debt recovery policy in late 2019, prior to the pandemic.
- 3.2 This was not the first time that officers had considered whether a policy was needed, however by 2019 none of those involved previously were currently employed by Guildford Borough Council.

3.3 The Homeless Reduction Act 2017 was a driver for revisiting the idea of a policy.

The Act places a duty on the council to ensure that advisory services are designed to meet the needs of groups that are at increased risk of becoming homeless. These are:

- (a) persons released from prison or youth detention accommodation,
- (b) care leavers,
- (c) former members of the regular armed forces,
- (d) victims of domestic abuse,
- (e) persons leaving hospital,
- (f) persons suffering from a mental illness or impairment, and
- (g) any other group that the authority identifies as being at particular risk of homelessness in the authority's district.

There was a perceived conflict between collection of the Council Tax and Council Rents, in as much as for one the customer can go to prison and for the other they can become homeless. In attempting to avoid both the customer may be overstretched financially, and ultimately end up homeless.

4. Investigation and Findings

Multiple Debts

- 4.1 Reviewing the earlier attempt to create a policy, officers suspect that it failed because the proposed management of multiple debts (such as Council Tax and Council Rent) could not be administered effectively or efficiently. Even now it is not possible to administer them in the way that was then proposed. This appeared to be the driver of the original work.
- 4.2 Looking at the matter afresh in 2019 officers found that Guildford Borough Council has a positive track record of debt collection.
- 4.3 Council Tax and Business Rates collection put us amongst the top 20 collectors in England, and Experience Guildford reports that we exceed others in collecting the levy. With around 57,000 accounts recovery of the Council Tax is initially by bulk processes such as reminders, final notices and summonses. In 2018 over 18,000 Council Tax reminders were issued, and over 5,000 summonses.
- 4.4 By contrast the number of Council Tenants in arrears was smaller. At the end of December 2019 640 tenants owed more than £100. The Council has around 5000 tenants. Whilst initial letters are issued visits are also made to see why the tenant is not paying. The initial assumption being that most want to pay, and that they should be able to pay because they either have an income (wages or pension) or are in receipt of benefits. If these tenants cannot pay then it is a matter of working with them on budgeting and making an individual arrangement with them to reduce the outstanding debt. Only where tenants fail to engage or to maintain an arrangement will we apply to the Court. A suspended order will generally support the arrangement that we want, and only when that is breached

does eviction occur. In 2018 orders were obtained on 36 cases and 7 tenants were evicted. At the end of March 2021 there were 565 cases (current Housing accounts and traveller pitches) with a debt over £100. There were no Court cases or evictions during 2020-21.

- 4.5 Officers are not aware of any evictions due to customers paying their Council Tax instead of their rent. The numbers are low and the individual approach by the Income Team means that any such cases would be identified prior to any application to Court. Whilst the Council Tax team always endeavours to make arrangements that clear debts during the year to avoid debt building up, senior members of the team can and do make longer arrangements on a case by case basis.

Other Debt Recovery Policies

- 4.6 Guildford Borough Council is by no means the only council not to have a corporate debt policy. At least six others in Surrey do not have one.
- 4.7 Reviewing a range of policies that are publicly available shows that whilst some aspects are consistently included others are not. Officers found:
- Policies vary in length and detail
 - Some lack clarity
 - It is not always obvious who the audience is, or who the material is appropriate to.

There is a common expectation that:

- All debts should be paid on time
 - Recovery should be efficient and effective, timely and proportionate
 - Income collection must be maximised
 - Debtors should be treated fairly and consistently.
- 4.8 Councils acknowledge that some debtors have genuine financial difficulties and may need additional support. Most policies refer to sign posting to other sources of advice, and ensuring customers receive any reductions that are available to them. Reference is generally made to financial vulnerability with some guidance as to what it looks like, plus a reminder that for some debtor's vulnerability can be temporary.
- 4.9 Policies generally contain information about payment arrangements with some guidance on what an acceptable arrangement looks like. For instance, a maximum timescale, or a period of review if circumstances may change.
- 4.10 Most policies refer to a co-ordinated approach to multiple debts owed. Some set out the priority in which they expect debts to be paid (and the consequence of non-payment).

It is not easy for officers to identify where multiple debts exist, when they are dealing with high volumes. Cross checking these to other systems would result in an inefficient recovery process.

Other Councils' policies set out expectations for debtors – including that they need to volunteer that they have other debts with the Council at the point of contact. This is a practical way forward and a Policy on Debt Recovery would help these conversations to take place. For example, it could empower conversations such as:

“Thank you for calling in response to the Council Tax reminder. Our policy is to help you with all the bills that you owe us. Do you mind me asking if you are having difficulty paying us for anything else? “

Changing Expectations

- 4.11 The Citizens Advice Bureau has long been concerned about the recovery of debt, and the level of debt faced by some individuals.
- 4.12 The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 was introduced by the government to address the problems of indebtedness. This gives someone in problem debt the right to legal protections from their creditors.

There are two types of breathing space: a standard breathing space and a mental health crisis breathing space:

- A standard breathing space is available to anyone with problem debt. It gives them legal protections from creditor action for up to 60 days. The protections include pausing most enforcement action and contact from creditors and freezing most interest and charges on their debts.
- A mental health crisis breathing space is only available to someone who is receiving mental health crisis treatment and it has some stronger protections. It lasts as long as the person's mental health crisis treatment, plus 30 days (no matter how long the crisis treatment lasts).

- 4.13 The pandemic has inevitably affected the finances of many residents and businesses. It has also disrupted debt recovery with a restriction on Court availability and enforcement activity. Revenues and Benefits staff have worked hard to ensure that residents and businesses receive any bill reductions or grants that they are entitled to. Both Council Tax and Business Rate collection rates fell – Council Tax from 98.88% in 2018 to 97.53% in 2020, and Business Rates from 99.4% in 2018 to 95.48% in 2020. No reminders were issued during the first lockdown as it did not appear appropriate with so much uncertainty. When we issued the first reminders in September they were accompanied by a covering letter reminding customers that they should be paying if their circumstances had not changed, or seeking help if they had. Housing and Benefits staff continue to promote help with rent and household expenses through both Housing Benefits and Universal Credit. Whilst the Council has seen a drop in the collection rate for Council Tax and Business Rates, Council Rent arrears have been minimised by

working with tenants throughout the pandemic, which is possible due to the smaller volume of cases.

- 4.14 Waverley Borough Council has an Income and Debt Collection Policy. Although this is publicly available the language and content suggest that it is primarily an inward-looking document. Officers feel that something simpler would suit Guildford Borough at this current time, but that this does not preclude a review with closer future working.

Suggested way forward

- 4.15 Officers concluded that the problem the development of a policy was intended to solve does not exist. Residents are not choosing to pay their Council Tax in preference to their Council Rent and being evicted. If it was to happen in the future the Housing Income Team would identify it and given the low numbers special arrangements could be made. Additionally, not all councils have a Debt Recovery Policy. On this basis doing nothing is an option.

- 4.16 Officers believe a policy could still deliver some benefits:

- A policy would ensure a consistent approach across the Council and establish a way forward for customers with multiple debts.
- A policy will give customers clarity, provided it is clear.
- If the policy sets out not only what we will do, but what we expect debtors to do it will be a useful document for officers when collecting debts. For example, it could enable them to say the Council has a corporate policy and I am expected to collect this debt. Additionally specifying debtors' responsibilities is consistent with the Future Guildford model of self service.

- 4.17 However a policy will only deliver these benefits if

- Customers and officers read it.
- We can make the policy work, without creating an administrative burden or a policy that we cannot deliver on.

To that end the Debt Recovery Policy should:

- Be as short and clear as possible, so that it is a document that debtors and officers can easily refer to.
- Be as timeless as possible. Policies with a lot of detail potentially constrain staff from collecting debt and need frequent amendments if there is a change of legislation.
- Acknowledge that different legislation applies to different debts but focus on principles and general expectations.

A draft policy with all of this in mind has been drawn up and is attached as Appendix 1.

5. Consultations

- 5.1 To ensure that the policy is inclusive and relevant to all debts all Service Leaders have been consulted and asked
- Does anyone in your service raise debts not listed in the attached draft – if so who and what.
 - If the attached policy was adopted would your teams be able to work within it – if not what would the issues be
 - Any other feedback
- 5.2 General feedback was that the first draft of the policy was clear and precise and would be of use to staff and customers.
- 5.3 More specific feedback:
- Identified some missing debt types which have been incorporated into the second draft.
 - Some questions about a greater distinction between commercial and individual debt. The second draft has been modified to include reference to commercial contracts.
 - A comment that where possible payments should be taken up front for services. As this is a potential direction of travel for Future Guildford an exclusion has been added to the second draft.
 - That the policy needs to be in the Corporate Policy format, and should include details on monitoring (added to the second draft).
- 5.4 As a result of the consultation we have identified a need for clarity around roles and responsibilities for invoices being raised and debts collected as corporate Sundry Debts. As this is about internal processes officers believe the information should not be included in the Corporate Debt Recovery Policy as this would dilute the benefits that it is hoped to achieve. Instead it can be addressed via internal guidance from the Resources Directorate.

6. Key Risks

- 6.1 No risks have been identified. The draft policy formalises and makes public existing expectations and responsibilities.

7. Financial Implications

- 7.1 No financial implications have been identified. The draft policy formalises and makes public existing expectations and responsibilities. It will be published on the Council's website.

8. Legal Implications

No legal implications apply

9. Human Resource Implications

- 9.1 The draft policy formalises and makes public existing expectations and responsibilities, and as such should not change workload.
- 9.2 Monitoring the policy will create some additional work, however the suggestion is that this is an annual review using data from the complaints and compliments system.

10. Equality and Diversity Implications

- 10.1 This report proposes introducing a Debt Recovery Policy to formalise and make public existing expectations and responsibilities around debt recovery. It does not propose changing any existing practices.
- 10.2 Creating clarity about an existing activity will benefit everyone including those with protected characteristics.
- 10.3 On the basis that we are not changing an activity and the benefits of the proposed policy will be positive for everyone, it has been concluded that the activity of creating this policy is not relevant to equality.

11. Climate Change/Sustainability Implications

No such implications apply

12. Executive Advisory Board comments

- 12.1 The EAB was asked:
- Should the Council adopt a Debt Recovery Policy
 - If they had any feedback on the draft 3 of the policy
- 12.2 The EAB agreed that it was a succinct, sensible and admirable policy.
- 12.3 Within this report they requested context within paragraph 4.4 of the number of tenants
- 12.4 They suggested the policy should include signposting to other advice providers. (included in draft 4 of the Debt Recovery Policy)
- 12.5 They felt that draft 3 of the Debt Recovery Policy put all the responsibility for identifying multiple debts onto the debtor, and questioned whether this was the case.

Officers clarified that they do ask customers about what they are spending their money on so that they can tease out where the debt is. That there is a balance between people taking personal responsibility and the Council supporting them to identify their priority debts and helping them to plan to get debt free. This in turn would help them feel better and ultimately ensure that they keep their home.

