



# CABINET AND COMMISSIONERS' DECISION MAKING MEETING

---

**Monday, 6 August 2018**

**10.00 a.m.**

**Council Chamber, Town Hall,**

**Moorgate Street, Rotherham. S60 2TH**

**Cabinet Members:-**

Leader of the Council  
Deputy Leader of the Council,  
Children's Services and Neighbourhood Working Portfolio  
Adult Social Care and Health Portfolio  
Cleaner, Greener Communities  
Corporate Services and Finance Portfolio  
Housing Portfolio  
Jobs and the Local Economy Portfolio  
Waste, Roads and Community Safety Portfolio

Councillor Chris Read  
Councillor Gordon Watson

Councillor David Roche  
Councillor Sarah Allen  
Councillor Saghir Alam  
Councillor Dominic Beck  
Councillor Denise Lelliott  
Councillor Emma Hoddinott

**Commissioners:-**

Lead Commissioner Mary Ney  
Commissioner Patricia Bradwell  
Commissioner Julie Kenny

## **CABINET AND COMMISSIONERS' DECISION MAKING MEETING**

**Venue:** Town Hall, The Crofts,  
Moorgate Street,  
Rotherham. S60 2TH

**Date:** Monday, 6th August, 2018

**Time:** 10.00 a.m.

### **A G E N D A**

#### **1. Apologies for Absence**

To receive apologies of any Member or Commissioner who is unable to attend the meeting.

#### **2. Declarations of Interest**

To invite Councillors and Commissioners to declare any disclosable pecuniary interests or personal interests they may have in any matter which is to be considered at this meeting, to confirm the nature of those interests and whether they intend to leave the meeting for the consideration of the item.

#### **3. Questions from Members of the Public**

To receive questions from members of the public who wish to ask a general question in respect of matters within the Council's area of responsibility or influence.

Subject to the Chair's discretion, members of the public may ask one question and one supplementary question, which should relate to the original question and answered received.

Councillors may also ask questions under this agenda item.

#### **4. Minutes of the previous meeting held on 9 July 2018 (Pages 1 - 13)**

To receive the record of proceedings of the Cabinet and Commissioners' Decision Making Meeting held on 9 July 2018.

## **DECISION FOR COMMISSIONER BRADWELL**

### **5. Developing an Evidence-Based Programme to reunify Young People who are Looked After (Pages 15 - 26)**

Report of the Acting Strategic Director of Children and Young People's Services

Cabinet Member: Councillor Watson (in advisory role)  
Commissioner: Bradwell

Recommendations:-

1. That the implementation of the MST-FIT model as part of the LAC Sufficiency Strategy to reduce the number and cost of children in care be approved.
2. That approval be given to progress with plans to set up the MST-FIT service and that the most appropriate method of financing be delegated to the Strategic Director of Finance and Customer Services once the grant award from the Life Chances Fund is confirmed and reported back to Cabinet.

## **DECISIONS FOR CABINET**

### **6. Advertising and Sponsorship Policy (Pages 27 - 43)**

Report of the Assistant Chief Executive

Cabinet Member: Councillor Read  
Commissioner: Ney (in advisory role)

Recommendation:-

1. That the Advertising and Sponsorship Policy be approved.

### **7. Proposed Revisions to the Local Authority Fixed Penalty Notices (FPN) Code of Conduct – School Attendance (Pages 45 - 70)**

Report of the Strategic Director of Children and Young People's Services

Cabinet Member: Councillor Watson  
Commissioner: Bradwell (in advisory role)

Recommendations:-

1. That the revised Fixed Penalty Notices (FPN) Code of Conduct be approved.
2. That the following proposed changes be approved:-

- Use a single aspirational attendance target for both primary and secondary age pupils (the current proposed is 95.3%, which is combined National primary and secondary school average) to avoid confusion with parents and carers who may have children at both primary and secondary schools.
- Amend the time period considered in calculating the average attendance of a child to include the previous 12 months and the holiday period.
- Allow a penalty notice to be issued when no parental permission has been sought for a leave of absence and attendance has dropped below the National average target.

3. That the Fixed Penalty Notices (FPN) Code of Conduct be implemented at the start of the new academic school year in September 2018.

**8. Future Designation of Selective Licensing Areas (Pages 71 - 98)**

Report of the Strategic Director of Regeneration and Environment

Cabinet Member: Councillor Beck  
 Commissioner: Kenny (in advisory role)

Recommendations:-

1. That public consultation be undertaken on the proposed designation of parts of Thurcroft and Parkgate for Selective Licensing of private rented housing.
2. That a further report be submitted in December 2018 on the outcome of the public consultation to consider designating Selective Licensing areas.

**9. CCTV Priority Capital Investment and Policy (Pages 99 - 125)**

Report of the Strategic Director of Regeneration and Environment

Cabinet Member: Councillor Hoddinott  
 Commissioner: Ney (in advisory role)

Recommendations:-

1. That the allocation of £60,000 of funding within the approved Capital Programme for mobile CCTV cameras be noted.
2. That the reviewed CCTV Policy and improved processes be approved.

**10. Removal of the public phone box at the junction of Chadwick Drive and Braithwell Road, Maltby (Pages 127 - 135)**

Report of the Strategic Director of Regeneration and Environment

Cabinet Member: Councillor Lelliott  
Commissioner: Kenny (in advisory role)

Recommendations:-

1. That the final decision agreeing to the proposal to permanently remove the public phone box at the junction of Chadwick Drive and Braithwell Road, Maltby, Rotherham, be endorsed.

**11. Response to Overview and Scrutiny Recommendations – Drug and Alcohol Treatment Services (Pages 137 - 143)**

Report of the Strategic Director of Adult Care, Housing and Public Health

Cabinet Member: Councillor Roche  
Commissioner: Ney (in advisory role)

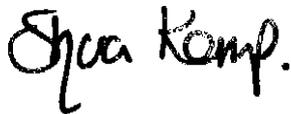
Recommendation:-

That the response to the recommendations of the Scrutiny Review of Drug and Alcohol Treatment and Recovery Services (as set out in Appendix A) be approved.

**12. Recommendations from Overview and Scrutiny Management Board**

To receive a report detailing the recommendations of the Overview and Scrutiny Management Board in respect of agenda items that were subject to pre-decision scrutiny on 1 August 2018:-

- Developing an Evidence-Based Programme to reunify Young People who are Looked After
- Future Designation of Selective Licensing Areas
- CCTV Priority Capital Investment and Policy



**SHARON KEMP,**  
Chief Executive.

This page is intentionally left blank

**CABINET/COMMISSIONERS'  
DECISION MAKING MEETING  
Monday, 9th July, 2018**

Present:- Councillor Read (in the Chair); Commissioner Kenny, Councillors Alam, Allen, Beck, Hoddinott, Lelliott, Roche and Watson.

Also in attendance:- Councillor Steele, Chair of the Overview and Scrutiny Management Board, and Councillor Short.

Apologies for absence were received from Commissioner Bradwell and Commissioner Ney.

The webcast of Cabinet and Commissioners' Decision Making Meetings can be viewed at:-

<https://rotherham.public-i.tv/core/portal/webcasts/enctag/Executive%252BArea>

**162.       DECLARATIONS OF INTEREST**

Councillor Lelliott declared a personal interest in Minute No. 169 (New Applications for Business Rates Discretionary Relief) on the grounds of attending the Magna Board, but in a non-executive capacity.

**163.       QUESTIONS FROM MEMBERS OF THE PUBLIC**

(1)     A member of the public described how the Rotherham population was less than that in Sheffield with a smaller Council budget and unlike Sheffield had many services over the past few years run by Government appointed Commissioners. The Rotherham Advertiser published last Friday the Leader having claimed £5,441 more in allowances than the Leader of Sheffield City Council, the Deputy Leader claiming £2,643 more than the Deputy Leader of Sheffield and the Cabinet Members claiming £2,109 which was more than the highest member of Sheffield's Cabinet. The member of the public, therefore, asked if he could have an explanation from each Member in turn given the role of highly paid Commissioners.

The Leader pointed out there was no need for individual comments as everyone would give the same answer. Each area had an Independent Remuneration Panel who looked at the work of Councillors and apportioned allowance accordingly. Three years ago when he was appointed as Leader the allowances for Members were reduced broadly speaking in line with the South Yorkshire averages which took out 25% of the cost of Members. Last year the allowances were reduced again by 1% in line with the terms and conditions changes to staff.

What other places paid in allowances was a matter for them. When the Leader initially started Rotherham's allowances were expensive. However, this was not now the case and reasonable process had followed. All reasonable steps had been taken to reduce the amount of money Councillors cost.

In a supplementary question the member of the public referred to Members claiming more than Sheffield even with Commissioners last year running services. However, a favourite cut of this Council appeared to be school crossing patrols even in his own Ward of Thrybergh. The collective extra for the Cabinet was £18,629 more than Sheffield equivalents which was over 2,000 hours of school crossing patrols or enough to put three school crossing patrols back and asked if they could be returned.

The Leader reminded the member of the public that the cost of Councillors had been reduced in Rotherham by 25% and for something like £7,000 less than his predecessor as Leader in order to protect services. Councillors needed to be remunerated accordingly and some undertook this on a full time basis. Even if it was decided to remove the amount of money that Councillors were paid this would only pay for 1/15th of the amount of money in the next financial year that needed to be saved.

On school crossing patrols the Council had tried to put in place a policy where there was a need based on national guidelines and the Council would pay for them. There were a number that did not meet the national guidelines, but schools were asked if they wanted to pay for a crossing patrol. Both funds for support to Members and school crossing patrols had been reduced and these were reasonable compromises in the circumstances.

(2) The member of the public also referred to a question he had asked at Cabinet on the 21<sup>st</sup> May, 2018, about the Chesterhill housing development at Thrybergh which was kindly responded to. In that letter the Leader had said a decision had been made to drop the Keepmoat scheme. Last Thursday at the Thrybergh Parish Council meeting neither the Chair nor the Clerk had been informed that the scheme was no longer viable considering they were involved in drawing up the consultation first time around.

Given that there were forty-four days since that Cabinet meeting why had no-one been in touch with the Parish Council to let them know what was happening.

The Leader was unable to comment on the specifics, but the Council policy had not changed with the intention of seeing development on that site. It would not necessarily mean that the Parish Council would automatically be alerted to this. The Leader was happy to check and feedback.

**164. MINUTES OF THE PREVIOUS MEETINGS HELD ON 21 MAY AND 11 JUNE 2018**

**Resolved:-** That the minutes of the Cabinet and Commissioners' Decision Making Meeting held on 21<sup>st</sup> May and 11<sup>th</sup> June, 2018, be agreed as a true and correct record of the proceedings, subject to Councillor Steele being included in the list of attendance for 11<sup>th</sup> June, 2018.

**165. EXCLUSION OF THE PRESS AND PUBLIC**

**Resolved:-** That under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the agenda items 10, 13 and 15 on the grounds that the appendices involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12(A) of such Act indicated, as now amended by the Local Government (Access to Information) (Variation) Order 2006.

**166. FINANCIAL OUTTURN 2017/18**

Consideration was given to a report which outlined the final revenue and capital outturn position for 2017/18.

The revenue budget 2017/18 was approved by Council on 8<sup>th</sup> March, 2017. A budget of £221.560M (including Public Health) was set for General Fund services excluding schools' budgets and Housing Revenue Account. The final outturn position was a £3.237M underspend.

The original budget had proposed a planned use of reserves of £10.467M, therefore, only £7.230M would be utilised leaving £3.237M which would be available to support the budget in later years.

A summary of the outturn position for each Directorates was set out in the report submitted.

The Council continued to face demand pressures in particularly in respect of Social Care. The total overspends for Social Care were £7.737M Children and £4,059M Adults.

The Council's General Fund minimum balance reserve remained at £11.269M. The reserve was held to protect the Council against unforeseen events and realisation of contingency liabilities.

The Cabinet Member for Adult Social Care and Health confirmed the service was determined to bring the Adult Social Care overspend down, but this was against the national crisis of under funding for social care of around £8 billion.

**Resolved:-** (1) That the Revenue Outturn position of a £3.237M underspend be noted.

(2) That the transfer of £2.353M HRA underspend be transferred to the HRA reserve be approved.

(3) That the carry forward of the combined Schools' balance of £1.401M in accordance with DfE regulations be noted.

(4) That the reserves position as set out in Section 3.12 of the report submitted be noted.

(5) That the capital outturn and funding position, as set out in Section 3.13 and Appendix One, of the report submitted be noted.

(6) That the inclusion into the capital programme of new schemes funded by external resources, as set out in Appendix One of the report submitted, be noted.

#### **167. MAY FINANCIAL MONITORING REPORT 2018/19**

Consideration was given to the report which set out the financial position for the Revenue and Capital Budgets at the end of May, 2018 based on actual costs and income and forecasts for the remainder of the financial year. This was the first of a series of monitoring reports for the 2018/19 financial year which would continue to be brought forward to Cabinet and Commissioners on a regular basis.

Delivery of the Council's Revenue and Capital Budget and Medium Term Financial Strategy within the parameters agreed at the start of the current financial year was essential if the Council's objectives were to be achieved. Financial performance was a key element within the assessment of the Council's overall performance framework.

As at May 2018 the Council had a net forecast year-end overspend of £5.8M on the General Fund, after taking account of the £10M budget contingency approved within the 2018/19 budget and the actions currently underway to address budget pressures, particularly in Children and Adult's Social Care

Children and Young People's Services continued to overspend against budget in 2018/19. The number of children in care was still increasing, 23.3% since May 2017 (from 509 to 628). This was exacerbated by the number of high cost placements that had arisen from a combination of complex child protection cases and Operation Stovewood. This had also placed significant and unavoidable pressure on Legal Services within the Finance and Customer Services Directorate with a current forecasted overspend for Legal Services of £1.010M.

Management activity was underway to identify areas of overspend and put in mitigating measures in place whilst maintaining service delivery. The overall budget position would continue to be closely monitored with provision of regular updates through the financial monitoring reports.

Within the 2018/19 budget, new savings of £15.2M were required to achieve a balanced budget. This was in addition to £6.5M of savings that were approved in prior years for delivery in 2018/19 making a total savings requirement of £21.7M. Progress in delivery of the savings was reflected in the forecast overspends and supporting narratives of the Directorates. Currently all savings were either on track or mitigating actions in place with the exception of savings in Adult Social Care and a small amount in Children and Young People's Directorate.

The forecast overspend should be set against a backdrop of the Council having successfully addressed cost pressures of £162M between 2011/12 to 2017/18, the requirements to save a further £21.7M in the current year and to deliver a further £30M of efficiencies and savings in the following two financial years in order to meet the estimated budget gaps to 2020/21.

Rotherham's schemes for Supporting Small Businesses and Support for Pubs based on Government guidance for those schemes had been agreed. However, the Government did not provide any detailed guidance for Revaluation Support but gave each Council a fixed amount of grant to be distributed to businesses based on locally developed criteria. Rotherham Council have received £365k for 2017/18 and Cabinet agreed Rotherham's criteria for distributing the grant in November, 2017.

Any grant which was not distributed to businesses would be clawed back by the Government and following reviews of grant applications against the original criteria, which indicated less than expected take-up of the grant, revised criteria.

A balance of grant still remained available for award. Businesses were being contacted to make them aware that the grant was available and the Council was confident all of the funding would be used.

The Deputy Leader referred to the unprecedented growth in the number of looked after children which had seen a further rise and compounded by the increasing complexity of children admitted into care. The number of "Special Guardianship Orders" was also rising, but whilst there was a cost associated with this, the outcome was positive with permanency being provided within a family setting. Officers would continue to work closely to bring the overspends under control.

The Cabinet Member for Waste, Roads and Community Safety pointed out whilst there was a net forecast year-end overspend this echoed the national picture that many Councils were facing. It was important to highlight that the Council would endeavour to ensure the most vulnerable were protected, but would have less resources moving forward.

It was also pointed out that there was a £150k pressure on Licensing due to additional legal costs and fees.

The Cabinet Member for Adult Social Care and Health confirmed social care funding was of concern, but recognised the increasing pressures against the delivery of savings.

The Council would continue to face increasing pressures with over a third of its budget lost through savings, but would continue to have further implications for financial years 2019/20 and 2020/21 where the Medium Term Financial Strategy identified a further £30M as being required to balance the budget.

**Resolved:-** (1) That the current General Fund Revenue budget forecast overspend of £5.8M be noted.

(2) That the management actions that continue to be developed to address areas of overspend be noted and alternative and additional savings be identified to mitigate shortfalls in achieving planned savings in 2018/19.

(3) That the Capital Programme position and Treasury Management key indicators for the first quarter of 2018/19 be included within the financial monitoring report to be submitted in September, 2018.

(4) That the changes to the Business Rates Revaluation Support Scheme, as set out in paragraphs 3.67 to 3.68 of the report, be approved and that any further changes which may be required be delegated to the Strategic Director, Finance and Customer Services in consultation with the Cabinet Member for Corporate Services and Finance.

(5) That the virement of budget within Children and Young People's Services of £500k to Special Guardianship Orders from the placements budget, as referenced in paragraphs 3.2.8 to 3.2.14 of the report, be approved.

#### **168. ANNUAL TREASURY MANAGEMENT REPORT AND ACTUAL PRUDENTIAL INDICATORS 2017/18**

Consideration was given to the Annual Treasury Management Report, which was submitted to review the treasury activity for 2017/18 against the strategy agreed at the start of the year.

The report covered the actual Prudential Indicators for 2017/18 in accordance with the requirements of the Prudential Code. The report met the requirements of both the CIPFA Code of Practice on Treasury Management and the CIPFA Prudential Code for Capital Finance in Local Authorities. It was noted that the Council was required to comply with both Codes through Regulations issued under the Local Government Act 2003.

**Resolved:-** (1) That the Treasury Management Prudential Indicators outturn position as set out in Section 3 and Appendices A and B of the Annual Treasury Management Report for 2017/18 be noted .

(2) That the report be forwarded to Audit Committee for information

**169. NEW APPLICATIONS FOR BUSINESS RATES DISCRETIONARY RELIEF**

Consideration was given to the report which set out in detail three applications for the award of a business rate discretionary relief.

**Resolved:-** (1) That 20% discretionary top up relief be awarded to Bramley Scouts, 62A main Street, Bramley Rotherham S66 2SQ for the period 1<sup>st</sup> April, 2018 to 31<sup>st</sup> March, 2019.

(2) That 20% discretionary top up relief be awarded to Rotherham Talking Newspaper, Park Hall, Victoria Park, Rosehill Road, Rawmarsh, Rotherham S62 7HJ for the period 1<sup>st</sup> April to 31<sup>st</sup> March, 2019.

(3) That 20% discretionary top up relief be awarded to Magna Trust, Templeborough, Rotherham S60 1DX for the period 21<sup>st</sup> February 2018 to 31<sup>st</sup> March, 2019.

(Councillor Lelliott declared a personal interest on the grounds of attending the Magna Board, but in a non-executive capacity)

**170. MODERN METHODS OF CONSTRUCTION PILOT TO BUILD AFFORDABLE HOMES**

Consideration was given to a report proposing the delivery of twelve bungalows for older people through a pilot to test alternative modern construction methods. Funding for the pilot would come from the Housing Revenue Account and, subject to confirmation, grant funding from the Sheffield City Region's Housing Fund.

'Modern methods of construction' (MMC) was a generic term used to cover several different types of homes that were manufactured in a factory environment and either fully or partially assembled in the factory, or the component parts were assembled on site. MMC could provide an efficient alternative to traditional construction methods.

Until the procurement exercise had been completed, it was not possible to analysis property lifespan and lifecycle costings. A robust appraisal would be carried out to ensure the property demonstrated long term value for money to the Council.

The proposal for each site was set out below:-

- Symonds Avenue, Rawmarsh – eight bungalows.
- Hounsfield Crescent, East Herringthorpe – two bungalows.
- Hounsfield Road, East Herringthorpe – two bungalows.

The bungalow sites were either low demand garage sites or undeveloped HRA land, which have varying degrees of nuisance issues. If this pilot proved to be successful this could provide a delivery route for many of the other 200-300 HRA owned small sites in the borough. Whilst groundworks and the construction of foundations were still required, the homes could be delivered to the site as completed units (depending on the specific product). Consequently the number of traffic movements to and from site was reduced as there were fewer large delivery vehicles.

Relevant Ward Members had been briefed

The estimated project costs were set out in Appendix 2, but it was noted the funding for the MMC was via HRA Revenue Reserves and Sheffield City Region.

This report had been considered by the Overview and Scrutiny Management Board as part of the pre-scrutiny process who were in support of the recommendations, but were asking Cabinet to consider aligning this project with the work of the Scrutiny Task and Finish Group on housing to avoid duplication and for future proposals to detail how the Council would market and promote the benefits of modern methods of construction for affordable homes.

**Resolved:-** (1) That the use of the identified sites to deliver affordable housing using modern methods of construction be approved.

(2) That a further report be submitted to the November 2018 Cabinet meeting detailing the outline business case, recommending contract partners and seeking approval for the use of Housing Revenue Account capital resources for the pilot up to maximum of the amount set out in Appendix 2 of the report submitted following a procurement exercise.

(3) That this project be aligned with the work of the Scrutiny Task and Finish Group on housing to avoid duplication.

(4) That future proposals set out in detail how the Council would market and promote the benefits of modern methods of construction for affordable homes.

**171. DELIVERY OF HOUSING ASSOCIATION HOMES ON HOUSING REVENUE ACCOUNT SITES**

Consideration was given to the report which sought approval to transfer four parcels of Housing Revenue Account (HRA) land to Arches Housing Association and one parcel of HRA land to Johnnie Johnson Housing Association.

The sites to transfer to Arches Housing and Johnnie Johnson Housing Associations would result in the delivery of twenty-two new homes for affordable rent and the Council would receive nomination rights to the properties. The total scheme cost for the Arches development and the Johnnie Johnson represented £3.23m of investment into the borough. Both organisations would request grant funding from Homes England to support their schemes. This funding was time bound and all the developments have to be completed by March, 2021 or the funding offer would be withdrawn.

Evidence of demand for these properties was strong. Housing needs data showed that there were over 6,000 people on the waiting list across the borough.

Delivery of affordable housing schemes was always financially challenging and both housing associations have requested a land transfer for the value of £5K per plot. This reduced land value was in line with funding guidance issued by Homes England, and the Council's longstanding custom and practice, to enable housing associations to develop new affordable homes in Rotherham. The full open market values for each site have been calculated as well as the reduced transfer values.

Local Ward Members have been consulted on the proposals and their feedback taken into account.

Cabinet Members supported these proposals and any scheme that would reduce the waiting list for properties across the borough was welcomed.

**Resolved:-** (1) That the transfer of four parcels of HRA land as detailed above to Arches Housing Association for £5K per plot value be approved.

(2) That the transfer of one parcel of HRA land at Orchard Place, West Melton for £5K per plot value be approved.

(3) That the transfer of four parcels of HRA land as detailed above to Arches Housing Association for £5K per plot value be approved.

(4) That the transfer of one parcel of HRA land at Orchard Place, West Melton for £5K per plot value be approved.

**172. STREET CLEANSING ALLOCATION OF CAPITAL EXPENDITURE**

Consideration was given to the report that detailed that as part of the Budget and Council Tax 2018/19 £610,000 of Priority Capital Investment monies were identified for 'Street Cleansing Equipment and Bins'. This investment was intended for service improvements for cleansing and bins with options for Solar Compactor Bins to be explored.

This report, therefore, sought approval to spend £408,500 of this allocation on a range of capital investments in street cleansing equipment and bins, balancing the need for short-term investment in 'traditional' approaches, and the longer term need to assess more innovative approaches to litter bin provision. In particular, the project sought to pilot the provision of solar litter bins, in order to assess their potential to support wider investment in litter bin provision, via the delivery of efficiencies in operational street cleansing services and increased advertising revenues.

**Resolved:-** (1) That £408,500 of Capital Expenditure be released for investment in Street Cleansing Equipment and Bins.

(2) That the proposed approach to expenditure of the Capital Investment in Street Cleansing Equipment and Bins be approved, as outlined in Section 4.10 to 4.13 below.

(3) That the Assistant Director of Community Safety and Street Scene be authorised to make all necessary arrangements for the delivery of the proposed approach, in consultation with the Cabinet Member for Cleaner, Greener Communities.

**173. STRATEGIC PROPERTY - RIVERSIDE HOUSE LEASE**

Consideration was given to a report which sought approval to restructure the lease for Riverside House and to delegate the final details and future lease arrangements for Riverside House to the Strategic Director for Regeneration and Environment, in consultation with the Strategic Director for Finance and Customer Services and the Assistant Director for Legal Services.

In September 2011 the Council entered into a 35 year lease for Riverside House and this was a commercial full repairing and insuring lease with fixed rate five year rent reviews and no break clause.

There were restrictions within the lease, the main restriction being the use to which the building could be utilised, with further restrictions on subletting parts of the building. There was also a requirement to obtain Landlord's permission to modify or make any additions or alterations to the building.

The lease had 28 years of the 35 year term remaining. An opportunity had arisen via the Landlord to restructure the lease. The basis of the restructure would be that the existing lease be extended by a further seven years, though the rent payable and rent review clause, along with user clause, would be revised. The restructured lease would also contain the provision that at the end of the 35 year term the ownership of the building and site would revert to the Council for £1.

Under the current lease at the end of the 35 year term the Council would have to return the building to the Landlord in a state of repair and at an agreed specification, which could include the payment of any dilapidations claim. There would also be the need to either negotiate a further lease with the Landlord or seek alternative premises.

Under the terms of the existing lease and the terms of the proposed restructure the Council was responsible for all the property running costs including repairs, maintenance and insurance.

The lease restructure would allow the Council more freedoms and flexibilities in the use of the building, along with full flexibility on sub-lease arrangements which would offer future income generation opportunities. The proposal would also deliver annual revenue savings to the Council.

Cabinet Members welcomed this significant opportunity to review the costs associated with Riverside House and the securing of a long term deal.

This report had been considered by the Overview and Scrutiny Management Board as part of the pre-scrutiny process who were in support of the recommendations, that an "in principle" decision be made to approve the restructure of the lease arrangement for Riverside House and delegate authority as outlined in the published officer recommendations and that efforts to co-locate more public services within Riverside House be supported.

**Resolved:-** (1) That the restructure of the lease for Riverside House be approved, in principle, and authority to sign the final terms of the agreement be delegated to the Strategic Director for Regeneration and Environment, in consultation with the Cabinet Member for Jobs and the Local Economy, the Strategic Director for Finance and Customer Services and the Assistant Director for Legal Services.

(2) That the Assistant Director of Legal Services be authorised to negotiate and complete the necessary legal agreements.

**174. ALLOTMENTS SELF MANAGEMENT**

Consideration was given to a report which detailed how the Council and Rotherham and District Allotments Association have worked together to review the current allotments service and explore possible alternative service models to drive long-term improvement. This recognised the pressure the service had been under since 2011 due to reduced public spending.

The Rotherham and District Allotments Association (RaDAA) had embraced the opportunity to engage with the Council to jointly review how the allotment service was managed, and what steps might be taken to overcome current challenges, including remodelling the service to secure the best possible outcomes for allotment users within the limited available resources.

The review had gathered evidence to support the assessment of options, including a survey of existing plot-holders, an audit of Council-owned allotment sites, and information about management models in place elsewhere in Britain. Consequently, the review had concluded that the adoption of a self-management model offered best prospects for service improvement and involving allotment users more in this.

This report had been considered by the Overview and Scrutiny Management Board as part of the pre-scrutiny process who were in support of the recommendations, subject to the Improving Places Select Commission receiving an update on the implementation of this project, at a time to be agreed by the Chair and Vice-Chair of the Select Commission.

**Resolved:-** (1) That Council adopt a new vision and specification for allotments, as proposed in this report.

(2) That Council approve the transfer of management of Council-owned allotments to a new borough-wide self-management body, and authorises officers to work with Rotherham and District Allotments Association, Voluntary Action Rotherham and others to establish a Community Benefit Society for this purpose.

