



# Public Document Pack

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Committee Manager Helen Burt (Ext. 37614)

12 January 2022

## ENVIRONMENT COMMITTEE

A meeting of the Environment Committee will be held in the **Council Chamber, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF** on **Thursday 20 January 2022 at 6.00 pm** and you are requested to attend.

Members: Councillors Edwards (Chair), Staniforth (Vice-Chair), English, Goodheart, Bicknell, Huntley, Chace, Needs, Warr, Worne and Thurston

**PLEASE NOTE:** Subject to Covid-19 Risk Assessments members of the public are advised of the following:

Where public meetings are being held at the Arun Civic Centre, in order to best manage safe space available, members of the public are in the first instance asked to watch the meeting online via the Council's Committee pages – the meeting will be available to watch live via the internet at this address [here](#).

- a) Where a member of the public has registered a request to take part in Public Question Time, they will be invited to submit the question in advance of the meeting to be read out by an Officer. In response to the continuing health guidelines, there will be very limited public access to this meeting. Admission for public speakers will be by ticket only, bookable when submitting questions. Attendees will be asked to sit in an allocated seat in the public gallery on a first come first served basis. Only one ticket will be available for per person.
- b) It is recommended that all those attending take a lateral flow test prior to the meeting.
- c) All those attending the meeting will be required to wear face coverings and maintain safe distancing when in the building/meeting room.
- d) Members of the public must not attend any face to face meeting if they or a member of their household have Covid-19 symptoms.

*Any members of the public wishing to address the Committee meeting during Public Question Time, will need to email [Committees@arun.gov.uk](mailto:Committees@arun.gov.uk) by 5.15 pm on Wednesday 12 January 2022 in line with current Procedure Rules. It will be at the Chief Executive's/Chair's*

discretion if any questions received after this deadline are considered. Permitted questions will be read out by an Officer.

For further information on the items to be discussed, please contact: [committees@arun.gov.uk](mailto:committees@arun.gov.uk)

## **AGENDA**

### 1. **APOLOGIES**

### 2. **DECLARATIONS OF INTEREST**

Members and Officers are invited to make any declarations of pecuniary, personal and/or prejudicial interests that they may have in relation to items on this agenda, and are reminded that they should re-declare their interest before consideration of the item or as soon as the interest becomes apparent.

Members and Officers should make their declaration by stating:

- a) the item that they the interest in
- b) whether it is a pecuniary, personal and/or prejudicial interest
- c) the nature of the interest

### 3. **MINUTES**

(Pages 1 - 10)

The Committee will be asked to approve as a correct record the Minutes of the Environment Committee held on 17 November 2021.

### 4. **ITEMS NOT ON THE AGENDA THAT THE CHAIRMAN OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCES**

### 5. **PUBLIC QUESTION TIME**

To receive questions from the public (for a period of up to 15 minutes)

## **OUTSIDE BODIES - FEEDBACK FROM MEETINGS**

### 6. **COMMITTEE REVENUE AND CAPITAL BUDGETS 2022/2023**

(Pages 11 - 24)

The purpose of the report is for this Committee to consider and recommend its revenue budget for inclusion in the 2022/23 revenue budget, which will be submitted to the Policy and Finance Committee on 10 February 2022. Policy and Finance Committee will consider the overall revenue budget

for 2022/23 to make a recommendation to Full Council on 23 February 2022 on the budget to be set and level of Council Tax for the District for 2022/23.

In addition, Committees must consider and recommend their draft capital budget for inclusion in the overall capital programme, which will be submitted to the Policy and Finance Committee on 10 February 2022. Policy and Finance Committee will consider the overall capital programme to make a recommendation to Full Council on 23 February 2022 on the overall capital programme to be set for 2022/23.

[30 Minutes]

7. DISABLED FACILITIES GRANT CHARGE RECYCLING POLICY (Pages 25 - 32)

This report seeks approval for any funds received by the Council, via repayment of Disabled Facilities Grant charges, to be recycled to fund further adaptations for private sector residents.

The West Sussex Disabled Facilities Grant Policy 2020-2024 which was approved by Cabinet on 9<sup>th</sup> December 2019, includes the provision that a Local Land Charge will be placed on the owner occupier's adapted property where the DFG exceeds £5,000. The land charge will be limited to a maximum of £10,000 (mandatory scheme statutory limit). The Charge will be incurred if the property is sold within 10 years.

[10 Minutes]

8. ENFORCEMENT POLICY FOR ENVIRONMENTAL HEALTH, PRIVATE SECTOR HOUSING, LICENSING AND CLEANSING (Pages 33 - 102)

The report seeks approval to adopt amendments to the existing enforcement policy for Environmental Health, Private Sector Housing, Licensing and Cleansing the main elements of which are:

- To include Civil financial penalties for offences under:
  - a) The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
  - b) The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
  - c) The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- To provide greater clarity and guidance when considering civil financial penalties as an alternative to prosecution

Other minor amendments have been made, and all alterations are highlighted in the attached policy by way of tracked

changes for ease of reference.

Under the Electrical Safety Standards in the Private Rented Sector Regulations 2020 and the Smoke and Carbon Monoxide Alarm Regulations 2015, the Council is required to have a Statement of Principles which is published and outlines the procedures for enforcing this legislation and determining the amount of penalty charge, the report seeks approval to adopt these.

The report also seeks delegated authority for the Group Head of Technical Services to make any necessary consequential changes to the attached Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing, the Statement of Principles for the Electrical Safety Standards in the Private Rented Sector Regulations 2020 and the Smoke and Carbon Monoxide Alarm Regulations 2015 as a result of new legislation or alternative practices.

[10 Minutes]

9. AWARD OF CONTAIN OUTBREAK MANAGEMENT FUNDING (Pages 103 - 106)

This report seeks Member approval to apply Contain Outbreak Management Funding received of £144,364.

The report outlines a number of conditions associated with the award. Failure to comply with these could result in clawback. In addition, Member approval complies with the Council Constitution which states that application of grant awards greater than £5,000 requires approval by the relevant service Committee.

[15 Minutes]

10. 1-2-3 FOOD WASTE & ABSORBENT HYGIENE PRODUCTS (AHP) COLLECTION TRIAL PROGRESS UPDATE (Pages 107 - 154)

This report provides a progress update on the 1-2-3 Food Waste & Absorbent Hygiene Products (AHP) collections trial which was approved by Cabinet on 16<sup>th</sup> November 2020 and commenced in May 2021

[40 Minutes]

11. WORK PROGRAMME (Pages 155 - 158)

The Committee is required to note the Work Programme for 2021/22.

[5 Minutes]

Note : If Members have any detailed questions, they are reminded that they need to inform the Chair and relevant Director in advance of the meeting.

Note : Filming, Photography and Recording at Council Meetings – The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. This meeting may therefore be recorded, filmed or broadcast by video or audio, by third parties. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and as available via the following link [Filming Policy](#)

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# Public Document Pack Agenda Item 3

Subject to approval at the next Environment Committee meeting

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## ENVIRONMENT COMMITTEE

17 November 2021 at 6.00 pm

Present: Councillors Edwards (Chair), Goodheart, Huntley, Chace, Warr, Worne, Thurston, Cooper (Substitute for English), Cooper (Substitute for Staniforth) and Stanley (Substitute for Needs)

Councillor Pendleton was also in attendance for all or part of the meeting.

[Note: Councillor Goodheart was absent from the meeting during items 439 - 443]

### 439. APOLOGIES

Apologies had been received from Councillors English, Needs, Staniforth and Bicknell.

### 440. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

### 441. MINUTES

The Minutes of the meeting held on 23 September 2021 were approved by the Committee. These would be signed at the end of the meeting.

### 442. PUBLIC QUESTION TIME

The Chair confirmed that no questions were submitted for this meeting.

### 443. OUTSIDE BODIES

No Outside Bodies reports had been received, although the Chair advised that he and Cllr Stanley had been to the Bognor Regis Regeneration Board Forum Meeting the previous evening. The Chair would circulate a report to the Committee Members in due course.

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444. ARUN DISTRICT COUNCIL'S GREEN SPACE TREE PLANTING STRATEGY 2021 - 2031

*[Councillor Goodheart arrived during this item]*

Upon the invitation of the Chair, the Environmental Services & Strategy Manager introduced his report to the Committee. He explained this strategy was for Arun District Council's (ADC) own parks and open spaces and did not extend to land beyond ADC's control. He felt the proposal was a perfect balance between ambition and deliverability, and a huge amount of work had been put into the planning and development of the strategy and planting plan by the expert Tree Officer and the Parks Officers. The proposal was to plant 33,000 whips and 500 standard trees as a minimum. 90% of the standard trees would be native species, and the whip trees would be 100% native species. This would be phased over 10 years. The planting plans and species list would be published each year on the Council's website for information. There would also be at least 2 community tree planting events each year.

Members then took part in a question and answer session as summarised below:

- Clarification was sought on the number of trees that would be planted each year, and whether a regular update would be provided to the Committee. The Environmental Services & Strategy Manager explained they were expecting to plant around 60 standard trees and 2,000-3,000 whips in the first year. It was expected to average approximately 50 standard trees and 3500 whips each year.
- Expectation of survival rates for the whips. The Environmental Services & Strategy Manager said there would be a proactive after-care programme for 3 years.
- The reason for non-native species being introduced. The Environmental Services & Strategy Manager explained there was a place for non-native trees, some of which may be the trees of the future.
- The reasons for established trees being removed. It was confirmed that established trees would only be removed for very good reason such as being dead or dying.
- It was noted that there was no tree planting planned for Pagham. This was due to Arun District Council not owning much open space in Pagham, so no opportunity to do so.
- Would there be an opportunity for community groups to work with ADC, and for ADC to procure trees on their behalf. The Environmental Services & Strategy Manager said there would be opportunities for community groups to get involved. A discussion would need to be had with any groups wishing to plant on Arun's land, as this would need to fit with the Strategy. If Officers were in agreement with the proposals, they would be able to procure trees on behalf of community groups for this purpose.
- The Queens Canopy was a great opportunity to create a legacy for the residents, and it was asked that this be fully explained, and that community involvement be sought when building up the interpretation of what this would look like.



- Clarification was sought on the budget for the programme.
- Members were keen on the idea of tree-lined avenues, however noted this was under West Sussex County Council's remit.
- Concern was raised over the large number of whips due to be planted in West Park. The Environmental Services & Strategy Manager reassured Members that the planting would be appropriate to the location and would not interfere with how the site was used on a daily basis.
- Members welcomed the report, and sent thanks to the Environmental Services & Strategy Manager and his team.

The recommendation was Proposed by Councillor Andy Cooper and Seconded by Councillor Huntley.

The Committee

#### RESOLVED

That the proposed Arun Greenspace Tree Planting Strategy 2021-2031 and associated planting plan be approved and adopted.

#### 445. OFF-STREET PARKING STRATEGY 2021 - 2026

Upon the invitation of the Chair the Group Head of Neighbourhoods and the Customer & Parking Services Manager introduced the report to the Committee. They explained the vision in the Strategy which set out some key themes – to provide safe, well-maintained car parks; meeting the needs of residents, shoppers and visitors; providing an income for the Council and supporting economic growth; promoting a sustainable environment and creating a positive parking experience. It looked at the emerging new technologies and opportunities. There was a summary list of actions on Page 48 and 49. These actions picked up work already underway, but also new actions such as installation of electronic charging points and on all ticket machines being contactless by 2024.

Members then took part in a full debate where the following points were raised:

- It was felt the Strategy met the aims of what it was intended for.
- It was good that climate change and sustainability were included, tree planting in car parks and sustainable surfacing alternatives would be welcomed.
- The progress around electric parking and charging was welcomed.
- Whilst contactless technology was welcomed there was concern by Members about the prospect of complete removal of cash by 2024.
- Could consideration be given to the locations of disabled bays, as it may be that not all needed to be placed at the front of the car parks as proximity wasn't always the issue for disabled users. It may be that other priority bays could be considered in addition.

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Following further debate regarding contactless payments and the removal of cash, the recommendation, and with the addition of 'all pay and display machines to be contactless and accept cash' was Proposed by Councillor Stanley. This was Seconded by Councillor Huntley.

The Committee

RESOLVED

That the Council's Off-Street Parking Strategy 2021-2026 as shown on Appendix A, with the addition of 'all pay and display machines to be contactless and accept cash', be adopted

446. VARIATION TO PARKING CHARGES

*[During this item Cllr Chace declared a Personal Interest as Chairman of Friends of Brookfield Park]*

Upon the invitation of the Chair, the Customer & Parking Services Manager introduced his report to the Committee. He explained that each year the Council was required to review its discretionary charges, which included parking charges. The report identified a set of proposed increases in parking charges plus a proposal to introduce charges in a number of car parks that currently had no charging regime. He clarified that 5.2 in the report, which stated that parking for the first hour in the car parks in which they propose to introduce charging, would be free, this would be the case with regard to Bersted Brooks and Brookfield Park, but in the case of Links Avenue, Grassmere and Shrubbs Field this would in fact be 2 hours free parking as shown on Appendix A. He also clarified that where it said 'estimated income' on Appendix A, it should actually refer to 'additional estimated income'. After completing the consultation, a report would be brought back to the Committee in March, for Members to make a decision on the charges.

Members then took part in a full debate where the following points were raised:

- It was right to put this out for consultation and encourage members of the community to provide thoughts on the direction they thought the Council should take.
- It was asked whether it would be explained in the consultation documents what the income from the increase in charges would be used for. The Group Head of Neighbourhoods explained that this could be promoted across the Council's social media platforms.
- It was asked whether Friends of Bersted Brooks should be added to the list of consultees. The Customer & Parking Services Manager confirmed the Friends of Bersted Brooks would be added.

Councillor Chace declared a personal interest as Chairman of Friends of Brookfield Park. He asked that Friends of Brookfield Park also be added to the list of consultees.

The recommendation was Proposed by Councillor Andy Cooper and Seconded by Councillor Chace.

The Committee

RESOLVED

That the proposed charges as set out in Appendix A be put out for consultation after which a report will be returned to Committee for final approval.

#### 447. FUEL POVERTY FRAMEWORK

Upon the invitation of the Chair, the Principal Environmental Health Officer introduced her report to the Committee. She explained that Fuel Poverty was a complex public health issue and was not the responsibility of just one agency or organisation. The West Sussex Fuel Poverty Coordinator, hosted by Arun District Council, was an externally funded post. The framework document attached to the report brought together all the actions for the coming 5 years across the County. The aim was that it would be possible to support funding bids going forward and to engage with a range of other organisations to develop initiatives.

There were no questions from Members

The recommendation was Proposed by Councillor Andy Cooper and Seconded by Councillor Stanley.

The Committee

RESOLVED

That the West Sussex Fuel Poverty Framework for Action 2021-2026 be adopted.

#### 448. EMPTY PROPERTY ASSISTANCE PROGRAMME

Upon the invitation of the Chair, the Principal Environmental Health Officer introduced her report to the Committee. She explained the Council was committed to tackling empty properties in the private sector, and there was an approved 5-year strategy that came into place in 2018. The report aimed to highlight all the work and achievement in this area, including the improvements this could make to

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neighbourhoods. Properties could be empty for a number of reasons, and work was carried out with the owners to try to understand the reasons and ensure they were brought back into use. There was an approved Empty Property Assistance Programme which provided funding for grants and loans, helping to finance repairs to properties to bring them up to standard. The fund was also used for enforcement work when necessary. More could be done and they were looking to learn from good practice from other local authorities. They were trying to increase awareness and also partnership working. Additional resources were required to support the current full-time Empty Homes Officer.

Members felt Arun District Council performed well with regards to Empty Homes, and thanked the Group Head of Technical Services, the Principal Environmental Health Officer, and the Empty Homes Officer for their work. It was felt that one of the reasons this worked so well was due to the delegations given to the Officers.

The recommendations (with amended Committee names to reflect the recent change) were Proposed by Councillor Stanley and Seconded by Councillor Alison Cooper.

The Committee

**RESOLVED**

1. that authority be delegated to the Group Head of Technical Services to make changes resulting from identified good practise and legislative changes to the Empty Property Assistance Programme, grants and loans criteria.

**RECOMMEND TO THE POLICY & FINANCE COMMITTEE**

2. that growth of £17,523 be included in the 2022-2023 revenue budget, to recruit on scale 4, an additional part time Technical Support Assistant for 23hrs per week to support and enhance the empty homes work.

**449. RECOMMENDATION FROM THE RESIDENTIAL AND WELLBEING SERVICES COMMITTEE - 30 SEPTEMBER 2021**

Upon the invitation of the Chair, the Group Head of Technical Services introduced the recommendations from the meeting of the Residential & Wellbeing Services Committee (which was now named Housing and Wellbeing Committee).

There were no questions from Members

The recommendations were Proposed by Councillor Chace and Seconded by Councillor Stanley.

The Committee

RESOLVED that

1. A review be undertaken of the incentives and services we (could) offer property owners to increase engagement with our Empty Homes Team and support tenant management issues and misconceptions.
2. A review be undertaken of how we promote our Empty Homes service and how we communicate success stories.

450. ANNUAL ENGINEERING SERVICE REVIEW

Upon the invitation of the Chair, the Engineering Services Manager introduced his report to the Committee. He highlighted and explained key areas in the report including climate change; the South East Coastal Group; partnership funding; coastal monitoring; Pagham Beach; Climping Beach; revenue works; capital works; land drainage; drainage plans.

The Chair thanked the Engineering Services Manager for his concise and very informative report, and for all the excellent work that he and his team had done for the District.

Members then took part in a full debate where the following points were raised:

- What was the long-term solution to the flood risk in Climping. The Engineering Services Manager explained that this was not the responsibility of ADC, however they do work closely with the Environment Agency (EA). The work the EA was doing was working well, however there was an issue of cost, the area was attacked by both the open coast and the river. All the work that was being done was in line with the Coastal Defence Strategy developed by the Council and EA.
- Members further acknowledged the good work done by the Engineering Services Manager and his team.
- Funding coming from the Government for the Council to do Resilience work. The Engineering Services Manager confirmed that the funding for this term would be approximately double that of last term.
- Clarification was sought around some of the figures and terminology in the report.

The recommendation (with amended Committee names to reflect the recent change) was Proposed by Councillor Andy Cooper and Seconded by Councillor Huntley.

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The Committee

RECOMMEND TO THE POLICY & FINANCE COMMITTEE

- 1) additional resources of £40,000, in the Coast Protection Revenue Budget commencing in 2022/23 and for a further 4 years thereafter, to allow for shingle management works associated with West Beach and other beaches e.g. East Beach, Littlehampton.
- 2) a £180,000 contribution to the Community Flood Fund in 2022/23 and a further £100,000 in 2023/24, to enable required Partnership Contributions to continue.

RESOLVED

- 3) that the Engineering Services Manager be authorised to undertake the necessary preparatory work relating to the new Capital schemes, to make Grant in Aid funding applications to the Environment Agency accordingly and to receive and draw down related funds.

451. BOGNOR REGIS BEACH ACCESS WORKING PARTY

Upon the invitation of the Chair, the Engineering Services Manager introduced his report to the Committee.

Councillor Stanley proposed an amendment to the recommendations, which was that 1 (f) would be changed to 'Chair of the Working Party: Cllr Worne'. This was seconded by Councillor Thurston.

Following a brief discussion Councillor Stanley, with the agreement of the meeting and the Seconder, altered his amendment to 1 (f) to 'the Chair of the Working Party would be elected at its first meeting'.

Following a vote, the altered amendment was CARRIED.

Councillor Stanley proposed an additional amendment to the recommendations, which was that 2 (a) would be changed to 'An invitation be extended to Bognor Regis Town Council Access Group for **three** representatives to join the Working Party (without voting rights)'. This was seconded by Councillor Thurston.

Members then took part in a full debate where the following points were raised:

- There were people with varying mobility requirements that were part of the Bognor Regis Town Council Access Group, and extending the invitation to an additional person would help to gain varying views.
- Increasing the size of the Working Party could make it too large and make it difficult to make progress.

- Opinions from people living outside of Bognor should also be taken into consideration as people from across the District would travel to the site.
- The Working Party needed to look objectively at making the beach accessible.
- The Working Party should be kept small and the representatives could feed in the views of other people.
- Increasing the Working Party by one person would not make it much larger, but it would be good to have the views of other people.
- The Working Party was put together by the Group Leaders who consulted with Members.
- If Membership of the Working Party was not increased, they could invite guests to input and give opinions.

The amendment was put to the vote and there being an equality of votes, the Chair used his casting vote against the amendment, which was LOST.

The substantive recommendations (with amended Committee names to reflect the recent change) were Proposed by Councillor Edwards and Seconded by Councillor Chace.

#### The Committee

##### RESOLVED that

1. The establishment of a Bognor Regis Beach Access Working Party be supported based on the following terms:
  - (a) Terms of Reference – to consider the issues surrounding the provision of an access to the beach for the disabled and elderly persons in Bognor Regis and to examine the options available for such an access
  - (b) To determine what part of the beach to improve access to (waterline or shingle etc) and to consider options for geographic location
  - (c) The Working Party will report to Environment Committee,
  - (d) Size of the Working Party – 6 Arun District Councillor seats with two further seats (without voting rights) to be offered to the Bognor Regis Town Council Access Group.
  - (e) Nominations to the seats – Cllrs Worne, Needs, Brooks, Staniforth, Edwards and English - to be confirmed by the relevant Group Leaders immediately if the proposal is accepted by Environment Committee.
  - (f) The Chair of the Working Party would be elected at its first meeting
  - (g) Proposals for the allocation of seats if vacancies occur – to be for the relevant Group Leader / Bognor Regis Town Council Access Group to fill the vacant seat as appropriate and this information to be reported this to the next Environment Committee meeting
  - (h) The Working Party will take the form of a Task & Finish exercise and conclude in not more than 12 months from the date of the first meeting.

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- (i) Timescale for the work to be undertaken – the first meeting of the Working Party will be in Spring 2022 with the site visit timed appropriately for sufficient daylight at around the time of Low Water.
  - (j) Presentation(s) will be made by officers as soon as possible to enable the Council to progress with any recommendations it supports.
- 2.
- (a) An invitation be extended to Bognor Regis Town Council Access Group for two representatives to join the Working Party (without voting rights)
  - (b) The suggestion be made to Bognor Regis Town Council Access Group that Cllr Goodheart be one of the two Group representatives should they choose to accept the invitation – this and the second representative to be confirmed by Bognor Regis Town Council Access Group.
  - (c) Review its terms of reference at its first meeting or thereafter and recommend any change back to Environment Committee
  - (d) Make any recommendations to Environment Committee based on the Terms of Reference – it will have no decision-making authority
  - (e) Meet in private unless it agrees that it will work to the Meeting Procedure Rules at Part 5 of the Council’s Constitution. Meetings will be held virtually until such time as the Working Party considers that ‘in person’ meetings are appropriate and then they shall be held in Bognor Regis Town Hall; and
3. Consideration be given as to how to approach similar issues in other locations if they have not already been resolved

452. WORK PROGRAMME

The Group Head of Technical Services updated Members on the Work Programme.

It was raised that the Sussex Nature Partnership could be invited to a Member Briefing to provide an update, which it was felt Members would find very interesting.

The Committee noted the Work Programme.

(The meeting concluded at 8.30 pm)



## ARUN DISTRICT COUNCIL

### REPORT TO AND DECISION OF ENVIRONMENT COMMITTEE ON 20 JANUARY 2022

**SUBJECT: Committee Revenue and Capital Budgets 2022/2023**

**REPORT AUTHOR: Carolin Martlew, Interim Group Head of Corporate Support and Section 151 Officer**

**DATE: November 2021**

**EXTN: 01903 737558**

**AREA: Corporate Support**

#### **EXECUTIVE SUMMARY:**

The purpose of the report is for this Committee to consider and recommend its revenue budget for inclusion in the 2022/23 revenue budget, which will be submitted to the Policy and Finance Committee on 10 February 2022. Policy and Finance Committee will consider the overall revenue budget for 2022/23 to make a recommendation to Full Council on 23 February 2022 on the budget to be set and level of Council Tax for the District for 2022/23.

In addition, Committees must consider and recommend their draft capital budget for inclusion in the overall capital programme, which will be submitted to the Policy and Finance Committee on 10 February 2022. Policy and Finance Committee will consider the overall capital programme to make a recommendation to Full Council on 23 February 2022 on the overall capital programme to be set for 2022/23.

#### **RECOMMENDATIONS:**

It is recommended that this Committee:

- (a) Agree on the 2022/23 Revenue Budget as illustrated in Appendix A of this report;
- (b) Agree on the 2022/23 list of uncommitted growth items as illustrated in Appendix B of this report;
- (c) Agree on the 2022/23 Capital Programme as illustrated in Appendix C of this report; and
- (d) Agree to recommend to Policy and Finance Committee that the Revenue Budget, list of growth items and Capital Programme for this Committee be included in the overall General Fund Budget when considering the overall budgets on 10 February 2022.

#### **1. BACKGROUND:**

2022/23 is the first year of budget preparation under the Committee form of governance introduced on 19 May 2021. Under Committee governance, Service Committees such as this must consider and recommend budgets for the services they

provide to the Committee responsible for budget setting. At Arun, this is the Policy and Finance Committee. The Policy and Finance Committee will then consider an overall budget to recommend to Full Council.

The general background to the 2022/23 budget process was included in the Financial Prospects 2021/22 to 2025/26 report to Policy and Finance Committee on 14 October 2021. The main points to note are:

- Council Tax increases by £5 or 2% per annum which is currently the maximum allowed for similar District Councils;
- There is an inflationary increase in salary costs in 2022/23. The effect of the increase in National Insurance contributions from 2022/23 is included;
- If possible, cash limited sums for goods and services (no inflationary rise) for the period are included, otherwise inflation is provided for;
- The most up to date figure available has been used for the lump sum payable to the pension fund which was reflected in the latest report from the actuary for 2022/23;
- It is assumed all discretionary fees and charges imposed by the Council increase by at least 2.5% for the year;
- Growth items are not included in service committee estimates. They will be considered as a separate list by service committees. Items agreed by service committees will then form part of the final growth list which Policy and Finance Committee will need to consider when it sets the overall budget. It has been made clear to budget officers that growth requests should be minimised and restricted to those with a significant impact on Council priorities or objectives.

Financial forecasting has been difficult due to the COVID 19 pandemic. Budgets have been compiled on the best information available. In addition, where appropriate, central government funding has been applied to mitigate against increased costs and reductions in income.

The draft capital programme for this Committee is detailed at Appendix C and, if agreed, will be submitted to the Policy and Finance Committee for inclusion in the Authority's overall Capital Programme.

• **PROPOSAL(S):**

Revenue Budget

The basis of budgeting for 2022/23 assumes that current levels of service remain unchanged. Any proposed increase in the service level, or other significant new area of expenditure, is treated as uncommitted growth. These items are listed at Appendix B and are not included in the budgets. If this Committee agrees this list either in full, or in part, it will be considered by Finance and Policy Committee on 10 February 2022 in the context of the overall General Fund budget.

The budgets are presented in the format recommended by the Chartered Institute of Public Finance and Accountancy (CIPFA) for the publication of accounting information.

The information contained in the detailed budgets is as follows:

- Actual 2020/21, as per the Council's published accounts for 2020/21;

- Budget 2021/22 – a reproduction of the budget approved by the Council for 2021/22, adjusted to align with the Committee governance Structure;
- Budget 2022/23 – budgets are prepared at current price, plus inflation where unavoidable. The budgets contain committed growth. This indicates a change to the base level of service arising from policy changes determined by the Council, the effects of the financing of the agreed Capital Programme, or other unavoidable costs, eg arising from statutory commitments. Such growth is included in the budgets.

Uncommitted growth indicates an enhanced level of base service provision. This is not included in the budgets at this stage. The final inclusion in the Authority's overall revenue budget will be subject to consideration by the Policy and Finance Committee and Council.

The proposed uncommitted growth items are summarised with explanatory notes at Appendix B.

The budget is shown at Appendix A.

The significant changes in the revenue budget between 2021/22 and 2022/23 are:

- The 2021/22 pay award is still under negotiation. It is therefore necessary to include two years' pay awards in the employee figures which increases the expected cost in 2022/23. In addition, there are two new posts in Parks and Open Spaces.
- Additional car parking income of £117,000 is expected in 2022/23 over that in 2021/22. This mainly arises from additional car parks use as visitor numbers have increased during the COVID19 pandemic;
- Contracts' inflation of £103,000 in cleansing services

At its meeting of 17 November 2021, this Committee considered the Annual Engineering Service Review report. Two of the recommendations approved in this report were:

To recommend to Policy and Finance Committee, additional resources of £40,000, in the Coast Protection Revenue Budget commencing in 2022/23 and for a further 4 years thereafter, to allow for shingle management works associated with West Beach and other beaches e.g. East Beach, Littlehampton; and

To recommend to Policy and Finance Committee a £180,000 contribution to the Community Flood Fund in 2022/23 and a further £100,000 in 2023/24, to enable required Partnership Contributions to continue.

The shingle management works are considered essential to prevent coastal flooding issues and have been included in the budget for this Committee with no further reference to Policy and Finance Committee.

A revenue budget deficit is anticipated in 2022/23 which will place pressure on the General fund. Budget monitoring in 2021/22 indicates a likely underspend in the revenue budget. To allow the requested contribution of £180,000 to be made to the Community Flood Fund, it will be made in 2021/22. The £100,000 recommended for 2023/24 will be assessed at a later date.

## Capital Budget

The Council's Capital Strategy sets out the framework for capital expenditure. The current Capital Strategy was considered by the Audit and Governance Committee on 25 February 2021 and recommended to Council for adoption on 17 March 2021. The Strategy contains the following regarding capital priorities at paragraph 1.7:

<b>Priority</b>	<b>Type of Projects</b>
Highest Priority	Unavoidable capital expenditure due to an emergency such as one affecting service continuity or business critical infrastructure
	Projects that deliver strategic outcomes as per the Council's vision
	Projects necessary to deliver statutory, mandatory and legal/contractual obligations
	Projects that give rise to revenue savings or income generation. These can be developed as invest to save projects
	Projects attracting additional external funding
	Projects which improve and repair Council assets and reduce the need for revenue maintenance
Lowest Priority	Projects that are not for statutory or mandatory purposes, attract low external support, have little or no payback or result in increases in revenue costs

The draft programme shown at Appendix C includes schemes that have been prioritised as above.

The draft Capital Programme has been scrutinised by Corporate Management Team before being presented to the service committee.

The level of funding for the Capital Programme will be determined at the Policy and Finance Committee on 10 February 2022. It is clear that capital resources will have to be assessed and the proposed programme may need to be adjusted if planned expenditure exceeds expected resources.

Financial forecasting has been difficult due to the COVID 19 pandemic. Budgets have been compiled on the best information available. In addition, where appropriate, central government funding has been applied to mitigate against increased costs and reductions in income.

The total planned Capital Programme for this committee totals £1,945k and includes:

<b>Scheme</b>	<b>£'000</b>
Play Areas	225
Bersted Brooks Country Park	320
Disabled Facilities Grants	1,400
<b>Total</b>	<b>1,945</b>

Details are shown in Appendix C.

The Economy Committee has responsibility for all Council General Fund Buildings so will make the decision on allocating funding for them. The Economy Committee will be considering its revenue and capital budget bids at its meeting on 19 January 2022

### 3. OPTIONS:

Not applicable

### 4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify)		✓
5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	✓	
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

### 6. IMPLICATIONS:

#### Financial

The financial implications are shown throughout the report. Capital spending is susceptible to overrun, delay and increased costs. It is important that close monitoring of both revenue budgets and the capital programme is in place.

#### Legal

The Council has a legal duty to ensure its expenditure can be met by its income, inclusive of reserves.

### 7. REASON FOR THE DECISION:

To enable the Committee to recommend a revenue and capital budget to Finance and Policy Committee for inclusion in the Council's overall General Fund budget for 2022/23.