The conclusion was that the EAB recommended that the wording in the policy be reviewed, and a further sense check completed. (included in draft 4 of the Debt Recovery Policy)

- 12.6 If the policy is adopted the EAB asked for an “easy read” version to be made available. (Both the Web and Comms teams have confirmed that they can assist with this.)
- 12.7 Subject to the above comments the EAB support the policy and recommend that the Executive adopt it.

13. Summary of Options

- 13.1 Doing nothing is an option as there is no evidence of the lack of a policy causing any problems.
- 13.2 Adopting a short, clear policy setting out both Council and Debtor responsibilities could however deliver some benefits:
- A consistent approach across the Council, and a way forward for any customers with multiple debts
 - Clarity for customers
 - A tool to help in the debt collection process.

This approach was supported by the Service Delivery EAB

14. Conclusion

- 14.1 Whilst not adopting a policy is an option officers recommend that the Debt Recovery Policy (Draft 4) attached in Appendix 1 is adopted due to the benefits set out in 13.2.

15. Background Papers

Equality Impact Assessment Debt Recovery Policy

Bournemouth Borough Council Corporate Debt Policy – January 2018

Chichester Corporate Debt Recovery Policy – as of October 2019

Oxford City Council Debt Management Policy – March 2015

Southend-on-Sea Borough Council Debt Collection and Recovery Policy – November 2017

Chichester Corporate Debt Recovery Policy – March 2020

Waverley Borough Council Income and Debt Collection Policy – April 2019

16. Appendices

Appendix 1 - Proposed Debt Recovery Policy

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GUILDFORD BOROUGH COUNCIL

CORPORATE DEBT RECOVERY POLICY

DRAFT 4 - 2021

Document Information

Origination/author:	Revenues & Benefits Lead and Neighbourhood Housing Lead
Policy Owner – Service:	Specialist Services - Housing
This document replaces:	n/a
Committee approval:	
Last Review Date:	
Next Review Date:	

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1. Introduction

- 1.1 This policy contributes to the strategic theme of community by providing clarity on the support that the Council provides for those who are financially vulnerable.
- 1.2 Guildford Borough Council has a duty to ensure the prompt and cost-effective billing, collection, and recovery of all sums due to the council. Delays can lead to higher administrative costs and reduced resources being available for the provision of services.
- 1.3 Sums due to the Council can be a mixture of statutory and non-statutory charges, including commercial contracts. The methods for billing and recovery of statutory debts are tightly prescribed by statute and our practices must take these legislative requirements into account.
- 1.4 In addition to our statutory duties with regards to debts, we also have a duty to help the more vulnerable in our community. We understand that there is a distinction between those who “can’t pay” and those who “won’t pay”.
- 1.5 The aim of this policy is to:
- give customers clarity not only on what we will do, but what we expect debtors to do
 - achieve the prompt collection of sums of money due to the Council whilst ensuring that a fair and consistent approach is taken to the recovery of sums that are not paid when due.
- 1.6 This policy is not intended to set out detailed internal processes and procedures, or to repeat customer service policies which can be found elsewhere. It is deliberately short with the intention that it will be read and used by both employees and debtors.

2. Scope

- 2.1 This policy relates specifically to the collection of the following:
- Council Tax
 - Non-Domestic Rates (Business Rates), and BID Levy
 - Housing Benefit Overpayments
 - Housing Rents, Homes 4 U Loans, Garage Rents
 - Car Parking Penalty Notices
 - All other Sundry Debt (charges for council services including waste services, hall fees, rents, licensing etc)

- 2.2 The policy does not apply where customers pay up front to access a service.
- 2.3 This policy takes effect from **DATE**

3. Guildford Borough Council's Responsibilities

3.1 Billing

We will:

- Issue requests for payment promptly and accurately
- Be clear on what needs to be paid, when and how
- Ensure that our documents are easy to understand, whilst complying with any legal requirements.
- Provide information on anything that may reduce debt – for example Council Tax and Business Rate reductions or prompt payment discounts.

3.2 Debt Recovery

We will:

- Commence action to recover unpaid amounts promptly to avoid the accumulation of arrears
- Ensure that all debt recovery documents are clear and inform the debtor of the consequences of not paying
- Assist customers who have a legitimate dispute against the liability
- Endeavour to recover the full cost of enforcement action from the debtor to ensure that the cost does not fall on local council tax payers
- Respect the debtor's privacy by conducting enforcement activity as discretely as possible
- Consider all the enforcement options legally available to us for a specific debt.

3.3 Helping those in financial difficulties

We will:

- Signpost debtors to free sources of independent money and debt advice, including how to access the national Debt Respite (Breathing Space) scheme
- Agree arrangements with debtors to allow them to pay debts off over a longer time (see section 5)
- Ask debtors about other debts, so that we can help them prioritise them and plan to become debt free.
- Ensure that all services work together where a debtor identifies that they owe the Council multiple debts so that they can be managed in a co-ordinated manner.
- Train staff in debt collection to enable them to employ flexibility and discretion when dealing with exceptional hardship, vulnerable persons or dispute situations. This includes the ability to make deferred payment arrangements or suspend recovery action due to the debtor's individual circumstances. However, it is not always possible to place cases on hold due to statutory procedures for enforcement of the debts.

3.4 Helping the vulnerable

We recognise that some members of the community are more vulnerable than others and may need additional support in dealing with their financial affairs. The cause of

vulnerability may be temporary or may be permanent in nature and the degree of vulnerability will vary widely.

We will be mindful that people in the following groups may be vulnerable. However, vulnerability does not mean that they will not be required to pay amounts they are legally obliged to pay:

- Older people
- People with a disability
- The seriously ill
- The recently bereaved
- Single parent families
- Pregnant women
- Unemployed people
- Those whose first language is not English

We will consider each case on its merits. Help may include:

- Signposting to external agencies and sources of independent advice,
- Greater flexibility around payment arrangements
- Providing information in an accessible format
- Temporarily suspending recovery or enforcement action.

4. Debtor's Responsibilities

- 4.1 We expect any person or organisation owing sums to Guildford Borough Council to:
- Pay amounts due promptly to ensure receipt by the Council on or before the date that payment is due
 - Follow instructions regarding the making of payments to ensure payments are credited correctly against the amount due
 - Inform us promptly of any changes to their circumstances that may affect the amount to be paid or the ability to pay
 - Notify us promptly if their address changes
 - Contact us promptly if it is believed the amount charged is not correct, both where the amount may be too much or too little
 - Contact us promptly if they are unable to pay an amount that is due
 - Identify where they owe us multiple debts so that we can in turn help them to manage that situation. We will work with individuals to understand the debts that they have, to help them prioritise and plan to get debt free.

5. Payment Arrangements

- 5.1 The intention is that debts should be cleared as soon as possible. Some bills (such as Council Tax) are issued on a regular basis with the result that the debt will build up if it is not paid before the next bill is issued.
- 5.2 Where the debtor has entered a commercial contract – for example a commercial rent – the expectation is that payment will be made in accordance with the contract and alternative arrangements are unlikely to be made.
- 5.3 We will make individual repayment arrangements based on a debtor's personal circumstances. To do this we will ask for as much information as possible to help us assess ability to pay, especially where the request is to repay over an extended time.

- 5.4 If a debtor refuses to provide any information that is considered essential to assessing their ability to pay, then it is unlikely that a payment arrangement will be agreed.
- 5.5 Where a suitable payment arrangement cannot be agreed we will advise the debtor to take independent advice.

6. Use of Enforcement and Collection Agents

- 6.1 The Council uses Enforcement Agents and Collection Agents where it is allowed by law to do so. This will be explained either on line or in documents sent to the debtor. Agents enable us to recover unpaid debts where other avenues have failed. This is important because we rely on our income to continue to provide a wide range of services within the borough.
- 6.2 Enforcement Agents are governed by Regulations made under the Tribunals, Courts & Enforcement Act 2007 such as The Taking Control of Goods Regulations 2013, The Taking Control of Goods (Fees) Regulations 2014 and The Certification of Enforcement Agents Regulations 2014. Our Enforcement Agents are members of the Civil Enforcement Association (CIVEA) and comply with the CIVEA Code of Conduct.

7. Insolvency

- 7.1 We will consider bankruptcy and liquidation proceedings where the debt or combined debts are above the statutory minimum threshold and it is considered cost effective to do so.

8. Monitoring

- 8.1 We will monitor the success of the policy via the Corporate Complaints and Compliments system.

9. Sources of Help and Advice

Internal:

Guildford Borough Council Welfare and Benefits Debt Advisor
– contact via 01483 505050

External:

Citizens Advice Bureau	website: https://www.citizensadvice.org.uk/ telephone: 0800 1448848
Christians Against Poverty	website: https://capuk.org/ telephone: 0800 3280006
Step Change	website: https://www.stepchange.org/ telephone: 0800 138 1111
Business Debtline	website: https://www.businessdebtline.org/ telephone: 0800 197 6026
National Debtline	website: https://www.nationaldebtline.org/ telephone 0808 808 4000
Moneysavingexpert	website: https://www.moneysavingexpert.com/family/
Community Money Advice	national website: https://www.communitymoneyadvice.com/freedom-from-debt/get-help local: https://www.lighthouseworking.org/moneyadvice.html

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Executive Report

Ward(s) affected: All

Report of Director of Service Delivery

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Date: 21 September 2021

Collection of Council Tax Arrears Good Practice Citizens Advice Bureau (CAB) Protocol

Executive Summary

On 28 July 2020 Council resolved:

“To authorise the Director of Resources to review the CAB/LGA “Revised Collection of Council Tax Arrears Good Practice Protocol” as set out in Appendix 1 to the report submitted to the Council and to report back to the relevant EAB with details as to where the Council's current approach differs from the CAB/LGA protocol in order to enable a recommendation on the protocol to be made by the EAB.”

This report provides a summary of the statutory Council Tax recovery process and the financial help that is available for those on low incomes via the Local Council Tax Support Scheme.

The CAB protocol is divided into three sections: Partnership Working, Information and Recovery. The report considers the detailed requirements and identifies what our approach is to each and where it differs.

It concludes that we have a good working relationship with the local advice agencies and address issues as and when they arise. That our documentation is good and has been reviewed over the years, and that the most recent review of information available to the public on our telephone line and website has been completed as part of the Future Guildford programme. Debtors are signposted to advice agencies through all channels and cases are passed to our enforcement agents, only when other avenues have failed.

The Council generally meets the overarching aims set out at the start of each section, namely:

- effective partnership working
- improving the information supplied to council taxpayers about the billing process, how to get support and debt advice and to promote engagement

- making an effort to ensure that debt and money advice referrals, plus assessment of vulnerability and hardship occur prior to enforcement by an enforcement agent

However, we do not meet all the requirements of the protocol. We do not:

- hold all the formal meetings that are required
- work in partnership on documents, policies and take up campaigns – although we do listen to feedback and address issues when they are raised.
- have an arrangement whereby any debtor regardless of personal circumstance is referred back to us by our enforcement agents
- make special payment arrangements at all stages in the process
- have a corporate debt recovery policy (this is the subject of a separate report)
- accept that enforcement agents who are contracted to us, should take direct direction from advice agencies.

