

Overview and Scrutiny Committee

Tuesday 4 April 2017

A meeting of the Executive will be held at the Town Hall, Royal Leamington Spa on Tuesday 4 April 2017 at 6.00pm.

Membership:

Councillor Boad (Chairman)	
Councillor Bromley	Councillor Miss Grainger
Councillor Mrs Cain	Councillor Margrave
Councillor D'Arcy	Councillor Naimo
Councillor Davison	Councillor Parkins
Councillor Edgington	Councillor Mrs Redford

Emergency Procedure

At the commencement of the meeting, the Chairman will announce the emergency procedure for the Town Hall.

Agenda

1. Apologies and Substitutes

- (a) To receive apologies for absence from any Councillor who is unable to attend; and
- (b) To receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

2. Declarations of Interest

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be entered on the form to be circulated with the attendance sheet and declared during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter. If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

3. **Minutes**

To confirm the minutes of the meeting held on 7 March 2017.

(Item 3/Page 1)

4. **Update from the Leader of the Council**

Question and answer session arising from a verbal report from the Leader of the Council on corporate and strategic initiatives.

5. **12 month review of the impact of the changes to the 2016 Code of Procurement Practice**

To consider a report from Finance.

(Item 5/Page1)

6. **Comments from the Executive**

To consider a report from Democratic Services.

(Item 6/Page 1)

7. **Task & Finish Group to review WDC's role in dealing with Houses of Multiple Occupancy (HMOs)**

To consider a report from the Task & Finish Group – HMOs **(Item 7/Page 1)**

8. **Overview & Scrutiny Committee End of Term Report**

To consider a report from Democratic Services.

(Item 8/Page 1)

9. **Review of the Work Programme and Forward Plan**

To consider a report from Democratic Services.

(Item 9/Page 1)

10. **Executive Agenda (Non Confidential Items and Reports) – Wednesday 5 April 2017**

To consider the non-confidential items on the Executive agenda which fall within the remit of this Committee. The only items to be considered are those which Committee Services have received notice of by 9.00am on the day of the meeting.

**You are requested to bring your copy of that agenda to this meeting.
(Circulated separately)**

11. **Public and Press**

To consider resolving that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following item by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006.

12. **Executive Agenda (Confidential Items and Reports) – Wednesday 5 April 2017**

To consider the confidential items on the Executive agenda which fall within the remit of this Committee. The only items to be considered are those which Committee Services have received notice of by 9.00am on the day of the meeting.

**You are requested to bring your copy of that agenda to this meeting.
(Circulated separately)**

Published Monday 27 March 2017

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Telephone: 01926 456114
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For enquiries about specific reports, please contact the officers named in the reports

You can e-mail the members of this Committee at
o&s@warwickdc.gov.uk

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The agenda is also available in large print, on request, prior to the meeting by calling 01926 456114.

Overview and Scrutiny Committee

Minutes of the meeting held on Tuesday 7 March 2017 at the Town Hall, Royal Leamington Spa at 6.00 pm.

Present: Councillor Boad (Chairman); Councillors Bromley, Mrs Cain, Davison, Edgington, Gallagher, Gill, Margrave, Naimo, Parkins and Mrs Redford.

Also Present: Councillors Butler, Grainger, Mobbs, Phillips and Quinney.

76. **Apologies and Substitutes**

- (a) There were no apologies; and
- (b) Councillor Gallagher substituted for Councillor Miss Grainger, and Councillor Gill substituted for Councillor D'Arcy.

77. **Declarations of Interest**

Minute 79 – Update on Priority Families Programme

Councillor Parkins declared an interest because she was employed by North Leamington School.

Minute 81 - Executive Agenda (Non-Confidential Items & Reports – Wednesday 8 March 2017) – Item 8 – Community Forums and Voluntary and Community Sector Spending Review

The Chairman declared an interest because he was a Director and Trustee of Crown Routes (Chain).

Councillor Naimo declared an interest because she was a Director of ARC CIC.

78. **Minutes**

The minutes of the meeting held on 7 February 2017 were taken as read and signed by the Chairman as a correct record.

79. **Update on Priority Families Programme**

The Committee considered a report from Mr Basra, Priority Families Coordinator, Children and Families Unit, People Group at Warwickshire County Council. The report provided an update on Phase 2 of the Priority Families Programme.

Phase 1 of the national Troubled Families Programme (also known as the Priority Families Programme) commenced on 1 April 2012 and concluded on 31 March 2015. The first phase involved working with 805 families across three national criteria. A total of £4,000 was available per family through a combination of an upfront attachment fee and subsequent payment by results where significant and sustained progress could be demonstrated.

OVERVIEW AND SCRUTINY COMMITTEE MINUTES (Continued)

As a result of the success, Government indicated that there would be a second phase of the programme which would run from April 2015 to March 2020.

The report explained how Phase 1 differed to Phase 2, but a main difference was that the £4,000 fund per family had been reduced to £1,800. Of this £1,800, £1,000 was payable upfront via an attachment fee and the remainder was on a "payment by results" basis, where significant and sustained progress could be demonstrated.

The report also explained the criteria by which families could be considered for the scheme.

In response to questions from Members, the Priority Families Coordinator responded that:

- To cope with reduced staffing levels and financial resources, coupled with an increase in the number of families requiring attention, the Unit had to work with other agencies. Through a process of "data matching", the Unit identified which agency would be best placed to work with each family.
- Funding had been reduced two years ago. So far, the shortfall had been covered by dipping into reserves that had been built up during Phase 1. However, it was likely that these reserves would be empty by 2018, so discussions were ongoing on how to manage up to 2020. The concern was that lessons learnt did not get lost.
- The success criteria for "payment by results" had been set by the DCLG.
- Data matching between agencies had been used in 2012/13 to identify families eligible for help. Currently, the system used referrals from other partner agencies, such as schools and the Police. These families were then sorted by reviewing each case against a set of six criteria, and to be eligible for funding each family must be marked positive for all six criteria.

The Chairman thanked the Priority Families Coordinator for explaining the process. Mr Basra offered to send a further briefing note when a Bill went through Parliament in the spring, and was willing to attend a further meeting if the Committee so wished.

80. Shakespeare's England

The Committee considered a briefing note from Shakespeare's England which provided an overview of the work by this organisation for the period 1 November 2016 to 7 March 2017.

In response to questions from Members, the Portfolio Holder for Business, and the Business Manager, Policy and Development replied that:

- More than 15,000 people were expected to attend the Women's Cycle Tour on 9 June 2017. The finish line was on the Parade in Royal Leamington Spa. The media coverage would be phenomenal and activities were being planned for primary schools.
- It was intended to launch a Visitor Pass for tourists which would allow entry to many tourist attractions in the area. It was hoped

OVERVIEW AND SCRUTINY COMMITTEE MINUTES (Continued)

that this would be ready for July and passes could then be purchased online and at tourist offices, or anywhere that was appropriate to sell them.

- The potential to develop tourist trails for people to explore virtually or in real-time via a "Gamemaster" programme was being examined. The Business Manager would send details of which trails were being developed to Councillors.
- The District Council contributed annual funds to Shakespeare's England of £75,000.

The Committee agreed that the updates from Shakespeare's England could be reduced to once a year, with the option to request additional updates if necessary.

(Councillor Mobbs left the meeting during the discussion of this item.)

81. Executive Agenda (Non-confidential items and reports) – Wednesday 8 March 2017

The Committee considered the following non-confidential item which would be discussed at the meeting of the Executive on Wednesday 8 March 2017.

Item 8 – Community Forums and Voluntary and Community Sector Spending Review

The Committee recommended that recommendation 2.6 in the report should be amended to state that the VCS Commissioning and Grants Panel membership should consist of seven interested members, one of which should be the Portfolio Holder. The allocation of seats by party membership should be removed.

82. Portfolio Holder Update – Business

The Portfolio Holder for Business, Councillor Butler, gave an update on his portfolio area. In response to questions, he informed the Committee that:

- The Delivery Model for Enterprise would not be going before Executive for consideration, but an interim report would be produced for Overview & Scrutiny. A new Trading Arm of the Council, which would allow the Council to be more commercial, would require approval.
- Terms of Reference were being developed for review for events being held in the District. This involved consultations with the various stakeholders. It was hoped to bring forward recommendations to the Executive in December.
- It was recognised that the increase in waste collection costs could affect events already in the pipeline. Therefore, the Council would absorb the additional costs for waste collection in this financial year.
- Environmental sustainability was not something that had been considered when promoting business, but would be considered for the future.

(Councillor Quinney arrived at the meeting during discussion of this item.)

OVERVIEW AND SCRUTINY COMMITTEE MINUTES (Continued)

83. Review of the Work Programme & Forward Plan

The Committee considered its work programme for 2017 and the Forward Plan.

Task & Finish Group – Off-street car parking charges review

The Committee considered the draft report produced by the Task & Finish Group (Appendix 3 to the report).

Members felt that more background information was required before any recommendation was made for the report to go forward to Executive. Task & Finish Group Members were asked to consider adding additional information to the report and bring it to the next meeting for consideration.

Members suggested that the Group might consider adding:

- more information on consumers' preferences in terms of car parks, as a further appendix;
- any arguments against the recommendations that the Group had received from officers;
- footfall figures;
- representations/responses received from consultees; and
- more information on the economic impact on towns.

The Chairman of the Group explained that recommendation 2.4 did not mean a blanket increase of 5% on all types of car parking charges. The recommendation was to generate at least an additional 5% of revenue on the overall annual budget, and there was flexibility how this could be raised. He gave as an example that car parking rates for long-stay might be increased by more than 5%, and short-stay might receive a smaller increase to encourage a turnover of shoppers. However, the overall impact would be an additional 5% of revenue on the overall annual budget.

Resolved that

- (1) the Task & Finish Group – Off-Street Car Parking Charges considers amending the report to include more background information and re-present it to the Committee in April; and
- (2) the frequency of reports from Shakespeare's England be reduced to once a year.

84. Executive Agenda (Non-confidential items and reports) – Wednesday 8 March 2017

The Committee considered the following non-confidential item which would be discussed at the meeting of the Executive on Wednesday 8 March 2017.

Item 3 – Housing and Homelessness Strategy 2017-2020

The Overview & Scrutiny Committee supported the report and, in particular, was pleased to see that the Council recognised that action was required on student accommodation (recommendation 2.2 in the report).

OVERVIEW AND SCRUTINY COMMITTEE MINUTES (Continued)

85. Member Children's Champions: End of Year Report

The Committee considered a report from the Deputy Chief Executive and Monitoring Officer which gave an update on the current position with respect to the Council's arrangements for safeguarding children. This report served a dual purpose because it also formed the required end of term report for the municipal year.

The Current Children's Champions were Councillors Grainger and Parkins.

Appendix A to the report gave details of the Children's Safeguarding Improvement Action Plan. Appendix B to the report showed the commitment that Cultural Services made to safeguarding children across the service.

Members were pleased to note that the Council now had a clear remit for Children's Champions.

Resolved that


- (1) it is noted that Councillors Mrs Grainger and Parkins have been appointed as Member Children's Champions by the Group Leaders, and the Committee understands their role;
- (2) the current position of the Children's Safeguarding: Improvement Action Plan (Appendix A to the report) is noted; and
- (3) the areas of work the Children's Champions would like to explore is noted.

86. Comments from the Executive

The Committee considered a report from Democratic Services which detailed the responses the Executive gave to the comments the Overview and Scrutiny Committee made regarding the reports submitted to the Executive in February 2017.

Resolved that the report be noted.

(The meeting finished at 8.43 pm)

 Overview and Scrutiny Committee 4 April 2017		Agenda Item No. 5
Title	12 month review of the impact of the changes to the 2016 Code of Procurement Practice	
For further information about this report please contact	John.roberts@warwickdc.gov.uk Mike.snow@warwickdc.gov.uk	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number		
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	Yes/No
Equality & Sustainability Impact Assessment Undertaken	No (If No state why below)
No assessment as this is a progress report.	

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	16/03/2017	Andy Jones
Head of Service	16/03/2017	Mike Snow
CMT		
Section 151 Officer	16/03/2017	Mike Snow
Monitoring Officer	16/03/2017	Andy Jones
Finance	16/03/2017	John Roberts
Portfolio Holder(s)	16/03/2017	Cllr Peter Whiting
Consultation & Community Engagement		
Senior Management Team Procurement Champions		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. SUMMARY

This report serves to provide a 12 month review of the impact of the changes to the Code of Procurement Practice during the financial year 2016/17.

2. RECOMMENDATION

- 2.1 It is recommended that the progress across the procurement function over the past 12 months is noted, as shown in Appendix One.

REASONS FOR THE RECOMMENDATION

- 3.1 The Council's Code of Procurement Practice was revised to bring it into line with the latest legislative requirements as well as to streamline and simplify processes.

- 3.2 The changes were required because of:

- The introduction of recent legislation, in particular, the Public Contract Regulations 2015, the Small Business, Enterprise and Employment Act 2015 and the Local Government (Transparency Requirements) (England) 2015 and to accommodate these changes within the Code of Procurement Practice .
- The Code also introduced the Sustainable Procurement Policy, Ethical Procurement Statement and Social Value Policy consistent with current practice adopted within other Local Authorities

- 3.3 Mandatory changes brought about by introduction of the above outlined legislation.

- 3.3.1 All tenders over £25,000 in value must now be advertised on the UK Government's *Contracts Finder* website. This website has been designed as a national single information resource where suppliers may register free of charge to receive details of any public sector business opportunity within their particular area of interest. Previously the Council could choose where to advertise its tenders required only to ensure adequate competition.

- 3.3.2 Details of all tenders advertised and all contracts awarded by the Council with a value of £5,000 or more must be published on the Council website. Previously the Council was only obliged to formally publish details of all EU tender awards and maintain a basic Contracts Register.

- 3.3.3 Pre-Qualification Questionnaires (PQQ), the process used to establish a bidder's credentials (legal, financial and technical capabilities), are prohibited on any procurement exercise with a value of £164,100 (200,000 euros) or less. Procurements above this value may only use the UK national standard PQQ which must not be modified in format or content. An assessment of the bidder's legal, financial and technical capabilities must now be undertaken just prior to writing the contract award recommendation report. Previously the Council was able to bespoke its PQQ and seek this information on any tender process irrespective of value.

- 3.3.4 All procurement documentation must now be available for electronic download free of charge from the Council or other agreed website from the date the tender advertisement is placed. Previously interested companies had to request the tender documents from the Council.

- 3.3.5 Restrictions limiting the level of variations or changes to existing contracts have also been introduced. The Public Contract Regulations 2015 Regulations set out in detail the circumstances whereby an existing contract may be modified and when such changes would be significant enough that the contract must be retendered. The conditions for allowing changes to contracts must be detailed in the tender documents. These changes apply to not just x2016xcontracts but those contracts awarded prior to the x2016xRegulations coming into force.
- 3.6 Voluntary changes - The notable changes to the 2016 Code include the thresholds for the relative tender processes, with the threshold for which three quotations to be obtained by the Head of Service being increased from £5,000 - £9,999 to £5,000 - £24,999. Contract values in the range £25,000 - £49,999 would continue to require formal quotations using the CSWJETS E- Portal (Intend platform) Procurement system. This change put the Council's practices in line with the Government's requirements, whilst ensuring there is greater flexibility to support managers with low level spends and still maintaining the necessary level of Procurement oversight and management to ensure compliance, probity and to minimise risks.
- 3.7 Other differences between previous Code of Procurement Practice and the 2016 Procurement Code is that the 2016 Procurement Code provides officers with more information and guidance on areas of best practice than the earlier version of the Code of Procurement Practice. Examples include:
- Stakeholder and Early Market engagement – information about the steps which may be taken in consulting with services users and providers to better shape the service specification before going out to tender;
 - Use of Framework Agreements – information on the potential benefits of using framework agreements and some of the legal considerations;
- 3.8 A significant number of policies, templates, guidance notes and a Procurement Manual were published on the Council's intranet to help and support Managers and Staff.
- 3.9 Summary of Policies introduced in 2016 Code of Procurement Practice:-
- Ethical Procurement Statement- this statement sets out WDC's approach to ethical procurement.
 - Sustainable Procurement Policy- the purpose of this document is to promote Responsible Procurement in the purchasing of goods, works and services and to provide information and advice to potential Suppliers
 - Social Value Policy - This policy statement summarises Warwick District Council's approach to 'social value'. It covers: what we mean by the term 'social value', social value outcomes and the scope of Warwick District Council's approach
- 3.10 Future Development for 2017/18
- Although significant progress has been made, it is recognised that there is a need to continue to embed the procurement procedures across the authority and continue to improve performance in Procurement and contract management.

- The next stage is to be able to focus more on supplier engagement and the associated benefits that come with good, effective procurement and contract management.
- To foster supplier engagement, we will continue to engage with suppliers by providing seminars and workshops with the aim of enabling local Companies to consider bidding for procurement opportunities and support the Council's commitment to the local economy.
- To create and publish a Forward Procurement Plan (FPP) for 2017. Much of the over threshold spend has project teams created to manage the process, and are usually well managed, we need to improve the preparation and planning of the under threshold spend.
- Continue to provide training and ad hoc surgeries with all Managers, Officers and Staff involved in the procurement process and launch , promote and embed the Code of Procurement Practice 2017 and 2017 - 2019 Procurement Strategy.

4. POLICY FRAMEWORK

4.1 The Code of Procurement Practice is a fundamental element of the Council's policy framework and supports the ability of the Council to demonstrate that it is achieving value for money from its expenditure and that its contracts and services are being managed in an open and transparent manner, in line with the Council's Core Values.

4.2 Fit for the Future

As part of the Council's policy framework, the Code of Procurement Practice underlines how the Council acts in securing and managing its Procurement requirements to meet the aspirations as part of 'Fit for the Future'.

5. BUDGETARY FRAMEWORK

The Code of Procurement Practice complements the Code of Financial Practice in ensuring that financial best practice is applied to the procurement of goods, services or works. Compliance helps protect the council by minimising procurement risks, whilst ensuring best value is obtained.

6. RISKS

The main risks associated with procurement can be cost overruns and the threat of legal challenge. The 2016 Procurement Code clearly outlines the correct practice and procedures all "responsible" officers should follow at different financial thresholds.