(3) That the Improving Places Select Commission receiving an update on the implementation of this project, at a time to be agreed by the Chair and Vice-Chair of the Select Commission.

**175. COMMUNITY ENERGY SWITCHING SCHEME**

Consideration was given to a report which sought approval to assess the feasibility of developing a community energy switching scheme in Rotherham to reduce the number of people in Rotherham paying high tariffs for gas and electricity.

Various options were considered as part of the report and it was recommended that Option 3 be progressed as the outcome of the feasibility study and subsequent development of a Community Energy Switching Scheme could reduce the number of people in Rotherham paying high tariffs for gas and electricity.

This report had been considered by the Overview and Scrutiny Management Board as part of the pre-scrutiny process who were in support of the recommendations, for Cabinet to encourage officers to deliver this project swiftly and subject to the outcome of the study, consideration be given to the marketing and promotion of the scheme

**Resolved:-** (1) That a detailed feasibility study be undertaken in order to assess the viability of developing a Community Energy Switching Scheme.

(2) That a detailed feasibility report be brought back to Cabinet for consideration.

(3) That officers be encouraged to deliver this project swiftly.

(4) That, subject to the outcome of the study, consideration be given to the marketing and promotion of the scheme

**176. RECOMMENDATIONS FROM OVERVIEW AND SCRUTINY MANAGEMENT BOARD**

Consideration was given to the circulated report, the contents of which were included as part of the relevant items and the details included accordingly.

This page is intentionally left blank

## Summary Sheet

### **Name of Committee and Date of Committee Meeting**

Cabinet and Commissioners' Decision Making Meeting – 6 August 2018

### **Report Title**

Developing an Evidence-Based Programme to reunify Young People who are Looked After

### **Is this a Key Decision and has it been included on the Forward Plan?**

Yes

### **Strategic Director Approving Submission of the Report**

Mel Meggs, Acting Strategic Director of Children and Young People's Services

### **Report Author(s)**

Mark Chambers, Assistant Director – Commissioning Performance & Quality  
01709 822238 or mark.chambers@rotherham.gov.uk

Jenny Lingrell, Head of Service – Transformation Lead Early Help  
01709 254836 or jenny.lingrell@rotherham.gov.uk

### **Ward(s) Affected**

Borough Wide

## Summary

Rotherham's number of children and young people is higher per 10,000 of population than the national average and statistical neighbours and continues to rise.

Multi-Systemic Therapy – Family Integrated Transitions (MST-FIT) is a programme consisting of two intersecting phases; it is targeted towards children and young people between the ages of 11 and 15 and their families. The target cohort is adolescents who are currently in residential care and who, without focused intervention, are expected to remain there until they are 18. The first phase lasts for 12 weeks, the child is moved from an out of authority placement into a local residential home. The residential team use a model called the 'Integrated Treatment Model' (ITM) to support young people to manage their behaviour and learn new skills. Phase two involves the MST team in the community who support the child and family for up to 20 weeks as they learn to live together again. The two teams work closely together to ensure that there is a clear and supported pathway from the residential provision to a successful return home.

The potential return on investment is high as the offer presents a realistic alternative to adolescents remaining in the care system until they are 18 and to reducing the cost of expensive out of authority placements.

This paper outlines the service, the long term benefits and financing options.

**Recommendations**

1. That the implementation of the MST-FIT model as part of the LAC Sufficiency Strategy to reduce the number and cost of children in care be approved.
2. That approval be given to progress with plans to set up the MST-FIT service and that the most appropriate method of financing be delegated to the Strategic Director of Finance and Customer Services once the grant award from the Life Chances Fund is confirmed and reported back to Cabinet.

**List of Appendices Included**

Appendix 1 MST-FIT Financial Plan

**Background Papers**

None

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## **Developing an Evidence-Based Programme to reunify Young People who are Looked After**

### **1. Recommendations**

- 1.1 That the implementation of the MST-FIT model as part of the LAC Sufficiency Strategy to reduce the number and cost of children in care be approved.
- 1.2 That approval be given to progress with plans to set up the MST-FIT service and that the most appropriate method of financing be delegated to the Strategic Director of Finance and Customer Services once the grant award from the Life Chances Fund is confirmed and reported back to Cabinet.

### **2. Background**

- 2.1 The Multi Systemic Therapy – Family Integrated Transitions (MST-FIT) service under consideration is an innovative approach to address sufficiency for looked after children. It seeks to make a positive case for a model of intervention where young people can learn to behave differently whilst their families learn and are supported to resume leading their care. The service will enable residential care to be used as an intermediate step on the journey to parents fully caring for their children.
- 2.2 MST-FIT is an adaptation of the MST Standard model. MST Standard is designed to prevent children from being placed in either care or custody. MST Standard has an international evidence base to demonstrate its effectiveness and has been successfully delivered in Rotherham and Barnsley through a shared service arrangement.
- 2.3 MST-FIT was developed to support the reintegration of children in care or custody back into the family home. The first phase of MST-FIT places the child in a residential care home for 12 weeks. The home runs a programme called the Integrated Treatment Model (ITM). ITM focuses on a range of behaviours with the young person, including increasing the young person's knowledge of their own behaviour, the driver for their behaviour and the behaviours and drivers of others.
- 2.4 Section 4 explores the three financing options in detail.
  - Option 1: a traditional funding approach from the Children and Young People's (CYPS) revenue budget;
  - Option 2: third party investment through a social impact bond which would be re-paid from the CYPS revenue budget and Life Chances Fund (LCF) if certain pre-agreed outcomes are achieved;
  - Option 3: a combination of options 1 and 2.
- 2.5 The Life Chances Fund (LCF) provides local authorities support to explore the opportunities provided by social impact bonds and outcome based commissioning. Rotherham CYPS have been awarded a grant in principle of £85k per annum for five years subject to a final project submission on 31<sup>st</sup> July 2018.

### **3. Key Issues**

- 3.1 Stage one, the residential unit work, will see the young person transfer from their existing residential placement into a commissioned residential home in Rotherham for a period of twelve weeks. At the same time the MST community team (stage 2) work with the young person's family to help them change their parenting approaches and behaviours. When the young person's 12 week period in the home ends they return to live with their family. The family is then supported by the MST community team for a further 20 weeks. The second phase of the programme – MST standard – is not new to Rotherham. It is a service run in partnership with Barnsley Council which has successfully prevented children and young people entering care. The two phases of the intervention are closely aligned to ensure a smooth pathway from the residential provision into a successful return home.
- 3.2 If the work to reunite the young person with their family is unsuccessful an alternative long-term placement in fostering or back into a suitable residential placement will be found. The skills developed during the programme will support the young person to thrive and achieve better outcomes even if they are not able to return home.
- 3.3 Rotherham has 67 looked after children in out of authority residential care (June 2018). An initial scoping exercise has identified 24 children (out of 67) who would be candidates for MST-FIT reunification.
- 3.4 The maximum service capacity per year will be 12 children, based on a three bed residential provision and four cycles of ITM lasting twelve weeks.
- 3.5 The scheme is expected to run for an initial period of five years. In order to guarantee that the demand will be there for the full period of the project a scoping exercise has begun and has identified 24 children and young people from those currently in out of authority residential care who fit the programme criteria. The average number of new entrants into residential care per year, based on the trend of the last three years is 35. If the ratio of new entrants who would qualify for MST-FIT matches the proportion from the current residential population then there will be an additional 7 young people per year in scope. Existing and future children in care, including those in independent fostering placements, will guarantee over 100 children from which more detailed suitability can be determined.
- 3.6 In addition Barnsley Council has indicated that they would be interested in purchasing one place per ITM cycle i.e. 4 per year. This, and an evolving link with the Mockingbird model of foster care offering the chance to establish a step-down pathway from residential care to fostering, will further strengthen the number of children in scope each year.
- 3.7 MST-FIT is being used in two authorities in the UK (Leeds and Northamptonshire) where it is showing strong engagement rates and very positive changes in children's behaviour. Long-term reunification success from the programme is above two-thirds in both authorities.

- 3.8 The ambition for Rotherham MST-FIT will be to out-perform MST-FIT services in other authorities through the unique partnership model – with the commissioner (RMBC), investor and two providers working together and focused on delivering better outcomes for young people. The financial savings that will follow are significant and by the end of 2023/24 the annual expenditure on placements for looked after children will be £3.7m less than currently forecast for 2018/19.
- 3.9 MST-FIT has a number of direct benefits which are outlined above. There are significant secondary outcomes which include how it will:
- Enhance the skills, knowledge and understanding of social workers responsible for children in care
  - Enhance the skills, knowledge and understanding of the residential care staff who care for our children in care
  - Improve the quality of practice of staff across our children’s workforce in collaboration with the support offered through evidence-based programmes
  - Enable evaluation of whether or not care provision can be used proactively to ‘treat’ problem behaviour involving teenagers
  - Enable evaluation of whether or not it is possible to establish a practice model that changes our understanding about the potential of residential care when it is allied with community programmes
  - Present an alternative, costed model to commissioners that can provide confidence in likely outcomes.

#### **4. Options considered and recommended proposal**

- 4.1 This project will close a gap in provision for existing children in care by providing a focused treatment programme with the aim of placing children back in a family environment. It will complement the work of the Right Child Right Care Board – established to review and closely monitor the number of children being admitted to and discharged from care and the length of time in care – and the suite of services which form part of the Rotherham Edge of Care offer.
- 4.2 The total estimated cost of the MST-FIT service is £1.120m per annum, of which £570k is for the residential provision (stage 1) which would be funded from the existing out of authority residential placement budget. The balance of £550k for the MST community team and programme management would be funded from gross savings achieved in-year. The exact amount that the council would need to fund will depend on the financing option that is selected. Indicative net savings (i.e. after any new investment) are:
- 2019/20 – £0.324m
  - 2020/21 – £1.478m

- 2021/22 – £1.088m
- 2022/23 – £0.399m
- 2023/24 – £0.434m

4.3 The costs of the service and the estimated savings are subject to some sensitivity and will depend on a number of factors:

- The commissioned residential home – current assumptions are based on a three bed home, a four bed unit would cost more to commission but would offer an extra four places on the programme per year.
- The LCF grant may increase once final programme costs are submitted as part of the grant set up form.
- Once the detailed scoping exercise has been completed and a current cohort of potential entrants into the programme has been established a refined average annual cost of the existing care placement (and hence saving) will be available which might be more or less than the overall average cost of the 67 young people in residential placements as of June 2018.
- Further work will clarify the difference in years 4 and 5 between genuine cost reduction and maintaining cost avoidance and savings achieved in previous years.

**Option 1: Realign the CYPS social care budget and provide additional investment to fund MST-FIT in full**

- 4.4 The residential provision will be a 3 or 4 bed home (3 beds assumed for modelling purposes in Appendix 1). Three young people in out of authority residential placements will be transferred into the new commissioned home every twelve weeks. The budget for their residential costs will transfer with them (3 x £175,000). The budget will follow the young person, if they successfully graduate through the scheme and return to the family home the balance of the budget will contribute towards Children's Services savings. If the young person still requires a fostering placement funded by the local authority, the budget from their original placement will fund a new one before contributing to savings.
- 4.5 If the programme delivers the outcomes that are expected in the first full year of operation estimated savings will cover the cost of the new MST team. Service implementation will be from January 2019 and as a result there will only be a part year effect in 2018/19. Set up costs will contribute to a one-off deficit position in 2018/19.

**Option 2: Delivery via an outcome based contract in partnership with a social investor (using a Social Impact Bond) and with funding support from the Life Chances Fund**

- 4.6 Using this method of delivery the council as commissioner would still contract directly with chosen provider(s). However the initial costs of the service would be funded by a social investor who would loan upfront funding in order to deliver the service. The council would pay the investor back in instalments over the life of the scheme based on the programme achieving agreed outcomes.
- 4.7 The net financial benefit of option 2 would be marginally better than option 1 but the method of financing the service and the commissioning process, contract monitoring and evaluation would have to differ from a more traditional approach.
- 4.8 The significant difference in using the Social Impact Bond method of upfront funding is that the risk of failure would sit with the social investor rather than the council. The council would pay nothing for outcomes that did not meet pre-agreed targets.
- 4.9 However if pre-agreed targets are met the likelihood is that the council would pay the provider an inflated fee to cover the return on investment (ROI) expected by the social investor (ROI could be anything from 0% to 10% [5% is used in the modelling]).
- 4.10 In order to encourage commissioners to approach investments using innovative solutions the Life Chances Fund was created to award grants to commissioners who commit to funding projects through a Social Impact Bond. The grant has been designed to contribute towards the outcome payments. Any return on investment for social investors will be funded from the LCF rather than the council.
- 4.11 Financing the scheme using a Social Impact Bond has additional advantages. It allows Rotherham to try out innovative models of practice without exposing the Local Authority to undue risk. Social Impact Bonds may become a necessary component of funding in the future. In addition to the upfront financial investment there is significant expertise made available to the Local Authority that will enable learning and development of outcome based commissioning and robust performance management based on a delivery model with partnership and shared outcomes at its core.
- 4.12 The National Implementation Service, who hold the UK license for MST, also have expertise in developing services using social impact bonds. They are supportive of this approach and will share their knowledge to ensure the successful delivery of Rotherham's programme.

### **Option 3: A combination of option 1 and option 2**

- 4.13 Option 3 has been explored due to the clear distinction between the two elements of the MST-FIT service – the residential home and the MST community team – and how they might best be established and funded. Option 3 could see the residential provision funded through social investment in the first instance (and dependent on meeting pre-agreed outcomes reimbursed by the Council as outlined in paragraph 4.6). An in-house MST team could be funded upfront by the Council but still subject to outcome based performance management.
- 4.14 The commissioned residential provider does lend itself to the Social Impact Bond and outcome based contracting model.
- 4.15 However for the MST community team the process of commissioning a provider might be more difficult given the requirement to obtain an MST licence in order to operate. It might be beneficial to build on the existing MST standard shared service with Barnsley Council who already have the MST licence and there might follow opportunities to make efficiencies across both services.

### **Option 4: Not to progress with the proposed service**

- 4.16 Cease to further develop the MST-FIT service provision and withdraw from the Life Chances Fund.

## **5. Consultation**

- 5.1 The approach being taken to explore funding options has been developed in collaboration with colleagues from Barnsley Council with whom RMBC co-delivers MST Standard. There has been initial engagement with the VCS – meetings with Voluntary Action Rotherham (VAR) and presentation to the VCS Children and Young People's Consortium. The MST National Implementation Lead has contributed to all discussions so far and is supportive of developing the MST-FIT model in Rotherham
- 5.2 A market warming event took place on 21<sup>st</sup> March 2018. Seven potential providers expressed interest in the event and four potential providers attended an in-depth presentation delivered by MST Services and MST-FIT consultant from the University of Washington and RMBC.

## **6. Timetable and Accountability for Implementing this Decision**

- 6.1 The final project proposal to the Big Lottery Fund, who administer the Life Chances Fund Grant, was submitted on 15<sup>th</sup> June 2018. A decision regarding the Life Chances Fund Grant award will be made in early August.
- 6.2 It is expected that the service will commence in January 2019.

## 7. Financial and Procurement Implications

- 7.1 The financial implications of are outlined in section 4 of this report, in Appendix 1 and summarised below.
- 7.2 The timing of actual cash payments will differ depending on the chosen financing option:

Option 1 – a traditional fee for service contract will see payments made at pre-agreed (quarterly) points throughout the financial year.

Option 2 – payments based on outcomes will occur after delivery of the service and be based on achieving pre-agreed outcomes which will be measured and tested throughout the two years following “reunification”.

From an accounting perspective the treatment and recognition of planned payments will be the same for either option. They will be recorded at the point of delivery and recognised for option 2 by creating a provision for costs incurred, payment will only occur after assurance that outcomes have been achieved. Any accounting adjustments, favourable or adverse, will be made once outcomes are known for each child.

- 7.3 The scheme will deliver significant savings to the LAC Placement Budget from the first full year of operation in 2019/20. However in 2018/19 due to one-off set up costs and an expected time lag before savings are realised there will be a requirement for one-off funding of £215k.
- 7.4 The funding required for costs in 2018/19 will not adversely affect the existing forecast of expenditure for CYPS. It will be funded through the over achievement of cost efficiencies estimated for 2018/19 through market management of placement costs. The cost reduction from moving young people who at 1<sup>st</sup> April 2018 were in residential placements into semi-independent accommodation will over achieve the previously estimated £800k saving by £252k.
- 7.5 The investment / saving profile is as follows:

Year	In-Year Investment / (Saving) in £	Cumulative Saving (in £) from 2019/20
2018/19	214,875	
2019/20	(323,750)	(323,750)
2020/21	(1,477,500)	(1,801,250)
2021/22	(1,087,500)	(2,888,750)
2022/23	(398,750)	(3,287,500)
2023/24	(433,750)	(3,721,250)

- 7.6 The proposal to continue the delivery of the MST community team as a shared service through Barnsley Council is not subject to the application of the Public Contracts Regulations 2015.

- 7.7 However, a procurement procedure will need to be undertaken to appoint the Provider(s) to deliver the ITM. It is recommended that continued early engagement with Procurement is maintained to ensure that the Contract entered into accurately reflects the financing option agreed.
- 7.8 It should be noted that if a Social Impact bond is pursued, the appointment of the Social Investor will be exempt from the Public Contracts Regulations 2015 as defined in Regulation 10(f).

## **8. Legal Implications**

- 8.1 There are no direct legal implications arising from the principle of this proposal, in relation to the care and services provided to children and young people and their families.
- 8.2 Further legal advice will be needed in relation to the terms of any proposed grant funding or social impact bond, subject to the funding stream which is chosen.

## **9. Human Resources Implications**

- 9.1 Not applicable at this stage

## **10. Implications for Children and Young People and Vulnerable Adults**

- 10.1 The provision of this service reduces the risk of family breakdown and the associated negative outcomes for family members including parents and siblings. The level of support that is proposed through this intervention will reduce the likelihood that young people who enter the care system continue to be vulnerable in adulthood.

## **11 Equalities and Human Rights Implications**

- 11.1 If the proposal outlined in this report progresses to operational implementation there will need to be an equalities assessment. This will be aligned with the equalities assessment of the wider Edge of Care offer.

## **12. Implications for Partners and Other Directorates**

- 12.1 At this stage there are no implications of this proposal to partners and other directorates. If the decision is to progress through the LCF approach, there may be learning about the Social Impact Bond process that can be shared across RMBC and with partners.
- 12.2 If the proposal outlined in this report progresses to operational implementation there is likely to be a positive impact for partners and other directorates as the intensive intervention with families will reduce the demand often associated with Looked After Children and their families, including missing episodes, poor engagement in education and anti-social behaviour.

**13. Risks and Mitigation**

- 13.1 The relative financial risks are captured in the options appraisal above.
- 13.2 There is a risk that the outcomes built into an outcomes based contract are not SMART and robust in terms of achieving an ongoing cost reduction for the Council and not additional costs on top of existing commitments.
- 13.3 The service risk is that, without additional strategies to reduce the number of young people who remain in care on a long-term basis, there will be increasing pressure on current LAC sufficiency arrangements

**14. Accountable Officer(s) and Approvals**

Mark Chambers, Assistant Director – Commissioning Performance & Quality  
 Jenny Lingrell – Head of Service – Transformation Lead Early Help

Approvals obtained on behalf of:-

	<b>Named Officer</b>	<b>Date</b>
Strategic Director of Finance & Customer Services	Graham Saxton	13.07.2018
Assistant Director of Legal Services	Stuart Fletcher	21.06.2018
Head of Procurement	Karen Middlebrook	07.06.2018
Assistant Director of Human Resources	Amy Leech	13.07.2018

## Appendix 1: MST-FIT Financial Plan

Baseline Expenditure = £22.975m

Year 5 Forecast of Expenditure = £19.254m

Estimated cost reduction = £3.721m

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
	£	£	£	£	£	£
<b>Revenue Expenditure</b>						
Residential (ITM)	142,500	570,000	570,000	570,000	570,000	427,500
MST-FIT Service	100,000	400,000	400,000	400,000	400,000	300,000
Other programme costs	37,500	150,000	150,000	150,000	150,000	150,000
Set up cost	66,125	0	0	0	0	0
RMBC Gross Cost	346,125	1,120,000	1,120,000	1,120,000	1,120,000	877,500
Life Chances Fund Contribution to Outcomes (TBC) *						
RMBC Net Cost	346,125	1,120,000	1,120,000	1,120,000	1,120,000	877,500

<b>RMBC Budget Impact</b>						
Out of Authority Placement - Original 2018/19 Forecast	5,743,750	22,975,000	22,975,000	22,975,000	22,975,000	22,975,000
OOA Revised Forecast	5,612,500	21,531,250	20,053,750	18,966,250	18,567,500	18,376,250
MST-FIT (Commissioned Residential)	178,125	570,000	570,000	570,000	570,000	427,500
MST-FIT (MST Community Team)	125,000	400,000	400,000	400,000	400,000	300,000
MST-FIT (Other costs)	43,000	150,000	150,000	150,000	150,000	150,000
MST-FIT (Income/Contributions) TBC	0	0	0	0	0	0
Combined Budget OOA and MST-FIT	5,958,625	22,651,250	21,173,750	20,086,250	19,687,500	19,253,750
In-Year Investment / (Saving)	214,875	(323,750)	(1,477,500)	(1,087,500)	(398,750)	(433,750)
Cumulative Saving		(323,750)	(1,801,250)	(2,888,750)	(3,287,500)	(3,721,250)

\*Any LCF grant award will reduce the Net Cost of the Service and increase the net saving to the Council.

Public Report  
Cabinet and Commissioners' Decision Making Meeting

---

**Committee Name and Date of Committee Meeting**

Cabinet and Commissioners' Decision Making Meeting – 06 August 2018

**Report Title**

Advertising and Sponsorship Policy

**Is this a Key Decision and has it been included on the Forward Plan?**

No, but it has been included on the Forward Plan

**Strategic Director Approving Submission of the Report**

Shokat Lal, Assistant Chief Executive

**Report Author(s)**

Chris Burton, Head of Communications and Marketing  
01709 822769 or christopher.burton@rotherham.gov.uk

**Ward(s) Affected**

Borough-Wide

**Report Summary**

The purpose of this report is to recommend to Cabinet the adoption of an Advertising and Sponsorship Policy

**Recommendations**

That the Advertising and Sponsorship Policy be approved.

**List of Appendices Included**

Appendix 1 Draft Advertising and Sponsorship Policy  
Appendix 2 Draft Advertising Brochure

**Background Papers**

None

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Overview and Scrutiny Management Board – 01 August 2018

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## **Advertising and Sponsorship Policy**

### **1. Background**

- 1.1 There is a need to ensure the council maximises opportunities and income and secures best value for money. It is therefore considered that a policy is required to clearly set out what is acceptable in terms of advertising and sponsorship content / material and ensure no conflict with council priorities, values or services – and how the council will approach this.
- 1.2 To establish a unified and corporate approach (including best practice) to advertising and sponsorship across the council
- 1.3 Ensure compliance with legislation, advertising industry codes and other relevant council policies.
- 1.4 A copy of the draft brochure forms Appendix 2 to this report and is provided for information and context.

### **2. Key Issues**

- 2.1 A sponsorship policy is required to provide a robust framework and control measures for advertising and sponsorship activity, in support of income generation.
- 2.2 The adoption of a policy will:-
  - Ensure the council maximises opportunities and income and secures best value for money.
  - Set out what is acceptable in terms of advertising and sponsorship content / material and ensure no conflict with council priorities, values or services and how the Council will approach this.
  - Establish a unified and corporate approach (including best practice) to advertising and sponsorship across the council.
  - Ensure compliance with legislation, advertising industry codes and other relevant council policies.
  - Support the development of commercial partnerships with the private sector.
  - Safeguard the image and environment of the borough.
  - Support the council's reputation and corporate identity.
  - Protect members and officers from allegations of inappropriate dealings or relationships with advertisers or sponsors.

### **3. Options considered and recommended proposal**

- 3.1 Consideration was given to having a more detailed, prescriptive description of 'unacceptable' advertising sources, which was removed in favour of a case-by-case approach in order to avoid being unnecessarily restrictive.

#### **4. Consultation on proposal**

4.1 There has been consultation with Commissioners, Cabinet Member and senior officers across the authority.

#### **5. Timetable and Accountability for Implementing this Decision**

5.1 The decision will be implemented following the expiration of the call-in period on 16 August 2018 and the policy will be effective from 17 August 2018.

5.2 The accountable officer for this report is Chris Burton, Head of Communications and Marketing, however the accountable officer for the application of the policy and associated decision making processes will be Damien Wilson, Strategic Director of Regeneration and Environment.

#### **6. Financial and Procurement Advice and Implications**

6.1 The policy includes a requirement for all those wishing to advertise or sponsor with the Council to comply with the authority's Financial and Procurement Procedure Rules. Beyond this, there are no implications arising from this report.

#### **7. Legal Advice and Implications**

7.1 There are no legal implications associated with the report or policy.

#### **8. Human Resources Advice and Implications**

8.1 Reference has been included within the policy to the code of conduct for officers with regard to sponsorship, and gifts and payments, which is found in sections 15 and 18 of the code.

#### **9. Implications for Children and Young People and Vulnerable Adults**

9.1 There are no implications for children, young people and vulnerable adults arising from this report.

#### **10. Equalities and Human Rights Advice and Implications**

10.1 There are no impacts on equalities or human rights.

#### **11. Implications for Partners**

11.1 There are no implications for partners arising from this report.

#### **12. Risks and Mitigation**

12.1 There are no risks associated with the report and the policy and its subsequent application will be mitigation against any risks in respect of advertising and sponsorship.

**13. Accountable Officer(s)**

Chris Burton, Head of Communications and Marketing

Damien Wilson, Strategic Director of Regeneration and Environment

Approvals obtained on behalf of:-

	<b>Named Officer</b>	<b>Date</b>
Strategic Director of Finance & Customer Services (S.151 Officer)	Nikki Kelly	18/06/2018
Assistant Director of Legal Services (Monitoring Officer)	Dermot Pearson	17/07/2018
Head of Procurement (if appropriate)	Karen Middlebrook	17/07/2018
Head of Human Resources (if appropriate)	Theresa Caswell	01/05/2018

*Report Author:* Chris Burton, Head of Communications and Marketing  
01709 822769 or christopher.burton@rotherham.gov.uk

This report is published on the Council's [website](https://moderngov.rotherham.gov.uk) or can be found at:-  
<https://moderngov.rotherham.gov.uk/ieDocHome.aspx?Categories=>

## **Rotherham Metropolitan Borough Council**

### **Draft Advertising and Sponsorship Policy**

#### **Introduction**

There are a number of opportunities for the council to generate income from:

- Advertising on assets (e.g. refuse vehicles etc, street furniture, roundabouts, billboards)
- Advertising in communication channels (e.g. staff magazine, website, Council Tax billing information)
- Sponsorship of events or assets (e.g. Christmas lights, Rotherham Show, All Saints Fountain etc.)

#### **Purpose of policy**

Rotherham Council has a policy on advertising and sponsorship in order to:

- Provide a robust framework and control measures for advertising and sponsorship activity, in support of income generation
- To ensure the Council maximises opportunities and income and secures best value for money
- In terms of advertising and sponsorship content, we will ensure there is no conflict with Council priorities, values or services.
- Establish a unified and corporate approach (including best practice) to advertising and sponsorship across the Council
- Ensure compliance with legislation, advertising industry codes and other relevant Council policies
- Support the development of commercial partnerships with the private sector
- Safeguard the image and environment of the Borough
- Support the council's reputation and corporate identity
- To protect members and officers from allegations of inappropriate dealings or relationships with advertisers or sponsors
- Maximise the use of its own advertising and promotion spending by looking to utilise internal channels before committing to spending externally.