There is a currently unquantified cost to becoming compliant with all the requirements, for an unclear benefit given that we generally meet the overarching aims. With regards to information this has just been reviewed as part of Future Guildford. To revisit now in partnership with advice agencies would be rework. The Future Guildford model is for “self-service where possible” and simplification of processes. Staffing numbers have been reduced accordingly. Increasing referrals back from our enforcement agents and changing the process for special payment arrangements will add back complexity and workload.

251 out of 314 councils, including Waverley, have not signed up to the protocol and we are not under pressure from local advice agencies to do so.

Whilst it may not be practical and cost effective to become fully compliant with the Protocol now there is an opportunity to move even closer to compliance, and to improve best practice, by adopting a Corporate Debt Recovery Policy. The benefits of which are discussed in a separate report.

The report was considered by the Service Delivery EAB on 9 September. The Board acknowledged the Council’s Revenues and Benefits team provided an exceptionally good service based on a robust system. However, councillors identified an opportunity to revisit the issues when looking at future working with Waverley to ensure consistency and best practice moving forward. Joint adoption of the Protocol would be an option to ensure this.

Given that we are not under pressure to sign up to the Protocol, and have no evidence that the benefits of signing up will outweigh the cost of being fully compliant, officers recommend that the Council does not sign up to the CAB Protocol now. However, the issues should be revisited when looking at future working with Waverley to ensure consistency and best practice moving forward.

Recommendation to Executive

That the Executive is asked

- i Not to adopt the CAB Protocol now,
- ii That officers revisit the issues (including cost of compliance) when looking at future working with Waverley to ensure consistency and best practice moving forward.

Reason(s) for Recommendation:

Council asked officers to report back to the relevant EAB with details as to where the Council's current approach differs from the CAB/LGA protocol to enable a recommendation on the protocol to be made by the EAB.

Having reviewed the protocol the benefits do not currently outweigh the cost of compliance, given that the Council already meets the overarching aims of the protocol and service levels are acknowledged as good. However, reviewing the issues when looking at future working with Waverley will ensure consistency and best practice moving forward.

Is the report (or part of it) exempt from publication? (delete as appropriate)

No

1. Purpose of Report

1.1 To provide the Executive with information on:

- where the Council's current approach to Council Tax collection differs from the Citizens Advice (CAB) Protocol
- the recommendation from the Service Delivery EAB.

2. Strategic Priorities

2.1 The way in which we go about collecting Council Tax contributes to the theme of community as financial stress can have a big impact on the health and wellbeing of residents.

2.2 The following values are also relevant:

- We will deliver quality and value for money services.
- We will help the vulnerable members of our community.
- We will be open and accountable.
- We will deliver improvements and enable change across the borough.

3. Background

Council Resolution

3.1 At Council on Tuesday 28 July 2020 councillors considered the motion:

“At a time of increasing financial pressure and rising unemployment, it is important that safeguards are in place to protect and support residents facing the possibility of falling into debt.

The inability to pay council tax is something that can affect us all: from residents dealing with the stress and uncertainty of not being able to pay their bills, to councils increasingly dependent on local income following a decade of central government cuts.

The Citizens' Advice Bureau has worked with the Local Government Association to create a “Revised Collection of Council Tax Arrears Good Practice Protocol”

which calls for councils to improve existing practices for offering advice, support and payment options for residents facing difficulties in paying their council tax. A copy is attached as Appendix 1 to the report submitted to the Council.

While Guildford Borough Council has a good record in the collection of council tax arrears, the Labour Group believes that adopting the protocol will strengthen the process by linking debt advice to repayment schemes and enabling early intervention before a crisis point is reached. This will benefit both our residents and the council, which is under increasing pressure to collect as much income as possible to support local services.

To date, 61 councils of all political stripes across England have already adopted the policy and the Labour Group calls on Guildford Borough Council to adopt the protocol as soon as is practical.”

- 3.2 Following the debate on the motion, Councillor George Potter proposed, and Councillor Will Salmon seconded, the following amendment:

Delete everything from the end of 'This Council resolves to request the Executive' onwards and insert:

“To authorise the Director of Resources to review the CAB/LGA “Revised Collection of Council Tax Arrears Good Practice Protocol” as set out in Appendix 1 to the report submitted to the Council and to report back to the relevant EAB with details as to where the Council's current approach differs from the CAB/LGA protocol in order to enable a recommendation on the protocol to be made by the EAB.”

- 3.3 Following further debate Council resolved:

“To authorise the Director of Resources to review the CAB/LGA “Revised Collection of Council Tax Arrears Good Practice Protocol” as set out in Appendix 1 to the report submitted to the Council and to report back to the relevant EAB with details as to where the Council's current approach differs from the CAB/LGA protocol in order to enable a recommendation on the protocol to be made by the EAB.”

CAB Protocol

- 3.4 The Council Tax Protocol was developed in 2017 by the CAB in partnership with the Local Government Association and offers practical steps aimed at preventing people from getting into debt in the first place and outlines how to ensure enforcement agents act within the law. Each element of the Protocol is considered in section 4 of this report.
- 3.5 As of 13 July 2021 63 English local authorities have adopted the protocol. It should be noted that the local CABs have not pressurised Guildford Borough Council to adopt the protocol, and the indication is that they know who to contact within the authority. Reigate and Banstead, Rushmoor and East Hants are local authorities that have adopted the protocol. Waverley has not.

Council Tax Recovery

3.6 Debt recovery for Council Tax is set out in the Local Government Finance Act 1992 as amended.

3.7 In summary the recovery process is:

Council tax-payers have the right to pay in either ten or twelve instalments per year, at their request. However, they can lose this right, and be required to pay the entire bill at once, under two circumstances:

- Where a reminder notice has been sent for an instalment, but the tax-payer has failed to pay the instalment within seven days of the issue of the reminder notice;
- Where the tax-payer has received two reminder notices in the current financial year and they miss the deadline for the instalment for a third time. At this point a cancellation of instalments notice is issued

Once the right to pay by instalments has been lost where payment remains outstanding a summons is issued. The purpose of the summons is to obtain a Liability Order from the Magistrates Court. This document confirms that the tax-payer is liable for the debt and that it is unpaid. It provides additional options to recover the debt if it remains unpaid:

- Attachment to Earnings
- Attachment to DWP Benefits
- Collection by an Enforcement Agent
- Committal to prison
- Insolvency proceedings - such as bankruptcy
- Charging Order (charge placed on property)

Financial Help

3.8 Help with paying the Council Tax is available through the Local Council Tax Support (LCTS) scheme. Whilst some 80% of councils have a scheme that requires working age recipients to pay a percentage of their Council Tax regardless of their circumstances, Guildford has retained a scheme that grants a 100% reduction for those most in need in properties banded from A to D (extended to band E for 2021 in response to the pandemic). This minimises the need to collect small sums of debt from those who are most likely to be unable to pay. 71% of working age recipients continue to receive 100% help with their Council Tax in 2021. The pension age scheme provides a 100% reduction to those most in need in any property band.

3.9 Alongside the working age LCTS scheme we operate a Discretionary Hardship Fund for those affected by the rules, where we look at applicant's individual income and expenditure needs. Again this ensures that those most in need receive support to pay their Council Tax.

4. Assessment of the CAB Protocol

4.1 The CAB protocol is split into three sections:

- Partnership
- Information
- Recovery

4.2 The following paragraphs consider each section in turn. They begin with an overview of the current situation with a commentary on the areas where Guildford Borough Council differs from the protocol. The overview is followed by a table listing each protocol requirement and how it is or is not met by the Council.

4.3 Partnership

The aim of this section in the protocol is “to foster more effective partnership working”

We have a good working relationship with the local CAB’s and Christians Against Poverty (CAP). None of them are pressurising us to sign up to the CAB Protocol.

We do not meet the protocol because:

- It requires regular meetings between all parties. Officers do not have quarterly meetings with advice agencies, choosing to address practical and policy issues as they arise. Additionally, councillors do not have an annual meeting with the advice agencies.
- It requires meetings and direct line contact between our enforcement agents and advice agencies. We do not believe this is appropriate. Our enforcement agents cannot take instruction from third parties as their contract is with the Council. It is important that officers are aware of any issues with the enforcement agents and they facilitate any necessary contact when contacted by the advice agencies. This works well.
- Officers have not worked in partnership with advice agencies and enforcement agents to develop a fair collection and enforcement policy. Responsibility for collection lies with the Council. It must comply with relevant legislation, and balance the financial and legal requirements to collect the tax with the need to help those in financial need. All of these issues’ pre-date the protocol, and there is a history of continual review of collection and recovery processes and documentation within the Revenues team. The proposed Debt Recovery Policy also being considered by the EAB will (if adopted) formalise the way in which Council Tax has been collected for many years.

Table 1 Partnership Working

Protocol Requirement	Requirement met	Requirement not met
<p>1. Local authorities, enforcement agencies and advice agencies should meet regularly to discuss practical and policy issues with a recommendation to meet quarterly at officer level and annually with elected members.</p>	<p>Officers meet regularly with enforcement agents</p>	<p>Officers do not have quarterly meetings with the CAB, however, will meet if either party instigates a meeting. Practical and policy issues are addressed as they arise because both parties have relevant contact details for each other.</p> <p>Annual meetings with elected members are not in place.</p> <p>Enforcement Agents do not meet with the CABs. Their contract is with the Council, and participation in such meetings on a regular basis would place them in a difficult position as they cannot take instruction from advice agencies.</p>
<p>2. All parties should have dedicated contacts accessible on direct lines and electronically so that issues can be taken up quickly.</p>	<p>The CABs and local advice agencies have direct lines/email addresses to be able to contact the Council Tax Manager, Court Officer and Benefit Manager.</p>	<p>Advice agencies do not have direct line access to our enforcement agents. Instead enquiries come via officers. It is appropriate that issues are raised through us first as we remain responsible for collection, and the enforcement agents are our contractors. In practice this works well.</p>
<p>3. All parties should promote mutual understanding by providing training workshops, undertaking exchange visits and sharing good practice.</p>	<p>This has occurred in the past as necessary. Our enforcement agents provided both ourselves and the CAB with training when the legislation around 'taking control of goods' was introduced.</p>	

Protocol Requirement	Requirement met	Requirement not met
<p>4. As local authorities are responsible for the overall collections process, they should ensure all their staff, external contractors and enforcement agencies receive the appropriate training, particularly on vulnerability and hardship.</p>	<p>Both our own staff and our enforcement agents staff receive training.</p>	
<p>5. Advice agencies, enforcement agencies and local authorities should work together to develop a fair collection and enforcement policy, highlighting examples of vulnerable people or those who find themselves in vulnerable situations, and specifying clear procedures in dealing with them. Contractual arrangements with enforcement agents should specify procedures for the local authority to take back cases involving vulnerable people.</p>	<p>Our enforcement agents are required to identify where a debtor is vulnerable and to then discuss with us before taking any further action. Depending on individual circumstances this can lead to cases being taken back. Equally officers can ask the enforcement agents to return cases, where it is inappropriate to continue with enforcement action.</p>	<p>Officers have not worked with advice agencies and enforcement agencies to develop a fair collection and enforcement policy.</p> <p>Overall responsibility for collection lies with Guildford Borough Council. Whilst consultation with third parties is appropriate there is an overall requirement to collect Council Tax in accordance with the relevant legislation, which predates the CAB Protocol. Collection and recovery processes and documentation continue to be reviewed response to feedback.</p> <p>The proposed Debt Recovery Policy (if adopted) will formalise the way in which Council Tax has been collected for many years.</p>
<p>6. Local authorities should consider informal complaints as debtors may be afraid to complain formally where enforcement agent activity is ongoing. Informal complaints received from advice agencies can indicate problems worthy of further investigation both locally by the local authority and by referral to national bodies.</p>	<p>We take all complaints seriously. Any concerns highlighted are investigated whether formally or informally raised.</p>	

4.4 Information

The aim of this section of the protocol is to improve the information supplied to council taxpayers about the billing process, how to get support and debt advice and to promote engagement.