7. ALTERNATIVE OPTION(S) CONSIDERED

7.1 No alternatives options are for consideration as this is a progress report.

APPENDIX ONE


12 month review of the impact of the changes to the Code of Procurement Practice

Changes to CoPP	impact of the changes								
<p>3.2 The notable changes to the Code are the thresholds for the relative tender processes, with the threshold for which three quotations to be obtained by the Head of Service being increased from £5,000 - £9,999 to £5,000 - £24,999. Contract values in the range £25,000 - £49,999 would continue to require formal quotations using the Intend Procurement system.</p> <p>This change put the Council's practices in line with the Government's requirements. The lower threshold of £10,000 for formal quotations applies to Central Government.</p>	<table border="1" data-bbox="842 376 1552 526"> <thead> <tr> <th colspan="2">No of Tenders issued 2016-2017</th></tr> </thead> <tbody> <tr> <td>£5k - £24,999</td><td>12</td></tr> <tr> <td>£25k - £49,999</td><td>7</td></tr> <tr> <td>Over £50k</td><td>22</td></tr> </tbody> </table>	No of Tenders issued 2016-2017		£5k - £24,999	12	£25k - £49,999	7	Over £50k	22
No of Tenders issued 2016-2017									
£5k - £24,999	12								
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Over £50k	22								
<p>3.7 To promote procurement opportunities within the local economy the proposed Code has been amended to ensure that a minimum of two local suppliers must be invited to bid. Also so, to increase the number of local SME's registered on the E Portal, Invitations to Participate will be circulated using Federation of Small Businesses weekly e-newsletter.</p>	<p>Procurement recognises its responsibilities to local communities. Local business and small and medium sized enterprises should be able to compete for work alongside contractors from outside the area and larger organisations. It is important to ensure that in any procurement or commissioning process, the selection phase is made as simple as possible and proportionate to the scale and complexity of the contract.</p> <p>In appropriate exercises we require main contractors to include local companies in their supply chain. There is no standard percentage requirement that we apply to this. However, it has to be proportionate to the requirement and the way a particular market operates.</p> <p>Clearly, there is always room for improvement and the procurement team will continue to work hard on engaging with the local business community.</p>								
<p>3.8 The Code also introduced the Sustainable Procurement Policy, Ethical Procurement Statement and Social Value Policy in line with current practices within Local Authorities.</p> <p>The Sustainable Procurement Policy and Ethical Procurement Statement is required to meet the Council's obligations in accordance with the UK Government Sustainable Development Strategy</p>	<p>The Council is including sustainable requirements in every tender. The requirements will address economic, social, environmental requirements.</p> <p>Work continues to take place with Officers across the council in using outcome specifications which are not overly restrictive and rely more on the expertise of the market. Used as appropriate, outcome specifications enable a more flexible and intelligent approach to procurement in support of the Social Value Act.</p>								

	<p>We will continue to promote equality and diversity and consider equalities in setting selection criteria for procurement and commissioning activities, where appropriate, we work towards continually introducing ethical considerations into our contracts where appropriate and increase its awareness and importance of related issues with suppliers.</p>
<p>3.9 The 2016 Code also refers to the need to adhere to the Guide to Tender Evaluation. The purpose of this guide is to assist members of the evaluation panel assess tender submissions and to ensure practice and procedures employed to carry out this activity conform to the Council's obligations of Integrity, Transparency and Accountability.</p> <p>The guide provides information in relation to the evaluation process and timetable of events, scoring responses and procedural fairness, and scoring sheets and a declaration of confidentiality and interest form to be completed by each panel member.</p>	<p>There are clear established criteria included within specifications. Procedures have been developed to apply weightings to evaluation criteria. There is a clear audit trail to demonstrate how criteria has been weighted and scored.</p> <p>The purpose of this guide is to assist members of the evaluation panel assess tender submissions and to ensure practice and procedures employed to carry out this activity conform to the Council's obligations of Integrity, transparency and Accountability.</p> <p>The guide provides information in relation to the evaluation process and timetable of events, scoring responses and procedural fairness, and scoring sheets and a declaration of confidentiality and interest form to be completed by each panel member.</p>
<p>3.10 The 2016 Code seeks to re-enforce the need for the Procurement Manager to be consulted ahead of proposing to extend a contract, including using an extension option within the original contract.</p> <p>The purpose being to ensure that value for money reviews are systematically carried out by the Heads of Service, with advice from the Procurement Manager in a timely manner.</p> <p>It is necessary to ensure that options to extend contracts are not committed to without due consideration of the contract performance. Where it is identified that the current contract is no longer delivering value for money and / or regularly achieving the level of service and quality levels required by the Council and / or where the requirement is no longer appropriate, suitable and timely action plans will be implemented.</p>	<p>It was envisaged that procurements be planned on a 3 year cycle, as part of a cultural change towards a more pro-active approach where large procurements are planned in advance. Each large procurement is preceded by a formal options appraisal process, so that approach and scope would be determined on the basis of concrete evidence.</p> <p>To achieve value for money and avoid duplication of contracts and ensure that a tender process is carried out within a timely manner, all contracts should be added to the Council's Contract Register. By having an up to date Contracts Register will also support the Council's commitment to delivering the Government's openness and transparency agenda. Analysis of business need and procurement or commissioning models should be planned and undertaken in a timely manner.</p> <p>The information captured on the contract register enables a second 'due diligence' check by the procurement officer to establish if any procurements will be subject to the Public Contracts Regulations 2015 (OJEU contracts). The contracts register is also used to check</p>

	<p>that each person responsible for purchasing have the right information to enable their procurement activity to be properly planned and to ensure that budgets are in place. The register also enables the association to demonstrate that approved procedures have been followed and legislative requirements have been met.</p> <p>Checks are carried out on the type of contracts being procured against the 'common procurement vocabulary' codes (CPV Codes) to establish which contracts are classed as 'works' or 'services' as defined by the regulations. The overall contract values are also established and compared to the published EU 'thresholds'. Legal advice is sought where necessary.</p> <p>Other important compliance issues relating to the 'service' or 'specification standards' are obtained using bespoke specification software and Standard Forms of Contract. This approach ensures robust and up-to-date procedures are written into Invitation to Tender (ITT) documents.</p> <p>Extensive analysis is being undertaken to consider all third party spend across the Council in order to ascertain any savings opportunities not yet identified. It is believed that further significant opportunities may exist, or could exist in the future when contracts come up for renewal, and we need to capture and deliver these in a robust and transparent way. Better management of third party spend throughout the Procurement cycle is an integral way of ensuring value for money.</p>
<p>3.11 Other notable updates within the 2016 Code of Procurement Practice Include:-</p> <ul style="list-style-type: none"> • Section 10 – Constructionline shall be used as the basis for selecting Contractors for works and construction related consultants to quote or tender for contracts up to the value of the EU limits for Works and Services • Section 11.1.1– The Procurement Manager (or nominated deputy) will be responsible for opening Tenders (Opening Ceremony) in respect of all tenders and quotations issued via the e-tendering portal • Section 11.8 – Clarification of “Alcatel” standstill period 	<p>By introducing the Sustainable Procurement Policy, Ethical Procurement Statement and Social Value Policy the Council is better placed to demonstrate that it is achieving value for money from its expenditure and that its contracts and services are being managed in an open and transparent manner, in line with the Council's Core Values.</p> <p>Procurement processes have continued to be reviewed and adapted to reflect feedback from our supplier base and a changing backdrop to public procurement. With the process slimmed down making it more efficient yet still robust enough to safeguard the council. As part of this ongoing process lessons are being continually learned and we have almost entirely eradicated the use of Pre-Qualification Questionnaires.</p>

• Section 14 – Appointment of Consultants	
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 Overview and Scrutiny Committee – 4 April 2017		Agenda Item No. 6
Title	Comments from the Executive	
For further information about this report please contact	Lesley Dury, Committee Services Officer, 01926 456114 or committee@warwickdc.gov.uk	
Service Area	Democratic Services	
Wards of the District directly affected	N/A	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	No	
Date and meeting when issue was last considered and relevant minute number	7 March 2017	
Background Papers	Executive Minutes – 8 March 2017	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No

Officer/Councillor Approval		
With regard to officer approval all reports <i>must</i> be approved by the report authors relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).		
	Date	Name
Relevant Director		
Chief Executive		
CMT		
Section 151 Officer		
Legal		
Finance		
Portfolio Holders		

Consultation Undertaken	
N/A	
Final Decision?	Yes
Suggested next steps (if not final decision please set out below)	

1. **Summary**

- 1.1 This report informs the Committee of the response the Executive gave to their comments regarding the reports submitted to the Executive in March 2017.

2. **Recommendation**

- 2.1 The responses made by the Executive are noted.

3. **Reasons for the Recommendation**

- 3.1 This report is produced to create a dialogue between the Executive and the Overview and Scrutiny Committee. It ensures that the Overview and Scrutiny Committee are formally made aware of the Executive's responses.
- 3.2 Where the Overview & Scrutiny Committee have made a recommendation as opposed to a comment the Executive are required to respond to the recommendation(s) made, including whether or not they accept the recommendation(s).

4. **Alternative Option considered**

- 4.1 This report is not produced and presented to the Committee.

5. **Budgetary Framework**

- 5.1 All work for the Committee has to be carried out within existing resources.

6. **Policy Framework**

- 6.1 The work carried out by the Committee helps the Council to improve in line with its priority to manage services openly efficiently and effectively.


7. **Background**

- 7.1 As part of the new scrutiny process, the Committee is no longer considering the whole of the Executive agenda.
- 7.2 On the day of publication of the Executive agenda all Councillors are sent an e-mail asking them to contact Committee Services, by 09.00am on the day of the Overview and Scrutiny Committee meeting to advise which Executive items they would like the Committee to consider.
- 7.3 As a result the Committee considered the items detailed in appendix 1. The response the Executive gave on each item is also shown.
- 7.4 In reviewing these responses Committee can identify any issues for which they would like a progress report. A future report, for example on how the decision has been implemented, would then be submitted to the Committee at an agreed date which would then be incorporated within the work programme.

**Response from the meetings of the Executive on Overview and Scrutiny
Committee Comments – 8 February 2017**

Items no.	3	Title	Housing and Homelessness Strategy 2017-2020	Requested by	Labour Group
Reason considered	<ol style="list-style-type: none"> 1. To understand more clearly how the strategy will be delivered and by when. 2. To understand how the plan for affordable housing will start to be delivered. 				
Scrutiny Comment	The Committee supports the report, and in particular, is pleased to see that the Council recognises that action is required on student accommodation (recommendation 2.2 in the report).				
Executive Response	<p>The recommendations in the report were approved subject to clarification on recommendation 2.2 so that it reads:</p> <p>"The Executive agrees to develop a Student Housing Strategy to run alongside the Housing and Homelessness Strategy"</p>				

Items no.	8	Title	Community Forums and Voluntary and Community Sector Spending Review	Requested by	O&S Committee / Labour Group / Whitnash Residents' Association
Reason considered	<p>At the Overview & Scrutiny meeting 1 November 2016, Members decided that they would scrutinise this report when it went to Executive.</p> <p>The Whitnash Residents' Association:</p> <ol style="list-style-type: none"> 1. Recommendations 2.1 – what the alternative methods of community engagement are and how they will be enhanced. 2. A request that on 2.6, the panel includes the Green Party member as well as a Liberal Democratic, with the four members already on the panel, by reducing the Conservative allocation by one. This will allow input from all representatives of the different parties in the Council. <p>The Labour Group: To understand what options have been considered.</p>				
Scrutiny Comment	The Committee recommends that recommendation 2.6 in the report be amended so that the VCS Commissioning and Grants Panel membership should consist of seven interested members, one of which should be the Portfolio Holder. The allocation of seats by party membership should be removed.				
Executive Response	<p>The recommendation from the Overview & Scrutiny Committee was not accepted because the Executive were of the opinion that all Councillors care about the community and that their intention was to have the Panel membership reflect the composition of the Council.</p> <p>The recommendations in the report were approved subject to clarification that one of the Conservative appointments to the Panel must be the Portfolio Holder for Health and Community Protection.</p>				

	Overview & Scrutiny Committee – 4 April 2017	Agenda Item No. 7
Title	Task & Finish Group to review WDC's role in dealing with Houses of Multiple Occupancy (HMOs)	
For further information about this report please contact	Membership: Cllrs Davison, Naimo, Quinney, Mrs Knight, Miss Grainger, Thompson, Mrs Cain.	
Wards of the District directly affected	ALL	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Overview & Scrutiny Committee 1 st June 2016, item 9, scoping document first established Overview & Scrutiny Committee 28 th June 2016, item 8, membership agreed Overview & Scrutiny Committee 26 th July, Verbal update Overview and Scrutiny 27 September 2016 – Interim Report	
Background Papers	HMO Task & Finish Group Scoping Document Government guidance on HMO regulations WDC HMO Licence Written case studies from residents Report on Council Tax exemptions Government report on extension of HMO licensing Housing & Planning Act 2016 Housing & Planning Act – Rogue landlord provisions HMO & enforcement policies in other towns WDC H6 planning policy – ‘the 10% rule’ Private Sector Housing Service requests and Inspections 14/15 & 15/16 Brighton's Student Housing Strategy Paper	

	Written report from Durham Conference on HMOs Coventry City Council Task & Finish Group landlords survey, report & recommendations
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Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	No
Equality Impact Assessment Undertaken	No

Officer/Councillor Approval - N/A at this stage		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive		
Head of Service		
CMT		AJ, BH & CE
Section 151 Officer		
Monitoring Officer		Andrew Jones
Finance		
Portfolio Holder(s)		

List of Appendices

- A – Reports and Evidence from other towns
- B - Draft CPN Policy & Map of Waste issues in WDC
- C - WDC HMO Planning Policy H6
- D - Legal complaint
- E - Responses from Town Councils and Map of HMOs in District
- F - Statement from University of Warwick
- G - Service Requests from Private Sector Housing 14/15 and 15/16
- H - Landlord Survey
- I - Officers' Comments on draft recommendations
- J – Warwick University Response

1. Summary

- 1.1 On 1st June 2016 the Overview and Scrutiny Committee agreed the scope for a Task & Finish (T&F) Group on Houses in Multiple Occupation (HMOs)¹.
- 1.2 This was in response to a number of concerns raised by residents, Councillors, and members of communities across Warwick District, which included complaints to officers, and in the local newspapers. The issues raised crossed departments within Warwick District Council (WDC) as well as external stakeholders.
- 1.3 The T&F Group had a very broad remit covering many aspects of HMOs, from anti-social behaviour such as waste and noise, to tenant concerns of licensing and housing conditions, from concerns of a planning context and concentration of HMOs, to looking at aspects of strategy across the District.
- 1.4 With such a large remit, the Group has heard about, and tried to address, some of the wider issues associated with the properties themselves, and consider all types of HMO across the District.

2. Recommendations

The Task & Finish Group asks that the Overview & Scrutiny Committee recommends to the Executive that it:

- 2.1 supports the draft Community Protection Notices (CPN) Waste Policy being developed by Neighbourhood Services. Following the approval of the Policy by the Portfolio Holder, there should be a cost-effective system developed to pilot this Policy, as soon as possible.
- 2.2 asks officers to work with its existing waste contractors, and others, to develop a scheme for waste/recycling collection from HMO properties at peak end-of-lease times, for use by landlords and tenants; in particular working with local charities and student organisations, as seen in other areas of the country.
- 2.3 makes improvements to the management of the noise nuisance service by:
 - a) reviewing the current process to ensure that noise nuisance can be reported at the time of the nuisance, and that it is followed by prompt action
 - b) ensuring the processes and procedures are clear and concise, making these publicly and easily accessible on the WDC website
 - c) ensuring that the responsibilities of landlords within the HMO licensing regulations, for this issue, are enforced, for example through licensing conditions or curtailment
 - d) ensuring appropriate powers are used for HMO noise nuisance by closer coordination between departments
- 2.4 ensures the H6 Planning Policy is consistently and fully applied, with immediate effect, as laid out; this is in particular respect of the following provisions:
 - a) providing the percentage of all HMOs within a 100m radius at the point of planning validation, and making it publicly visible on the Planning Portal
 - b) giving proper and significant weight to the overall objectives of the policy, notably with regard to the preventative approach to minimising community

¹ [WDC HMO Task & Finish Group Scoping Document](#)

and longer-term harms specified in 4.61, 4.62 and 4.64, as per recent legal advice arising from a Complaint

- c) where an exception to the policy is recommended by Officers, setting out the reasons and assumptions clearly and in detail (again following legal advice)
- d) applying clause e) in the H6 policy regarding the provision of adequate waste container storage
- e) clarifying how Purpose Built Student Accommodation should be counted when applying the '10% rule' for limiting concentrations of HMOs in the designated area
- f) noting that the concentration of HMOs in areas outside the designated Article 4 area is growing, but is not yet of the type and scale which justifies recommending immediate action; however trends should be carefully monitored and the Overview & Scrutiny Committee should review the position annually

2.5 supports and welcomes the Executive's decision to develop a Student Housing Strategy, and asks officers to urgently develop within this a Student Accommodation Policy to:

- a) facilitate the development of Purpose Built Student Accommodation (PBSA) distributed across suitable District locations, as a better way of meeting need than conversion of existing family properties to HMOs
- b) encourage all PBSAs to include on-site management
- c) review parking policies with PBSAs, in particular on student tenant vehicle use; and provide both adequate off-street parking for all new HMO proposals and adequate, secure cycle parking in all cases

2.6 reviews and adjusts the current licensing and reporting arrangements for HMOs, in the lead up to the extension of statutory HMO licensing, due in 2017. This review should include:

- a) adding a condition on HMO licences that they are not operational until appropriate planning consents are in place;
- b) licensing inspections being given more weight, than at present, to issues that are regarded as unsatisfactory and unacceptable, but are not Category 1 Health and Safety issues, in the approval process;
- c) requiring landlords to undertake remedial work within specified timeframes following inspections;
- d) requiring landlords to incorporate appropriate rules and penalties within their leases so that they can deal effectively with tenants who are causing serious Anti-Social Behaviour (ASB) issues, as identified by the Council and for which landlords are responsible under HMO regulations;
- e) introducing flexibility in the process by allowing shorter licence cycles and higher licence costs for landlords causing concern, and imposing formal conditions on landlords who do not take appropriate and timely action.

2.7 reviews the Council's Fit and Proper Test for licensed HMO landlords, for both new applications and renewals, to include such requirements as:

- a) definition of a fit and proper person;
- b) financial suitability;
- c) a valid formal Disclosure and Barring Service (DBS) check, the cost of which to be borne by the applicant;
- d) honest disclosures of relevant information such as planning decisions

- e) a history of all breaches of regulations, such as those relating to management of waste, provision of waste containers, external condition of property and noise nuisances, whether at the property being licensed or other properties under the same agent/landlord.
- 2.8 asks officers to collect evidence, to enable a rational decision to be made in due course, whether to introduce additional licensing to all HMOs across the District, including:
- a) maintaining, for current and future years, their comprehensive database of inspections of all HMO and Private Sector rented properties, that includes address, name of landlord, type of property (whether it is a licensed or unlicensed HMO), reason for inspection, nature of issues and how quickly they were addressed;
 - b) recording and reporting on the benefits and costs of extending statutory licensing to a further 250-300 premises during 2017;
 - c) undertaking a substantial questionnaire survey of all HMOs, that allows the results between licensed and unlicensed HMOs to be compared, randomly inspecting various HMO properties and recording results, and asking tenants and near neighbours to HMOs about their management.
- 2.9 endorses the work by the Deputy Chief Executive & Monitoring Officer to review enforcement work across the Council, and recommends that co-ordination across the relevant departments is improved to make full use of HMO licensing and regulatory powers.
- 2.10 acknowledges the work of the Finance & Audit Scrutiny Committee that is looking at implications of changing local government financial support to ensure that the Council Tax exemptions on properties continue to be fully funded by government.
- 2.11 commends the roll out of the community map app to all Councillors including the full HMO mapping system.
- 2.12 In addition, the Task & Finish Group asks that the Overview & Scrutiny Committee receives a report from officers in twelve months' time, outlining the progress made to date on the above recommendations.

3. Reasons for the Recommendations

3.1 WASTE

- 3.1.1 Accumulation of large quantities of rubbish in the vicinity of HMOs has become a considerable concern in some areas of the District. This is often, but by no means limited to, larger, licensed HMOs. In some places, neighbouring residents have expressed considerable displeasure due to hygiene issues, unsightliness and the perception of a lack of care.
- 3.1.2 HMO regulations 2007² applying to all sizes of HMO require the landlord to "ensure that—
- 8.(4) (a) outbuildings, yards and forecourts which are used in common by two or more households living within the HMO are maintained in repair, clean condition and good order;*
- (b) any garden belonging to the HMO is kept in a safe and tidy condition" and*

² [HMO regulations 2007](#)

"10. The manager must—

(a) ensure that sufficient bins or other suitable receptacles are provided that are adequate for the requirements of each household occupying the HMO for the storage of refuse and litter pending their disposal; and

(b) make such further arrangements for the disposal of refuse and litter from the HMO as may be necessary, having regard to any service for such disposal provided by the local authority".

- 3.1.3 The landlord of licensed HMOs will have signed the WDC HMO licensing agreement which specifically includes *"refuse and litter must not be allowed to accumulate"* and *"The licence holder/manager must make such further arrangements for the final disposal of refuse and litter"*.³
- 3.1.4 Typically, the current process that residents follow is to complain to councillors and Contract Services, then a 'rapid response team' is sent out to deal with the rubbish (if on public land; if on private land, nothing is done). There has been concern that some landlords are happier to allow WDC to have to reactively respond to some HMO litter issues, than to proactively remove rubbish themselves, even though this duty is specified in their licence agreement. Responsibilities on rubbish removal need to be made clearer and enforced, as Officers at present can only use reminders and persuasion, lacking a graduated and cost-effective policy and process to ensure compliance. It is Officers and the Council who have to deal with these persistent nuisances at present, which have a considerable time and resource expense.
- 3.1.5 Experience in other Councils who have implemented provisions of the Anti-social Behaviour, Crime and Policing Act (2014)⁴, including neighbouring Rugby Borough Council, indicates that a system involving Community Protection Notices (CPNs) can be effective in tackling this issue, as it offers a stage in between reminder letters and the courts (**Appendix A**).
- 3.1.6 The Group welcomed the collaborative work since the summer of several departments of the Council, coordinated by Graham Folkes-Skinner (GFS), to review HMO policies relating to waste. In November 2016 GFS presented a draft WDC Policy, November 2016 (**Appendix B**) to the T&F Group, outlining the process whereby a property with persistent refuse problems is sent a warning letter (to both tenants and owner). If improvements are not seen, this can be followed by a CPN, then a Fixed Penalty Notice (FPN), then by formal summons for interview, and then prosecution as a last resort if required. Experience in Rugby is that prosecution has not yet been necessary, although they have prosecuted for failure to attend interview (which is very difficult to argue against). GFS stressed the importance of sufficient training and adequate resources to minimise the risk of legal challenge. Similarly, if breaches of CPNs are not followed up, then the system would quickly fall into disrepute.
- 3.1.7 Rugby Borough Council (**Appendix A**) advised that the extra resources required, after upfront investment in training, were not significant, but they operate a more integrated approach to enforcement than WDC. Greater resources may be required if a) Neighbourhood Services works on this in isolation, and b) the system is rapidly rolled out to the whole of the District. The rationale underlying our recommendations is that Neighbourhood Services works with other Council departments that are experienced in similar enforcement activity, and that the roll out is gradual, starting with just one or two pilot streets (**Appendix B**). Once Officers have confidence in the systems,

³ [WDC HMO License Conditions](#)

⁴ [ASB Act 2014](#)

and can gauge the level of compliance, roll out could then speed up. It is worth pointing out that the new policy and process, once adopted, would apply to all breaches of waste regulations across the District, not just at HMOs.