#### **Definitions**

1. Marketing promotion is a form of communication used to ensure information is communicated.
2. Sponsorship advertising messages can take a variety of forms and can be viewed via a variety of traditional and new media.
3. To sponsor something is to support an event, activity, person, or organisation financially or by providing products or services. It should be mutually beneficial. Sponsorship is a business relationship between a provider of funds, resources or services and an individual, event or organisation.

#### **Guiding principles**

4. When working with an advertiser or sponsor, any agreement supports the Council's strategic vision, constitution and equality and diversity policies.
5. Advertising and / or sponsorship from companies which offer services which are in competition with Council services will not be accepted, e.g. fostering and adoption services, waste management.
6. The Council will take all possible steps to prevent situations where it could be construed that an advertiser or sponsor has:
  - Influenced Council officers or members in carrying out their roles, and decision-making

- Received preferential treatment or is able to make any undue gain from or as a result of an advertising or sponsorship arrangement
- Has values, practices or policies which would, by association, undermine the Council or bring it into disrepute

7. The Council reserves the right to refuse sponsorship offers from companies which are in dispute with the Council or where there is pending / active legal action. The Council will also not accept advertising or sponsorship from companies which are in contract negotiations concerned with the direct provision of services for the council, where this may be viewed as an endorsement of this bid.

8. The Council will uphold the [Code of Recommended Practice on Local Authority Publicity](#), and abides by national guidance published by the Advertising Standards Agency.

9. The Council abides by the Town and Country Planning Act. The Control of Advertisements Regulations provides the rules on displaying advertising. The Council has the duty to ensure all advertising on council-owned assets falls within this legislation and will liaise with the Local Planning Authority to ensure planning law relating to the display of advertisements is complied with.

10. Whether advertising and / or sponsorship is a suitable method or whether external requests to use council-owned assets should be approved, will be decided on a case by case basis on the merits of each opportunity or request.

11. All adverts are subject to approval before they are placed. The Council reserves the right to refuse to promote or to remove any individual advert, which, in its opinion, is considered inappropriate. The suitability of individual advertisers may be checked with Trading Standards, Planning Enforcement, Health and Safety, Council Tax and other council services as is deemed appropriate. Designated officers will consider applications and content on a case by case basis, ensuring it adheres to the guiding principles set out in this policy.

The Council will not accept advertising of a racial, religious or political nature, any advertising which may be construed as offering services of a sexual nature, gambling organisations, manufacturers of tobacco products, or fracking companies. Neither will the Council permit advertising which it may reasonably consider objectionable.

12. The promotion of any product or service is not an official endorsement or recommendation by the Council.

13. The Council is not responsible for the quality or reliability of the product or services offered within any advert and would never knowingly run an advert that is misleading, offensive, untrue or fraudulent.

14. When dealing with sponsorship, council employees must adhere to the Council's Code of Conduct, with particular reference to Section 15 (Gifts and Payments) and 18 (Sponsorship, giving and receiving) of the code.

15. During an election period, care will be taken to ensure political neutrality and decisions taken on the suitability of advertising and sponsorship will reflect that.

16. Potential advertisers or sponsors who are currently applicants for planning or licensing permissions or any other type of agreement or contract will not be considered.

17. The lead officer for advertising and sponsorship is the Strategic Director of Regeneration and Environment, and the Regeneration and Environment team will deal will review the applications/offers.

18. Decisions made pursuant to this Policy which are delegated to officers, will when required by the Council's Constitution be published on the Council's website with accompanying reports. In discharging this function, the views of the relevant Cabinet Member will be sought and recorded.

19. Naming rights will not be pursued by the council.

20. The Council will pursue sponsorship where appropriate to enable nominated individuals to attend national and regional awards but will not pursue sponsorship for specific awards, rather sponsorship will be sought for events such as the Employee Recognition Awards.

21. In addition to the rules contained within this policy, all other rules and legislation pertaining to advertising will still apply.

22. This policy will be reviewed on year from its inception.

### **Advertising and sponsorship content**

Companies wishing to advertise / enter into sponsorship with the Council must adhere to the guidelines set out below. Content must:

- Be legal, decent, honest and truthful
- Not bring the Council into disrepute
- Be an appropriate subject for the Council to be associated with in the given circumstances
- Conform to the British Code of Advertising, Sales Promotion and Direct Marketing ([www.asa.org.uk](http://www.asa.org.uk))
- Respect the principles of fair competition

### **Quality Design Principles**

Advertising material and signage will conform to good standards of design, in order to protect the reputation of the Council and the sponsor.

### **Adherence to Council Policy and Financial and Procurement Procedure Rules**

All applicants wishing to utilise Council owned advertising media must adhere to this policy and the Council's Financial and Procurement Procedure Rules.

Any organisation wishing to sponsor a Council owned product or service must adhere to this policy and the Council's Financial and Procurement Procedure Rules.

All sponsorship deals will be subject to a signed legal agreement between the Council and the sponsoring organisation.

This page is intentionally left blank



# WORKING WITH YOU

TO PUT PEOPLE AT THE HEART OF ROTHERHAM

# WHY PARTNER IN ROTHERHAM?

Rotherham folk have big hearts and big ambitions. We're a welcoming town, and a truly family friendly destination with a vibrant community.

Rotherham is a 'can do' place, the place for creativity, innovation and difference; where its strength is cemented in the partnership and collaboration between the private and public sector.



PREVIOUS  
PAGE



NEXT  
PAGE



# REASONS ROTHERHAM IS SO GREAT

PREVIOUS  
PAGE



**270,000 PEOPLE**  
living in the  
Rotherham  
borough



The town was placed  
on the map by  
the Archbishop of  
York, Thomas  
Rotherham  
in the 15th  
Century.

Rotherham  
town centre is a  
conservation  
area – the streets  
around the medieval  
church still conform  
to their original  
layout.

NEXT  
PAGE



A market town for  
over 800 years – our  
Royal Market Charter  
was granted by  
King John.



The Chapel of our  
Lady on the Bridge,  
is one of only four  
surviving medieval  
bridge chapels in the  
country.

# CLAIMS TO FAME!

Wentworth Woodhouse was once home to a former Prime Minister and a King and Queen have slept there! It was also connected to the end of the British involvement in the American War of Independence and parts of the Bill of Rights are thought to have been written there.

Donald Bailey was an English civil engineer from Rotherham and inventor of the Bailey bridge. He was credited with helping to win World War 2. “Without the Bailey bridge, we should not have won the war.” – Field Marshal Montgomery

Tapping into creativity: Rotherham’s old Guest and Chrimes Foundry created the famous New York fire hydrants. The Chrimes brothers also invented the screw-down tap.

Arthur Wharton, the world’s first black professional football player, played for Rotherham Town in 1889. He later became landlord of the Albert Tavern in Rotherham.

Rotherham is the former cannon making capital of Great Britain and pride of the British navy. At its peak, 22,000 cannons a year were being made. Eighty of these were found on Nelson’s flagship Victory, taking part in the Battle of Trafalgar. The cannons can now be found all over the world.

PREVIOUS  
PAGE



NEXT  
PAGE



# PARTNERSHIP OPPORTUNITIES

## Yorkshire Day 2020

Named after the biggest county in England (if you unite North, South, West and East Riding of Yorkshire), it's no surprise that Yorkshire Day is a thing. As an area on the up and up, it's becoming one of the most important places in the UK. Rotherham will be hosting Yorkshire Day 2020. So, whether you're from Yorkshire or not, join us to celebrate like one of the locals.



## Rotherham Show

The largest free event in the North of England and set in the beautiful Clifton Park - one of only six parks nationally to retain the Green Flag 'People's Choice' award, and the only park in Yorkshire to have achieved this two years running, and one of only two parks in the north to have made the top ten. The park attracts visitors from far and wide with three quarters travelling from outside of Rotherham.

PREVIOUS  
PAGE



NEXT  
PAGE



# PARTNERSHIP OPPORTUNITIES

## Christmas Illuminations

It's that special time of year where we all like to spend quality time with the family, huddled on the sofa with a hot chocolate or snuggled round the fire keeping warm. We all like to get into the Christmas spirit and nothing says Christmas like your Town Centres Lights Switch On. With a Christmas Market, this free event attracts thousands of visitors and has live entertainment and is hosted by Rother FM.



## Making Rotherham Bloom

Over one million people visit Clifton Park each year, and 20,000 bedding plants and 5,000 bulbs are planted – by hand! The Clifton Park Memorial garden has always been a place for outstanding floral displays. With the central fountain, now permanently engraved with the names of Rotherham's VC holders, it is also a pleasant place to sit and reflect. The bedding plants are changed twice a year, with tulip and other bulbs planted in autumn for spring flowering.

PREVIOUS  
PAGE



NEXT  
PAGE



# PARTNERSHIP OPPORTUNITIES

## Save the Planet – On Your Doorstep

Each year, Rotherham residents throw away eleven million bins, boxes and bags - nearly a tonne of waste for every household. That's around quarter of a million collections a week. Over 95% of this waste is diverted from landfill – it is either recycled, composted or generated energy for the national grid.



PREVIOUS  
PAGE



## Keeping People Moving, Keeping People Safe

Every year, over one billion car miles are travelled on Rotherham's main roads. The people of Rotherham need to keep moving come rain or shine – if we took a piece of string and measured the length of roads gritted in the last 12 months, it would be long enough to circumnavigate the Earth. During the last two years, 17 new schools were designated 20mph zones, helping to keep children safe. More 20mph zones are planned for the future.

NEXT  
PAGE



# PARTNERSHIP OPPORTUNITIES

## Active for Life

Rother Valley Country Park is an award winning 750-acre country park. With more than 750,000 visitors a year, visitors can sample a little tranquil peace of the country with water, fresh air, space and an abundance of sports. Herringthorpe Stadium provides a superb training and competition venue for all ages and abilities including casual athletics, coaching sessions, healthy lifestyles and schools.



## Creative for Life

Rotherham Council hosts a wide variety of events each year including a regular programme of town centre events including the Vintage Hop and events at special venues including Clifton Park museum and Boston Castle. The events bring the community and families of Rotherham together, and make a positive, long-lasting contribution to people's lives.

PREVIOUS  
PAGE



NEXT  
PAGE



# BECOME PART OF THE ROTHERHAM STORY

## SPEAK TO THE TEAM

PREVIOUS  
PAGE



Get in touch to discuss bespoke partnership opportunities now.

Contact \*\*\*\*\*

NEXT  
PAGE



This page is intentionally left blank

## Summary Sheet

### **Name of Committee and Date of Committee Meeting**

Cabinet and Commissioners' Decision Making Meeting – 6 August 2018

### **Report Title**

Proposed Revisions to the Local Authority Fixed Penalty Notices (FPN) Code of Conduct – School Attendance.

### **Is this a Key Decision and has it been included on the Forward Plan?**

Yes

### **Strategic Director Approving Submission of the Report**

Mel Meggs Acting Strategic Director of Children and Young People's Services

### **Report Author**

Karla Capstick, Head of Service – Early Help  
01709 255901 or [karla.capstick@rotherham.gov.uk](mailto:karla.capstick@rotherham.gov.uk)

### **Ward(s) Affected**

All

## Summary

Good school attendance is 'everybody's business' and an integral part of the Early Help agenda. The Early Help and Family Engagement Service is committed to working in partnership with schools, academies, children, young people, parents and a wide range of partner agencies to achieve improved attendance levels across the Borough.

One of the Council's key priorities is; 'every child making the best start in life' and Aim 1 for the Health and Wellbeing Board is; 'children get the best start in life and go on to achieve their potential.' Improving attendance and reducing absence, especially persistent absence, is a key target in order to achieve these priorities.

The Local Authority has a responsibility to investigate instances of regular absence and will instigate legal action where applicable; this includes persistent absence and unauthorised holidays during term time. This function is currently discharged by the Early Help and Family Engagement Service in partnership with schools and academies.

The primary legislation that governs the attendance of children at school is the Education Act 1996. Section 7 of The Education Act 1996 states that:

*'The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable...to his age, ability and aptitude, and...to any special educational needs he may have, either by regular attendance at school or otherwise.'*

Any parent that breaches their duty to ensure that their child receives an education may be prosecuted for a criminal offence under the Education Act 1996. The offences set out within the Education Act 1996 could result in the parent being sentenced to a financial penalty or in more serious cases, a sentence of imprisonment.

The Education (Penalty Notices) (England) Regulations 2007 set out the necessary details for the operation of a fixed penalty notice scheme to deal with poor attendance at school. Amendments were made to the 2007 Regulations by the Education (Penalty Notices) (England) (Amendment) Regulations 2013. These amendments came into force on the 1<sup>st</sup> September 2013. These amendments reduced the timescales for paying a fixed penalty notice and brought attendance fixed penalty notices into line with other types of fixed penalty notices, allowing Local Authorities to act faster on prosecutions.

The above Regulations state that a code of conduct must be drawn up 'which sets out measures to ensure consistency in the issuing of fixed penalty notices.' In particular, the code of conduct should set out the circumstances when a fixed penalty notice will be issued and the maximum number of fixed penalty notices that can be issued to a parent in a 12 month period.

The current Code of Conduct was published in 2013 and has been reviewed on a regular basis. Following feedback from school and academy leaders in 2017 and looking at practice regionally, the Early Help and Family Engagement Service has revised the Fixed Penalty Notice (FPN) Code of Conduct.

The key changes proposed include:

- The use of a single aspirational attendance target for both primary and secondary age pupils (the current proposed target is 95.3% this is the combined National primary and secondary school average) to avoid confusion with parents and carers who may have children at both primary and secondary schools.
- That the time period considered in calculating the average attendance of a child is amended to now include the previous 12 months attendance including the holiday period (currently the actual holiday period isn't counted).
- Finally that a penalty notice can be issued when no permission has been sought for a leave of absence and attendance has dropped below the National average target. Currently parents can take a child out of school with no explanation, whilst this would amount to an unauthorised absence, the current Code of Conduct does not allow a penalty notice to be issued if it cannot be shown that the child was taken on holiday. This means that parents can attempt to avoid a penalty notice by taking the child out of school without first applying for permission from the school.

The Service has sought views and engaged with key stakeholders in a period of consultation (January 2018 – April 2018); this has included school and academy leaders, school and academy governing bodies, colleagues in Legal Services and South Yorkshire Police.

### **Recommendations**

1. That the revised Fixed Penalty Notices (FPN) Code of Conduct be approved.
2. That the following proposed changes be approved:-
  - Use a single aspirational attendance target for both primary and secondary age pupils (the current proposed is 95.3%, which is combined National primary and secondary school average) to avoid confusion with parents and carers who may have children at both primary and secondary schools.
  - Amend the time period considered in calculating the average attendance of a child to include the previous 12 months and the holiday period.
  - Allow a penalty notice to be issued when no parental permission has been sought for a leave of absence and attendance has dropped below the National average target.
3. That the Fixed Penalty Notices (FPN) Code of Conduct be implemented at the start of the new academic school year in September 2018.

### **List of Appendices Included**

- Appendix 1 Current Fixed Penalty Notices (FPN) Code of Conduct 2016  
Appendix 2 Revised Fixed Penalty Notices (FPN) Code of Conduct 2018  
Appendix 3 Consultation Feedback

### **Background Papers**

None

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

### **Council Approval Required**

No

### **Exempt from the Press and Public**

No

## **Proposed Revisions to the Local Authority Fixed Penalty Notices (FPN) Code of Conduct – School Attendance**

### **1. Recommendations**

- 1.1. That the revised Fixed Penalty Notices (FPN) Code of Conduct be approved.
- 1.2. That the following proposed changes be approved:-
  - 1.2.1 Use a single aspirational attendance target for both primary and secondary age pupils (the current proposed is 95.3%, which is combined National primary and secondary school average) to avoid confusion with parents and carers who may have children at both primary and secondary schools.
  - 1.2.2 Amend the time period considered in calculating the average attendance of a child to include the previous 12 months and the holiday period.
  - 1.2.3 Allow a penalty notice to be issued when no parental permission has been sought for a leave of absence and attendance has dropped below the National average target.
- 1.3. That the Fixed Penalty Notices (FPN) Code of Conduct be implemented at the start of the new academic school year in September 2018.

### **2. Background**

- 2.1 The Education Welfare Service historically worked with schools and academies to deal with all matters relating to poor school attendance, persistent absence and unauthorised holidays taken in term time.
- 2.2 The Education Welfare Service transferred into the Early Help and Family Engagement Service in October 2015 with Education Welfare Officers (EWO's) moving out into Early Help locality based teams and working 'whole family' using the Early Help Assessment process rather than a separate assessment and focus on just attendance.
- 2.3 The Service has retained two lead officers who focus on advice and guidance to Early Help staff, schools and academies and the legal processes and functions that can be utilised when all other methods have been exhausted.
- 2.4 The Local Authority has a responsibility to investigate instances of regular absence and will instigate legal action where applicable; this includes persistent absence and unauthorised holidays during term time. This function is currently discharged by the Early Help and Family Engagement Service in partnership with schools and academies.
- 2.5 The Education Act 1996 is the primary legislation that governs the attendance of a child at school. Section 7 of The Education Act 1996 states that:

*'The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable...to his age, ability and aptitude, and...to any special educational needs he may have, either by regular attendance at school or otherwise.'*

- 2.6 Regular and punctual attendance of pupils at school is both a legal requirement and essential in order for pupils to maximise the educational opportunities available to them. The Local Authority will investigate cases of regular absence from school and following appropriate casework intervention (including the Early Help Assessment process); will instigate legal action if applicable.
- 2.7 In law an offence occurs if a parent fails to secure a child's attendance at a school where they are a registered pupil and the absence is not authorised by the school. Fixed Penalty Notices supplement the existing sanctions currently available under Section 444 of The Education Act 1996, Section 103 of the Education and Inspections Act 2006 or Section 36 of The Children's Act 1989 to enforce attendance at school where appropriate, subject to statutory defences.
- 2.8 Parents and pupils are supported at school and Local Authority level to overcome barriers to regular attendance through a wide continuum of assessment and intervention strategies. Sanctions of any nature are for use only where parental co-operation in this process is either absent or deemed insufficient to resolve the presenting problem. Sanctions are used primarily as a means of enforcing attendance where there is a reasonable expectation that their use will secure an improvement.
- 2.9 The Education (Penalty Notices) (England) Regulations 2007 set out the procedures for issuing penalty notices. Amendments were made to the 2007 Regulations in the Education (Penalty Notices) (England) (Amendment) Regulations 2013. These amendments came into force on 1st September 2013.
- 2.10 In accordance with the Regulations, each authority that intends to issue Fixed Penalty Notices must develop a code of conduct. Once a code of conduct is established, the authority can only issue a penalty notice in accordance with the rules contained within the code.
- 2.11 The amendments to 2007 Regulations reduced the timescales for paying a Fixed Penalty Notice. Parents must, from 1st September 2013, pay £60 within 21 days or £120 within 28 days. This brought attendance Fixed Penalty Notices into line with other types of Fixed Penalty Notices and allowed Local Authorities to act faster on prosecutions.
- 2.12 On the 6<sup>th</sup> April 2017 the Supreme Court delivered judgement on the widely publicised '*Isle of Wight Council v Platt case*'. The Supreme Court concluded that the term '*regular attendance*' means in '*accordance with the school's rules.*'

- 2.13 The decision was important to Local Authorities, schools and parents across England and Wales because it provided some clarification for the meaning of *regular* school attendance. The decision emphasised the importance of having a code of conduct which defines the circumstances when a Fixed Penalty Notice will be issued.
- 2.14 The decision also emphasised the importance of ensuring regular school attendance, which is the responsibility of parents, and it reduced the ability of parents to avoid conviction if prosecuted for failing to ensure regular attendance caused by unauthorised absence, including by reason of term-time holidays.
- 2.15 The functions of the Local Authority under Section 444A (6) of the Education Act 1996 Act and Section 105(5) of the Education and Inspections Act 2006 is issuing and enforcing fixed penalty notices and prosecuting recipients who do not pay.
- 2.16 Any sums received by the Local Authority must be used for the purposes of the functions specified in 2.15. If they are not used for these functions they must be paid to the Secretary of State.
- 2.17 School and Academy leaders requested that Rotherham Metropolitan Borough Council reviewed its Fixed Penalty Notices (FPN) Code of Conduct in summer 2017, following the *Isle of Wight v Platt* judgement; as schools felt the existing code of conduct was confusing with different targets for primary and secondary age pupils and was not robust and aspirational enough.
- 2.18 During November 2017 – February 2018 officers undertook visits to Derbyshire County Council, Sheffield City Council, Doncaster Metropolitan Borough Council, Barnsley Metropolitan Borough Council and Lincolnshire County Council to look at practice relating to attendance more broadly and Fixed Penalty Notices (FPN).
- 2.19 If the proposed changes are agreed, Rotherham Council's Code of Conduct and Legal Processes are still more 'family friendly', lenient and flexible than neighbouring Authorities; this is evidenced in the comparatively low number of unpaid Fixed Penalty Notices resulting in a prosecution and the number of successful prosecutions conducted under Section 444.

### **3. Key Issues**

- 3.1 In order to comply with Human Rights legislation it is essential that Fixed Penalty Notices be issued in a consistent manner. This Code of Conduct will govern the issuing of Fixed Penalty Notices in respect of unauthorised absence from school for holidays taken in term time and other unauthorised absence for Rotherham Metropolitan Borough Council.
- 3.2 If Cabinet do not approve the proposed changes to the Fixed Penalty Notice (FPN) Code of Conduct there would be implications for school and academy leaders and South Yorkshire Police who have through consultation informed the proposals.

- 3.3 If the proposals are delayed then the revisions cannot commence at the start of a new Academic year in September 2018; this could lead to inequity in the issuing of Fixed Penalty Notices and legal processes during the Academic year 2018/2019.
- 3.4 Schools ultimately decide what they submit to the Local Authority for consideration under Section 444 of The Education Act 1996; and this can lead to a 'postcode lottery' for parents, children and young people.
- 3.5 The Early Help Service continues to work with all schools regarding this issue; however they can only submit cases that comply with the Code of Conduct.
- 3.6 The proposed aspirational single target of combined National average of 95.3% is slightly lower than the current Rotherham primary school average of 95.5% in 2016/2017; but is higher than the Rotherham secondary school average of 94% in 2016/2017.
- 3.7 The difference between the Rotherham secondary average % and the National combined average % is 1.3%; over a school year of 190 days this equates to approximately 2.5 school days. This sets an ambitious target of attending school 2.5 days more per academic year for parents, children and young people at secondary school, the expectations at primary school remain broadly unchanged.
- 3.8 The Early Help Service is currently in consultation to commence phase two and phase three of the Early Help Strategy; the Attendance Offer forms part of the proposals and the revised Code of Conduct supports a graduated implementation of the proposals.

#### **4. Options Considered and Recommended Proposal**

- 4.1 **Option 1:** That Cabinet approves the revised Fixed Penalty Notices (FPN) Code of Conduct. This includes approving the proposed changes to:-
  - 4.1.1 Use a single aspirational attendance target for both primary and secondary age pupils (the current proposed is 95.3% this is combined National primary and secondary school average) to avoid confusion with parents and carers who may have children at primary and secondary schools.
  - 4.1.2 Amend the time period used to calculate the average attendance of a child to include the previous 12 months and the holiday period.
  - 4.1.3 Allow a Fixed Penalty Notice to be issued when no parental permission has been sought for a leave of absence and attendance has dropped below the National average target.
  - 4.1.4 That the Code of Conduct is implemented at the start of the new academic school year in September 2018.

- 4.2 **Option 2:** That the Code of Conduct remains unchanged; this would have implications for partners and could undermine the Consultation conducted in accordance with Regulation 15 of The Education (Penalty Notices) (England) (Regulations) 2007.
- 4.3 **Option 3:** That the Code of Conduct is reviewed in line with the Early Help Review with proposed implementation in March 2019; this would have implications for children, young people and families as a different target would be used part way through an academic year. The Code of Conduct can be amended now without any significant impact on the Early Help review process.
- 4.4 Option 1 is the recommended proposal, as it will ensure that parents are dealt with consistently across the Borough from the beginning of the new academic year.

## 5. Consultation

- 5.1 Before making any changes to the Code of Conduct the Local Authority must conduct a consultation in accordance with Regulation 15 of The Education (Penalty Notices) (England) (Regulations) 2007, which identifies those that need to be consulted:-

*“Consultation on the code of conduct*

*(1) In preparing the code of conduct the local education authority must consult governing bodies, head teachers and the chief officer of police for a police area which includes all or part of the area of the local education authority, and must have regard to any guidance issued by the Secretary of State.*

*(2) In this regulation-*

*“chief officer of police” has the meaning given by section 101(1) of the Police Act 1996(1); and “police area” means a police area provided for by section 1 of that Act.”*

- 5.2 The Service provided opportunities for the above partners and those in CYPS and Legal Services to share their views on amendments to the Code of Conduct during October 2017 – December 2017.
- 5.3 A full consultation in accordance with Regulation 15 of The Education (Penalty Notices) (England) (Regulations) 2007 was conducted from February 2018 – April 2018.
- 5.4 Detailed analysis around the consultation can be found in Appendix 3 Consultation Feedback.

## 6. Timetable and Accountability for Implementing this Decision

- 6.1 The Fixed Penalty Notice (FPN) Code of Conduct is agreed at Cabinet – August 2018.

- 6.2 The Attendance Leads and Early Help Senior Leadership Team and staff inform all stakeholders of the amendments and issue the new Code of Conduct to all schools and academies – September 2018.
- 6.3 The Early Help Service seeks approval to deliver the Early Help Review – October 2018.
- 6.4 Any further changes to the Attendance Offer and implications for the Code of Conduct are reviewed - March 2019.

**7. Financial and Procurement Implications**

- 7.1 The functions of the Local Authority under Section 444A(6) of the Education Act 1996 Act and Section 105(5) of the Education and Inspections Act 2006 is issuing and enforcing fixed penalty notices and prosecuting recipients who do not pay.
- 7.2 Any sums received by the Local Authority must be used for the purposes of the functions specified in 7.1. If they are not used for these functions they must be paid to the Secretary of State.
- 7.3 Regulation 23 of the Education (Penalty Notices) (England) Regulations specifies that the functions ‘are issuing and enforcing penalty notices, and prosecuting recipients who do not pay.’
- 7.4 Any income generated will be used to contribute to the salary costs of Early Help staff that perform the function outlined in Regulation 23 of the Education (Penalty Notices) (England) Regulations 2007, as well as contributing towards the legal costs resulting from any court action.
- 7.5 There is a potential that more income could be generated if the amendments are approved as this could mean more parents are issued with a Fixed Penalty Notice. Any increases in income will be reviewed annually and will continue to be used in accordance with the relevant Regulations.
- 7.6 The table below shows income 2015 – 2018:

<b>Year</b>	<b>2017-18</b>	<b>2016-17</b>	<b>2015-16</b>
<b>Value of Fixed Penalty Notices</b>	- £23,760.00	- £14,495.00	- £14,760.00

**8. Legal Implications**

- 8.1 There are implications for Legal Services as the amendments could mean more parents are issued with a penalty notice and non-payment of a Fixed Penalty Notice will result in the matter being referred to Legal Services to consider instigating a prosecution under the provisions of Section 444 of the Education Act 1996. This will result in cases being prepared for court and attendance of Legal Services at court to present the case.

8.2 The Local Authority will also consider whether it would be appropriate (instead of, or as well as instituting proceedings) to apply for an Education Supervision Order. Any application for an Education Supervision Order would require the input of Legal Services to prepare the case for court and attend court to present the case.

**9. Human Resources Implications**

9.1 Increasing the percentage for issuing Fixed Penalty Notices could increase the number of fines issued; which have been rising since 2015. This will have implications for the staffing resources required to process and issue Fixed Penalty Notices.

9.2 More admin support will be required and potentially more time from colleagues in Legal Services, in schools and Early Help staff.