Guildford Borough Council has been collecting Council Tax since 1993 when the tax was first introduced. Officers have continually reviewed documentation in the light of both legislation and feedback to ensure that it continues to be relevant and meet customer's needs. In addition to paper documents information on the recovery process and where to obtain help and advice is available on our website and our 24/7 i360 telephone information line. Our enforcement agent's website also contains comprehensive information. Our most recent review has taken place alongside the launch of our online portal.

We do not meet the protocol because:

- Officers have not worked in partnership with advice agencies to produce letters and bills. As responsibility for collecting the tax lies with the Council officers believe it is important that they retain the flexibility to change documents in response to current circumstances (such as the pandemic) without being tied into the need to agree those changes with third parties first.
- We do not currently provide literature about concerns that taxpayers may have about enforcement agents. There is however information on both our website and our enforcement agents' website and a letter from the CAB accompanies all summonses. We cover individual concerns as they arise and are not aware of a need for additional documentation.
- We do not work in partnership with advice agencies on take up campaigns for reductions and better engagement with taxpayers. We do however publicise the availability of reductions on our bills, website and telephone service.

Table 2 Improving Information

Protocol Requirement	Requirement met	Requirement not met
<p>1. All parties should work together to produce letters that clearly and consistently explain how council tax bills have been calculated (including any Council Tax Support award). Council tax bills should make clear council tax is a priority debt and explain the consequences of not making payment by the date specified. As far as possible within the constraints of systems, where a taxpayer has council tax arrears, the letters should explain how the debt has been accumulated and over which time period, the layout and language of bills and letters should be easy to understand, with any letters including a contact phone number and email address. All information should also be made available online in a clear format.</p>	<p>Letters and bills are clear and include contact information.</p> <p>All recovery documentation explains what the debtor needs to do next and the consequences of ignoring the letter.</p> <p>Information is available online both on the main website and within the MyGuildford account.</p> <p>It is also available 24/7 on our i360 telephone information line.</p>	<p>Officers have not worked together with advice agencies to produce letters and bills.</p> <p>Overall responsibility for collection lies with Guildford Borough Council. Whilst consultation with third parties is appropriate there is an overall requirement to collect Council Tax in accordance with the relevant legislation, which predates the CAB Protocol.</p> <p>We have continually reviewed our documentation over the years in response to feedback and customer enquiries, with the aim to make it as clear as possible whilst complying with the legislation.</p> <p>The requirement to work with the CAB, rather than to consult with them or take feedback from them, removes officer's ability to respond to changing circumstances. For example during 2020 we were able to modify our documentation in response to the pandemic as necessary and without the delay of having to get agreement from a third party.</p>

Protocol Requirement	Requirement met	Requirement not met
2. Local authorities should consider reviewing payment arrangements and offer more flexible options, including, subject to practicality, different payment dates within the month, spreading payments over 12 months and, potentially, different payment amounts to assist those on fluctuating incomes. This can allow people to budget more effectively	We follow the statutory instalment schemes of 10 or 12 months, and make alternative special arrangements with debtors following the issue of a summons. Offering further flexibility increases complexity and administrative cost, which is not practical in the current financial climate.	
3. Local authorities and enforcement agents should publicise local and national debt advice contact details on literature and notices. Advice agencies can help by promoting the need for debtors to contact their local authority promptly in order to agree payment plans. Parties can work together to ensure the tone of letters is not intimidating but encouraging of engagement.	Signposting is carried out within both our documents and our enforcement agency documents. Further signposting occurs when debts are discussed with customers and also on our 24/7 i360 telephone information line. A letter from the CAB is sent out with all summonses.	
4. Local authorities should ensure that enforcement agencies have appropriate information about the council tax debts they are recovering, so they can put this in letters they send to debtors and answer any questions.	We provide the enforcement agents with all the information that they need.	
5. Local authorities should consider providing literature about concerns council tax debtors may have about enforcement agents and enforcement. Information could cover charges enforcement agencies are allowed to make by law, how to complain about enforcement agent behaviour or check enforcement agent certification and further help available from the local authority or advice agencies.	Information on costs is available on our website plus signposting to advice agencies. A letter from the CAB is provided with all summonses. Our enforcement agent's website also contains comprehensive information and signposting to advice agencies.	We do not currently provide this literature. We answer any enquiries individually and are not aware that there is an issue – possibly due to the information that is available online.

Protocol Requirement	Requirement met	Requirement not met
<p>6. All parties should work together to review and promote better engagement by council taxpayers. This should include information on how bills can be reduced through reliefs, exemptions and council tax support schemes, advising taxpayers that they should contact the local authority if they experience financial hardship and the consequences of allowing priority debts to accumulate. Information and budgeting tools should be made available on local authority and advice agency websites, via social media and at offices of relevant agencies. This is an opportunity for joint campaign work.</p>	<p>Details on reductions are contained on every bill, on the website and on our i360 information telephone line.</p>	<p>We issue a CAB letter with all summonses but do not specifically work together on joint campaigns.</p>

4.5 Recovery

This section of the protocol aims to make sure that local authorities make greater efforts to ensure that debt and money advice referrals, plus assessment of vulnerability and hardship occur prior to enforcement by an enforcement agent.

We make every effort to engage with the customer prior to transferring cases to our Enforcement Agent. We prefer to agree a payment arrangement with them direct or via an attachment to their earnings. When engagement fails we pass cases to the Enforcement Agent for collection. The Enforcement Agents are fully trained in identifying the vulnerable and dealing with them correctly. The first activity that the Enforcement Agents carry out is to contact the debtor to try and agree a payment arrangement, only when this fails will they visit their residence. The fees charged are fixed, by legislation.

In 2019 we passed 1364 cases to our Enforcement Agents for a total of £1,432,037.90, and they collected £584,672.24 – around 0.5% of the annual charge (£110 million). To put this in perspective in 2019 we issued around 20,000 reminders and cancellation notices for Council Tax.

Underpinning this we aim to issue correct bills as quickly as possible and to collect the Council Tax within the financial year to avoid customers receiving backdated bills or compounding their debt when they receive next year's bill. We provide information on reductions on bills, the website and our telephone information line. We also signpost customers to debt advice via all channels.

We do not meet the protocol because:

- Officers have not worked together with advice agencies on the content, language, and layout of all documents. As covered under the information section as responsibility for collecting the tax lies with the Council, officers believe it is important that they retain the flexibility to change documents in response to current circumstances (such as the pandemic) without being tied into the need to agree those changes with third parties first.
- It requires our enforcement agents to work together with advice agencies on the content, language and layout of all documents. We do not believe this is appropriate. Our enforcement agents cannot take instruction from third parties as their contract is with the Council. They also have their own code of conduct to work within.
- Our enforcement agents do not routinely provide debtors with officer contact details. This is because they deal with not only those who can't pay, but those who won't pay and who will do anything to draw the process out (including taking up endless officer time). In our experience our enforcement agents are good at identifying the individual cases that need to speak to us.

They are trained to identify vulnerable cases and signpost debtors to advice agencies.

- We do not currently have a Corporate Debt Recovery Policy. The adoption of a policy is however the next item on the agenda.
- We do not make special payment arrangements at “any point in the process”, only once the entitlement to pay by instalments has been lost. Prior to this we will recalculate the statutory instalments based on individual circumstance. Offering special arrangements at any point in the process will increase administration costs because they sit outside the statutory process and have to be managed separately.

Table 3 Recovery

Protocol Requirement	Requirement met	Requirement not met
<p>1. Local authorities and enforcement agencies should work in partnership with advice agencies on the content, language and layout of all documents, produced by the local authority and agents acting on its behalf which are part of the enforcement process. This should aim to ensure that the rights and responsibilities of all parties, particularly those of the debtor, are clearly set out</p>	<p>We issue a letter from the CAB with all summonses.</p>	<p>This requirement is similar to item 1 in the Information section.</p> <p>Officers have not worked together with advice agencies on the content, language and layout of all documents.</p> <p>It is not appropriate for our enforcement agent to take instruction from advice agencies as their contract is with the Council.</p>
<p>2. Enforcement agents should provide the debtor with a contact number and email address should they wish to speak to the local authority</p>		<p>Our enforcement agents use their discretion on when to refer a customer back to the Council. We endeavour to engage with all customers prior to transferring cases to the enforcement agents and all documents issued by us contain contact details. At this stage the enforcement agent should be able to answer most customer enquiries and avoid the duplication of cost by referring cases back to us as a matter of routine.</p>

Protocol Requirement	Requirement met	Requirement not met
<p>3. Local authorities should keep all charges associated with recovery under regular review to ensure they are reasonable and as clear and transparent as possible and reflect actual costs incurred. Enforcement agents should only make charges in accordance with council tax collection and enforcement regulations, particularly the Tribunal Courts and Enforcement Act.</p>	<p>Court costs are agreed by the court and must be reasonable. Enforcement Agents costs are set in legislation and there is no discretion.</p>	
<p>4. Local authorities should periodically review their corporate policy on debt and recovery, particularly what level of debt (inclusive of liability order fees) should have accrued before enforcement agent action, as enforcement will add additional costs to a debt.</p>	<p>All referrals are determined on their own merits. Only where we are unable to clear the debt by other means, or the debtor fails to engage do we pass the debt to our enforcement agents.</p>	
<p>5. As part of their corporate policy on debt and recovery, local authorities should have a process for dealing with cases that are identified as vulnerable, bearing in mind that different local authorities may have different definitions of a vulnerable person or household. Any local definition of vulnerability should be developed in consultation with advice agencies and enforcement agencies and, wherever possible, the local authority should aim to publish clear guidelines on what constitutes vulnerability locally. Where a local authority's vulnerability criteria apply, in these cases, debts should be considered carefully before being passed to enforcement agencies. Where enforcement agents or other parties identify a vulnerable household, recovery action will be referred to the local authority.</p>	<p>Our enforcement agents are trained to identify vulnerable households and take further advice from us as necessary.</p>	<p>We do not currently have a corporate debt recovery policy.</p>
<p>6. Local authorities should regularly review and publish their policies which cover hardship, including how these relate to council tax arrears.</p>		<p>We do not currently have a corporate debt recovery policy.</p>