**8. BACKGROUND PAPERS:**

2021/22 Budget Report to Full Council 17 February 2021

Financial Prospects 2021/22 to 2025/26 Report – Finance and Policy Committee 14 October 2021

Budget Consultation Report

Statement of Accounts 2020/21

**Environment Committee  
General Fund Revenue Budget 2022/23**

Actual 2020-21 £'000	Description	Budget 2021-22 £'000	Budget 2022-23 £'000
<b>Environment Committee</b>			
<b>Direct Services</b>			
20	Building Control	102	112
6	Bus Shelters & Street Nameplates	11	11
(539)	Car Parks	(864)	(912)
38	Cemeteries & Churchyards	(40)	(33)
5,637	Cleansing Services	5,489	5,679
111	Coast Protection & Land Drainage	91	131
35	Emergency Planning & Support	49	54
393	Environmental Health & Protection	515	555
98	Foreshores	27	36
1,409	Parks & Green Spaces	1,509	1,724
225	Private Sector Housing	239	284
<b>7,433</b>	<b>Total for Direct Services:</b>	<b>7,128</b>	<b>7,641</b>
<b>Environment Committee</b>			
<b>Management &amp; Support Services</b>			
414	Engineering & Infrastructure Services	522	561
<b>414</b>	<b>Total for Management &amp; Support Services:</b>	<b>522</b>	<b>561</b>
<b>7,846</b>	<b>Environment Committee Total:</b>	<b>7,650</b>	<b>8,202</b>

Actual 2020-21 £'000	Description	Budget 2021-22 £'000	Budget 2022-23 £'000
<b>Environment Committee</b>			
<b><u>Building Control (D10)</u></b>			
448	Employees	495	513
16	Transport	19	22
21	Supplies and Services	22	22
(465)	Other Income	(434)	(445)
<b>20</b>	<b>Total for Building Control:</b>	<b>102</b>	<b>112</b>
<b><u>Bus Shelters &amp; Street Nameplates (K13 &amp; K15)</u></b>			
30	Employees	31	32
4	Premises	5	8
1	Supplies and Services	0	0
(29)	Other Income	(25)	(29)
<b>6</b>	<b>Total for Bus Shelters &amp; Street Nameplates:</b>	<b>11</b>	<b>11</b>
<b><u>Car Parks (F10)</u></b>			
68	Employees	91	115
386	Premises	320	333
14	Transport	16	17
153	Supplies and Services	105	138
186	Third party costs	219	217
(1,272)	Other Income	(1,549)	(1,666)
(74)	Grants and Contributions	(66)	(66)
<b>(539)</b>	<b>Total for Car Parks:</b>	<b>(864)</b>	<b>(912)</b>
<b><u>Cemeteries &amp; Churchyards (K20 &amp; M21)</u></b>			
68	Employees	69	72
210	Premises	173	184
4	Transport	5	4
45	Supplies and Services	16	18
(289)	Other Income	(303)	(311)
<b>38</b>	<b>Total for Cemeteries &amp; Churchyards:</b>	<b>(40)</b>	<b>(33)</b>



Actual 2020-21 £'000	Description	Budget 2021-22 £'000	Budget 2022-23 £'000
<b>Environment Committee (Continued)</b>			
<b><u>Cleansing Services (K40, K45, K46, K70, K71, R57 &amp; R69)</u></b>			
258	Employees	267	318
241	Premises	114	148
22	Transport	24	27
424	Supplies and Services	189	188
7,311	Third party costs	9,169	7,887
(2,567)	Other Income	(4,252)	(2,867)
(52)	Grants and Contributions	(22)	(22)
<b>5,637</b>	<b>Total for Cleansing Services:</b>	<b>5,489</b>	<b>5,679</b>
<b><u>Coast Protection &amp; Land Drainage (F30 &amp; F50)</u></b>			
132	Premises	59	99
34	Supplies and Services	33	34
1	Third party costs	1	1
(56)	Other Income	(2)	(3)
<b>111</b>	<b>Total for Coast Protection &amp; Land Drainage:</b>	<b>91</b>	<b>131</b>
<b><u>Emergency Planning &amp; Support (R02)</u></b>			
81	Employees	72	75
1	Transport	2	2
3	Supplies and Services	3	4
(50)	Other Income	(28)	(27)
<b>35</b>	<b>Total for Emergency Planning &amp; Support:</b>	<b>49</b>	<b>54</b>

Actual 2020-21 £'000	Description	Budget 2021-22 £'000	Budget 2022-23 £'000
<b>Environment Committee (Continued)</b>			
<b><u>Environmental Health &amp; Protection (M01, M03, M04, M10 to M14, M16, M17 &amp; M20)</u></b>			
703	Employees	659	668
19	Transport	16	16
147	Supplies and Services	134	131
2	Third party costs	0	0
(478)	Other Income	(294)	(260)
<b>393</b>	<b>Total for Environmental Health &amp; Protection:</b>	<b>515</b>	<b>555</b>
<b><u>Foreshores (K50)</u></b>			
101	Employees	105	114
58	Premises	23	27
7	Transport	8	8
83	Supplies and Services	70	70
2	Third party costs	2	2
(153)	Other Income	(181)	(185)
<b>98</b>	<b>Total for Foreshores:</b>	<b>27</b>	<b>36</b>
<b><u>Parks &amp; Green Spaces (K25, K30, L13, L40, L41 &amp; L42)</u></b>			
474	Employees	414	554
1,003	Premises	1,136	1,146
24	Transport	21	31
327	Supplies and Services	222	288
65	Contractual	69	82
(319)	Other Income	(353)	(377)
(165)	Grants and Contributions	0	0
<b>1,409</b>	<b>Total for Park &amp; Green Spaces:</b>	<b>1,509</b>	<b>1,724</b>

<b>Actual 2020-21 £'000</b>	<b>Description</b>	<b>Budget 2021-22 £'000</b>	<b>Budget 2022-23 £'000</b>
<b>Environment Committee (Continued)</b>			
<b><u>Private Sector Housing (J05, M05, M07 &amp; M15)</u></b>			
463	Employees	444	476
13	Transport	12	13
1,824	Supplies and Services	1,427	1,429
56	Third party costs	5	5
(114)	Other Income	(49)	(44)
(2,017)	Grants and Contributions	(1,600)	(1,595)
<b>225</b>	<b>Total for Private Sector Housing:</b>	<b>239</b>	<b>284</b>
<b>7,433</b>	<b>Total for Direct Services:</b>	<b>7,128</b>	<b>7,641</b>
<b>Environment Committee Management &amp; Support Services</b>			
<b><u>Engineering &amp; Infrastructure Services (F60 &amp; F91)</u></b>			
404	Employees	525	552
33	Transport	40	41
36	Supplies and Services	27	28
(59)	Other Income	(70)	(60)
<b>414</b>	<b>Total for Management &amp; Support Services:</b>	<b>522</b>	<b>561</b>
<b>7,846</b>	<b>Environment Committee Total:</b>	<b>7,650</b>	<b>8,202</b>

**Environment Committee  
Budget 2022/23  
Growth Items**

Item	£'000	Note
Public Conveniences Maintenance	17	1
Empty Homes Technical Support Officer	18	2
Bersted Brooks Country Park	10	3
Trees for Towns and Parishes	10	4
<b>Total</b>	<b>55</b>	

Notes

1. The Council has made a bid to the government's Changing Places fund to provide enhanced facilities at four Public Convenience sites in the District. If the bid is successful, additional revenue costs of £4,200 per Convenience will be incurred.
2. Environment Committee agreed to recommend to Policy and Finance Committee at its meeting of 17 November 2021 that provision be made in the 2022/23 budget to recruit a part time Empty Homes Technical Support Officer to support and enhance the Council's empty homes work.
3. It is proposed to create a Country Park in Bersted to include master plan, extend car park, signage, seating and bins, new footpath network and Park Ranger. This is the estimated revenue cost of the proposal in 2022/23.
4. A project to plant 100 small native trees for every Parish in Arun – either to plant where Town and Parish Councils choose – or if on this Council's open space in accordance with Arun's 10 year Tree Planting Strategy.

**Environment Committee  
Capital Programme 2022/23**

<b>Scheme</b>	<b>£'000</b>	<b>Note</b>
Play Areas	225	1
Bersted Brooks Country Park	320	2
Disabled Facilities Grants	1,400	3
<b>Total</b>	<b><u>1,945</u></b>	

## Notes

1. The Play Areas spend is the Council's scheme of replacing play areas with up to date, safe equipment.
2. It is proposed to create a Country Park in Bersted to include master plan, extend car park, signage, seating and bins, new footpath network and Park Ranger. This is the estimated capital cost of the proposal.
3. The Council offers grants to homeowners to adapt their properties enabling them to remain in their own homes and community. The scheme is funded by government grant.

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## ARUN DISTRICT COUNCIL

### REPORT TO AND DECISION OF ENVIRONMENT COMMITTEE ON 20<sup>TH</sup> JANUARY 2022

**SUBJECT:**

**Disabled Facilities Grant Charge Recycling Policy**

**REPORT AUTHOR:** Louise Crane, Principal Environmental Health Officer

**DATE:** 15<sup>th</sup> November 2021

**EXTN:** 01903 737669

**AREA:** PLACE

**EXECUTIVE SUMMARY:**

This report seeks approval for any funds received by the Council, via repayment of Disabled Facilities Grant charges, to be recycled to fund further adaptations for private sector residents.

The West Sussex Disabled Facilities Grant Policy 2020-2024 which was approved by Cabinet on 9<sup>th</sup> December 2019, includes the provision that a Local Land Charge will be placed on the owner occupier's adapted property where the DFG exceeds £5,000. The land charge will be limited to a maximum of £10,000 (mandatory scheme statutory limit). The Charge will be incurred if the property is sold within 10 years.

**RECOMMENDATIONS:**

That Committee approve that any funds received by the Council via repayment of Disabled Facilities Grant charges, be recycled to fund further adaptations for private sector residents.

**1. BACKGROUND:**

- 1.1 The Disabled Facilities Grant (DFG) is a mandatory grant, provided by local housing authorities under the Housing Grants, Construction and Regeneration Act 1996, towards the cost of eligible works necessary to support people of all ages and most tenures to live independently and safely in their own homes. Local Authorities have a statutory duty to provide DFGs to applicants who qualify. Adaptations to Council owned housing are provided via a different route and a separate funding stream.
- 1.2 The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (RRO) enables Councils to support the wider prevention agenda of housing, social care and health authorities. The Care Act 2014 provided further direction towards earlier intervention and prevention.

- 1.3 In 2015 Government funding was pooled into a single budget for health and social care services to work more closely together – the Better Care Fund (BCF). The BCF provided an increase in funding for home adaptations and other interventions to improve integration between health, social care and housing services.
- 1.4 The BCF is contributing to the additional allocation for DFGs provided to the Councils in West Sussex under an annual determination from Central Government. The BCF aims to improve health and wellbeing by encouraging more flexible use of DFG monies.
- 1.5 On 9<sup>th</sup> December 2019 Cabinet agreed the adoption of the West Sussex Disabled Facilities Grant Policy 2020-2024. The Districts and Boroughs in West Sussex came together to agree this single DFG policy which applies across the whole county area with three main aims:
- To improve consistency for residents to help them live safely and independently for as long as possible at home.
  - To help more people via the provision of a range of discretionary grants.
  - To assist people more quickly, for example minor adaptations can be arranged by West Sussex County Council rather than having to apply for a DFG.
- 1.6 Under the Housing Grants, Construction and Regeneration Act 1996, the Disabled Facilities Grant (Conditions relating to approval or payment of Grant) General Consent 2008 was made and gave power to the Local Authority to impose conditions of repayment.
- 1.7 Therefore the West Sussex Disabled Facilities Grant policy includes the provision that a Local Land Charge will be placed on the owner occupier's adapted property where the DFG exceeds £5,000. The land charge will be limited to a maximum of £10,000 (mandatory scheme statutory limit). The Charge will be incurred if the property is sold within 10 years of the certified date ie. works completed.
- 1.8 The DFG will be registered as a Local Land Charge and will be enforced when the applicant has disposed (whether by sale, assignment, transfer or otherwise) of the premises in respect of which the grant was given. In this event the Council may require repayment of the land charge before being removed from the local Land Charges Register.
- 1.9 The applicant is required, from the certified date throughout the grant condition period of 10 years, to notify the relevant Council of their intention to sell or otherwise dispose of the property. The applicant will need to provide the Council with any information reasonably requested by them in connection with such notification.
- 1.10 Charges have routinely been registered as a Local Land Charges and repayment has been required by applicants who have sold their properties within the qualifying period. The table below shows the monies that have been recovered over the past 3 years:



Financial Year	Amount of Charges Repaid
2018/2019	£30,396
2019/2020	£46,805
2020/2021	£32,644
2021/2020 Up to end of November 2021	£36,058

1.11 Therefore authorisation is requested from Members to be able to use current and future proceeds for the purpose of providing further adaptations.

## 2. PROPOSAL(S):

That Committee agree that any funds received by the Council via repayment of Disabled Facilities Grant charges, be recycled to fund further adaptations for private sector residents.

## 3. OPTIONS:

To not agree to the recycling of any Disabled Facilities Grant repayments and thereby not helping to increase the funds available for private sector residents to access adaptations for their homes.

## 4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		X
Relevant District Ward Councillors		X
Other groups/persons (please specify)		X

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	X	
Legal		X
Human Rights/Equality Impact Assessment		X
Community Safety including Section 17 of Crime & Disorder Act		X
Sustainability		X
Asset Management/Property/Land		X
Technology		X
Other (please explain)		X

## 6. IMPLICATIONS:

Financial:

The proposed policy would result in repayments of grant being credited to the General Fund as receipts of less than £10,000 are treated as revenue receipts under accounting

regulations. The income would be credited against the service account thereby reducing the net cost of service provision.

Human Rights/Equality Impact Assessment:

An equalities impact assessment has been completed and does not identify any adverse impacts.

**7. REASON FOR THE DECISION:**

Working in partnership with West Sussex County Council and West Sussex District and Borough Councils the aim is to make best use of the Better Care Fund and enable more residents to live independent and safely within their own homes.

**8. BACKGROUND PAPERS:**

[West Sussex Disabled Facilities Grants Policy 2020-2024](#)

[Cabinet Decision reference C/024/01122019](#)

Equality Impact Assessment

## EQUALITY IMPACT ASSESSMENT

<b>Name of activity:</b>	Disabled Facilities Grant charge recycling policy	<b>Date Completed:</b>	22 <sup>nd</sup> November 2021
<b>Directorate / Division responsible for activity:</b>	<b>Place/Technical Services</b>	<b>Lead Officer:</b>	Nat Slade/Louise Crane
<b>Existing Activity</b>	<b>Y</b>	<b>New / Proposed Activity</b>	<b>N</b>
		<b>Changing / Updated Activity</b>	<b>Y</b>

### What are the aims / main purposes of the activity?

To ensure the money that is repaid via charges against Disabled Facilities Grants are recycled to fund further adaptations for private sector residents.

### What are the main actions and processes involved?

The West Sussex Disabled Facilities Grant Policy 2020-2024 which was approved by Cabinet on 9<sup>th</sup> December 2019, includes the provision that a Local Land Charge will be placed on the owner occupier's adapted property where the DFG exceeds £5,000. The land charge will be limited to a maximum of £10,000 (mandatory scheme- statutory limit). The Charge will be incurred if the property is sold within 10 years.

The proposal is that any funds that are received by the Council via repayment of Disabled Facilities Grant charges are to be recycled to fund further adaptations for private sector residents specifically.

### Who is intended to benefit & who are the main stakeholders?

Private sector residents within Arun District eligible for a disabled facilities grant would benefit, the recycled monies would provide additional funds available to administer more adaptations.

### Have you already consulted on / researched the activity?

The provision of a local land charge is part of the West Sussex Disabled Facilities Grant Policy 2020-2024 an agreed practice across the district and boroughs. Financial Services have been consulted.

<b>Impact on people with a protected characteristic</b> (What is the potential impact of the activity? Are the impacts high, medium or low?)		
<b>Protected characteristics / groups</b>	<b>Is there an impact (Yes / No)</b>	<b>If Yes, what is it and identify whether it is positive or negative</b>
<b>Age</b> (older / younger people, children)	No	
<b>Disability</b> (people with physical / sensory impairment or mental disability)	Yes	Positive Impact – By recycling the funds so they are used specifically for disabled facilities grants will increase the funding available to undertake adaptations and assist private sector residents remain more independent in their own homes.
<b>Gender reassignment</b> (the process of transitioning from one gender to another.)	No	
<b>Marriage &amp; civil partnership</b> (Marriage is defined as a 'union between a man and a woman'. Civil partnerships are legally recognized for same-sex couples)	No	
<b>Pregnancy &amp; maternity</b> (Pregnancy is the condition of being pregnant & maternity refers to the period after the birth)	No	
<b>Race</b> (ethnicity, colour, nationality or national origins & including gypsies, travellers, refugees & asylum seekers)	No	
<b>Religion &amp; belief</b> (religious faith or other group with a recognised belief system)	No	
<b>Sex</b> (male / female)	No	
<b>Sexual orientation</b> (lesbian, gay,	No	

bisexual, heterosexual)		
Whilst <b>Socio economic</b> disadvantage that people may face is not a protected characteristic; the potential impact on this group should be also considered	<b>No</b>	

<b>What evidence has been used to assess the likely impacts?</b>
Experience of delivering this activity and researching good practise from other local authorities.

<b>Decision following initial assessment</b>			
<b>Continue with existing or introduce new / planned activity</b>	<b>Y</b>	<b>Amend activity based on identified actions</b>	<b>N</b>

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<b>Action Plan</b>			
Impact identified	Action required	Lead Officer	Deadline

<b>Monitoring &amp; Review</b>	
<b>Date of last review or Impact Assessment:</b>	
<b>Date of next 12 month review:</b>	
<b>Date of next 3 year Impact Assessment (from the date of this EIA):</b>	

<b>Date EIA completed:</b>	22/11/21
<b>Signed by Person Completing:</b>	Louise Crane

## ARUN DISTRICT COUNCIL

### REPORT TO AND DECISION OF ENVIRONMENT COMMITTEE ON 20<sup>TH</sup> JANUARY 2022

**SUBJECT:**

**Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing**

**REPORT AUTHOR: Louise Crane, Principal Environmental Health Officer**

**DATE: 15<sup>th</sup> November 2021**

**EXTN: 01903 737669**

**AREA: PLACE**

**EXECUTIVE SUMMARY:**

The report seeks approval to adopt amendments to the existing enforcement policy for Environmental Health, Private Sector Housing, Licensing and Cleansing the main elements of which are:

- To include Civil financial penalties for offences under:
  - a) The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
  - b) The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
  - c) The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- To provide greater clarity and guidance when considering civil financial penalties as an alternative to prosecution

Other minor amendments have been made, and all alterations are highlighted in the attached policy by way of tracked changes for ease of reference.

Under the Electrical Safety Standards in the Private Rented Sector Regulations 2020 and the Smoke and Carbon Monoxide Alarm Regulations 2015, the Council is required to have a Statement of Principles which is published and outlines the procedures for enforcing this legislation and determining the amount of penalty charge, the report seeks approval to adopt these.

The report also seeks delegated authority for the Group Head of Technical Services to make any necessary consequential changes to the attached Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing, the Statement of Principles for the Electrical Safety Standards in the Private Rented Sector Regulations 2020 and the Smoke and Carbon Monoxide Alarm Regulations 2015 as a result of new legislation or alternative practices.

## **RECOMMENDATIONS:**

Members are requested to approve:

1. The amendments to the attached Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing are adopted.
2. The adoption of the Statement of Principles for the Electrical Safety Standards in the Private Rented Sector Regulations 2020 and the Smoke and Carbon Monoxide Alarm Regulations 2015.
3. That the Group Head of Technical Services or their nominated representative be delegated authority to make any necessary consequential changes to the attached Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing and the Statement of Principles for the Electrical Safety Standards in the Private Rented Sector Regulations 2020 and the Smoke and Carbon Monoxide Alarm Regulations 2015, as a result of new legislation or alternative practices.

## **1. BACKGROUND:**

The existing Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing was last reviewed in April 2020. The policy outlines the principles of enforcement, the enforcement options available and the process and procedures in place to ensure effective enforcement is undertaken in a fair, consistent and transparent way.

The policy attached to this report has been amended:

- To include Civil financial penalties for offences under:
  - d) The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
  - e) The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
  - f) The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- To provide greater clarity and guidance when considering civil financial penalties as an alternative to prosecution

All amendments are highlighted in the attached policy by way of tracked changes for ease of reference.

Civil Penalties for offences under S249A Housing Act 2004 (inserted by the Housing and Planning Act 2016) is already included within the Enforcement Policy. The Enforcement Review Panel has recently reviewed cases presented to them, and the Panel has subsequently recommended the Council issue a civil financial penalty as an alternative to prosecution. On 2<sup>nd</sup> November 2021, the First Tier Property Tribunal heard an appeal from an offender who received a civil financial penalty from Arun District Council for the commission of a licensing offence pursuant to the Housing Act 2004. The Tribunal issued a decision determining the appeal on 21<sup>st</sup> November 2021. Both the hearing and the Tribunal's decision has highlighted the need for further explanation and examples within the charging matrix to assist Officers, and the Enforcement Review Panel apply the Council's policy accurately, and determine the appropriate level of civil financial penalty, using the prescribed criterion. The proposed changes will reduce the risk of a successful



challenge or appeal in the future. Such appeals are resource intensive for the Council and can result in the Council being ordered to pay costs of the offender in limited circumstances.

In addition the Electrical Safety Standards in the Private Rented Sector Regulations 2020 and the Smoke and Carbon Monoxide Alarm Regulations 2015, require the Council to have a Statement of Principles which it proposes to follow in determining the amount of penalty charge. These statements of principles are attached to the report and outline the procedures that Officers will follow and the considerations made and taken into account when setting a financial penalty under these two pieces of legislation.

**2. PROPOSAL(S):**

Members are requested to approve:

1. That the amendments to the attached Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing are adopted.
2. The adoption of the Statement of Principles for the Electrical Safety Standards in the Private Rented Sector Regulations 2020 and the Smoke and Carbon Monoxide Alarm Regulations 2015.
3. That the Group Head of Technical Services or their nominated representative be delegated authority to make any necessary consequential changes to the attached Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing and the Statement of Principles for the Electrical Safety Standards in the Private Rented Sector Regulations 2020 and the Smoke and Carbon Monoxide Alarm Regulations 2015, as a result of new legislation or alternative practices.

**3. OPTIONS:**

Not to approve the amendments to the attached Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing or adoption of the Statement of Principles. This would mean that the changes to help improve clarity and guidance in relation to Civil financial penalties would not be included within the policy thereby increasing the risk of a successful challenge of appeals at the First Tier Tribunal Property Chamber. In addition, civil financial penalties could not be considered as an alternative to prosecution for offences under certain legislation.

**4. CONSULTATION:**

Internal consultation with Legal, Finance, Environmental Health, Licensing, Private Sector Housing, Cleansing, Greenspace and Building Control

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		
Relevant District Ward Councillors		
Other groups/persons (please specify)		
<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)</b>	<b>YES</b>	<b>NO</b>

Financial		X
Legal	X	
Human Rights/Equality Impact Assessment		X
Community Safety including Section 17 of Crime & Disorder Act		X
Sustainability		X
Asset Management/Property/Land		X
Technology		X
Other (please explain)		X

**6. IMPLICATIONS:**

Legal:

The enforcement policy and statement of principles provide the structure within which the Council can deliver enforcement action for the regulatory functions delivered by the Environmental Health, Private Sector Housing, Licensing and Cleansing teams.

Human Rights/Equality Impact Assessment:

An equalities impact assessment has been completed and does not identify any adverse impacts.

**7. REASON FOR THE DECISION:**

To ensure a consistent approach to enforcement across Environmental Health, Private Sector Housing, Licensing and Cleansing, that is transparent and proportionate and meets the appropriate codes of practise and guidance.

**8. BACKGROUND PAPERS:**

Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing.

Statement of Principles for the Electrical Safety Standards in the Private Rented Sector Regulations 2020 and

Statement of Principles for the Smoke and Carbon Monoxide Alarm Regulations 2015.

Equality Impact Assessment.

**ARUN DISTRICT COUNCIL ENFORCEMENT POLICY**  
**ENVIRONMENTAL HEALTH, PRIVATE SECTOR HOUSING,**  
**LICENSING & CLEANSING**

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## 1.0 **INTRODUCTION**

- 1.1 The Council, through its services and officers, has both a duty and a desire to secure compliance with the law. Through our enforcement activity, we seek to ensure that minimum standards prescribed by law are achieved by individuals and businesses who have legal responsibilities to protect and enhance public health and the environment. We recognise that a key element of our activity will be to support those we regulate to comply and thereby support business growth. It is nevertheless a Council priority to maintain enforcement activity where appropriate to protect and enhance public health and the environment and to maintain a “level playing field” for businesses. Wherever possible, enforcement activity will be co-ordinated with other agencies and will aim to align with other Council policies.

## 2.0 **PRINCIPLES OF ENFORCEMENT**

- 2.1 Effective well targeted regulation can play an important role in promoting fairness, competition and addressing market failure, in particular protection from harm. We aim to ensure good regulation acts to enable beneficial economic activity. We will ensure that the action we take is proportional to the risk identified, is consistent in application, is targeted to areas where hazards

are least well controlled and is transparent to those who are subject to our enforcement action. All enforcement action we involve ourselves with, even when not expressly referred to in the policy e.g. anti social behaviour control, will follow these principles.

## **2.2 Proportionality**

2.2.1 We will relate our enforcement action to the actual and foreseeable risks to health, safety, wellbeing or maintenance of community and wider environments. Those whom the law protects and those on whom it places a duty should be assured that the enforcement action we take to achieve compliance will be proportionate to the risk. In deciding what is reasonably practical to control risks, we will exercise judgement and discretion, recognising that the final determination of the reasonableness of our actions is made by the Courts. Where appropriate models exist to assess risk and relate action to it, we will use these.

2.2.2 We aim to ensure our interventions impose the minimum burden compatible with achieving the desired objectives of regulation. Enforcement action will not be taken in cases of trivial or purely technical contraventions. We will take care to work with small businesses, voluntary and community organisations so they can meet their legal obligations without unnecessary expense where practicable. We will consider the costs and benefits of regulatory measures and where the costs of any measure significantly outweigh its benefit alternatives will be sought.

2.2.3 The degree of risk will be balanced by considerations of statutory requirements, relevant good practice, the significance of the risks (both in extent and likelihood) and finally cost. Serious irreducible risks will not be tolerated, irrespective of the economic consequences.

## **2.3 Consistency**

2.3.1 Consistency of approach does not mean uniformity. We will endeavour to carry out our duties in a fair and equitable manner and take a similar approach in similar circumstances to achieve similar ends. We will have procedural and managerial arrangements in place to promote consistency of approach and judgement. We will liaise with other Local Authorities and enforcement bodies to assist in this. We will investigate complaints of inconsistency made against us.

## **2.4 Openness and Helpfulness**

2.4.1 We believe prevention is better than cure and we will actively work with businesses and individuals to advise, encourage and assist them to comply with their legal obligations. As well as on an individual basis, wherever possible we will inform industry sectors of new legal requirements which affect them at the earliest opportunity using media appropriate for those we regulate. We will ensure that the advice we provide is reliable, where possible, not in conflict with advice provided by other regulators. Wherever

possible we will avoid charging for the advice or guidance we provide, and we will seek to minimise the costs of legal compliance. Officers will also seek to share best practice where we will believe this will easily assist operators to comply with obligations.

- 2.4.2 We will help those who are subject to, or affected by, our regulatory activity to understand what is expected of them and what they should expect from us; we will make clear not only what they have to do, but, where it is relevant, what they do not have to do. In particular, we will clearly differentiate between legal requirements and advice, guidance and recommendations that are desirable but not compulsory. We will clearly specify any changes or time deadlines in any action we take. Where appropriate, required by law, or required by Codes of Practice, we will set out the detail of the Act or Regulation which is the subject of our enforcement action, together with any appropriate sources of information which will assist the recipient to comply with or challenge our enforcement action. Where it would assist those we enforce against, and if they request it, we will provide a follow-up visit to further explain enforcement action underway and to review action following enforcement activity.
- 2.4.3 We will provide a courteous and efficient service. Our staff will identify themselves by name and provide contact points and telephone extension numbers, e-mail and Minicom addresses to assist in reaching us. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties. We will offer translation, interpretation or large print versions of our documents as appropriate. We aim to co-ordinate what we do to prevent overlap and unnecessary delay. We will provide simple and straightforward ways for those we regulate to comment on their perception of our service. This will be undertaken through a variety of means including use of customer feedback questionnaires and where appropriate industry forums. We will use these to ensure Officers have insight into those we regulate and how our regulatory activity affects our customers.
- 2.4.4 We will explain the purpose of our visits and what rights of complaint are open to those visited. This will include the provision of standard leaflets as appropriate. We will offer advice and/or direct those we deal with to sources of helpful information to enable their compliance. We will not treat requests for information as a need for a direct intervention or visit by us.
- 2.4.5 Where Statutory Notices and determinations are served, the appeals process will be clearly set out.
- 2.4.6 Where there is dissatisfaction with our enforcement actions the Council's Corporate Complaints procedure, details of which are clearly available on the Council's website <https://www.arun.gov.uk/corporate-complaints>, will be followed so that our enforcement action may be scrutinised against our policy.
- 2.4.7 We will continue to work within the Council and with other regulators to reduce information requirements of business and individuals and to share data available between regulators for that purpose, where the law allows. Where

we collect data we will attempt to do this in a way that best suits those it is collected from where we can do so reasonably.

## **2.5. Transparency**

2.5.1 We publish a clear set of service standards so that those we regulate and other service users know what to expect, and what not to expect, from our service. This information will include how we communicate, how we can be contacted, how we provide guidance and advice, and how we check compliance. This information, along with this enforcement policy and links to fees which we charge for aspects of our service, will all be made available from a single point on the Council's website, [www.arun.gov.uk](http://www.arun.gov.uk) and the information kept up to date. We will also publish information on how we perform against our service standards, and customer feedback.

## **2.6 Targeting**

2.6.1 We will concentrate our enforcement activities (including prioritising our inspections/visits) on those individuals and businesses whose actions give rise to the most serious risk or where hazards are least well controlled. Where we take formal enforcement action, we will concentrate on the person or persons who are responsible for creating the risk or those we regard as being primarily in breach.

2.6.2 We will utilise a risk-based prioritising system for determining our regulatory practice, the frequency of our visits, the scope of our inspection and action. We will consider both the likelihood of non-compliance and the impact of non-compliance on the outcome we wish to achieve through our intervention. In doing so we will take into account the compliance history of a business or individual, including whether a business has a Primary Authority relationship. Where we determine that the hazards/risks are low, we will consider alternatives to visiting for ensuring that businesses or individuals continue to effectively manage the risks.

2.6.3 In undertaking inspection we will generally avoid random inspection except to test methodology or gather intelligence. Where two or more Officers are likely to visit the same entity we will do our utmost to draw up joint inspection programmes to minimise burdens by sharing data. We will work with others to reduce the need for businesses to provide unnecessary information or to provide it more than once.

2.6.4 In applying the above principles, we will also take account of guidance contained in Codes of Practice, Industry Guides to compliance, recommendations of local and national co-ordinating bodies and inter-Authority standards.

2.6.5 Where we consider that the action we intend to take is inconsistent with the above, the matter will first be referred to the appropriate body for ratification, unless there is significant risk to the public in delaying enforcement.



2.6.6 The effectiveness of interventions at securing compliance will be reviewed.

### 3.0 **AUTHORISATION OF OFFICERS, COMPETENCE AND ARRANGEMENTS FOR CRIMINAL PROCEDURES INVESTIGATIONS**

3.1 All Officers will be authorised through the Council's Constitution and Scheme of Delegation. Officers will receive their authority in writing and will produce this when requested to do so.

3.2 Officers undertaking enforcement action will be suitably competent through qualification, training and experience. Competence training will be provided both "in-house" and externally. The training objectives will always include legal, technical, proportionality and consistency aspects. Management arrangements will include periodic checks on the competencies and consistency of Officers carrying out enforcement duties and will include a "peer review" procedure for Notices and other formal enforcement action (see Section 7.0 and Section 11.0). An Officer authorisation matrix will be maintained and used to review authority given to Officers by the relevant Manager of the service area.