9.3 This additional resource is being considered as part of the Early Help Review and Business Support Review in CYPS.

**10. Implications for Children and Young People and Vulnerable Adults**

10.1 Under the amended Code of Conduct the changes could affect more parents as the criterion has the potential to extend the number of parents that fall within the scope of the Code of Conduct.

10.2 Research has shown that good attendance is linked to good attainment, raising the attendance expectations for children and young people will support this.

10.3 In the last three years the Local Authority has issued an increased number of Fixed Penalty Notices as more parents chose to take their children on holidays during term time, as they would prefer to pay a fine; this is a rise that is mirrored Nationally.

10.4 The table below shows the increase in Fixed Penalty Notices issued, although the number of families has not increased at the same rate (meaning some Fixed Penalty Notices have been issued to the same families for multiple holidays).

<b>Academic year</b>	<b>No of FPN's issued</b>	<b>No of families Affected</b>
2015-2016	295	178
2016-2017	334	207
2017 -2018	453	250

10.5 Schools, academies and the Early Help Service will continue to use good professional judgement, safeguarding knowledge and take into account the family circumstances before issuing a fine.

- 10.6 If the proposed changes are agreed Rotherham Council's Code of Conduct and Legal Processes are still more 'family friendly', lenient and flexible than neighbouring Authorities; this is evidenced in the comparatively low number of unpaid Fixed Penalty Notices resulting in prosecution and the number of successful prosecutions conducted under Section 444.

## **11. Equalities and Human Rights Implications**

- 11.1 In order to comply with Human Rights legislation it is essential that Fixed Penalty Notices be issued in a consistent manner. This Code of Conduct will govern the issuing of Penalty Notices in respect of unauthorised absence from school for holidays taken in term time, and other unauthorised absence, for Rotherham Metropolitan Borough Council.
- 11.2 The Code of Conduct applies equally to all pupils, irrespective of race, gender, religion, sexuality and/or disability. The consideration of issuing a Fixed Penalty Notice will be done by considering the contents of the Code of Conduct and all relevant legislation. As a result, an Equality Impact Assessment if not deemed necessary.
- 11.3 The amendments to the Education (Penalty Notices) (England) Regulations 2007 brought the Fixed Penalty Notice for attendance in line with other Fixed Penalty Notices issued by Councils such as littering, graffiti and fly posting. The parents are issued with a fine not the child, the only data collated under General Data Protection Regulation (GDPR) is name and address; As a result, this does not enable an Equality Impact Assessment to be completed.
- 11.4 Schools, academies and the Early Help Service will continue to use good professional judgement and take into account the individual and whole family circumstances before issuing a Fixed Penalty Notice.
- 11.5 This will include consideration to those who are SEND and ensuring schools and academies correctly authorise absence for; religious observance, travelling families, illness, medical and dental appointments, exceptional circumstances and study leave as set out in the DfE Guidance '*School attendance -Guidance for maintained schools, academies, independent schools and local authorities (November 2016).*'

## **12. Implications for Partners and Other Directorates**

- 12.1 There are implications for schools and academies in the amendments to the Code of Conduct; the proposed revisions should enable schools to move swiftly on unauthorised absences, particularly those relating to holidays in term time.
- 12.2 Schools and academies can still decide on their own attendance policy.
- 12.3 There are implications for Legal Services at the amendments could mean more parents are issued with a Fixed Penalty Notice and the non-payment of a Fixed Penalty Notice will result in the matter being referred to Legal Services to consider instigating a prosecution under the provisions of Section 444 of the Education Act 1996.

12.4 The Local Authority will also consider whether it would be appropriate (instead of, or as well as instituting proceedings) to apply for an Education Supervision Order, which again will revert in a referral to Legal Services.

**13. Risks and Mitigation**

13.1 If the amendments to the Code of Conduct are not approved there is a risk this would have implications for partners and could undermine the Consultation conducted in accordance with Regulation 15 of The Education (Penalty Notices) (England) (Regulations) 2007.

13.2 If the amendments were delayed this could lead to inequity for families during the academic year 2018/2019.

13.3 These risks can be mitigated if:

13.4 Cabinet approves the revised Fixed Penalty Notices (FPN) Code of Conduct.

13.5 This includes approving the proposed changes to:-

13.5.1 Use a single aspirational attendance target for both primary and secondary age pupils (the current proposed is 95.3% this is combined National primary and secondary school average) to avoid confusion with parents and carers who may have children at primary and secondary schools.

13.5.2 Amend the time period considered when calculating the average attendance of a child to include the previous 12 months and the holiday period.

13.5.3 Allow a penalty notice to be issued when no parental permission has been sought for a leave of absence and attendance has dropped below the National average target.

13.6 That the Fixed Penalty Notices (FPN) Code of Conduct is implemented at the start of the new academic school year in September 2018.

**14. Accountable Officer**

Karla Capstick – Head of Service, Early Help

Approvals obtained on behalf of:-

	<b>Named Officer</b>	<b>Date</b>
Strategic Director of Finance & Customer Services	Viv Ford	19/06/2018
Assistant Director of Legal Services	Liz Anderton	20/06/2018
Head of Procurement (if appropriate)	Karen Middlebrook	10/07/2018
Head of Human Resources (if appropriate)	Amy Leech	06/07/2018



## **Education Welfare Service**

### **Code of Conduct**

### **Fixed Penalty Notice (FPN)**

**Issued: October 2013**  
**Review: August 2015**

**Reviewed: September 2015**  
**Issued: September 2015**

**Reviewed: March 2016**  
**Issued: April 2016**

**Review Date: September 2017**

## Education Welfare Service

### **Code of Conduct on the Issue of Fixed Penalty Notices in respect of**

#### **Poor School Attendance and Holidays requested in Term-Time**

##### **1. Rationale**

1.1 Section 7 of the Education Act 1996 states that:

*“The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable... to his age, ability and aptitude, and ... to any special educational needs he may have, either by regular attendance at school or otherwise.”*

1.2 Regular and punctual attendance of pupils at school is both a legal requirement and essential in order for pupils to maximise the educational opportunities available to them. Rotherham Education Welfare Service will continue to investigate cases of regular absence from school and, following appropriate casework intervention, will instigate legal action if applicable.

1.3 In law an offence occurs if a person with parental responsibility fails to secure a child's attendance at a school at which they are a registered pupil and that absence is not authorised by the school. Penalty Notices supplement the existing sanctions currently available under Section 444, Education Act 1996 or Section 36, the Children's Act 1989 to enforce attendance at school where appropriate subject to statutory defences.

1.4 The Education Welfare Service (EWS) delivers this LA responsibility.

1.5 Parents and pupils are supported at school and LA level to overcome barriers to regular attendance through a wide continuum of assessment and intervention strategies. Sanctions of any nature are for use only where parental co-operation in this process is either absent or deemed insufficient to resolve the presenting problem.

1.6 Sanctions are used primarily as a means of enforcing attendance where there is a reasonable expectation that their use will secure an improvement.

1.7 Amendments were made to the 2007 Regulations in the **Education (Penalty Notices) (England) (Amendment) Regulations 2013**. These amendments came into force on 1<sup>st</sup> September 2013.

1.8 The 2007 regulations set out the procedures for issuing penalty notices (fines) to each parent who fails to ensure their children's regular attendance at school. Parents must pay £60 if they pay within 28 days; or £120 if they pay within 42 days.

1.9 Amendments to 2007 regulations reduced the timescales for paying a penalty notice. Parents must, from 1<sup>st</sup> September 2013, pay £60 within 21 days or £120 within 28 days. This brought attendance penalty notices into line with other types of penalty notices and allows local authorities to act faster on prosecutions.

1.10 In order to comply with Human Rights legislation it is essential that Penalty Notices be issued in a consistent manner. This Code of Conduct will govern the issuing of Penalty Notices in respect of unauthorised absence from school for holidays taken in term time, and unauthorised absence, for Rotherham Borough Council.

## **2. Section 576 Education Act 1996: Definition of a Parent**

2.1 The education- related provisions of the Anti-social Behaviour Act 2003 apply to all parents who fall within the definition set out in this section of the Education Act 1996. This defines 'parent' as:

- All natural parents whether they are married or not
- Any person who although they are not a natural parent, has care of a child or young person – having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child is considered to be a parent in education law.

2.2 Throughout this document, references to 'parent' mean each and every parent coming within the definition, whether acting jointly or separately, and should not be taken to mean that provisions only apply to 'parent' in the singular.

## **3. Circumstances where a Fixed Penalty Notice may be issued**

3.1 The issuing of a Fixed Penalty Notice is considered appropriate in the following circumstances:-

- a) In cases of absence from school when the pupil has been taken on holiday during term time, the absence has not been authorised by the school, and the child has attendance below the Local Authority average for the previous school year or 3 terms (Primary 95.4% and Secondary 94%)  
There must be at least 10 consecutive sessions (5 school days) lost due to unauthorised leave of absence during term time.  
In such cases each parent will receive a separate Fixed Penalty Notice for each child taken out of school.
- b) Where the Local Authority School Attendance Panel / Fixed Penalty Notice Panel believes that a Fixed Penalty Notice is the most appropriate way to deal with non-school attendance.
- c) For those parents/carers of pupils in Year 11 where notification of unsatisfactory attendance has been issued during the year in which the pupil was Year 10 and unsatisfactory attendance remains a concern by October. (Year 10 Initiative)
- d) Excessive delayed return from extended holidays without prior school agreement.
- e) Following a Truancy Patrol, enquiries will be undertaken with the school of any pupil stopped. In cases where the school have recorded the absence of the pupil as unauthorised and the evidence shows that the pupil has been stopped on a previous patrol within a year then a Fixed Penalty Notice will be issued.

N.B. Fixed Penalty Notices will not be issued during Truancy Patrol as this could prejudice the Health and Safety of the Officer on Patrol. Additionally it will provide time to investigate the information provided to Officers.

- 3.2 No one parent will receive more than three separate Fixed Penalty Notices resulting from the unauthorised absence of an individual child in any 12 month period, however, there will be no restriction on the number of times a parent/carer may receive a formal warning of a possible issue of a Fixed Penalty Notice.

#### **4. Procedures for issuing Fixed Penalty Notices**

- 4.1 In Rotherham Fixed Penalty Notices will be issued by the Education Welfare Service in order to avoid the issue of duplicate notices. The Education Welfare Service will ensure consistent and equitable delivery, retain school-home relationships and allow cohesion with other enforcement sanctions. Fixed Penalty Notices will only be issued for offences where the Local Authority is willing and able to prosecute.

The Education Welfare Service will ensure that the issuing of Fixed Penalty Notices will be closely monitored to ensure that recipients pay the relevant fine. In cases where the penalty in respect of unauthorised leave of absence or persistent non- attendance is not paid within the appropriate period the Education Welfare Service will instigate action through the Courts as required by legislation.

- 4.2 A Fixed Penalty Notice can only be issued in cases of unauthorised absence.

- 4.3 The Education Welfare Service will receive requests to issue Fixed Penalty Notices from schools.

- 4.4 The Education Welfare Service will consider requests to issue Fixed Penalty Notices in respect of unauthorised holidays in term time at the Local Authority Fixed Penalty Notice Panel.

- 4.5 The Fixed Penalty Notice Panel will require supporting documentation and relevant information including all correspondence with the parent as consideration needs to be given to whether there are any mitigating circumstances.

- 4.6 Schools must consider every aspect of a pupil's case before considering whether a Fixed Penalty Notice would be appropriate. This may include strategic discussions with the allocated EWO and any other attendance support staff who have involvement with or knowledge of the pupil/family.

- 4.7 Referrals to the Fixed Penalty Notice Panel for unauthorised leave of absence during term time will only be considered provided that:-

- The circumstances of the pupil's absence meet all the requirements of this protocol
- Family circumstances/ability to pay is set against the likelihood of securing an improved attendance by issuing a Fixed Penalty Notice.
- The EWS must receive the referral within 4 weeks of the last date of the holiday.
- The issue of a Fixed Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed.

- 4.8 The EWS will respond to all requests within 10 school days of the case being heard at the Fixed Penalty Notice Panel.

- 4.9 Provided the referral has met all criteria EWS will issue a Fixed Penalty Notice by post.

#### **5. Procedures for Withdrawing Fixed Penalty Notices**

- 5.1 A Fixed Penalty Notice may be withdrawn by Rotherham Local Authority in any case in which the authority determines that:-

- a) It ought not to have been issued or
- b) It ought not to have been issued to the person named as the recipient.

5.2 Where a Fixed Penalty Notice has been withdrawn in accordance with the above, a notice of withdrawal shall be given to the recipient and any amount paid by way of penalty pursuant of that notice shall be repaid to the person who paid it.

5.3 No proceedings shall be continued or instituted against the recipient for the offence in connection with which the withdrawn notice was issued or for an offence under Section 444 (1A) of the Act arising out of the same circumstances.

## **6. Right of Appeal**

6.1 There is no statutory right of appeal once a Fixed Penalty Notice has been issued. A parent must pay the Fixed Penalty Notice or face proceedings in the Magistrate's Court under Section 444 of the Education Act 1996 in relation to absences, where all of the issues relating to their Fixed Penalty Notice can be fully debated.

## **7. Payment of Penalty Notices**

7.1 The arrangements for the paying of penalties will be detailed on the Penalty Notices.

**7.2 From 1<sup>st</sup> September 2013 Fixed Penalty Notices were set nationally by the DfE at £60 per parent per child if paid within 21 days of receipt of the notice increasing to £120 per parent per child if paid within 28 days of receipt of the notice.**

7.3 Payment of a Fixed Penalty Notice discharges the parent/carer liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the Penalty Notice.

7.4 The LA retains any revenue from Fixed Penalty Notices to cover enforcement costs.

## **8. Non-Payment of Fixed Penalty Notices**

8.1 Non-payment of a Fixed Penalty Notice will result in the fast-track prosecution process under the provisions of Sec 444, 1996 Education Act. The fact that a notice was issued and unpaid can be used as evidence in a subsequent prosecution.

## **9. Reporting and Review**

9.1 The Education Welfare Service will review the Code of Conduct on the Issue of Fixed Penalty Notices in regard to unauthorised holidays taken in term time and poor school attendance at regular intervals and produce reports on this area of activity as required.

**Education Welfare Service  
April 2016**

This page is intentionally left blank



Proud to work with Rotherham's  
children • young people • families



# Early Help and Family Engagement

## Fixed Penalty Notice (FPN)

### Code of Conduct

Reviewed: March 2016  
Issued: April 2016

Review Date: September 2017  
Reviewed: December 2017

## Early Help and Family Engagement

### **Code of Conduct on the Issue of Fixed Penalty Notices in respect of Poor School Attendance and Unauthorised Holidays taken in Term-Time**

#### **1. Rationale**

- 1.1 The Education Act 1996 is the primary legislation which governs the attendance of a child at school. Section 7 of The Education Act 1996 states that:  
  
'The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable...to his age, ability and aptitude, and...to any special educational needs he may have, either by regular attendance at school or otherwise.'
- 1.2 Regular and punctual attendance of pupils at school is both a legal requirement and a priority for Rotherham Metropolitan Borough Council in order to maximise the educational opportunities available to them and ensure 'the best start in life.' The Local Authority will continue to investigate cases of regular absence from school and, following appropriate casework intervention, will instigate legal action where applicable.
- 1.3 In law, an offence occurs if a parent fails to secure a child's attendance at a school at which they are a registered pupil and that absence is not authorised by the school. Fixed Penalty Notices supplement the existing sanctions currently available under Section 444 of The Education Act 1996, Section 103 of the Education and Inspections Act 2006 or Section 36 of The Children's Act 1989 to enforce attendance at school where appropriate, subject to statutory defences.
- 1.4 The Early Help and Family Engagement Service, within the Local Authorities' Children's Services deliver this responsibility.
- 1.5 Parents and pupils are supported at school and Local Authority level to overcome barriers to regular attendance through a wide continuum of assessment and intervention strategies. Sanctions of any nature are for use only where parental co-operation in this process is either absent or deemed insufficient to resolve the presenting problem.
- 1.6 Sanctions are used primarily as a means of enforcing attendance where there is a reasonable expectation that their use will secure an improvement.
- 1.7 The Education (Penalty Notices) (England) Regulations 2007 set out the procedures for issuing Fixed Penalty Notices to each parent who fails to secure the regular attendance of their child at school.
- 1.8 Amendments were made to the 2007 Regulations in the Education (Penalty Notices) (England) (Amendment) Regulations 2013. These amendments came into force on 1<sup>st</sup> September 2013.
- 1.9 Amendments to 2007 regulations reduced the timescales for paying a Fixed Penalty Notice. Parents must, from 1<sup>st</sup> September 2013, pay £60 within 21 days or £120 within 28 days. This brought attendance Fixed Penalty Notices into line with other types of Fixed Penalty Notices and allows local authorities to act faster on prosecutions.
- 1.10 In order to comply with Human Rights legislation it is essential that Fixed Penalty Notices are issued in a consistent manner. This Code of Conduct will govern the issuing of Fixed Penalty Notices in respect of unauthorised absence from school for holidays

taken in term time, and other unauthorised absence, for Rotherham Metropolitan Borough Council.

## **2. Section 576 Education Act 1996: Definition of a Parent**

2.1 Under section 576 of The Education Act 1996, a parent is defined as follows:

- All natural parents whether they are married or not
- Any person who although they are not a natural parent, has care of a child or young person – having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child is considered to be a parent in education law.

2.2 Throughout this document, references to 'parent' mean each and every parent coming within the definition, whether acting jointly or separately, and should not be taken to mean that provisions only apply to 'parent' in the singular.

## **3. Circumstances where a Fixed Penalty Notice may be issued**

3.1 The issuing of a Fixed Penalty Notice is considered appropriate in the following circumstances:

- a) In cases of absence from school when the pupil has been taken on holiday during term time, the absence has not been authorised by the school, and the child has attendance below the combined National average for both primary and secondary schools for the previous 12 months, including the holiday absence period.

There must be at least 10 consecutive sessions (5 school days) lost due to unauthorised.

- b) The deliberate taking of a holiday/leave of absence in term time without the school's permission (where the school have made the parent aware of their policies in relation to leave of absence through publicity materials, general correspondence, policies etc) and where this has created a period of unauthorised absence of at least 10 sessions (5 school days).
- c) For those parents of pupils where notification of unsatisfactory attendance has been issued and unsatisfactory attendance remains a concern.
- d) Where the Local Authority School Attendance Panel or Fixed Penalty Notice Panel believe that a Fixed Penalty Notice is the most appropriate way to deal with non-school attendance.
- e) Where a child has not returned to school on an expected date and no satisfactory explanation has been given for the absence. There must be at least 10 consecutive sessions (5 school days) lost due to unauthorised leave of absence during term time.
- f) Where an excluded pupil is present in a public place during the school hours of the school where the pupil is on roll.

3.2 In each of the above cases, each parent will receive a separate Fixed Penalty Notice for each child taken out of school.

3.3 No one parent will receive more than three separate Fixed Penalty Notices resulting from the unauthorised absence of an individual child in any 12 month period, however, there will be no restriction on the number of times a parent/carer may receive a formal warning of a possible issue of a Fixed Penalty Notice.

#### **4. Procedures for issuing Fixed Penalty Notices**

- 4.1 In Rotherham Fixed Penalty Notices will be issued by the Local Authority in order to avoid the issue of duplicate notices. This will ensure consistent and equitable delivery, retain school-home relationships and allow cohesion with other enforcement sanctions. Fixed Penalty Notices will only be issued for offences where the Local Authority is willing and able to prosecute.
- 4.2 The Local Authority will ensure that the issuing of Fixed Penalty Notices will be closely monitored to ensure that recipients pay the relevant fine. In cases where the penalty in respect of unauthorised leave of absence or persistent non-attendance is not paid within the appropriate period the Local Authority will instigate action through the Courts as required by legislation.
- 4.3 A Fixed Penalty Notice can only be issued in cases of unauthorised absence.
- 4.4 The Local Authority will receive requests to issue Fixed Penalty Notices from schools.
- 4.5 The Local Authority will consider requests to issue Fixed Penalty Notices in respect of any of the circumstances arising under Section 3 of this Code, at the Local Authority School Attendance Panel or the Local Authority Fixed Penalty Notice Panel.
- 4.6 Schools must consider every aspect of a pupil's case before considering whether a Fixed Penalty Notice would be appropriate. This may include strategic discussions with the allocated Early Help worker and Early Help Manager and any other attendance support staff who have involvement with or knowledge of the pupil and/or family.
- 4.7 Where a pupil has special educational needs and/or disabilities, the school should consider whether a Fixed Penalty Notice would be appropriate having considered all the circumstances relevant to that pupil. In particular, the school will need to have specific regard to the needs of the pupil and the overall attendance of the pupil, which may or may not be in line with the combined National primary and secondary average.
- 4.8 The Local Authority will require supporting documentation and relevant information including all correspondence with the parent in order to establish whether a Fixed Penalty Notice is appropriate.
- 4.9 Referrals to the Fixed Penalty Notice Panel for unauthorised leave of absence during term time will only be considered provided that:-
- The circumstances of the pupil's absence meet all the requirements of this Code.
  - The Local Authority must receive the referral within 4 weeks of the last date of the holiday.
  - The issue of a Fixed Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed.
- 4.10 The Local Authority will respond to all requests within 10 school days of the case being heard at the Fixed Penalty Notice Panel.
- 4.11 Provided the referral has met all the criteria the Local Authority will issue a Fixed Penalty Notice by post.

#### **5. Procedures for Withdrawing Fixed Penalty Notices**

- 5.1 A Fixed Penalty Notice may be withdrawn by Rotherham Metropolitan Borough Council in any case in which it determines that:-

- a) It ought not to have been issued or
  - b) It ought not to have been issued to the person named as the recipient.
- 5.2 Where a Fixed Penalty Notice has been withdrawn in accordance with the above, a notice of withdrawal shall be given to the recipient and any amount paid by way of penalty pursuant of that notice shall be repaid to the person who paid it.
- 5.3 No proceedings shall be continued or instituted against the recipient for the offence in connection with which the withdrawn notice was issued or for an offence under Section 444 (1A) of the Act arising out of the same circumstances.

## **6. Right of Appeal**

- 6.1 There is no statutory right of appeal once a Fixed Penalty Notice has been issued. A parent must pay the Fixed Penalty Notice or face proceedings in the Magistrates Court under Section 444 of the Education Act 1996 in relation to absences, where all of the issues relating to their Fixed Penalty Notice can be fully debated.

## **7. Payment of Penalty Notices**

- 7.1 The arrangements for the paying of penalties will be detailed on the Penalty Notices.
- 7.2 From 1<sup>st</sup> September 2013 Fixed Penalty Notices were set nationally by the DfE at £60 per parent per child if paid within 21 days of receipt of the notice increasing to £120 per parent per child if paid within 28 days of receipt of the notice.
- 7.3 Payment of a Fixed Penalty Notice discharges the parent/carer liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the Penalty Notice.
- 7.4 The Local Authority retains revenue from the Fixed Penalty Notice payments to cover the costs for issue and enforcement and for costs related to the prosecution of unpaid Fixed Penalty Notices.

## **8. Non-Payment of Fixed Penalty Notices**

- 8.1 Non-payment of a Fixed Penalty Notice will result in the matter being referred to Legal Services to consider instigating a prosecution under the provisions of Section 444 of the Education Act 1996. The fact that a notice was issued and unpaid can be used as evidence in a subsequent prosecution. The prosecution can only be for the original offence and not for non-payment of the Fixed Penalty Notice.
- 8.2 The Local Authority will also consider whether it would be appropriate (instead of or as well as instituting proceedings) to apply for an Education Supervision Order in respect of the child under Section 447(1) of the Education Act 1996.

## **9. Reporting and Review**

- 9.1 The Local Authority will review the Code of Conduct on the Issue of Fixed Penalty Notices in regard to unauthorised holidays taken in term time and poor school attendance annually and/or following any changes in legislation/statutory guidance or following recommendations from the Rotherham Safeguarding Children's Board.

This page is intentionally left blank

## **Appendix 3 Consultation Feedback**

### **July 2017**

Request made at Secondary Heads Forum for Early Help Service to consider revisions to be made to The Fixed Penalty Notices (FPN) Code of Conduct –

### **September 2017 – December 2017**

Letter sent to all secondary, primary, special school head teachers and attendance leads outlining proposed changes and seeking views

Letter emailed to all RMBC School Governors and Academy Governor's outlining proposed changes and seeking views

PRU informed of proposed changes and seeking views

Letter sent to South Yorkshire Police outlining proposed changes and seeking views

Email established to collate feedback [EarlyHelpConsultation@rotherham.gov.uk](mailto:EarlyHelpConsultation@rotherham.gov.uk)

All CYPS staff and Legal Services emailed letter outlining proposed changes and seeking views.

Early Help Manager's and Attendance Leads informed schools through visits of the proposed changes

### **January 2018 – March 2018 Formal Consultation under Regulation 15 of The Education (Penalty Notices) (England) (Regulations) 2007**

As above letters, emails, meetings all sent and facilitated to inform of the changes – informally feedback was schools and Governing bodies all agreed with the changes and welcomed these.

3 email responses received from schools/academy trusts with feedback as below:

*'1. We have recently received the revised code of conduct for fixed penalty notices.*

*After reading the documentation we are extremely supportive of the suggested changes and look forward to moving forward with it as soon as possible.*

*The greater autonomy offered to schools will be very helpful in challenging poor attendance.'*  
(Rawmarsh Trust)

*2. 'After reviewing the Early Help material I would like to ask if any guidance relating to FPN referrals if parents/carers refuse to complete a Term Time Leave request form could be added.*

*I have found that to avoid fixed penalty notices parent/carers will not complete a form in the hope that they will not receive a fine despite being informed to do so.'*(Kimberworth Primary)  
– This request was built into the revisions as other schools had raised this and this practice was noted in visits to other Councils.

3. *'We have shared the document with our Governors/Head teacher and have made the following points. We do issue FPN's for leaves of absence more than 5 days and where the child's attendance is less than 90% over the last 3 terms.*

*Points to consider:*

- *How many schools are issuing Fixed Penalty Notices? This needs to be consistent. We met as a Learning Community a few years ago to agree the way forward but we are aware that some schools do not issue FPN's at all..*
- *It would be useful to know how the money is used.*
- *I do think it is a bit harsh to fine both parents in the same family – why not 1 fine per holiday. Some of our parents have got wise to this and only include one parent on the leave of absence form when clearly both are taking the child on holiday. There shouldn't be a distinction between the diversity of families – one fine per holiday would make it simpler all round.'* (Anston-Park)

Response -The Council can only issue a Code of Conduct to support consistency each Head Teacher decides on their attendance policy

The school have been informed of how the funds have been spent

The Fixed Penalty Notice guidelines are governed by Regulations in the Education (Penalty Notices) (England) (Amendment) Regulations 2013.

No further responses were received

### **March 2018 – May 2018**

In discussion with Legal Services the consultation period was extended for an additional 5 weeks to account for school holiday times.

No further responses received

## Summary Sheet

### Name of Committee and Date of Committee Meeting

Cabinet and Commissioners' Decision Making Meeting – 6 August 2018

### Report Title

Future Designation of Selective Licensing Areas

### Is this a Key Decision and has it been included on the Forward Plan?

Yes

### Strategic Director Approving Submission of the Report

Damien Wilson, Strategic Director of Regeneration and Environment

### Report Author(s)

Lewis Coates, Head of Service, Regulation and Enforcement  
01709 823117 or lewis.coates@rotherham.gov.uk

Matthew Finn, Community Protection Manager  
01709 823134 or matthew.finn@rotherham.gov.uk

### Ward(s) Affected

Rawmarsh  
Rother Vale

## Summary

Selective Licensing is the licensing of privately rented housing in a specific area with the aim of improving management standards. Where the Council designates an area, landlords must obtain a licence and comply with conditions, or face legal action including prosecution and financial penalties.