3.2 END OF TENANCY CLEAROUTS

- 3.2.1 In reviewing the waste issue in HMOs, one resident told the Group of a large HMO where 30 bags of rubbish are typically left in the front garden when tenants leave in July, and that these bags are only cleared when the new tenants arrive, two months later.
- 3.2.2 The T&F Group gathered evidence from other towns with HMOs (**Appendix A**). This appendix gives links to a sample of other towns with a large number of HMOs that have tenancies finishing at the same time, due to those HMOs being occupied primarily by students. In some of these towns, the Councils promote collaborative approaches with Student Unions, Charities, Universities and partner organisations to help reduce this sudden impact at tenancy ends. The Group felt that there were sufficient initiatives out there that have worked to warrant further investigation by Officers.
- 3.2.3 The Group received a presentation by representatives from Warwick Students' Union who discussed the use of technology in other towns and cities to make issues of recycling and waste much easier to understand for people running a household for the first time, or for people who may be living in the country for the first time; these included apps that gave reminders the night before rubbish or recycling collections, and contained instructional guides on what went in which bin, based on the information supplied by the local council. They also mentioned that the Students' Union will be employing a Community Worker, who will be based in Leamington, starting this year to help develop community cohesion between students and non-students.

3.3 NOISE

- 3.3.1 The Group received a presentation from the Community Safety team and was encouraged to hear of the successes of the Street Marshalls scheme in Leamington, that has been operating for several years and is jointly funded by both Warwick District Council and the University of Warwick (UoW).⁵
- 3.3.2 Several reports of severe Anti-Social behaviour cases that had taken place at HMOs were presented to the Group; this indicated that the process to contact the Council for noise complaints is confusing, complicated and ineffective from a resident's perspective.
- 3.3.3 In addition to the general legislation against Anti-Social Behaviour that can be enforced by the Council's Community Safety Team, there is a specific duty on landlords of licensed HMOs (Housing Act 2004)⁶ as follows '*requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house*'. This is incorporated in the WDC Licence as "*The licence holder must ensure that the HMO is managed in such a way as to prevent, or deal effectively with any anti-social behaviour by occupiers or their visitors. This includes noise nuisance caused by the playing of loud music at any time of the day but particularly between 23.00 and 8.00am.*"⁷

⁵ [WDC Marshalls scheme](#)

⁶ [Housing Act 2004](#)

⁷ [Section 4.16 of WDC HMO Licence Documents](#)

- 3.3.4 In light of these landlord responsibilities in licensed HMOs, it is felt that a coordinated approach to enforcement at those properties should be developed between Community Safety and the Private Sector Housing licensing authority. Persistent infraction of this condition could be regarded as grounds for imposing conditions on and curtailing the duration of a licence.

3.4 PLANNING POLICY AND HOW IT IS APPLIED

- 3.4.1 The Group reviewed the H6 planning policy (**Appendix C**) on Houses of Multiple Occupation and how it is being applied to current planning applications, by Council Planning Officers. It was noted that there is fuller guidance provided in the Interim Policy on HMO and Student Accommodation, agreed by Council in 2013⁸. Both the policy itself and the guidance seem clear and robust.
- 3.4.2 Individual Group members have had extensive discussions looking at specific planning cases. Evidence gathered from this work, as well as from local residents and Officers, indicated that there is a case for an urgent review of how the policy is being interpreted and applied, as recommended recently by WCC legal advisors. A report from the Leamington Society indicated the number of approvals converting domestic properties into HMOs has continued to rise in recent years: 59 rooms in 2014, 95 in 2015 and 167 in 2016 (these figures exclude the major PBSAs such as Station House and Alumno but include smaller purpose built HMOs in residential areas).
- 3.4.3 The Group was not clear about how PBSAs fitted into the calculations of the "10% rule" during planning applications. There was a view that PBSAs are counted in the calculations, at a rate of 1 HMO per 6 bed-spaces; however this can differ with varying applications of the H6 policy. In due course it may be felt necessary to clarify and strengthen some aspects of the policy to help with strategies on over concentration.
- 3.4.4 A formal residential complaint in 2016 and subsequent legal advice (**Appendix D**) has already resulted in improvements to the way the H6 Policy is implemented along the lines being recommended. Consequently, the Group believes the main priority now is to apply existing policy consistently and robustly.
- 3.4.5 The Group reviewed the Article 4 directive⁹ which currently only covers six District wards of Leamington. There are some 1300 HMOs in Leamington compared with 40 in Kenilworth (but rising), 30 in Warwick and 22 in Whitnash (excluding the 360 University of Warwick and the 11 Warwickshire College on-campus units).
- 3.4.6 Whilst consultation with Town Councils revealed strong concerns about the potential increase in HMOs, especially in Kenilworth, there is currently insufficient evidence to warrant recommending extension of the Article 4 Directive outside of the current designated area.
- 3.4.7 However, the Group recognised the particular concern that too high a concentration of HMOs could develop rapidly in a particular neighbourhood, as has happened in the past in Leamington and other towns and cities, unless there is close monitoring and regular reporting on trends (**see Appendix E**).

⁸ [WDC Interim HMO Planning Policy for HMOs and Student Accommodation 2013](#)

⁹ [WDC Article 4](#)

3.5 STRATEGY & POLICY

- 3.5.1 The Group discussed the view that more Purpose Built Student Housing would relieve pressure from HMO conversions of houses. Developers and some other towns have indicated that this may be the result (**Appendix A**). There were also discussions on why there is the market demand for people to live in the areas of the District that have the highest concentration of HMOs, with indications that these areas had cheaper rents and so were more desirable to some demographics. Purpose Built Student Accommodation could relieve some of the pressure on conversion of existing houses to HMOs, provided that rents were in line with what the market was prepared to pay.
- 3.5.2 Some other important advantages of PBSAs of sufficient scale is their provision of on-site management, which can help deal with welfare and living issues from a tenant's perspective, and help to manage waste, parking, and noise issues from a local community's perspective.
- 3.5.3 The T&F Group was pleased to note on 8th March 2017, Executive agreed to develop a Student Housing Strategy to run alongside the Housing & Homelessness strategy.
- 3.5.4 The Group identified the need to have a formal collaborative process with local colleges and Universities in the region to plan for future student accommodation needs due to a large proportion of the residents of HMOs being students, in particular in ways which cater for planned growth with shared responsibilities. The Group was encouraged to learn of two major investments in on-campus student accommodation planned shortly at University of Warwick, and sizeable investment in Coventry City Centre, and believes that more may be needed (**Appendix F**).
- 3.5.5 Evidence gathered from other Towns with a large proportion of students, (**Appendix A**) and from data and views obtained through discussions with UoW, WDC Senior Officers, and Warwick Students' Union (**Appendix J**), indicated that WDC and local universities and colleges are not as far advanced in working together to manage current and future needs as some other towns and cities, and therefore a formal collaborative strategy and student housing policy has been suggested.
- 3.5.6 Consideration must also be given of UoW's Masterplan – due for refresh in 2017¹⁰ and the Chancellors Commission report published in July 2016¹¹ which stated *"The University should hold discussions with the local authorities and Coventry University on the concept of establishing a Joint Housing Task Force or equivalent exercise for the city and district"*. The Group also discussed the desire for this to be linked with a wider strategy with Coventry University and their plans.

3.6 LICENSING AND EXTENDED LICENSING

- 3.6.1 During the work of the T&F Group, government announced its decision to extend mandatory licensing of HMOs, currently for 5+ people in premises of 3 storeys or more, to all premises of 5+ people irrespective of the number of storeys. This will approximately double the number of licensable HMOs in Leamington to almost 600 properties, with around a further 700 smaller HMOs

¹⁰ [Warwick University Masterplan](#)

¹¹ [Warwick University Chancellors Commission report](#)

remaining unlicensed (plus the smaller numbers in Warwick, Kenilworth and Whitnash). This is likely to take place during 2017, probably in the autumn.

- 3.6.2 This an opportunity to review the current licence process and conditions. Private Sector Housing will need to work closely with other departments (Neighbourhood Services, Planning Enforcement, Community Safety) to ensure available data are used effectively, adequate data are gathered efficiently for future use, and appropriate powers are used to manage problems. This work will enable the Council to monitor how effectively the licensing process deals with Health and Safety, ASB, waste and noise issues for licensed HMOs in the future.¹²
- 3.6.3 Evidence partly from Private Sector Housing (PSH) (**Appendix G**) and from landlords, tenants and local residents, indicated that some tenants have bad experiences in poorly maintained HMO properties, with unresponsive landlords. Sometimes these amount to Category 1 Health and Safety issues. However, with the demand for accommodation appearing to outstrip supply, some HMO tenants may feel unable to raise a formal complaint about poor conditions.
- 3.6.4 Larger HMOs are licensed and undergo Council inspections at five-year renewal, and sometimes between renewals; others will be shortly, under proposed Government extension.
- 3.6.5 Evidence gathered on HMO Licensing indicated that:
- the processes for inspecting and controlling Category 1 Health and Safety issues are robust
 - insufficient weight appears to be given, in the inspection and approval process, to other aspects of decent standards such as minor repairs, poor state of decor, refuse bins provided and financial fair dealing.
 - little or no weight is given in the Fit and Proper test on landlords and Agents to verifying the honesty of declarations (there is no independent DBS check) nor to any persistent breaches of HMO/environmental regulations in properties owned/managed by the Licensee (see below).
- 3.6.6 Other Councils (e.g. Oxford, Southampton, Wycombe) have shorter licence cycles for properties/landlords where there are concerns. This ensures these properties are inspected on a more regular basis providing greater assurances for the tenant as well as surrounding residents.
- 3.6.7 Quote from Wycombe¹³ - *private sector housing enforcement policy on HMOs, that the usual 5 year period for which an HMO licence is issued by that Council may be reduced where there are concerns about management arrangements, or 'if an application has been made for the renewal of a licence and the conditions of the existing licence have not been met at any relevant time during the period of the licence'*. Oxford City Council informed us that good landlords appreciate the lower fees and less frequent inspections enjoyed through this risk-based approach; as well as improvements to their overall image, as rogue landlords are more effectively weeded out (**see Appendix A**).

3.7 FIT & PROPER PERSON TESTS

- 3.7.1 Consideration was given by the Group to the robustness of testing whether a landlord is a 'fit and proper person' as is seen in other WDC licensing schemes

¹² [Licensing of Houses in Multiple Occupation in England - A guide for Landlords and Managers](#)

¹³ [Wycombe Council](#)

such as Taxi Drivers. Charnwood Borough Council, Loughborough has a good checklist **(Appendix A)**.¹⁴

- 3.7.2 Some of the issues and recommendations in this paper overlap with, and complement, the new measures expected to be implemented by Government.¹⁵ This will take a tougher approach to rogue landlords, potentially include DBS checks, maintenance of a database, banning and de-licensing of persistent offenders and the use of civil penalties.
- 3.7.3 The suggested additional measures in 2.7 will add much-needed powers to protect tenants from financial malpractice, which were highlighted in feedback from Warwick Students' Union's representatives.
- 3.7.4 Some large landlords with good reputations would welcome more effective enforcement of the rules and extending licensing to smaller HMOs, in order to manage out the 'rogue landlords' who give good landlords a bad name. Although a landlord/agent consultation was undertaken, the response rate was low and answers mixed. Three out of four respondents did not favour extended licensing on cost grounds **(Appendix H)**.

3.8 ADDITIONAL LICENSING

- 3.8.1 In addition to the mandatory *extension* of licensing outlined above, local authorities retain the option to move further by *additional* licensing of all HMOs if they believe it to be justified. The Group looked at the work of the recent Task & Finish Group on Selective Licensing in Coventry.¹⁶
- 3.8.2 The extension of licensing over the next 12 to 18 months will roughly coincide with the renewal of many existing licences granted on a 5-year cycle. This will greatly increase the workload of relevant officers for at least 12 months and the Group understands the intention is to add temporary staff to cope with the peak (additional licensing revenues will cover the costs in the usual way). It would be inappropriate for the Council to consider any further addition to Licensing workload at this point.
- 3.8.3 Furthermore, the Group believes that the evidence gathered to date to justify licensing all HMOs is indicative but not yet conclusive. Additional Licensing should (and can) only be done if the Council is satisfied that a significant proportion of unlicensed HMOs have problems such as Category 1 Health and Safety issues, or other poor living conditions, or amenity impacts due to mismanagement. After hearing from officers, student tenants, and residents, the T&F Group considers this to be likely due to a) substantial improvement in adherence to licence conditions for the currently licensed HMOs after introduction of the scheme, and b) recent inspections of HMOs with 3 or 4 tenants revealing significant issues **(Appendix G)**. However more work is required as proposed in 2.8a, b and c to enable the right decision to be reached during 2018.
- 3.8.4 Further evidence for the benefits of additional licensing comes from several other local authorities that have successfully implemented it such as Oxford, Bath, Portsmouth and Southampton, at no net cost to the authority **(Appendix**

¹⁴ [Fit and Proper Person Checklist - Charnwood](#)

¹⁵ [Housing and Planning Act 2016](#)

¹⁶ [Selective Licensing - Coventry City Council](#)

A). Of 20 authorities surveyed, 10 have introduced additional licensing, four of them of similar size to Leamington.¹⁷

3.9 ENFORCEMENT AND CROSS DEPARTMENTAL WORKING

- 3.9.1 In the months prior to this final report from the T&F Group, the Deputy Chief Executive has worked to ensure that enforcement is more joined up across departments. This has already led to improved co-operation between Officers to ensure that all areas of enforcement are covered.
- 3.9.2 From meetings with Officers, the T&F Group has found that there are still areas, including HMO licensing, where enforcement action is insufficiently coordinated.
- 3.9.3 The Group feels that it is essential that this work continues to make enforcement more consistent across all areas and so that any breach of an HMO licence is reported, shared and investigated.

3.10 COUNCIL TAX

- 3.10.1 A large number of Council Tax exemptions in Warwick District are on properties that are HMOs, and occupied by students, meaning that WDC do not get Council Tax directly from properties but are compensated by central Government's Revenue Support Grant (RSG).
- 3.10.2 The Group took note of the work of the Finance and Audit Scrutiny Committee, which had commissioned a report from the Finance Manager of the Council regarding some of the impacts that reduced financial support from Government was having at a local level. This included the impact that student council tax exemptions were having on Council Finances.
- 3.10.3 The T&F Group acknowledges the Finance and Audit Scrutiny Committee in this area, which suggests that the Council should be liaising with other similar authorities that have a large number of Council Tax exemptions, to ensure adequate compensation is secured through a clear and fair alternative system, perhaps through Business Rates retention¹⁸.

3.11 COMMUNITY MAPS

- 3.11.1 Since late summer 2016 some Councillors have had access to a Community Map App which contains a range of maps – including a system showing all licensed and unlicensed HMOs. It is a useful tool to that helps give greater information to Officers and Councillors.
- 3.11.2 In early March 2017, the app was rolled out to all councillors, whatever device they were using. This means that now all councillors can access the information. However, the App is that it is only as good as the information on it. The information is shared by the IT team once they have received it from each department. Therefore, again more work must be done to make sure all departments are providing data in a timely manner.

¹⁷ Three further Councils have chosen to go further by introducing selective licensing for ALL private landlords in a particular area – Coventry most recently. The T&F Group's remit was on HMOs so it did not consider selective licensing for the entire rental sector

¹⁸ [Finance & Audit Committee report Jan 2017](#)

4. Policy Framework

4.1 Fit for the Future

- 4.2 Experience in other Councils indicate that these changes will improve the general environment for both residents and visitors, diminish health risks and, potentially, contribute to a higher quality of housing for our HMO tenant population while enabling the many good landlords in the area to be properly recognised.
- 4.3 The different approach to enforcement will also deliver significant savings in Officer time by delegating much of the responsibility for maintaining standards to landlords.
- 4.4 The changes to planning policy and to licensing aim to encourage more balanced communities, through limiting further conversions of HMOs in areas of high concentration, and attracting well-located, managed PBSA, in order to protect existing dwellings for all-year occupancy by families. As this would not reduce the student population in the town, there should be no adverse effect on the overall size of economic benefits derived from the student population and some overall gain.
- 4.5 **Impact Assessments**
None made for this report.

5. Budgetary Framework

- 5.1 Currently considerable officer time is devoted to dealing with HMO issues especially waste and antisocial behaviour. Implementation of these recommendations will incur costs, especially initially. However, experience in other councils indicates that these costs quickly reduce once the systems are working. It is anticipated that overall there will be a reduction in HMO-related issues, improving the quality of life for tenants and their neighbours as well as reducing the demands on officer time.

6. Risks

The main risks to implementing these recommendations are:

- 6.1 The recommendations in section 2 might be applied inconsistently and therefore may not have the required effects. These risks can be mitigated by a combination of clear processes, where appropriate adoption of best practice and pilot implementation (for example CPN), adequate staff training, and pre-consultation with all interested parties.
- 6.2 Although some upfront and net costs may be incurred in implementing some of the recommendations, these will be offset by more integrated working practices, by reduced Officer time in dealing with complaints (waste, licensing, planning) and by increased revenues (CPN process, licensing).
- 6.3 Consultation with landlords has already taken place during these investigations and has elicited a very low response and mixed views. By focussing resources on the minority of poor landlords as suggested, the risk of broad landlord opposition will be mitigated. Some will welcome the new approaches proposed.

- 6.4 There is a potential risk of increases in costs to tenants/rents if additional licensing was introduced. However there would be no additional costs for well run HMOs, and the cost of licensing is small relative to rents.
- 6.5 Changes in policy may detrimentally affect the geographical spread of HMOs. However the mitigation of this is adequate monitoring and adjustment as required.

The main risks of failing to implement these recommendations are:

- 6.6 Continued unplanned growth in HMOs to the detriment of community cohesion and amenity.
- 6.7 Inadequately controlled spread of HMO concentrations to areas which currently have low concentrations such as Kenilworth.
- 6.8 High and growing levels of anti-social behaviour – especially in waste management – in existing high concentration areas and increasingly elsewhere in the District.
- 6.9 Poor, in some cases dangerous, living conditions may not be identified, with risks to tenants' health and safety.
- 6.10 More family housing will be lost to HMOs, adding to housing shortages and cost inflation.
- 6.11 More residents will lose confidence in the ability of WDC to manage HMO pressures and their impact on the local environment. This will cause some reputational damage to the Council and fuel high levels of complaints (and costs).

7. Alternative Option(s) considered

- 7.1 No change in current policies and practices. This will not solve the current difficulties for residents, Officers and the environment.
- 7.2 Using existing powers to prosecute more frequently. Officers advise us that this might: damage relationships with landlords and tenants; be seen as disproportionate; and lead to more Court cases being lost.