Protocol Requirement	Requirement met	Requirement not met
7. Where a household is in receipt of Council Tax Support, the local authority should consider matters carefully and determine whether to pass such cases to enforcement agents, based on the individual circumstances of the case.	Each case is reviewed prior to transferring to our enforcement agents. .	
8. The debtor may have outstanding claims for Universal Credit, Council Tax Support or other benefit(s) which are contributing to their arrears. Local authorities can suspend recovery once it is established that a legitimate and relevant claim is pending.	We suspend recovery action where we are aware of an outstanding application that is likely to reduce the debt.	
9. Local authorities and their enforcement agents should consider offering a 28 days hold or “breathing space” on enforcement action if debtors are seeking debt advice from an accredited advice provider.	We have always held recovery action where a debtor needs to seek further advice. From May 2021 the government has introduced specific rules (see section 5) which we also follow.	
10. Procedures should exist for debt advisers to negotiate payments on behalf of the taxpayer at any point in the process, including when the debt has been passed to the enforcement agent. In some cases, the debtor may only contact an advice agency following a visit from the enforcement agent.	We make special payment arrangements with customers, as do our enforcement agents when a debtor cannot pay the debt in full. Provided the debtor has given permission for the advisor to act on their behalf we will discuss an arrangement with them.	We do not make arrangements at any point in the process, only once the right to pay by instalments has been lost. Prior to this we will recalculate the statutory instalments based on individual circumstance. Offering special arrangements at any point in the process will increase administration costs.

Protocol Requirement	Requirement met	Requirement not met
<p>11. Local authorities and enforcement agents should consider accepting and using the Standard Financial Statement (SFS) or Common Financial Statement in assessing ability to pay as long as this is consistent with securing value for money for all council taxpayers.</p>	<p>We consider individual circumstance and do not use these statements. Most debtors have a clear idea of the sum that they can afford to pay. Adding in an additional process will add to the cost of administering the Council Tax. The Standard Financial Statement has replaced the Common Financial Statement. They are aimed at debt advisors and to use the SFS we would need membership and a license from the Money and Pensions Service. We do not provide debt advice, but signpost debtors to sources of advice and help.</p>	
<p>12. Each case should be examined on its merits and repayment arrangements need to be affordable and sustainable, while ensuring that the debt is paid off within a reasonable period. Where appropriate, local authorities should provide the flexibility to spread repayments over more than a year, including beyond the end of a financial year.</p>	<p>Each case is considered on its merits. The general expectation is that Council Tax should be paid within the financial year because the debt will grow larger with the issue of another bill for the following financial year. However, exceptions are made based on individual circumstance.</p>	
<p>13. Local authorities should prioritise direct deduction from benefits or attachment of earnings in preference to using enforcement agents. This avoids extra debts being incurred by people who may already have substantial liabilities.</p>	<p>This is generally our approach. However attachments often result in regular payments lower than rate at which the debt accrues. Where there are no other reductions available to reduce the debt further, in these circumstances we will consider the use of enforcement agents.</p>	
<p>14. Clarity should be provided to the debtor and enforcement agency as to which debts are being paid off, in what amounts and when, especially where a debtor has multiple liability orders. Where appropriate, debts should be consolidated before being sent to enforcement agents.</p>	<p>Debts are only passed to our enforcement agents if we have contacted the customer within the last month. Multi debts are sent in a single batch where possible.</p>	

Protocol Requirement	Requirement met	Requirement not met
<p>15. Local authorities should publish a clear procedure for people to report complaints about all stages of recovery action. Local authorities will regularly monitor and, subject to requirements of commercial confidentiality and the Data Protection Act, publish the performance (including complaints) of those recovering debts on their behalf and ensure that contractual and legal arrangements are met.</p>	<p>The Council has a corporate complaints procedure. We monitor our enforcement agents but do not currently publish their performance due to the requirements of commercial confidentiality.</p>	

5. Other Developments since Council on Tuesday 28 July 2020

- 5.1 The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 was introduced by the government to address the problems of indebtedness. This gives someone in problem debt the right to legal protections from their creditors.

There are two types of breathing space: a standard breathing space and a mental health crisis breathing space:

- A standard breathing space is available to anyone with problem debt. It gives them legal protections from creditor action for up to 60 days. The protections include pausing most enforcement action and contact from creditors and freezing most interest and charges on their debts.
- A mental health crisis breathing space is only available to someone who is receiving mental health crisis treatment and it has some stronger protections. It lasts as long as the person's mental health crisis treatment, plus 30 days (no matter how long the crisis treatment lasts).

The scheme went live on 4 May 2021.

- 5.2 House of Commons published Briefing paper 9007 15 September 2020: "Debts to public bodies: are Government debt collection practices outdated?" This indicates that the government is once again looking at public sector debt collection, and this may lead to statutory changes. This follows on from their reform of the bailiff industry in 2014 which (amongst other things) ensured that our enforcement agents are trained in identifying vulnerable debtors.
- 5.3 The Council Tax Service has been reviewed as part of Phase B of Future Guildford and is currently going through the transitional phase. The review has included access to accounts via MyGuildford, a review of all website pages to ensure they remain relevant and consistent with the "self-service where possible" model, and a reworking of our 24/7 telephone information line to present information more quickly and concisely. There has also been a reduction in staffing.
- 5.4 A draft Corporate Debt Recovery Policy has been written and is being recommended for adoption. This will enable us to meet more of the CAB Protocol but not all of it.

6. Summary Findings

The following is a summary of the areas that need to be addressed if we want to meet the CAB Protocol, and any issues linked to them:

- 6.1 Introduce quarterly meetings between officers and advice agencies, and an annual meeting between councillors and advice agencies.

There is a cost to this in terms of the time of all parties, for potentially minimal benefit given that officers and advice agencies already have regular contact and address issues as they occur.

6.2 Adopt a corporate debt recovery policy.

This is the subject of a separate report.

6.3 Consider introducing documentation around concerns that taxpayers may have about enforcement agents.

Officers are not convinced that there is a requirement for this given the information that is available on a number of other channels.

6.4 Work in partnership with advice agencies and our enforcement agents to develop a fair collection and enforcement policy, and all documentation.

There are a number of issues linked with this:

- The service has always been responsive to feedback and has continually reviewed documentation over the years. A comprehensive review has just been completed under the Future Guildford programme. There is a potential rework cost attached to reviewing everything again with advice agencies to meet the protocol.
- Officers have a concern that adding in the requirement to work with third parties (rather than to consult them and take feedback when appropriate) will make us less agile and responsive to local circumstance.
- Our enforcement agents are contracted to us, not the advice agencies. As a commercial organisation they would not expect to work in partnership with local advice agencies.

6.5 Introduce meetings and direct line contact between our enforcement agents and advice agencies.

Our enforcement agents are contracted to us, not advice agencies and therefore cannot take instruction from them. Indeed, direct contact could leave officers out of the loop on the very matters that we need to know about given that we have sole responsibility for collection and recovery of Council Tax

6.6 Work with advice agencies on take up campaigns for reductions and increased engagement.

Reductions are well publicised through all channels and this has just been reviewed as part of Future Guildford. There is a cost of rework if we revisit this, in addition to the cost of take up campaigns to both parties. We have no evidence that taxpayers are not claiming the reductions that they are entitled to.

- 6.7 Change the arrangement with our enforcement agent so that they refer more cases back to officers regardless of personal circumstance.

There is a cost attached to this both in terms of officer time, and delays in recovering debts from debtors who “won’t pay” and will do anything to prolong the process. “Can’t pay” customers are taken care of by the existing arrangements.

- 6.8 Change our processes to accommodate special payment arrangements from the point of billing.

There is a cost attached to this as increased flexibility at an earlier stage removes customers from the statutory processes into something more bespoke and individual. Part of the Future Guildford model has been to streamline processes, and staff have been reduced on this basis.

7. Key Risks

- 7.1 If we adopt the CAB Protocol there is a risk that we will become less responsive to circumstance due to the requirement to work in partnership with advice agencies. For example in the early stages of the pandemic we were free to make our own decisions on what recovery action was appropriate without having to get agreement from third parties.

- 7.2 If we adopt the CAB Protocol we will increase our costs in order to meet its requirements. We are not under pressure from the CAB to adopt the protocol, and have a good working relationship with the local offices. Some of these costs will be from rework (of areas just reviewed as part of Future Guildford) and others making processes more complicated (contrary to the Future Guildford model of simplification).

8. Financial Implications

- 8.1 There are Revenue implications if the CAB Protocol is adopted because it will change processes and involve rework. It is difficult to put a cost on this at the present time due to the ongoing transition for Future Guildford, however it is unlikely that changes can be absorbed within the existing budget as the service is already working at full capacity.

9. Legal Implications

- 9.1 No legal implications apply regarding the protocol.

10. Human Resource Implications

- 10.1 Adoption of the protocol would have an impact on resources as it would necessitate additional meetings and administration. In practice this work would normally be absorbed by officers as “business as usual”, however capacity has been reduced under the Future Guildford programme. The team is still

transitioning to the new model and it is too early to say whether the work can be absorbed.

11. Equality and Diversity Implications

- 11.1 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

12. Climate Change/Sustainability Implications

- 12.1 No such implications apply.

13. Executive Advisory Board comments

- 13.1 The Service Delivery EAB considered the report on 9 September 2021. The debate saw multiple views, some of which were contradictory. It also included a request to meet officers outside the meeting to share ideas around possible debt collection initiatives (this will be explored as a separate matter).
- 13.2 The EAB acknowledged that the Council's Revenues and Benefits team provided an exceptionally good service based on a robust system. They did however question what mechanisms were in place to ensure that this continues in the future. Signing up to a protocol could provide an external quality check.
- 13.3 There was an understanding that signing up to the Protocol did have cost implications, and cost estimates were requested for future information and action.
- 13.4 Following the debate the EAB considered three options:
- i the original report recommendation - not to adopt the CAB protocol.
 - ii Not to adopt the CAB Protocol now, but look at the cost implications and revisit the issues when looking at future working with Waverley to ensure consistency and best practice
 - iii Adopt the CAB Protocol now in its entirety

The majority supported option ii.