Selective Licensing is an important tool for the Council and partners, to drive improvements not only in the safety of homes, but to contributory issues related to deprivation. The Council has successfully implemented schemes in Rotherham, which are designed to deliver improvements to the private rented housing stock and to individual quality of life.

The Council, along with statutory agencies and voluntary organisations, has committed to the Rotherham Plan, a partnership to improve the Borough as a place, and make life better for local people. Part of this approach is to find new ways to halt the trend of deprivation becoming more concentrated in the least well off areas.

In 2015 the Government widened the criteria for which Local Housing Authorities can implement Selective Licensing schemes to improve management standards in the private rented sector and help to combat housing problems associated with deprivation.

The data in this report identifies areas of Rotherham in Thurcroft and Parkgate, which meet the criteria, are within the 20% most deprived areas of England, and additionally have high levels of private rented housing.

This report recommends consulting on proposals to designate parts of Thurcroft and Parkgate as Selective Licensing areas, which will help combat problems associated with housing and housing conditions within areas of deprivation, and deliver improved health and social wellbeing outcomes for those communities.

### **Recommendations**

1. That public consultation be undertaken on the proposed designation of parts of Thurcroft and Parkgate for Selective Licensing of private rented housing.
2. That a further report be submitted in December 2018 on the outcome of the public consultation to consider designating Selective Licensing areas.

### **List of Appendices Included**

- Appendix 1 Intervention Case Studies
- Appendix 2 Areas which fall within the 20% most deprived in Rotherham, private rented accommodation levels and Selective Licensing areas
- Appendix 3 Proposed Selective Licensing Area Boundary Maps
- Appendix 4 Current Selective Licensing Conditions in Rotherham

### **Background Papers**

The following documents have been considered when preparing this report:

[Selective Licensing Mid-Term Report, Improving Places Select Commission, January 2018](#)

[Selective licensing in the private rented sector: A guide for local authorities](#)

[English Indices of Multiple Deprivation](#)

[Rotherham Together Partnership – The Rotherham Plan](#)

[Housing Act 2004](#)

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Overview and Scrutiny Management Board

### **Council Approval Required**

No

### **Exempt from the Press and Public**

No

## **Future Designation of Selective Licensing Areas**

### **1. Recommendations**

- 1.1 That public consultation be undertaken on the proposed designation of parts of Thurcroft and Parkgate for Selective Licensing of private rented housing.
- 1.2 That a further report be submitted in December 2018 on the outcome of the public consultation to consider designating Selective Licensing areas.

### **2. Background**

- 2.1 In May 2015, following extensive consultation and adherence to due legal process, the Council introduced Selective Licensing to four areas of Rotherham. The areas designated for Selective Licensing were Dinnington, Maltby, Ferham and Masbrough, and Eastwood. The scheme has ensured that all landlords in these areas are identified and licensed, ensuring that landlords can be held to account for their properties including the behaviour of their tenants and the conditions inside and outside of the house.
- 2.2 Also in 2015, the government widened the criteria for which housing authorities can designate Selective Licensing schemes to improve management standards in the private rented sector and to help combat housing problems associated with deprivation.
- 2.3 Analyses of deprivation in local communities are published on a regular basis by the Office of National Statistics. They indicate the proportion of the population who live in areas with the best and worst outcomes for health, education, income and living conditions. These are published as the Indices of Multiple Deprivation.
- 2.4 The latest figures show that 50,370 Rotherham residents (19.5%) live in areas within the most deprived 10% of England. This figure has grown from 30,400 in 2007 and 44,170 in 2010.
- 2.5 The Council has embarked on a significant partnership with voluntary and statutory partners to develop the Rotherham Plan, which aims to tackle deprivation in local communities, help improve the Borough as a place, and make life better for local people. This is contributed to by the Council's Housing Strategy which aims to improve standards in the private rented sector whilst ensuring those in our most vulnerable communities have safe and healthy homes.
- 2.6 As discussed above, the amendment to the Housing Act 2004 has provided Councils with the power to introduce licensing of privately rented properties with the aim of helping to tackle the effects of deprivation. This change in the law supports the work of the Council and partners to improve outcomes for communities.<sup>1</sup>

---

<sup>1</sup> The Selective Licensing of Houses (Additional Conditions)(England) Order 2015 – Article 4-7

- 2.7 Additionally, the Council may only make a designation on grounds of deprivation if the proposed area has a high proportion of property in the private rented sector compared to other areas locally or nationally. Nationally the private rented sector currently makes up 19.9% of the total housing stock in England. If the number of privately rented properties in an area exceeds this national number it can be considered as having a high proportion of privately rented properties.<sup>2</sup>
- 2.8 Licensing, together with inspections and compliance monitoring, will improve private rented housing management by landlords to ensure that those who rely on the private rented sector have safe and healthy homes. Often tenants do not contact the Council about poor housing conditions through fear of eviction.
- 2.9 The current designated Selective Licensing areas of Rotherham have seen significant successes in improving housing conditions to make properties safer for our most deprived communities. These improvements contribute to improving health outcomes for families and children, including many of the most vulnerable in our community. In particular, inspections and consequent enforcement actions, have dealt with a range of issues which impact directly upon the health of the young and vulnerable. These include tackling damp and mould in properties, which can lead to long term respiratory disease; trips and falls, which impact directly on reducing individual injuries and mortality; fire safety, which reduces the risk of death; and excess cold, which impacts on chronic and acute pulmonary and respiratory disease.
- 2.10 From May 2015, the first phase of the existing Selective Licensing scheme focused on the administration of licences. The second phase of the scheme, which started in October 2016, progressively concentrated on the enforcement of conditions primarily through inspections of properties.
- 2.11 Significant improvements to the safety of the private rented housing stock have been made through Selective Licensing. Since the scheme came into effect, 1,850 additional private rented houses have been inspected through the scheme, which is five times more than the Council would normally inspect over a similar two-year period following complaints from affected tenants public. Appendix 1 contains a number of case studies describing the positive outcomes associated with Selective Licensing since its inception.
- 2.12 90% of all licensable property is now registered, with investigations and prosecutions in progress for the remaining 10%. Following a detailed mapping exercise in 2017, a complete picture of all licensable houses in these designated areas now exists.
- 2.13 Some 91% of private rented properties initially inspected under the scheme required action to be taken to make them safe. Only 9% of the inspections undertaken found homes to be safe for tenants.
- 2.14 Of those properties which failed the inspections, 36% had significant Category 1 hazards; most commonly a lack of adequate fire safety, damp, mould, excess cold, and damaged floor coverings presenting a serious risk of falls on stairs and throughout the home.

---

<sup>2</sup> The Selective Licensing of Houses (Additional Conditions)(England) Order 2015 - Article 3 (1) (a); [English House Condition Survey 2015/16](#); [Selective licensing in the private rented sector: A guide for local authorities, Paragraph 5](#)

- 2.15 Following inspections, subsequent intervention by the Council has resulted in 94.2% of those properties being improved to a safe standard for tenants through the use of formal warnings, threat of Improvement Notices and risk of prosecution. Currently 130 properties are undergoing further warnings and formal enforcement action.
- 2.16 Ten houses were found to be an imminent and serious risk to the safety of tenants. Consequently, the Council has prohibited their use, effectively closing the properties to occupation. Subsequently, the Council arranged emergency accommodation and put in place steps to help these tenants into better quality homes in the private or social rented sectors.
- 2.17 The Council has so far successfully prosecuted eighteen landlords for failure to licence properties or comply with licence conditions within Selective Licensing areas, together with a further thirty landlords awaiting a Court hearing.
- 2.18 In addition to the closure of properties and successful prosecutions, a significant amount of activity has taken place including:
- 2.18.1 958 investigations of unlicensed properties have been successfully completed
  - 2.18.2 232 landlords have received formal warnings in relation to the anti-social behaviour of their tenants
  - 2.18.3 6 tenants engaged in anti-social behaviour have so far been evicted
  - 2.18.4 1,337 properties received warnings in relation to Gas Safety certificate failures; all of which have complied
  - 2.18.5 104 Landlords have been issued with formal notices to bring properties back to an acceptable standard. This includes 10 Prohibition Notices, forcing closure of all or part of properties
  - 2.18.6 2,088 properties have been licensed so far.
- 2.19 The existing scheme will continue to drive improvements for the next two years in the designated areas. The Mid-Term report on Selective Licensing to the Improving Places Select Commission on 3<sup>rd</sup> January 2018 demonstrated reductions in fly tipping, waste in gardens, noise nuisance and occupier turnover over the last three years. Maltby and Dinnington also showed reductions in empty property rates in that time frame.
- 2.20 While this is not directly due to licensing, the behaviour of tenants, the safety of property and the letting practices of landlords alongside more robust enforcement action and policies from other services in the Council and partners, has an influence on these indicators. A significant benefit to the licensing scheme is that the scheme is administered and enforced as part of the wider Regulation and Enforcement Service and enforcement action is often taken alongside other neighbourhood enforcement work.

### 3. Key Issues

- 3.1 Consideration of the most deprived areas of Rotherham, detailed at Appendix 2, demonstrates that the two Local Super Output Areas<sup>3</sup> of 'Thurcroft Central and Brampton', and 'Parkgate', stand out as being some of the most deprived communities in both Rotherham and England, with a significantly higher level of private rented housing than the national average of 19.9%. 'Thurcroft Central and Brampton' is ranked as being in the top 16% of the most deprived areas in England while 'Parkgate' is ranked in the top 15%.
- 3.2 It is important to take into account a number of relevant factors that contribute to the level of deprivation in communities. These issues include employment, health and housing conditions amongst others, which are described in the table below. These factors are ranked out of 32,844 Local Super Output Areas in England.

Deprivation Indicator	Thurcroft (Rank out of 32,844)	Parkgate (Rank out of 32,844)
Multiple Deprivation	5,139	4,818
Workless adults	4,260	3,425
People on low incomes	5,202	5,839
Health and disability	3,642	2,187
Access to local services (school, post office, GP and food shop)	23,935	16,770
Housing conditions	19,591	11,108
Environmental conditions	10,278	4,657
Levels of crime	7,672	9,625

Ranks relate to all Super Output Areas in England, where 1 is the most deprived

- 3.3 From the Indices of Multiple Deprivation the 'Thurcroft Central and Brampton' super-output area is most affected by a lack of employment, low educational attainment and poor health. 'Parkgate' is most affected by the same lack of employment, poor health and the outdoor environment.
- 3.4 The housing in a poor condition indicator is a modelled estimate in the Indices of Multiple Deprivation of the proportion of social and private homes that fail to meet the Decent Homes standard when assessed under the 2011 English House Condition Survey.<sup>4</sup>

<sup>3</sup> The UK is divided into geographical areas called Local Super Output Areas (SOA) for statistical purposes by the Government, whose areas are determined by the number of households and the populations. In each area there are on average 1500 people and 500 households.

<sup>4</sup>[English Indices of Multiple Deprivation 2015 – Underlying Indicators](#)

- 3.5 Housing conditions are worse in Parkgate than most of the rest of England according to the statistics in the table above. Although Housing Conditions across Thurcroft are not lower than the average under this data set, the English House Condition Survey on which the data is based is a statistical average for the whole area and some streets have higher proportions of problems than others. The data is also six years old and in that time period the level of private rented housing is expected to have grown significantly; importantly, the private rented sector doubled between the 2001 and 2011 Census.
- 3.6 Income levels, employment and health outcomes for households in the area are significantly lower than most of the rest of England. These indicators demonstrate that people have less housing option choices, and may not be in a position to ensure that their privately rented properties are maintained to an appropriate standard.
- 3.7 Poor health outcomes and low incomes contribute significantly to the overall deprivation in the area. Health outcomes are negatively impacted by poor housing conditions, subsequently influencing physical, mental and social wellbeing. Some of the more prevalent hazards found in the existing Selective Licensing areas in Rotherham include fire safety, electrical safety, falls, damp and excess cold, carbon monoxide from unsafe gas appliances, pest control problems, poor food preparation and storage provision as well as security risks.
- 3.8 Crime and anti-social behaviour incidents in the areas from 2016/2017 also support the deprivation data as detailed in the table below:

Area	Crime incidents per 1,000 people	ASB incidents per 1,000 people
<b>Rotherham Borough average</b>	<b>84.8</b>	<b>50.3</b>
Parkgate Super Output Area	423	100
Thurcroft Central and Brampton Super Output Area	122	72.4

- 3.9 To assess where interventions would have the greatest impact, the two Local Super Output Areas, along with Rawmarsh South (which is adjacent to Parkgate and part of the same residential locality), were analysed to identify patterns of crime and anti-social behaviour through 2015/2016 and 2016/2017. This analysis demonstrates that there is one area in Thurcroft and one area in Parkgate and Rawmarsh South, which contain high proportions of crime and anti-social behaviour. Moreover, there are clear trends, which show that these areas suffer from a significant amount of environmental problems, such as fly tipping and littering.
- 3.10 The two areas of greatest concern have been identified in the proposed licensing area maps at Appendix 3. In the identified streets in Parkgate, 98 privately rented properties provide 21% of the housing stock, whilst in Thurcroft, 87 properties in the area account for 38% of the housing stock. Both areas are above the national average of 19.9% and therefore meet the threshold for Selective Licensing under the deprivation criteria.<sup>5</sup>

---

<sup>5</sup> The Council may only make a designation under the grounds of deprivation if there is a higher than average level of private rented accommodation. [English House Condition Survey 2015/16](#)

3.11 The figures for the concentration of private rented housing in these streets have been calculated by assessing complaint and street survey data over the last three years by Regulation and Enforcement and the Strategic Housing and Investment Service.

#### **4. Options considered and recommended proposal**

##### **4.1 Option 1 – Begin a formal consultation to designate the defined areas of Thurgroft and Parkgate, as described in Appendix 3, for Selective Licensing.**

4.1.1 Prior to designating an area, the Council is required to undertake a ten-week statutory consultation with local people, businesses, landlords and partners. An outline of the consultation process is contained within section 5 of this report.

4.1.2 Developing the designations for Selective Licensing in Thurgroft and Parkgate, identified in Appendix 3, will contribute both to the Council's Housing Strategy<sup>6</sup> though improving the quality of the private rented sector, reducing fuel poverty and providing tougher enforcement for those landlords who do not meet their statutory responsibilities. The designations will also contribute to the aim of the Rotherham Together Partnership to find new ways to halt the trend of deprivation becoming more concentrated in the least well off areas; a situation reflecting high worklessness, low skill levels and ill health. The plan reaffirms that the quality of housing has a direct impact on health and wellbeing<sup>7</sup>.

4.1.3 Selective Licensing will improve housing conditions in the private rented sector through inspections and through enforcing improvements in properties and property management standards. This in turn will contribute to improving health outcomes in these communities, and make the local environment more appealing to residents and visitors.

4.1.4 A formal designation would ensure that the costs of both licensing and property management improvement is borne by the industry and not the Council. The existing designations are self-financing and new designations would work in the same way.

4.1.5 A designation would require all privately rented properties within the identified boundaries of the two areas, subject to statutory exemptions, to be licensed for up to five years and comply with a set of licence conditions. The conditions for the current Selective Licensing designations, which would form part of the consultation, can be seen in Appendix 4.

---

<sup>6</sup> [http://www.rotherham.gov.uk/shf/downloads/file/18/housing\\_strategy\\_2016-19](http://www.rotherham.gov.uk/shf/downloads/file/18/housing_strategy_2016-19), Pg24

<sup>7</sup>[http://rotherhamtogetherpartnership.org.uk/downloads/file/7/the\\_rotherham\\_plan\\_a\\_new\\_perspective\\_2025](http://rotherhamtogetherpartnership.org.uk/downloads/file/7/the_rotherham_plan_a_new_perspective_2025)

## **4.2 Option 2 – Carry out alternative interventions in place of a formal scheme**

4.2.1 Alternatives to Selective Licensing were considered in 2014 prior to the designation of the current Selective Licensing areas. These included voluntary registration and use of traditional enforcement tools, which would require significant additional investment by the Council to achieve any sustainable change across the area.

4.2.2 These traditional tools, while initially attractive, do not provide the level of engagement with landlords necessary for the desired improvements. Landlord take up of previous accreditation schemes has been very low and would only include those responsible landlords who saw a value in being part of a scheme. Short term proactive enforcement projects can have an impact but are not sustainable without significant investment from existing revenue budgets or grant funding.

## **4.3 Preferred Option**

4.3.1 It is proposed that Option 1 is the most appropriate course of action to ensure a sustainable and cost effective solution to improving management standards in the private rented sector in these two areas and that a formal consultation begin.

## **5. Consultation**

5.1 This report recommends taking the proposals to the statutory consultation prior to the Cabinet decision as to whether to designate areas for Selective Licensing.

5.2 The consultation process would begin on the on the 17<sup>th</sup> September 2018 and be for the 10 week statutory period which would include:

- A consultation report with the draft designations will be prepared and posted on the Council's website.
- A Selective Licensing consultation web page with an online questionnaire and information about the scheme.
- Advertisements in the local newspapers.
- A series of press releases and social media postings promoting the consultation throughout the 10 weeks.
- A questionnaire posted to all addresses and businesses within the proposed areas (residential and businesses) and a buffer zone around the proposed area.
- A letter and questionnaire to every private sector landlord, letting agent and current HMO or Selective Licence holders for which the Regulation and Enforcement Service has direct contact details.
- A consultation meeting for landlords and tenants at the beginning and end of the Consultation period.
- Direct contact with landlord associations and representatives through local meetings, and the Selective Licensing Steering Group meetings.
- Attendance at local disability or minority support groups in or servicing the areas.

- 5.3 Following the consultation, a further report will be made to Cabinet with the outcome of the consultation and final recommendations for the next steps. Following this the full outcome will be published. In accordance with legal requirements the respondents to the consultation will be individually notified of the outcome in addition to being publicised through newspapers, the Council's web site and press releases.
- 5.4 Once the consultation has concluded, the outcome will be reported back to the Cabinet on whether there are any adjustments that should be considered following any representations that have been made and whether the proposed areas should be designated.

## **6. Timetable and Accountability for Implementing this Decision**

- 6.1 The consultation process would begin on the on the 17th September 2018 and be for the 10 week statutory period.
- 6.2 Following this a further report will be presented to Cabinet in December 2018. Should a decision be taken to implement a Selective Licensing area, designation would be within 3 months from the date of that meeting, i.e. April 2019. This would include a statutory notification period after the designations were made.
- 6.3 The Assistant Director for Community Safety and Street Scene will be responsible for the delivery and implementation of the proposal.

## **7. Finance and Procurement Implications**

- 7.1 Based on the costs of the previous consultation processes for Selective Licensing designations, it is expected that the consultation process will cost approximately £5,000. The majority of this would be spent on postal surveys to affected and neighbouring addresses and landlords. Costs will be minimised by contacting existing licence holders through email addresses they have provided from their previous applications. The costs of the consultation exercise will be managed within the existing Regulation and Enforcement Service revenue budget. The cost of consultation cannot be recovered through the licence fee.

## **8. Legal Implications**

- 8.1 The designations would be made under Part 3 of the Housing Act 2004. This would provide the Council with additional enforcement powers in relation to those houses.
- 8.2 The consultation exercise must comply with statutory requirements (section 80(9) of the Housing Act 2004).
- 8.3 Paragraph 13.6 below refers to legal risks.

## **9. Human Resources Implications**

- 9.1 There are no direct HR implications arising from these proposals. However, it will be necessary following the statutory consultation to consider the requirement for any additional staffing resources needed to implement any subsequent outcome or further recommendations.

## **10. Implications for Children and Young People and Vulnerable Adults**

10.1 There are no direct implications for Children and Young People and Vulnerable Adults arising from this report.

## **11. Equalities and Human Rights Implications**

11.1 There are no equalities and/or human rights implications anticipated arising from this report.

## **12. Implications for Partners and Other Directorates**

12.1 Relevant partners and Directorates will be advised of the recommendations made in this report in addition to the formal consultation process.

## **13. Risks and Mitigation**

13.1 If more than 20% of the private rented housing in the Borough or 20% of the geographical area of the Borough will be subject to licensing, approval for designations must be sought from the Secretary of State for Communities and Local Government.

13.2 The most recent estimates<sup>8</sup> for the size of the private rented sector in Rotherham come from the Office for National Statistics which estimated that in 2015 there were 14,562 privately rented properties in the Rotherham Borough. This has grown from the 12,500 privately rented houses identified in the 2011 census and is likely to have grown since. These projections, while not official statistics, are designed to enable Councils to set housing policy.

13.3 The current and proposed licensing schemes would cover no more than 2,600 privately rented properties, which equates to 17.9% of the private rented housing stock in the borough. This means that the Council does not require Secretary of State approval to make the designations.

13.4 There is a risk of a significant budget shortfall if the scheme does not receive applications and fees from the anticipated number of licensable premises, however access to taxation and benefit claim data under the Housing Act 2004<sup>9</sup> will mitigate that risk and the vast majority of the licensable properties will be identified as part of the consultation and designation processes.

13.5 This risk is mitigated by the experience that the Selective Licensing team has developed in mapping and taking enforcement action where there is a failure to licence. It should also be mitigated further by the formal consultation process.

---

<sup>8</sup> Sub-national dwelling stock estimates – Office for National Statistics

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/subnationaldwellingstockbytenureestimates>

<sup>9</sup> Housing Act 2004, Section 237. This provides access to such data sets to local housing authorities for the purpose of exercising functions under parts 1 to 4 of the Act.

- 13.6 An application for Judicial Review is a realistic expectation. These have been successful where Councils have failed to follow the correct consultation processes or have been unable to justify part of their scheme, proposals or evidence base. Although the previous designations in Rotherham were found to be sound at the Judicial Review in 2015, and this experience has helped develop these proposals, it is possible a further review could be sought.
- 13.7 An effective dialogue with local and national landlord representatives through the newly formed Selective Licensing Steering Group and an effective consultation process should mitigate these risks.

**14. Accountable Officer(s)**

Tom Smith, Assistant Director, Community Safety and Street Scene  
Damien Wilson, Strategic Director, Regeneration and Environment

Approvals obtained on behalf of:-

	<b>Named Officer</b>	<b>Date</b>
Strategic Director of Finance & Customer Services	Judith Badger	23.07.2018
Assistant Director of Legal Services	Dermot Pearson	20.07.2018
Head of Procurement (if appropriate)		
Head of Human Resources (if appropriate)		

This report is published on the Council's website or can be found at:-  
<http://modern.gov.rotherham.gov.uk/ieDocHome.aspx?Categories=>

## APPENDIX 1 – Intervention Case Studies

### Case Study 1 – Eastwood

#### Overview

The property was inspected and found to be heavily cluttered with personal belongings of the tenant. It was identified that the elderly and vulnerable tenant had both hoarding tendencies and mobility issues which made the property unsuitable for their needs.

The exterior of the property was presenting problems to the area due to the dilapidated windows and the lack of maintenance by the landlord.

During the Selective Licensing inspection there were a number of defects identified which should have been controlled by the landlord which had increased the risks of injury and illness to the tenant. These related to:

- Excess Cold – the property suffered from single glazed wooden framed windows, which were in poor state of repair. The heating system was unreliable, with periods of it showing faults and not working so therefore not providing adequate heating and hot water.
- Fire – only one single point battery operated smoke alarm had been provided, offering inadequate means of fire detection and warning.
- The surfaces to the external areas were uneven and on top of this was an unguarded drop in levels between the drive and the front garden. This posed a significant risk of a fall resulting in significant harm to any occupants and there visitors.





Given the vulnerabilities identified, the visiting officer contacted Adult Social Care to enable further support to the tenant while enforcement action was taken by the Selective Licensing Team.

### **Enforcement action and outcomes**

The inspection of the property led to a detailed set of repairs being carried out without the need for formal enforcement notices, which included:

- new double glazing units throughout the property
- new central heating system installed
- guarding to the driveway to mitigate the risk of any fall
- adequate fire detection system installed
- much improved look to the property, contributing to the improved local environment and amenity.

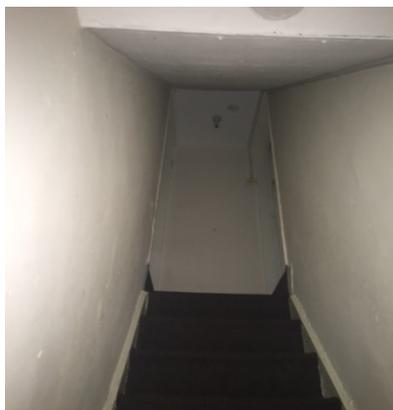
The proactive inspection also enabled the tenant to get essential support and they moved to a more suitable property for their needs, with the support of the Council.

## Case Study 2 – Eastwood

### Overview

Inspection of this property found a multitude of problems which were affecting the health of tenants as well as the visual appearance of the property. The problems included:

- Damp and mould in living areas due to a lack of mechanical ventilation
- A generally cold property due to ill-fitting doors and defective and broken windows
- Lighting in poor repair and a lack of handrails to stairs causing risks of falls throughout the property.
- No fire detection equipment, a missing door, poor quality, cheaper and hollow core doors throughout, increasing the risk of fire spread and the risk that a fire would not be detected until it was too late. The front door was also screwed shut meaning people could not exit the building if there was a fire at the rear of the property. In addition the rear door did not have a door handle.
- Damage to electrical sockets and a lack of adequate numbers of sockets throughout the house, increasing the risk of overloading the system.
- Missing doors on kitchen cabinets, unsealed work surfaces and the structure of the kitchen as poor. These increase risks to food hygiene and safety of family members in the kitchen.



**Enforcement action and outcomes**

Due to the severity of the hazards and the poor quality of the accommodation, an Improvement Notice was served immediately. The cost associated with serving the notice was charged to the Licence Holder.

The notice was not fully complied with by the due date on the notice and as such a further investigation has taken place into this including an interview under caution with the Licence Holder. The works have since been completed, however further enforcement action is being considered (Prosecution or Civil Penalty) due to the severity of the breach, the risks to the tenants and the additional work required by the Council to secure improvements.

### **Case Study 3 – Maltby**

#### **Overview**

A mid-terrace property in Maltby was inspected as part of the licensing designation and a number of defects were identified.

- Penetrating damp into the bathroom and a bedroom.
- Thin brickwork on one wall and a broken window increasing the risk of excess cold.
- The hand rail to the stairs was insufficient and there were no window restrictors fitted to the first floor, increasing the risk of a fall from a height.
- There were inadequate numbers of electrical sockets in the property for modern day living.
- There was a lack of fire detection throughout and poor separation of rooms from the spread of fire.
- A wall to the rear of the property was bulging and in danger of collapse.

#### **Enforcement action and outcomes**

A detailed and lengthy schedule of works was given to the Licence Holder, and the property was brought up to the required standard with no further formal enforcement action required.

The repairs were significant with building contractors required to ensure the structural stability of the rear of the property.

The family has remained in the property which is now in a safe condition. This property would have gone unnoticed without the Selective Licensing designation in place

## **Case Study 4 - Dinnington**

### **Overview**

A row of terraced properties with significant issues around the condition of the houses and the condition of rear gardens and shared alleyways, causing blight on the wider neighbourhood.

These properties were subject to proactive housing standards enforcement over 8 years ago, but since the end of the external funding, those properties have not been subject to continued scrutiny, other than dealing with the environmental problems caused on a reactive basis.

During inspections there were significant problems with properties with regards to the management of the tenants, as well as the lack of fire detection and mechanical ventilation to keep the properties free of damp and mould growth.

Repeated fly tipping complaints and waste in gardens issues were reported both from the public and observed by Council staff and elected members.

### **Enforcement action and outcomes**

Property inspections under Selective Licensing have resulted in all the properties being assessed and enforcement action taken to remedy the housing conditions. Additional unlicensed houses have been found through door to door checks on properties and enforcement taken to secure licensing

All landlords of properties with Licences have been given warnings regarding their tenant's behaviour and the potential risk of breaching licence conditions.

Further enforcement has been taken with individuals and addresses to ensure the waste issues are resolved and people held to account for their behaviour.