8. Background

- 8.1 The Group has been meeting approximately every 2 weeks since it was formed on 12th July 2016.
- 8.2 During and between meetings, the Group gathered and analysed evidence such as policies and procedures from various departments within Warwick District Council (WDC), external organisations and other Local Authorities around the country. Recommendations are based on examples of best practice and knowledge gained from other areas, but primarily on local facts, experience and views.
- 8.3 We have received verbal and/or written submission from the following groups/Officers:
Mark Lingard – WDC Private Sector Housing
Graham Folkes-Skinner – WDC Neighbourhood Services

Rajinder Lalli – WDC Planning Enforcement
Tracy Darke – WDC Head of Development Services
Pete Cutts – WDC Health & Community Protection
Ken Bruno – WDC Housing Strategy & Development
Andy Jones – WDC Deputy Chief Executive
WDC Electoral Services Team
Joanne Archer – WCC Highways Officer

8.4 Stakeholder Consultation

Written submissions and presentations to the Group received from:
Kenilworth Town Council, Royal Leamington Spa Town Council, Warwick Town Council, Whitnash Town Council
Warwick Accommodation
Warwick Students' Union
WCC County Councillors
Residents Associations including SoLAR, Leamington Society, The Maltings, Rock, St Mary' Residents
Landlord's Forum

8.5 In the scoping document it was proposed that the Group survey tenants living in HMO's; however the Group agreed that an overall view could be obtained from the Student's Union and that we were unable to conduct a survey that was sufficiently robust to provide evidence regarding additional licensing. Therefore future more detailed surveying would be more beneficial (see recommendation 2.8c).

8.6 In the scoping document, the issues around electors living in HMO properties was raised as an area to address as there is low registration numbers in these properties. An update was given by the WDC electoral services team about how they engage with students via Warwick University but no further action was agreed.

8.7 Advice from Officers has been sought on our draft recommendations and their comments at the time are attached at Appendix I. Where the group felt it was appropriate, these comments were taken on board and alterations made to this report to reflect Officers' feedback.

9. Task & Finish Group Members

The Group had alternating chairs and administrative support was provided by Committee Services Officers Amy Barnes and Graham Leach.

Cllr Pat Cain
Cllr Ian Davison
Cllr Hayley Grainger
Cllr Jane Knight
Cllr Kristie Naimo
Cllr Colin Quinney
Cllr Andrew Thompson

How HMOs are managed in other University Towns

EXECUTIVE SUMMARY

1. Most towns and cities – 17 from 20 surveyed – have brought in **Article 4 direction** controls on HMOs.
2. On licensing, 10 have introduced **additional licensing** of HMOs (4 of them of similar size to Leamington), and a further 3 have opted for selective licensing of ALL private sector landlords in a defined area (Coventry most recently).
3. Several are already successfully using **ASB enforcement** on waste, flytipping etc eg Rugby's process developed by Lorna Hudson, now working for WDC, often working closely with Police and University/Student Union.
(More are probably using ASB - gaps in data in table below reflect lack of time to complete research on this).
4. Several Councils pursue a strategy of encouraging **well-located PBSA's** rather than HMOs, often working closely with the main University.
5. **Additional Licensing** researched by telephone in four authorities. Key findings are:
 - a. Experience has been very beneficial for tenants – small HMOs were too often in breach of minimum safety and health standards.
 - b. Landlord accreditation schemes did not work.
 - c. After launch period, additional licensing becomes cost-neutral – some upfront investment is needed
 - d. Important to engage properly with landlords – most then appreciate benefits
 - e. Best to set charges on a 'polluter pays' basis, with good landlords paying less and with less frequent renewals/inspections. Poor landlords can be licensed year by year.
 - f. To manage problems Councils use specific conditions on licences & management orders...prosecutions and withdrawal of licence are certainly applied as 'last resort' measures.
 - g. Planning enforcement generally prosecutes landlords who seriously flout the rules on conversions – and the HMO licensing authority is then able to use the conviction in the 'fit and proper person' test.

Town	Planning (Article 4)	Licensing (Additional)	Use of ASB notices ?	Other Enforcement ?	Other – Waste etc
Aberystwyth (Ceredigion)	No record found	Yes in 2014			
Bath (full report below)	Yes whole City	Yes from 2014			
Birmingham	Yes in 2014 but Selly Oak already 55% HMO	Currently in consultation			Major HMO landlord charges tenants £5 per waste bag he handles
Brighton & Hove	Yes in 2013	Yes in 2012			Excellent strategic approach Careful encouragements of PBSA's. See link 1 below

Canterbury	Yes in 2015	No record found			PBSA's have been encouraged and HMO pressure is said to be easing (local Councillor information)
Coventry	No record found	No but selective licensing of all landlords in an area			PBSA's have been encouraged and HMO pressure is said to be easing
Durham	In 2015 - 50% houses in centre already HMO	No but Uni now aim to increase on-campus accomm by 10%	Yes - by police. Also Designated Public Place Orders (DPPO) for noise and waste	Use of FPN's for littering & waste. Use of a 'points' system - persistent offenders put on training workshop	Close working between police and Uni...data-sharing protocol Waste & Recycling Champion - Uni pays End of year campaign
Exeter	Yes in 2011-13	Yes but limited		Use of FPN's and training workshops	Use of App for bin collections. Close work with Student's Union. Involve academic experts in designing campaigns on alcohol, waste etc
Leeds	Yes in 2012	Yes in 2009		Prosecutions and fines	Uses both selective and HMO licensing powers to protect vulnerable and raise standards. Voluntary accreditation scheme. See link 2 below
Newcastle	Yes in 2011-13	No but selective licensing of all landlords in an area 2011 extended 2016			Major HMO landlord has 'no party' clause in rental contracts. Recycling for BHF charity through year & year-end. Uni invested in JV off-campus PBSA which regenerated Gateshead centre.

Northampton	Yes in 2011 & 2012	Yes in 2014			
Nottingham	Yes in 2012	Yes in 2014	Yes – same system as Rugby & Durham		Major HMO landlord has 'no party' clause in rental contracts
Oxford (full report below)	Yes in 2012	Yes in 2015 Higher fees/1 year licenses for non-compliant landlords	Yes - Community Response Team for Cat 3 ASB's – can issue FPN's		
Portsmouth (full report below)	Yes in 2011	Yes in 2013			50m radius policy See link 3 below
Preston	Yes in 2013	No record found		£5k max fine for breaching waste rules, inc state of garden/yards £50k for flytipping	Normal household waste volume is foc. Extra receptacles & disposal are HMO Manager responsibility & cost.
Rugby (full report below)	No - considering	No	Yes – enforces against both landlords and occupants	Council leads police on FPN policy/use and enforces against waste, garden & flytipping nuisances both HMO and other	Is concerned about on-street parking and County parking permit policy.
Sheffield	Yes in 2011	No but selective licensing of all landlords in an area 2014	ASB Closure Order S11B for up to 3 mths in extreme cases	Landlords' licence at risk if ASB not managed	Snug scheme Uni, Council, Student Union tests 'Fit & Proper', Council inspection 100% before going live on Student website. See link 4 below
Southampton (full report below)	Yes in 2011	Yes – considered using Interim & final Mgmt Orders (Housing Act 2004) but went for add'l		Council checks all new Uni accredited houses with StreetCred allies Fire, Police, residents and	Integrated neighbourhood nuisance service operated Excellent 2016 summary of impact and adjustments to Article 4 policy eg

		licensing		Council to visit, inform and identify problems	new 40m radius policy See link 5 below
York	Yes in 2012	No record found			

Many other authorities have of course brought in Article 4 planning policies and additional licensing – especially in London. These give a fair overview outside London, with those highlighted in grey perhaps being closest in size to Warwick/Leamington.

LINKS to

1. Brighton 2015 Housing Strategy [http://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/1%20Housing%20Strategy%202015%20\(review%20draft\).pdf](http://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/1%20Housing%20Strategy%202015%20(review%20draft).pdf)
2. Leeds Landlord Newsletter
<http://www.leeds.gov.uk/docs/LLAS%20Spring%202015%20v1.pdf>
Winter and Summer newsletters also on file
3. Portsmouth <https://www.portsmouth.gov.uk/ext/documents-external/pln-hmo-supplementary-planning-document-24jun13.pdf>
4. Sheffield <https://www.sheffield.gov.uk/in-your-area/housing-services/private-sector-housing/private-landlords.html>
5. Southampton https://www.southampton.gov.uk/policies/Final-HMO-SPD_tcm63-383554.pdf

ASB ENFORCEMENT - case study

Full telephone interview with Sean Lewis, Officer in **Rugby** performing similar role to Pete Cutts, and detailed email exchanges produced following more detailed information:

1. Has used Community Protection Notice system for about 3 years not just on HMOs. 90%+ success rate with formal warnings and notices against all concerned parties – occupants and landlords. Has significantly changed behaviours, especially HMO and other landlord behaviours.
2. Developed Fixed Penalty Notice policy and process, mainly for own use but also police, levying standard fines of £100 but also all costs of clearance, invoicing etc are charged and recovered. There have so far been zero court cases.
3. Flytipping is always a waste authority responsibility wherever it is found (alleyways, footpaths, roads, open ground etc). County responsibility is simply to deal with waste so cleared.
4. Communities have been encouraged to monitor the high-risk properties, usually HMOs and notify council of specific flytipping going on.
5. Landlords will usually respond fast to an informal warning from the Council to avoid risk of cost charges and fine. Increasingly landlords are being successfully encouraged to cooperate to clear major waste into shared skips eg at ends of terms/years.
6. Deals with regular difficulty of having indicative but not solid evidence against fly tipper/litterer by using a s108 notice under the environmental Protection Act, requiring the recipient to attend Council Offices and be questioned under caution. That often results in admission and agreement to pay standard £400 fine, sometimes just a stiff warning that changes behaviour. Occasionally there is non-attendance in which case they are prosecuted for failure to obey the notice, and are invariably fined by the Court for this offence NOT flytipping itself, and all Council costs are covered. That sends a strong message.

7. Fit and proper person test for landlords is not formal and written, but PSH and waste teams are in the same department and office, and log all appropriate records of breaches and behaviours in a shared database. They do not seek DBS checks at present.
8. Parking permits control on-street parking in central parts of Rugby but the Council is unhappy with the way an HMO conversion can multiply the number of permits granted. It is considering lobbying for the number for students to be limited to pre-conversion numbers only.
9. Public Spaces Protection Orders (PSPO's) are a very flexible tool for use in a wide range of suitable policies. Rugby mainly uses it to control alcohol consumption and similar behaviours in parks and town centre.

Additional Licensing – Notes from other Councils

01865 252307 **Oxford** City Council

https://www.oxford.gov.uk/info/20113/houses_in_multiple_occupation/905/hmo_additional_licensing_designations_2015

Catherine Coney kconey@oxford.gov.uk

Since 2012 – across whole of city as HMOs widespread. It is self-funding.

Started by doing annual licensing – re-inspection. Makes non-compliant landlords pay higher licensing fees – polluter pays – see attachment

Licenses can be for 5 years for compliant landlords – 1 year for non-compliant and re-inspection fee.

Most HMOs are 2-storey – poor standards coming up regularly

Has improved standards but is ongoing – no regrets. Lots of basic H&S safety stuff – lots of poor management standards. Prosecutes at least 10 each year. Still coming across many illegal non-licensed properties, five years on.

Lots of volume at beginning – admin is a problem to start with.....communicate upfront

Company with bespoke software is being considered – details to follow

Fit & Proper – self-declaration, no background checks, would be too slow and costly. If mandatory though would be good.

Article 4 planning – if found operating HMO illegally – enforcement notice from planning. If failed to do this and prosecuted then not fit and proper.

01225 396444 **Bath** <http://www.bathnes.gov.uk/services/housing/houses-multiple-occupation>

Jeremy Manners. Since 2014 jeremy_manners@bathnes.gov.uk Happy for Officers to get in touch in the future.

Additional Licensing in 2.5 wards – Article 4 covers whole of Bath City. One-off cost to set system up but good results. Is cost-neutral ongoing.

Implementation – lots of work in order to meet legislative requirements and consultation phase – a year from start to finish. Evidence gathered was to prove significant no. of properties not being managed sufficiently well. Had evidence from complaints, from mandatory licensing, house conditions survey in 2012. Most of it was from own databases. Also some doorstep surveys including Ward Councillors. Accumulation of smaller issues. Fire incidents, complaints.

Also had to look at other options. Had accreditation scheme in place – but was not adequate, only good landlords decided to join. Engage with landlords/forums as early as possible. 90% of residents were supportive.

Successful in identifying property issues through 100% inspection upfront – many properties required some work, one third needed enforcement work. So lots of properties needed conditions put on licences eg 50% needed work on fire protection.

5 year licences, compliance audits 25% halfway risk-based. Worked well.

Portsmouth <https://www.portsmouth.gov.uk/ext/housing/shared-houses-additional-licensing-of-houses-in-multiple-occupation.aspx>

Licence Fees are at <https://www.portsmouth.gov.uk/ext/documents-external/hou-hmofees.pdf> 02392 688369 Michael Conway Additional Licensing restricted to 3 Post Codes. Fees are set as cost-neutral. Licence is for 5 years.

Also covers wholly tenanted s257 flats – ie those which are self-contained but do not conform with current Building regs

Must have good evidence – high density, ASB and safety. Implementation complicated, can be lengthy. Approved by Council. Then Appeal and consultation time. Database of complaints.

Residents supported – doorstep work needed. Landlords were lukewarm – some thought accredited scheme was adequate, better ones reasonably happy to be licensed in order to control rogues.

100% inspection upfront. Main concerns are overall management. Provides education for landlords. Also prosecute. Should require information regularly from HMOs on their understanding of management regulations just as check on how good the management is.

They do remove landlords who fail to comply. Issue management orders.

Southampton <https://www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/licensing-houses-in-multiple-occupation/default.aspx> 02380833006 then 6 Sam Ings

Senior HMO Licensing Officer. sam.ings@southampton.gov.uk

Primary objective to ensure HMOs are safe – successful. Additional licensing from 1st July 2013 covers key areas only. Will extend scheme.

80% of properties failed on 100% initial inspection usually on safety issues.. Lots of other benefits such as using other tools for letting boards, rubbish accumulations – mix of officers work on team, eg surveyors and wardens. Use community payback – picking up bulk waste with people doing community service.

Other ASB issues dealt with in conjunction with other powers. Emphasis is on pressure from landlords by Council – place conditions on licence. Risk is prosecution and then withdrawal of approval. Has prosecuted 14 cases for failure to license and handful of other cases for other breaches. Fee structure is polluter pays – if people come forward without chasing by Council. Does reduced licence period for people who have poor management/breaches. New licensing regime will raise no from 700 to 2000 but leaving 5000.

Advice is to create a fee structure – review points. Should have had start-up capital to get things started soon enough – paid back out of fees in due course. Each licence only lasts for duration of scheme.

Landlords resistant at first but very helpful and now supportive as scheme has developed.

Wycombe <https://www.wycombe.gov.uk/uploads/public/documents/Housing/HMOs-protocol-for-licensing.pdf> have shorter licence cycles for properties/landlords where there are concerns

which ensures these properties are inspected on a more regular basis – providing greater assurances for the tenant as well as surrounding residents.

Quote from Wycombe - *private sector housing enforcement policy on HMOs, that the usual 5 year period for which an HMO licence is issued by that Council may be reduced where there are concerns about management arrangements, or 'if an application has been made for the renewal of a licence and the conditions of the existing licence have not been met at any relevant time during the period of the licence'.*

'University and Community Matters'

National Conference at Durham University 20th July 2016

The purpose of the conference was to share experiences, ideas and plans on the impact of universities on accommodation, community relations and the local economy.

It was generously hosted by the University and jointly organised with the National Association of Resident's Associations (NORA).

Almost 100 delegates attended from some 18 different University towns and cities across the country, representing residents, local authorities, students, law enforcement and of course the Universities themselves both individually and from their national grouping, Universities UK.

Our own District was well represented by two Council officers, a Councillor, a police officer and two members of Warwick University staff. As a forum for learning about best practice, different approaches to similar problems and where to find further information it was an exceptional event.

Graham Towl, Pro-Vice-Chancellor of Durham, chaired proceedings and ensured there was very widespread participation from the floor, after each of the 10 or so speakers had delivered their short addresses, covering issues from almost every angle.

Whether delegates left feeling buoyed up by the progress being made and solutions found or daunted by the scale of the challenges – and obstacles – was not clear. For me it was a mix of both.

Personally I was encouraged to find that Warwick seems to be ahead of other towns in some ways (for example the street marshal scheme), in the middle of the pack in most others perhaps (adoption of Article 4 planning controls on HMOs – licensing not yet extended to smaller HMOs) and lagging in others (dealing with HMO waste, enforcement methods).

Only a few Universities seem so far to have clear student accommodation strategies agreed with local communities, businesses and Councils – Northumbria is the most notable. It has been willing to invest directly in halls of residence not just to maintain but to increase the proportion of students 'on campus' and so ease the pressure on local housing. They have regenerated a central area, please residents, local businesses and council – and made a decent return.. Durham has possible plans to follow this example. We heard of no others with this degree of commitment. Neither wish to encourage private schemes (Purpose Built Student Accommodation – PBSA's) - but they are there and growing.

Other cities are not opposed to PBSA's and all are seeing growth but there were mixed views about what they do to rents and the student experience on the one hand, and their impact on easing pressures on HMOs/local communities on the other.

One area, Sheffield, has a particularly strong 3-way formal partnership between Council, Student Union and University, to check HMO quality on a two year 100% inspection cycle. The partnership called SNUG also includes community and landlord representation. Only SNUG-approved properties can be advertised on the student website and use the brand. Bath is also said to have an effective collaborative model.

There are other good ideas and practices which I am sure those of us who attended will be wanting to follow up over the coming months, especially perhaps through the Task & Finish

working group to review many HMO-related issues, recently set up by Warwick District Councillors.

Some of the most challenging may be how to incorporate PBSA beds in our planning policy (fortunately other Councils already do); how to ensure landlords as well as occupants meet their responsibilities on waste, recycling, property appearance and noise (again we heard of some good approaches elsewhere to draw on); and whether we should extend licensing to smaller HMOs (other areas have and claim clear community benefits).

Some are beyond our scope locally – for example whether Universities UK might wish to issue clear guidelines to its members on planning on-campus/PBSA accommodation. Another hot potato which was discussed is to what extent Councils are still compensated by government for the loss of Council Tax on all student HMOs and may be in the future.

I look forward to us making progress locally over the next 12 months and being able to share positive experiences once more in a year's time – perhaps somewhere more central next time, such as Warwick !

Colin Quinney
Warwick District Councillor
23.07.16

Some University Towns with successful collaborative 'end of year' waste collection Campaigns

Newcastle – see Durham conference report
Durham – see Durham conference report

Bangor - <https://www.bangor.ac.uk/news/university/bangor-students-tackle-waste-problems-8468>

Reading <https://www.reading.ac.uk/news-and-events/releases/PR635005.aspx>

Bath <http://www.bathchronicle.co.uk/students-urged-clear-gardens/story-11339913-detail/story.html>

Approaches differ but key common themes are:

- Collaboration between Students Union, Local Council, often with local Charity ...sometimes University itself, Neighbourhood group
- One/two week end of year campaign...sometimes end of other terms
- Large teams of volunteers
- Often a specialised van to pick up larger items
- Strong recycling and 'cleaner community' messages
- Striking sometimes humorous posters and leaflets

Durham Conference – detailed notes for Task & Finish Group

This highlights some specific information at the Conference which may be relevant to our Task & Finish Group which is not covered or only briefly mentioned in the summary paper. Have taken the opportunity to add other relevant information (*in italics*).

1. Anti-Social Behaviour - Enforcement

Durham police have taken over enforcement action against Anti-Social Behaviour from University Security. CPO's do the work.

They use Designated Public Place Orders (DPPO's) and issue Community Protection Warnings (CPW) for a first offence and a CP Notice (CPN) for a second, offence. Sometimes use dispersal powers and very occasionally arrests.

A number of CPW's have been issued to discourage external waste

Fixed Penalty Tickets used to deter public nuisances, which includes littering.

CPW's are issued to houses but with named occupants so that subsequent Notices are valid.

Their philosophy is to insist on apologies from perpetrators and to give full feedback to victims and residents. Also to issue 'points' and 'encourage' persistent offenders to attend training workshops.

They work very closely with University and have a data-sharing protocol to avoid any DPI challenges and enable University disciplinary pressure also to be applied.

They also monitor bars to block irresponsible drink promotions and encouragement of Anti-Social behaviour – use FPN's, occasional licence revocations.

Results of this relatively new initiative have been extremely positive as word has spread and the number of CPN's required has halved.

Exeter have developed various programmes with the student's union based on experiments and psychological research which are producing results

- Carefully targeted and positive poster campaigns
- Streetwise fund to bring communities together – Good Neighbour Award
- Addaction – to tackle addictions including alcohol. Fines and workshops which are now carefully tailored with great success
- Pro-social communications include a specially developed app which among other important information has an instant link to bin collection days !!