3.3 All authorised Officers will abide by this Policy. Any departure from this Policy must be exceptional, justified to and sanctioned by a manager within Environmental Health, Licensing, Private Sector Housing, Cleansing, or the Group Head of Technical Services unless there is a demonstrable, significant and imminent risk to public health or the environment in delaying enforcement.

3.4 Where the case Officer determines that a case should not proceed beyond formal action to prosecution, this decision must be agreed and signed off by a manager within Environmental Health, Licensing, Private Sector Housing, Cleansing or [the](#) Group Head of Technical Services using the appropriate pro forma.

3.5 In the case of licences, registrations and approvals, these should always be a counter-checked by a different authorised officer to the authorised officer granting/approving prior to issuing any licence, registration or approval.

3.6 In any investigation we will respect human rights and dignity in general compliance with the European Convention on Human Rights and Human Rights Act.

3.7 Fully acknowledge rights such as right to respect for private, home and family life; right against discrimination; right to protection of property and right to a fair trial. We will, however, balance these against the legitimate rights and responsibilities prescribed by the law which we will uphold, especially in areas such as public safety, prevention of serious crime and disorder, protection of health or morals and protection of rights and freedom of others.

3.8 . In carrying out our regulatory functions we will only interfere with human rights if there is lawful justification to do so and where it is necessary and

proportionate. We will demonstrate this by adherence to the Regulation of Investigatory Powers Act 2000 and any code or guidance provided under it.

3.9 In all cases where prosecution is considered to be necessary or highly likely to be the only effective action (see later for criteria), administrative arrangements will comply with the Criminal Procedure and Investigations Act 1996 (CPIA) and Regulation of Investigatory Powers Act. (RIPA). Evidence will be gathered in accordance with the requirements of the Police & Criminal Evidence Act (PACE).

### 3.10 **Surveillance**

3.10.1 While day-to-day reaction to events is allowed, any specific surveillance work of a covert nature, i.e. when investigations are carried out in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware of it taking place, have to be authorised in advance.

3.10.2 In considering a proposed surveillance activity, due regard must be given to a number of factors, in order to comply with appropriate legislation (e.g. RIPA, Human Rights Act, etc.), including:-

- ❖ what is to be subject to surveillance
- ❖ the purpose and potential outcome of the surveillance
- ❖ consideration of the impact on the privacy of individuals
- ❖ whether the activity can be demonstrated as being necessary and proportionate
- ❖ whether the activity falls within the definitions of RIPA, requiring approval by both an Authorising Officer (members of the Council's Corporate Management Team) and a Magistrate.

Further information may be obtained from the Council's policy on the Regulation of Investigatory Powers Act and Guidance on the Use of Social Media in Investigations and advice may be obtained from Corporate Management Team members, Legal Services and/or Internal Audit.

3.10.3 A central register of RIPA authorisations is kept by the Chief Internal Auditor and retained for a period of three years for audit and Investigatory Powers Commissioner's Office (IPCO) inspection purposes. All authorisations must be forwarded to the Chief Internal Auditor within one week of the authorisation, review, renewal, cancellation or rejection.

3.10.4 As part of recent legislative changes, it has also been recommended that any non-RIPA surveillance activities are documented, authorised (by a Corporate Management Team member), and registered in a similar way. Procedures and documentation for this will be agreed by the Corporate Management Team and provided to appropriate staff within the Council.

3.10.5 Where activities are undertaken jointly with another body e.g. the Police, Trading Standards, Department Work and Pensions, etc., the written authorisation should be confirmed as adequately covering the activities of all

parties involved. Third party authorisations covering activities of Council staff should be obtained and passed to the Chief Internal Auditor as above

### **3.11 Criminal Investigations**

3.11.1 At the commencement of a criminal investigation, that is any investigation where an Officer is ascertaining whether a person should be cautioned with a view to a possible prosecution, or where the caution is administered in order to gather evidence for a possible prosecution, the following “roles” must be established:

- ❖ The Investigator
- ❖ The Officer In Charge of the investigation
- ❖ The Disclosure Officer
- ❖ The Prosecutor

#### **3.11.2 The Investigator**

This can be any duly authorised Officer. The investigator will pursue all reasonable lines of enquiry, whether these point towards or away from any suspect. The investigating Officer must remain open-minded to all relevant information obtained. Relevant information must be recorded, collated and retained at the time it is obtained or as soon as practicable after that time in accordance with CPIA (Criminal Procedure and Investigations Act 1996) and its associated Code of Practice.

#### **3.11.3 The Officer in Charge of the Investigation (OIC)**

This will be any Officer designated by the Chief Executive, but will usually be the Team Manager. However, if the Team Manager is the investigating Officer, then the relevant Group Head will assume the role of OIC. The OIC will direct the investigation and will ensure that effective procedures exist and are followed so that all relevant material is retained and made available to the Disclosure Officer (see CPIA and Code for details).

#### **3.11.4 Disclosure Officer (DO)**

This will usually be a manager within Environmental Health, Licensing, Private Sector Housing or Cleansing. In the event that these Officers are the investigating Officer or OIC, then this role will be assumed by another Manager within these services. The Disclosure Officer will examine retained material gathered by the IO and OIC and ensure it is revealed to the Prosecutor in the preparation for taking proceedings. The DO will seek advice from the Prosecutor on relevant material for disclosure and draw up and maintain schedules of material to be disclosed, not disclosed and sensitive (in line with the CPIA and Code).

#### **3.11.5 The Prosecutor**

Will be a lawyer in Legal Services or other individuals acting on behalf of the Council.

3.11.6 Management arrangements will include periodic checks to ensure that the CPIA and its Code are being appropriately and effectively applied.

#### 4.0 **ENFORCEMENT OPTIONS**

4.1 We will decide on the appropriate enforcement option by having regard to the Principles of Enforcement mentioned in section 2.0 above, together with the following considerations:

- ❖ Evidential Sufficiency. Whether there is a realistic prospect of conviction on each charge against each suspect.
- ❖ That the public interest will be served;
- ❖ The likelihood that action proposed will reduce the significant risks;
- ❖ The requirements of specific Council policy;
- ❖ That vulnerable groups will be protected;
- ❖ The seriousness of the offence and risk presented;
- ❖ The past history of individuals, businesses and informants involved and potential future risk;
- ❖ Confidence in those involved in the issue, whether as individuals, representatives of the business/enterprise or informants (this will be assessed by consideration of relevant factors including any system of managing risk, external accreditation, competence and willingness to comply);
- ❖ The intentions of those involved in non-compliance;
- ❖ Consequences of non-compliance;
- ❖ The likely effectiveness of the option to secure compliance.

4.2 Except in cases of wilful non-compliance or where immediate action is necessary to prevent a serious regulatory breach, we will allow those in suspected breach reasonable opportunities to discuss the circumstances of the case and to achieve compliance before taking formal enforcement action.

4.3 We will seek to reward good performers through positive incentives, including “lighter” inspections, where risk profiling justifies this, and less onerous reporting requirements where practicable.

4.4 We will also ensure that clear reasons for any formal enforcement action are given at the time and confirmed in writing at the earliest opportunity. Complaints procedures must also be explained at the time any enforcement action is taken.

## 5.0 **TESTING PUBLIC INTEREST**

5.1 In assessing “the public interest”, we will consider whether the proposed action will produce a net benefit to the wider community in terms of reducing environmental impact risks, in targeting public resources on the most serious risks, and in the opportunity costs of pursuing a particular course of action.

5.2 Those factors which will tend towards formal action and prosecution include positive answers to any or all of the following, which may not be an exhaustive list:

- (a) number of people affected by the offence;
- (b) degree to which people are/were affected (seriousness of the offence);
- (c) evidence that the offence was committed deliberately, maliciously or for clear economic advantage;
- (d) evidence that the defendant intimidated or harassed those affected;
- (e) evidence of previous or on-going offences of a similar type;
- (f) likelihood of repeated offence which may be deterred by prosecution;
- (g) defendant was in a position of authority;
- (h) lack of co-operation on the part of the defendant;
- (i) offence is widespread, at least in the general area in which it was committed;
- (j) failure to settle fixed penalty or comply with other statutory notices.

5.3 Factors which might argue against formal action and prosecution will include:

- (a) Court is likely to impose a very small penalty on conviction;
- (b) offence appears to have been the result of a genuine misunderstanding or mistake;
- (c) harm done was minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- (d) willingness on the part of the defendant to co-operate and to ensure that no future offences of a similar nature are committed;

- (e) long delay between offence and trial, unless:
  - (i) the offence is serious;
  - (ii) the delay has been caused, at least in part, by the defendant;
  - (iii) the offence has only recently come to light;
  - (iv) the complexity of the investigation results in unavoidable delays.
- (f) defendant is in poor health or confused or lacking the appropriate mental capacity (unless there is a real possibility that the offence will be repeated);
- (g) defendant has, so far as possible, put right the harm caused by the offence;
- (h) a key witness has refused to testify or to provide a Witness Statement or, if they are the only victim, they have strongly indicated opposition to a prosecution;
- (i) the defendant is a juvenile and under the age of 17 (see Section 5.7)

5.4 Whether a particular decision meets the public's expectations can only be judged in the circumstances by the staff involved. Public expectation should not determine the action taken, since the public do not have possession of all the facts in any particular case or, indeed, the professional training, experience or organisational support which Enforcement Officers utilise in their decisions.

5.5 This is a difficult area to assess, but it may be possible to apply a "**reasonableness test**" to the questions: what would a reasonable person expect from the Local Authority in the circumstances? A further test may be whether the particular decision could be justified in any public forum or Inquiry.

5.6 Having carefully considered all these criteria, we will choose one or more of the following courses of action:

- ❖ to take no action, giving reasons to all parties concerned; this will only be appropriate where there have been no contraventions of relevant legislation and the Officer does not feel it necessary to give further advice or recommendations. All necessary inspection forms and computer records must be completed indicating Officer activity and confirming why no further action needed. This is to be formally agreed and "signed off" by the Officer in charge of the investigation and investigating Officer; or

- ❖ to take informal action, clearly separating those items which are legal requirements and those which are not compulsory; and/or
- ❖ to serve Statutory Notices (including “intention to serve” Notices); and/or
- ❖ to seize or detain items or to suspend or revoke individuals’ right to exercise a duty or permission; and/or
- ❖ to accept voluntary closure of a premises/activity and/or;
- ❖ to issue a fixed penalty fine where available; and/or
- ❖ [For offences under the Housing Act 2004 consider serving a civil penalty notice \(see Section 13\) and/or](#)
- ❖ [to issue a financial penalty where legislation permits](#)
- ❖ to prosecute or recommend prosecution through the appropriate Court or by way of Simple Caution; and/or
- ❖ to refer the matter to another body where they possess a more effective procedure for securing compliance (e.g. Applying to the Court for an Injunction). In the majority of cases, the Primary / Home Authority (as defined and registered by Department of Business, Energy & Industrial Strategy) will be consulted prior to the institution of formal action; and/or to consider instigation of work in default; and/or
- ❖ To exercise any other legislative power pertaining to the particular circumstances of the case.

## 5.7 Juveniles

- 5.7.1 The Council is aware of its duty to ensure that it is acting in accordance with the Children’s Act 2004 and in particular to have regard to the need to safeguard and uphold the welfare of children. Alongside this duty, the Council takes seriously its role in making sure young people are aware of their responsibilities and its role in educating them to encourage good behaviour in the first instance.
- 5.7.2 Formal action including prosecution will be a measure of last resort. In developing its approach to young people who offend, the Council will work closely with the Youth Offending Service and the Police.
- 5.7.3 If in extreme circumstances the Council does issue fixed penalty notices it will go down the route of enforcing these through prosecution in the Youth Court and hope to recover unpaid penalties. Any fixed penalty notice served on a young person will be reported to the Youth Offending Service.

- 5.7.4 As with any other statutory action, a fixed penalty notice will not be issued if a young person is suffering from mental impairment, mental health problems or if they appear stressed or confused or appear to be under the influence of alcohol or drugs. In such circumstances, the relevant support agency and/or the police will be contacted.
- 5.7.5 This policy differentiates between various age bands when dealing with juveniles. No formal action will be taken against anyone under 10, however, separate approaches are taken for those aged 10 – 15 and those of ages 16 and 17.
- 5.7.6 The differential approach to different age groups is set out below:-

DEALING WITH DIFFERENT AGE GROUPS	
Age Group	Action
All young people	<p>On approach, following an alleged offence, the name, address, age and date of birth of the alleged offender should be obtained, together with the name and address of his or her parents or legal guardian.</p> <p>They should be informed that this information will be shared with the local youth offending team.</p> <p>In all instances, a young person's parents or legal guardian of this age group should be informed at the earliest opportunity, ideally by letter, explaining the action taken, and to give the opportunity to discuss the case with a relevant Officer of the Authority.</p> <p>No caution should be given or interview be undertaken without the presence of a 'responsible' adult unless the young person is 17 (a further explanation is given below).</p>
10-15 year olds	<p>When an offence is straightforward and 'clear cut' (such as a littering offence) and a formal interview is not required, a fixed penalty notice or warning fixed penalty notice <u>may</u> be issued. (see section 5.7.3 and 5.7.4 above)</p> <p>However, we will attempt to consult with the Youth Offending Service before any type of fixed penalty notice is issued. Any fixed penalty notice would be issued at a later date, i.e. through the mail, after a discussion with the Youth Offending Team.</p>



	<p>In all instances, a young person's parents or legal guardian of this age group should be informed at the earliest opportunity, ideally by letter, explaining the action taken, and to give the opportunity to discuss the case with a relevant Officer of the Authority.</p> <p>If the Youth Offending Service is not consulted on the issuing of a fixed penalty notice, it should be informed that one has been issued and given the chance to comment, where appropriate, on any follow-up action that might be necessary.</p>
16-17 year olds	<p>Once the age of the alleged offender has been ascertained, fixed penalty notices can be issued to this age group.</p> <p>However, if there are any doubts over the alleged offender's age, i.e. they could be aged under 16, the procedures set out above for 10-15 year olds should be followed.</p> <p>As with 10-15 year olds, where an offence is straightforward and 'clear cut' and a formal interview is not required, a fixed penalty notice may be issued, however, again we will as a general rule issue a fixed penalty notice which includes a financial penalty after consultation with the Youth Offending Team.</p> <p>The local Youth Offending Service should be informed of the offence and given the chance to comment, where appropriate, on the action to be taken.</p> <p>In all instances, a young person's parents or legal guardian of this age group should be informed at the earliest opportunity, ideally by letter, explaining the action taken, and to give the opportunity to discuss the case with a relevant Officer of the Authority.</p>

5.7.7 Where formal action of any sort is considered against the juvenile, such as issuing a fixed penalty notice it will be appropriate in instances of the first offence to consider cancelling the Notice if the parent or guardian provides proof of age of the child to the authority.

5.7.8 If fixed penalty notices are issued payment will be allowed in instalments over a longer than normal payment window to be agreed with the offender. The option to commute a fixed penalty notice to a final written warning will also be considered. As an alternative to the fixed penalty, other community activity may be offered in lieu of payment such as participating in community clear-ups. Such 'alternative' penalties should always be available.

## 6.0 **INFORMAL ACTION**

6.1 We will take informal action where:

- ❖ the act or omission is not serious enough to warrant formal action; and/or
- ❖ the organisation is a “not-for-profit” organisation with predominantly volunteer staff; and/or
- ❖ from the individual’s/enterprise’s past history it can be reasonably expected that informal action will achieve the desired standard/compliance; and/or
- ❖ we have high confidence in the individual/management of the enterprise; and/or
- ❖ the consequences of non-compliance, or accepting a reduced standard, will not pose a significant risk to any individual or to the environment;

6.2 Where informal action by way of advice, verbal warnings and request for actions is made, we will confirm in writing the advice, warning or required action, within 7 working days of the decision.

6.3 We will ensure that all verbal and written informal action:

- ❖ contains clear and sufficient information so that WHAT is required and WHY it is required is understood;
- ❖ specifies in detail the legislation/regulation contravened, and specifies measures which will enable compliance and options available for achieving the desired effect;
- ❖ clearly differentiates between legal requirements and advice, guidance and recommendations that are desirable but not compulsory. In the latter case, we will use explicit wording so that the person in receipt of the information realises that they are under no obligation to take any action.

[6.4 The Council may take account any past informal action against an offender, should it become necessary for the Council to pursue formal enforcement action at any time in the future, against the same offender. The informal action may be considered when \(but is not limited to\) the Council in deciding whether formal enforcement action should be instigated, they type of formal action that should be instigated, ad also when determining the amount of fine or civil penalty to be imposed on the offender.](#)

## 7.0 **SERVICE OF STATUTORY NOTICES**

7.1 We will serve Statutory Notices where, in line with the “Principles of Enforcement” in Section 2.0 above, we believe there is sufficient evidence to justify their use and where one or more of the following criteria apply:

- ❖ Where we are obliged to by law or required to by Council policy;
- ❖ Standards are generally poor with little individual or management awareness of legal duties and responsibilities;
- ❖ We have little confidence that the individual concerned or the representative of the business/enterprise will respond to an informal approach;
- ❖ There is a history of non-compliance or reluctance to comply with timescales suggested in the past;
- ❖ The consequences of non-compliance might potentially put the health of an individual at risk or threaten the environment;
- ❖ We intend to prosecute to secure compliance but immediate action is required to remedy conditions which are serious or deteriorating.

7.2 In cases where an “intention to serve” Notice is a legal requirement, the above criteria must still be used. In addition, the “intention to serve” Notice will also contain details of how and to whom the person receiving the Notice can ask for a meeting so that their point of view may be heard prior to the service of any follow-up Statutory Notice.

7.3 These representations will be heard by a manager within Environmental Health, Private Sector Housing, Licensing, Cleansing or [the](#) Group Head of Technical Services. These Officers will consider the following criteria in reaching a decision on whether the “intention to serve” Notice is to remain in force or be withdrawn:

- ❖ whether the investigating Officer explicitly considered the “Principles of Enforcement” and the criteria above governing Statutory Notices;
- ❖ whether the investigating Officer was correct in fact and in the application of these principles and criteria;
- ❖ whether the recipient of the Notice has a genuine grievance and not just an issue of principle;
- ❖ whether the recipient of the Notice has demonstrated compliance prior to or shortly after the service of the “intention to serve” Notice;
- ❖ whether there are other factors which render the Notice obsolete.

7.4 A manager within Environmental Health, Licensing, Private Sector Housing, Cleansing or [the](#) Group Head of Technical Services will confirm their decision

as soon as possible after the “appeal” and confirm this in writing within 7 working days.

7.5 All Notices will be subjected to the following “peer review” process:

- ❖ Notices will only be signed by authorised Officers;
- ❖ Where the Notice has been drafted by non-authorised Officers, it may only be signed by authorised Officers if they have witnessed the contravention/offence or can adequately deduce the circumstances from the evidence provided AND agree that the “Principles of Enforcement” and the criteria for Statutory Notices (above) have been applied appropriately;
- ❖ Notices will give realistic time limits for compliance and, where appropriate, these time limits should be discussed and agreed with the intended recipient.
- ❖ Notices will only be signed when all relevant schedules accompany the Notice;
- ❖ All Notices will be checked by a line manager within Environmental Health, Private Sector Housing, Licensing, Cleansing or [the](#) Group Head of Technical Services who will authorise the Notice prior to it being served.
- ❖ All Notices must be accompanied by a clear, detailed explanation of whom to contact for further information, how to appeal where an appeal mechanism exists, and information on the implications of non-compliance.

7.6 All Notices should be served by hand wherever practicable. Where this is not possible, they will be sent by 1<sup>st</sup> Class post or “Royal Mail Signed For” service or sent to the Local Authority in whose district the recipient resides with a request for them to serve on our behalf.

7.7 Checks will be made with any relevant ‘Primary Authority’ prior to service of Notice unless in emergency situations.

7.8 We will check on the situation at the expiry of the period given in the Notice (or any agreed extension to that time) or such lesser time as seems appropriate in the circumstances. We will extend time for compliance only when this is likely to secure compliance and only after receiving a written request for such an extension from the recipient. Where received, such a request should be sympathetically considered, having regard to:

- ❖ the requirements of specific Council policy;
- ❖ the seriousness of the offence;

- ❖ the past history of individuals, businesses and informants involved;
- ❖ confidence in those involved in the issue whether as individuals, representatives of the business/enterprise or informants;
- ❖ consequences of non-compliance; and
- ❖ the likely effectiveness of the option to secure compliance.

Agreement to time extension will be sought from a team manager in Environmental Health, Private Sector Housing, Licensing, Cleansing or [the](#) Group Head of Technical Services.

7.9 In all cases where there is a failure to comply with the Notice after a reasonable time, the matter will be put forward for prosecution and/or works in default in accordance with procedures outlined in Sections 11.

7.10 We will keep a record of all Notices served and report these and any outcomes to the appropriate co-ordinating body or Government Department.

## 8.0 **APPROVALS, REVIEWS, REFUSALS AND REVOCATIONS**

8.1 Approval/refusal/revocation of licence, registration or similar permissive authority will be assessed by authorised Officers against statute, conditions applied, codes of practice, industry standards and similar standards.

8.2 Approval will only be given if relevant standards are achieved. All approvals will be subject to a vetting system whereby the person processing the applications for approval will not authorise its approval. (See Section. 3.5).

8.3 Contentious applications, requests for review, revocation and refusals that can be determined by an authorised officer within the law will normally be determined by a manager within Environmental Health, Private Sector Housing, Licensing Cleansing or [the](#) Group Head of Technical Services except where the law does not permit this. Such decisions may, at the discretion of a manager, be referred to a Licensing Subcommittee. Where revocation or refusal is of an administrative nature, such as for non-payment of fees, it shall be undertaken by an authorised officer.

8.4 In this context, “contentious” means applications which have been formally objected to or relevant representations have been made, have contravened licence etc. conditions, or are subject to complaint.

8.5 Review, refusal or revocation of permissive authorities will be considered on the basis of appropriate prescribed grounds and may include:

- ❖ closure of premises following the issue of a Prohibition or Emergency Prohibition Order (primarily in relation to premises authorised under the auspices of legislation reflecting EU Directives on meat, fish and dairy products);

- ❖ a serious and manifest breach of conditions, limitations, or statutory objectives, subject to which the authority was granted and which is unlikely to be corrected;
- ❖ the conviction of a Licence holder for breach of Licence conditions;
- ❖ conviction for offences of dishonesty, indecency or violence, or other relevant legislation;
- ❖ Conviction for relevant offences as defined in the appropriate statute.
- ❖ evidence of a recent previous revocation/refusal;
- ❖ the number of other similar permissive Authorities issued to persons or premises already excessive;
- ❖ the person applying is not “fit and proper” as defined by the appropriate statute;
- ❖ those persons and organisations that have no right to work in the UK
- ❖ the application is inappropriate to the relevant locality;
- ❖ false or inadequate information has been provided as part of the application;
- ❖ fees due have not been paid;
- ❖ the premises/activity is conducted in a manner so as to cause nuisance, or disorder or public safety issues or safe guarding issues or risk to animal welfare as relevant to the particular case.

8.6 We will revoke a licensed driver and/or vehicle owner if we find evidence of the following:

- ❖ Driving without insurance
- ❖ Driving without road tax
- ❖ Driving in an unsafe vehicle
- ❖ Failure to disclose a prosecution or caution subsequent to the issue of a Licence
- ❖ When requested to by the Police and the evidence meets with our “Principles of Enforcement”
- ❖ A licensed driver driving an unlicensed vehicle
- ❖ A licensed vehicle being driven by an unlicensed driver
- ❖ Repeated failure to comply with a request for vehicle or driver checks.

- ❖ Licence holder no longer meets the requirement to be a fit and proper person.
- 8.7 A driver will be invited to re-apply free of charge for the remaining licensed period when officers are satisfied that there has been compliance and/ or there is no danger to public safety.
- 8.8 Revocation decisions will be confirmed in writing and explain the reasons for revocation. An explanation of the recipient's rights of appeal, and how that appeal might affect the revocation, will also be given.

## 9.0 **SEIZURE, DETENTION AND SUSPENSION**

### 9.1 **Seizure and Detention**

- 9.1.1 We will only use the powers to seize or detain items (goods, equipment, records, etc.) where we believe that a clear blatant breach of statute has or is about to occur AND that there is a power which authorises such seizure and/or detention OR where we need to secure compliance with a Notice.
- 9.1.2 We will consider the "Principles of Enforcement" in Section 2.0 above, refer to Codes of Practice and guidance issued by co-ordinating and other recognised authorities and apply the following detailed criteria in coming to our decision:
- ❖ There is a clear need to protect individuals, relevant animals or the environment from imminent risk;
  - ❖ Failure to act will result in vital evidence being destroyed;
  - ❖ Other remedies (such as voluntary surrender) will not achieve the desired level of compliance;
  - ❖ Previous history or other information in our possession indicates a repeat incident is likely to occur;
  - ❖ We are formally requested to use our powers in support of other enforcement agencies.
- 9.1.3 We will inform all interested parties of the effect of our intention to seize and/or detain, the legal basis for such action, the processes involved in such action and any rights they have to appeal, make representation and/or seek compensation. We will confirm these matters in writing either at the time or as soon as practicable after such action and, in any event, not later than one working day after taking the action. Where time permits, then the "peer appraisal" process outlined in Section 7.5 above should be followed.
- 9.1.4 In most cases, we will put the matter forward for prosecution in accordance with procedures outlined in Section 11.0.

### 9.2 **Suspension**

9.2.1 Powers to suspend permissive authorities will be used in accordance with the relevant statutory requirements and the general principles of enforcement set down in Section 2 of this policy.

9.2.2 Grounds for suspension are various and often specific to the type of Authority concerned; they may, however, include:

- ❖ conviction of an offence of a relevant statute;
- ❖ breach of conditions;
- ❖ imminent risk of serious pollution;
- ❖ serious risk to public safety or wellbeing;
- ❖ lack of adequate procedures, records and trained staff.
- ❖ non-payment of fees

9.2.3 Suspension will normally be authorised by a manager within Environmental Health, Private Sector Housing, Licensing, Cleansing or [the](#) Group Head of Technical Services but can also be authorised by the Enforcement Review Panel or by a Licensing Subcommittee.

9.2.4 We will inform the person who has had their permission suspended in writing including the reason their permission has been suspended and that they have the right to appeal

9.2.5 Suspensions will only be lifted as and when authorised officers are satisfied that reasons for initial suspension have been rectified. Lifting of a suspension will be granted by a manager within Licensing, Environmental Health, Private Sector Housing or the Group Head of Technical Services when satisfied compliance has been achieved. This will be confirmed in writing within 5 working days of such a decision being made.

## 10.0 **CLOSURE/VOLUNTARY CLOSURE OF PREMISES**

10.1 Where an authorised Officer believes that an imminent risk of injury to health exists in respect of a premises, a piece of equipment or a process, then he/she may serve a Hygiene Emergency Prohibition Notice.

10.2 When this occurs, an application will be made by the Officer to the Court for a Hygiene Emergency Prohibition Order to be made.

10.3 Proprietors must be given at least one-day's notice of such an application.

10.4 Before taking prohibition action involving chemical contamination, medical and other expert advice should be sought. Similar action should also be considered in respect of microbiological hazards or in respect of unusual or complex processing situations.



10.5 The situations below are illustrative of where an authorised Officer may consider closure or prohibition action:

10.6 Conditions where Prohibition of Premises may be Appropriate:

- (a) Infestation by rats, mice, cockroaches or other vermin (including birds) or a combination of these infestations resulting in actual food contamination or a significant risk of food contamination;
- (b) Very poor structural condition and poor equipment and/or poor maintenance of routine cleaning and/or serious accumulations of refuse, filth or other extraneous matter resulting in an actual or significant risk of food contamination;
- (c) Serious drainage defects or flooding of the premises leading to actual contamination or a significant risk of food contamination;
- (d) Premises or practices which seriously contravene the Food Laws and have been or are implicated with an outbreak of food poisoning;
- (e) Any combination of (a), (b), (c) and (d) or the cumulative effect of contraventions which together represent an imminent risk of injury to health.

10.7 Conditions when Prohibition of Equipment may be Appropriate

10.7.1 In addition to the above, the following circumstances may be in existence:

- (a) Use of defective equipment, for example, a pasteuriser incapable of achieving the required pasteurising temperature;
- (b) Use of equipment involving high-risk foods which has been inadequately cleaned or disinfected or which is obviously grossly contaminated and can no longer be properly cleaned.

10.8 Conditions when Prohibition of a Process may be Appropriate.

10.8.1 In addition to the above, the following circumstances may be in existence:

- (a) Serious risk of cross-contamination;
- (b) Inadequate temperature control, for example, failure to achieve sufficiently high cooking temperatures;
- (c) Operation outside critical control criteria, for example, incorrect pH of a product which might allow clostridium botulinum to multiply;
- (d) The use of a process for a product to which it is inappropriate.

10.9 In general, authorised Officers will issue Hygiene Emergency Prohibition Notices. Under no circumstances will they try to persuade proprietors to voluntarily close their premises/processes or necessary equipment. However,

should the proprietor offer to close it down, then the following criteria must be fulfilled before agreement is reached:

- (i) There must be no risk of the premises, process or piece of equipment being re-opened without the express agreement of the Council;
- (ii) The proprietor must be willing to sign and date the Voluntary Closure Form setting out the extent of the offer to close;
- (iii) The person signing the form, if not the proprietor, must have the authority of the proprietor/employer to agree to such voluntary action;
- (iv) The informal offer to close the premises/practice voluntarily must have at least the equivalent effect of any appropriate prohibition action.

10.10 It must be remembered that authorised Officers have no legal sanction against a proprietor who re-opens for business, even if they have signed a Voluntary Closure Form.

10.11 It must be pointed out to the proprietor that, by making the offer to close, he is relinquishing his rights to compensation.

10.12 Checks must be carried out to ensure that a premises, process or piece of equipment which has voluntarily closed remains closed until such times as a written statement is issued by the authorised Officer to confirm that the premises can re-open.

10.13 Upon agreeing to voluntary closure, the Officer must make it very clear to the person in charge why the premises, process or piece of equipment have been closed and what works must be carried out. This must be confirmed in writing and served on the proprietor along with a copy of the agreement.

10.14 The above considerations will be applied in respect of closures of food premises. The Council may seek to use powers available under other legislation for closure on grounds of health and safety, licensing, housing or other issues to which this policy applies.

## 11.0 **PROSECUTIONS**

11.1 We will restrict the use of prosecutions to those cases where, having considered the “Principles of Enforcement” in Section 2.0 above, we believe an individual or person(s) having control of the business/enterprise has:

- ❖ obviously disregarded a foreseeable risk; and/or
- ❖ deliberately sought to gain an economic advantage by disregarding/breaking the law; and/or

- ❖ created a serious nuisance; and/or
- ❖ seriously or repeatedly threatened another's health, safety, quality of life or the maintenance of community environments; and/or
- ❖ refused to comply with a Statutory Notice or conditions; and/or
- ❖ failed to achieve the basic minimum legal requirements after receiving written advice or a Statutory Notice; and/or
- ❖ blatantly breached a Council Order/Byelaw.

11.2 Evidence will be gathered in accordance with Sections 3.0 above. If evidence is established suggesting manslaughter, we will liaise with the Police, Coroner and/or CPS as appropriate.

11.3 The evidence will initially be reviewed by the relevant Officer and their line manager (i.e. the investigator and the Officer in charge of the investigation). A request to recommend prosecution will not be referred to the Enforcement Review Panel:

- (i) If the above-mentioned criteria are not met;
- (ii) If there is insufficient relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or Company;
- (iii) Where other enforcement action would be more appropriate;
- (iv) Where the breach is not a legal one but rather one of an industry guideline or Code of Practice;
- (v) Where the offence involves an organisation operated by volunteers except in extreme circumstances;
- (vi) If a decision is made not to consider prosecution, an alternative enforcement action will be decided upon and agreed to by a member of the Enforcement Review Panel in writing using the appropriate pro forma.

In general there is a presumption against prosecution of juveniles, the elderly, the infirm or mentally or severely physically infirm.

#### **11.4 The Enforcement Review Panel**

11.4.1 With the exception of following through unpaid Fixed Penalty Notices [and Civil Penalty Notices](#), in cases where prosecution is considered to be the preferred option, Investigating Officers will prepare a case file for submission to a meeting of the Enforcement Review Panel. Those who are subject of any reports to the Panel will be contacted, usually in writing, advised of the

meeting, its purpose and date and given the opportunity to submit written comments for the Panel's consideration.