The street continues to present a high volume of work for the Regulation & Enforcement Service but the problems are being effectively managed through joined up approach with the area Community Protection Unit, Neighbourhood Wardens and the Selective Licensing Team, who are both part of the Regulation & Enforcement Service. This partnership working has included working the Police to SHARE intelligence and ensure appropriate enforcement is taken against offenders to improve the area and the outcomes for tenants.

## **Case Study 5 - Masbrough**

### **Overview**

A report was received about a potentially unlicensed property which the police had found where there was a significant Cannabis cultivation operation taking place. The tenants had left the property before the Police raised but a significant volume of cannabis at the property.

The property was found to be unlicensed and had not had any previous involvement from the Regulation & Enforcement Service.

On owner was identified as being a landlord of other properties and the licence holder for one other house in the current designation areas. The manager of the property, who had let the house, was related to the owner. Interviewed under Caution, both claimed the failure to licence was an oversight, despite one of them living only a few doors away from the property and the other having licensed a house in the same designation area.

### **Enforcement**

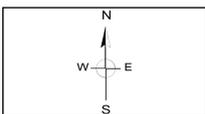
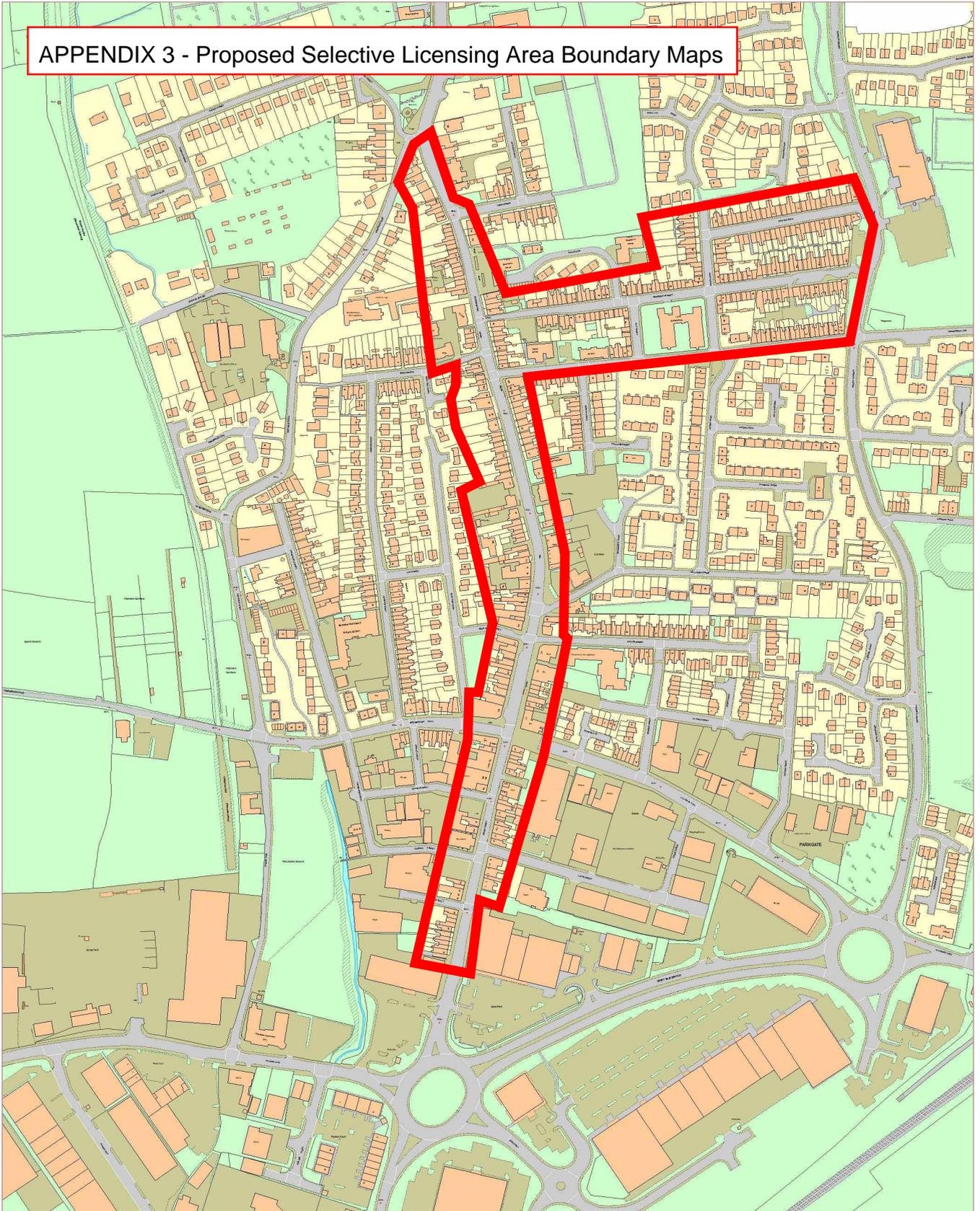
Both the owner and the manager of the property were convicted on a Criminal offence of being in control of or managing a property which was subject to licensing but was not licensed.

Prior to Selective Licensing the owner of the property would have been able to avoid enforcement relating to the tenants behaviour. In this case they had avoided licensing and were convicted of that offence. Further to that if the property were licensed this behaviour could have resulted in the licence holder breaching licence conditions and then being held accountable for their tenants criminal activity which had gone unchecked.

**APPENDIX 2 – Areas which fall within the 20% most deprived in Rotherham,  
private rented accommodation levels and Selective Licensing  
Areas**

LSOA number	LSOA Name	Index of Multiple Deprivation (IMD) Rank (where 1 is most deprived)	Index of Multiple Deprivation (IMD) Decile (where 1 is most deprived 10% of LSOAs)	Private Rented % (2011 Census)	Current Selective Licensing Designation Area
E01007715	Masbrough West	242	1	37.8	Masbrough
E01007737	East Herringthorpe North	257	1	9	
E01007769	Eastwood Village	302	1	38.8	Eastwood
E01007677	Canklow North	315	1	16.5	
E01007736	Eastwood East	323	1	16.9	Eastwood
E01007735	East Herringthorpe South	480	1	8.1	
E01007768	Eastwood Central	500	1	17.5	Eastwood
E01007764	Maltby East - Maltby Main	597	1	16.6	Maltby South East
E01007739	East Dene East	623	1	4.5	
E01007716	Masbrough East	634	1	24.7	Masbrough
E01007738	East Dene North East	670	1	11.9	
E01007775	Rawmarsh North East	740	1	8.8	
E01007714	Town Centre	805	1	30.9	Eastwood
E01007721	Dalton	1039	1	13.2	
E01007719	Thrybergh South	1106	1	8.8	
E01007790	Dinnington Central	1129	1	24.2	Dinnington
E01007668	Aston North West	1480	1	10.5	
E01007730	Wingfield	1755	1	9	
E01007729	Greasbrough South	1765	1	4.4	
E01007718	Jordan	1835	1	16.7	
E01007760	Maltby East - Muglet Lane	1920	1	32.1	Maltby South East
E01007734	Herringthorpe North	2067	1	7.8	
E01007809	Thurcroft South West	2096	1	10	
E01007723	East Herringthorpe East	2256	1	7.3	
E01007732	Rockingham West	2463	1	4	
E01007822	Wath Central & Newhill	2487	1	10.9	
E01007727	Thrybergh East	2723	1	7.9	
E01007779	Upper Haugh West	2878	1	7.9	
E01007794	Swinton South	2918	1	6.3	
E01007662	North Anston Central	3017	1	4	
E01007791	Dinnington East	3048	1	15.4	Dinnington
E01007766	East Dene South	3190	1	5.4	
E01007708	Herringthorpe South	3309	2	8.5	
E01007740	Kimberworth Park East	3323	2	5.4	
E01007726	Flanderwell	3390	2	12.4	
E01007763	Maltby East - Town Centre	3485	2	25.4	Maltby South East
E01007805	Kimberworth Park Roughwood	3757	2	4.4	
E01007767	Clifton West	3810	2	23.8	Eastwood
E01007804	Kimberworth Park West	4039	2	3.6	
E01007697	West Melton West	4330	2	4.4	
E01007770	East Dene North West	4409	2	11	
E01007717	Bradgate	4744	2	17.1	
E01007784	Parkgate	4818	2	27.5	
E01007806	Kimberworth Park Central	5010	2	5.8	
E01007815	Thurcroft Central & Brampton	5139	2	28.2	
E01007759	Maltby East - Highfield Park	5167	2	8.9	
E01007796	Swinton North	5184	2	7.9	
E01007733	Rockingham East	5664	2	4.5	
E01007783	Rawmarsh South	6089	2	9.8	
E01007782	Rawmarsh North	6345	2	8.7	
E01007694	Brampton North	6390	2	10.1	
E01007745	Richmond Park	6401	2	4.4	

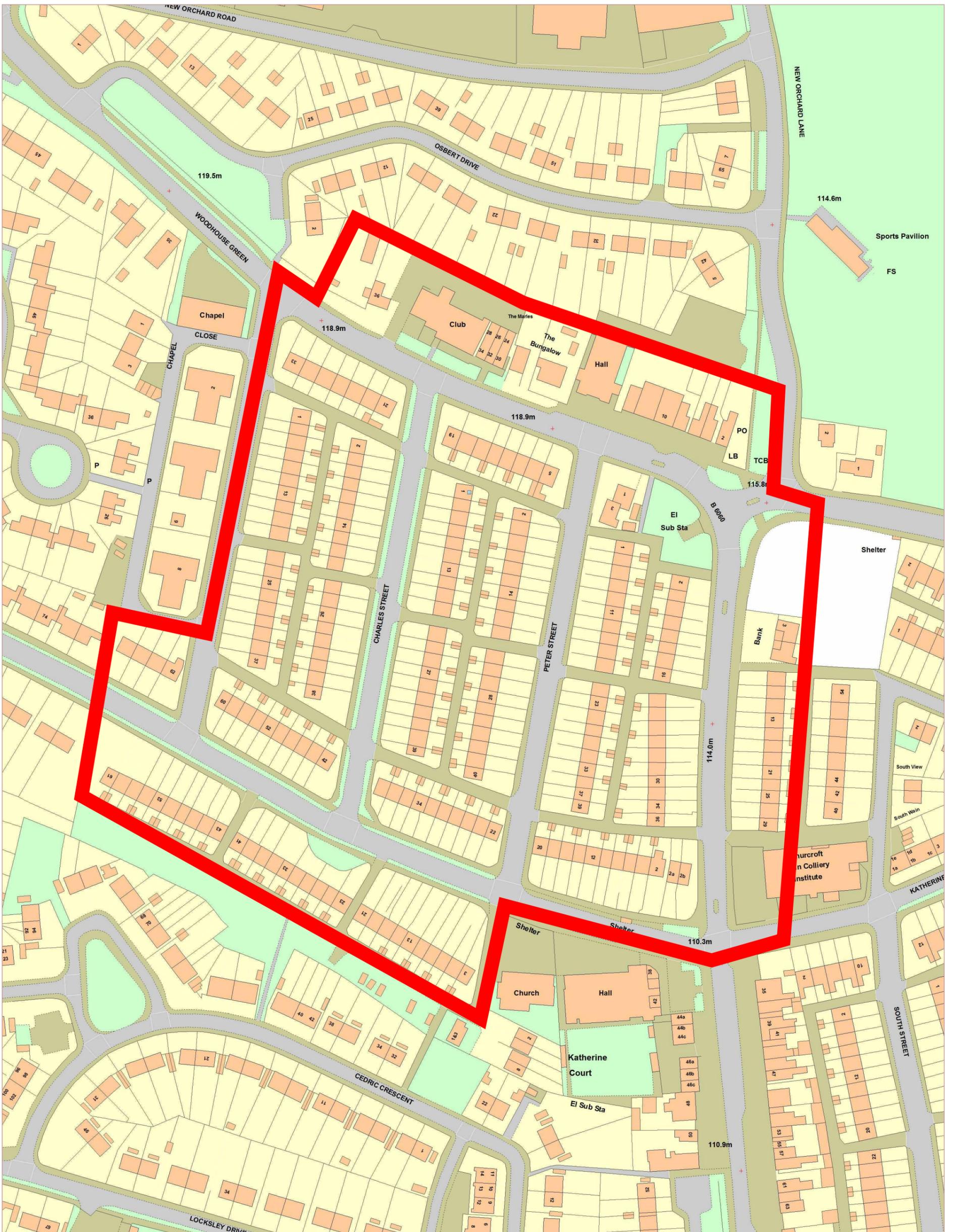
APPENDIX 3 - Proposed Selective Licensing Area Boundary Maps



1:5000

**Parkgate Proposed Selective Licensing Area**





**Thurcroft Proposed Selective Licensing Area**

The boundary drawn in red is the proposed area which is being considered for the use of Selective Licensing powers under the Housing Act 2004.



1:1476

## APPENDIX 4 - Current Selective Licensing Conditions in Rotherham

- *As amended by the provisions of Regulation 15 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, SI 2015 No. 1693*

*In these conditions, “house” is meant to refer to the building or part of a building, which is licensed under Part 3 of the Housing Act 2004.*

### **Housing Act 2004 Prescribed Conditions**

1. The licence holder must obtain a valid gas safety certificate on an annual basis, if gas is supplied to the house. This must be provided to the Council as part of the application process and on an annual basis thereafter. A copy must also be provided to the tenant.
2. The licence holder must:
  - a. keep electrical appliances and furniture made available by him in the house in a safe condition and
  - b. supply the authority, on demand, with a declaration by him as to the safety of such appliances and furniture.
3. The licence holder must:
  - a. ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation, and
  - b. ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance;
  - c. (i) keep each such alarm prescribed in 3a & 3b above in proper working order; and  
(ii) supply the authority, on demand, with a declaration by him as to the condition and positioning of any such alarm prescribed in 3a & 3b above.

Please note that a “room” includes a hall or landing, and a bathroom or lavatory is to be treated as a room used as living accommodation.

4. The licence holder must provide each occupier of the house with a written statement of the conditions of the terms on which they occupy the house (tenancy agreement). The licence holder shall provide a copy of the said terms to the authority on demand. The licence holder must abide by the conditions and responsibilities contained in the tenancy agreement and carry out all landlord functions as laid down.

### **Conditions relating to the property**

5. The Licence holder should submit an annual declaration as to the condition in relation to the hazards present in the property and the safety of the property

on a copy of the form in Appendix 2 to these conditions, at the same time as the Gas Safety Certificate. The form will also be available on the Council's website.

6. The licence holder must provide prospective tenants with a copy of the Energy Performance Certificate (EPC) prior to the commencement of the tenancy.
7. The licence holder must:
  - a. ensure that throughout the period of the licence, that the premises are covered by a valid periodic electrical survey inspection report. Such a report should be provided by a suitably trained, experienced and competent person i.e. a NICEIC or ECA member;
  - b. ensure any Category 1 remedial works be recommended on the periodic electrical survey report, the licence holder must ensure that such works are completed within the timescales given by the electrical engineer and must inform the selective licensing team upon completion of such works; and
  - c. supply the authority, on demand, with a copy of the periodic inspection report.
8. The licence holder must ensure that all furniture supplied complies with the Furniture and Furnishings (Fire) (Safety) Regulations 1988. A declaration to this effect must be supplied to the Council upon request.
9. Where any qualifying works are to be carried out to the house, the licence holder must ensure the appropriate consent is obtained from the Council's Building Control service prior to works commencing.
10. The licence holder will ensure that any remedial works to rectify disrepair issues identified during the 'sign up' stage are undertaken within period of time agreed with the tenant and no later than 28 days from the beginning of the tenancy.
11. The licence holder must ensure that any disrepair identified by the tenant or through periodic inspection by the licence holder, other managing agent or landlord are undertaken within the period of time agreed with the tenant, and no later than 28 days of it being identified.
12. The licence holder must ensure that all repairs to the house or any installations, facilities or equipment within it are to be carried out by competent and reputable persons and that they are completed to a reasonable standard.
13. The licence holder must ensure that the water supply and drainage system serving the house is maintained in good, clean and working order.
14. The licence holder must not unreasonably cause any service supplied to the property under the terms of the tenancy agreement to be interrupted.
15. The licence holder must provide the tenant and their household with suitable alternative accommodation where necessary if substantial remedial works are undertaken.

16. The licence holder must ensure that they carry out regular inspections of the property to ensure that at least the minimum requirements for the condition of private rented accommodation are maintained and that the property and that the tenancy is not causing nuisance or annoyance to neighbouring properties.
17. The licence holder shall ensure that the tenant is provided with wheeled bins of suitable capacity and type as specified by the Council at the property and that the Council's arrangements for refuse collection including recycling are issued to the tenant at the outset of the tenancy.
18. The licence holder must take steps to remove graffiti on the property within five working days of it being reported to them.

### **Management of the licensed property**

19. The licence holder shall ensure that the occupancy level at the property is in accordance with the criteria as determined by the Rent Officer (Housing Benefit Functions) Order 1997 Schedule 2, Size Criteria.
20. The licence holder must obtain references or guarantees in respect of the person(s) who wish to occupy the property in order to make an informed decision regarding the occupancy of the property. Copies of these references must be made available to the council upon request.
21. The licence holder must provide the occupiers of the house, with details of the following:
  - a. Name of the licence holder
  - b. A contact address, daytime telephone number
  - c. An emergency contact number and details of the arrangements in place to deal with repairs and emergencies should they arise.
22. The licence holder must provide all tenants with a copy of the licence and the licence conditions.
23. This information must be supplied within 28 days of receipt of the licence document and should be clearly displayed in a prominent position within the house. An emergency contact telephone number for the licence and/or management agency shall also be available and notified to the authority.
24. The licence holder must ensure that all monies in respect of the licence fee are paid to the authority by the terms imposed by the invoice.
25. The licence holder will make every attempt to provide each occupant of the house with copies of user manuals for any installations or equipment provided as part of the agreement for the occupation of the house.
26. The licence holder will arrange to undertake a detailed inventory to be agreed with each occupant upon commencement of their occupation of the house and kept on file by the licence holder at their business address.

27. The licence holder must provide the tenant with a written receipt for all cash rental payments received. (This does not affect the legal requirement to provide a rent book for rent paid on a weekly basis).
28. Where the rent is paid monthly, the licence holder must provide the tenant with a clear rent statement, on a six monthly basis. This must also be provided at any other time when requested by the tenant.
29. The licence holder must ensure that all new tenancy deposits are protected in a government authorised scheme within 14 days of receiving it from the tenant. The licence holder must also ensure that the tenant is given;
  - a. The details of any utilities or other charges included in the rent
  - b. Information and instructions on the responsibility for payment of council tax
  - c. Information and instructions on the responsibility for payment of utilities and arranging provision of such
30. The licence holder will not discriminate against prospective occupiers of the house on the grounds of race, disability, gender, religion or sexual orientation.
31. The licence holder must inform the Council of any change of circumstances which may affect their suitability to continue to remain the licensee. This must be done within five working days of the changes taking effect. (See Appendix)
32. The licence holder must ensure that any person(s) who assist in the management of the property not detailed in the original licence application must be a 'fit and proper' person to do so as per the definition in the Housing Act 2004 and Appendix 1 of these conditions, and must notify the Council of these changes. Where necessary the Council will require a declaration to be signed by the person assisting in the management of the property stating that they meet the **'fit and proper'** person criteria.
33. The licence holder must inform the Council, within 5 working days, if there is a change of managing agent and provide the Council with proof that they are a 'fit and proper person' to do so under the definition under the Housing Act 2004 and Appendix 1 of these conditions.
34. Notifications of changes in accordance with the previous two conditions should be made in writing by the Licence Holder and addressed to (email address to be confirmed).
35. The licence holder must adhere to legal requirements when seeking possession of the property from the tenant.
36. The licence holder must inform the council of any steps being taken to sell the licensed property including the details of any successful purchaser(s).
37. The licence holder must be a permanent resident in the United Kingdom.

## **Security**

38. The licence holder will ensure that keys are provided to the tenant where window locks are provided.
39. Where previous occupants have not surrendered keys, the licence holder and will arrange for a lock change to be undertaken, prior to new occupants moving in.
40. The licence holder will ensure front and rear doors are secure and fitted with good quality locking systems.
41. The licence holder must ensure that all reasonable measures are taken to ensure that the property is made secure from unauthorised entry during periods of occupancy.

## **Environmental Management / Amenity of the Neighbourhood**

42. The licence holder shall ensure that the exterior of the house is maintained in a reasonable decorative order and in reasonable repair.
43. The licence holder must ensure that all outbuildings, yards, forecourts and gardens surrounding the house are maintained, in reasonable repair and ensure that the tenant is aware of their responsibility to keep them in a clean, tidy and safe condition and free from infestations.
44. The licence holder must take all reasonable and all practicable steps in keeping external areas and the curtilage of the property free from rubbish and fly tipping deposits at all times. If employing a third party to carry out any such clearances, care must be taken to ensure that they are a registered waste carrier.

## **Preventing and Reducing Anti-Social Behaviour**

45. The licence holder must take all reasonable and all practicable steps for preventing and dealing with anti-social behaviour and undertake a thorough process of incremental steps to deal with any complaints, which have been made either directly to them, or via the Local Authority or any Police service, regarding their occupiers. For the purposes of these conditions, anti-social behaviour is taken to comprise behaviour by the occupants of the house and/or their visitors, which causes a nuisance or annoyance to other occupants of the house, to lawful visitors to the house or to persons residing in or lawfully visiting the locality of the house.
46. The licence holder is required to provide an authorised officer of the Local Authority, a Police Officer or Police Community Support Officer, upon request, information regarding the full names and dates of birth of each occupant.
47. The licence holder will ensure that the occupants of the house are aware of the assistance available to them to deal with anti-social behaviour and how they can report nuisance and anti-social behaviour to the authority. The

Council will make such information available to tenants and property owners via its website.

48. The licence holder will respond to reference requests within a reasonable timescale and provide an honest and accurate reference relating to existing or past tenants.
49. The licence holder must take steps to terminate the tenancy following advice and recommendation from the Council, should it be found that the property is being used for illegal or immoral use or where there is evidence of persistent and ongoing anti-social behaviour.

## Summary Sheet

### **Name of Committee and Date of Committee Meeting**

Cabinet and Commissioners' Decision Making Meeting – 6 August 2018

### **Report Title**

CCTV Priority Capital Investment and Policy

### **Is this a Key Decision and has it been included on the Forward Plan?**

No

### **Strategic Director Approving Submission of the Report**

Damien Wilson, Strategic Director of Regeneration and Environment

### **Report Author(s)**

Lewis Coates, Head of Service, Regulation and Enforcement  
01709 823117 or lewis.coates@rotherham.gov.uk

### **Ward(s) Affected**

All

### **Summary**

The Budget and Council Tax 2018-19 report to Cabinet and Commissioners' Decision Making Meeting on 19 February 2018 approved the Council's Capital Strategy to 2021/22. As part of this, £60,000 of Priority Capital Investment monies were identified for mobile CCTV cameras.

The utilisation of technology to enhance the Council's drive to tackle anti-social behaviour is critical to improving the outcomes delivered by the Council and partners alike to deter and punish offenders whilst improving the quality of life of residents.

It is apparent that the Council, partners and residents would benefit from increased provision of CCTV technology to provide suitable capacity, capability and flexibility, and to support ward priorities, Community Action Partnerships and Tasking meetings. Current revenue budgets are not in a position to fund increased provision, and capital funding is therefore required to deliver enhanced capacity - the equivalent of one camera for each ward - to deliver the desired outcomes.

It is estimated that the cost of each individual CCTV system will be in the region of £3,000, equating to a total cost of £63,000 for the 21 cameras sought. Whilst this is an estimate, and the actual costs will be determined through a procurement process, any potential costs beyond the £60,000 allocation will be dealt with through existing budgets. Steps will be taken via the procurement process to seek to bring the overall cost of the 21 cameras within the original £60,000 budget allocation.

The cameras will be deployed in accordance with the Council's revised CCTV Policy, which has been reviewed and updated as part of this project, to ensure that the future use of CCTV is fully compliant with the General Data Protection Regulation (GDPR).

### **Recommendations**

1. That the allocation of £60,000 of funding within the approved Capital Programme for mobile CCTV cameras be noted.
2. That the reviewed CCTV Policy and improved processes be approved.

### **List of Appendices Included**

Appendix A CCTV Policy and Guidance (Overt Surveillance)

### **Background Papers**

Surveillance Camera Code of Practice [Surveillance Camera Commissioner, June 2013]

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

### **Council Approval Required**

No

### **Exempt from the Press and Public**

No

## **CCTV Capital Bid and Policy**

### **1. Recommendations**

- 1.1 That the allocation of £60,000 of funding within the approved Capital Programme for mobile CCTV cameras be noted.
- 1.2 That the reviewed CCTV Policy and improved processes be approved.

### **2. Background**

- 2.1 The Council approved the Budget and Council Tax 2018-19 report on 28 February 2018. The report included the Capital Strategy 2021/22 which identified £60,000 of Priority Capital Investment monies were identified for mobile CCTV cameras.
- 2.2 Tackling anti-social behaviour is a key priority for the public and the Council. The key priority to deliver 'a strong community in a clean, safe environment' is a Vision Statement Commitment for the Council.
- 2.3 The Council has a number of existing systems which provide some capabilities to address anti-social behaviour, including CCTV on vehicles, buildings, and body cameras on Civil Enforcement Officers. However, these are specific to location or individual officers, and are not deployed to target wider anti-social behaviour issues.
- 2.4 The existing systems provide little flexibility and are not able to support deployment in line with local ward priorities or priorities identified via Tasking Meetings. The ability to provide one camera per Ward would enable a more equitable distribution of CCTV resources.
- 2.5 Whilst the Council does currently have a wider deployable system of cameras that can be deployed on street furniture such as lamp posts, the system has proven to be unreliable, with many cameras not working despite recalls and disputes with the provider.
- 2.6 Concurrently, the Council's CCTV Policy has been reviewed and updated. This was undertaken to ensure an up to date Policy was provided to teams that are likely to utilise CCTV, whilst also ensuring that the Policy is GDPR compliant.

### **3. Key Issues**

- 3.1 Whilst it is evident that the Council and partners take robust action to tackle anti-social behaviour, it is clear that further progress might be achieved through the utilisation of technological solutions. Moreover, CCTV provides a deterrent to potential offenders and reassurance to those affected by anti-social behaviour, with consequent improvements in perceptions of anti-social behaviour.

- 3.2 Furthermore, where images are recorded that identify offenders, the Council and partners can deliver enhanced enforcement up to and including prosecutions. This will serve to demonstrate the Council's commitment and seriousness in dealing with anti-social behaviour and improve residents' confidence in the Council and partners as enforcers.
- 3.3 The Council's current CCTV capabilities are limited in terms of both the reliability of equipment and the number of cameras available. This capital project seeks to deliver a system that is capable of providing CCTV cameras in every electoral ward, along with the flexibility to deploy those cameras in areas of highest need. This enhanced capacity and reliability will give the Council greater flexibility to rapidly deploy mobile CCTV, and to tackle urgent issues across in local areas, without diminishing capacity across the Borough, and ensuring the cameras are used equitably in each ward.
- 3.4 Any new system should aim to support the delivery of Ward plans and priorities through the Community Action Partnership (CAP) meetings, and local Tasking arrangements. It is therefore proposed that, should the cameras be purchased, requests by Elected Members for the deployment of CCTV will be made through the CAP meetings within each ward. Requests will be referred to the respective Tasking Meeting (North, Central or South) who will ensure the deployment requested adheres to the Policy, and then arrange for deployment.
- 3.5 Whilst the process for the deployment of anti-social behaviour CCTV systems at an operational level will remain within the Community Safety team, authorisation to deploy the systems will be subject to the Council's revised CCTV Policy and Guidance (Overt Surveillance). The Council's CCTV Policy has been reviewed and updated to ensure the Policy supports the training of staff who are likely to utilise CCTV, and the operational processes that underpin any deployment. The revised Policy will also ensure that the Council is fully compliant with all relevant legislation, including the General Data Protection Regulations (GDPR). In particular, the revised Policy addresses requirements to ensure that data is processed lawfully; collected only for specific legitimate purposes; is limited to what is necessary; kept up to date; stored only as long as is necessary; is secure and confidential; and appropriately documented governance and training is in place. A copy of the revised policy can be found in Appendix A.
- 3.6 Noting the unreliable nature of the previous equipment procured, officers are exploring more robust and reliable technology options through a procurement with a public sector partner. This will deliver a more effective and reliable system, working in conjunction with a public sector partner who has previously engaged a procurement process, to deliver a CCTV system that is already in use in similar operational setting in another Local Authority. This approach could also potentially reduce the time taken to procure a system.