Nottingham One landlord has a contractual clause in his leases banning parties

Coincidentally Pete Cutts mentioned a very recent briefing by a lawyer who supports many Councils including Rugby along similar lines – combining these ASB powers with Council powers under s46 on HMOs and s215 on general external appearance, served principally on landlords. 80% success rate apparently. T&F should perhaps get briefing on what he and other Officers think is right way forward after Durham and lawyer inputs.

2. Waste & Recycling

Several initiatives which may be of interest to WDC:

Exeter – see above

Newcastle Major ongoing campaigns backed by student union to encourage recycling for charity (British Heart Foundation bags, and skips). Big drive with volunteers for last two weeks of every year. 2 community student reps cover main HMO areas.

Durham Similar end of year campaign using purple bags and a Reuse campaign

Student Warden Champion funded for 3 years by Uni, works closely with police to control waste issues.

Birmingham One landlord charges occupants £5 for every bag of waste he is obliged to pick up (presumably this is in the lease).

3. HMO Article 4 Planning Policies

Most towns now have this in place but in all cases it seems to have been too late to prevent serious community imbalance.

Durham has a population of 40k plus 15k students of which around 10-12k live outside University accommodation. As a result about half of all dwellings in the city Centre are now HMOs. There are only 2 PBSA's in the city. Article 4 policy was only introduced here last year. A big effort is now being made by the University to involve residents' groups. Council was until recently unsympathetic but this has changed. Councillors were not helpful, either too remote (Unitary authority across whole County) or often employees of the University ! Durham Uni now wants to increase % of in-house accommodation by 10%.

Birmingham has the policy in place in Selly Oak but the Ward closest to the University, already with 55% HMOs, it is too late. Residents have started to employ a barrister to fight planning applications with a much improved success rate.

On the issue of how to adjust HMO policy which seeks to protect balanced communities, in order **to allow for PBSA's**, I was informed that it is possible to supplement the '10% of dwellings' in a given area approach by applying a '20% of population' test in parallel. An attempt was made in Durham, based on Manchester's policy but this seems to have failed formally so far. Manchester's is not too clear - but may have some clauses from which we may learn. Both are attached.

4. Additional Licensing

Several authorities have introduced additional licensing or are about to do so. Southampton's has been in for two years and they claim to see an improvement in their intelligence enabling policies to be enforced and in the quality of accommodation due to regular inspections by an HMO warden, paid for from the licensing revenue.

Attendees recommended Portsmouth as a good operator for the last three years so links are given in the box below:

ADDITIONAL LICENSING - Portsmouth

<https://www.portsmouth.gov.uk/ext/housing-and-council-tax/housing/shared-houses-additional-licensing-of-houses-in-multiple-occupation.aspx>

We also perhaps need to understand more clearly the S257 HMO category -

<https://www.portsmouth.gov.uk/ext/documents-external/hou-hmomanagementofsection-257.pdf>

although this may not be a major issue in our area - pre-1992 conversion of flats.

Some very useful background on this and other matters is in

<https://www.portsmouth.gov.uk/ext/documents-external/hou-hmolicecefaqs.pdf>

Fees charged are

<https://www.portsmouth.gov.uk/ext/documents-external/hou-hmofees.pdf>

Landlord's national association view of Licensing - main concerns seem to be inconsistency and inadequate enforcement by Councils. (It also covers selective licensing of private rented accommodation which is outside the scope of this Group)

<http://www.landlords.org.uk/sites/default/files/NLA%20Licensing%20Report.pdf>

Background legislation and regulation links are

<http://www.legislation.gov.uk/ukpga/2004/34/contents>

<http://www.legislation.gov.uk/uksi/2006/372/contents/made>

Community Protection Notices Waste

Warwick District Council Policy

November 2016

DRAFT

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1. About Community Protection Notice, Vision and Purpose

One of the five priority themes within the Councils Sustainable Community Strategy is termed “Safer Communities” and its strategic aim is to “work in partnership to reduce crime, anti-social behaviour and re-offending”

Community Protection Notices (“CPNs”) were introduced by the Anti-Social Behaviour Crime and Policing Act 2014 (“the Act”) and are intended to stop individuals (aged over 16), business or organisations from committing anti-social behaviour which spoils the quality of life of the local community.

The following document has been developed to provide a framework for Warwick District Council to deal with on-going problems of nuisance originating from waste and recycling issues which have a negative effect on the community’s quality of life.

The Warwick District Council Enforcement Policy should be read in conjunction with this Policy and it must be followed when issuing CPNs and taking enforcement action.

Purpose

The CPN will direct the individual, business or organisation responsible to stop causing the problem and it could also require the person responsible to take reasonable steps to ensure that it does not occur again.

Breach of a CPN is a criminal offence.

Who can use this power?

The following organisations can issue Community Protection Notices:

- Borough and District councils in Warwickshire, following appropriate internal delegation
- Warwickshire Police uniformed officers and PCSOs where authorised.
- Registered Social Landlords, where powers are delegated by the local Borough or District council

Delegation of Powers

The powers under the ASB Crime and Policing Act 2014 are granted to local borough and district councils. Delegation of authority to relevant senior and front-line officers to use the powers must be sought through the appropriate committees and senior management teams within Warwick District Council

Existing Local Authority Powers

The CPN powers are designed to complement rather than replace existing powers and it remains a principle of law that a specific power should still be used where appropriate and if the threshold for use of that specific power is met.

Some of the specific powers available to Councils are as follows:

- Cleaner Neighbourhoods and Environment Act 2005: This gives borough and district councils the power to issue fixed penalty notices (FPNs) for a range of offences under the Cleaner Neighbourhoods Act 2005, e.g. dog fouling, littering, fly-tipping.
- Environmental Protection Act 1990: Local authorities can also issue Abatement Notices for statutory nuisance. Statutory nuisance has a higher threshold than CPNs; therefore CPNs will be targeted at the lower level nuisance that does not constitute a statutory nuisance. Should an authorised officer witness a statutory nuisance, then they are duty bound to serve an abatement notice.
- Town & Country Planning Act 1990: Section 215 permits the service of a Notice on an owner or occupier where the local amenity is affected by the condition of land

Information Sharing

Close liaison between the relevant Service Areas with the District and potentially the police, landlords, University and Letting Agents is essential when issuing a warning letter or CPN to ensure the most effective power is used to protect victims. It also ensures all parties are aware of the conditions placed on an individual or body so that enforcement/compliance of the warning or the notice can be monitored. The Act requires any person issuing a CPN to inform any individual or body that person thinks appropriate.

Threshold

A CPN can only be issued by a local authority or a designated person if they are satisfied on reasonable grounds that the conduct of the individual, business or organisation is:

- Having a detrimental effect on the quality of life of those in the area
- Persistent or continuing in nature, and
- Unreasonable

CPN's are designed to have a broad application and should focus on how individuals and communities are affected by particular conduct. They should not be issued lightly for conduct that is benign or trivial and they are not designed for single, one off incidents. The detrimental conduct of an individual or organisation can also include acts of omission.

Officers will investigate whether a CPN is appropriate by speaking to potential victims in order to obtain first-hand accounts of the conduct and understand the wider harm to the community. Officers will form an objective opinion and will consider the nature of the conduct, its frequency and duration and the seriousness and breadth of its impact.

Who can you issue a CPN to?

A CPN can be issued to any person aged 16 or over, a business, or an organisation. If a young person is aged 16-18 years then the Warwickshire Youth Justice Service will be consulted before the Notice is issued.

If a CPN is being issued to a business or organisation, it will be issued to the most appropriate person who can reasonably control or affect the behaviour, either in person or posted to them e.g. shop owner of a small shop, store manager of a major supermarket.

If the owner or occupier of premises that are responsible for causing a detrimental effect cannot be determined, the issuing officer can post the CPN on the premises. The Council will undertake reasonable enquiries to identify the owner or occupier. This may include checks with the Land Registry or public registers or a formal request for information using powers within section 16 of the Local Government (Miscellaneous Provisions) Act 1976

CPN Procedure

The Written Warning

Before a CPN can be issued, a written warning must be issued to the person committing the anti-social behaviour. There is no prescribed content for the written warning but guidance indicates that it should contain:

- The name and address of the person to whom it is issued
- An outline of the conduct considered to be causing the detrimental effect
- An outline of the detrimental effect
- The time period within which the behaviour or its impact is expected to have ceased
- A warning that if the effect has not ceased within the specified time limit then a CPN will be issued
- An outline of the effect of a CPN and potential sanctions on breach
- Date of issue and name and authority of the issuer.

It is a matter for the issuing officer to decide how long should be given for the matter to be dealt with. For example in the case of a CPN requiring waste to be cleared several days or weeks may be deemed reasonable depending upon the level of the work involved. In other cases the issuer could require the behaviour to stop forthwith.

In certain circumstances the issuing officer may decide to issue more than one Warning Letter before considering issue of a CPN.

To ensure a consistent approach between Service Areas, a template Warning Letter is provided in Appendix One for authorised persons to use.

Issuing a CPN

If the recipient of the Warning Letter has not ceased their behaviour within the timescales set, a CPN can be issued. The CPN may be issued to a person by:

- Handing it to the person, or
- Leaving at the person's proper address

- In the case of a company it will be addressed to the company secretary or clerk and sent to the company's registered office.
- In the case of a partnership it will be addressed to the person having control or management of the partnership business and sent to the principal office of the partnership

Where a CPN has been issued by post it will be deemed served the second day after it was posted, provided that day is a business day. If that day is not a business day then it will be the next business day after that business day.

Where the detrimental effect arises from the condition of premises or the use to which premises have been put and the name of occupier (if occupied) or the owner (if unoccupied) cannot be found after making reasonable enquiries then the authorised person may post the CPN on the premises. The CPN will be deemed issued at the time the CPN is posted onto the premises.

Content of a CPN

The aim of the CPN is to stop behaviour and put in place steps to ensure it will not reoccur. It should be adapted to the situation and can include any or all of the following:

- A requirement to stop doing specific things
- A requirement to do specific things
- A requirement to take reasonable steps to achieve specific results within the set timescales.

The requirements of a CPN will vary according to the nature of the detrimental effect that it seeks to address. Requirements will be clear, specific, reasonable and proportionate. They should not duplicate or conflict with other enforcement action being taken by the Council.

Appeals

A person served with a CPN may appeal to a Magistrates Court against the CPN within 21 days of it being issued on any of the following grounds:

1. That the conduct specified in the CPN ;
 - did not take place; or
 - has not had a detrimental effect on the quality of life of those in the locality; or
 - has not been of a persistent or continuing nature; or
 - is not unreasonable; or
 - is conduct that the person cannot reasonably be expected to control or affect
2. That any of the requirements of the CPN , or any of the periods within which or times by which they are to be complied with, are unreasonable
3. That there is a material defect or error, in connection with the CPN.
4. That the CPN was issued to the wrong person

Once an appeal is lodged then a requirement imposed by the CPN to stop doing a specified thing remains in force but any other requirement imposed by the CPN has no effect until the appeal is determined or withdrawn. For example if a CPN requires a person to stop putting rubbish in a front garden and clear the rubbish then whilst an appeal is in progress the person will have to stop adding to the rubbish but will not be required to clear the rubbish until the appeal has been heard and the CPN has been upheld.

On appeal against a CPN the court has the power to quash the CPN, modify it or dismiss the appeal and uphold the CPN.

Failure to comply with a CPN

Failure to comply with a CPN is a criminal offence under Section 48 of the Act. Section 52 of the Act allows for a Fixed Penalty Notice of not more than £100 to be issued as an alternative to prosecution.

The Council will investigate and act in accordance with its enforcement policy when deciding what action is appropriate against a person or organisation that fails to comply with a CPN. The following action may be taken:

- **Prosecution:** If an individual is convicted of failing to comply with a CPN they can be fined a maximum level 4 fine (currently up to £2,500). A business or organisation can be fined a maximum of £20,000. There is a defence where the person served can show that they took all reasonable steps to comply with the notice or had some other reasonable excuse for failing to comply with it. The Council will usually invite potential defendants to attend an interview under caution as part of the investigation.
- **Issue of a Fixed Penalty Notice ("FPN"):** The Council has discretion to issue an FPN as an alternative to prosecution. The potential defendant has the opportunity to pay a fixed sum of £100 within a fixed period of time. Payment of the FPN within the specified period discharges any liability to conviction for the offence. Where an FPN is not paid the Council will usually prosecute for the failure to comply with the CPN.
- **Caution:** The Council may issue a simple caution for the offence where this is deemed appropriate. Cautions are likely to only be appropriate where the offence is minor, the level of harm is low and it is a first offence. The offender must also admit guilt and formally agree to accept a caution.
- **Remedial Action.** The Council may carry out work to remedy the failure to comply with a CPN where the work is on land open to the air. The Council has a power of entry to this land in order to carry out the work. Where the work involves premises not open to the air the Council can issue the recipient of the CPN with a Notice specifying the work it intends to carry out and an estimate of its cost. The recipient or owner of the premises is then invited to grant permission for the work to be carried out. If permission is given by one of them the Council may proceed with the work. Once the work is completed the Council is required to notify the person issued with the CPN of the work done and the cost. The person issued is then liable to pay the Council the amount specified subject to a 21 day right of appeal to Magistrates Court on the grounds that the cost of the work is excessive. Subject to any decision by the Magistrates the costs of the remedial work will be recoverable by the Council from the person issued with the CPN as a civil debt.
- **Seizure:** Where an officer of the Council provides Information on Oath to Magistrates and they are satisfied that there are reasonable grounds for suspecting that an offence has been committed under section 48 of the

Act and an item used in the commission of the offence is present on specified premises then the Magistrates can grant a warrant of entry for an authorised person to enter the premises, by force if necessary, for the purpose of seizing the item. Items seized in this way must be returned within 28 days unless criminal proceedings under section 48 of the Act are commenced within that time.

Orders following Conviction

On conviction the Council as prosecuting authority can ask the Court to make one of the following orders in addition to any penalty imposed by the court;

- **Remedial Order**
This may require the defendant to carry out specified work (typically the CPN's requirements) or to allow specified work to be carried out by, or on behalf of the local authority which issued the CPN. The defendant's consent is required where work is to be carried out to any accommodation where he usually lives or is living at the time of the work however obstructing a Court Order constitutes contempt of court which may be punished by imprisonment.
- **Forfeiture Order**
The Court may order the forfeiture of any item used in the commission of the offence.

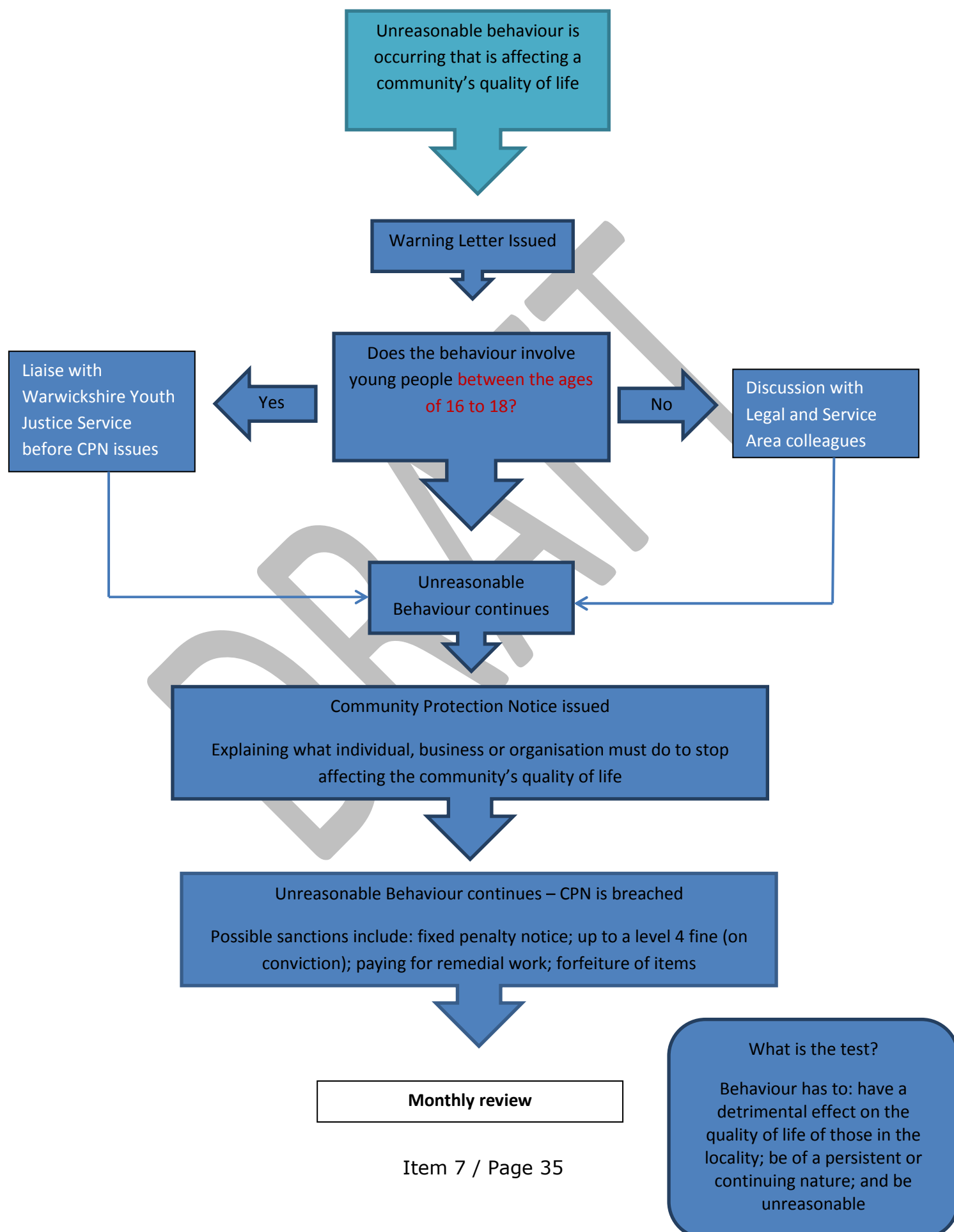
Publicity and communication

The Community Protection Notice process will be actively promoted, both internally and to the public.

Monitoring and Review

Community Protection Notices will be reviewed monthly at the most appropriate group within Warwick District Council. Any learning points will be shared with the group. A summary report will be submitted quarterly to ??

Community Protection Notices



Appendix A

**Community Protection Notice - Warning
ASB Crime and Policing Act 2014**

Date:

Dear:

**Re: Warning Letter – Community Protection Notice
(In accordance with Section 43 of the Anti Social Behaviour Crime and Policing Act 2014)**

Insert issuing agency name is satisfied that you are responsible for unreasonable behaviour which is persistent and/or continuing in nature and is having a detrimental effect on the quality of life of others.

This unreasonable behaviour includes:

Briefly detail behaviour including dates and locations and the detrimental effect it is having on the life on those in the locality

This letter is formal notification that you are required to stop behaving in the manner described above to avoid further consequences. Please ensure that you take the following actions within the timescales identified.

Action you must take:	Deadline for when you must do this by:

If you fail to comply with the above requirements within the timescales given then *insert issuing agency name* will consider serving you with a Community Protection Notice (CPN). This notice will tell you the things that you **must** do to put these problems right. If you still fail to do so without reasonable excuse:

1. You may be issued with a fixed penalty notice.
2. You may be prosecuted. If you are prosecuted and convicted the maximum penalty is a fine not exceeding level 4 on the standard scale (currently £2,500 for an individual, and up to £20,000 for a business or organisation?)
3. The court may make whatever order the court thinks appropriate to ensure that what the notice requires to be done is done.
4. A court order may require you to:
 - a. Carry out specified work, or
 - b. Allow specified work to be carried out by, or on behalf of *insert issuing agency name*.
5. The court may require you to surrender possession of any item used in your failure to comply with the Notice, to a constable or to a person representing the local authority. The court may require this item to be destroyed or disposed of. A justice of the peace may issue a warrant, authorising a constable or authorised person to enter your premises to seize the item.
6. Social Landlords may offer a responsible tenant reward scheme which could ne compromised if further action is taken.