14. Summary of Options

- 14.1 The Council meets a substantial part of the CAB Protocol, and has a good working relationship with local advice agencies. For the most part we fulfil the overarching aims of each section in the Protocol, however we do not meet all the specific requirements and there are issues attached to complying with all of them.
- 14.2 There are essentially three options available:
- a Adopt the Protocol and address all the issues so that we can meet its requirements. There is a financial cost attached to this that cannot be

quantified at the present time. In addition, whilst the required activities may be perceived to be “best practice” officers have not identified that they will lead to substantial benefits.

- b Do not adopt the Protocol on the basis that the Council has a good working relationship with local advice agencies and for the most part fulfil the overarching aims of each section.
- c Do not adopt the Protocol now on the basis that the system currently works well and the financial cost/benefit of adoption remains unclear. However, look at the cost implications and revisit the issues when looking at future working with Waverley to ensure consistency and best practice moving forward.

15. Conclusion

- 15.1 Councillors resolved that officers should report back to the relevant EAB with details as to where the Council's current approach differs from the CAB/LGA Protocol to enable a recommendation on the protocol to be made by the EAB.
- 15.2 Officers have completed this assessment and identified that whilst the Councils' current approach fulfils the overarching aims of each section of the Protocol we do not meet all the specific requirements. To comply with all the requirements would have a cost attached to it (currently unquantified), require rework of information reviewed by the Future Guildford programme, or the introduction of more complex processes at a point where other processes have just been simplified and staff numbers reduced. There is currently no evidence that the benefits of signing up will outweigh the costs.
- 15.3 The Council is not under pressure from local advice agencies to sign up to the CAB Protocol. It has a good working relationship with these agencies and addresses issues as they arise. Indeed since 2017 only 63 councils have signed up for the Protocol, meaning that 251 billing authorities have not signed up. If the Council was one of only a handful not to have adopted the Protocol, then it would be under pressure to sign – this however is not the case.
- 15.4 Waverley has not signed up to the Protocol, and the Service Delivery EAB identified an opportunity to revisit the issues when looking at future working with them. This would ensure consistency and best practice moving forward, as well as addressing concerns about the future quality of service. Preparing estimates of the cost of compliance would help with this.
- 15.4 Whilst signing up to the Protocol would mean complying with all the requirements, the Council could move a step closer to compliance by adopting a Corporate Debt Recovery Policy. This is one of the elements of best practice that the Council does not currently have in place. It is the subject of a separate report.
- 15.5 Officers recommend that the Council does not sign up to the Collection of Council Tax Arrears Good Practice Citizens Advice Bureau (CAB) Protocol now. Officers should however revisit the issues when looking at future working with Waverley to ensure consistency and best practice moving forward. Joint adoption of the Protocol would be an option to ensure this.

16. Background Papers

CAB/LGA Council Tax Protocol:

<https://www.citizensadvice.org.uk/Global/CitizensAdvice/campaigns/Council%20Tax/Citizens%20Advice%20Council%20Tax%20Protocol%202017.pdf>

House of Commons Briefing Paper Debts to public bodies: are Government debt collection practices outdated? <https://commonslibrary.parliament.uk/research-briefings/cbp-9007/>

17. Appendices

None

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Executive Report

Ward(s) affected: N/A

Report of the Monitoring Officer

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Date: 21 September 2021

Councillor Email Signature Guidance

Executive Summary

Following a councillor misconduct complaint which had been referred for investigation, the investigator identified an issue that needed to be addressed by the Council. The issue was the apparent confusion around the email signatures used by some councillors who tended to list various non-Council roles in their signature, resulting in confusion in respect of the capacity in which a councillor was communicating with a correspondent. The matter was referred to the Corporate Governance Task Group for consideration.

The Task Group considered the matter initially on 12 April and, more recently, on 16 August 2021 and drafted the guidance for councillors, which is set out in Appendix 1. The Task Group recommends that the guidance be adopted and that all councillors be advised to apply the template, content and format as set out so as to provide clear communication when conversing with residents and other correspondents.

The Task Group also recommend that it should be a requirement in the Councillors' Code of Conduct that councillors comply with this guidance, in the same way that it was agreed last year that the Code of Conduct should include a requirement for councillors to comply with the adopted Social Media Guidance for Councillors.

Recommendation to Executive

That the Councillor Email Signature Guidance, as set out in Appendix 1 to this report, be approved.

Recommendation to Council (5 October 2021)

That the Council be requested to agree the following amendment to paragraph 9 of the Councillors' Code of Conduct:

"9. In addition to compliance with this Code of Conduct, you are also expected to comply with:

- (i) the relevant requirements of the Protocol on Councillor/Officer Relations, the Social Media Guidance for Councillors, the Councillor Email Signature Guidance, and the Probity In Planning – Councillors’ Handbook, and
- (ii) any reasonable request by the Council that you complete a related party transaction disclosure.”

Reason for Recommendation:

To ensure clarity for the recipients of emails sent by ward councillors in which capacity they are writing.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

- 1.1 To provide the Executive with the findings and recommendations of the Corporate Governance Task Group in respect of the proposed Councillor Email Signature Guidance.

2. Strategic Priorities

- 2.1 The Council strives to be efficiently run using innovation, technology and new ways of working to improve value for money and efficiency in Council services.

3. Background

- 3.1 Following a councillor misconduct complaint from a resident about the lack of clarity regarding the capacity in which a member was corresponding there was an investigation. The investigator raised an issue with the Council that ought to be investigated further. This matter was the way in which some councillors used Borough Council email addresses to correspond on matters that were separate from Council business and that the councillors’ Borough Council email signatures listed various appointments and responsibilities that were separate to the business of the Borough Council. The Corporate Governance Task Group¹ was asked to investigate the matter and provide recommendations as a way forward.
- 3.2 The Task Group met on 12 April 2021, and more recently on 16 August 2021, to consider the matter. The membership of the Task Group was as follows:
- 3.3 The Task Group considered draft guidance prepared by the Monitoring Officer, which contained a number of guiding principles for councillors. In considering the guidance, the Task Group suggested to avoid the risk of confusion, non-Council roles (such as residents’ associations or companies to which they are appointed

¹ The Task Group currently comprises Councillors Deborah Seabrook (Chairman), Will Salmon, Nigel Manning, Ramsey Nagaty, and James Walsh, together with Julia Osborn and Murray Litvak (Parish Council Representative and Independent Member respectively on the Corporate Governance and Standards Committee)

in their personal capacity) should not be included in email signatures or on paper correspondence.

- 3.4 It should also be noted that councillors should not use personal email addresses to conduct Council business.
- 3.5 It should be further noted that Council officers have been issued with a style template with which to create an email signature. The current template is set out below and may form a further example of how councillors might design their email signature to be in line with a cohesive corporate style which includes links to the Council's website and social media information points in Calibri 11 font.

Officer name

Job title

Service area

Contact telephone number

Guildford Borough Council

Twitter | Facebook | Instagram

Have you registered for your new MyGuildford account?

Your MyGuildford account gives you personalised access to a range of our services in one place. You can make requests, track progress, view your balance or bills and update your details. For more information or to register go to <https://my.guildford.gov.uk/customers/s/login/SelfRegister>

- 3.6 The Task Group resolved that the Email Signature Guidance attached as Appendix 1 be referred to the Executive for formal approval. The tracked changes marked on Appendix 1 have been suggested by the Corporate Management Team. The Task Group also felt that compliance with the guidance should be a requirement of the Councillors' Code of Conduct.

4. Key Risks

- 4.1 The intention of the guidance is to reduce or eliminate a risk of confusion. There are no further risks arising.

5. Financial Implications

- 5.1 No financial implications apply.

6. Legal Implications

- 6.1 Although there is no legal requirement for guidance on email signatures, it is important to be clear as to the capacity in which a Councillor is corresponding to residents, and others. If there is any confusion, it may lead to the person with whom they are corresponding attaching inappropriate weight to the correspondence or considering it to be a reflection of the Council's official view, which could lead to further Councillor complaints.

7. Human Resource Implications

7.1 No human resource implications apply.

8. Equality and Diversity Implications

8.1 Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies. This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

9. Climate Change/Sustainability Implications

9.1 No Climate Change or sustainability implications apply.

10. Summary of Options

10.1 The Executive may follow the recommendation to adopt the Guidance as set out in Appendix 1, or agree to modify the Guidance, refer the Guidance back to the Task Group for further consideration, or decline to adopt the Guidance.

11. Conclusion

11.1 The Council always seeks to be clear in its communications with residents and other correspondents. To contribute to this, there is a template for Council officers to use so that recipients of emails are clear with whom they are corresponding. It is suggested that councillors in following the suggested Guidance should adopt a similar template email signature.

12. Background Papers

Minutes of the private meetings of the Corporate Governance Task Group held 12 April 2021 and 16 August 2021.

13. Appendices

Appendix 1: Draft councillor Email Signature Guidance.

Guidance for Councillors on email signatures and email communications

Purpose of the guidance

Email is the predominant form of communication for Councillors. In most cases, no problems will arise from this form of communication, but it is important to bear in mind that, whilst it can be an informal means of communication, you should ensure that any Council emails maintain an appropriate level of formality and are not open to misinterpretation.

Councillors may hold a number of different roles within the community, and this can create scope for confusion as to the capacity in which they are sending emails. Following this guidance should ensure that there is no risk of confusion and that emails relating to Council business are clearly identified as such.

Guidance

1. Councillors may refer to their Borough Ward Councillor status and any other relevant council appointments (including membership of other councils) in their Council email signatures dependent on the nature and relevance of the correspondence. To avoid the risk of confusion, non-Council roles (such as membership of residents' associations, companies, or other organisations to which they are appointed in their personal capacity) should not be included in email signatures or on paper correspondence.
2. Councillors should only use their Guildford Borough Council email address for Council business. The only exception to this is that Councillors who are also Parish Councillors may use their GBC email address where the matter they are dealing with concerns both Borough and Parish Council business as long as the email clearly identifies the separation between the two roles.
3. Councillors should not use personal email addresses for Council business. This is to protect the security of the data contained within the emails. In addition, the information contained in the email may need to be disclosed as part of a data protection subject access request or a freedom of information request and therefore needs to be available on the Council's systems for this purpose. Any email relating to Council business received on a councillor's personal email account, must be forwarded to the councillor's Council email address, and deleted from their personal email account. Councillors should not send council documents to their personal email address.
4. In drafting emails, councillors should avoid using ALL CAPITAL LETTERS, as they can be construed as shouting.
5. When responding to an email sent to many recipients, councillors should consider whether 'Reply All' is appropriate.

Creating an email signature

To create an email signature, open a new email. Select Signature > Signatures. Under Select signatures to edit, select New. Type your chosen name for the signature in the box that appears. Type your chosen signature in the Edit signature box and save it.

Example signature

The following wording is suggested as a template signature.