11.4.2 The file will contain the following details:

- ❖ an introduction setting out the key events and/or outcomes;
- ❖ the facts and background history to the case;
- ❖ a statement of the legislation involved; the alleged offences and any options concerning the specific sections which may be appropriate to pursue by way of prosecution;
- ❖ any mitigating circumstances, representations from the accused or similar material which ensures that a balanced and impartial decision can be attempted by the Panel;
- ❖ any specific defences available to the accused;
- ❖ officer conclusions and recommendations;
- ❖ Witness Statement (if taken);
- ❖ transcripts of all taped interviews under caution (Police & Criminal Evidence Act 1984);
- ❖ relevant photographs;
- ❖ other supporting and evidential material.

11.4.3 The Enforcement Review Panel will comprise at least one Lawyer plus two managers from within Environmental Health, Private Sector Housing, Licensing, Cleansing or [the](#) Group Head of Technical Services. Each will be given and study the case file submitted in accordance with Section 11.4.2 above.

11.4.4 The Enforcement Review Panel will consider the evidence having regard to the "Principles of Enforcement" mentioned in Section 2.0 above, relevant Codes of Practice and guidance including any guidance issued by the Crown Prosecution Service and the following criteria:

- ❖ That evidence presented is valid and relevant, that continuity is complete and quality is satisfactory;
- ❖ There must be a realistic prospect of conviction;
- ❖ That it is in the public interest to prosecute and/or that demonstrable public benefit will accrue from conviction (e.g. It may establish an important legal precedent);
- ❖ That the offence is sufficiently serious;

- ❖ That the previous history of the accused indicates that other remedies are unlikely to secure compliance;
- ❖ That the accused will be unlikely to establish a defence in law (e.g. “All due diligence”, “best practicable means”, “reasonably practicable”);
- ❖ That the accused appears unwilling to prevent a recurrence of the problem;
- ❖ That important witnesses are both credible and willing to co-operate;
- ❖ Any explanation offered by the accused.

11.4.5 The Enforcement Review Panel will decide a relevant course of action, namely, one of the following:

- (1) to refuse to recommend prosecution and to return the file to the investigating Officer for other, alternative enforcement action or no action;
- (2) to defer or to agree in principle a decision subject to the Lawyer of the Council’s opinion on a legal technicality;
- (3) to defer a decision until further evidence is supplied by the investigating Officer or the Officer in charge of the investigation;
- (4) to authorise prosecution, revocation, review and/or suspension with or without the option for Simple Caution - see Section 12.0 below);
- (5) to authorise prosecution, revocation and/or suspension as above and to request the investigating Officer to take further enforcement action/investigations;
- (6) to authorise prosecution as above with a further recommendation that the matter be considered by a higher Court where previous convictions have failed to secure compliance or where circumstances are so serious or significant that action by a lower court will not bring about a sufficient remedy;
- (7) to authorise prosecution as above, but with a further recommendation that a simple caution be offered in lieu of prosecution;
- (8) a combination of the above; and/or
- (9) to issue a fixed penalty in lieu of prosecution.
- (10) For Housing Act 2004 to issue a civil penalty notice in lieu of prosecution
- [\(11\) To issue a financial penalty where legislation permits.](#)

11.4.6 Where there are multiple offenders and the relevant legislation does not preclude the Council from doing so, the Enforcement Review Panel may decide to implement a different course of action for each offender, if there are reasons for doing so. Those reasons shall be recorded.

11.4.76 In all cases, the decision of the Panel will be recorded and signed by the members in attendance. Wherever possible the relevant person(s) will be written to within seven days of the decision, informing them of the outcome of the Enforcement Panel.

## 12.0 **SIMPLE CAUTIONS/FIXED PENALTIES**

12.1 A Simple Caution is not an alternative to a Fixed Penalty Notice, or vice versa. They are however both alternatives to prosecution for less serious offences, and their use is governed by some shared principles, A Simple Caution will not be recommended or Fixed Penalty Notice issued where there is judged to have been potential for or actual serious harm or a reckless disregard for standards.

12.2 Simple Cautions aim to deal quickly and simply with offences, divert offenders, where appropriate, from appearing in the criminal courts and/or reduce the likelihood of re-offending. Before considering a caution national and local records must be checked and Primary, Authority consulted. If a Simple Caution has been given previously this will count against the issue of a further one. A further caution can still be administered if subsequent offences are trivial or unrelated.

12.3 We will consider recommending a Simple Caution or issuing Fixed Penalty Notice in lieu of a prosecution in the following circumstances:

- ❖ the offence has been clearly committed or there are no aggravating circumstances
- ❖ there is sufficient evidence of the offender's guilt to make conviction a realistic prospect; and
- ❖ there is a clear and reliable admission of the offence; and
- ❖ the offender clearly understands the significance of the offence and is likely to give informed consent to the caution or agree to the issue of a fixed penalty; and
- ❖ that public interest may be best served by this course of action. (In this respect, Simple Cautions or Fixed Penalty Notices may be appropriate to consider where: the offence is trivial (e.g. a dropped crisp), likely penalties will be low; where there is genuine remorse and commitment to correction, and/or no previous history of offending. There is also a general presumption against prosecuting juveniles, the elderly, the infirm or the mentally or severely physically impaired. Cautions will not generally be given to the under 18's except as in line with the options in 5.7 above).

- ❖ In addition, Fixed Penalty Notices will not be issued when the person is under 10, or is obstructive or non-co-operative or is confused, either through impairment, drugs or alcohol in which case other appropriate agencies should be involved. Simple Cautions will not normally be given to a suspect under 18 – see Section 5.7 above in relation to Juveniles.
- 12.4 Where the Enforcement Review Panel authorise that a Simple Caution is issued or a Fixed Penalty is served, it must give the balance of reasons for and against this preference in lieu of prosecution. If subsequently the offender does not accept the Simple Caution or fixed penalty, the matter will be dealt with as a prosecution (see Criminal Investigation Procedures in section 3.0 above).
  - 12.5 Where a Simple Caution is considered, the reason for it and its implications should be explained and the caution outlined to the individual or organisation concerned.
  - 12.6 Under no circumstances should a suspect be pressed or induced in any way to admit offences in order to receive a Simple Caution as an alternative to being prosecuted.
  - 12.7 Where a Simple Caution is accepted, it will be issued using a Standard Written Admission format by a manager within Environmental Health, Private Sector Housing or Environmental Amenities and details will be retained on file. The Simple Caution will normally be issued in person.
  - 12.8 Fixed Penalty Notices will be issued by authorised Officers having considered the principles of enforcement and Section 5.2 above. See also Section 5.7 above in relation to action against juveniles.
  - 12.9 Fixed Penalty Notices will not be repeatedly issued against the same individual or organization. The issue of more than two such Notices within the same six months will require agreement of a relevant manager.
  - 12.10 Fixed penalty levels together with early payment discount and warning fixed penalty notices will be kept under review. Unresolved fixed penalty notices will be considered by the Investigating Officer and relevant Manager to determine action. Receipts from fixed penalties are allowed to be kept by local authorities for supporting enforcement activities and will therefore be used as agreed with the relevant Cabinet Member.
  - 13.0 **CIVIL PENALTIES FOR OFFENCES UNDER HOUSING ACT 2004**
  - 13.1 ~~These provisions give~~ [Section 249A Housing Act 2004 enables](#) the Council as the local housing authority the power to issue a financial penalty for certain Housing Act 2004 offences after 06 April 2017 as an alternative to prosecution.
  - 13.2 The offences include:
    - Failing to comply with an Improvement Notice (Section 30)

- Offences in relation to licensing of Houses in Multiple Occupation (Section 72)
- Offences in relation to licensing of houses under part 3 of the Act – Selective licensing (Section 95)
- Offences in relation to the contravention of an overcrowding notice (Section 139)
- Failure to comply with management regulations in respect of a House in Multiple Occupation (Section 234)
- Breach of a banning order

13.3 A civil penalty can only be imposed as an alternative to prosecution. The legislation does not permit the Council to impose a civil penalty and prosecute for the same offence. If a person has been convicted or is currently being prosecuted the Council cannot impose a civil penalty in respect of the same offence. Similarly, if a civil penalty has been imposed, a person cannot then be convicted of an offence for the same conduct.

13.4 Where there are more than one offenders in respect of the same offence, the Council has the discretion to decide what action should be taken in respect of each offender separately. For example: where it is appropriate to prosecute Offender A, but not Offender B. The Council could prosecute Offender A, and may decide to issue a civil penalty notice to Offender B.

13.5 Where, for example, two Improvement Notices have been served on the same person to deal with different categories of hazard the Council will take account of this when assessing the level of civil penalty that may apply and any decisions made in this regard will be documented.

13.64 Overall, each case will be considered on an individual basis, however, the principles in determining the form of action will be:

- What outcome is the Council trying to achieve – e.g. Set an example, get the works completed or a deterrent to committing future offences (a civil penalty will not be in the public domain unlike prosecution).
- Severity of the offence – is prosecution a better option based on the significance of the offence and the impact it has had.
- Type of property and its occupiers – are the occupiers particularly vulnerable.

13.75 The same burden of proof is required for a civil penalty as for a prosecution. This means that before formal action is taken the Council must be satisfied that if there was a prosecution there would be a realistic prospect of conviction.

13.86 The Council must determine beyond reasonable doubt that the offence has been committed and this evidence would be required if an appeal is made against the civil penalty.

13.97 Where the landlord or property agent fails to pay a civil penalty the Council will refer the case to the county court for an Order of the Court. If necessary



the Council will use the county court bailiffs to enforce the order and recover the debt.

13.108 The Council's powers to ~~conduct carryout~~ works in default under the Housing Act 2004 are unaffected by the civil penalty provisions.

13.119 If a landlord receives a civil penalty that fact can be taken into account if considering whether the landlord is a fit and proper person to be the licence holder for a House in Multiple Occupation (HMO) or any other property subject to licensing.

13.120 Where a landlord receives two or more civil penalties over a 12 month' period, the Council will include that person's details in the database of rogue landlords and property agents. ~~While it is not a compulsory requirement under Government Guidance issued by~~ the Ministry of Housing, Communities and Local Government ~~guidance to strongly encourages~~ Councils ~~are strongly encouraged to do so to participate in this practice.~~ This will help ensure that other councils are made aware that formal action has been taken against the landlord.

13.131 ~~In setting a civil penalty level the Council~~ The Enforcement Review Panel will determine the level of civil penalty to be imposed. When making this determination the Panel -must consider the following factors:

- Severity of the offence – the greater the harm or potential for harm the higher the level of fine should be when imposing a civil penalty.
- Culpability and track record of the offender – It will be appropriate to issue a higher penalty where the offender has a history of failing to comply with their legal duties. If a Landlord is a running a housing or property business, owns multiple properties which are let or tenanted, or the landlord has been warned (formally or informally) on a previous occasion(s) that he needs to take steps to comply with his or her legal duties a higher penalty will be imposed.
- The harm caused to the tenant – For this purpose, harm includes: the potential harm that could have been caused, the harm that was or is perceived by the tenant, as well as any actual harm caused.
- Proportionate punishment of the offender – A civil penalty is not to be regarded as an easier or lesser option compared to prosecution. The penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending.
- Deter the offender from repeating the offence - The ultimate goal is to prevent any further offending commissioned by the landlord, or any other persons liable for the offences listed in 13.2 of this policy. The objective of issuing a civil penalty notice is to help ensure that the landlord and/or any person liable listed at 13.2 fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
- Deter others from committing similar offences
- Remove any financial benefit the offender may have obtained as a result of committing the offence\_

- [Make an Assessment of the offender's](#) assets and income

13.142 In determining the level of harm the council will have regard to:

- The person i.e. Physical injury, damage to health, psychological distress
- To the community i.e. Economic loss, harm to public health
- Other types of harm i.e. Public concern/feeling over the impact of poor housing conditions on the local neighbourhood.

13.153 The nature of harm will depend on the personal characteristics and circumstances of the victim e.g. The tenant.

13.164 Where no actual harm has resulted from the offence the Council will consider the relative danger that persons have been exposed to as a result of the offender's conduct, the likelihood of harm occurring and the gravity of harm that could have resulted [from the offending](#).

13.175 Factors that indicate a higher degree of harm include:

- Multiple victims
- Especially serious [physical](#) or psychological effect on the victim
- ~~A~~ ~~v~~ictim is [considered particularly](#) vulnerable. [Those who are vulnerable may include, but are not limited to: young adults and children, disabled persons, persons on a low income, victims of domestic abuse, looked after children, people with complex health conditions, individuals who are exploited where English is not their first language, victims of trafficking or sexual exploitation, refugees, asylum seekers, individuals at risk of harassment, individuals at risk of homelessness. This is not an exhaustive list and each case will be considered on an individual basis](#)

Examples of harm categories: [\(the examples below are not exhaustive and each case will be considered on an individual basis\)](#).

High	Housing defect giving rise to the offence poses a serious and substantial risk of harm, <a href="#">injury or disease</a> to the occupants and/or visitors. <a href="#">A hospital visit may be required for the injury or disease sustained, but a visit is not essential</a> e.g. Danger of electrocution <a href="#">or actual electrocution</a> , carbon monoxide poisoning <del>and</del> serious fire safety risk
Medium	Housing defect giving rise to the offence poses a serious risk of harm to the occupants and/or visitors e.g. Falls between levels, <a href="#">falling on stairs, inadequate or no water supply</a> , excess cold <a href="#">or heat</a> , asbestos exposure, <a href="#">substantial mould and dampness, a lack of personal hygiene facilities which may result in illness, substantial overcrowding, code 1 items identified on an electrical report.</a>
Low	Housing defect giving rise to the offence poses a risk of harm to the occupants and/or visitors e.g. Localised <a href="#">minor</a> damp and mould, <a href="#">a lack of security resulting in</a> entry by intruders, <a href="#">excess noise</a>

13.186 In determining culpability the Council will have regard to four levels of culpability.

13.17 ~~Where the offender:~~

- ~~Has the intention to cause harm, the highest culpability where an offence is planned.~~
- ~~Is reckless as to whether harm is caused i.e. The offender appreciates at least some harm would be caused but proceeds giving no thought to the consequences, even though the extent of the risk would be obvious to most people.~~
- ~~Has knowledge of the specific risks entailed by their actions even though they do not intend to cause the harm that results.~~
- ~~Is negligent in their actions.~~

13.2018 Examples of culpability

High (Deliberate Act)	An intentional breach by a landlord or property agent or flagrant disregard for the law. For example, by failing to comply with a notice or regulation <u>- where the Council has informed the landlord or property agent that a breach of housing law has occurred, and needs to be rectified, but remedial action is not taken. Or an unregistered gas fitter carries out gas work and the offender knew that the fitter was not registered. This level of culpability will include offences that are planned, or the offender had the intention to harm.</u>
High (Reckless Act)	An actual foresight of, or wilful blindness to the risk of offending, but decides to take the risk nevertheless. For example, failing to comply with a strict liability in the HMO regulations. <u>The offender may appreciate that some harm could be caused, but proceeds anyway.</u>
Medium (Negligent Act)	The failure of the landlord or property agent to take reasonable care to put in place and enforce proper systems for avoiding the offence. For example, partial compliance with a schedule of work to an enforcement notice but failure to fully comply with all schedule items.
Low (Low or no culpability)	The offence committed has some fault on the part of the landlord or property agent but there are other circumstances for example obstruction by the tenant to allow a contractor access for repairs, or damage caused by tenant negligence.

The table below provides an indication of the level of fine that is likely to be appropriate taking into account both culpability and harm.

Low Culpability/High Harm Band 4	Medium Culpability/High Harm Band 5	High Culpability/High Harm Band 6
Low Culpability/Medium Harm Band 3	Medium Culpability/Medium Harm Band 4	High Culpability/Medium Harm Band 5

Low Culpability/Low Harm Band 1	Medium Culpability/Low Harm Band 2	High Culpability/Low Harm Band 3
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13.2148 Banding Levels

Band 1	£0 - £4,999
Band 2	£5,000 - £9,999
Band 3	£10,000 - £14,999
Band 4	£15,000 - £19,999
Band 5	£20,000 - £24,999
Band 6	£25,000 - £30,000

13.2249 £30,000 is the maximum level of fine permitted under the legislation.

13.230 The starting point in each band will be the mid-point i.e. Band 3 the midpoint will be £12,500.

13.244 The penalty may be increased by £1,000 for each aggravating factor up to a maximum of the top of the band level determined above.

13.252 The penalty may be decreased by £1,000 for each mitigating factor up to a maximum of the top of the band level determined below.

13.263 When considering aggravating and mitigating factors the civil penalty imposed must remain proportionate to the offence.

**Examples of Mitigating and Aggravating Factors**

Below are some examples of matters which may be considered mitigating or aggravating factors. The list is not exhaustive and the Council will consider each matter on an individual basis.

<b><u>Aggravating</u></b>	<b><u>Mitigating</u></b>
<u>Multiple Hazards or severe hazards which may have resulted, or did result in ill-health, injury or disease.</u>	<u>A small number of hazards which have minimal impact on tenants</u>
<u>Previous history of non-compliance or offending (whether the non-compliance was dealt with formally or informally)</u>	<u>No previous record of non-compliance or offending.</u>
<u>The landlord was familiar with the relevant housing or licensing laws eg: the landlord or agent controls numerous properties or has demonstrated experience in letting or managing a property).</u>	<u>The landlord owns one property and does not have experience or a professional role in housing, property management or letting.</u>
<u>There is no justification or a lack of</u>	<u>The hazards were not remedied due</u>

<a href="#">justification for the appropriate action not being taken</a>	<a href="#">to unforeseen circumstances outside of the offender's control.</a>
<a href="#">The offender has made a profit or financial gain from failing to carry out remedial action</a>	<a href="#">Failings were minor and an isolated incident</a>
<a href="#">Non-compliance in relation to a number of properties which puts a number of tenants or families at risk. Eg: A failure to licence a number of properties within a block</a>	<a href="#">The offender co-operates with the Council – attends PACE Interview, responds to requests for information and accepts responsibility for offending</a>
<a href="#">An excessive length of non-compliance</a>	<a href="#">Voluntary steps taken to address issues eg: the offender applies for a HMO licence or applies for an HMO exemption</a>
<a href="#">Evidence of threatening behaviour or harassment of the tenant or complainant.</a>	<a href="#">The offender was unable to address the issues in the time frame provided due to ill-health which required urgent, intensive or long-term treatment.</a>
<a href="#">Deliberate concealment of offence or obstructing the investigation being conducted by Council Officers</a>	
<a href="#">No remorse or responsibility accepted, no steps taken to remedy the situation.</a>	

13.274 An offender will be assumed to be able to pay a penalty up to the maximum amount unless they can demonstrate otherwise.

13.258 Where the Council is satisfied that more than one offence is being committed concurrently in respect of a single property they may issue multiple Civil Penalty Notices for example, where there are multiple breaches of the HMO management regulations.

13.296 However, where satisfied on the merits of the case and/or where the council consider that issuing multiple penalties at the same time would result in an excessive cumulative penalty, nothing in this policy shall require the Council to do that. The Council may take action in respect of one or some of the offences and warn the offender that future action in respect of the remaining offences will be taken if they continue.

13.3027 Income received from a civil penalty can be retained by the Council provided that it is used to further the Council's statutory functions in relation to enforcement activities covering the private rented sector as specified by The Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017.

[13.31 Following the Panel's decision to impose a civil financial penalty the Council will serve a notice of intent to impose a financial penalty on the offender.](#)

Following service of that notice, the offender will have the opportunity to make representations to the Panel. Any representations received will be considered by the Panel when determining the level of fine to be imposed.

13.32 The notice of intent will enclose a Financial Means and Asset Assessment Form. This form is to be completed and returned by the offender. The onus is on the offender to provide supporting documents and evidence to prove his, her, their or the company's financial means and the value of any assets owned. If sufficient, reliable evidence is not provided, the Council will be entitled to draw inferences about the financial position of the offender from the evidence received as well as all the circumstances of the case.

#### 14.0 CIVIL PENALTIES FOR OFFENCES UNDER THE ENERGY EFFICIENCY (PRIVATE RENTED PROPERTY) (ENGLAND AND WALES) REGULATIONS 2015

14.1 Section 38 of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 enables the Council as the Enforcement Authority the power to issue a financial penalty if they are satisfied that there is or has been in the 18 months preceding the date of service of the penalty notice a breach of one of more of the following:

- Prohibition on letting sub-standard property (Regulation 23 and 27)
- Providing false or misleading information on the Private Rented Sector (PRS) Exemption Register (Regulation 36(2))
- Failure to comply with a compliance notice Regulation 37 (4)(a)

14.2 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 section 40 specifies the maximum financial penalty for each breach in relation to domestic private rented property.

<u>Renting out a non-compliant property for less than 3 months</u>	<u>£2,000</u>
<u>Renting out a non compliant property for 3 months or more</u>	<u>£4,000</u>
<u>Providing false or misleading information on the PRS Exemption Register</u>	<u>£1,000</u>
<u>Failure to comply with a compliance notice</u>	<u>£2,000</u>

14.3 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 section 41 specifies the maximum financial penalty for each breach in relation to non-domestic private rented property.

<u>Renting out a non-compliant property for less than 3 months</u>	<u>Whichever is the greater of £5,000 and 10% of the rateable value of the Property</u> <u>The financial penalty must not exceed £50,000.</u>
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<u>Renting out a non compliant property for 3 months or more</u>	<u>Whichever is the greater of £10,000 and 20% of the rateable value of the Property</u> <u>The financial penalty must not exceed £150,000</u>
<u>Providing false or misleading information on the PRS Exemption Register</u>	<u>£5,000</u>
<u>Failure to comply with a compliance notice</u>	<u>£2,000</u>

14.4 The penalty amounts apply per property and per breach of the regulations and the total of the financial penalties imposed must be no more than £5,000 for domestic properties. This is not applicable to non-domestic properties.

14.5 The Council is also entitled to impose a publication penalty on the offender in addition to the financial penalty imposed in all cases related to domestic properties.

14.6 The following matrix will be used as a guide to determine the appropriate penalty

	<u>Low Culpability</u>	<u>High Culpability</u>	<u>Notes</u>
<u>Low Harm</u>	<u>25%</u>	<u>50%</u>	<u>% = Proportion of Maximum Penalty</u>
<u>High Harm</u>	<u>50%</u>	<u>100%</u>	

14.7 Factors Affecting Culpability:

**High:** Landlord has a previous history of non-compliance with regulatory requirements and/or landlord has failed to comply with requests to comply with these regulations. Knowingly or recklessly providing incorrect information in relation to exemptions to these regulations.

**Low:** First Offence under these regulations, no previous history of noncompliance with housing related regulatory requirement. Complex issues partially out of control of the landlord have led to non-compliance.

14.8 Factors Affecting Harm

High: Very low EPC score. Vulnerable tenants occupying property for an extended period of time since non-compliance.

Low: No vulnerable tenants, higher EPC score close to minimum accepted EPC rating.

#### 14.9 Aggravating and Mitigating Factors:

Facts may come to light as part of the investigation for the offences which may warrant adjustments to be made to the Financial Penalty. Certain facts may influence the Council's decision about whether the publication penalty should be imposed, or not. Details of these facts will be included in the Penalty Notice. Information may be provided by the Landlord within representations as part of his request to review the Penalty Notice. Officers will have regard to the information or representations provided and adjust the penalty to increase (up to the Maximum of £5000) or to reduce the penalty as they feel appropriate. The landlord will receive a Notice after the review with an explanation of any adjustment made.

14.10 The Council does not have a prescribed list of what constitutes an aggravating or mitigating factor for these purposes, and it is not bound to deem any facts or circumstances as aggravating or mitigating, What constitutes aggravating or mitigating factors is different in every case and each case shall be given due consideration.

14.11 Penalty amounts will be proposed by authorised Officers and checked and confirmed by a line manager within Environmental Health, Private Sector Housing, Licensing of the Group Head of Technical services.

#### 15.0 CIVIL PENALTIES FOR OFFENCES UNDER THE ELECTRICAL SAFETY STANDARDS IN THE PRIVATE RENTED SECTOR (ENGLAND) REGULATIONS 2020

15.1 Where the Council is satisfied, beyond reasonable doubt, that a private landlord has breached a duty under regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, the authority may impose a financial penalty (or more than one penalty in the event of a continuing failure) in respect of the breach. A financial penalty may be of such amount as the authority imposing it determines; but must not exceed £30,000.

15.2 When determining a financial penalty, the factors and principles contained within Section 13.0 of this policy shall be applied. Notwithstanding the Civil Penalty Regime under the Housing Act 2003 is not applicable to this legislation and the Council shall not seek to issue a Civil Penalty Notice when enforcing the Electrical Safety Standards Regulations 2015.

#### 16.0 CIVIL PENALTIES FOR OFFENCES UNDER THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015



16.1 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 enables the Council as the local housing authority the power to issue a financial penalty under Regulation 8 where it is satisfied on the balance of probabilities that a landlord on whom it has served a remedial notice is in breach.

16.2 In determining the amount, the Council will take the following into consideration:-

- Cost likely to be incurred by the Council in fulfilling its administrative and legal duties by arranging for a suitable person to carry out remedial work; and
- A monetary penalty as permitted within the regulations.

<u>Factor</u>	<u>Penalty</u>	<u>Amount £</u>
<u>Works Cost</u>	<u>Case specific</u>	
<u>Officer Time</u>	<u>Standard Rates</u>	
<u>Lack of any smoke detection</u>	<u>£4000</u>	
<u>Partial smoke detection (e.g. on one storey only)</u>	<u>£2000</u>	
<u>Lack of CO detector</u>	<u>£2000</u>	
<u>Failure to Test Alarm on First Day of Tenancy</u>	<u>£500</u>	
<b><u>TOTAL</u></b>		<u>£</u> <u>(max.</u> <u>£5000)</u>

16.3 The financial penalty must not exceed the maximum of £5,000.

16.4 Aggravating and Mitigating Factors:

Facts may come to light as part of the investigation for the offences which may warrant adjustments to be made to the Financial Penalty. Details of these facts will be included in the Penalty Notice. Information may be provided by the Landlord within representation as part of his request to review the Penalty Notice. Officers will have regard to the information or representations provided and adjust the penalty to increase (up to the Maximum o £5,000) or to reduce the penalty as they feel appropriate. The landlord will receive a Notice after the review with an explanation of any adjustment made.

16.5 The Council does not have a prescribed list of what constitutes an aggravating or mitigating factor for these purposes, and it is not bound to deem any facts or circumstances as aggravating or mitigating, What constitutes aggravating or mitigating factors is different in every case and each case shall be given due consideration.

16.6 In accordance with Regulation 13 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 the Council will publish a statement of principles which it proposes to follow in determining the amount of penalty charge.

16.7 Penalty amounts will be proposed by authorised Officers and checked and confirmed by a line manager within Environmental Health, Private Sector Housing, Licensing of the Group Head of Technical services.

## **174.0 INJUNCTION**

174.1 Where we consider that the following criteria apply:

- ❖ there has been a conviction for failure to comply with a Statutory Notice; and
- ❖ there is no prospect of securing compliance; or
- ❖ there would be an unreasonable delay in securing compliance; or
- ❖ there has been no previous conviction but the matter is so serious that normal service of Notice and/or prosecution would pose an unreasonable delay in securing compliance; or
- ❖ the penalty for non-compliance is insufficient to deter continued non-compliance.

174.2 We will seek a High Court Injunction subject to Legal Services being satisfied of the evidence and the relevant Cabinet Member and/or Chairman and Vice-Chairman of the Licensing Committee give consent to such action. In the latter case, they may feel it necessary to convene a special meeting of the Committee.

## **185.0 TIME LIMITS FOR PROSECUTION**

185.1 Officers must ensure that investigations are carried out without long delays, to ensure that any person charged with an offence is given a fair trial, in accordance with the Human Rights Act 1998. To try to ensure that this happens, each Officer will meet with their line manager regularly (usually monthly) to discuss ongoing cases, to ensure that the next step of the investigation is taken without undue delay.

## **196.0 WORK IN DEFAULT**

196.1 Where powers exist to undertake work in default, these will be considered and such work can be undertaken when:

- ❖ there is a reasonable likelihood of recovering the Council's costs; or
- ❖ work is needed to reduce significant fly-tipping or similar accumulation which is seriously detrimental to the neighbourhood; or
- ❖ work is required by Statutory Notice and there is a significant benefit in completing the work required in terms of protecting life or the environment; or

- ❖ work is of such small value that the cost of recovery would exceed the value of the work

196.2 In all cases work in default must be authorised by a manager within Environmental Health, Private Sector Housing, Licensing, Cleansing or Group Head of Technical Services.

196.3 However, where Statutory Notices are not complied with, it is the Council's policy generally to prosecute, repeatedly if necessary, to secure compliance.

## 20.0 PUBLICATION OF CIVIL PENALTY NOTICES OR FINES

20.1 If any the circumstances listed at 20.2 apply, the Council may take steps to put the following information in the public domain: the type of enforcement that has been used, and if there is a financial penalty attached to the enforcement, the amount of penalty or fine that has been imposed. Publication may take place in any format, and in any source the Council considers appropriate.

### 20.2 (a) Simple Caution or Fixed Penalty Notice

After a fixed penalty notice has been issued and served, or a simple caution has been administered and both the offender has signed the simple caution as well as the officer administering the simple caution.

### (b) A Civil Penalty Notice under the Housing Act 2004

Following service of a civil penalty notice

### (c) Civil Penalty – Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

Following service of a penalty notice and the expiry of the period within which the offender can request a review and no such review has been requested. If the offender did submit a request for a review in the prescribed time frame, after the Council has conducted the review and has upheld the penalty notice. This also includes circumstances where the penalty notice has been waived or reduced.

### (d) Civil Penalty – Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Following service of a penalty notice

### (e) Civil Penalty – Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Following service of a penalty notice and the expiry of the period within which the offender can request a review and no such review has been requested. If the offender did submit a request for a review in the prescribed time frame, after the Council has conducted the review and either confirmed or varied the penalty notice.

20.3 If the recipient of a civil penalty notice or fine issued pursuant to any part of this policy issues an appeal in the Tribunal, then following receipt of the Tribunal's decision, the decision itself or any information in relation to the appeal may be published. This will not be the case where reporting is restricted by a ruling of the Tribunal or a court.

20.4 The Council may publish the outcome of a prosecution instigated by the Council.

20.5 The Council is not bound to publish the fact that a civil penalty, fine or any other enforcement action has been taken, but it retains the right to do so in any format and using any source it considers appropriate.

20.6 The Council has included in this policy the provision for putting information in the public domain with the expected outcome of deterring serial offending and offences of a serious nature . It is also in the public interest to alert others who might be affected by these offenders and to raise awareness of the Council's enforcement and regulatory activities.

#### 21.017.0      **APPEALS/LOST CASES**

21.1      In the event that any court case is lost in full or in part (i.e. dismissed with or without costs) the following action needs to be taken:

- (i) A review of the case will be undertaken by a manager within Environmental Health, Private Sector Housing, Licensing, Cleansing or the Group Head of Technical Services, a representative of legal and the case officer(s) to identify difficulties and learning points. As part of any review the possibility of appeal will be considered.
- (ii) In considering the value of an appeal the following needs to be evaluated:
  - a) the legal principles offended and the likely effects that offences have for Arun, and its residents and businesses and those of other Local Authorities;
  - b) the extent of evidence available and the weight it was given by the Court;
  - c) the potential benefits of securing a conviction on appeal;
  - d) the likely costs of any appeal.
- (iii) In determining whether to appeal Counsel's advice may be sought.
- (iv) Officers, in consultation with the Chairman/Vice Chairman of the Licensing Committee will make the decision about whether to appeal.