Insert issuing agency name will also consider what other action may be required to stop the problems, such as applying for an ASB Injunction, Premises Closure Order, or notifying your landlord (where relevant) if *insert issuing agency name* consider that breaches of your tenancy agreement/lease have occurred. Your details will also be passed on to the local Community Incident Action Group who will consider a multi-agency response to the anti-social behaviour that has led to this warning being issued.

You are advised to refer to the extract from the ASB Crime and Policing Act 2014 provided.

Signed:	Name:
Job Role:	Issuing agency:
Contact Details:	

Extract from the Anti-social Behaviour, Crime and Policing Act 2014**46. Appeals against notices**

(1) A person issued with a community protection notice (CPN) may appeal to a magistrates' court against the notice on any of the following grounds. 1 That the conduct specified in the CPN did not take place; has not had a detrimental effect on the quality of life of those in the locality; has not been of a persistent or continuing nature; is not unreasonable, or is conduct that the person cannot reasonably be expected to control or affect. 2 That any of the requirements in the notice, or any of the periods within which or times by which they are to be complied with, are unreasonable. 3 That there is a material defect or error in, or in connection with, the notice. 4 That the notice was issued to the wrong person. (2) An appeal must be made within the period of 21 days beginning with the day on which the person is issued with the notice. (3) While an appeal against a CPN is in progress (a) a requirement imposed by the notice to stop doing specified things remains in effect, unless the court orders otherwise, but (b) any other requirement imposed by the notice is of no effect. For this purpose an appeal is "in progress" until it is finally determined or is withdrawn. (4) A magistrates' court hearing an appeal against a CPN must (a) quash the notice, (b) modify the notice (for example by extending a period specified in it), or (c) dismiss the appeal.

47. Remedial action by local authority

(1) Where a person issued with a CPN ("the defaulter") fails to comply with a requirement of the notice, the relevant local authority may take action under subsection (2) or subsection (3) (or both). (2) The relevant local authority may have work carried out to ensure that the failure is remedied, but only on land that is open to the air. (3) As regards premises other than land open to the air, if the relevant local authority issues the defaulter with a notice (a) specifying work it intends to have carried out to ensure that the failure is remedied, (b) specifying the estimated cost of the work, and (c) inviting the defaulter to consent to the work being carried out, the authority may have the work carried out if the necessary consent is given. (4) In subsection (3) "the necessary consent" means the consent of (a) the defaulter, and (b) the owner of the premises on which the work is to be carried out (if that is not the defaulter). Paragraph (b) does not apply where the relevant authority has made reasonable efforts to contact the owner of the premises but without success. (5) A person authorised by a local authority to carry out work under this section may enter any premises to the extent reasonably necessary for that purpose, except that a person who is only authorised to carry out work under subsection (2) may only enter land that is open to the air. (6) If work is carried out under subsection (2) or (3) and the relevant local authority issues a notice to the defaulter (a) giving details of the work that was carried out, and (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)). (7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive. (8) A magistrates' court hearing an appeal under subsection (7) must (a) confirm the amount, or (b) substitute a lower amount. (9) In this section "the relevant local authority" means (a) the local authority that issued the CPN; (b) if the CPN was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.

48. Offence of failing to comply with notice

(1) A person issued with a CPN who fails to comply with it commits an offence. (2) A person guilty of an offence under this section is liable on summary conviction (a) to a fine not exceeding level 4 on the standard scale, in the case of an individual; (b) to a fine not exceeding £20,000, in the case of a body. (3) A person does not commit an offence under this section if (a) the person took all reasonable steps to comply with the notice, or (b) there is some other reasonable excuse for the failure to comply with it.

49 Remedial orders

(1) A court before which a person is convicted of an offence under section 48 in respect of a CPN may make whatever order the court thinks appropriate for ensuring that what the notice requires to be done is done. (2) An order under this section may in particular require the defendant (a) to carry out specified work, or (b) to allow specified work to be carried out by or on behalf of a specified local authority. (3) To be specified under subsection (2)(b) a local authority must be (a) the local authority that issued the CPN ;(b) if the CPN was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could

have issued it. (4) A requirement imposed under subsection (2)(b) does not authorise the person carrying out the work to enter the defendant's home without the defendant's consent. But this does not prevent a defendant who fails to give that consent from being in breach of the court's order. (5) In subsection (4) "the defendant's home" means the house, flat, vehicle or other accommodation where the defendant--(a) usually lives, or (b) is living at the time when the work is or would be carried out. (6) If work is carried out under subsection (2)(b) and the local authority specified under that subsection issues a notice to the defaulter (a) giving details of the work that was carried out, and (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)). (7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive. (8) A magistrates' court hearing an appeal under subsection (7) must (a) confirm the amount, or (b) substitute a lower amount.

50. Forfeiture of item used in commission of offence

(1) A court before which a person is convicted of an offence under section 48 may order the forfeiture of any item that was used in the commission of the offence. (2) An order under this section may require a person in possession of the item to hand it over as soon as reasonably practicable (a) to a constable, or (b) to a person employed by a local authority or designated by a local authority under section 53(1) (c). (3) An order under this section may require the item (a) to be destroyed, or (b) to be disposed of in whatever way the order specifies. (4) Where an item ordered to be forfeited under this section is kept by or handed over to a constable, the police force of which the constable is a member must ensure that arrangements are made for its destruction or disposal, either (a) in accordance with the order, or (b) if no arrangements are specified in the order, in whatever way seems appropriate to the police force. (5) Where an item ordered to be forfeited under this section is kept by or handed over to a person within subsection (2) (b), the local authority by whom the person is employed or was designated must ensure that arrangements are made for its destruction or disposal, either (a) in accordance with the order, or (b) if no arrangements are specified in the order, in whatever way seems appropriate to the local authority.

51. Seizure of item used in commission of offence

(1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting (a) that an offence under section 48 has been committed, and (b) that there is an item used in the commission of the offence on premises specified in the information, the justice may issue a warrant authorising any constable or designated person to enter the premises within 14 days from the date of issue of the warrant to seize the item. (2) In this section "designated person" means a person designated by a local authority under section 53(1) (c). (3) A constable or designated person may use reasonable force, if necessary, in executing a warrant under this section. (4) A constable or designated person who has seized an item under a warrant under this section (a) may retain the item until any relevant criminal proceedings have been finally determined, if such proceedings are started before the end of the period of 28 days following the day on which the item was seized; (b) otherwise, must before the end of that period return the item to the person from whom it was seized. (5) In subsection (4) "relevant criminal proceedings" means proceedings for an offence under section 48 in the commission of which the item is alleged to have been used.

Community Protection Notice

Date:

Dear:

Re: Community Protection Notice**(In accordance with Section 43 of the Anti-Social Behaviour Crime and Policing Act 2014)**

Take notice that *insert issuing agency name* is satisfied on reasonable grounds that the conduct of *insert name and address of individual and/or business/organisation* is having a detrimental effect on the quality of life of those in the locality, that it is persistent and continuing in nature and the conduct is unreasonable.

The nature of the conduct which is having a detrimental effect is as follows:

Briefly detail behaviour including dates and locations and the detrimental effect it is having on the life of those in the locality

You have previously been given a written warning on, *insert date warning letter was issued*, that a Community Protection Notice will be issued unless your unreasonable behaviour, detailed above, ceases. *insert issuing agency name* is satisfied that, despite having had enough time to deal with the matter, your unreasonable behaviour continues.

You are hereby required to comply with the following requests:

a) A requirement to stop doing specific things
b) A requirement to do specific things
c) A requirement to take reasonable steps to achieve specific results

If you still fail to comply with these requests, without reasonable excuse:

1. You may be issued with a fixed penalty notice.
2. You may be prosecuted. If you are prosecuted and convicted the maximum penalty is a fine not exceeding level 4 on the standard scale (currently £2,500 for an individual, and up to £20,000 for a business or organisation)

3. The court may make whatever order the court thinks appropriate to ensure that what the notice requires to be done is done.
4. A court order may require you to:
 - a. Carry out specified work, or
 - b. Allow specified work to be carried out by, or on behalf of *insert issuing agency name*.
5. The court may require you to surrender possession of any item used in your failure to comply with the Notice, to a constable or to a person representing the local authority. The court may require this item to be destroyed or disposed of. A justice of the peace may issue a warrant, authorising a constable or authorised person to enter your premises to seize the item.
6. Social Landlords may offer a responsible tenant reward scheme which could be compromised if further action is taken.

Insert issuing agency name will also consider what other action may be required to stop the problems, such as applying for an ASB Injunction, Premises Closure Order, or notifying your landlord (where relevant) if *insert issuing agency name* consider that breaches of your tenancy agreement/lease have occurred. Your details will also be passed on to the local Community Incident Action Group who will consider a multi-agency response to the anti-social behaviour that has led to this warning being issued.

Breach of a Community Protection Notice is a Criminal Offence.

You are advised to refer to the extract from the ASB Crime and Policing Act 2014 provided.

Signed:	Name:
Job Role:	Issuing agency:
Contact details:	

Extract from the Anti-social Behaviour, Crime and Policing Act 2014

46. Appeals against notices

(1) A person issued with a community protection notice (CPN) may appeal to a magistrates' court against the notice on any of the following grounds. 1 That the conduct specified in the CPN did not take place; has not had a detrimental effect on the quality of life of those in the locality; has not been of a persistent or continuing nature; is not unreasonable, or is conduct that the person cannot reasonably be expected to control or affect. 2 That any of the requirements in the notice, or any of the periods within which or times by which they are to be complied with, are unreasonable. 3 That there is a material defect or error in, or in connection with, the notice. 4 That the notice was issued to the wrong person. (2) An appeal must be made within the period of 21 days beginning with the day on which the person is issued with the notice. (3) While an appeal against a CPN is in progress (a) a requirement imposed by the notice to stop doing specified things remains in effect, unless the court orders otherwise, but (b) any other requirement imposed by the notice is of no effect. For this purpose an appeal is "in progress" until it is finally determined or is withdrawn. (4) A magistrates' court hearing an appeal against a CPN must (a) quash the notice, (b) modify the notice (for example by extending a period specified in it), or (c) dismiss the appeal.

47. Remedial action by local authority

(1) Where a person issued with a CPN ("the defaulter") fails to comply with a requirement of the notice, the relevant local authority may take action under subsection (2) or subsection (3) (or both). (2) The relevant local

authority may have work carried out to ensure that the failure is remedied, but only on land that is open to the air. (3) As regards premises other than land open to the air, if the relevant local authority issues the defaulter with a notice (a) specifying work it intends to have carried out to ensure that the failure is remedied, (b) specifying the estimated cost of the work, and (c) inviting the defaulter to consent to the work being carried out, the authority may have the work carried out if the necessary consent is given. (4) In subsection (3) "the necessary consent" means the consent of (a) the defaulter, and (b) the owner of the premises on which the work is to be carried out (if that is not the defaulter). Paragraph (b) does not apply where the relevant authority has made reasonable efforts to contact the owner of the premises but without success. (5) A person authorised by a local authority to carry out work under this section may enter any premises to the extent reasonably necessary for that purpose, except that a person who is only authorised to carry out work under subsection (2) may only enter land that is open to the air. (6) If work is carried out under subsection (2) or (3) and the relevant local authority issues a notice to the defaulter (a) giving details of the work that was carried out, and (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)). (7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive. (8) A magistrates' court hearing an appeal under subsection (7) must (a) confirm the amount, or (b) substitute a lower amount. (9) In this section "the relevant local authority" means (a) the local authority that issued the CPN; (b) if the CPN was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.

48. Offence of failing to comply with notice

(1) A person issued with a CPN who fails to comply with it commits an offence. (2) A person guilty of an offence under this section is liable on summary conviction (a) to a fine not exceeding level 4 on the standard scale, in the case of an individual; (b) to a fine not exceeding £20,000, in the case of a body. (3) A person does not commit an offence under this section if (a) the person took all reasonable steps to comply with the notice, or (b) there is some other reasonable excuse for the failure to comply with it.

49 Remedial orders

(1) A court before which a person is convicted of an offence under section 48 in respect of a CPN may make whatever order the court thinks appropriate for ensuring that what the notice requires to be done is done. (2) An order under this section may in particular require the defendant (a) to carry out specified work, or (b) to allow specified work to be carried out by or on behalf of a specified local authority. (3) To be specified under subsection (2)(b) a local authority must be (a) the local authority that issued the CPN; (b) if the CPN was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it. (4) A requirement imposed under subsection (2)(b) does not authorise the person carrying out the work to enter the defendant's home without the defendant's consent. But this does not prevent a defendant who fails to give that consent from being in breach of the court's order. (5) In subsection (4) "the defendant's home" means the house, flat, vehicle or other accommodation where the defendant--(a) usually lives, or (b) is living at the time when the work is or would be carried out. (6) If work is carried out under subsection (2)(b) and the local authority specified under that subsection issues a notice to the defaulter (a) giving details of the work that was carried out, and (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)). (7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive. (8) A magistrates' court hearing an appeal under subsection (7) must (a) confirm the amount, or (b) substitute a lower amount.

50. Forfeiture of item used in commission of offence

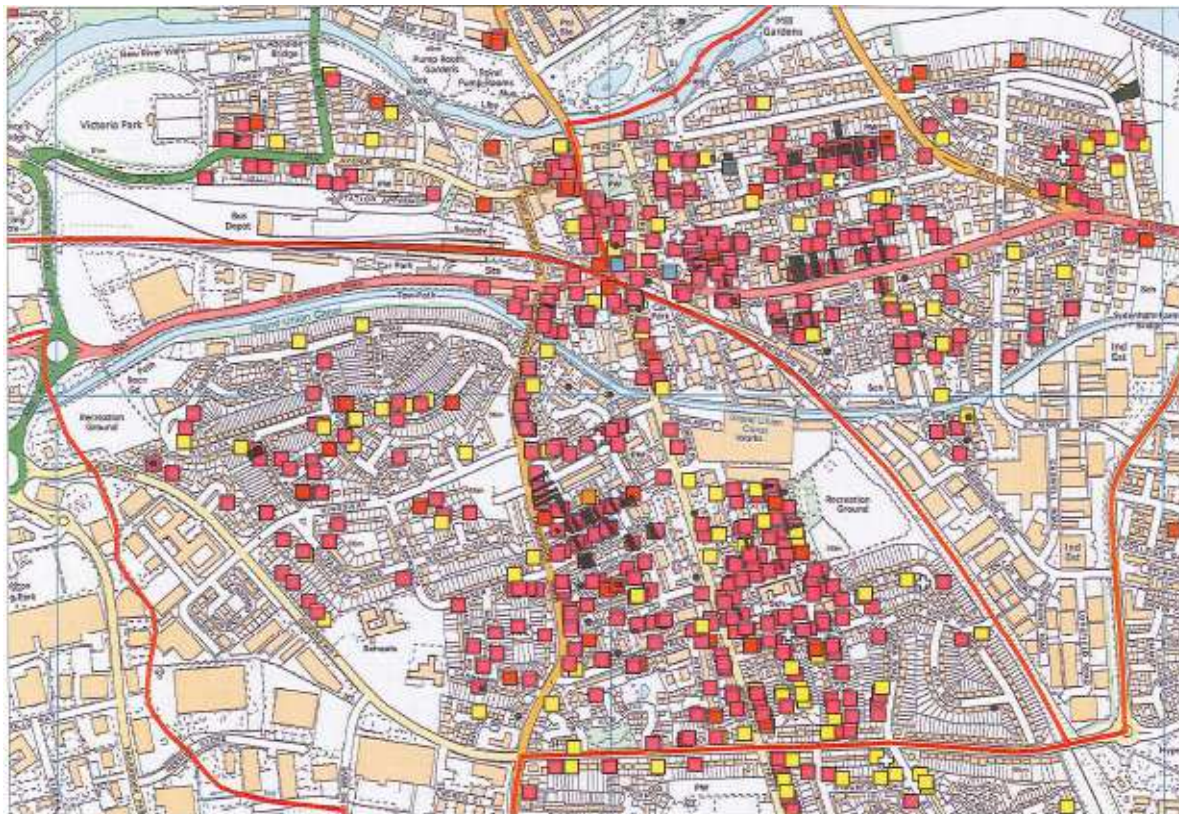
(1) A court before which a person is convicted of an offence under section 48 may order the forfeiture of any item that was used in the commission of the offence. (2) An order under this section may require a person in possession of the item to hand it over as soon as reasonably practicable (a) to a constable, or (b) to a person employed by a local authority or designated by a local authority under section 53(1) (c). (3) An order under this section may require the item (a) to be destroyed, or (b) to be disposed of in whatever way the order specifies. (4) Where an item ordered to be forfeited under this section is kept by or handed over to a constable, the police force of which the constable is a member must ensure that arrangements are made for its destruction or disposal, either (a) in accordance with the order, or (b) if no arrangements are specified in the order, in

whatever way seems appropriate to the police force. (5) Where an item ordered to be forfeited under this section is kept by or handed over to a person within subsection (2) (b), the local authority by whom the person is employed or was designated must ensure that arrangements are made for its destruction or disposal, either (a) in accordance with the order, or (b) if no arrangements are specified in the order, in whatever way seems appropriate to the local authority.

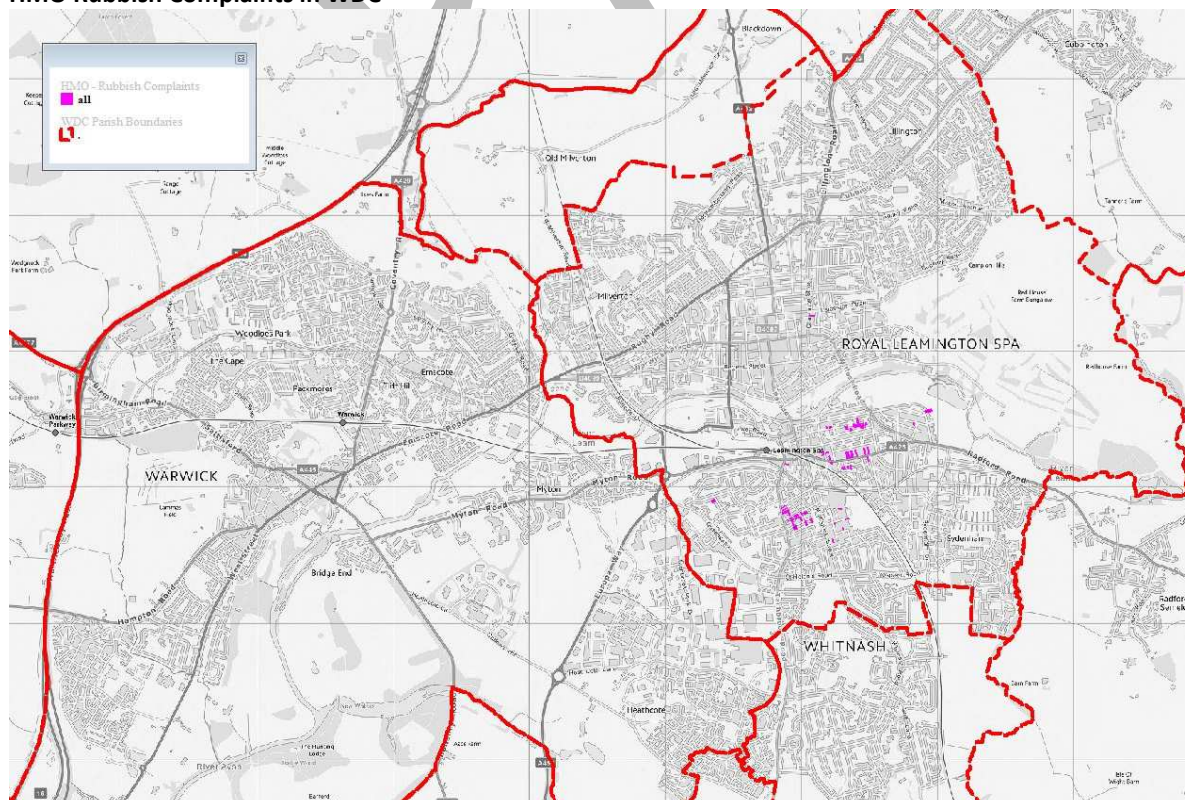
51. Seizure of item used in commission of offence

(1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting (a) that an offence under section 48 has been committed, and (b) that there is an item used in the commission of the offence on premises specified in the information, the justice may issue a warrant authorising any constable or designated person to enter the premises within 14 days from the date of issue of the warrant to seize the item. (2) In this section "designated person" means a person designated by a local authority under section 53(1) (c). (3) A constable or designated person may use reasonable force, if necessary, in executing a warrant under this section. (4) A constable or designated person who has seized an item under a warrant under this section (a) may retain the item until any relevant criminal proceedings have been finally determined, if such proceedings are started before the end of the period of 28 days following the day on which the item was seized; (b) otherwise, must before the end of that period return the item to the person from whom it was seized. (5) In subsection (4) "relevant criminal proceedings" means proceedings for an offence under section 48 in the commission of which the item is alleged to have been used.