Name

Agenda item number: 7
Appendix 1

Councillor for [Ward]
Council appointments (Optional)
Guildford Borough Council
Millmead House, Millmead, Guildford, GU2 4BB

Telephone no:

Executive Report

Ward(s) affected: Stoke

Report of Director of Strategic Services

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Lead Councillor responsible: Councillor John Rigg

Tel: 07870 555784

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Date: 26 September 2021

Weyside Urban Village Development

Executive Summary

Weyside Urban Village ("WUV") is a major 41-hectare brownfield regeneration scheme that Guildford Borough Council (the "Council") anticipates could deliver approximately 1,500 homes across a range of tenures as well as 2,000 square metres of community space and 6,500 square metres of employment space.

The Council has been working for over 15 years to de-risk the infrastructure delivery and site assembly process. Over 44 per cent of the site is currently in Council ownership, and the majority will be achieved on completion of land transfers with Thames Water Utilities Limited (TWUL). The conditional contract with TWUL was signed on 25 April 2019 (the "TW Agreement").

Housing is of great significance to the Borough and forms a major theme to the Adopted Local Plan. There is an ongoing shortage of affordable housing, particularly for first time buyers which in turn contributes to a skill shortage in the Borough.

At its meeting on 7 January 2020, the Executive authorised the Managing Director, in consultation with the Leader of the Council, to sign and complete the Grant Agreement with Homes England (the "GDA") to implement the infrastructure works and draw down the grant expenditure. The GDA was completed on 29 July 2020.

At the Full Council meeting on 10 February 2021, the Full Council approved a total capital budget of £334.947 million to enable the infrastructure phase of the WUV project to be carried out.

At its meeting on 6 July 2021, the Executive authorised the Managing Director in consultation with the leader of the Council, to sign and complete the deed of variation to the development agreement with TWUL. It was noted and recorded that the land to be acquired by the Council from TWUL, pursuant to the development agreement and any further land to be acquired by the Council in connection with the WUV development is to be acquired pursuant to Section 227 of the Town and Country Planning Act 1990.

This report seeks Executive endorsement of the current financial position of WUV at the planning application gateway. Approval is also sought for the transfer of (£67.185m) from the provisional capital programme budget to the approved capital programme budget for payments which the Council is obliged to make to TWUL under the TW Agreement, for costs necessary to meet the milestones set within the Homes England HIF agreement and design cost necessary to prepare the planning application for the SCC waste transfer facility.

Recommendation to Executive

That the Executive:

- a) Endorses of the current financial position of WUV at the planning committee meeting gateway.
- b) Authorises the Director of Strategic Services in consultation with the Leader of the Council Lead and the Councillor for Regeneration to finalise heads of terms in accordance with those attached to this report and thereafter to negotiate, sign and complete the legal agreement with Surrey County Council in accordance with the finalised heads of terms and to proceed with implementation of the relocation of the Waste Transfer Facility accordingly.
- c) Delegates to the Director of Strategic Services, in consultation with the Lead Councillor for Regeneration, authority to enter into such other contracts and legal agreements connected with the WUV project as may be necessary at reasonable costs within the approved budget.
- d) Endorses the commencement of infrastructure procurement following receipt of a satisfactory planning consent pursuant to Hybrid planning application submitted on 15th December 2020 (Reference No 20/P/02155).
- e) Approves the transfer of £67.185m from the provisional capital programme to the approved capital programme for payments which the Council is obliged to make to Thames Water under the TW Agreement for 2021/22 and 2022/23, for costs necessary to meet the milestones set within the Homes England HIF agreement and design cost necessary to prepare the planning application for the SCC waste transfer facility.

Reason(s) for Recommendation:

- a) It was agreed that the project team would report the financial position of WUV at the planning committee meeting gateway.
- b) To ensure that there is sufficient funding in the approved programme to cover the phase 1 Infrastructure costs, SCC waste transfer design cost and the payments which the Council is obliged to make to TWUL under the TW Agreement for 2021/22 and 2022/23.
- c) To inform the Executive of the Commencement of Infrastructure Procurement following receipt of a satisfactory planning consent.

Is the report (or part of it) exempt from publication? (delete as appropriate)

Yes, part of the report (Appendices 1 & 2)

If "Yes" (whether whole or in part):

- (a) The content is to be treated as exempt from the Access to Information publication rules because and is therefore exempt by virtue of paragraph(s) of Part 1 of Schedule 12A to the

1.1. Local Government Act 1972 as follows:

- (b) The content is restricted to all councillors.
- (c) The exempt information is not expected to be made public because the information in appendix 1 & 2 are commercially sensitive.
- (d) The decision to maintain the exemption may be challenged by any person at the point at which the Executive/ is invited to pass a resolution to exclude the public from the meeting to consider the exempt information.

2. Purpose of Report

- 2.1. The Purpose of the report is to provide the Executive with an update of the legal and financial work carried out so far, together with a review of the financial position of the project at the planning committee meeting gateway.
- 2.2. The approved budget will allow the Council to deliver the full infrastructure phase of the development and honour the payments which the Council is obliged to make under the TW Agreement for 2021/22 and 2022/23.
- 2.3. This report seeks that the Strategic Services Director be authorised, In consultation with the Lead Councillor for Regeneration to finalise heads of terms in accordance with those attached to this report and thereafter negotiate, sign and complete the legal agreement with Surrey County Council in accordance with the finalised heads of terms and to proceed with implementation of the relocation of the Waste Transfer Facility accordingly.
- 2.4. This report further seeks that the Strategic Services Director be authorised, in consultation with the Lead Councillor for Regeneration to enter into such other contracts and legal agreements as are necessary in connection with the WUV project where the costs are reasonable and within the approved budget.
- 2.5. Endorsement of the commencement of infrastructure procurement following receipt of a satisfactory planning consent pursuant to Hybrid planning application submitted on 15 December 2020 (Reference No 20/P/02155).

3. Strategic Priorities

- 3.1. The recommendations support the delivery of the following strategic objectives from the WUV Business Case.
 - Delivery of the WUV Programme will have a positive impact on the supply of housing and employment land in the Borough and regenerate the Slyfield Landfill Site.
 - Delivery of the following priority from the Corporate Plan 2018-2023 (page 7); delivering the local plan and providing the range of housing that people need, particularly affordable homes.
 - As a specific action, to start delivery of the Slyfield Area Regeneration Plan by 2021 (page 15).

- The Council declared a Climate Emergency on the 23 July 2019 and the project will prioritise environmental impact throughout the process.

4. Background

- 4.1. WUV is a major 41 ha. brownfield regeneration scheme that the Council anticipates could deliver approximately 1,500 homes across a range of tenures as well as an additional 2,000 square metres of community space.
- 4.2. The Council has been working for over 15 years to de-risk the infrastructure and site assembly process. Significant progress has been made in de-risking the scheme through the completion of the TW Agreement and the GDA.
- 4.3. Housing is of great significance to the Borough and forms a major theme to the Adopted Local Plan. There is an ongoing shortage of affordable housing, particularly for first time buyers which in turn contributes to a skill shortage in the Borough.
- 4.4. The Council has been awarded a £52.3m grant from the Homes England Housing Infrastructure Fund. The GDA was completed on 29 July 2020. The Council has also been awarded a £7.5m grant from EM3 Local Enterprise Partnership and the contract was completed on 2 December 2019. An additional grant of £550k was awarded to the Council to enable the relocation of community facilities.
- 4.5. The Council entered into to the TW Agreement to fund and enable the relocation of the existing sewage treatment works and the delivery of a new facility on the Council's former landfill site. Funding and environmental conditions under the TW Agreement have been satisfied. The three remaining conditions relate to the Council procuring vacant possession of the site for the new sewage treatment facility, TWUL finalising their environmental due diligence on part of the new sewage treatment facility site and TWUL obtaining planning permission for the new sewage treatment facility. TWUL is progressing, on programme, with their planning application in order to satisfy this condition and the Council understands that the environmental condition should be discharged shortly.
- 4.6. On 15 December 2020, the Project Team submitted a hybrid planning application to Guildford Borough Council acting as LPA (Local Planning Authority) for hybrid planning application for the redevelopment of part of the allocated site for the Weyside Urban Village comprising: Outline planning approval for the demolition of existing buildings and infrastructure and outline planning permission for up to 1550 dwellings; local centre, up to 500 sqm of flexible community space, up to 6,600 sqm of flexible employment space, new Council Depot Site, 6 Gypsy and Traveller pitches and associated road infrastructure. Full planning permission for the development of primary and secondary site accesses, engineering operations associated with remediation and infrastructure, utilities, and drainage.
- 4.7. In August 2020 the Council received a notice of refusal from the Secretary of State for the relocation of the Bellfields Allotments. A revised application for the part relocation of the Bellfields Allotments was submitted to the Secretary of State (MHCLG) on 23 June 2021. A decision is expected Autumn 2021. The cost of the revised application is within budget.

4.8. At its meeting on 6 July 2021, the Executive authorised the Managing Director in consultation with the Leader of the Council, to sign and complete the deed of variation to the development agreement with TWUL. It was noted and recorded that the land to be acquired by the Council from TWUL, pursuant to the development agreement and any further land to be acquired by the Council in connection with the WUV development is to be acquired pursuant to Section 227 of the Town and Country Planning Act 1990.

4.9. The Council has agreed with SCC to design and manage the provision of a relocated Waste Transfer Facility from the existing location adjacent to the Bellfields Community to the Council's landfill site. The parties are in the process of agreeing Heads of Terms. The current draft (which are largely agreed) of the heads of terms is appended to this report. By way of summary of the key terms:-

- The contract will be conditional upon completion of the new sewage treatment facility by Thames Water and the landswap under the Thames Water Agreement completing. This is required because part of the new waste transfer site falls within land owned by Thames Water. In addition, the contract will be conditional upon the obtaining of planning permission (on satisfactory terms) for the new waste transfer facility. The agreement will include details of what constitutes a satisfactory planning permission.
- GBC will assume responsibility for obtaining planning permission in accordance with a set specification. The detail of this specification is still to be agreed
- Once the agreement has become unconditional, GBC will undertake works to complete the new waste transfer station. There will be a mechanism in the agreement for a third party employer's agent to certify completion of the works. The agreement will include obligations on the part of GBC as to the manner in which the works are to be undertaken and regarding the terms of appointment of the construction team (including delivery of warranties in favour of Surrey County Council)
- Shortly after the works have completed the GBC will transfer the land on which the new waste transfer facility has been constructed to Surrey County Council and GBC will receive the land on which the current facility is located. Surrey County Council will be granted a licence to occupy their existing facility in order to decant and an agreed standard for handover will be agreed.

4.10. Surrey County Council will pay a fixed price of £12,000,000 to GBC in consideration for the works and land. This means that if the works cost more to deliver GBC will need to fund the shortfall. The total cost of the works is currently envisaged to be £18,000,000 and so GBC anticipate covering a shortfall of up to £6,000,000. The project team will target cost efficiencies and further grant funding opportunities in order to mitigate the GBC contribution/overspend risk. The £6m funding to be provided by GBC is included within the WUV appraisal and budget. The legal agreement is programmed to complete in October 2021.