#### 22.18.0      **EMERGENCIES**

[2218.1](#) Local or National Emergencies such as flooding or a pandemic may require the Local Authority to adopt a more pragmatic approach to enforcement reflecting the wider public interest. In such circumstances there may be other overriding public safety issues which need to be considered prior to determining whether or not the public interest is served in commencing enforcement actions. Notwithstanding the principles of this Policy will still be followed and any reasons for departure clearly recorded. Such actions may include but are not limited to:

- Extending compliance periods due to an acknowledgement of the practical difficulties in complying within usual timeframes
- Providing additional advice, guidance or warnings prior to initiating enforcement actions
- Using a lesser form of enforcement action or notice than would usually be undertaken, for example seeking improvement rather than prohibition
- Delaying or postponing a decision regarding the most appropriate enforcement action to be taken
- Prioritising other enforcement or actions based on public risk

[2218.2](#) In making such decisions officers will adopt a risk-based approach which takes into account the prevailing priorities of any emergency and the impacts of any action proposed. This may include a necessity to take a higher level of enforcement action.

## [2319.0](#) **POLICY REVIEW**

[2319.1](#) The Policy will be reviewed periodically by managers within Environmental Health, Private Sector Housing, Licensing and Cleansing. Views on the Policy and its implementation will be sought to ensure it continues to meet the principles of good enforcement.

[2219.2](#) The review in April 2014 has taken account of the replacement of the Regulators' Compliance Code by the Regulators' Code, and changes to the Regulation of Investigatory Powers Act 2000 codes of practice.

[2219.3](#) The review in September 2016 took account of the Review of delegations and to the Licensing Committee Terms of Reference.

[2219.4](#) The ~~policy was last reviewed~~ in November 2018 ~~took~~ take account of additional enforcement options which included civil penalty notices for Housing Act 2004 offences, Community Protection Warnings and Notices and changes to the structure of the Council.

[22.5](#) [In April 2020 the "Emergencies" Section was added.](#)

[22.6](#) [Review in December 2021.](#)

## [240.0](#) **RELATED DOCUMENTS**

[2420.1](#) Documents related to this policy include:

- i. The Code for Crown Prosecutors, Jan 2013 (available from: [www.cps.gov.uk](http://www.cps.gov.uk))
- ii. Criminal Procedure and Investigations Act 1996 (CPIA) and associated Code.
- iii. Police & Criminal Evidence Act 1984 (PACE), and associated Codes.
- iv. DEFRA guidance on use of Fixed Penalty Notices
- v. Regulation of Investigatory Powers Act 2000 and associated Codes
- vi. The Regulators' Code
- vii. Procedure and guidance notes within each team.
- viii. Housing and Planning Act 2016 Section 126 and schedule 9.

~~Adopted by Full Council 17 July 2019~~

#### Amendment Log

Date	Name	Amendment
01.04.20	Nat Slade, Group Head of Technical Services	<del>Added Emergencies Section (18.0); Contents Page and Amendment Log</del>

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# **The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020**

## **STATEMENT OF PRINCIPLES and REASONS FOR PENALTY**

### **Introduction**

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 introduced legal requirements on private sector landlords from the 1<sup>st</sup> June 2020 in respect of premises occupied under tenancies starting on or after that date. These regulations also apply to all existing tenancies from 1<sup>st</sup> April 2021. The requirements are to:

- ensure that the electrical safety standards are met during any period when the residential premises are occupied under a specified tenancy;
- ensure every electrical installation in the residential premises is inspected and tested at regular intervals by a qualified person; and
- ensure the first inspection and testing is carried out—
  - before the tenancy commences in relation to a new specified tenancy; or
  - by 1st April 2021 in relation to an existing specified tenancy.

“At regular intervals” means at intervals of no more than 5 years; or where the most recent report requires such inspection and testing to be at intervals of less than 5 years, at the intervals specified in that report.

Following the inspection and testing required a private landlord must—

- obtain a report from the person conducting that inspection and test, which gives the results of the inspection and test and the date of the next inspection and test;
- supply a copy of that report to each existing tenant of the residential premises within 28 days of the inspection and test;
- supply a copy of that report to the local housing authority within 7 days of receiving a request in writing for it from that authority;
- retain a copy of that report until the next inspection and test is due and supply a copy to the person carrying out the next inspection and test; and
- supply a copy of the most recent report to—
  - any new tenant of the specified tenancy to which the report relates before that tenant occupies those premises; and
  - any prospective tenant within 28 days of receiving a request in writing for it from that prospective tenant.

Where a report indicates that a private landlord is or is potentially in breach of the duty and the report requires the private landlord to undertake further investigative or remedial work, the private landlord must ensure that further investigative or remedial

work is carried out by a qualified person within 28 days; or the period specified in the report if less than 28 days, starting with the date of the inspection and testing.

Where the above applies, a private landlord must—

- obtain written confirmation from a qualified person that the further investigative or remedial work has been carried out and that—
- the electrical safety standards are met; or
- further investigative or remedial work is required;
- supply that written confirmation, together with a copy of the report which required the further investigative or remedial work to each existing tenant of the residential premises within 28 days of completion of the further investigative or remedial work; and
- supply that written confirmation, together with a copy of the report which required the further investigative or remedial work to the local housing authority within 28 days of completion of the further investigative or remedial work.

Where further investigative work is carried out and the outcome of that further investigative work is that further investigative or remedial work is required, the private landlord must repeat the steps in respect of that further investigative or remedial work.

Electrical Safety is one of the 29 hazards prescribed by the Housing Health and Safety Rating System and can result in serious injury including electrical burns and death. Electrical faults can also cause or contribute to fires occurring.

Unsafe electrical installations within residential premises is a significant factor in producing worse outcomes.

The Office for National Statistics (ONS) estimates that between 2001 and 2016 more than 140 people died as a result of electrical currents. *Electrical Safety First* (formerly The Electrical Safety Council) estimates that every year in the UK about 70 people die and 1.2 million are injured in electrical accidents at home. They also state that approximately 19,300 accidental domestic fires are of electrical origin in the UK, 11 fatalities can be attributed to electrical distribution fires, 321 injuries attributed to electrical distribution fires, 15 fatalities attributed to other electrical appliance fires and 397 injuries attributed to other electrical appliance fires. The Electrical Safety Council estimates that every year in the UK about 70 people die and 1.2 million are injured in electrical accidents at home.

Electric shocks can cause death by inducing ventricular arrhythmia or asystole. Tetany of respiratory muscles can also induce hypoxic cardiac arrest. Much of the morbidity resulting from electrical injury relates to burns and neurological dysfunction.

## **Enforcement**

### Remedial Notices

Where a local housing authority has reasonable grounds to believe that, in relation to residential premises situated within its area, a private landlord is in breach of one or more of the duties under the Regulations and the most recent electrical safety report does not indicate that urgent remedial action is required, the authority must serve a remedial notice on the private landlord within 21 days.

Where a remedial notice is served on a private landlord, the private landlord must take the remedial action specified in the notice within 28 days beginning with the day on which the notice was served. The landlord has the right to make written representations to the Council in respect of the remedial notice within 21 days beginning with the day on which the notice was served. Upon receipt of representations the Council will consider the same. The private landlord will be informed of the Council's decision to either confirm or withdraw the remedial notice via written means within the prescribed timeframe.

A private landlord is not to be taken to be in breach of the duty if the private landlord can show they have taken all reasonable steps to comply with that duty. Where a private landlord is prevented from entering the residential premises to which the duty relates by the tenant or tenants of those premises, the private landlord will not be considered to have failed to have taken all reasonable steps to comply with the duty solely by reason of a failure to bring legal proceedings with a view to securing entry to the premises.

### **Remedial Action and Urgent Remedial Action**

There are two types of remedial actions that the Council can conduct:

1.0 The Council is permitted to carry out remedial works if:

The Council has served a remedial notice, the private landlord has not complied with the remedial notice, and the Council is satisfied on the balance of probabilities that the private landlord is in breach of his duty to comply with the remedial notice

2.0 The Council is permitted to carry out urgent remedial works if:

If an electrical report indicates that urgent remedial action is required, the landlord has failed to conduct those works within the period specified in the electrical safety report, and the Council is satisfied on the balance of probabilities that the private landlord is in breach of their duty to undertake the required remedial or investigative work

In either case, the Council may conduct remedial or urgent remedial works as long as the Council has obtained consent from the tenant or tenants of the property in relation to which the remedial action is to be taken.

### **Remedial action**

Before the remedial action is taken the local housing authority must serve a notice on the private landlord specifying the premises in relation to which the remedial action is to be taken by the authorised person and the nature of that remedial action; the power

under which the remedial action is to be taken by the authorised person; the date when the remedial action will be taken by the authorised person; and the right of appeal against the decision of the authority to arrange for an authorised person to take the remedial action.

The local housing authority must arrange for an authorised person to take the remedial action within 28 days of the end of the notice period where there is no appeal; or an appeal decision that confirms or varies the decision of the local housing authority where there is an appeal.

An authorised person must give not less than 48 hours' notice of the remedial action to the tenant or tenants of the residential premises on which it is to be taken; and if required to do so by or on behalf of the private landlord or tenant or tenants, produce evidence of identity and authority.

The private landlord may appeal to the First -Tier Tribunal against the Council's decision to take remedial action. An appeal must be made within the period of 28 days beginning with the day on which the remedial notice is served. If an appeal is submitted to the First Tier Tribunal the remedial notice will be suspended until the appeal is finally determined or withdrawn.

#### Urgent Remedial Action

Prior to the commencement of urgent remedial action the Council must serve a notice of urgent remedial works on the private landlord and every person who to the authority's knowledge is an occupier of the premises in relation to which the authorised person is taking urgent remedial action; or fix the notice to some conspicuous part of the premises within the period of seven days beginning with the day on which the authorised person commences the urgent remedial work.

The notice must specify and explain the nature of the urgent remedial action required; the premises in relation to which that urgent remedial action was (or is being or is to be) taken by the authority; the power under which that urgent remedial action was (or is being or is to be) taken by the authority; the date when that urgent remedial action was (or is to be) started; the right to appeal against the decision of the authority to take the urgent remedial action; the period within which an appeal may be made; and the effect of regulations in respect of financial penalties (including the maximum final penalty that can be imposed), the procedure for imposing a financial penalty and the procedure for appealing against financial penalties.

An authorised person must give not less than 48 hours' notice of the urgent remedial action to the tenant or tenants of the residential premises on which it is to be taken; and if required to do so by the private landlord or a tenant, produce evidence of identity and authority. The Council may exercise its power to arrange urgent remedial action at any time, as long as 48 hours' notice is provided to the tenant or tenants of the residential premises on which it is to be taken.

Any appeal must be made within the period of 28 days beginning with the date specified in the notice as the date when the urgent remedial action was (or was to be) started. An appeal against the Council's decision to take urgent remedial action will not suspend the notice served on the urgent remedial action notice.

## **Financial penalties for breach of duties**

Where a local housing authority is satisfied, beyond reasonable doubt, that a private landlord has breached a duty under regulation 3, the authority may impose a financial penalty (or more than one penalty in the event of a continuing failure) in respect of the breach. A financial penalty may be of such amount as the authority imposing it determines; but must not exceed £30,000.

## **Procedure for and appeals against financial penalties**

Schedule 2 to the Regulations (procedure for and appeals against financial penalties) has effect and is by way of Appeal to the First-Tier Tribunal.

First-Tier Tribunal (Property Chamber)  
Southern Residential Property First-Tier Tribunal  
Havant Justice Centre  
The Court House  
Elmleigh Road  
Havant  
Hampshire  
PO9 2AL  
Tel: 01243 779 394  
Fax: 0870 7395 900  
Email: [rpsouthern@hmcts.gsi.gov.uk](mailto:rpsouthern@hmcts.gsi.gov.uk)

## **Notice of intent**

Before imposing a financial penalty on a private landlord a local housing authority must serve a notice on the private landlord of its intention to serve a financial penalty. (a “notice of intent”), The private landlord may, within the period of 28 days beginning with the day after that on which the notice of intent was served, make written representations to the local housing authority about the proposal to impose a financial penalty on the private landlord.

Written representations can be made to the case officer

Email: [publichealth.housing@arun.gov.uk](mailto:publichealth.housing@arun.gov.uk)

Post: Private Sector Housing & Public Health, Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex BN17 5LF

The Council will enclose a Financial Means and Assets Information Form with the notice of intent. This form must be completed and returned by the Landlord.

## **Final notice**

Within 28 days of the end of the period following service of the notice of intent (during which the landlord is permitted to make written representations to the Council), the local housing authority must decide whether to impose a financial penalty on the private landlord; and if it decides to do so, decide the amount of the penalty. If the

authority decides to impose a financial penalty on the private landlord, it must serve a notice on the private landlord (a “final notice”) imposing that penalty. The final notice must require the penalty to be paid within the period of 28 days beginning with the day after that on which the notice was served.

### **Penalty Charge Principles**

Any penalty charge should be set at a level which is proportionate to the risk posed by non-compliance with the requirements of the legislation and which will deter non-compliance. It should also cover the costs incurred by the Council in administering and implementing the legislation.

In determining the amount of penalty, the following factors will be considered:

- Severity of the offence – the greater the harm or potential for harm the higher the level of fine should be when imposing a civil penalty.
- Culpability and track record of the offender – It will be appropriate to issue a higher penalty where the offender has a history of failing to comply with their legal duties. If a Landlord is running a housing or property business, owns multiple properties which are let or tenanted, or the landlord has been warned (formally or informally) on a previous occasion(s) that he needs to take steps to comply with his or her legal duties a higher penalty will be imposed.
- The harm caused to the tenant – For this purpose, harm includes: the potential harm that could have been caused, the harm that was or is perceived by the tenant, as well as any actual harm caused; the person i.e. physical injury, damage to health, the nature of harm on the personal characteristics and circumstances of the victim e.g. the tenant; where no actual harm has resulted from the offence the Council will consider the relative danger that persons have been exposed to as a result of the offender’s conduct, the likelihood of harm occurring and the gravity of harm that could have resulted from the offending.
- Number of victims/potential victims.
- Especially serious physical effect on the victim, e.g. electrocution as a result of inaction.
- If a victim is considered vulnerable.
- The number of requirements of the Regulations that have been breached.
- Proportionate punishment of the offender –The penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending.
- Deter the offender from repeating the offence - The ultimate goal is to prevent any further offending commissioned by the landlord, or any other persons liable and to help ensure that the landlord and/or any person liable complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
- Deter others from committing similar offences – Whilst the personal details of an offender will not be released into the public domain, the Council may

release the fact that a civil penalty notice has been issued into the public domain, as well as the amount of the civil financial penalty. The information released will not identify the offender or any associated persons companies, tenants, or the property concerned. The purpose of releasing this information is to deter other landlords from offending. This information may be released into the public domain if the Council does not receive an appeal from the First Tier Tribunal within 7 days of the end of the period in which the offender may issue an appeal against the Civil Penalty.

- Remove any financial benefit the offender may have obtained as a result of committing the offence.
- Make an assessment of the offender's assets and income.

Examples of harm categories: (the examples below are not exhaustive and each case will be considered on an individual basis).

High	e.g. Danger of electrocution or actual electrocution, Code 1 items identified on an electrical report, without appropriate action being taken.
Medium	Code 2 items identified on an electrical report, without appropriate remedial action being taken.
Low	F1 items identified on an electrical report, without appropriate remedial action being taken.

In determining culpability, the Council will have regard to four levels of culpability.

Examples of culpability

High (Deliberate Act)	An intentional breach by a landlord or flagrant disregard for the law. For example, by failing to comply with a notice or regulation - where the Council has informed the landlord that a breach has occurred, and needs to be rectified, but remedial action is not taken. This level of culpability will include offences that are planned, or the offender had the intention to harm.
High (Reckless Act)	An actual foresight of, or wilful blindness to the risk of offending, but decides to take the risk, nevertheless. The offender may appreciate that some harm could be caused but proceeds anyway.
Medium (Negligent Act)	The failure of the landlord or property agent to take reasonable care to put in place and enforce proper systems for avoiding the offence.
Low (Low or no culpability)	The offence committed has some fault on the part of the landlord but there are other circumstances for example obstruction by the tenant to allow a contractor access for repairs, or damage caused by tenant negligence.

The table below provides an indication of the level of fine that is likely to be appropriate taking into account both culpability and harm.

Low Culpability/High Harm Band 4	Medium Culpability/High Harm Band 5	High Culpability/High Harm Band 6
Low Culpability/Medium Harm Band 3	Medium Culpability/Medium Harm Band 4	High Culpability/Medium Harm Band 5
Low Culpability/Low Harm Band 1	Medium Culpability/Low Harm Band 2	High Culpability/Low Harm Band 3

### Banding Levels

Band 1	£0 - £4,999
Band 2	£5,000 - £9,999
Band 3	£10,000 - £14,999
Band 4	£15,000 - £19,999
Band 5	£20,000 - £24,999
Band 6	£25,000 - £30,000

£30,000 is the maximum level of fine permitted under the legislation. The starting point in each band will be the mid-point i.e. Band 3 the midpoint will be £12,500.

The penalty may be increased by £1,000 for each aggravating factor up to a maximum of the top of the band level determined above.

The penalty may be decreased by £1,000 for each mitigating factor up to a maximum of the top of the band level determined below.

When considering aggravating and mitigating factors the civil penalty imposed must remain proportionate to the offence.

### **Examples of Mitigating and Aggravating Factors**

Below are some examples of matters which may be considered mitigating or aggravating factors. The list is not exhaustive, and the Council will consider each matter on an individual basis.

<b>Aggravating</b>	<b>Mitigating</b>
Multiple Hazards or severe hazards which may have resulted or did result in injury.	A small number of hazards which have minimal impact on tenants
Previous history of non-compliance or offending (whether the non-compliance was dealt with formally or informally)	No previous record of non-compliance or offending.



The landlord was familiar with the relevant regulations eg: the landlord controls numerous properties or has demonstrated experience in letting or managing a property.	The landlord owns one property and does not have experience or a professional role in housing, property management or letting.
There is no justification or a lack of justification for the appropriate action not being taken	The hazards were not remedied due to unforeseen circumstances outside of the offender's control.
The offender has made a profit or financial gain from failing to carry out remedial action	Failings were minor and an isolated incident
An excessive length of non-compliance	
No remorse or responsibility accepted; no steps taken to remedy the situation.	

This is not an exhaustive list and each case will be considered on an individual basis.

An offender will be assumed to be able to pay a penalty up to the maximum amount unless they can demonstrate otherwise.

The Council has decided that a penalty charge of up to **£30,000** may be appropriate for non-compliance with a Remedial Notice and up to **£30,000** for non-compliance with an Urgent Remedial Action Notice. These are the maximum amounts allowed under the legislation and each case will be assessed on its own merits. The Council may exercise discretion and reduce the penalty charge if there are extenuating circumstances following a representation made by the landlord. This discretion will not apply when:

1. The person / company served on has obstructed the Authority in the carrying out of its duties; and / or
2. The person / company has previously received a penalty charge under this legislation.

Despite the above, the Council will still consider proportionality when determining the level of fine to be imposed.

### **Recovery of Penalty Charge**

The Local Housing Authority may recover the penalty charge as laid out in the regulations. Due to costs incurred by the Council, any penalty charge notice shall be pursued for payment.

## Review of Statement

Although not specified within the Regulations that a Statement of Principles is required, it shall be reviewed and amended to reflect any change in legislation, corporate policy or official guidance and as a measure of good practice in regard to Financial Penalty Notices.

This document was adopted on **[Insert date]**

This document was last reviewed on: [Date]

**THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND)  
REGULATIONS 2015**

**STATEMENT OF PRINCIPLES  
Regulation 13**

**Introduction**

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduced legal requirements on private sector landlords from the 1<sup>st</sup> October 2015 in respect of premises occupied under tenancies starting on or after that date. The requirements are to:

1. Equip a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation;
2. Equip a carbon monoxide alarm in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and
3. Carry out checks by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

For the purposes of the legislation, living accommodation is a room that is used for the primary purposes of living or is a room in which a person spends a significant amount of time, and a bathroom or lavatory is classed within this definition.

In addition, this Statement of Principles includes the 2021/2022 planned amendments to the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 which will:

- Require social landlords to ensure at least one smoke alarm is installed on each storey of the premises on which there is a room used wholly or partly as living accommodation.
- Amend the statutory guidance (Approved Document J) supporting Part J of the Building Regulations to require that carbon monoxide alarms are fitted alongside the installation of fixed combustion appliances of any fuel type (excluding gas cookers).
- Amend the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 to require private and social landlords to install a carbon monoxide alarm in any room used as living accommodation where a fixed combustion appliance is used (excluding gas cookers).

Fire and Carbon Monoxide are two of the 29 hazards prescribed by the Housing Health and Safety Rating System and often result in death and serious injury.

In the case of fire, the absence of working smoke alarms in residential premises is a significant factor in producing worse outcomes. This is particularly so at night, as

without the early warning they provide, a small fire can develop unnoticed rapidly to the stage where smoke and fumes block escape routes or render a sleeping occupant unconscious. Working smoke alarms alert occupiers to a fire at an early stage before it prevents physical escape to safety.

The Department of Communities and Local Government estimate that over 200 deaths and 5600 injuries could be prevented over ten years accruing a saving of almost £607.7 million by the provision of smoke alarms.

Carbon Monoxide is a colourless, odourless and extremely toxic gas. At high concentrations it can cause unconsciousness and death. At lower concentrations it causes a range of symptoms from headaches, dizziness, weakness, nausea, confusion, and disorientation, to fatigue, all symptoms which are sometimes confused with influenza and sometimes with depression. For all these reasons Carbon Monoxide is often dubbed “the silent killer”. Open fires and solid fuel appliances can be a significant source of Carbon Monoxide. Carbon Monoxide alarms alert occupiers to the presence of the gas at an early stage before its effects become serious.

The Department of Communities and Local Government estimate that six to nine deaths and between 300 and 460 injuries could be prevented over ten years accruing a saving of almost £6.8 million by the provision of Carbon Monoxide alarms.

The provision of smoke detectors and carbon monoxide alarms does not place an excessive burden on a landlord. The cost of the alarms is low, and in many cases, they can be self-installed without the need for a professional contractor. The impact on occupiers, damage to property and financial costs resulting from a fire or Carbon Monoxide poisoning event are far out of proportion to the cost of installing alarms.

## **Enforcement**

In those situations where the Local Authority has reasonable grounds for believing that:

1. There are no or insufficient number of smoke and / or carbon monoxide alarms in the property as required by the regulations; or
2. The smoke and / or carbon monoxide alarms were not working at the start of the tenancy or licence,

then the Local Authority shall, within 21 days of deciding that it has reasonable grounds to do so, serve on the landlord a Remedial Notice detailing the actions that must be

taken to comply with the regulations, and the Notice shall be in line with the requirements of the regulations.

If the Remedial Notice is not complied with 28 days after the Notice is deemed served, a Penalty Charge will be levied by means of a Penalty Charge Notice on the landlord.

Where a local housing authority decides to impose a penalty charge, the authority must serve notice of that fact on the landlord (“a penalty charge notice”) within six weeks beginning with the day on which the authority is first satisfied the balance of probabilities, that a landlord on whom it has served a remedial notice is in breach of the duty.

Where a local housing authority is satisfied, on the balance of probabilities, that a landlord on whom it has served a remedial notice is in breach of their duty under regulation 6(1), the authority must, if the necessary consent is given from the occupier of the premises, arrange for an authorised person to take the remedial action specified in the remedial notice. The local housing authority must ensure the authorised person takes the remedial action within 28 days beginning with the day on which the authority is first satisfied that the breach has occurred.

An authorised person instructed by the Council must (a) give not less than 48 hours’ notice of the remedial action to the occupier of the premises on which it is to be taken; and (b) if required to do so by or on behalf of the landlord or occupier, produce evidence of identity and authority.

A local housing authority is not to be taken to be in breach of a duty under this regulation where the authority can show it has taken all reasonable steps, other than legal proceedings, to comply with the duty.

### **Standard of Alarm Provision**

The type of smoke alarms to be required are alarms powered by a 10-year duration battery and where more than one alarm is required, ideally, they are to be interlinked so that all will sound on activation of any single alarm.

Carbon Monoxide alarms are to be stand-alone alarms powered by a 10-year duration battery.

### **Penalty Charge Principles**

The Council will exercise its regulatory powers and issue a penalty charge with one or more of the following aims:

1. Reduce the risk imposed on a tenant’s health and safety
2. Reimburse the cost of remedial action and any associated administrative costs

3. Deter further offending and increase awareness of legislative requirements
4. Penalise the Landlord for failing to comply with a notice
5. Eliminate financial gain or benefit for non-compliance
6. It is in the public interest to take action

For these reasons, an effective incentive to comply with these Regulations is fully justified. It is understood that the imposition of the maximum potential fixed penalty charge, being £5,000 under the regulations, can present an excessive financial burden but this is balanced against the risk, the low cost of compliance, and the time period that the legislation has now been in operation. A recipient of a fixed penalty charge has a right of appeal.

### **Stage 1**

In determining the amount, the Council will use the following table:-

<b>Factor</b>	<b>Penalty</b>	<b>Amount £</b>
Cost incurred by the Council in fulfilling its administrative and legal duties by arranging for a suitable person to carry out remedial work	Case specific	
Officer Time	Standard Rates	
Lack of any smoke detection	£4000	
Partial smoke detection (e.g. on one storey only)	£2000	
Lack of CO detector	£2000	
Failure to Test Alarm on First Day of Tenancy	£500	
<b>TOTAL</b>		<b>£ (max. £5000)</b>

The financial penalty must not exceed the maximum of £5,000.

### **Step 2**

Aggravating and Mitigating Factors: Facts may come to light as part of the investigation for the offences which may warrant adjustments to be made to the Financial Penalty. Details of these factors will be included in the Penalty Notice. In addition, information may be provided in representations from a landlord as part of his request to review the Penalty Notice. Officers will have regard to these factors and adjust the penalty to increase (up to the Maximum of £5000) or to reduce the penalty as they feel appropriate. The landlord will be served a Notice after the review with an explanation of any adjustment made.

The Council does not have a prescribed list of what constitutes an aggravating or mitigating factor for these purposes, and it is not bound to deem any facts or circumstances as aggravating or mitigating and what constitutes aggravating or mitigating factors is different in every case and each case shall be given due consideration.

### **Stage 3**

Any penalty charge should be set at a level which is proportionate to the risk posed by non-compliance with the requirements of the legislation and which will deter non-

compliance. It should also cover the costs incurred by the Council in administering enforcement action and conducting remedial works.

Penalty amounts will be proposed by authorised Officers and checked and confirmed by a line manager within Environmental Health, Private Sector Housing, Licensing or the Group Head of Technical services.

The Council may exercise discretion and reduce the penalty charge if there are extenuating circumstances following a representation made by the landlord. This discretion will not apply when:

1. The person / company served on has obstructed the Authority in the carrying out of its duties; and / or
2. The person / company has previously received a penalty charge under this legislation.

Despite the above, the Council will still consider proportionality when determining the level of fine to be imposed.

### **Exceptions – Reasonable Steps**

#### **The Landlord**

A landlord is not to be taken to be in breach of the duty if the landlord can show he has taken all reasonable steps, other than legal proceedings, to comply with the duty (Reg. 6(2)). An example of this could include, but is not limited to: the Landlord provides evidence of an inventory that was completed, signed and dated on the day that the tenancy commenced. The inventory confirms that the landlord successfully tested the smoke alarms and carbon monoxide alarms, and the tenant confirmed the test was conducted and the alarms were in working order.

#### **The Housing Authority**

A local housing authority is not to be taken to be in breach of a duty under this regulation where the authority can show it has taken all reasonable steps, other than legal proceedings, to comply with the duty (Reg. 7(5)).

### **Representations in relation to a Penalty Charge Notice**

The landlord has a right to seek a review of the penalty charge notice by writing to the Authority (details on the Notice) within 28 days of the Notice being deemed served.

On consideration of any representation and evidence, the penalty charge notice can be confirmed, varied or withdrawn. This decision is confirmed by issuing a decision notice on the landlord. If varied or confirmed, the notice shall state a further appeal can be made to the First-Tier Property Tribunal and details given.

Any representations received from the landlord will be given due consideration and if there are deemed to be any extenuating circumstances then the Council will also consider these when conducting a review of the penalty charge notice. The Council shall not be bound to deem any particular circumstances as extenuating, what is to be considered extenuating is entirely at the discretion of the Council.

**Appeals in relation to a Penalty Charge Notice**

If the Council uphold or vary the Penalty Charge Notice following a review, there is a right of appeal to the First Tier Tribunal. Payment of the penalty charge notice is suspended pending the appeal.

**Recovery of Penalty Charge**

The Local Housing Authority may recover the penalty charge as laid out in the regulations. Due to costs incurred by the Council, any penalty charge notice shall be pursued for payment.

**Review of Statement**

This Statement of Principles shall be reviewed and amended to reflect any change in legislation, corporate policy or official guidance. Any amendment shall be in line with meeting the requirements of the legislation and in the public interest. Minor amendments or changes as a result of legislative changes will not require the amendments to be presented to Committee or Council.

Regulation 13 states that this Statement of Principles must be published (along with any subsequent changes).

Adopted:



## EQUALITY IMPACT ASSESSMENT

<b>Name of activity:</b>	<b>Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing</b>	<b>Date Completed:</b>	22 <sup>nd</sup> November 2021
<b>Directorate / Division responsible for activity:</b>	<b>Place/Technical Services</b>	<b>Lead Officer:</b>	Nat Slade/Louise Crane
<b>Existing Activity</b>	<b>Y</b>	<b>New / Proposed Activity</b>	<b>N</b>
		<b>Changing / Updated Activity</b>	<b>Y</b>

### What are the aims / main purposes of the activity?

To update and amend the existing enforcement policy for Environmental Health, Private Sector Housing, Licensing and Cleansing.

### What are the main actions and processes involved?

To include Civil penalties for offences under:

- a) The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
- b) The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
- c) The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

To provide greater clarity and guidance when considering civil financial penalties as an alternative to prosecution.

### Who is intended to benefit & who are the main stakeholders?

All residents, businesses and visitors to the Arun District could potentially benefit from this activity.

The policy outlines the principles of enforcement, the enforcement options available and the process and procedures in place to ensure effective enforcement is undertaken in a fair, consistent and transparent way. Through our enforcement activity, we seek to ensure that minimum standards prescribed by law are achieved by individuals and businesses who have legal responsibilities to protect and enhance public health and the environment

### Have you already consulted on / researched the activity?

**Consultation has been undertaken internally with a range of services who carryout enforcement responsibilities as well as obtaining feedback and comment from**

**Legal Services.**

<b>Impact on people with a protected characteristic</b> (What is the potential impact of the activity? Are the impacts high, medium or low?)		
<b>Protected characteristics / groups</b>	<b>Is there an impact (Yes / No)</b>	<b>If Yes, what is it and identify whether it is positive or negative</b>
<b>Age</b> (older / younger people, children)	No	
<b>Disability</b> (people with physical / sensory impairment or mental disability)	No	
<b>Gender reassignment</b> (the process of transitioning from one gender to another.)	No	
<b>Marriage &amp; civil partnership</b> (Marriage is defined as a 'union between a man and a woman'. Civil partnerships are legally recognized for same-sex couples)	No	
<b>Pregnancy &amp; maternity</b> (Pregnancy is the condition of being pregnant & maternity refers to the period after the birth)	No	
<b>Race</b> (ethnicity, colour, nationality or national origins & including gypsies, travellers, refugees & asylum seekers)	No	
<b>Religion &amp; belief</b> (religious faith or other group with a recognised belief)	No	

system)		
<b>Sex</b> (male / female)	No	
<b>Sexual orientation</b> (lesbian, gay, bisexual, heterosexual)	No	
Whilst <b>Socio economic</b> disadvantage that people may face is not a protected characteristic; the potential impact on this group should be also considered	<b>No</b>	

<b>What evidence has been used to assess the likely impacts?</b>
Experience of delivering this activity and researching good practise from other local authorities.

<b>Decision following initial assessment</b>			
Continue with existing or introduce new / planned activity	Y	Amend activity based on identified actions	N

<b>Action Plan</b>			
Impact identified	Action required	Lead Officer	Deadline

<b>Monitoring &amp; Review</b>
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<b>Date of last review or Impact Assessment:</b>	
<b>Date of next 12 month review:</b>	
<b>Date of next 3 year Impact Assessment (from the date of this EIA):</b>	

<b>Date EIA completed:</b>	22/11/21
<b>Signed by Person Completing:</b>	Louise Crane

## ARUN DISTRICT COUNCIL

### REPORT TO AND DECISION OF ENVIRONMENT COMMITTEE ON 20 JANUARY 2022

**SUBJECT: AWARD OF CONTAIN OUTBREAK MANAGEMENT FUNDING**

**REPORT AUTHOR:** Nat Slade, Group Head of Technical Services  
**DATE:** 08 December 2021  
**EXTN:** 01903 737683  
**AREA:** Place Directorate

#### **EXECUTIVE SUMMARY:**

This report seeks Member approval to apply Contain Outbreak Management Funding received of £144,364.