#### **4. Options considered and recommended proposal**

##### ***Option 1***

- 4.1 The Council is under no obligation to use overt CCTV to deter and tackle anti-social behaviour. The Council may therefore decide that there is currently no desire to invest in additional technology. Whilst the Capital resources identified within the Capital Strategy could be allocated elsewhere, it would also limit the tools available to the Council to deliver its corporate priorities.

##### ***Option 2***

- 4.2 This option seeks to apply for capital funding to procure a complete system of CCTV cameras to provide sufficient capacity and flexibility to deter and tackle anti-social behaviour across key hotspots within each electoral ward.
- 4.3 The Council has historically invested in a range of CCTV to tackle key issues; in particular anti-social behaviour and fly-tipping. CCTV provision has generally been at a low level due to the reliance on available revenue budgets to provide cameras.
- 4.4 CCTV is a critical tool in the Council's drive to reduce and tackle anti-social behaviour both as an overt and covert resource. Previous systems utilised have failed to deliver suitable capacity and reliability and have been the subject of contractual challenge to the system provider. Moreover where resource is revenue funded, there is a lack of financial flexibility to provide sufficient capacity and to deal with failures of equipment.
- 4.5 It is proposed to source a technological solution with a similar specification to systems deployed for similar purposes in other local authority areas.
- 4.6 In order to ensure capacity, sufficient CCTV cameras will be purchased to provide coverage for each ward across the Borough with prioritised deployment in support of the new CAP and Tasking arrangements.

##### ***Option 3***

- 4.7 The Council might prefer a reduced financial commitment with reduced numbers of CCTV systems. Whilst this option might not provide the complete coverage of all wards, it could provide sufficient flexibility to cover major hotspots in key locations. However, a reduced number of cameras would limit the ability of the Council and partners to deploy cameras to deliver on ward plan priorities, or to be able to react to requests from CAP and Tasking meetings.

## **Preferred Option**

- 4.8 Option 2 is therefore the preferred option. It will deliver a sufficient number of systems to deter and tackle anti-social behaviour in key locations in each ward, and the flexibility to support ward plans, the CAP process, Tasking arrangements and the Council's corporate priorities.

## **5. Consultation**

- 5.1 The Cabinet Member for Waste, Roads and Community Safety has been consulted and is supportive of the approach.

## **6. Timetable and Accountability for Implementing this Decision**

- 6.1 The procurement will be undertaken in line with the Council's Contract Standing Orders and options are being considered as to the best way to approach the market to ensure we receive a tested and reliable system.
- 6.2 A structured training programme has been delivered to front-line staff involved with mobile CCTV relation to the new overt CCTV Policy and in relation to the overlap with Regulation of Investigatory Powers Act 2000. Additional training has also been delivered to the member of Council staff acting as CCTV Manager within the Policy.
- 6.3 During the implementation period for the new Policy, the authorisation process will be subject to enhanced legal advice and guidance.
- 6.4 The Assistant Director for Community Safety and Street Scene will be responsible for the delivery and implementation of this proposal in consultation with the Cabinet Member for Waste, Roads and Community Safety.

## **7. Financial and Procurement Implications**

- 7.1 The Cabinet and Commissioners' Decision Making Meeting of 19<sup>th</sup> February 2018 approved an allocation of £60,000 as a priority capital investment in mobile CCTV cameras. This report constitutes the request for approval to draw down this funding.

It is estimated that each CCTV system individually will cost in the region of £3,000. Consequently, to purchase twenty-one systems, one for each ward, of the cost might reach £63,000. It is anticipated that the procurement process may deliver the systems below the £60,000 allocation, if not, then any additional costs will be found within existing budgets.

- 7.2 It is possible that the deterrent effect of CCTV systems will have a positive effect on the resources required to deal with anti-social behaviour. Whilst no revenue savings are currently identified relating to this, any savings will be captured as the project progresses.

- 7.3 Procurement of the CCTV systems is expected to be through a public sector partner. This will ensure a tested and reliable system, that is already in use in similar operational setting in another Local Authority, whilst minimising the time taken to procure.

## **8. Legal Implications**

- 8.1 The revised CCTV Policy complies with relevant legislation and the Surveillance Camera Commissioner's Code of Practice. It is incumbent upon the officers responsible for the deployment of CCTV systems that they understand and adhere to the Council's CCTV Policy. It is critical that relevant officers understand the circumstances under which the CCTV Policy applies and those circumstances where the requirements of the Regulatory of Investigatory Powers Act 2000 would need to be followed.
- 8.2 Failure to follow legislation and Policy can lead to failure of legal cases brought on the strength of CCTV evidence and potential litigation/complaints against the Council.

## **9. Human Resources Implications**

- 9.1 There are no human resources implications related to this initiative.

## **10. Implications for Children and Young People and Vulnerable Adults**

- 10.1 There are no implications for Children and Young People or Vulnerable Adults. However, approval of this report will see additional deterrents which will positively affect the quality of life of individuals.

## **11. Equalities and Human Rights Implications**

- 11.1 There are no equalities or human rights implications.

## **12. Implications for Partners and Other Directorates**

- 12.1 There are no implications for partners or other directorates.

## **13. Risks and Mitigation**

- 13.1 There is a small risk that the purchase and use of CCTV cameras does not lead to a reduction in anti-social behaviour. However, the Service assesses this risk to be low.

## **14. Accountable Officer(s)**

Damien Wilson Strategic Director of Regeneration and Environment  
Tom Smith, Assistant Director – Community Safety and Street Scene  
Sam Barstow, Head of Service – Community Safety, Resilience and  
Emergency Planning

Approvals obtained on behalf:-

	<b>Named Officer</b>	<b>Date</b>
Strategic Director of Finance & Customer Services	Judith Badger	23.07.2018
Assistant Director of Legal Services	Dermot Pearson	20.07.2018
Head of Procurement (if appropriate)	Karen Middleton	14.06.2018
Head of Human Resources (if appropriate)	Not Consulted	

This report is published on the Council's website or can be found at:-  
<http://moderngov.rotherham.gov.uk/ieDocHome.aspx?Categories=>

## Appendix A: CCTV Policy and Guidance (Overt Surveillance)

# CCTV Policy and Guidance (Overt Surveillance)

---

Version	Author	Approved By	Date	Published	Review
0.2	Lewis Coates/ Supported by Marie Buxton		April 2018	-	-
0.3	Marie Buxton		25/04/2018	-	-
0.4	Lewis Coates		8 <sup>th</sup> May 2018		
0.5	Neil Concannon		25 <sup>th</sup> May 2018		
0.6	Neil Concannon and Lewis Coates		13 <sup>th</sup> June 2018		
0.7	Neil Concannon and Lewis Coates		9 <sup>th</sup> July 2018		
0.8	Tom Smith and Lewis Coates		10 <sup>th</sup> July 2018		
0.9	Neil Concannon and Lewis Coates		11 <sup>th</sup> July 2018		
0.10	Tom Smith		20 <sup>th</sup> July 2018		

## Contents

1. Introduction
2. Objectives
3. Policy Statement
4. Legislation and Guidance
5. Responsibilities
6. Process

### Appendix:

- A CCTV Approval Form
- B CCTV Policy
- C Privacy Impact Assessment

## 1. Introduction

- 1.1 The following policy relates to surveillance camera equipment and the gathering, storage, use and disposal of Closed Circuit Television (CCTV) system recorded data. The Council uses surveillance camera devices for various purposes. These include CCTV systems within Council premises and car parks as well as on the highway, body worn video camera equipment, and automatic number plate recognition . In this policy such devices shall be referred to as 'CCTV Systems'.
- 1.3 The policy covers all CCTV systems used by Rotherham Metropolitan Borough Council but does not cover Rotherham schools.
- 1.4 This policy should be read in conjunction with the following codes of practice for surveillance cameras:

<https://www.gov.uk/government/publications/surveillance-camera-code-of-practice>

<https://ico.org.uk/media/1542/cctv-code-of-practice.pdf>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/561520/NSCS\\_Strategy\\_FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/561520/NSCS_Strategy_FINAL.pdf)

## 2. Overlap with Regulation of Investigatory Powers Act 2000 (RIPA)

- 2.1 All involved with CCTV operations must be keenly aware of the difference between overt and covert operations. Overt cameras are covered by this Policy; the use of covert cameras can, and must, only be authorised through the Council's RIPA Policy
- 2.2 Deployment of cameras in circumstances that can be considered to be directed surveillance, must follow the RIPA authorisation process and NOT the Council's Overt CCTV Policy.
- 2.3 Directed Surveillance is defined as:
- 2.4 Any covert surveillance that is not intrusive.
- 2.5 Carried out for the purposes of a specific investigation or operation.
- 2.6 Likely to result in the obtaining of private information about a person.
- 2.7 Not an immediate response to events or circumstances where it would not be practical to seek an authorisation.
- 2.8 Covert surveillance is defined as:
- 2.9 Surveillance is covert if, and only if, it is carried out in a manner that is calculated to ensure that persons who are subject to surveillance are unaware that it is or may be taking place.

- 2.10 It is important to understand that concealed cameras are not necessarily the same as covert; where very clear signage indicates that CCTV is in operation and that concealed cameras are in use, then the Council may be able to use the overt CCTV Policy, so long that the use of the cameras does not constitute directed surveillance. The only current example of the use of concealed cameras in this way is in relation to fly-tipping cases. If officers are proposing to use concealed cameras under this policy in different circumstances, or if there appears to be any risk of directed surveillance, or any uncertainty, then Legal Services must be consulted before CCTV is used in those circumstances.

### 3. Objectives

- 3.1 It is important that everyone and especially those charged with operating the CCTV systems on behalf of the Council understand exactly why each of the CCTV systems and each camera used as part of the CCTV system has been introduced and what the cameras should and should not be used for.
- 3.2 Each CCTV system will have its own site objectives, these could include some or all of the following:
- 3.2.1 Protecting areas and premises used by Council officers and the public
  - 3.2.2 Deterring and detecting crime and anti-social behavior
  - 3.2.3 Assisting in the identification of and apprehension of offenders
  - 3.2.4 Deterring violent or aggressive behaviour towards Council officers
  - 3.2.5 On-site traffic and car park management
  - 3.2.6 Monitoring traffic movement
  - 3.2.7 Identifying those who have contravened parking regulations
  - 3.2.8 Assisting in traffic regulation enforcement
  - 3.2.9 Protecting Council property and assets
  - 3.2.10 Assisting in grievances, formal complaints and investigations
  - 3.2.11 Surveying buildings for the purpose of maintenance and repair
- 3.3 CCTV systems must not be used to monitor the activities of Council officers or members of the public in the ordinary course of their lawful business. Council officers are not permitted to use CCTV systems to observe the working practices and time keeping of other Council officers.

### 4. Policy Statement

- 4.1 This policy statement and the following guidance must be complied with at all times on all Council premises.
- 4.2 Management must ensure that there is reasonable justification before CCTV is used. (CCTV Approval Form – Appendix A)

- 4.3 All schemes require an assessment of impact on people's privacy (Surveillance Camera Privacy Impact Assessment – Appendix B)
- 4.4 A designated manager will have responsibility for compliance with the schemes operational process and procedures.
- 4.5 The intended use of the CCTV will be documented and the system must not be used for anything other than this purpose (CCTV Policy – Appendix C)
- 4.6 Each system must have procedures for administration, which will include:
  - 4.6.1 Ensuring the scheme is in accordance with the CCTV policy
  - 4.6.2 Right to be Informed eg signage and privacy notice
  - 4.6.3 Procedures for handling images.
  - 4.6.4 Record keeping of access requests, use of images procedures
  - 4.6.5 Monitoring of the scheme to ensure compliance, whilst at the same time protecting personal data of others.
  - 4.6.6 Control of recorded material
  - 4.6.7 Retention and Destruction
- 4.7 Regular training to ensure operators are kept up to date with the procedures.
- 4.8 Permanent or movable cameras must not be used to view areas that are not of interest and not intended to be the subject of the scheme.
- 4.9 There are areas where there is an expectation of heightened privacy and CCTV may only be used in very extreme cases and this must not be undertaken without discussing with the senior manager of the site, for example siting CCTV outside a school.
- 4.10 The CCTV will only be used at relevant times; times when site security is at risk for example.
- 4.11 The equipment used must be maintained to give reliable quality.
- 4.12 No sound recording technology is to be used, with the exceptions outlined in the Council's Licencing Policy.
- 4.13 Material must not be stored for longer than is necessary and must be deleted as soon as possible. For example, as soon as it is obvious that no crime has occurred, then the data must not be kept.
- 4.14 Images must be viewed in a secure/restricted area with access only to authorised persons.
- 4.15 Images must not be released to third parties. Unless a legitimate valid request in line with appropriate legal exemptions is received and accepted.
- 4.16 Individuals who are recorded may request access to the images, via a Data subject access request, subject to exemptions.

- 4.17 There must be adequate signage to let people know that surveillance is taking place. Where cameras are discreet, the notices must be more prominent. Where cameras are concealed, the notices must confirm this fact.
- 4.18 The CCTV systems must not be used to systematically monitor people. If this is required to obtain the information that is needed then authorisation to carry out directed surveillance under the Regulation of Investigatory Powers Act (RIPA) 2000 will be required and the relevant officers must immediately contact Legal Services for advice.

## 5. Legislation and Guidance

- 5.1 CCTV systems are subject to legislation under:
- 5.1.1 Data Protection Act 1998 (DPA)
  - 5.1.2 European Data Protection Legislation (GDPR)
  - 5.1.3 Human Rights Act 1998 (HRA)
  - 5.1.4 Freedom of Information Act 2000 (FOIA)
  - 5.1.5 Regulation of Investigatory Powers Act 2000 (RIPA)
  - 5.1.6 Protection of Freedoms Act 2012
  - 5.1.7 Criminal Procedures and Investigations Act 1996
- 5.2 Twelve guiding principals of the Surveillance Camera Code of Conduct which the Council will adhere to are:
- 5.2.1 Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.
  - 5.2.2 The use of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified.
  - 5.2.3 There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints.
  - 5.2.4 There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used.
  - 5.2.5 Clear rules, policies and procedures must be in place before a surveillance camera system is used, and these must be communicated to all who need to comply with them.
  - 5.2.6 No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been discharged.
  - 5.2.7 Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is

- necessary for such a purpose or for law enforcement purposes.
- 5.2.8 Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards.
- 5.2.9 Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.
- 5.2.10 There should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published.
- 5.2.11 When the use of a surveillance camera system is in pursuit of a legitimate aim, and there is a pressing need for its use, it should then be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value.
- 5.2.12 Any information used to support a surveillance camera system which compares against a reference database for matching purposes should be accurate and kept up to date.<sup>1</sup>

## 6. Responsibilities

### 6.1 CCTV Manager (RMBC SPOC)

- 6.1.1 The role will be undertaken at a Head of Service level such as Head of Service Regulation and Enforcement or equivalent.
- 6.1.2 The CCTV Manager is responsible for ensuring all those involved in the use of CCTV systems can view current legislation and guidance relating to CCTV systems.
- 6.1.3 The CCTV Manger will be required to be fully trained in relation to the use of, and policies relating to, overt and covert camera usage and where RIPA is applicable
- 6.1.4 The CCTV Manager will review the CCTV policy annually
- 6.1.5 The CCTV Manager will take the CCTV policy to the Corporate Information Governance Group (CIGG) to receive policy approval
- 6.1.6 The CCTV Manager will submit an annual report to the Senior Information Risk Owner (SIRO) dealing with how effective, in the previous year, CCTV systems have proved to be, in meeting objectives listed in Section 2.
- 6.1.7 The CCTV Manager will comply with the roles and responsibilities as set out by the [Surveillance Commissioner for organisation Single Point of Contact](#) (SPOC) for CCTV
- 6.1.8 The CCTV Manager will authorise the deployment of all CCTV systems
- 6.1.9 The CCTV Manager will ensure that all authorisations and PIAs are submitted to the Information Management team and Legal Services for reference. It is incumbent on the CCTV Manager

---

<sup>1</sup> Home Office, Surveillance Camera Code of Practice, June 2013, pp 10 - 11

where any application raises concerns, to seek Legal advice before authorizing the application.

## 6.2 Designated Manager (The Operational Manager)

- 6.2.1 The role will be undertaken at a service operational manager level such as Community Protection Manager or equivalent.
- 6.2.2 This will be a minimum M2 graded Manager who is liable for the deployment of CCTV and its legality.
- 6.2.3 The Manager liable for the actions of the Nominated and Investigating Officers

## 6.3 Nominated Officer (Supervising Officer or System Operator responsible to the Designated Manager)

- 6.3.1 The role will be undertaken at a service principal officer/team leader level such as Principal Community Protection Officer or equivalent.
- 6.3.2 The day-to-day operational responsibilities for each CCTV system rests with the nominated officer.
- 6.3.3 A list of all CCTV systems and their nominated officers will be recorded and available in a CCTV register held by the Council's SPOC
- 6.3.4 Person or persons that take a decision to deploy a surveillance camera system, and/or are responsible for defining its purpose, and/or are responsible for the control of the use or processing of images or other information obtained by virtue of such system.
- 6.3.5 The responsible officer shall ensure that Council officers involved in the operation of CCTV systems are trained in the use of the equipment and are aware of this policy and the procedures in place to manage CCTV systems at the Council
- 6.3.6 The responsible officer should act as the first point of contact for all enquiries relevant to the CCTV system in their premises and should ensure that only authorised officers are able to operate or view images.
- 6.3.7 The responsible officer shall investigate any reported misuse of a CCTV system and report it immediately to the CCTV Manager. It will be the responsibility of the CCTV Manager to refer any misuse of CCTV to the relevant immediate line manager.
- 6.3.8 The responsible officer shall report any faults in the CCTV system equipment to the CCTV Manager and take steps to remedy the fault at the earliest opportunity.

## 6.4 Investigating Officer (System User)

- 6.4.1 The role will be undertaken at an operational officer level such as Environmental Health Officer, Enforcement Officer, or equivalent.
- 6.4.2 Person or persons who have access to live or recorded images or other information obtained by virtue of such system.

- 6.4.3 Person or persons who are trained to burn images and deal with access requests.

## 7. Process

THIS PROCESS RELATES TO THE FOLLOWING ACROSS THE COUNCIL:

- THE FORMAL AUTHORISATION
- PURCHASING and DEPLOYMENT
- MONITORING and HANDLING
- ACCESS TO IMAGES
- SIGNAGE and PRIVACY NOTICES
- STORAGE
- INSPECTION/AUDIT
- COMPLAINTS

EACH TEAM MAY HAVE THEIR OWN PROCESS IN PLACE FOR IDENTIFYING DEPLOYMENT LOCATIONS AND INTERNAL AUTHORISATION, PRIOR TO FORMAL AUTHORISATION AT DIRECTORATE LEVEL.

### 7.1 CCTV Approval

The procedure covers overt surveillance. There will be occasions where concealed cameras are deployed, but only in conjunction with very clear signage confirming that fact. During a previous Regulation of Regulatory Powers Act 2000 (RIPA) inspection the OSC Inspector found that 'such signage renders the proposed surveillance overt and therefore does not require authorisation under RIPA'. Consequently, in these circumstances it brings the surveillance within the Council's CCTV Policy & Guidance regime.

#### 6.1.1 Approval Procedure

- a) It is required that to ensure compliance with the above requirements, the CCTV Policy, the CCTV Approval Form (Appendix A) and CCTV Policy document (Appendix B) are completed. These should be drawn up between the Investigating Officer and the Nominated/Supervising Officer.
- b) No officer, unless they have attended suitable training and are deemed competent by the CCTV Manager, shall take a lead role as an Investigating Officer, Nominated/Supervising Officer or Designated Manager.
- c) Despite being an overt surveillance operation there may be a risk of intrusion into people's privacy and a risk of collateral intrusion. To address this with regard to the; necessity, proportionality and collateral intrusion, the CCTV Approval Form (Appendix A) should, under

'Storage and Retention', detail such issues as; how long we intend to have the camera in place for and how regularly we will review the recordings. If necessary an addendum can be added to ensure full provision (although concise) of information to allow a decision to be taken.

- d) All applications for authorisation to deploy overt CCTV will be accompanied by a Privacy Impact Statement (PIA) (Appendix C). No application will be authorised without a PIA

#### 6.1.2 Guidance Points for CCTV Approval Form (Appendix A):

In addition to the information provided in the CCTV Policy document (Appendix B), the following shall be included:

- a) Column 1 – '**Property**' – Property where CCTV camera is located
- b) Column 2 - '**Purpose of CCTV Camera**' – Should identify the purpose of the installation such as primarily for security purposes/in order to ensure the safety and security of staff and visitors/ prevention and/or detection of crime.)
- c) Column 3 – '**Public Awareness**' – Should describe how individuals are to be made aware that a CCTV system is in use, which should include a description of signage and its location.
- d) Column 4 – '**Nominated Officer**' – this should include the responsibilities and names of the Nominated/Supervising Officer, Designated Manager and Investigatory Officer(s)
- e) Column 5 – '**Storage and Retention**' - should include details such as how long it's intended to have the camera in place for and how regularly the recordings will be reviewed. The footage, needs to be regularly reviewed so that cameras can be removed if it is deemed that the objective of the CCTV system has been achieved and any material that is of no use shall be deleted. It shall be ensured that any material that is of use is retained securely.
- f) For purposes of approval the whole document should be read in conjunction, including the appendices which are likely to contain detail and supporting information to the entries made in the form.

#### 6.1.3 Submission of Application

- a) The Designated Manager shall ensure that the surveillance and associated documentation is CCTV Policy compliant. Appendix A, Appendix B and the PIA at Appendix C shall be submitted direct to the CCTV Manager who is the SPOC for the purpose of this policy. Only

applications submitted according to this process will be deemed as a valid application.

- b) In the absence of the CCTV Manager, the Regulation and Enforcement Principal Officer for Community Protection (North Team), will have delegated authority to authorise applications

#### 6.1.4 Authorisation

- a) The CCTV Manager will review and authorise on satisfaction of compliance with the CCTV & Guidance policy.
- b) On approval authorisation will be confirmed via email including named officers and also a copy will be forwarded to the Data Protection Officer Information Management Team, Riverside House, Rotherham. That email will provide;
  - i. a confirmatory statement that the application is authorised
  - ii. the Appendix A, Appendix B and Appendix C documentation
  - iii. the naming of the Designated Manager, Supervising Officer and/or Investigating Officer taken from the Appendix A and section 3 of the Appendix B (also cc'ing these in the email).
- c) The team deploying the CCTV shall keep a documented record of each deployment together with location, supervising and investigating officers. The record will be maintained as a live document and updated appropriately.
- d) The CCTV Manager will maintain a master record of all deployed CCTV within the Regeneration and Environment directorate.

#### 6.1.5 Changes to equipment, times and other parameters from the original application

- a) Parameters contained within an application might change prior to deployment or during the lifetime of deployment, these would include, but not exclusively:
  - i. Change of surveillance times
  - ii. Change of equipment
  - iii. Breakdown and repair of equipment
  - iv. Adjustment of location
  - v. Vandalism and theft of signs
  - vi. Vandalism and theft of cameras
- b) In all such circumstances the CCTV Manager must be informed immediately and a reviewed and updated application presented to the CCTV Manager for authorisation.

- c) Deployment within the altered parameters must only take place once authorisation has been granted.

## 7.2 Purchasing and Deployment (PIA) and (Policy)

- 6.2.1 It is advisable when purchasing CCTV systems to purchase from suppliers that are registered with the Surveillance Camera Commissioner's Third Party Certification Scheme. Certification enables organisations to demonstrate that they use their CCTV systems transparently, effectively and proportionately.
- 6.2.2 Where a third party is responsible for the storage or processing of data from CCTV systems, then third party data processing contracts must be in place with the third party to ensure protection of the data and compliance with the Council's information governance standards. The Council information governance standards which can be found at: <http://rmbcintranet/Directorates/FCS/CIDS/IM/default.aspx>
- 6.2.3 Those responsible for introducing and operating CCTV systems must ensure that the use of cameras is proportionate to the intended objective and that individuals' right to privacy is respected at all times. A clear operational objective for the CCTV system must be identified and an assessment on the impact on privacy must be carried out and reviewed each year. A Privacy Impact Assessment template can be found on the Surveillance Commissioner's website at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/634894/Privacy\\_Impact\\_Assessment\\_1.docx](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/634894/Privacy_Impact_Assessment_1.docx) . A Privacy Impact Assessment must be completed for each CCTV system in use.
- 6.2.4 Care must be taken to ensure that cameras do not capture images or sounds of private spaces such as dwelling houses.
- 6.2.5 Covert surveillance is not permitted to be carried out under the auspices of this policy. Such activities fall within RIPA and authorisation must be obtained for such activity under the Council's RIPA procedures and the Council's Legal Services must be consulted about acquiring such authorisation.
- 6.2.6 The Council does not generally use cameras that can monitor conversation or be used to talk to individuals as this is viewed as an unnecessary invasion of privacy. This however, does not apply to body cameras where interactions may be recorded.

## 7.3 Handling / Monitoring

- 6.3.1 Where CCTV monitors providing live monitoring for security or other Council officers, are sited in reception areas and areas open to the public or visitors, the ability to view the CCTV system monitors must be restricted to those authorised to see them. Monitors must not be visible

to those entering the premises.

6.3.2 Monitoring of CCTV systems will only be carried out by officers authorised to do so.

6.3.3 CCTV will only be subject to the Data Protection legislation if the footage captured relates to individuals who can be identified from it.

## **7.4 Access to Images**

Access to images must follow one of the following routes:

### 7.4.1 Subject Access Request

- a) Members of the public have the right to request access to their personal information (images) in line with Data Protection legislation. Access will only be granted when a completed request form has been submitted and identity verified.
- b) CCTV access requests can be made via the Council's website 'Right to Access'.
- c) The Information Management Team will verify the request and identity of the individual and send onto the CCTV Manager.

### 7.4.2 Police, Other Council's etc

- a) Organisations responsible for the detection and prevention of crime, taxation recovery or duties of similar nature can request access to personal information (images) in line with Data Protection Legislation. Access will only be granted when a formal request has been received.
- b) Formal requests will be in the format of a Data Protection exemption form sometimes known as a section 29, CIDS49.
- c) The Information Management Team will verify the request and identity of the individual and send onto the CCTV Manager.

### 7.4.3 Solicitors/Insurances

- a) Organisations acting on behalf of individuals dealing with legal claims or responding to court orders can request access to personal information (images) in line with Data Protection Legislation. Access will only be granted when a formal request has been received.
- b) Formal requests will be in the format of a Data Protection exemption form sometimes known as a section 35, or a court order.

- c) The Information Management Team will verify the request and identity of the individual and send onto the CCTV Manager.

6.4.4 Any complaints relating to the use of CCTV must be logged via the Council's complaints procedure.

## 7.5 Signage and Privacy Notice

6.5.1 All areas where CCTV is in use should be clearly signed. Such signs warn people that they are about to enter an area covered by a CCTV system or to remind them that they are still in an area covered by CCTV.

6.5.2 Where signs are used on the highway to alert road users to the use of CCTV systems, these should not affect the safety of road users.