A map showing 'hot spots' in South Leamington. Indicates a pilot around the areas with black splodges could be trialled.



HMO Rubbish Complaints in WDC



- 4.57 In determining planning applications for all types of specialist housing for older people, the Council will give particular consideration to the provision for Primary Health Care facilities and will consult with the appropriate health service provider. This is because older people account for a large proportion of GP appointments. There is, therefore, a clear need for adequate, accessible GP services in the locality.
- 4.58 The Council will consider how a proposed scheme contributes towards the identified need for accommodation for older people in the District. This will include consideration of the type and tenure of the accommodation in relation to past provision and future needs. The Council will monitor the provision of accommodation for older people and may refuse permission if the scheme does not meet projected needs. Warwick District Council is a popular location for different models of specialist housing for older people and whilst there is a clearly identified need for this type of housing, the supply of housing land is limited and care is required to ensure that a significant over-provision is not made at the expense of general housing.
- 4.59 In accordance with national planning guidance, housing provided for older people, including, including residential institutions in Use Class C2, are counted towards the housing requirement. The Council's approach follows that agreed by the local planning authorities in the Housing Market Area.

H6 Houses in Multiple Occupation and Student Accommodation

Planning permission will only be granted for Houses in Multiple Occupation, including student accommodation, where:

- a) the proportion of dwelling units in multiple occupation (including the proposal) within a 100 metre radius of the application site does not exceed 10% of total dwelling units;
- b) the application site is within 400 metres walking distance of a bus stop;
- c) the proposal does not result in a non-HMO dwelling being sandwiched between 2 HMO's;
- d) the proposal does not lead to a continuous frontage of 3 or more HMOs; and
- e) adequate provision is made for the storage of refuse containers whereby -

the containers are not visible from an area accessible by the general public, and

the containers can be moved to the collection point along an external route only

Exceptions to a) may be made where the application site is located:

- i. on the campus of the University of Warwick or Warwickshire College or;
- ii. on a main thorough fare in a mixed use area where the proposal would not lead to an increase in activity along nearby residential streets (for example, by way of pedestrian movements between the application site and the town centre or car parking)

Exceptions to e) may be made if alternative arrangements for the storage and movement of containers are agreed in writing by the Council's Contract Services section.

Explanation

- 4.60 National planning policy includes the aim to "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings". Further, planning should "enhance and improve the places in which people live their lives". National planning policy also supports the need to make places better for people. This includes "safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion".
- 4.61 The recent increase in the number of Houses in Multiple Occupation (HMO's) in Royal Leamington Spa has led to a fall in the standards of amenity experienced by residents in parts of the town where HMO's have concentrated. This is largely a result of:
- a relatively large proportion of young, single people with student lifestyles which conflict with the lifestyles of more settled residents; and
 - a relatively large proportion of privately rented accommodation, with short term tenancies, which often leads to a lower standard of upkeep of property and the loss of a sense of belonging within the community.
- 4.62 About 81% of HMOs in the District comprise of accommodation for students, most of whom attend the University of Warwick in Coventry. The areas around central and south Royal Leamington Spa have the greatest concentrations of HMOs. These areas are popular with students and young people because the town centre provides a good range of facilities for young people and a thriving evening economy. In addition, the housing stock lends itself well to the provision of shared houses and flats. However, one of the main problems for more settled residents living in these areas is the anti-social behaviour in the streets in the early hours of the morning as young people return from the pubs and clubs, often on mid-week mornings. Other issues include noise from neighbouring properties, poor attendance to waste storage, increased burglaries, increased street parking, and poor property maintenance. The University and the Council work together to resolve these issues, but the Council is firmly of the view that restricting further concentrations of HMOs will help prevent a worsening of the situation.

- 4.63 In response to concerns by residents the Council agreed an Article 4 Direction in April 2012 the purpose of which was to remove permitted development rights, in Royal Leamington Spa only, for a change of use from a single dwelling to a small HMO (uses class C4). The need for planning permission would enable the Council to control further concentrations of small HMOs since nearly 81% of HMOs in the District comprised shared houses (use class C4).
- 4.64 The purpose of this policy is to control the location of new HMOs in order to prevent these uses from either exacerbating existing concentrations or leading to new concentrations. Additional HMOs can impact on local amenity where they lead to concentrations at either the neighbourhood level or in very localised situations. The policy aims to prevent concentrations at both levels by ensuring that within a 100 metre radius of the proposal not more than 10% of dwellings are HMOs and also, at a more localised level, by preventing the “sandwiching” of a non-HMO between 2 HMOs or a continuous frontage of 3 or more HMOs. It is not the intention of the policy to restrict further growth in HMOs. The Council recognises the importance of HMOs and the private rented sector generally in the housing stock but seeks to ensure that the amenity of more settled residents is not compromised. The policy also aims to ensure that there is satisfactory provision for the storage of waste, since a house occupied as an HMO generates more waste than a family or couple. In addition, the policy also aims to ensure that new HMOs are within reasonable walking distance of a bus stop because access to public transport is essential for most University of Warwick students due to the restrictive parking arrangements on campus.
- 4.65 The policy makes exceptions to the application of the 100 metre radius test to allow for HMOs or student accommodation in areas which would not impact on existing residential areas. Since one of the main problems is anti-social behaviour and noise on routes home from the town centre, these criteria are intended to allow HMOs in locations where residential areas would not be affected. Main thoroughfares will normally be defined as A and B roads and mixed use areas are defined as areas with a predominance of non-residential uses.
- 4.66 The Council supports the provision of student accommodation on the University campus which falls within Warwick District. The number of full-time University students increased by 29% in the five years up to 2011/12. A large proportion of this increase has been in international students who are more likely to prefer purpose-built accommodation. Approximately 225 flats for students, along with some flats for staff and visitors, received planning permission in 2009 as part of the University’s Master Plan. Of these, 59 have been completed and the remainder are expected to be built in the first phase of the plan period. An additional 4,440 sq. m. of existing student accommodation is the subject of an application for redevelopment & replacement. The Local Plan allows for further expansion of the University within Warwick District and this is likely to include further accommodation for students.

**Complaint by Mr Paul Cox against
Warwick District Council**

Report on Investigation

**Warwickshire Legal Services
Warwickshire County Council
Shire Hall
Warwick
CV34 4RL**

1. Introduction

1.1 This report relates to a complaint made by Mr Paul Cox to Warwick District Council ("the Council") in respect of the grant of planning permission for development at 10 Newgale Walk, Leamington Spa (the "Planning Permission"). The development consists of a change of use of a property at 10 Newgale Walk, Leamington Spa from use as a single dwelling house to a four bedroom house in multiple occupation ("HMO").

1.2 On 20 December 2016 I was instructed to investigate this matter by the Council in accordance with Stage 2 of its Corporate Complaints Procedure. Helpfully, Mr Cox had already set out a summary of his complaint in an email to the Council of the same date. The summary is as follows;

1. You failed to follow Council policy (the Article 4 direction) and failed to give due weight to the reasons the Council enacted that policy i.e that HMO's are inherently problematic and therefore, by definition, not like family homes. This is perverse.

2. You have created your own unofficial "policy" which runs counter to Council policy i.e. because there were no objections to this application, you decided to apply your own 'made-up' criteria without any evidence to support them i.e. (a) that an HMO is "little different" to a family home and (b) that an action which breaches the '10% rule' by 50% is okay. This is unjustifiable.

3. You have created a Catch-22 situation for local residents, in that you have a process which is determined by whether you receive objections yet deny residents the information they need to consider whether objections are justified under the Article 4 direction - specifically, withholding the details of where unlicensed HMO's (i.e. the overwhelming majority of HMO's) are located. This is unfair and unreasonable. Whilst Data Protection is cited as the reason, the release of simply the addresses of the unlicensed HMO's and the number of tenants they house would deal with the data protection issue and give residents the information they need to consider an objection.

4. You failed to consider 3. (above) as a significant reason for why there may have been no objections in this specific case. (How can I, or anyone else, consider objecting if I don't know where most of the HMO's in Sydenham are?) You also disregarded the very well-known concerns of residents about the proliferation and impact of HMO's. You

therefore reached the unreasonable and contrary conclusion that there was "no sense of concern."

1.3 I subsequently spoke with Mr Cox on the telephone on 13 January 2017 and agreed to investigate the complaint on the basis of this email, in addition to one other ground of complaint raised initially by Mr Nick Bond in an email to the Council dated 1 January 2017.

1.4 The additional ground of complaint raised by Mr Bond is that a representation made by Leamington Town Council was not taken into account, because it arrived after the Planning Permission was issued. It is alleged that this is because the Town Council was not advised that there would be any difficulty in submitting its representation on 9 December, after its meeting on 8 December. It is suggested that if the Town Council had been made aware that this would have been too late, it would have made arrangements for its representation to have been submitted earlier.

1.5 I also agreed to take into consideration other comments made by Mr Bond in his email of 1 January 2017, which largely support and expand upon the complaint of Mr Cox, particularly in relation to Grounds (1) and (2).

1.6 As part of my investigation, in addition to speaking with the Complainant on the telephone, I held separate meetings with Mr Andrew Jones (WDC Deputy Chief Executive and Monitoring Officer), Mr Gary Fisher (WDC Development Control Manager) and Mrs Tracy Darke (WDC Head of Development Services). I corresponded with Mr Paul Hughes (WDC Private Sector Housing Officer) by email in respect of Ground 3 and spoke with Graham Leach (Democratic Services Manager & Deputy Monitoring Officer), also in respect of Ground 3. The Case Officer is no longer employed by the Council and so it has not been possible for me to speak with him.

1.7 Before dealing with the individual grounds of complaint, it is perhaps helpful to summarise the basis upon which the Council must determine applications for planning permission.

1.8 In dealing with any application for planning permission the Council, as local planning authority, is required to have regard to the provisions of its "Development Plan" so far as

it is material to the application. Further, the determination must be made in accordance with the Development Plan unless “material considerations” indicate otherwise.

1.9 “Material considerations” are matters which relate to development and the use of land. They can include, but are not limited to, matters such as parking, highway safety, noise and loss of light. Examples of considerations that are not usually material to planning include loss of property value or private disputes between neighbours. Importantly, for the purposes of this report, emerging policies in a *draft* local plan are capable of being material considerations.

1.10 Case law has established that a local planning authority must interpret its planning policies correctly, and it must also determine;

(a) whether the individual material policies support or count against the proposed development, or whether the development is consistent or inconsistent with them and;

(b) whether or not the proposed development is in accordance with the development plan as a whole.

1.11 Against that background, I set out my findings and conclusions below in the order in which they appear in Mr Cox’s email.

2. **Ground 1.**

“You failed to follow Council policy (the Article 4 direction) and failed to give due weight to the reasons the Council enacted that policy i.e that HMO’s are inherently problematic and therefore, by definition, not like family homes. This is perverse”.

2.1 Mr Cox’s reference to the “Article 4 Direction” means Article 4 of the General Permitted Development Order 2015 (“the “GPDO”).

2.2 The GPDO is national legislation which effectively grants planning permission for certain forms of development which would otherwise require express planning permission from the Council.

2.3 Article 4 of the GPDO enables the Local Planning Authority (“LPA”) to stipulate that certain classes of development will require express planning permission notwithstanding the permission granted by the GPDO. Effectively, it allows the Council to regain local control over certain forms of development where it is satisfied that it is expedient for it to do so.

2.4 Change of use of a building from use as a single dwelling house to use as a small house in multiple occupation¹ is one of the classes of permitted development granted planning permission by the GPDO². Consequently, such changes of use do not normally require an application to be made to the LPA.

2.5 On 25 March 2011 Warwick District Council made an Article 4 Direction (“the Direction”) in respect of changes of use of single dwelling houses to small houses in multiple occupation. As a consequence of the Direction, such changes of use now require express planning permission from the Council.

2.6 The Direction is not planning policy. Its sole effect is to require that changes of use from dwelling houses to small HMOs are subject to a planning application to the Council. It does not have any impact on how those applications are to be determined. Therefore, to the extent that the complaint is that the Council failed to follow the Direction “as policy”, it is misconceived.

2.7 However, as Mr Cox clarified on the telephone, at the heart of this ground of complaint is the suggestion that the Council made the Direction because it considered that HMOs are inherently more likely to give rise to adverse impacts such as increased noise, litter and anti-social behaviour than family homes. It is alleged that the grant of the Planning Permission and, more particularly, the Council’s reasons for granting permission in this instance, represents a departure from, and is inconsistent with, the Council’s previously expressed views on the impact of HMOs.

2.8 Put simply, this ground of complaint is that the Council failed to have regard to the views it adopted when making the Direction, i.e. that HMOs are inherently more likely to give rise to adverse effects that harm local amenity than single dwelling houses. Instead, it is

¹ A House in Multiple Occupation with no more than six residents.

² Town and Country Planning (General Permitted Development) (England) Order 2015/596 Schedule 2 Part 3 Class L

suggested that the Council has now adopted a different view, i.e. that HMOs have no adverse impact on amenity beyond that of a family home. The complainant is concerned that this sets a precedent for the way such applications will be dealt with in future.

2.9 In terms of the reasons for making the Direction, the Council's web site states that;

Most HMOs in the District are small shared houses occupied by up to 6 people. They are concentrated in certain parts of Leamington Spa and these concentrations have lead (sic) to issues such as pressures on parking, noise, increased crime and a decline in the more settled population. Whilst the Council accepts that HMOs play an important role in providing low cost housing, particularly for young people, it wishes to ensure that HMOs are more evenly dispersed throughout the town.

2.10 On 26 January 2011 the Council took a report to its Executive Committee, which decided to make the Direction. The report stated that;

A concentration of HMOs can harm residential amenity, particularly by way of increased noise nuisance, anti-social behaviour, incidences of crime and adverse impacts on the physical environment. This is largely due to:

- an imbalance in the mix of the population with higher proportions of young, single people living student lifestyles, and*
- a high proportion of privately rented accommodation with short-term lets where the standards of upkeep of the property are generally lower.*

Research by Officers shows that there is clear evidence of harm to local amenity where student accommodation is concentrated. This research is documented in the report attached as Appendix 1.3.6 It should be noted that an Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority. In the case of Leamington Spa, an Article 4 Direction will enable the authority to prevent existing concentrations from worsening and prevent new concentrations forming in other areas.

(my emphasis)

2.11 The report expresses the Council's concern that concentrations of HMOs may cause cumulative harm and unbalanced communities. It makes clear that the Direction does not prevent new HMOs, but has the effect that they will require planning permission from the Council.

2.12 Turning now to the Officer's Report, in respect of likely harm to amenity, it states;

It is not envisaged that a four bedroom HMO is likely to generate significantly more noise than the existing house. Consequently, it is contended that allowing it to be so used is unlikely to harm the amenities of neighbouring residents.

2.13 The report does not make any reference to the Direction. As it is not planning policy there is no requirement for it to do so. Further, in my view, there is no necessary inconsistency between the conclusion as to harm reached in the Officer's Report, in relation to a proposal for a particular HMO, and the making of the Direction.

2.14 This is because the objective of the Direction is to avoid harmful concentrations of HMOs, which may have cumulative adverse effects. However, it is conceivable that there will be circumstances in which a proposed HMO will not, in fact, cause more harm to local amenity than a dwelling house, or add unacceptably to the cumulative impacts of HMOs in the vicinity. This will depend on the particular facts of the case.

2.15 That is not to say that the conclusions as to the likely harm to amenity in respect of 10 Newgale Walk are correct. This is a planning judgement for the Council on which I am unable to comment. However, as a matter of law, the Council is not bound to conclude that every HMO will give rise to increased harm to local amenity simply because of the making of the Direction.

2.16 Further, the Council is not bound to have regard to the reasoning behind the making of the Direction when determining individual planning applications. That reasoning may not be applicable to specific planning applications submitted after the making of the Direction. Each planning application must be treated on its merits.

2.17 In conclusion on this ground;

- (a) The Direction is not Planning Policy to which the Council must have regard when determining individual planning applications;
- (b) The making of the Direction does not mean that the Council *must* conclude that every change of use from a dwelling house to a small HMO will cause harm to amenity. This is a something that must be determined on the facts pertaining to individual applications;
- (c) there is no necessary inconsistency between the Case Officer's conclusion that this particular HMO would not cause unacceptable harm to amenity and the reasons for making the Direction;
- (d) The complaint on Ground 1 is not upheld.

3. **Ground 2.**

“You have created your own unofficial "policy" which runs counter to Council policy i.e. because there were no objections to this application, you decided to apply your own 'made-up' criteria without any evidence to support them i.e. (a) that an HMO is "little different" to a family home and (b) that an action which breaches the '10% rule' by 50% is okay. This is unjustifiable”.

3.1 The only official policy that the Council has in relation to HMOs is Policy (H6) in the Council's *emerging* Local Plan (“ELP”).

3.2 How much weight is to be attached to policy in an ELP will vary, and will depend on factors such as what stage the plan has reached in the adoption process and the level of objection to the particular policy during the consultation stage.

3.3 The Council's ELP has undergone examination by the Secretary of State in a Public Inquiry and is likely to be adopted before the summer, subject to modifications to be made at the request of the Planning Inspector.

3.4 Consequently, it is accepted by Mrs Darke and Mr Fisher that the HMO Policy in the ELP is uncontentious, and almost certain to form part of the new Local Plan. Therefore, they are both of the view that emerging Policy H6 should be afforded significant weight in the decision making process.

3.5 Policy H6 states that Planning Permission will only be granted for Houses in Multiple Occupation, including student accommodation, where:

- (a) the proportion of dwelling units in multiple occupation (including the proposal) within a 100 metre radius of the application site does not exceed 10% of total dwelling units;*
- (b) the application site is within 400 metres walking distance of a bus stop;*
- (c) the proposal does not result in a non-HMO dwelling being sandwiched between 2HMO's;*
- (d) the proposal does not lead to a continuous frontage of 3 or more HMOs;
and*
- (e) adequate provision is made for the storage of refuse containers whereby the containers are not visible from an area accessible by the general public, and the containers can be moved to the collection point along an external route only*

3.6 The Officer's report acknowledges that criterion (a) would not be met but, at the same time, expresses the view that the application would meet the requirements of the policy. It says;

Policy H6 of the Emerging Local Plan relates to proposals for Houses in Multiple Occupation. It is considered that this proposal will essentially meet the requirements of this policy for the following reasons:-

Whilst slightly more than 10% of the dwelling units within a 100 metre radius of these premises will be in use as an HMO if this application is approved this figure will not be greatly exceeded. In those circumstances the figure will be approximately 15%.....

The proposal is considered to be in accordance with the requirements of.....Policy H6 of the emerging Warwick District Local Plan 2011 – 2029

(my emphasis)

3.7 In fact, given the Council's conclusion that granting the application would result in more than 10% of the properties within a 100m radius of the application premises being in use as HMOs, the application is plainly not in accordance with emerging Policy H6.

3.8 Both Mrs Darke and Mr Fisher agreed that the proposal is not in accordance with emerging Policy H6. They both also confirmed that there is no "unofficial policy" to the effect that HMOs should be treated as "little different to family homes" or that it is "okay" to breach the emerging policy.

3.9 Mr Fisher, the supervising officer who checked and signed off the report, acknowledged that, with the benefit of hindsight, the report should have been drafted so as to make it clear that the application was not in accordance with the emerging policy.

3.10 However, Mr Fisher's view is that the Case Officer was aware of the breach of emerging policy H6, but decided that departure from it was justified by his view that the proposal was unlikely to cause any additional harm to local amenity. Whilst the report should have been clearer as to the breach of emerging Policy H6, Mr Fisher is of the view this is down to poor drafting rather than the Case Officer misdirecting himself as to the meaning of the policy.

3.11 Mrs Darke and Mr Fisher both expressed the view that each case must be treated on its merits and that, whilst Policy H6 will be the starting point for HMO applications, there will be cases where the likely harm of a proposal will mean that it should be refused even though it does not breach emerging policy H6. Equally, they take the view that there will be cases where it is appropriate to grant planning permission even though Policy H6 is breached, either because it can be demonstrated that the proposal would not add to the potential cumulative harm of HMOs in the area, or because any potential harm is outweighed by other material considerations specific to a particular development.