The report outlines a number of conditions associated with the award. Failure to comply with these could result in clawback. In addition, Member approval complies with the Council Constitution which states that application of grant awards greater than £5,000 requires approval by the relevant service Committee.

#### **RECOMMENDATIONS:**

That the application of the £144,364 external funding as outlined in the body of the report be approved.

#### **1. BACKGROUND:**

Government has provided Contain Outbreak Management Fund (COMF) money to upper tier local authorities to assist with Covid-19 interventions. In June 2021 West Sussex County Council (WSCC) invited District and Borough Councils to submit expressions of interest (EOI) to the Director of Public Health to access COMF.

On 23 July 2021 Arun submitted a joint bid it prepared on behalf of the Environmental Health services of all the District and Borough Councils across West Sussex which equated to 361K per local authority.

On 21 October 2021 WSCC notified Arun that because so many EOIs had been received and because of the changing nature of the Government's rules around use of the money, WSCC had decided the best approach was to provide an allocation to each District and Borough Council. This approach was selected in order to provide each Council with the maximum flexibility. The total COMF funding provided to all West Sussex District and Borough Councils is 700K, and Arun's allocation, based on the Covid-19 Relative Needs Formula is £144,364.

The funding has been made available to support risk management work that Environmental Health undertake such as providing advice, enforcement activities and workplace-based outbreak control work across a range of sectors.

Environmental Health play an important role as regulators in engaging with businesses and can influence covid practices. These are likely to be a combination of reactive following complaints made to Environmental Health by customers and staff, and targeted proactive interventions with high-risk workplaces.

Throughout the pandemic, Environmental Health has been involved in advising workplace settings of the preparatory steps to take to reduce the risk of workplace-based outbreaks and to minimise business disruption, help and advice businesses when outbreaks do occur. The number of workplace-setting based outbreaks has waxed and waned with the prevalence of cases in the population. Case numbers are currently high, and likely to remain so over the coming months. It is therefore expected that demand on District and Boroughs to engage with businesses to manage outbreaks and liaise with other partners including West Sussex County Council Public Health and UK Health Security Agency is likely to remain significant.

The winter months increase transmission, there are risks associated with the spread of variants of concerns, and with the potential for further restrictions being imposed, the resource burden on Environmental Health is significant. It has been supplemented throughout the pandemic through various external funding streams with temporary staff.

It is therefore proposed that the funding is used across the Environmental Health Service to provide sufficient staffing capacity to be able to continue to deliver reactive and proactive interventions without impacting on capacity to deliver other important Environmental Health functions. This will principally be by way of engaging temporary staff through employment agencies, as well as overtime payments to permanent staff.

**2. PROPOSAL(S):**

That the application of the £144,364 external funding as outlined in the body of the report be approved.

**3. OPTIONS:**

- Alternatively we can return the funding allocation from West Sussex County Council.

**4. CONSULTATION:**

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify)		✓

**5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)**

	YES	NO
Financial	✓	

Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

**6. IMPLICATIONS:**

Financial

The award of £144,364 is welcome and protects the Council's base budget. Any expenditure above the award will have to be met by the Council. It is expected any unused sum will be returned to the awarding body. It is expected any unused balance will be placed in balances if not required to be returned to the awarding body.

Legal

The Council must comply with the grant conditions which include providing information on how it has been spent and what activities it has delivered.

**7. REASON FOR THE DECISION:**

To allow the Council to effectively use the award of £144,364 in respect of supporting capacity to deliver the eligible ongoing Covid-19 outbreak management interventions by Environmental Health.

**8. BACKGROUND PAPERS:**

Contain Outbreak Management Funding Guidance & Grant Conditions [Contain Outbreak Management Fund: 2021 to 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101212/Contain_Outbreak_Management_Fund_2021_to_2022_-_GOV.UK.pdf)

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## ARUN DISTRICT COUNCIL

### REPORT TO ENVIRONMENT COMMITTEE ON 20<sup>th</sup> JANUARY 2022

**SUBJECT: 1-2-3 Food Waste & Absorbent Hygiene Products (AHP) collection trial progress update**

**REPORT AUTHOR: Oliver Handson, Environmental Services & Strategy Manager**  
**DATE: November 2021**  
**EXTN: 01903 737955**  
**AREA: Services Directorate, Neighbourhoods Group**

**EXECUTIVE SUMMARY: This report provides a progress update on the 1-2-3 Food Waste & Absorbent Hygiene Products (AHP) collections trial which was approved by Cabinet on 16<sup>th</sup> November 2020 and commenced in May 2021**

#### **RECOMMENDATIONS:**

It is recommended that the Committee acknowledge:

- (1) The positive results to date of the 1-2-3 Food Waste and AHP collections trial.
- (2) The efforts of residents in the trial area who have sustained high participation and capture rates of food waste and AHP and delivered considerable reduction of these materials in the residual waste stream.
- (3) The effectiveness of the Arun and WSCC joint project team in ensuring smooth delivery of the trial.

#### **1.0 BACKGROUND**

1.1 On the 16<sup>th</sup> November 2020 Arun's Cabinet approved a proposal for a 1-2-3 Food Waste & AHP collections trial to be delivered in partnership with West Sussex County Council. Decision notice C/029/091219.

1.2 The decision to operate a trial was underpinned by the Council's declaration of a Climate Emergency and commitment to ensure that the impact and mitigation of climate change is considered and incorporated into all policy and key decision making. It was also agreed that the whole of our Council needs to take a lead in ensuring that each service is

part of the solution.

1.3 The Waste (England & Wales) Regulations 2011 requires all local authorities to meet recycling targets of 50% by 2020, 55% by 2025 and 65% by 2035.

1.4 Arun's current recycling performance is 42.34%. This consists of 25.58% of dry recycling (comingled recycling and street Sweepings) and 16.76% of kerbside garden waste.

1.5 Arun's current weekly collection of residual waste from sacks does not particularly encourage behaviours aligned with the Council's draft 'Vision' to tackle waste reduction and drive improved recycling and waste education amongst residents. Left unchanged, there are very low prospects for significant improvement on the current recycling rate.

1.5.1 The table below shows the kg of residual waste per household per week amongst West Sussex District & Borough Councils from a waste composition analysis exercise carried out in November. NB this is initial data subject to final verification.

Arising of residual waste (kg/household/week)							
	Waste Collection Authority						
	Adur	Arun	Chichester	Crawley	Horsham	Mid Sussex	Worthing
<b>Total kg</b>	6.28	10.88	5.92	7.88	5.81	5.53	5.99
<b>Residual Collection Frequency</b>	Fortnightly	Weekly	Fortnightly	Weekly	Fortnightly	Fortnightly	Fortnightly

1.6 Mindful of the high carbon impact of managing waste and with the costs of waste collection and waste treatment/disposal increasing, the West Sussex Waste Partnership (WSWP) have been exploring opportunities to move waste up the waste hierarchy, reducing, reusing, and recycling as much waste as possible, improving recycling quality and diverting material from disposal.

1.7 From a 2018 modelling exercise completed on behalf of the WSWP by Eunomia, a 1-2-3 collection system is considered the optimal collection model in terms of maximising recycling rates. This exercise suggested that Arun's recycling rate would increase to around 50-55% if the system was applied to the whole of the district together with an overall cost saving compared to current collection and disposal costs

1.8 Waste and Resources Action Programme (WRAP) research shows that through the introduction of food waste collections residents become more aware of wastage and subsequently choose to waste less food, this will have the most positive financial benefit to those residents. It will deliver environmental benefits and overall reduction in carbon footprint. This supports the principles of the waste hierarchy which is '**reduce, reuse, recycle**'.

1.9 A residual waste composition analysis carried out ahead of trial showed that food waste is by far the biggest single element in the residual waste, accounting for an average of **42.6%** of the contents by weight at 12,123 tonnes. Of this food waste 8,244 tonnes or 29% of the total residual tonnage was identified to be edible food and 3,865 tonnes or 13.6% inedible food such as peelings/bones etc. It was identified that 6,110 tonnes of the food waste disposed of, could have been composted, representing 21.47% of the total residual waste tonnage

## **2.0 INTRODUCTION**

2.1 The trial was set up to operate within two specific areas. Area 1 – 1,142 properties including flats within the ‘Birds’ estate in Courtwick and Toddington Ward and Area 2 - a further 235 households consisting of HMO (Houses of Multiple Occupancy)/Flatted properties in Bayford Road, River Ward. This was done to ensure all property types were represented in the trial.

2.2 Trial collection in Area 1 commenced on 19<sup>th</sup> May 2021 and Area 2 commenced on 21<sup>st</sup> Sept 2021 **(see appendix 1 for maps showing properties within each trial area).**

2.3 Results of a pre-trial waste composition analysis showed that waste within Area 1 was almost identical to results of previous waste composition analysis undertaken for the district. Specifically, food waste made up approx. 43% of the residual waste stream for both analyses, confirming that Area 1 was an ideal representative area for the trial.

The Food Waste & AHP trial consists of a ‘1-2-3’ collection system comprising

- a) Weekly food waste & opt-in AHP
- b) Fortnightly (comingled) dry recycling and small electrical items (WEEE)
- c) Opt-in subscription garden waste
- d) Three-weekly residual.

2.4 Extensive planning was undertaken by the Project Team to ensure a smooth roll out of operations. Communications were targeted at properties within the trial areas prior to commencement of the trial and further bespoke information was provided through the Council’s website

2.5 All residents received an introduction letter, information booklets and service calendar alongside a 5-litre food waste caddy and one roll of biodegradable liners. Residents who opted in for AHP Collections also received AHP bags. FAQ’s, detailed information in different languages, dedicated web page, social media and contact centre support was also provided.

**(see appendix 2 for examples of communications materials)**

2.6 Collection logistics

Households further received:

- A green 23-litre food waste bin designed for outdoor use
- A new 240 Litre wheelie bin for residual waste (if required)
- A new 360 Litre wheelie bin for residual waste (large families/additional needs)
- Extra Recycling wheelie bin where requested

Flats with Bin stores received:

- A 140-litre wheelie bin in the bin store for communal food waste
- A 140-litre wheelie bin in the bin store for communal AHP
- New bin store signage

HMO’s were provided a bespoke solution:

- A new 240 or 360 Litre wheelie bin for residual waste where needed
- Extra Recycling wheelie bin where needed

**(see appendix 3 for visual representation of the trial)**

2.7 Food waste collected by Biffa Arun as part of this trial is taken to Grundon's in Ford where it is bulked and transported to Biogen in Basingstoke for Anaerobic Digestion.

2.8 AHP is collected by Medisort and taken to their Energy Recovery facility in Littlehampton.

### **3.0 DATA & RESULTS SO FAR**

3.1 The trial has provided a range of both qualitative and quantitative data so far, the headlines of which are as set out below. **(See appendix 4 of this report for a full summary).**

#### **3.2 Participation**

- Participation with food waste collections within Area 1 is very high. It started at 86% and now stands at 94% This is way in excess of the pre-trial objective of 50% participation\*
- Participation with food waste collections within Area 2 was 57% at the start and has increased on average every week to 86% participation. This is way in excess of the pre-trial objective of 20%\*
- Zero contamination of food waste i.e., no rejected loads which demonstrates residents are using the service correctly.

\*based on WRAP guidance of 50% expected participation for households and 20% for flatted/HMO properties

#### **3.3 Data tonnages for collections**

##### **Area 1 from 16<sup>th</sup> May to 3<sup>rd</sup> November 2021**

- 148 tonnes of residual waste collected.
- 133 tonnes of recycling collected.
- 86.4 tonnes of food waste collected.
- 12.7 tonnes of AHP collected.
- Reviewing collection data over 6 months of collections, it can be noted that residual waste has reduced significantly from 592.28 kg/hh/pa recorded at the start of the trial to 226.47kg/hh. That's a potential 365.81 kg/hh/pa diversion from the residual waste stream.
- Food waste collected from all households in area 1 is on average 3.03 kg. Halloween and half term week saw the kg of food waste per household rise to 4.43kg. This is believed to be due to pumpkins and children being at home.
- Dry Mixed recycling also rose to 11.47 kg/hh from an average of 8.8 kg/hh.
- During the trial, 152 households signed up for AHP collections.

##### **Area 2 From 21<sup>st</sup> September to 3rd November 2021**

- 7.6 tonnes of residual waste collected.

- 2.6 tonnes of recycling collected.
- 2.1 tonnes of food waste collected.
- 1.3 tonnes of AHP collected.

### 3.4 **Waste composition analysis results**

- Resource Futures have undertaken two set of sample analysis (Baseline vs second sample) to provide robust and representative monitoring and evaluation of the 1-2-3 trial in Arun. A further sample analysis will be taken towards the end of the trial for complete evaluation.
- The samples include three different groups:
- A representative sample of 90 kerbside households will be designed to represent the profile of the trial area. This sample area will be referred to as 'Area 1' Kerbside.
- A sample of 69 communal properties that are part of the trial area. This sample area will be referred to as 'Area 1' Communal.
- Additionally, 209 dwellings in Bayford Rd 'Area 2', Littlehampton, comprising of 74 kerbside and 135 HMO properties/flats.
- **Area 1**
- Appendix 4 slide 3 highlights the significant reduction in AHP, total recyclable material, WEEE, food, and garden waste from the residual stream, as well as an overall reduction in remaining residual waste. There still remains a small level of food waste that could be placed in caddies.
- Slide 4 – This graph shows the move from food waste within the residual bin (baseline) into the food waste caddy and a reduction in kg/hh/wk. of food waste being collected baseline (October 2020) – 6 Months (November 2021). It also highlights a decrease in recyclable items within the residual waste.
- Total collected residual waste reduced from 10.80 kg/hh/wk. to 5.98 kg/hh/wk. reducing the residual collection by almost half. It is shown that all households within trial area 1 had an average diversion of 4.82 kg/hh/wk. from residual into the comingled and food waste recycling stream. For trial area 1 this could equate to just under 5 tonnes a week or 250 tonnes a year into recycling instead of residual waste.
- Slide 5 Table 1 – This table highlights the reduction of both the food waste and recyclables in the residual stream. It does highlight that there is still a small amount of recyclable and food waste within the residual stream, Table 4 – The total amount of food waste collected via both residual and food waste collection has dropped slightly from 4.95 kg/hh/wk. to 4.91kg/hh/wk. with 3.64 kg/hh/wk. being collected as food waste and a 74% capture rate. This is an exceptionally high capture rate with the highest being recorded at 80% based on Resource Futures case studies.
- **Area 2**
- Slide 6 shows the total kg collected per household for kerbside and per HMO property and highlights the reduction in various materials predominantly both food

waste and recyclable items in the residual waste for both house types. There appears to be a rise of the Non – recyclable material in residual waste stream in area 2, reviewing further analysis this increase is due to ‘All other material’ at 1.86 kg and ‘other organic matter’ at 0.81 kg. In the baseline data ‘All other material’ was recorded at 0.84 and no other organic matter. All other material is Combustible and non-combustible including DIY waste, wood and cork, carpet and underlay, pet waste and cat litter dead animals, crockery, plaster boards. Other organic matter is dog poo, rabbit/guinea pig etc. bedding, organic cat litter.

#### Baseline vs second sample – Recycling

- The same properties were sampled in the baseline for Area 1 in October 2021 and six months into the trial, November 2021. Three out of five of the sample’s gradings improved in November 2021 compared to October 2020.
- The improved kerbside samples upgraded from a D to a C grading, and a C to a B grading. A communal sample improved from a D to a C grading. The remaining kerbside and communal samples showed a minimal increase in contamination but remained within the same grading (kerbside B and communal C).
- The same properties were sampled in the baseline for Area 2 in June 2021 and six weeks into the trial, November 2021. Both sample’s gradings remained the same, all grade D.
- Area 2, HMO recycling increased from 19.460% contamination to 20.872%. Kerbside increased from 25.346% contamination to 30.136%. This predominately consisted of food contaminants at 12%, wet paper and card at 5% and household waste at 5%
- November (end of half term and Halloween) is noted for high contamination and is a trend that is noted across the County.

### **3.5 Door steppers survey results summary (see appendix 5 for full breakdown)**

- 500 residents surveyed.
- 95% of residents saying that they were using the food waste bins.
- 85% stating they were “very satisfied” or” satisfied” with food waste collection service.
- 74% of residents saying the 240ltr general waste bin provided was large enough and 73% responded that they were “very satisfied” or” satisfied” when asked about the general waste collection, with only 5% being “very unsatisfied”.
- 96% of residents reported receiving a leaflet, booklet, and calendar prior to the commencement of the trial, all of whom found them helpful.
- 16% of residents had needed to visit the ADC website, of whom 70% found it “helpful” or “very helpful”, and of the 10% who needed to call the ADC contact centre with regards to the trial, 60% reporting this service to be “helpful” or “very helpful”.

### **3.6 Progress Against Objectives**

- 3.6.1 A number of pre-trial objectives were set based on and off the back of leading industry and best practice guidance.
- 3.6.2 As may be expected based on the data outlined thus far, performance of trial largely significantly exceeds the pre-trial objectives.
- 3.6.3 **Full details of the current performance against the set objectives are outlined in appendix 6.**

### **3.7 Additional challenges, successes and learning points**

- Challenges include;
  - There have some participation and compliance issues in the communal bin store at one block of flats. The Project Team have spent time trying to resolve issues, and although there has been some improvement the design of the bin store is the main barrier to progress.
  - The staff resource requirement in respect of project management, including operations team, communications team and project team has been substantial, therefore this would be a significant consideration of any wider roll out.
  
- Successes include.
  - Low complaint levels and resident satisfaction with food waste collections.
  - The majority of residents are using containers in right ways, challenging misconceptions around too many containers/receptacles.
  - Timings were proven to be deliverable in respect of communications, timing of roll out and bin provision.
  - Size of containers are proven to be suitable for 1-2-3 Collections, only isolated excess waste incidents have been recorded.
  - Starter pack of liners was sufficient in order to promote behaviour change, no significant reduction in food waste collected as liners run out.
  
- Learning points
  - The need to work closely with and engage collection crews as the frontline face of the trial in respect of training, tool kits and briefings.
  - Residual bin roll out and whether opt in/opt out is the most effective.
  - The need for time consuming and detailed site audits in respect of area 2 due the variation in collection points.
  - Monitoring bin stores and working with doorsteppers/crews/managing agents is key in resolving barriers.
  - Elements of food waste and recycling remain in the residual bin, reminder communications to residents about using services available correctly.

#### **4.0 Conclusions**

- The data, results and observations thus far show an overwhelmingly positive picture which dispels many pre-trial misconceptions and concerns that were voiced on social media and elsewhere.
- Based on a review of the target performance data the project team are very confident that if a 1-2-3 collections scheme was rolled out district-wide we would meet the 2025 target recycling rate of 55% and 60% by 2030. Once a year's-worth of collections data is available it will then appropriate to provide an accurate estimation of likely district wide recycling performance percentage.
- The Environment Act 2021 received Royal Assent in November 2021 and contains a new duty for Waste Collection Authorities to collect food waste separately. More detailed guidance around implementation timeframes and the level of new burdens support is expected from Defra in "early 2022". The Arun trial provides excellent insight and learning to deliver this requirement.
- It would also be reasonable to suggest that, so far as many residents are concerned, Arun is pushing against an open door with proposals to provide separate food waste collections.
- The results so far support the assumption that a three weekly residual collection frequency drives the most significant diversion of recyclable materials (dry mixed recycling, food and AHP) from the residual stream. The scheme drives behavioural change, encouraging residents to take more responsibility for segregation of their waste.

#### **5. PROPOSAL(S)**

For members of the Environment Committee to agree the recommendations

#### **6. OPTIONS:**

To agree the recommendations as set out in the report

Not to agree the recommendations as set out in the report

#### **7. CONSULTATION:**

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify)		

#### **8. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)**

	YES	NO
Financial		✓
Legal		✓
Human Rights/Equality Impact Assessment		✓



Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability	✓	
Asset Management/Property/Land		
Technology		✓
Other (please explain)		✓
<b>9. IMPLICATIONS:</b>		
Sustainability – Trial delivers on principles which would positively contribute to ADC target for 2030 carbon reduction and supports key principles of the waste hierarchy.		

**10. REASON FOR THE DECISION:**

To acknowledge the data contained within the report and the work of the respective Project Team comprising of officers from both Arun District Council and West Sussex County Council.

**11. BACKGROUND PAPERS:**

[Cabinet report decision paper C/029/091219.](#)

**12. APPENDICES**

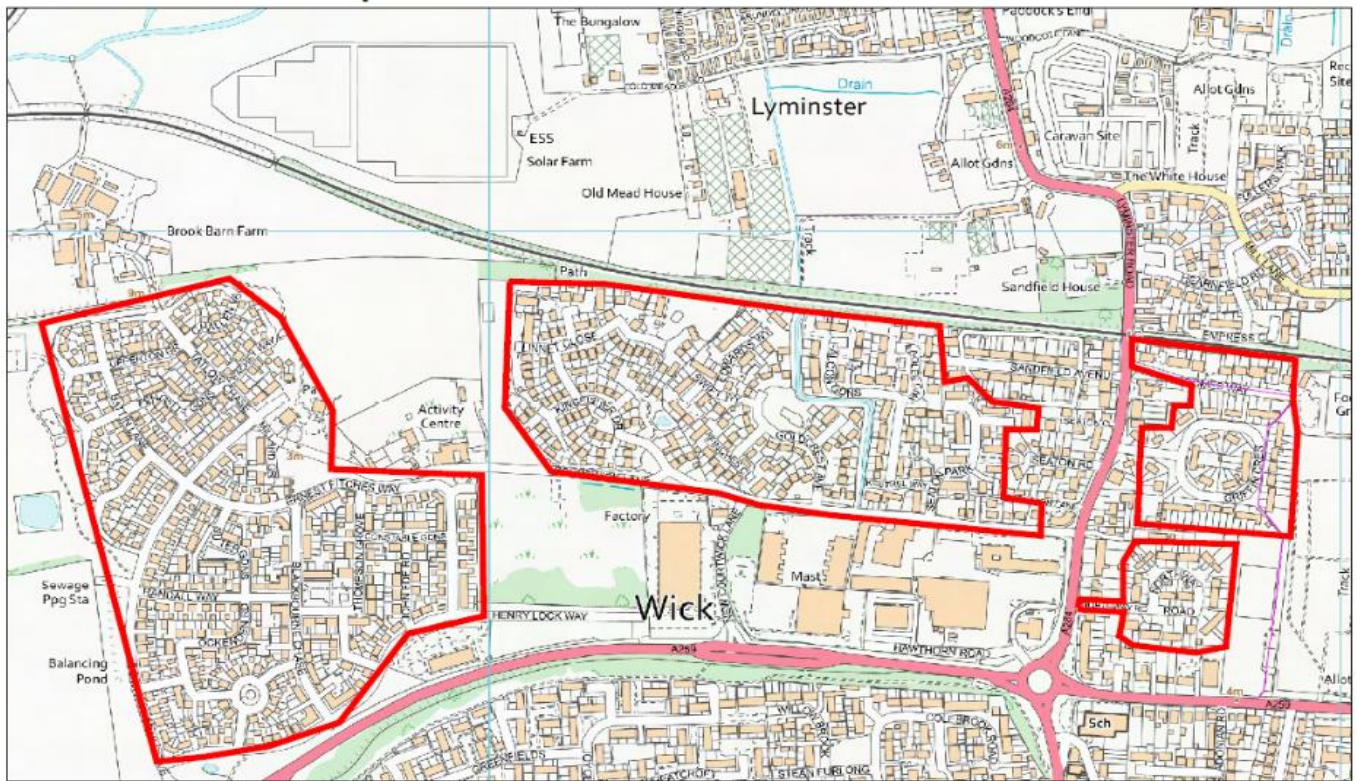
1. Trial area maps
2. Communications
3. Collections, bin provision and the trial in progress
4. Trial data; collection tonnages & waste composition analysis
5. Residents survey results
6. Objectives – progress against pre-trial objectives

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# Appendix 1 – Map of Trial Areas

## Area 1

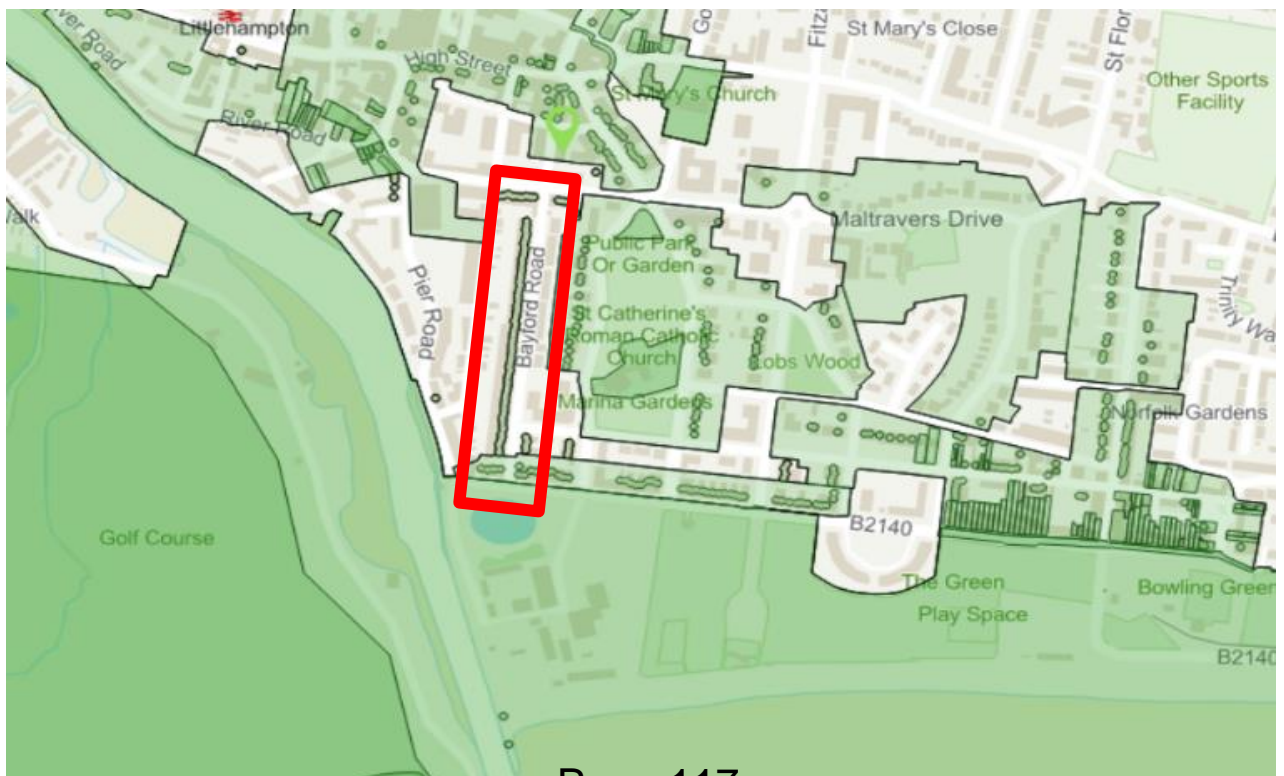
### Arun District Council Maps



Mapping produced by Arun District Council  
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Production Date: 16 March 2021



## Area 2



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## **Appendix 2 – Communications**

- Press Releases and Coverage
- Social Media posts – ADC
- 123 Collection Trial – Private Facebook Group
- Arun Times article
- Thank You flyer

### **Press Releases and Coverage**

- [Chichester Observer – West Sussex’s first food waste collection trial due to start.](#)
- [West Sussex County Times – West Sussex’s first food waste collection trial due to start.](#)
- [Mid Sussex Times – West Sussex’s first food waste collection trial due to start.](#)
- [Crawley Observer – West Sussex’s first food waste collection trial due to start.](#)
- [Midhurst & Petworth Observer –West Sussex’s first food waste collection trial due to start.](#)
- [West Sussex Gazette –West Sussex’s first food waste collection trial due to start.](#)
- [Shoreham Herald –West Sussex’s first food waste collection trial due to start.](#)
- [Worthing Herald –West Sussex’s first food waste collection trial due to start.](#)
- [Greatest Hits Radio – First food waste recycling trial announced for West Sussex](#)
- [Worthing Herald – Littlehampton households to start trial waste and recycling scheme next week.](#)
- [West Sussex Gazette– Littlehampton households to start trial waste and recycling scheme next week.](#)

### **Social Media posts - ADC**

<https://www.facebook.com/ADCCleansing/posts/2933676530190415>

<https://www.facebook.com/ADCCleansing/posts/2969550399936361>

<https://www.facebook.com/arundistrictcouncil/posts/4044990842215021>

<https://www.facebook.com/arundistrictcouncil/posts/4187697787944325>

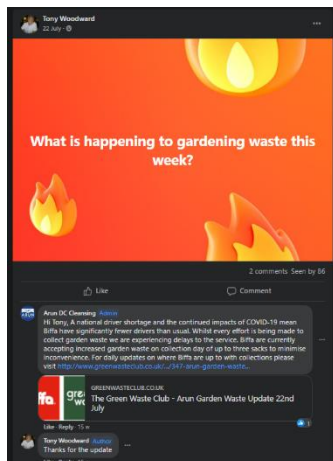
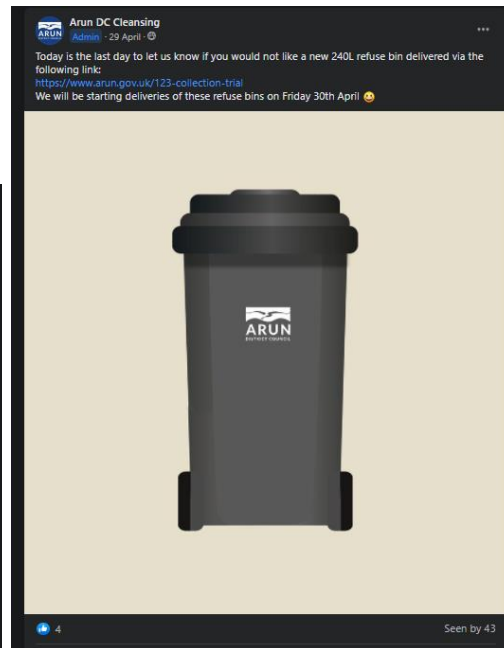
### **123 Collection Trial – Private Facebook Group**

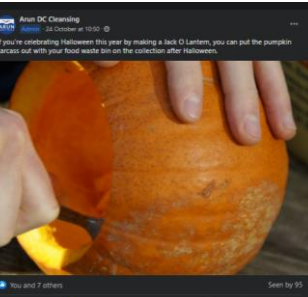
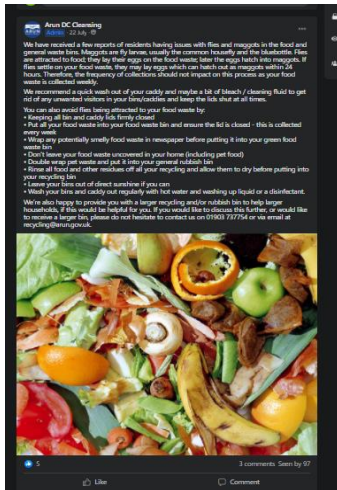
Members (as of 05/11/21): 124 (approved), 2 (declined – outside of trial area)

Posts - ADC: 12

Posts – Residents: x 36

Questions from residents around missed collections, which bin to use for certain items, how they get a larger bin.





**Arun Times article**

Included in November edition of Arun Times (1/2 page 5), delivered to ~77k households across area

## Residents in seagull-proof bag trial report less mess

Our cleansing team launched a trial of seagull-proof litter bags in one Bognor Regis street this summer after residents told us they were fed up with the mess!

Supported by Chairman, Cllr Jim Brooks, residents in Park Road reported that for a number of years seagulls had been ripping open bin bags before they could be collected, creating an eyesore and causing an environmental hazard. The street is mainly made up of flats, meaning that there is limited storage for bins.