6.5.3 Where CCTV signage is used and there might be penalties incurred from the images recorded, then the signs must reflect the risks. For example, where CCTV is used in relation to environmental offences, the signage must warn that legal action is a risk if offences are recorded.

6.5.4 Where body cameras are in use, officers using them must display a clear notice that this is the case on their person, usually as part of their uniform. This notice should not be covered up or obscured, but should be visible at all times during an interaction that is being recorded or may be recorded. Where there may be doubt that a member of the public might be aware of this, then the officer should inform the member of the public that a body camera was worn.

6.5.5 Signs should be of appropriate size depending upon context such as whether the signs are to be read by road users or pedestrians. If concealed cameras are being deployed then the signs should clearly state this fact.

6.5.6 Data Protection legislation provides individuals with the right to be informed about processing of their personal data. All CCTV processing must be detailed within the Council and Directorate Privacy Notice. Guidance on the content of Privacy Notices can be found on the Information Management Team intranet site at:  
<http://rmbcintranet/Directorates/FCS/CIDS/IM/default.aspx> .

## 7.6 Storage and Retention

6.6.1 CCTV system images will only be stored for a maximum of six weeks and then overwritten, subject to legal proceedings or ongoing investigations.

6.6.2 Recorded material will not be sold or used for commercial activities or published on the internet

6.6.3 All CCTV systems will be kept secure and free from unauthorised access

6.6.4 All recorded images are the property and copyright of the Council

6.6.5 All images will be stored securely on servers and no images will be stored to a cloud

6.6.7 Where recordings are placed onto discs they will have a unique reference number

6.6.8 All images will be time and date stamped

6.6.9 All images and media will be confidentially disposed of when no longer needed

## **7.7 Monitoring/Inspections**

6.7.1 CCTV systems can be inspected or audited at any time by:

- CCTV Manager
- Relevant Head of Service
- Members of the Information Management team
- Members of the Corporate Complaints team
- Members of the senior management team
- Members of the Information Commissioner's Office

## **7.8 Complaints**

6.8.1 All complaints relating to the use of CCTV systems will be subject to the Council's Corporate Complaints Procedure

## Appendix A – CCTV Approval Form

### CCTV APPROVAL FORM

Please complete the following:

<b>Property</b> (Property where CCTV camera is located)	<b>Purpose of CCTV Camera</b> (i.e. primarily for security purposes/in order to ensure the safety and security of staff and visitors/ prevention and/or detection of crime.)	<b>Public Awareness</b> (In order to comply with Principle 1 of the Data Protection Act 1998 (fair and lawful obtaining and processing), individuals should be made aware that a CCTV system is in use. Please advise how this is done – signs displayed etc.)	<b>Nominated Officer</b> (The Supervising Officer for the CCTV System)	<b>Storage and Retention</b> (Where are images stored, who has access to the images and how long they are kept for?)	<b>Quality</b> (i.e. How often are the media changed/if quality not adequate for purpose who will this be reported to? /How long for repair or reinstatement if broken or damaged/Where will maintenance log be kept and who is responsible to check log?) Give Details

**Appendix B – CCTV Policy****1. Purpose**

- 1.1 The CCTV system installed at the [LOCATION] will be used for the prevention/detection of crime.
- 1.2 The CCTV system will monitor activity at [LOCATION] A Map of the location to attached to the this application at [APPENDIX] with the location of the camera marked with a [DESCRIBE THE MARK]

**2. Public Awareness**

- 2.1 In order to comply with Principle 1 of the Data Protection Act 1998 (fair and lawful obtaining and processing), individuals will be made aware that a CCTV system is in use. A number of camera warning signs will be sited around the area. The signs will be clearly visible and legible.
- 2.2 A photograph(s) of the signage in situ is provided to this application at [APPENDIX] and marked on the map referred to in 1.2 with a [DESCRIBE THE MARK]

**3. Nominated Officers**

- 3.1 The supervisory officers for the surveillance CCTV system will be [NAME OF SUPEVISORY/NOMINATED OFFICER]. The system will be used and monitored under the supervision of [NAME OF SUPEVISORY/NOMINATED OFFICER], by investigatory officers [NAME AND RANK OF INVESTIGATORY OFFICERS/SYSTEM USERS].
- 3.2 The designated manager for the CCTV system will be [NAME OF DESIGNATED MANAGER]

**4. Storage and Retention**

- 4.1 Images will be stored [LOCATION OF STORAGE DATA INCLUDING BUILDING AND SYSTEM] and will only be viewed in a secure location by [NAME OF OFFICERS AUTHORISED TO VIEW IMAGES].
- 4.2 In accordance with Principle 5 of the Data Protection Act 1998, images will be kept only as long as necessary for the specified purpose. They will, therefore, be retained for [SPECIFY TIME PERIOD FOR RETENTION]. When this period expires the images will be removed or erased.

**5. Quality**

- 5.1 The media will be changed every [FREQUENCY OF MEDIA CHANGE] If the quality of images is not adequate for the intended purpose, this will be reported to [SYSTEM PROVIDER]
- 5.2 If a breakdown occurs, the camera will be repaired and reinstated as soon as practicable.

- 5.3 A maintenance log for the system will be kept at [LOCATION] and will be checked by the Nominated/Supervising Officer [NAME OF OFFICER].

**Appendix C – [Privacy Impact Assessment](#)**

The template for the Privacy Impact Statement can be found at:

[http://rmbcintranet/Directorates/FCS/CIDS/IM/Privacy%20By%20Design/PIA\\_CCTV\\_Only\\_Template.pdf](http://rmbcintranet/Directorates/FCS/CIDS/IM/Privacy%20By%20Design/PIA_CCTV_Only_Template.pdf)

This page is intentionally left blank

**Council Report**

Cabinet and Commissioners' Decision Making Meeting – 6 August 2018

**Title**

Removal of the public phone box at the junction of Chadwick Drive and Braithwell Road, Maltby

**Is this a Key Decision and has it been included on the Forward Plan?**

No

**Strategic Director Approving Submission of the Report**

Damien Wilson, Strategic Director of Regeneration and Environment

**Report Author**

Robert Gandy, Assistant Planning Officer  
01709 828636 or robert.gandy@rotherham.gov.uk

**Ward(s) Affected**

Maltby

**Summary**

BT has notified the Council of the proposed closure and removal of a phone box at Maltby. Under Ofcom guidance the Council is required to undertake a two stage public consultation on the proposal. After considering any consultation responses the Council must then make a final decision as to whether it agrees or objects to removal of the phone box. This final decision must be made within 90 days of the Council being notified of the proposal by BT.

It was not possible within the 90 day timeframe for the Council's final decision to be made by Cabinet; thus the final decision to agree to the closure and removal of the phone box was made in consultation with the Cabinet Member for Jobs and the Local Economy (as detailed in Appendix 1). This decision took into account an assessment of the phone box against a number of criteria and that no consultation responses were received objecting to its removal.

**Recommendation**

That the final decision agreeing to the proposal to permanently remove the public phone box at the junction of Chadwick Drive and Braithwell Road, Maltby, Rotherham, be endorsed.

**List of Appendices Included**

Appendix 1 Final decision on the public phone box at the junction of Chadwick Drive and Braithwell Road, Maltby, Rotherham, S66 8AD

Appendix 2: Criteria for phone box retention

Appendix 3: Legislative information and procedures or removal

**Background Papers**

Ofcom guidance on procedures for the removal of public phone boxes (including required consultation requirements):

<http://stakeholders.ofcom.org.uk/binaries/consultations/uso/statement/removals.pdf>

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## **Removal of the public phone box at the junction of Chadwick Drive and Braithwell Road, Maltby**

### **1. Recommendations**

- 1.1 That the final decision agreeing to the proposal to permanently remove the public phone box at the junction of Chadwick Drive and Braithwell Road, Maltby, Rotherham, be endorsed.

### **2. Background**

- 2.1 On 26 March 2018, BT notified the Council of the proposed closure and removal of this phone box. This has been prompted by concerns from the Council's Strategic Housing and Development Service that the telegraph pole providing overhead cabling to the telephone box and to a lesser extent the phone-box itself, were now obstructing the delivery of the housing redevelopment scheme at Braithwell Road. There were fears the regularly vandalised and damaged phone box detracted from the area and may have a negative impact on housing sales.
- 2.2 Ofcom guidance outlines a procedure for phone box removal, which necessitates that the Council consults on the proposal and that a final decision is made within 90 days of receiving the proposal from BT. Should the Council object to the removal of any phone boxes then BT must retain these in place and continue to maintain them for public calls (referred to as the 'local veto'). Where it is agreed that BT can remove phone boxes they will do so unless the phone boxes are adopted by an appropriate group (following removal of the phone equipment).

### **3. Key Issues**

- 3.1 The deadline to make a final decision and inform BT was 22 June 2018, however it was not possible for the Council's final decision to be made by Cabinet by this date, as the end of the 90 day consultation period was prior to the next available scheduled Cabinet meeting. Therefore a final decision to agree to the closure of the phone box was made in consultation with the Cabinet Member for Jobs and the Local Economy (see Appendix 1).
- 3.2 The final decision has been published and the Secretary of State and BT have been notified accordingly in line with the Ofcom guidance.

### **4. Options considered and recommended proposal**

- 4.1 To formally endorse the final decision made in consultation with the Cabinet Member for Jobs and the Local Economy.

## 5. Consultation

- 5.1 In line with Ofcom guidance the Council has consulted on the proposals by BT. No responses objecting to the removal of the phone box were received; however one consultation response was received which supported removal. The phone box was considered against the local criteria for removal (see Appendix 2). In particular, it was noted that the phone box is located in an area of higher than average level of population over 75 years of age, in an area of below national average home ownership, and where there are fewer than 50 properties within 400 metres of the phone box. Normally, this would have resulted in the Council considering applying its local veto to prevent the removal of this phone box. However, it is recognised that there have been no calls from the phone box over the past 12 months and the area has mobile phone coverage by at least 3 networks. Taking these factors into account, and that no responses were received objecting to the removal, a decision was made to agree to the phone box removal.

## 6. Timetable and Accountability for Implementing this Decision

- 6.1 Ofcom guidance advises on the role of the Council in objecting or consenting to public phone box removal within a time frame of 90 days of the initial notice being received. The table below sets out the key dates relating to this process.

Receipt of notice from BT	26 March 2018
First consultation	26 March to 6 May 2018
Draft Decision made in consultation with the Cabinet Member for Jobs and the Local Economy	9 May 2018
Consultation on Draft Decision	18 May 2018 to 17 June 2018
Final Decision made in consultation with the Cabinet Member for Jobs and the Local Economy	18 June 2018 to 20 June 2018
Deadline for response to BT and Secretary of State	22 June 2018

## 7. Financial and Procurement Implications

- 7.1 The consultation and associated administration costs of the public phone box removal proposals have been met from existing approved revenue budgets. BT has previously confirmed that on removal of a telephone box their contractors will reinstate the ground surface to match the surroundings. Where these works are carried out on land owned by the Council, if any safety concerns are identified, then the Council can serve a notice on BT to make good any reinstatement and recover any costs incurred.

**8. Legal Implications**

- 8.1 The Council must ensure that the final decision made complies with the requirements of the Communications Act 2003 (set out in Appendix 3).

**9. Human Resources Implications**

- 9.1 There are no Human Resources implications arising from this report.

**10. Implications for Children and Young People and Vulnerable Adults**

- 10.1 There are no implications for Children, Young People and Vulnerable Adults arising from this report.

**11. Equalities and Human Rights Implications**

- 11.1 There may be residents who have limited access to mobile phones and land line connections, particularly those on low incomes and elderly people. The criteria set out in the Communications Act 2003 and the internally derived criteria as set out in Appendix 2 have been used to assess the proposed phone box removal. In this instance, the results of this assessment were not considered sufficient to apply the local veto.

**12. Implications for Partners and Other Directorates**

- 12.1 There are no implications for Partners and Other Directorates arising from this report, although removal of the phonebox may assist the Council's Strategic Housing and Development Service in taking forward redevelopment of the adjacent Braithwell Road site.

**13. Risks and Mitigation**

- 13.1 The risk to communities and individuals of the phone box removal has been reduced by considering the proposal against the criteria for phone box retention and public consultation on BT's proposals.

**14. Accountable Officer(s)**

Damien Wilson, Strategic Director, Regeneration & Environment

Approvals obtained on behalf of:

	<b>Named Officer</b>	<b>Date</b>
Strategic Director of Finance and Customer Services	Jon Baggaley	5 July 2018
Director of Legal Services	Ian Gledhill	5 July 2018
Head of Procurement (if appropriate)	Lorna Byne	5 July 2018
Head of Human Resources (if appropriate)	Odette Stringwell	6 July 2018

*Report Author:*

*Robert Gandy, Planning Officer  
01709 828636 or robert.gandy@rotherham.gov.uk*



**Appendix 1: Final decision on the public phone box at the junction of Chadwick Drive and Braithwell Road, Maltby, Rotherham, S66 8AD**

Decision by Rotherham Metropolitan Borough Council in response to a proposal by British Telecommunications plc for the removal of a public call box pursuant to Part 2 of the Schedule to a Direction published by Ofcom on 14 March 2006 ('the Direction').

<b>Telephone number</b>	<b>Address</b>	<b>Postcode</b>	<b>Decision (consent/object)</b>	<b>Reasons</b>
(01709) 812646	Junction of Chadwick Drive and Braithwell Road, Maltby, Rotherham	S66 8AD	Consent	No objection was raised. Despite the phone box meeting local criteria developed for assessing phone boxes worthy of retention there has been no community support received in the consultation in favour of the phone box retention. It has been identified locally as a magnet for vandalism.

**Appendix 2: Criteria for phone box retention or removal**

The table below shows locally derived criteria and the criteria previously applied by BT for selecting phone boxes for removal.

<b>Local Criteria</b>	<b>Phone Box Assessment</b>
Whether phone boxes are recorded as having had 52 or more calls in 12 months (this is equivalent to one call per week which is considered to be a reasonable level of usage).	No. 0 calls over the last 12 months.
Whether phone boxes are close to areas where highways injury incidents have been recorded.	One recorded collision within the last three years; recorded as slight injury. As such, this location does not feature as a site of concern in terms of injury collisions.
Whether the subject is a red phone box (typically a "K6" box) located in a Conservation Area.	This is not a red phone box, nor is it in a Conservation Area.
Whether sites are located in areas at high risk of flooding.	The site is at low risk of flooding (Flood Zone 1 of the Environment Agency's flood maps).
Whether phone boxes are in areas with: <ul style="list-style-type: none"> <li>• a high level of population over 75 years of age,</li> <li>• is in an area of below national average home ownership and has</li> <li>• Fewer than 50 properties within 400 metres.</li> </ul>	Phone box is in an area with: <ul style="list-style-type: none"> <li>• There are 843 properties within 400 metres.</li> <li>• Home ownership is 73.9%; above the national average home ownership level of 63.6% (England &amp; Wales).</li> <li>• At 15.8% the population of those over 75 years of age is above the borough average of 7.8%.</li> </ul>
<b>BT criteria for the removal of payphones</b>	
BT indicated that they do not propose to remove any public payphones located in <ul style="list-style-type: none"> <li>• suicide hotspots,</li> <li>• accident blackspots, or in</li> <li>• areas without any mobile coverage</li> <li>• and BT would not remove payphones which satisfy all of the following criteria: are the only payphone within 800 metres and had at least 12 calls of any type within 12 months, that the local population is not fewer than 500 households within 1 kilometre of the payphone.</li> </ul>	<ul style="list-style-type: none"> <li>• Suicide Hot Spot: status unknown</li> <li>• The collision record is as set out above.</li> <li>• Mobile coverage is available by at least 3 networks</li> <li>• Nearest Payphone over 1KM away, 0 calls from the phone over the last 12 months and fewer than 50 properties within 400 metres of the phone box.</li> </ul>

### Appendix 3: Legislative information and procedures

1. Procedures set out by Ofcom, under the Communications Act 2003, require the Council to organise consultation with local communities about the proposed call box removal. The Ofcom guidance outlines a number of factors local planning authorities are advised to consider when making a decision over the proposed removal of public telephone boxes. It requires a draft decision to be made by the Council and the Secretary of State to be notified.
2. The Relevant Public Body must be satisfied that it acted in accordance with the six community requirements set out in section 4 of the Communications Act 2003 ('the Act'). These are:
  - To promote competition in the provision of electronic communications networks and services, associated services and facilities and the supply of directories;
  - To contribute to the development of the European internal market;
  - To promote the interests of all persons who are citizens of the European Union;
  - Not to favour one form of, or means of, providing electronic communications networks or services i.e. to be technology neutral;
  - To encourage network access and service interoperability for the purpose of securing competition in the electronic communication networks and services markets and the maximum benefit for customers of communications providers; and
  - To encourage compliance with standards necessary for facilitating service interoperability and securing freedom of choice for the customers of communications providers.
3. The consultation procedure then requires the Council to consult on the draft decision for one month and subsequently come to a final decision. A Final Notification (of the outcome of the second consultation) is published which details reasons for support or objection to BT's proposals. The Final Notification is to be sent to BT and the Secretary of State for Business, Enterprise and Regulatory Reform within 90 days of the original receipt of notification of the proposal for phone service closure from BT. BT cannot proceed to remove any call box that is the subject of objections supported by the Council in the Final Notification - known as the "local veto".
4. Full information on procedure and legislative requirements is given in Ofcom guidance on procedures for the removal of public call boxes:

<http://stakeholders.ofcom.org.uk/binaries/consultations/uso/statement/removals.pdf>

This page is intentionally left blank

## Summary Sheet

### **Name of Committee and Date of Committee Meeting**

Cabinet and Commissioners' Decision Making Meeting - 6 August 2018

### **Report Title**

Response to Recommendations from Scrutiny review - Drug and Alcohol Treatment and Recovery Services

### **Is this a Key Decision and has it been included on the Forward Plan?**

Yes

### **Strategic Director Approving Submission of the Report**

Anne Marie Lubanski, Strategic Director of Adult Care, Housing and Public Health

### **Report Author(s)**

Anne Charlesworth, Head of Public Health Commissioning  
01709 855851 or [anne.charlesworth@rotherham.gov.uk](mailto:anne.charlesworth@rotherham.gov.uk)

### **Ward(s) Affected**

All wards

## Summary

Following discussions between Members, officers and health partners about current substance misuse service provision, and with a new contract commencing in April 2018, the Health Select Commission (HSC) decided to undertake a short review (Spotlight Review). The purpose was to ensure that the drug and alcohol service, operating within a reduced budget, would provide a quality, safe service under the new contract.

The review process was undertaken in the autumn of 2017, and a final report was submitted to Council on 23<sup>rd</sup> May 2018.

Under the Overview and Scrutiny Procedure rules, the Cabinet is required to respond to any recommendations made by scrutiny and this report is submitted to meet that requirement.

## Recommendations

That the response to the recommendations of the Scrutiny Review of Drug and Alcohol Treatment and Recovery Services (as set out in Appendix A) be approved.

**List of Appendices Included**

Appendix A Cabinet's Response to Scrutiny Review: Drug and Alcohol Treatment and Recovery Services

**Background Papers**

None

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Health Select Commission

**Council Approval Require**

No

**Exempt from the Press and Public**

No

## **Response to Recommendations from Scrutiny review - Drug and Alcohol Treatment and Recovery Services**

### **1. Recommendations**

- 1.1 That the response to the recommendations of the Scrutiny Review of Drug and Alcohol Treatment and Recovery Services (as set out in Appendix A) be approved.

### **2. Background**

- 2.1 Following discussions between Members, officers and health partners about current service provision, and with a new contract commencing in April 2018, the Health Select Commission (HSC) decided to undertake a short review (Spotlight Review). The purpose was to ensure that the drug and alcohol service, operating within a reduced budget, would provide a quality, safe service under the new contract.

- 2.2 The six main objectives of the review were to:

- ascertain the prevalence of people with substance misuse issues in Rotherham
- understand the new service specification and budget
- understand the procurement process undertaken for the new contract
- clarify the key factors in a safe drug and alcohol service
- determine how effective support for people misusing drugs and alcohol is provided, taking account of the diverse needs of service users
- identify how performance is measured and good outcomes achieved

- 2.3 As a result of a recent spike in deaths by suicide or suspected suicide of people known to the Rotherham Drug and Alcohol Service, Rotherham Doncaster and South Humber Mental Health NHS Trust (RDaSH) have undertaken an in depth analysis to identify any themes or trends, to inform future work on suicide prevention through the multi-agency group. Members also decided to consider these findings as part of their spot light review.

### **3. Key Issues**

- 3.1 The review has produced 8 key recommendations, listed in Appendix A, which are accepted by Public Health and will be implemented to the timetable indicated.
- 3.2 Members should note that recommendation 3 is subject to availability of funding.

### **4. Options considered and recommended proposal**

- 4.1 The recommendations and corresponding actions are designed to ensure that despite reduced budgets and a new provider the drugs and alcohol service commissioned by Public Health continues to be a safe, effective and quality service.

**5. Consultation**

- 5.1 The recommendations and action plan at Appendix A has been shared with RDaSH and Change, Grow, Live (CGL) Rotherham's new Adult Substance Misuse provider (1<sup>st</sup> April 2018) to ensure their support with implementation.

**6. Timetable and Accountability for Implementing this Decision**

- 6.1 The timetable for implementing the recommended actions is set out in the attached schedule (Appendix A).

**7. Financial and Procurement Implications**

- 7.1 Recommendation 3 is subject to available funding.

**8. Legal Implications**

- 8.1 There are no direct legal implications arising from this report.

**9. Human Resources Implications**

- 9.1 Officer time needed to implement actions, there are no further implications arising from this report.

**10. Implications for Children and Young People and Vulnerable Adults**

- 10.1 These actions relate to vulnerable adults and Adults Safeguarding Board, actions for which are detailed in appendix A.

**11 Equalities and Human Rights Implications**

- 11.1 There are no direct equalities or human rights implications arising from this report.

**12. Implications for Partners and Other Directorates**

- 12.1 Adults Safeguarding Board, and the Suicide Prevention and Self – Harm Group have actions arising from this review.

**13. Risks and Mitigation**

- 13.1 The purpose of the review was to ensure that the drug and alcohol service, operating within a reduced budget, would provide a quality, safe service under the new contract, the recommendations which are accepted are designed to mitigate that risk.

**14. Accountable Officer(s)**

Teresa Roche, Director of Public Health  
Anne Charlesworth, Head of Public Health Commissioning  
Officers named in Appendix A for specific actions

### ***Cabinet's Response to Scrutiny Review: Drug and Alcohol Treatment and Recovery Services***

<b>Recommendation</b>	<b>Cabinet Decision</b> <i>(Accepted/ Rejected/ Deferred)</i>	<b>Cabinet Response</b> <i>(detailing proposed action if accepted, rationale for rejection, and why and when issue will be reconsidered if deferred)</i>	<b>Officer Responsible</b>	<b>Action by (Date)</b>
1) That Public Health and Change, Grow, Live (CGL) presents an overview of how the new service is progressing, including a summary of progress on the key performance indicators, to the Health Select Commission in autumn 2018.	Accepted	Information on service performance is reported onto National Drug Treatment Monitoring System (NDTMS). Clear progress on outcomes will be reported on in the Autumn.	Lucy Harrison Change, Grow. Live  Anne Charlesworth RMBC	End November 2018
2) That Public Health ensures robust performance management is in place for the new contract from the outset in 2018, including exception reporting and a mid-contract review (to report back to Health Select Commission).	Accepted	The new service reports on a performance template to RMBC on a monthly basis and reviewed at Public Health Governance on a monthly basis. These figures are then verified where possible against the NDTMS system. A mid contract review will take place in Autumn 2019.	Anne Charlesworth RMBC	May 2019
3) That the Suicide Prevention and Self-Harm Group revisit the suicide prevention awareness raising work in Wentworth Valley in 2018-19 and roll it out more widely through sharing resources and learning, particularly in hotspot areas identified through the National Drug Treatment Monitoring Service.	Accepted	Rotherham Suicide Prevention and Self-Harm Group is refreshing the action plan which will incorporate real time surveillance and subsequent actions in response to high risk groups and high risk geographical area. The refresh is expected to be completed by September. The prevention and awareness raising activity was funded by Wentworth Valley Area Assemble so further work of this nature would be be subject to available funding which members may wish to consider through their Community Leadership fund.	Ruth Fletcher-Brown RMBC	September 2018  As required

<b>Recommendation</b>	<b>Cabinet Decision</b> <i>(Accepted/ Rejected/ Deferred)</i>	<b>Cabinet Response</b> <i>(detailing proposed action if accepted, rationale for rejection, and why and when issue will be reconsidered if deferred)</i>	<b>Officer Responsible</b>	<b>Action by (Date)</b>
4) That Public Health considers strengthening the messages under Making Every Contact Count around safe alcohol consumption and where to go for help, when it is refreshed.	Accepted	The current Making Every Count Court (MECC) training focuses on tobacco and alcohol. Messages are given on the dangers of drinking at unsafe levels and the notion of drinking within recommended guidelines is well promoted. To date 139 individuals have attended the train the trainer sessions, these individuals are then tasked with cascading this training to their individual teams. On the training it is made clear where to go for help around these and other lifestyle issues, and the MECC link website is promoted. MECC link is a tool that shows local and national contact details for help around a range of lifestyle issues. Online training is also available through Directions and the plan is to make this e-learning mandatory for all staff. Anyone wishing to access MECC link can do so by using the following link. <a href="http://www.mecclink.co.uk">www.mecclink.co.uk</a>	Phillip Spencer RMBC	Complete
5) That future commissioning of services by RMBC that exceed the Official Journal of the EU threshold, especially public health and social care services, includes soft market testing with providers/potential providers in advance of going out to tender to ensure a successful process first time.	Accepted	This is good practice in all commissioning activity and for the drugs and alcohol service tender extensive market testing took place. The Adult Care Housing & Public Health Commissioning Team take on the recommendation and will ensure appropriate engagement with providers/potential providers in advance of going out to tender.	Nathan Atkinson RMBC	Completed/ Ongoing

<b>Recommendation</b>	<b>Cabinet Decision</b> <i>(Accepted/ Rejected/ Deferred)</i>	<b>Cabinet Response</b> <i>(detailing proposed action if accepted, rationale for rejection, and why and when issue will be reconsidered if deferred)</i>	<b>Officer Responsible</b>	<b>Action by (Date)</b>
6) That drug and alcohol care pathways and signposting, including protocols for links to other processes such as the Vulnerable Adults Risk Management process, are reviewed by RMBC and partners in 2018, to minimise any risk of people not being able to access support.	Accepted	The new CGL service is now advertising their services widely across the borough, including a new website. <a href="http://www.changegrowlive.org">www.changegrowlive.org</a> CGL will report Serious Incidents, which includes deaths both to Commissioning and to Andrew Wells (Head of Service-Safeguarding) to be escalated to Adults Safeguarding Board. Nathan Atkinson (Assistant Director Strategic Commissioning) now also sits on the Board to ensure that lessons learned are fed back into the Adults commissioning process. A new Pathway between CGL and RDaSH is being developed to ensure that service users who need to use both services can do so effectively.	Anne Charlesworth RMBC  Lucy Harrison CGL  Dianne Graham RDaSH	September 2018
7) That in their initial assessments and reassessments with service users CGL include the additional risk factors identified from the RDaSH analysis into suicides, from April 2018.	Accepted	The RDASH analysis will be shared with CGL to ensure that these risk factors are considered. This will be included in the assessment process.	Anne Charlesworth RMBC	September 2018
8) Public Health and CGL continue to take a proactive approach to safety in the service, including incorporating any lessons learned from elsewhere and the findings of any Serious Case Reviews when published.	Accepted	The new links with Adults Safeguarding will enable lessons learned to be considered at the regular monthly meetings, where Serious Incidents are now a standing agenda item.	Anne Charlesworth RMBC	Review with annual service review as above May 2019.

This page is intentionally left blank