4.11. It is intended to commence procurement of the infrastructure works to meet the Homes England Housing Infrastructure Funding Milestones to enable

draw down of the grant expenditure. Contracts for the infrastructure works will only be concluded on grant of a satisfactory hybrid planning consent.

4.12. GBC envisage that it will need to enter into construction contracts and appoint professionals to provide services in connection with the delivery of the infrastructure works required for the WUV. In addition, agreements will need to be entered into with statutory undertakers and other authorities to provide the consents needed for the delivery of such items. The budget for delivery of infrastructure set out in paragraphs [] of this report includes an allowance for these costs and any documents.

5. Financial

5.1. Full Council approved a total capital budget for WUV (including the Internal Estate Road) of £334.947 million at its meeting on the 10 February 2021. The total capital budget is split between the approved and provisional programmes. The current approved capital programme budget is currently £45.1 million, and the provisional capital programme budget is £289.9 million.

5.2. Following a review of the spend profile of the programme, the underlying assumptions, and a reduction in the level of associated spend anticipated across the scheme, the Executive is asked to note that the required capital budget is currently anticipated to reduce from £334.947 million to £328.857 million.

5.3. The anticipated spend profile and reconciliation of spend against the existing approved budget is shown below:

	Prior Years	2021-22	2022-23	2023-24	2024-25 & future years	Total Scheme Cost
	£000	£000	£000	£000	£000	£000
Approved Programme- SARP	25,077	2,421	3,005	3,436	0	33,939
Approved Programme – Internal Estate Road	10,913	226	0	0	0	11,139
Current Provisional Capital Programme - SARP	0	26,136	69,012	34,206	160,515	289,869
Total Current Capital Budget	35,990	28,783	72,017	37,642	160,515	334,947
Amended Capital Spend	35,990	21,466	52,730	77,020	141,651	328,857

5.4. The capital spend is anticipated to be financed as follows:-

	£000
LEP Grant	8,050

Homes England HIF Grant	52,300
Borrowing to be repaid through Land Sales and other capital receipts	276,274
Total income anticipated	336,624
Anticipated Contingency / (Deficit)	7,767

5.5. As shown above the anticipated Contingency is £7.767m compared with the previously estimated deficit of £0.414m.

5.6. The inflation assumptions included within the financial modelling have been updated and are based on research undertaken by Gleeds with regard to cost inflation, and Savills with regard to Value inflation. These inflation assumptions are summarised below:

	2021	2022	2023	2024	2025	2026	2027 onwards
Value Inflation	4.5%	3.0%	2.5%	2.0%	1.5%	2.5%	2.5%
Cost Inflation	3.6%	2.7%	3.9%	3.7%	3.8%	3.6%	3.3%

5.7. The business case assumes that all interest costs associated with borrowing to fund the project will be ‘rolled up’, capitalised and subsequently repaid from the capital receipts due on disposal of the land. As a result, officers do not anticipate making any minimum revenue provision (MRP) charge to the Council’s general fund to finance the cost of borrowing in relation to this project until the project is complete, at which point interest and MRP will only be charged on any net deficit position. The ongoing financing strategy will continue to seek to minimise and eliminate any financing costs that could be charged to the general fund revenue account as a result of the infrastructure phase of the development.

5.8. The reappraised financial position at current prices is set out in appendix 13.2.

Amendment to Capital Programme

4.9 Whilst the amended scheme cost of WUV highlighted in paragraph 4.3 is to be noted, it is necessary to formally approve a transfer funds from the Provisional Programme to the Approved Programme to ensure that sufficient funds are held within the Approved Programme to cover the payments under the TW Agreement and deliver the wider programme in line with the existing timetable and milestones set and agreed with Homes England with regard to the HIF funding.

4.10 The profile of the required approved capital is as follows:

	2021-22	2022-23	Total
	£000	£000	£000
Approved Capital Programme	2,647	3,005	5,652
Thames Water Payments	7,637	13,143	20,780

Allotment Relocation	1,362		1,362
New GBC Depot	1,723	13,416	15,139
Other Infrastructure Costs (including Design and Planning Cost for SCC Waste Transfer Facility)	8,963	25,524	34,488
Capitalised interest	422	648	1,070
Sum to be Transferred to Approved Programme	17,460	49,725	67,185

6. Consultations

- 6.1. The Leader and the Lead Councillor for Regeneration are fully briefed on the project. Presentations at key points in the project have been made to Executive Councillors, Governance Board and Corporate Management Team.

7. Legal Implications

- 7.1. Legal and procurement officer support will be required in procuring the detailed technical infrastructure work on this project.
- 7.2. External lawyers are advising in relation to the finalisation of the SCC heads of terms and legal agreement.
- 7.3. External lawyers are advising on legal issues that need to be addressed (such as diversion of footpaths, highways orders, S106 and planning permission, appropriation of land for planning purposes and overriding of covenants that would restrict development, procuring vacant possession and de-registration of common land).
- 7.4. In relation to the proposed agreement with SCC in respect of the relocation of the Waste Transfer Station (WTS), the draft heads of terms encompass various obligations on the part of GBC including the disposal of land by GBC (the site for the new facility); the acquisition of land by GBC (required for the WUV); and the construction of the replacement WTS by GBC on SCC's behalf.
- 7.5. The site of the proposed replacement WTS is (or will be) held by GBC for planning purposes. The Council has power under section 233 of the Town and Country Planning Act 1990 to dispose of such land:

to such person, in such manner and subject to such conditions as appear to them to be expedient in order—

to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on it (whether by themselves or by any other person), or

to secure the erection, construction or carrying out on it of any buildings or works appearing to them to be needed for the proper planning of the area of the authority.

for a consideration that is the best that can reasonably be achieved, taking account of the terms of the disposal (or with the consent of the Secretary of State in the event that the consideration is less than the best).

- 7.6. As part of the overall arrangements, GBC will be acquiring land from SCC. GBC has power to acquire the existing WTS land for the planning purposes to facilitate the carrying out of the WUV under section 227 of the Town and Country Planning Act 1990, if it thinks that the WUV development is likely to contribute to the achievement of the promotion or improvement of the economic, social and/or environmental well-being of its area. The well-being benefits of the WUV have been set out for Members in previous reports on the WUV.
- 7.7. GBC will need to be satisfied that the terms of the disposal of the replacement WTS site to SCC, which include an obligation on GBC to construct the replacement facility on SCC's behalf (and also involve the acquisition of land by GBC) are "expedient" to secure the planning objectives of section 233 and that overall, based on valuation advice, the financial arrangements will secure "best consideration" for the disposal of GBC's land, taking into account a proper valuation of the land to be acquired by GBC from SCC under the land swap.
- 7.8. In relation to the contracts and legal agreements which are required for the WUV going forward GBC has various statutory powers to enter into contracts including:
 - section 1 Local Government (Contracts) Act 1997 for the provision of assets (including land and buildings) and/or services in connection with the discharge of GBC's statutory functions;
 - section 111 Local Government Act 1972 incidental to the discharge of a statutory function;
 - section 1 Localism Act 2011 the general power of competence (subject to certain limitations).
- 7.9. In addition, various agreements under statutory provisions with other bodies and authorities will be required, for example with the highway authority in relation to the construction and adoption of highways and with statutory undertakers and electronic communications network code operators.
- 7.10. Officers acting under delegated authority to enter into the contracts and agreements referred to in this report will ensure that the costs are reasonable and within the approved budget, that the overall terms of the transactions adequately protect the interests of GBC and its local taxpayers and are within GBC's statutory powers.

8. Human Resource Implications

- 8.1. WUV is being led by the Regeneration Lead and the workstreams are being managed by the Weyside Development Surveyor. A Weyside Project Manager has been appointed on an interim basis to coordinate the infrastructure delivery phase. The related human resources expenditure is within the approved budget

provision. There are no HR implications that apply other than being dealt with under Future Guildford.

9. Equality and Diversity Implications

9.1. Section 149 of the Equality Act 2010 places a local authority under a legal duty ("the public sector equality duty") to have due regard to the following matters in the exercise of all its functions, namely the need to:

- a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Equality Act.
- b) advance equality of opportunity between persons who share a "relevant protected characteristic" (i.e., age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation) and persons who do not share it; and
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The public sector equality duty is a continuing duty which Members must consider and review at all stages of decision-making. An Equality Impact Assessment has been prepared for the WUV and will be reviewed as the programme progresses.

10. Climate Change/Sustainability Implications

10.1. The Council declared a Climate Emergency on the 23 July 2019. The council is committed to reducing emissions, particularly from vehicles, energy use and construction processes. These objectives have been and will be fully taken into account at all stages of the design and implementation of the WUV.

11. Options

11.1. There are three main options:

- a) To approve and endorse the recommendations to the Executive and continue with the regeneration programme to realise the benefits identified in the corporate plan and the full business case. This is recommended.
- b) To cease the project, retaining the site in its existing state, though this is not recommended.
- c) To amend and revise the scheme, though this is not recommended.

11.2. Officers strongly recommend option (a) to continue the programme as detailed in this report.

12. Project Risks

12.1. Table of the 6 Main Risks from current WUV Risk-Register can be found in Appendix 3

13. Conclusion

- 13.1. The WUV programme has major benefits for Guildford by providing a new sewage treatment works, community facilities, business space with employment opportunities and approximately 1500 homes (40% affordable) by bringing a brownfield site back in to use, as well as the relocation/new provision of the waste transfer station.
- 13.2. The Executive is asked to endorse and approve:
 - I. the current financial position of WUV at the planning committee meeting gateway.
 - II. That the Strategic Services Director be authorised, in consultation with the Lead Councillor for Regeneration to finalise heads of terms in accordance with those attached to this report and thereafter negotiate, sign and complete the legal agreement with Surrey County Council in accordance with the finalised heads of terms and to proceed with implementation of the relocation of the Waste Transfer Facility accordingly.
 - III. That the Strategic Services Director, in consultation with the Lead Councillor for Regeneration, be authorised to enter into such other contracts and legal agreements connected with the WUV project as may be necessary at reasonable costs within the approved budget.
 - IV. the commencement of infrastructure procurement following receipt of a satisfactory planning consent pursuant to Hybrid planning application submitted on 15th December 2020 (Reference No 20/P/02155).
 - V. That £67.185m is transferred from the provisional capital programme to the approved capital programme for payments which the Council is obliged to make to Thames Water under the TW Agreement for 2021/22 and 2022/23, for costs necessary to meet the milestones set within the Homes England HIF agreement and design cost necessary to prepare the planning application for the SCC waste transfer facility.

14. Background Papers

- 14.1. Corporate Plan 2018-2023
- 14.2. Extraordinary Full Council Meeting 10 February 2020
- 14.3. 6 July 2021 Executive Paper
- 14.4. Depot Aug 2020 paper

15. Appendices

- 15.1. SCC Waste Transfer Facility Heads of Terms
- 15.2. Reappraised financial position of WUV
- 15.3. Table of the 6 Main Risks from current WUV Risk-Register

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Appendix 1

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Appendix 2

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