Residents were offered a seagull-proof bag for their rubbish, along with new boxes for recycling as part of a trial to see if things improved.

After monitoring the results over the past few months, we can report that the trial was a success! The street is now much cleaner and recycling has increased.

Cllr Brooks said: "The residents were delighted to be the guinea pigs for this trial as the issue with

seagulls ripping open bin bags and making a real mess had been going on for years.

"The results were fantastic, so we're hoping that we can look at trialling the bags in more areas. We would ask residents to get in touch rather than buying their own seagull-proof bags in case that causes issues with collection."

If seagulls are making your street a bit rubbish, please contact us about the possibility of running a trial by emailing [Cleansing@arun.gov.uk](mailto:Cleansing@arun.gov.uk) or calling 01903 737754.



## What can I put in my recycling bin?

	Yes please	No thanks
<b>Paper &amp; card</b>	<ul style="list-style-type: none"> <li>Junk mail</li> <li>Cereal and egg boxes</li> <li>Newspapers and magazines</li> </ul>	<ul style="list-style-type: none"> <li>Shredded paper</li> <li>Paper towels</li> <li>Tissues</li> </ul>
<b>Foil</b>	<ul style="list-style-type: none"> <li>Clean takeaway containers</li> <li>Foil trays</li> <li>Tin foil</li> </ul>	<ul style="list-style-type: none"> <li>Pet food pouches</li> <li>Food pouches</li> <li>Crisp packets</li> </ul>
<b>Glass bottles and jars</b>	<ul style="list-style-type: none"> <li>Wine bottles</li> <li>Beer bottles</li> <li>Perfume bottles</li> <li>Jam jars</li> </ul>	<ul style="list-style-type: none"> <li>Pyrex®</li> <li>Drinking glasses and crockery</li> </ul>
<b>Metal cans &amp; aerosols</b>	<ul style="list-style-type: none"> <li>Food cans</li> <li>Drink cans</li> <li>Pet food cans</li> </ul>	<ul style="list-style-type: none"> <li>Empty aerosols</li> <li>Biscuit and sweet tins</li> <li>Cables</li> <li>Batteries</li> <li>Electrical items</li> </ul>
<b>Cartons</b>	<ul style="list-style-type: none"> <li>Fruit juice cartons</li> <li>Custard cartons</li> <li>Soup cartons</li> <li>Milk cartons</li> </ul>	<ul style="list-style-type: none"> <li>Plastic bags and film</li> <li>Plastic bottle tops (smaller than a jam jar lid)</li> <li>Plant pots and seed trays</li> <li>Polystyrene</li> </ul>
<b>Plastic bottles &amp; containers</b>	<ul style="list-style-type: none"> <li>Milk/drinks bottles</li> <li>Bathroom/laundry bottles and tubs</li> <li>Moulded plastic packaging</li> <li>Food, fruit and ready meal pots, tubs and trays</li> <li>Plastic container lids</li> </ul>	

Phone: 01903 737754 | [www.arun.gov.uk/123-collection-trial](http://www.arun.gov.uk/123-collection-trial)

## Thank you!

In the first five months of the new 123 Collection Trial...

Residents in the trial area have recycled 55.7 tonnes of food waste!



That's potentially over 180 tonnes of food removed from the rubbish over the course of a year!



Arun Times AUTUMN/WINTER 2021 | 5

## Thank You flyer

Delivered by hand to all Area 1 properties on 2<sup>nd</sup> collection day by project team

### Thank you!

On the first day of the new 123 Collection Trial...

You've recycled 2800kg of food waste!

That's potentially over 145,600kg of food removed from the rubbish over the course of a year!

You can recycle the following food waste:

- Meat including bones
- Fish and shellfish
- Meat and bone scraps
- Dairy products such as cheese and yogurt
- Cooked vegetables and fruit, including peelings
- Tea bags and coffee grounds
- Bread, cakes and pastries
- Rice, pasta and beans
- Eggs, shells, and tea

Remember to recycle your muddy and soiled date food, including ready meals, removed from their packaging.

Please remember to have your bin out for collection by 7am

For further information please visit [www.arun.gov.uk/123-collection-trial](http://www.arun.gov.uk/123-collection-trial) email [recycling@arun.gov.uk](mailto:recycling@arun.gov.uk) or phone 01903 737754

### A quick reminder about your other bins:

Your recycling collection every two weeks

	✓ Yes please	✗ No thanks
<b>Paper and card</b>	Junk mail, cereal and egg boxes, newspapers and magazines, wrapping paper (if crumachable), catalogues and directories	Shredded paper, paper towels, tissues
<b>Foil</b>	Clean takeaway containers, foil trays, tin foil	Pet food pouches, food pouches, crisp packets
<b>Glass bottles and jars</b>	Wine bottles, beer bottles, perfume bottles, jam jars, sauce jars	Pyrex®, drinking glasses and crockery
<b>Metal cans and aerosols</b>	Food cans, drink cans, pet food cans, empty aerosols, biscuit and sweet tins	Cables, batteries, electrical items
<b>Cartons</b>	Fruit juice cartons, custard cartons, soup cartons, milk cartons	Plastic bags and film, plastic bottle tops (smaller than a jam jar lid), plant pots and seed trays, polystyrene
<b>Plastic bottles and containers</b>	Milk/drinks bottles, bathroom/laundry bottles and tubs, moulded plastic packaging, food, fruit and ready meal pots, tubs and trays, plastic container lids	

Wheeled rubbish bins should be presented at the kerbside by 7am on the day of collection, with their lids closed. We can only collect one rubbish bin per property, and can no longer accept loose bags or non-wheeled bins.

Phone: 01903 737754 | [www.facebook.com/groups/123collectiontrial](http://www.facebook.com/groups/123collectiontrial)



**Appendix 3 – Collections, Bin provision and the trial in progress**

**Bin provision for kerbside households**



**Bin provision for HMO's Area 2**



**Food Waste Vehicle**



**Area 1- 26<sup>th</sup> May 2021**

One week after trial commencement, 26<sup>th</sup> May 2021. Team out delivering leaflets to thank residents for their participation and reinforce recycling messaging.



Food waste and AHP waste presented.



Thank you leaflet posted to all properties in trial area.



Initial bin store inspection very full waste and recycling in flat bin stores, pictured is Isemonger Court. Fly tipping was also present in this bin store, see below. The food waste bin was only around 5-10% (around 6-8 bags of food) full.



**Area 1- 14<sup>th</sup> July 2021**



WEEE cage added to recycling vehicles, residents using service.

**Area 2**

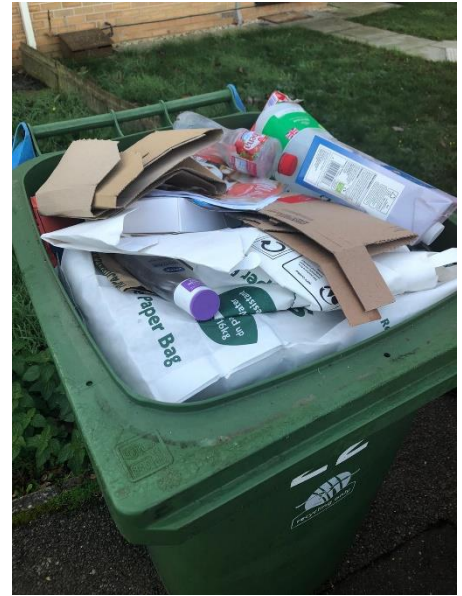


Bayford Road, Area 2.

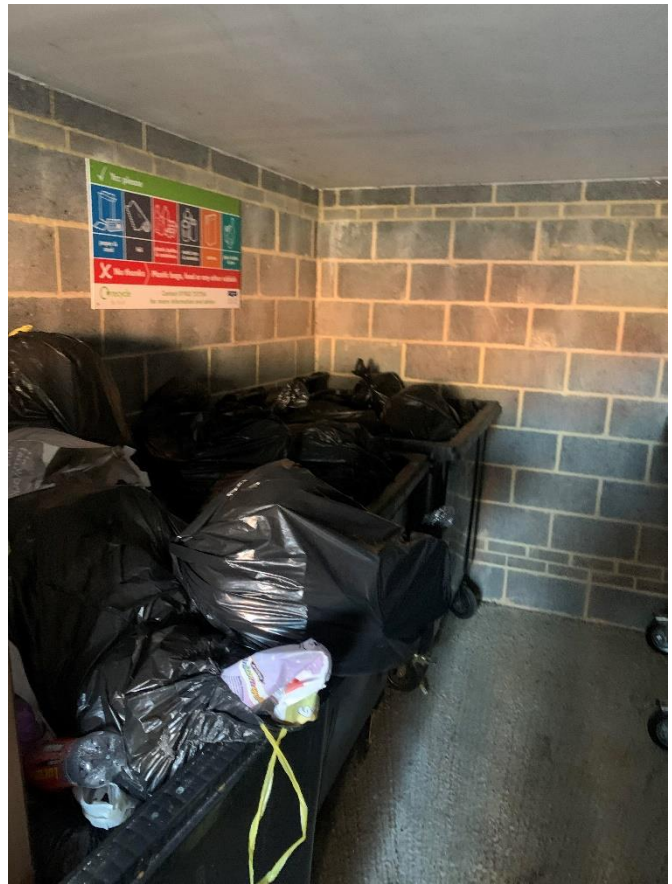
HMOs, households and flats. Terraced housing, many with back and front entrances used for entry and displaying waste.



**Area 1- 3<sup>rd</sup> November 2021- Phase 3 of Waste Composition Analysis**



**Isemonger Court Flat Bin Store in Area 1- 3<sup>rd</sup> November 2021**



Large amounts of residual waste. Isemonger Court holds 12 flats.



Recycling also very full, average quality. The food waste bin had only 3/4 bags of food and AHP collections not used.

## Area 2- 2<sup>nd</sup> November 2021- Phase 3 of Waste Composition Analysis



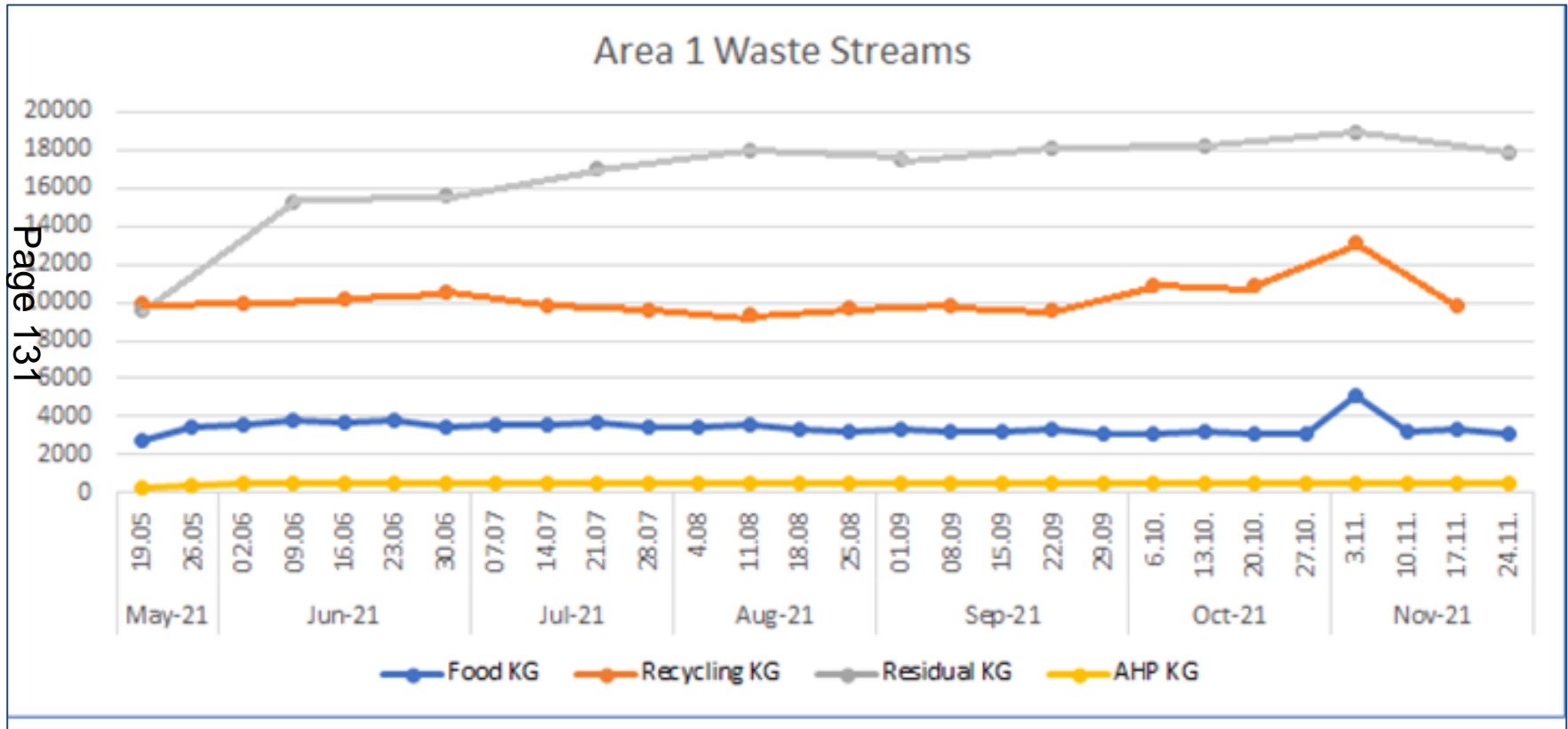
As can be seen the services are being utilised by the residents of Bayford Road. Where required Arun provided further recycling bins.

In the Christmas information leaflet the team will include communication regarding compressing recycling.

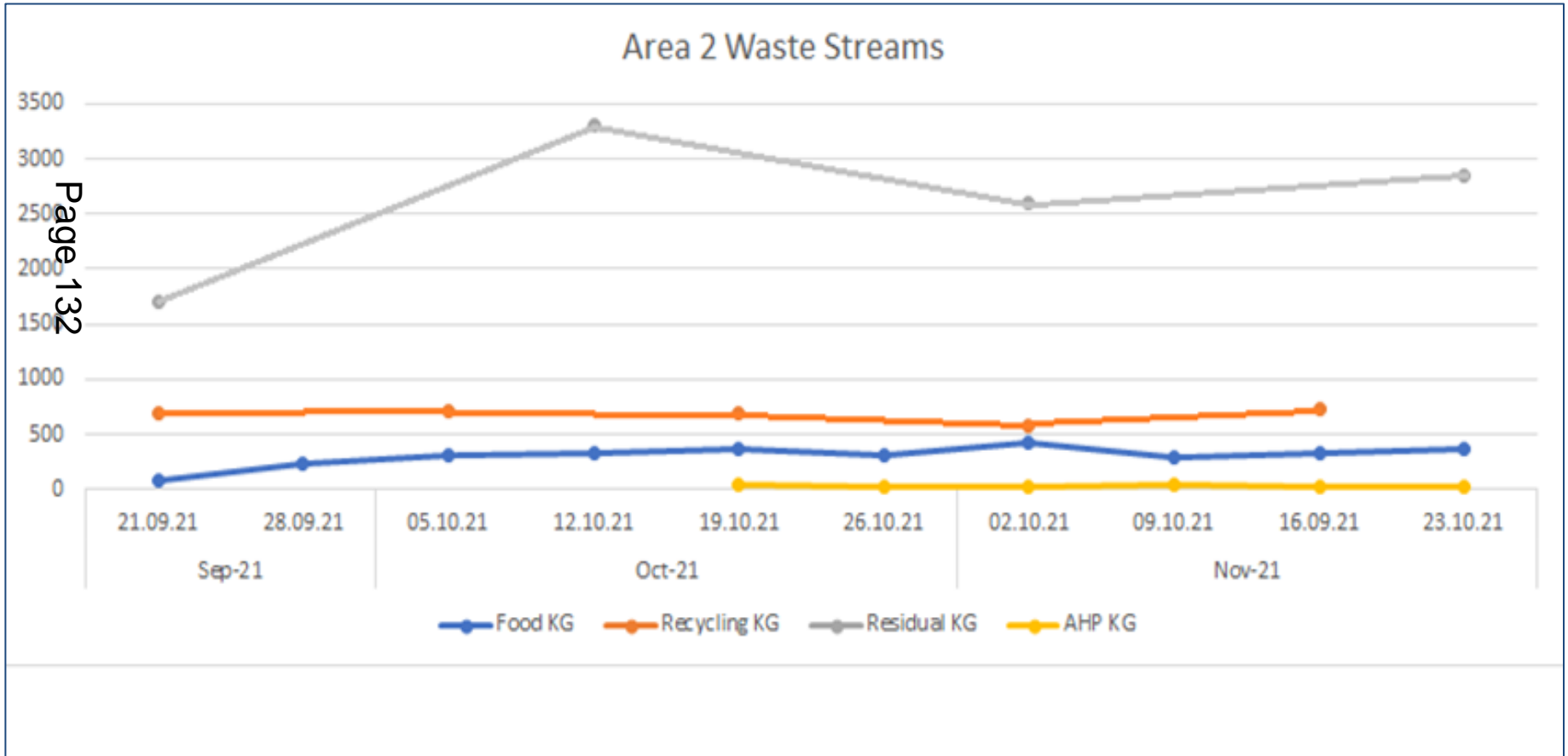




# Area 1 Collection Data



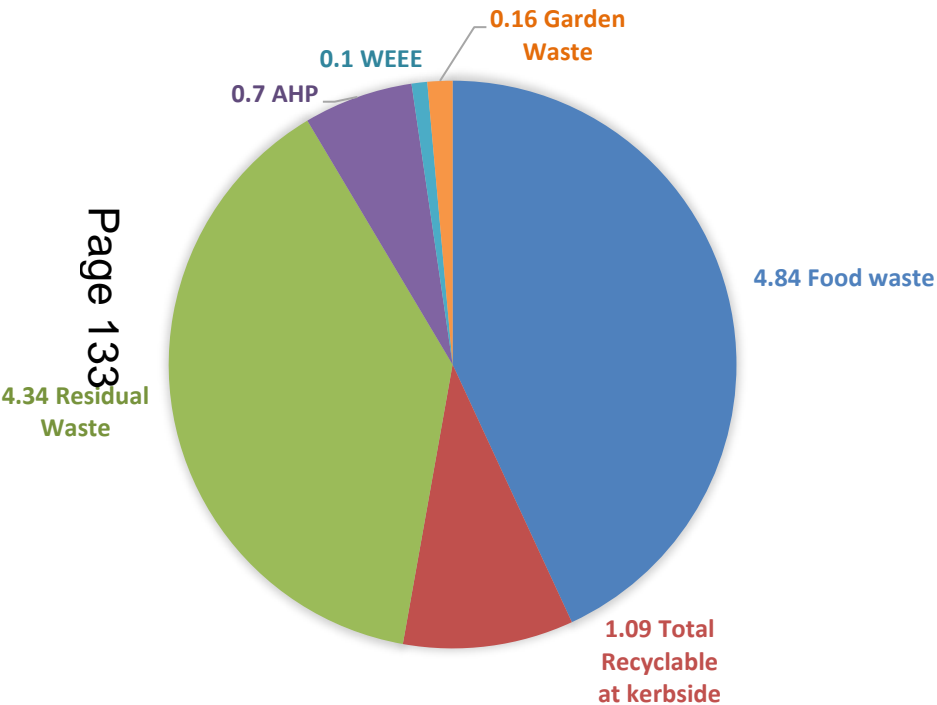
# Area 2 Collection Data



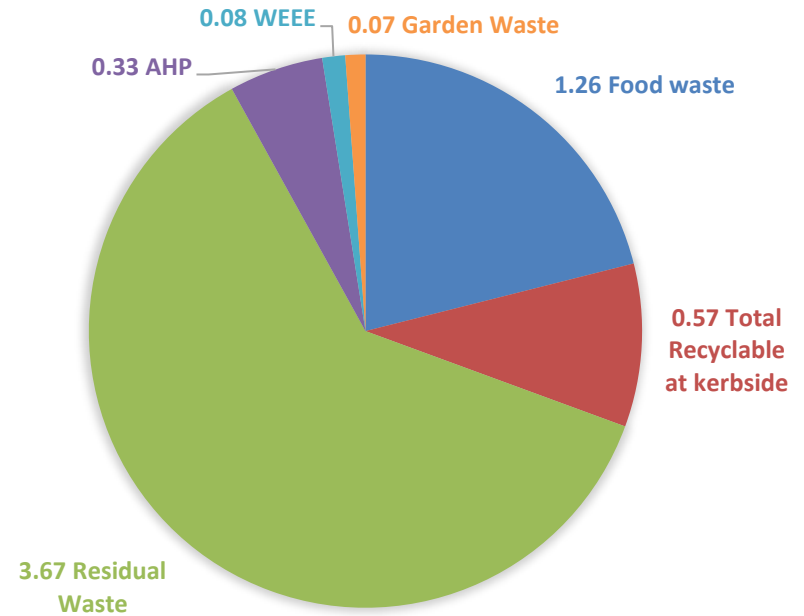
# Area 1 - Residual Baseline vs Second Sample



RESIDUAL BASELINE KG/HH/WK



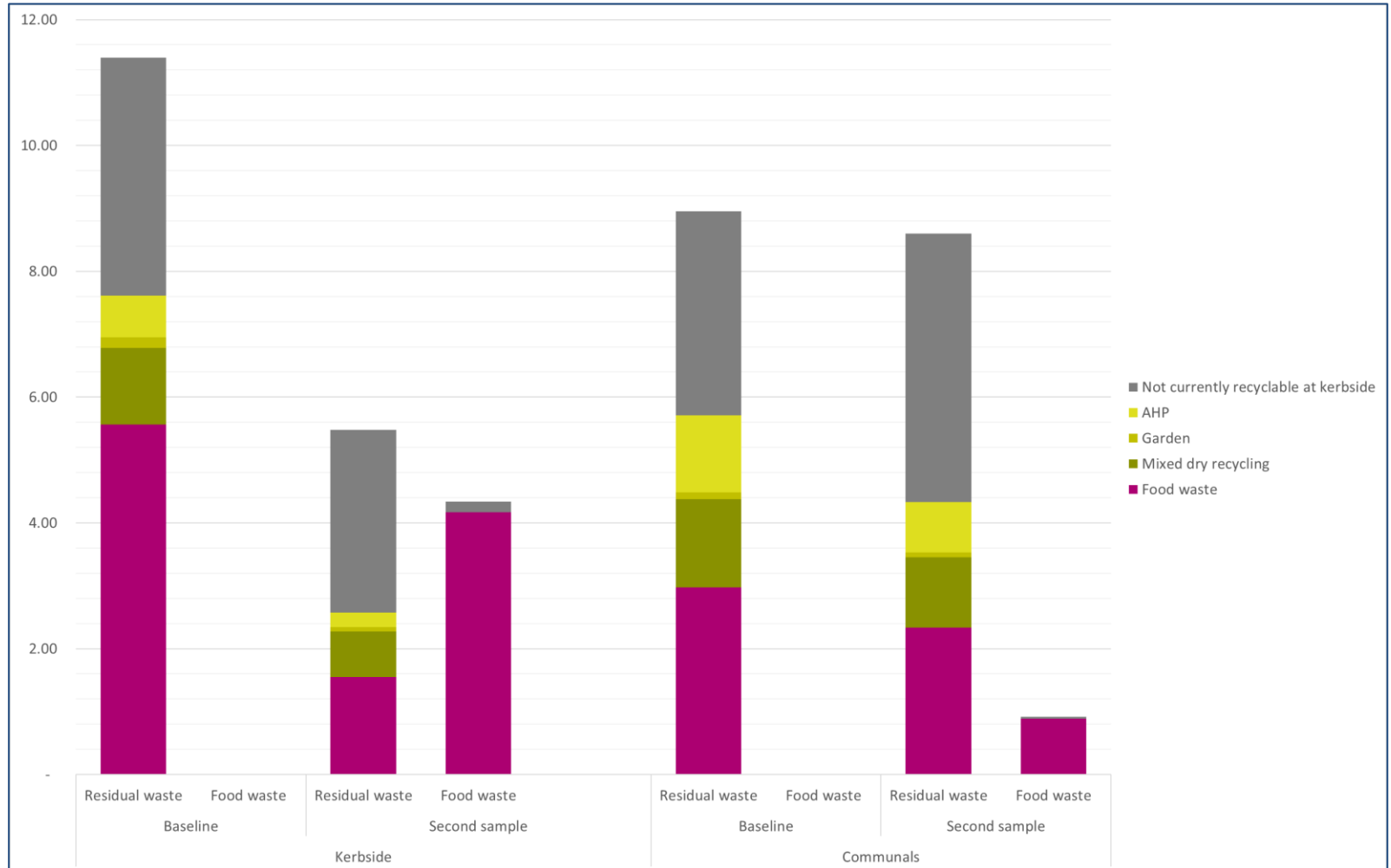
RESIDUAL 6 MONTH SAMPLE KG/HH/WK



# Area 1- Residual & Food Waste Baseline vs Second Sample



Page 134



# Area 1 - Kerbside & Communal Waste Composition



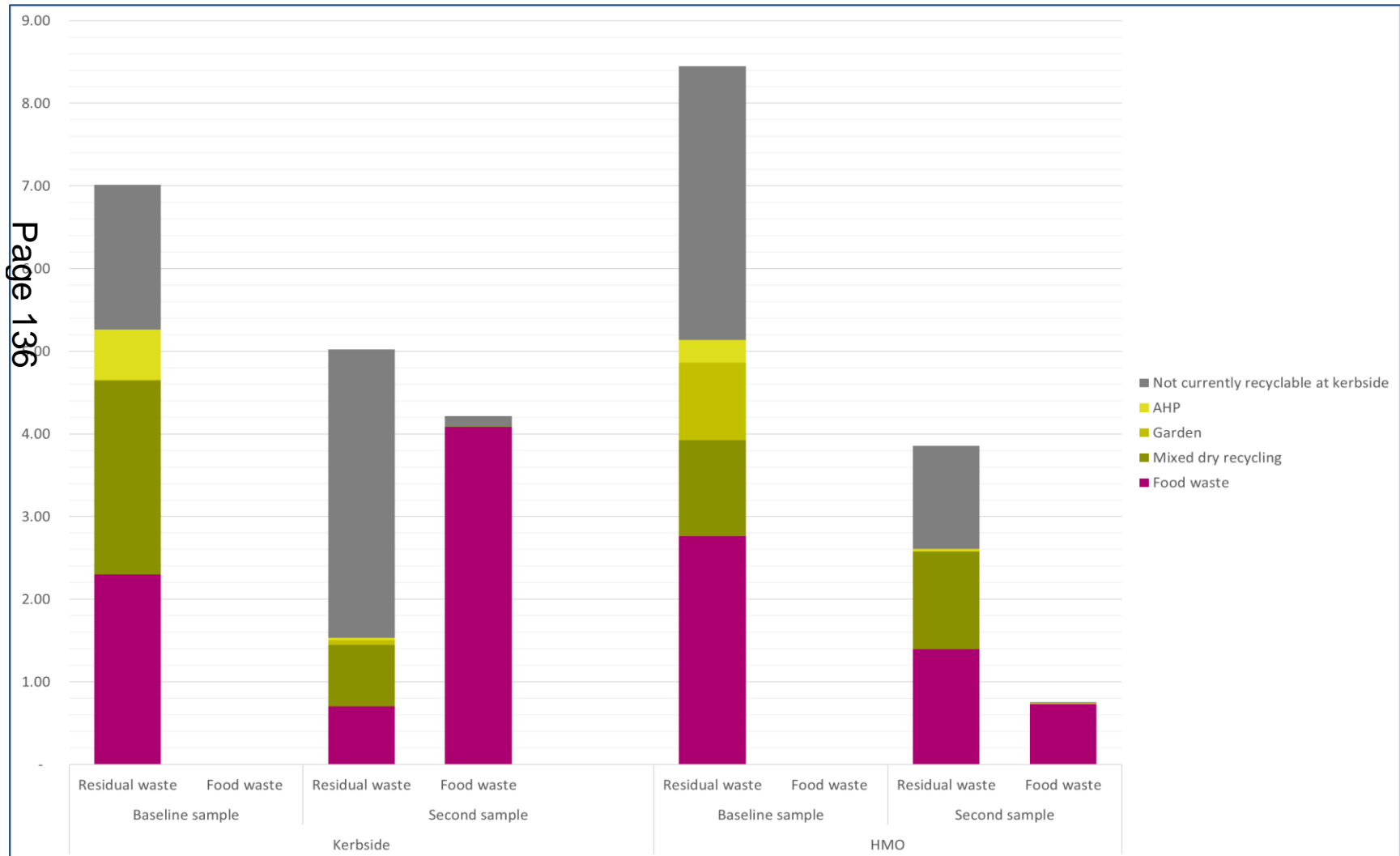
## Reduction in kg/hh/wk within Residual

	Baseline	Second sample	Total Food waste collected- Second Sample	Reduction kg/hh/wk in residual
Food waste in this stream	4.95	1.26	3.64	3.69
Total recyclable at kerbside in residual waste	1.66	1.05		0.61

## Total arising kg/hh/wk

	Baseline	Second Sample
Total FW arising	4.95	4.91
FW in residual	4.95	1.26
FW in FW	0	3.64
Capture rate	0%	74%

# Area 2- Collections Baseline vs Second Sample



# Area 2

## Baseline vs Second Sample



### Kerbside residual collection baseline vs Second Sample (kg/hh/wk)

	Kerbside			
	Baseline sample		Second sample	
	Residual waste	Food waste	Residual waste	Food waste
Food waste	2.30		0.70	4.08
Mixed dry recycling	2.34		0.74	0.01
Garden	0.01		0.05	0.00
AHP	0.60		0.03	-
Not currently recyclable at kerbside	1.75		3.49	0.12

### HMO residual collection baseline vs second sample (kg/hh/wk)

	HMO			
	Baseline sample		Second sample	
	Residual waste	Food waste	Residual waste	Food waste
Food waste	2.76		1.40	0.73
Mixed dry recycling	1.17		1.18	-
Garden	0.94		0.01	-
AHP	0.27		0.03	0.01
Not currently recyclable at kerbside	3.32		1.24	0.01

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## **Appendix 5 - Results of Doorstepping Survey**

The doorstepping team is comprised of two staff members and a supervisor who are trained to visit properties across West Sussex, carry out surveys and deliver recycling information. They are employed by the West Sussex Waste Partnership and have been helping deliver feedback on services and projects for the District and Borough Councils for a number of years.

The team visited the properties in Area 1 from Tuesday 12<sup>th</sup> October to Saturday 6<sup>th</sup> November. Each property was approached initially, with a second visit made at a different time / on a different day to try and maximise the contact rate. In total the team achieved a contact rate of 34% (500 residents), with 14% of properties displaying “no cold caller” signs or similar.

Overall, the results of the survey are positive, with 95% of residents saying that they were using the food waste bins, and 85% stating they were “very satisfied” or “satisfied” with food waste collection service.

The main source of dissatisfaction was the general waste collection, with 74% of residents saying the 240ltr general waste bin provided was large enough. 73% responded that they were “very satisfied” or “satisfied” when asked about the general waste collection, with only 5% being “very unsatisfied”.

With regards to communications, a total of 96% of residents reported receiving a leaflet, booklet and calendar prior to the commencement of the trial, all of whom found them helpful. Only 16% of resident had needed to visit the ADC website, of whom 70% found it “helpful” or “very helpful”, and of the 10% who needed to call the ADC contact centre with regards to the trial, 60% reporting this service to be “helpful” or “very helpful”.

While only 4% of residents reported joining the private Facebook group, with 7% not knowing about it, we have seen an increase in members since the team visited properties. Further, 70% of those that did respond found the group to be “very helpful” or “fairly helpful”, which is a positive sign for future engagement.

**Survey questions:**

Q1: Have you been using the food waste bin provided to you as part of the trial?

Yes / No

Q2: Have you been using your recycling bin during the trial?

Yes / No

Q3: Have you been using the Absorbent Hygiene Product (AHP) collection service provided to you as part of the trial?

Yes / No / Don't know what it is

Q4: Have you needed to visit the Recycling Centre (formerly known as a Household Waste Recycling Site) since the trial began?

Yes / No

If yes Q4.5: Was this something you did before the trial, due to the suspension of garden waste services or directly due to the trial? If all three, please choose the biggest / most pressing reason.

Regular trip / Garden waste service suspension / Due to 123 trial

Q5: Have you found the general waste bin provided to be large enough for your household?

Yes / No

If no Q5.5: Have you applied for a larger general waste bin?

Yes (approved) / Yes (denied) / No (didn't want to) / No (unaware of availability)

Q6: How satisfied with the food waste collection service are you?

Very satisfied / Fairly Satisfied / Neither satisfied nor dissatisfied / Fairly dissatisfied / Very dissatisfied / Don't know

Q7: How satisfied with the recycling collection service are you?

Very satisfied / Fairly Satisfied / Neither satisfied nor dissatisfied / Fairly dissatisfied / Very dissatisfied / Don't know

Q8: How satisfied with the general waste collection service are you?

Very satisfied / Fairly Satisfied / Neither satisfied nor dissatisfied / Fairly dissatisfied / Very dissatisfied / Don't know

Q9: How satisfied with the absorbent hygienic waste (AHP) collection service are you?

Very satisfied / Fairly Satisfied / Neither satisfied nor dissatisfied / Fairly dissatisfied / Very dissatisfied / Don't know

Q10: Did you receive the leaflet, booklet and calendar before the trial began?

Yes / No / Don't recall

If yes Q10.5: Did you find the information in the leaflet, booklet and calendar helpful?

Yes / No / Unsure

Q11: Have you visited the Arun District Council website for information on the trial?

Yes / No / Didn't know about it

If yes Q11b: How helpful did you find this:

Very helpful / Fairly helpful / Neither helpful nor unhelpful / Fairly unhelpful / Very unhelpful / Don't know

Q12: Have to contact the Arun District Council Contact Centre for information on the trial?

Yes / No / Didn't know about it

If yes: Q12b: How helpful did you find this:

Very helpful / Fairly helpful / Neither helpful nor unhelpful / Fairly unhelpful / Very unhelpful / Don't know

Q13: Have you joined the private Facebook group for the trial area?

Yes / No / Didn't know about it / Don't use Facebook

IF yes Q13b: How helpful did you find this:

Very helpful / Fairly helpful / Neither helpful nor unhelpful / Fairly unhelpful / Very unhelpful / Don't know

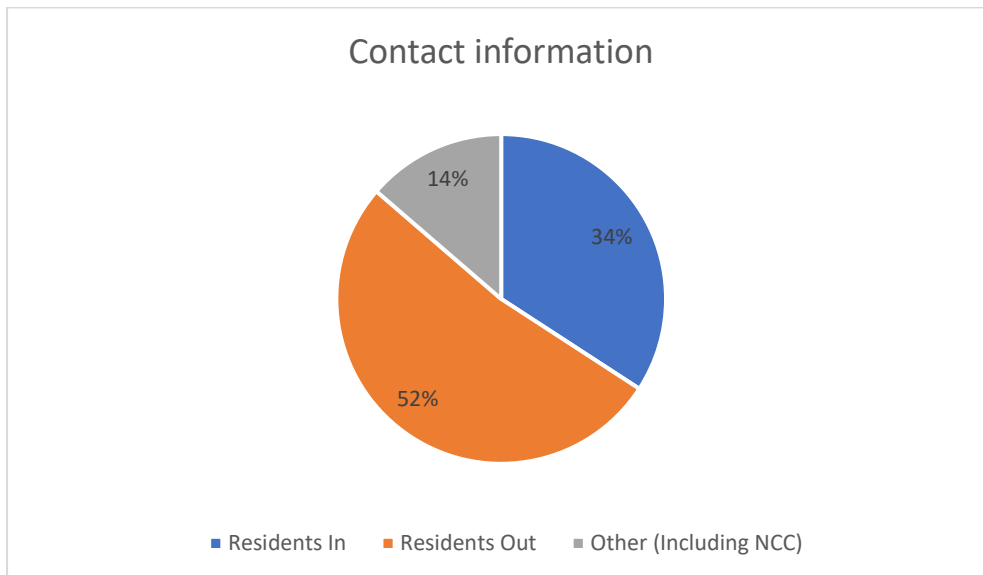
**Survey Results:**

**Details of Report:**

<b>Properties Knocked (First Knock)</b>	1149
<b>Properties Knocked (Second knocks)</b>	314
<b>Total Doors Knocked</b>	1463
<b>Total Hours of Activity</b>	51
<b>Doors Knocked per hour</b>	28.68627451

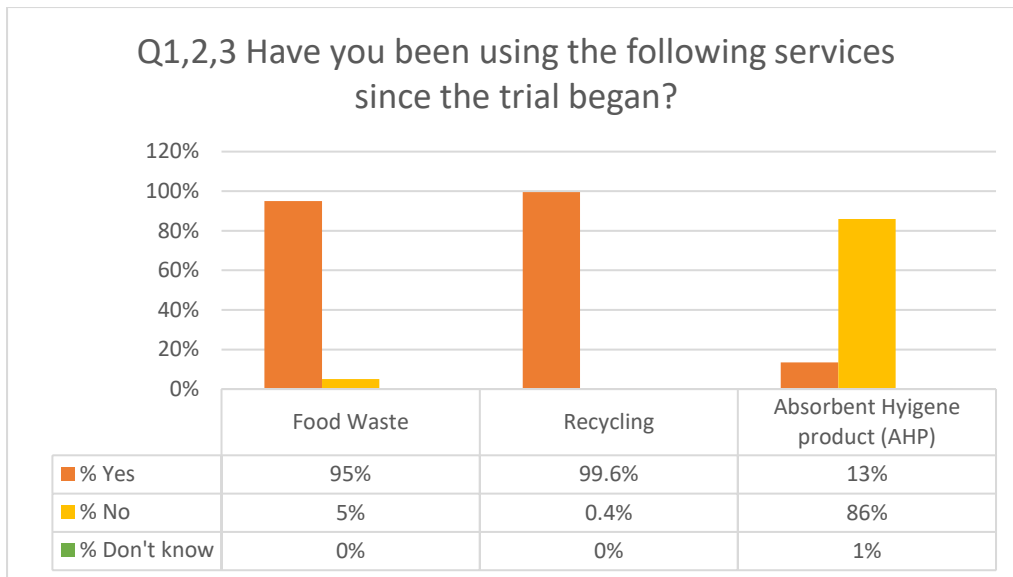
**Contact Information:**

	<b>Total</b>	<b>%</b>
<b>Residents In</b>	500	34%
<b>Residents Out</b>	763	52%
<b>Other (Including NCC)</b>	200	14%



**Participation rates:**

<b>Q1,2 and 3 : Have you been using the following services since the trial began ?</b>	<b>Food Waste</b>	<b>Recycling</b>	<b>Absorbent Hygiene product (AHP)</b>
<b>Total (yes)</b>	475	498	67
<b>% Yes</b>	95%	99.6%	13%
<b>Total (No)</b>	25	2	430
<b>% No</b>	5%	0.4%	86%
<b>Total (don't know what it is)</b>	N/A	N/A	3
<b>% Don't know</b>	N/A	N/A	1%

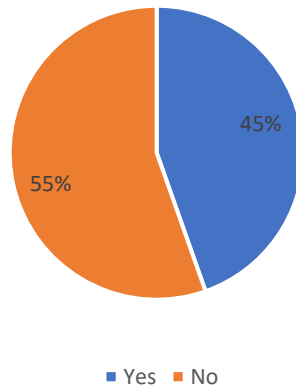


[We can cross reference the following answer against RC bookings if required?]

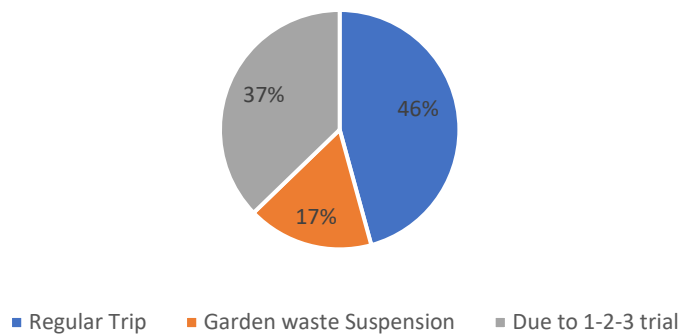
Q4 Have you needed to visit the recycling centre (HWRs) since the trial began ?	Yes	No
<b>Total</b>	223	277
<b>%</b>	45%	55%

If Yes to Q4 : Was this something you did before the trial , due to suspension of the garden waste services or directly due to the trial ?	Regular Trip	Garden waste Suspension	Due to 1-2-3 trial
<b>Total</b>	102	38	83
<b>%</b>	46%	17%	37%

Q4, Have you needed to visit the recycling centre since the trial began ?



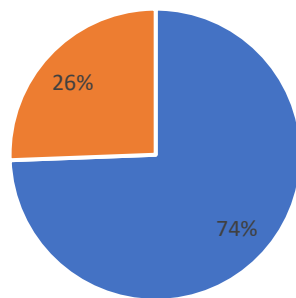
Q4B If yes to having to visit the recycling centre, was this something you did as a regular trip, suspension of garden waste or due to the trial ?



Q5 Have you found the general waste bin provided to be large enough for your household ?	Yes	No
<b>Total</b>	372	128
<b>%</b>	74%	26%

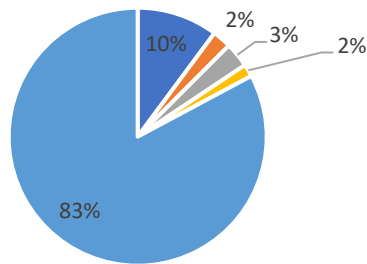
If No to Q5: Have you applied for a larger general waste bin ?	Yes (Approved)	Yes (Denied)	Waiting for outcome	No (Didn't want to)	No (unaware of availability)
<b>Total</b>	13	3	4	2	106
<b>%</b>	10%	2%	3%	2%	83%

Q5 Have you found the general waste bin provided to be large enough for your household ?



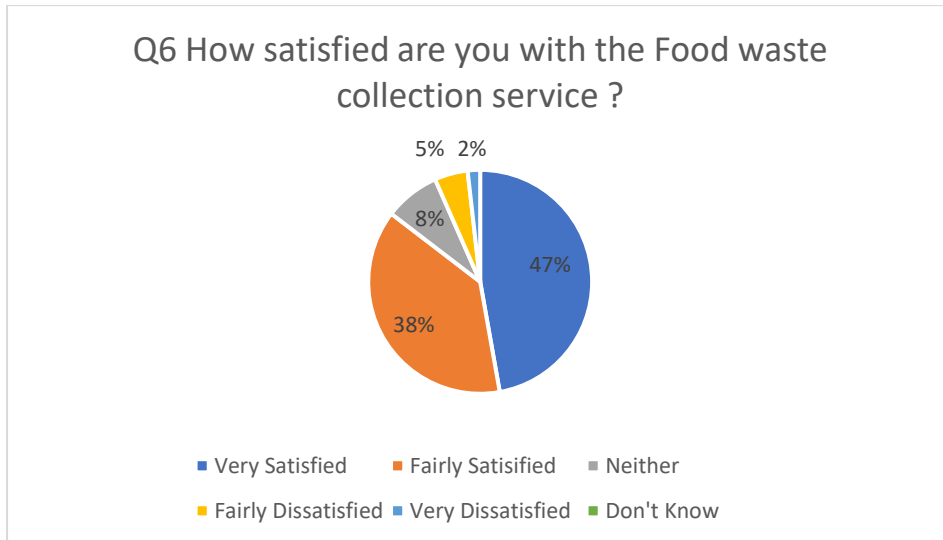
■ Yes ■ No

If no to Q5 Have you applied for a larger household waste bin ?



■ Yes (Approved) ■ Yes (Denied) ■ Waiting for outcome  
■ No (Didn't want to) ■ No (unaware of availability)

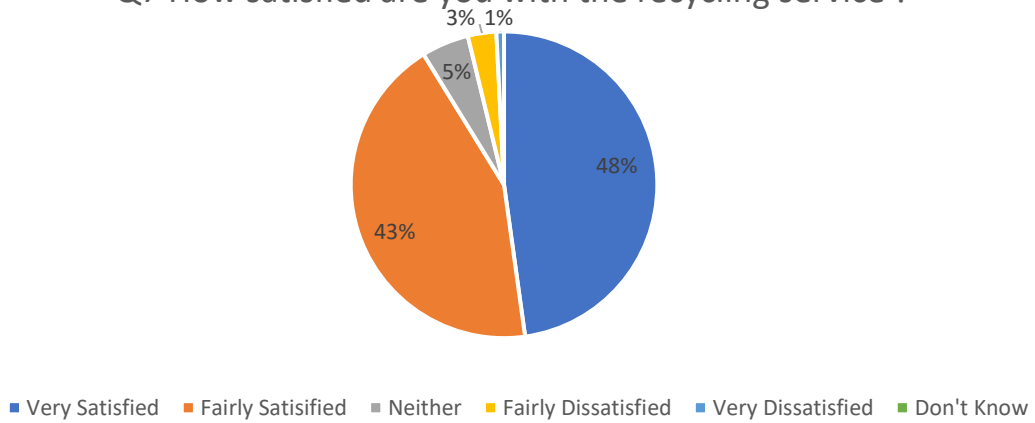
<b>Q6 How satisfied with the food waste collection service are you?</b>	<b>Very Satisfied</b>	<b>Fairly Satisfied</b>	<b>Neither</b>	<b>Fairly Dissatisfied</b>	<b>Very Dissatisfied</b>	<b>Don't Know</b>
<b>Total</b>	236	191	40	24	9	
<b>%</b>	47%	38%	8%	5%	2%	0%



<b>Q7 How satisfied with the recycling collection service are you ?</b>	<b>Very Satisfied</b>	<b>Fairly Satisfied</b>	<b>Neither</b>	<b>Fairly Dissatisfied</b>	<b>Very Dissatisfied</b>	<b>Don't Know</b>
<b>Total</b>	239	217	25	15	4	
<b>%</b>	48%	43%	5%	3%	1%	0%

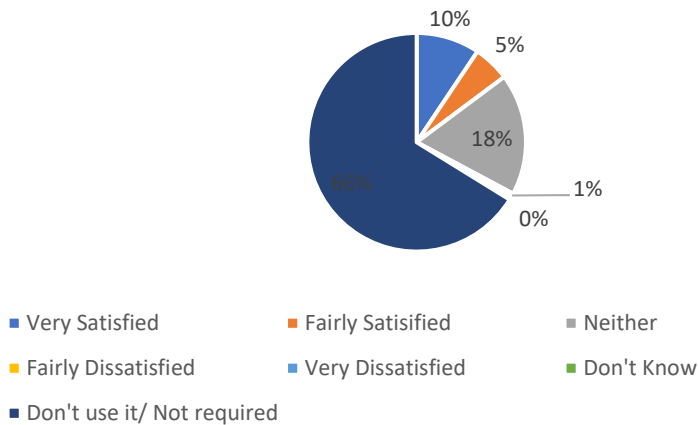


Q7 How satisfied are you with the recycling service ?

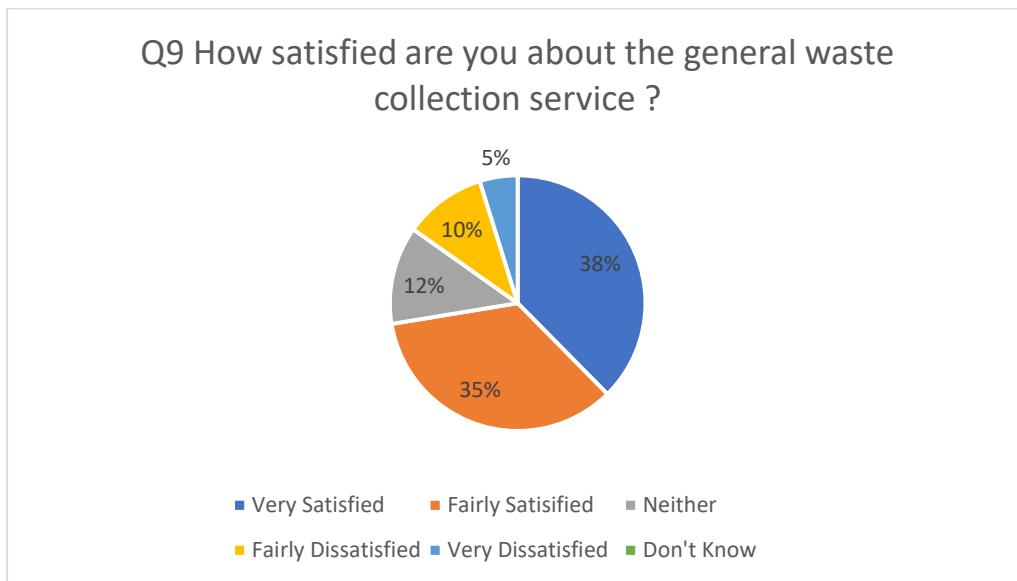


Q8 How satisfied with the Absorbent Hygiene product collection scheme are you ?	Very Satisfied	Fairly Satisfied	Neither	Fairly Dissatisfied	Very Dissatisfied	Don't Know	Don't use it/ Not required
<b>Total</b>	47	27	90	3		2	331
<b>%</b>	9%	5%	18%	1%	0%	0.4%	66%

Q8 How satisfied are you with the Absorbent Hygienic waste (AHP) Collection service ?



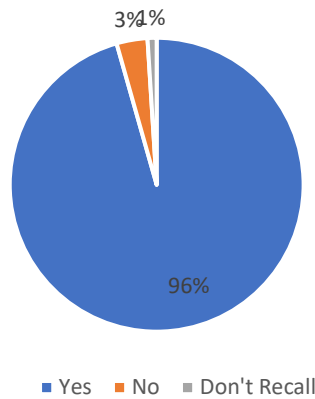
<b>Q9 How satisfied with the general waste collection service are you ?</b>	<b>Very Satisfied</b>	<b>Fairly Satisfied</b>	<b>Neither</b>	<b>Fairly Dissatisfied</b>	<b>Very Dissatisfied</b>	<b>Don't Know</b>
<b>Total</b>	188	174	62	52	24	
<b>%</b>	38%	35%	12%	10%	5%	0%



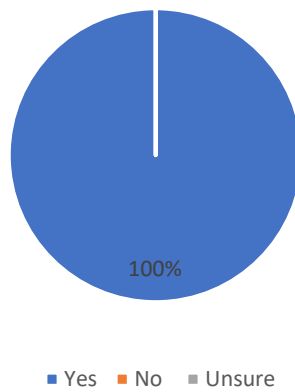
<b>Q10 Did you receive the leaflet, booklet and calendar before the trial began ?</b>	<b>Yes</b>	<b>No</b>	<b>Don't Recall</b>
<b>Total</b>	478	17	5
<b>%</b>	96%	3%	1%

<b>If yes to Q10 Did you find the information in the leaflet, booklet and calendar helpful ?</b>	<b>Yes</b>	<b>No</b>	<b>Unsure</b>
<b>Total</b>	478		
<b>%</b>	100%	0%	0%

Q10 Did you receive the information booklet and calendar before the trial began ?



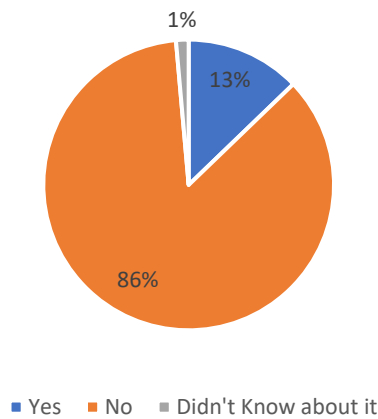
If Yes to Q10, Did you find the information in the booklet and calendar helpful ?



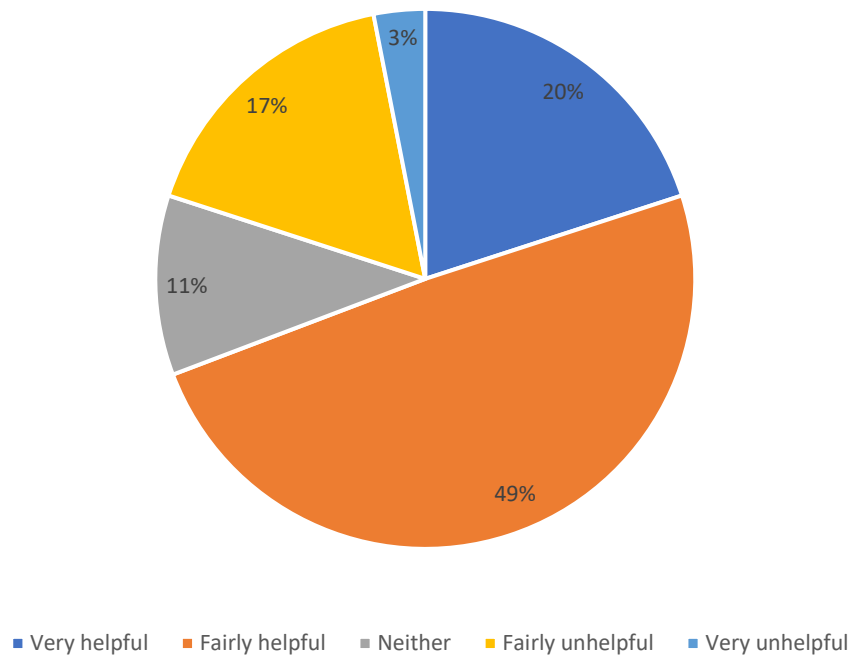
Q11 Have you had to visit the website for more information on the trial ?	Yes	No	Didn't Know about it
<b>Total</b>	64	429	7
<b>%</b>	13%	86%	1%

If yes to Q11 How helpful did you find this ?	Very helpful	Fairly helpful	Neither	Fairly unhelpful	Very unhelpful
<b>Total</b>	13	32	7	11	2
<b>%</b>	20%	50%	11%	17%	3%

Q11 Have you had to visit Arun website for more information on the trial ?



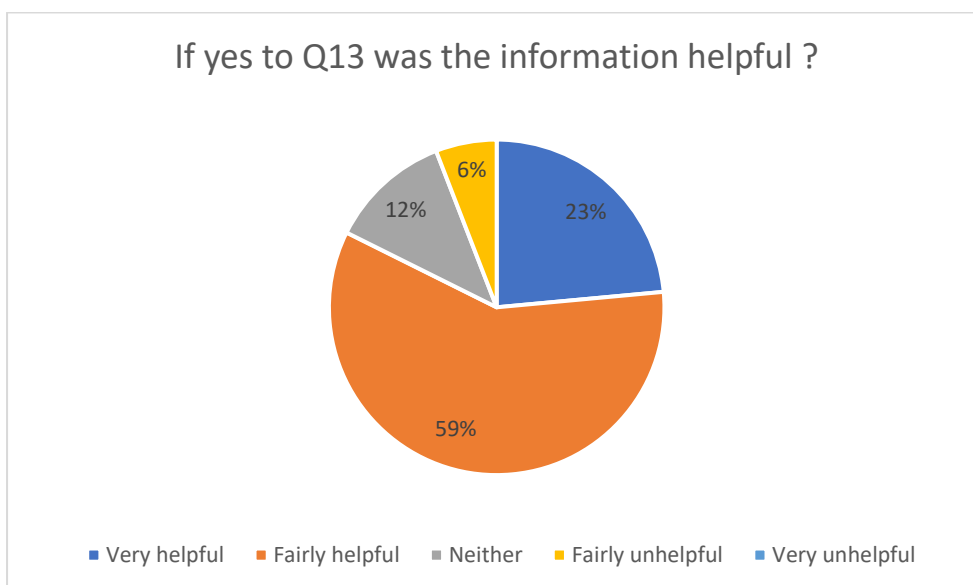
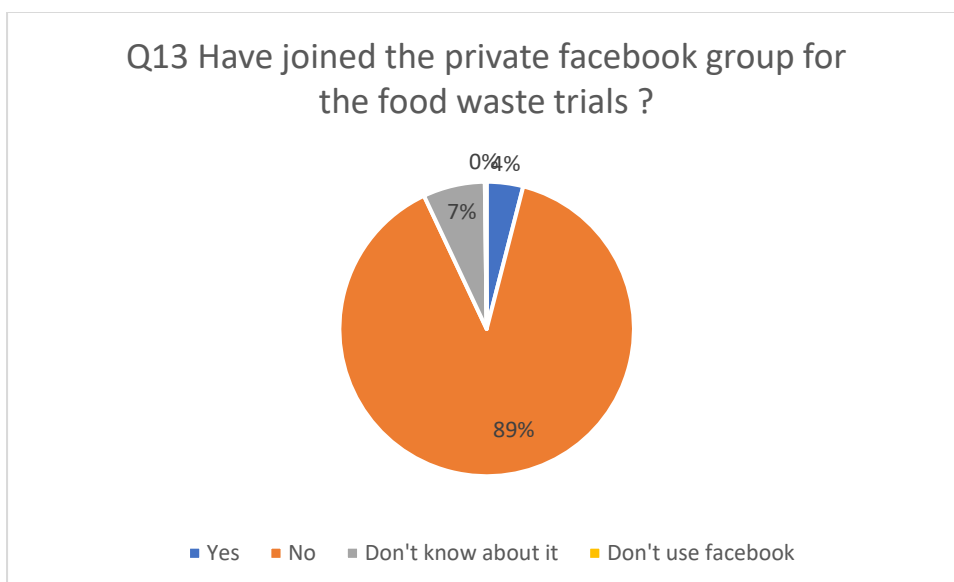
If Yes to Q11 Did you find the information on the Arun website helpful?



Q12 Have you contacted Arun district council's contact centre for information on the trial ?	Yes	No	Didn't know about it
<b>Total</b>	52	444	4
<b>%</b>	10%	89%	1%

Q13 Have you joined the private Facebook group for the trial area ?	Yes	No	Don't know about it	Don't use Facebook
<b>Total</b>	20	445	34	1
<b>%</b>	4%	89%	7%	0.2%

If yes to Q13 how helpful did you find this ?	Very helpful	Fairly helpful	Neither	Fairly unhelpful	Very unhelpful
<b>Total</b>	4	10	2	1	
<b>%</b>	20%	50%	10%	5%	0%



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# Areas 1 - Quantitative Targets



Target (trial area households)[1]	Kerbside		November Performance	Flats		November Performance
Food waste capture rate	50%		<b>85%</b>	20%		<b>53%</b>
Food waste collection participation rate	50%		<b>94%</b>	20%		<b>N/A</b>
	From	To		From	To	
Reduce the amount of food waste within the residual waste (kg/hh/pa)	259.48	129.74	<b>56.16</b>	136.24	108.99	<b>115.44</b>
Reduce amount of residual waste in trial area (kg/hh/pa)	592.28	462.54	<b>284.96</b>	465.40	438.15	<b>447.2</b>
Improve Dry Recycling and Food Performance Percentage*	20.83%	37.65%	<b>57.78%</b>	14.45%	19.31%	<b>26.02%</b>
Improve dry recycling input contamination level (%)	14.63%	8%	<b>13.63%</b>	20.29%	8%	<b>16.82%</b>
Improve quantity of dry recycling (tonnes)	167.17	204.68	<b>192.76</b>	5.42	6.64	<b>7.79</b>
AHP Targets (trial area households)						
Achieve average 80% participation rate from AHP subscribed households over trial period						<b>80%</b>
Separately collect 15.8 tonnes of AHP waste over the trial period						<b>12.7 tonnes</b>
The waste composition is a snapshot in time and the food kg/hh/pa yield is high, probably because of sampling being carried out adjacent to halloween and half term school holidays.		High contamination levels most likely linked to time of year. November is notoriously high for contamination, mostly due to bad weather.				-

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\*Its important to note that the rates calculated above are not comparable to our NI192 recycling rate. The above is a kerbside rate that increases solely as a result of the separately collected food expected from the trial area. and does NOT include kerbside collected green waste, nor does the baseline include any increases to the kerbside dry recycling yields to ensure prudence.

# Areas 2 - Quantitative Targets



Target (trial area households)[1]	Kerbside		November Performance	HMO's		November Performance
	From	To		From	To	
Food waste capture rate	50%		<b>85%</b>	20%		<b>53%</b>
Food waste collection participation rate	50%		<b>90%</b>	20%		
Reduce the amount of food waste within the residual waste (kg/hh/pa)	119.60	59.80	<b>36.40</b>	143.52	114.82	<b>72.8</b>
Reduce amount of residual waste in trial area (kg/hh/pa)	364.52	304.72	<b>261.04</b>	439.40	410.70	<b>200.20</b>
Improve Dry Recycling and Food Performance Percentage*	17.56%	30.68%	<b>53.19%</b>	18.50%	23.66%	<b>45.55%</b>
Improve dry recycling input contamination level (%)	19.46%	8%	<b>30.14%</b>	25.35%	8%	<b>20.87%</b>
Improve quantity of dry recycling (tonnes)	4.66	5.70	<b>5.72</b>	17.55	21.49	<b>22.99</b>
<b>AHP Targets (trial area households)</b>						
Achieve average 80% participation rate from AHP subscribed households over trial period						
Separately collect 1.11 tonnes of AHP waste over the trial period						<b>0.984</b>
The waste composition is a snapshot in time and the food kg/hh/pa yield is high, probably because of sampling being carried out adjacent to halloween and half term school holidays.			High contamination levels most likely linked to time of year. November is notoriously high for contamination, mostly due to bad weather.			-

\*Its important to note that the rates calculated above are not comparable to our NI192 recycling rate. The above is a kerbside rate that increases solely as a result of the separately collected food expected from the trial area. and does NOT include kerbside collected green waste, nor does the baseline include any increases to the kerbside dry recycling yields to ensure prudence.



Environment Committee	Report Author	Send to Gemma for CMT by 2pm Thurs	CMT Tues	Draft Reports to Committees	Agenda Prep Meeting	Final Reports to Committees	Agenda Publish Date	Date of Meeting	Full Council Meeting Date
Elmer Sands Community Flood Fund  Amendment to Parking Order	R Spencer  C.Baylis	17-Jun-21	22-Jun-21	5pm Wednesday 16/06/21	24-Jun-21	10am Monday  28/06/21	Wednesday 30/06/21	<b>15-Jul-21</b>	15-Sep-21
Stoken Gardens – Heads of Terms for Procurement  Food Safety Service Plan  Health & Safety Service Plan  Bognor Regis Beach Access Options Appraisal  Budget 2022/2023 Process  Bathing Water Quality	Joe R-W  Neil Williamson  Neil Williamson  Roger Spencer  Carolyn Martlew  N Williamson	12 Aug	17 Aug	5pm Wednesday 25/08/21	02-Sep-21	10am Monday 06/09/21	Wednesday 08/09/21	<b>23-Sep-21</b>	10-Nov-21

Changing Places Toilets Expressions of Interest	Nat Slade								
Tree Planting Strategy	Joe R-W	7 Oct	12 Oct	5pm Wednesday 20/10/21	25-Oct-21	10am Monday 01/11/21	Wednesday 03/11/21	<b>17-Nov-21</b>	12-Jan-22
Car Parks Strategy	Joe R-W								
Variation to Parking Charges	Joe R-W								
Fuel Poverty Framework	Louise Crane								
Empty Property Assistance Programme	Louise Crane								
Annual Engineering Service Review	Roger Spencer								
Bognor Regis Beach Access Working Party	Roger Spencer								
Food Waste Trial (FWT) update	Joe R-Wells	25 Nov	30 Nov	5pm Wednesday 08/12/21	16-Dec-21	10am Monday 03/01/22	05-Jan-22	<b>20-Jan-22</b>	09-Mar-22
Budget 2022/23 Timetable	C Martlew								

Disabled Facilities Grant Charge Recycling Policy  Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing  Award of Contain Outbreak Management Funding	L Crane / N Slade  L Crane / N Slade  N Slade								
Solar Together Sussex  Variation to Parking Charges (following public consultation)	Louise Crane  Joe R-W	27 Jan	01 Feb	5pm Wednesday 09/02/22	17-Feb-22	10am Monday 21/02/22	23-Feb-22	<b>10-Mar-22</b>	11-May-22

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