3.12 In my view, it is correct to say that (even when it becomes adopted policy) there is no absolute "10% Rule", in the sense that there may be instances where other material considerations mean that it is appropriate to grant planning permission, even though the development is not strictly in accordance with the policy. For example, it may be either that a particular development is not considered to add to the cumulative impact of HMOs in the area, or that any harm is outweighed by other material considerations specific to the development.

3.13 Having said this, the Council has decided, as a matter of policy, that concentrations of HMOs above 10% in a 100m radius are to be avoided due to the likely cumulative adverse effects of such concentrations and this must be given weight in the decision making process. The explanatory text to emerging policy H6 sheds some light on what these cumulative impacts may be;

One of the main problems for more settled residents living in these areas is the anti-social behaviour in the streets in the early hours of the morning as young people return from the pubs and clubs, often on mid-week mornings. Other issues include noise from neighbouring properties, poor attendance to waste storage, increased burglaries, increased street parking and poor property maintenance

3.14 This being the case, it would have helped local residents to understand the Officer's decision had his report contained a fuller explanation of why he considered that this particular HMO would not add to these cumulative impacts and should be treated as an exception to the policy. This could, perhaps, have been done through an analysis of reported issues in the vicinity of the proposal, the way in which the HMO was to be run, or proposed mitigation or control measures.

3.15 For example, whilst the officer concludes that "amenities" would not be harmed, the only specific type of harm to amenity directly addressed in the report (save for parking) is the potential harm arising from noise, in respect of which the report says only that "it is not envisaged" that the proposal will generate significantly more noise than the existing use as a family home. No further explanation is given for this conclusion, and what it does not appear to address is the potential cumulative impacts (anticipated by emerging Policy H6) of a 15% concentration of HMOs, in addition to the potential impact of this development taken in isolation.

3.16 If the Council has accepted that concentrations above the level of 10% in a 100m radius should normally be refused due to their cumulative adverse impact, then, in my view, the reasons for allowing that concentration to be exceeded in this case should, ideally, have been subject to fuller explanation and justification.

3.17 In summary, planning applications must be determined in accordance with the local plan unless material considerations indicate otherwise. Consequently, (once H6 becomes adopted policy) the correct approach would seem to be;

(a) for the Council to decide whether or not the application is in accordance with Policy H6 and the development plan as a whole and;

(b) if it finds that it is not in accordance with the development plan, then it must it then go on to consider other material considerations and decide whether they are sufficient to justify a departure from the development plan in all the circumstances of the case. If they are not, then the application should be determined in accordance with the development plan and refused.

3.18 In this case, in terms of (a), it is accepted that the application was not in accordance with Policy H6. The Officer's Report ought to have made this clear and, given the weight to be attributed to the emerging policy, gone on to provide a clearer and more detailed justification for departing from it.

3.19 In conclusion on this Ground;

(a) The Officers Report is incorrect in stating that the application is in accordance with emerging Policy H6;

(b) It was open to the Case Officer to legitimately conclude that other material considerations justified a departure from emerging policy H6 in the particular circumstances of the application;

(c) However, the officer's reasons for departing from emerging Policy H6 should have been fuller and clearer. In particular, given that the HMO would have resulted in a concentration of HMOs in excess of that set out in emerging Policy H6, the Report should have explained why it was considered unlikely that this HMO would add to the cumulative impact of the HMOs already in the vicinity;

(d) There is no evidence to suggest that the officer was of the view that it would always be "okay" to exceed the "10% Rule" or that the Council has an unofficial policy to the effect that HMOs have similar impacts to family homes;

(e) The complaint on Ground 2 is upheld to the extent that the Officer's Report states that the application would comply with emerging Policy H6 when in fact it would not, and on the basis that the justification for departing from the emerging policy should have been expressed clearly and in more detail.

4. **Ground 3**

“You have created a Catch-22 situation for local residents, in that you have a process which is determined by whether you receive objections yet deny residents the information they need to consider whether objections are justified under the Article 4 direction - specifically, withholding the details of where unlicensed HMO's (i.e. the overwhelming majority of HMO's) are located. This is unfair and unreasonable. Whilst Data Protection is cited as the reason, the release of simply the addresses of the unlicensed HMO's and the number of tenants they house would deal with the data protection issue and give residents the information they need to consider an objection.”

4.1 During our telephone discussion, Mr Cox confirmed that he has not made a formal request for disclosure of information held by the Council in respect of HMOs. However, he has been made aware that Warwick District Councillors have been given a list of unlicensed HMOs in the District. When asked to provide the list to members of the public, Councillors are said to have advised that it cannot be disclosed due to restrictions in the Data Protection Act 1998.

4.2 Mr Cox confirmed that he has no interest in the disclosure of particular landlords' or tenants' details. He and other local residents would simply like to be able to ascertain how many unlicensed HMOs there are in a particular area, for the purposes of determining whether planning applications are in accordance with emerging Policy H6.

4.3 In respect of this ground of complaint, I spoke with Paul Hughes (WDC Private Sector Housing Officer) and Graham Leach (WDC Committee Services Officer).

4.4 Mr Hughes confirmed that there is no duty on landlords of non-licensable HMOs to notify the local authority of their existence. He stated that the Council has had many requests from Councillors and the general public to disclose details of all HMOs. However, the internal advice from Mr Leach (given on the basis of the Council's legal advice) was not to disclose the list of unlicensed HMOs due to the fact that it contained personal data, such that disclosure would breach restrictions in the Data Protection Act.

4.5 However, it was agreed that some lists and maps specific to certain electoral wards could be provided to Councillors of those wards, on the understanding that they did not make the information public.

4.6 Mr Leach has confirmed that the effect of the advice is that it may be possible to disclose the list whilst redacting personal data.

4.7 Mrs Darke acknowledges that it would be helpful if residents could be provided with some information on the number of HMOs within the vicinity of a proposed development. She confirmed that it is the Council's intention to publish information in relation to whether the "10%" element of Policy H6 would be infringed at an early stage in the application process, in order to give the public an opportunity to comment.

4.8 I accept that it won't be possible for the Council to disclose a list of unlicensed HMOs which the Council believe to be in a particular area where that list contains personal data. However, where such information is held, it may be possible for the Council to provide a redacted list containing only the locations of HMOs in a particular vicinity.

4.9 In conclusion on this ground;

- (a) the decision to refuse to disclose the information held as to the locations of unlicensed HMOs was based upon reasonable concerns about the protection of personal data;
- (b) however, it appears that there may be ways of assisting residents in obtaining sufficient information for them to be in a position to make fully informed representations on planning applications. This may be possible either through the planning process (as suggested by Mrs Darke) or by the disclosure, in suitably redacted form, of information held by the Council as to the location of unlicensed HMOs.
- (c) This ground of complaint is not upheld, but the disclosure of the location of unlicensed HMOs should be subject to a review by the Council with the objective of providing local residents with the required information where it is legally possible to do so.

5. **Ground 4**

“You failed to consider 3. (above) as a significant reason for why there may have been no objections in this specific case. (How can I, or anyone else, consider objecting if I don't know where most of the HMO's in Sydenham are?) You also disregarded the very well-known concerns of residents about the proliferation and impact of HMO's. You therefore reached the unreasonable and contrary conclusion that there was "no sense of concern."

5.1 The Officer's Report makes no reference to public objections to the Application, save for saying “None” under the heading of “Public Response”. The Case Officer makes no comment in relation to the existence, or non-existence, of a “general sense of concern” about HMOs. As I have been unable to speak to the Case Officer, it is not possible for me to draw a conclusion as to what weight, if any, he attached to the lack of public response to the application.

5.2 Mrs Darke, in an email to the complainant dated 18 December 2016, advised that;

We often find that on HMO applications where there is significant concern, we are usually inundated with objections very early on in the process (and on some occasions even before the application hits our desk). We had no sense of concern on this particular application, and so the officer made his assessment balancing it against the policy and the lack of objection at that time.

5.3 Mr Cox is of the view that the Council should have considered the fact that the list was unavailable to local residents as an explanation for the seeming lack of concern about the application.

5.4 However, there is no suggestion that the planning application was not publicised in accordance with the statutory requirements, and the Case Officer is entitled to rely on the responses to the statutory consultation without being obliged to investigate the reasons for a lack of responses.

5.5 I can draw no conclusion in respect of whether there would have been more representations had it been widely known that it would have resulted in a breach of emerging policy H6.

5.6 The other element to this ground of complaint is that the Council disregarded the “well known concerns of residents about the proliferation of HMOs”.

5.7 Mrs Darke has stated that her view that there was “no general sense of concern” was expressed against the background of other applications for HMOs where there have been a significant number of objections, and that it was not intended to dismiss general concerns over the number of HMOs in the District. However, her view is that this general concern is not a matter to be dealt with at the level of individual applications, but at policy level.

5.8 I agree with this view, to the extent that generally expressed concerns cannot be treated as a “standing objection” to each individual application for an HMO. Officers’ Reports on specific planning applications are not all required to refer to the fact that unspecified general concerns have been expressed about the number of HMOs in the District.

5.9 Rather, the Council’s response to the “sense of general concern” has been the introduction of emerging policy H6 and the making of the Direction. This has resulted in changes of use from single dwelling houses to small HMOs falling under the control of the Council, and means that those applications must take account of the cumulative impact of HMOs in the area.

5.10 In conclusion on Ground 4;

- (a) The Case Officer was not obliged to go behind the reasons for the lack of objections to the applications provided that the statutory consultation had taken place;
- (b) A “general level of concern” about the number of HMOs in the District, without further specificity, is not something that had to be expressly referred to in the Case Officer’s report;
- (c) This Ground of complaint is not upheld.

6. **Ground 5**

6.1 In summary, this ground of complaint is that the Town Council objection was not taken into account because it arrived at the Council after the decision was made. The Town

Council has previously advised the Case Officer that it would not be in a position to respond to the complaint until 9 December, and had not been advised that this would present any difficulties. It is suggested that a response should have been sent to the Town Council to enable it to make arrangements to submit its response sooner, or alternatively that the decision should have been delayed until the response had been considered.

6.2 On 16 November 2016 an email was sent by Katherine Geddes, Democratic Support Officer at Leamington Spa Town Council to the Case Officer. The email states;

"Dear Ian

The above application arrived too late to be included for discussion at the Planning Meeting due on Wednesday 16 November. It will now be discussed on Thursday 8 December 2016.

I should be grateful if you would note your records accordingly."

6.3 No reply was sent to this email, and Mr Fisher and Mrs Darke confirmed that the Case Officer sent his report to Mr Fisher for checking on 6 December. The Decision was subsequently published on 9 December without further reference to the Town Council.

6.4 On 12 December, the Town Council sent a further email to the Case Officer ;

"Good morning Ian,

I was very surprised to see the town council's comments had not been shown on this decision. I informed you as below that the town council could not consider the application until the 8th December as it arrived too late for the November meeting. I entered a "no objection subject to not breaking the 10% rule" on Friday 9th December. This is not showing on the portal despite me being able to enter comments on Friday.

You did not inform me that submitting comments after the 6th December would be a problem – if you had, I would have tried to contact my members about it urgently. Please let me know that the 10% rule has not been breached here."

6.5 The Council has statutory targets for the time period in which it determines planning applications, and it must not determine the application until the statutory consultation period has expired. However, the Council is not obliged to contact consultees to chase

them should no response be received within the statutory period. It is the responsibility of the Town Council to ensure that it has internal arrangements in place to ensure that it can respond to planning applications in a timely manner.

6.6 However, on this occasion, the Town Council explicitly advised the Case Officer that it was not in a position to respond by the 9 December deadline. In these circumstances, it was reasonable for it to expect a response from the Case Officer in the event that he intended to publish the decision before then. Mrs Darke and Mr Fisher agreed that a response should have been sent to the Town Council before the decision was issued.

6.7 In conclusion on Ground 5;

- (a) The Case Officer should have responded to the Town Council to advise them that they would need to submit their representation sooner than 9 December. Alternatively, the Council should have delayed issuing the decision until it had received the Town Council's response;
- (b) This ground of complaint is upheld to the extent that a reply should have been sent to Ms Geddes' email of 12 December.

7. Summary

7.1 The complaint is upheld in part.

7.2 Ground 2 of the complaint is upheld to the extent set out above.

7.3 Ground 5 of the complaint is upheld for the reasons set out above.

7.4 Grounds (1), (3) and (4) are not upheld for the reasons set out above.

8. Recommendations

8.1 Mr Cox has confirmed that he is not directly affected by the grant of Planning Permission and does not seek financial recompense.

8.2 Ideally, Mr Cox is of the view that the Planning Permission should be revoked, but he understands that this may not be possible in the circumstances.

8.3 Mr Cox is concerned that the Planning Permission will set a precedent for the way that similar applications are dealt with in future.

8.4 I cannot recommend revocation of the planning permission, as it involves an assessment of the planning merits of the development and this is a matter for the Council. It should be noted that, whilst my report is critical of the way in which parts of the report were drafted, this does not necessarily mean that planning permission should not have been granted, or should be revoked. In this respect, the Council has expressed the view that, notwithstanding the drafting of the Officer's Report, planning permission is likely to have been granted for the development. It should also be noted that, if the change of use has already occurred, then the planning permission cannot be revoked.

8.5 However, I recommend that;

8.5.1 within 3 months, the Council provides internal guidance or training to planning officers in respect of how the application of Policy H6 is addressed in Officer's Reports;

8.5.2 within 2 months, the Council undertakes a review in respect of how it can provide local residents with meaningful information on the number of unlicensed HMOs in the vicinity of proposed developments, and advises the Complainant of the outcome of this review;

8.5.3 within 2 months, the Council reviews its internal procedures to ensure effective communication with Parish and Town Councils where they have advised that they cannot comply with the deadline for responses to consultations. I would make clear that this does not mean that the Council are obliged to chase Parish and Town Councils where no communication has been received from them, or that the Council is under an obligation to extend the deadline for responses when asked to do so.

John Gregory
Senior Solicitor
27 January 2017

KENILWORTH TOWN COUNCIL RESPONSE

GRI 17 Jan 17

HMOs in Kenilworth

1. Whilst Kenilworth currently has few HMOs when compared with Leamington Spa, there are about 30-40 at least in the town already. Many, but not all, will be occupied by students from the University of Warwick. There are also approved plans to build student accommodation in Talisman Square and for two small hotels to convert to student accommodation.
2. Currently these students have no obvious presence and presumably make a positive contribution to the economy and community of the town in the same way as any other young resident. Because of the cost of accommodation and the style of social facilities in Kenilworth many are postgraduate students and this may be a reason why they are currently absorbed successfully.
3. There are two possible issues to do with the future development of HMOs:
 - a. Proliferation
 - b. Rubbish
4. Any attempt to control, for whatever reason, HMOs in Leamington could result in their displacement to alternative locations such as Kenilworth, and the town obviously has no wish to inherit the issues which caused the need for restrictions.
5. It is necessary therefore to anticipate any controls so that the entire District is covered. This cannot be done under the present system of Article 4 Directives as that requires clear evidence of the problem existing to justify any action. In other words the stable door may only be closed after the horse has bolted.
6. A first step should be to carefully monitor the number of HMOs everywhere and for that purpose it is unfortunate that only the larger ones require planning permission and even licencing.
7. Rubbish is already a problem at some HMOs in Kenilworth where occupants seem quite unable to present and retrieve bins or even present black bags on the appropriate days with consequent impact on the street scene. It is unfortunate that landlords cannot be made more liable for such matters.

ROYAL LEAMINGTON SPA TOWN COUNCIL RESPONSE**OBSERVATIONS TO TASK AND FINISH GROUP ON HOUSES IN MULTIPLE OCCUPATION (HMO'S)****1. PREAMBLE**

1.1 We are pleased to give our views to the Task and Finish Group of Warwick District Council.

1.2 The views that are expressed in this response are not motivated by any "anti-student" feeling. On the contrary, the Town Council recognises that our student population brings significant economic advantages and many students as individuals often contribute to a host of voluntary activities while they are resident here.

1.3 The Town Council Planning Committee considers all applications for HIMO's in some detail. We have recognised for some time that HIMO's, either for students or for professionals, are having a dramatic effect on the housing/accommodation available for local families and the cohesion of local communities. In addition, the Town Council has recently considered this issue at a full meeting in response to a letter from a resident, asking for the Council to consider measures to limit the numbers of new HIMO's. Through the preparation of our Neighbourhood Plan initial feedback from the public has indicated that issues connected with HIMO's are one of the predominant concerns of residents in South Leamington

1.4 We are pleased that the Town Council Planning Committee will now have sight of all HIMO's registered within the radius of the property. Recent Planning Committee meetings have been frustrated by the lack of information. Additionally, within the process of consultation on planning applications, the Town Council would wish to emphasise the importance of minimising the delay between validation of an application by the Planning Department and consultation with statutory consultees in relation to applications for new HIMO's or change of use.

1.5 This document aims to provide constructive suggestions to enable the Task and Finish Group to come to conclusions that are as effective as possible and provide an enduring solution to this critical issue. Three principal areas for focus are identified:-

- Creating a Coordinated Student Accommodation Strategy
- Improving and ensuring proper implementation of the Current Policy for HIMO's and Student Accommodation
- Additional licencing arrangements

2. CREATING A CO-ORDINATED STUDENT ACCOMMODATION STRATEGY

2.1 We are clear that there is a need to focus on HIMO's specifically for students, as this particular form of student accommodation has been shown to have a significant impact on the Town. We wish to work with Warwick District Council and Warwick University to develop a Student Accommodation Strategy for Leamington as per the resolution of the Town Council of 9th January 2017.

2.2 The statistics below demonstrate the ever rising impact of student properties:

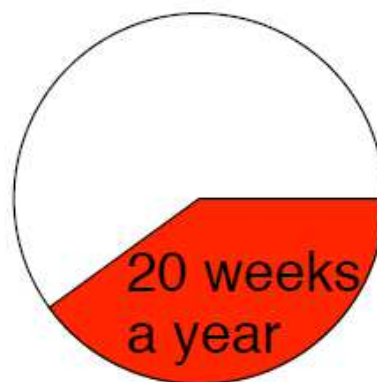
- The number of HIMO's in Warwick District has increased by 170 (15%) over the last seven years.
- The number of 'bed-spaces' has increased by 2,135 (48%) in this period.
- 413 of these are in large student blocks, and the average HIMO has 31% more people in than 7 years ago
- 71% of the HIMO's and 70% of the bed spaces are in South Leamington.

(source Warwick District Council)

2.3 Leamington is not alone in identifying the increasing number of HIMO's as an issue – there is much evidence that there is a problem in all towns and cities that are associated with a local University.

2.4 Inspectors have acknowledged "Excessive concentration of student accommodation is harmful to the well-being of local community" - Appeals Casebook Bulletin, December 2016.

2.5 Action for Balanced Communities, (ABC), an initiative in the City of Bristol, has relevant information on the impact of student populations on existing neighbourhoods:



Term-time impacts

- **Disturbed nights**
- **Overcrowded & littered streets**
- **Stress on council services**

Vacation impacts

- **Empty homes**
- **Letting boards & dumped rubbish**
- **Out-of-season economy**

Any strategy should also include consideration of students from Coventry University, and Warwickshire College.

2.6 We do not intend to reproduce all the documentation and research that is available on the damaging effects of increases in HIMO's, or the effect on towns of 'studentification' as we know members of this Group have access to it. Nor will we forward all the correspondence from residents that we receive, as we understand that members of the Task and Finish Group will already be acquainted with it. However should the Group wish to see this evidence, the Town Clerk will willingly submit it.

2.7 We understand that officers from WDC meet with officers from Warwick University on a regular basis. Indeed, we were invited to the Chancellor's Commission last year, where we confirmed our concern at the lack of consultation on student housing in Leamington. We believe that Councillors from Leamington, and particularly South Leamington, should be party to these meetings.

2.8 This strategy could include a coordinated long term plan (approximately 10 years) for the number of students present in the District based on the planned growth of local academic institutions and scenario projections for where these students would reside. This will enable the local authorities to identify potential issues far in advance and implement mitigation strategies (such as introducing new licencing arrangements) prior to local communities being further impacted.

3. THE CURRENT POLICY FOR HIMOS AND STUDENT ACCOMMODATION AND IMPLEMENTATION

3.1 This policy was most recently updated in 2013. It followed the Article 4 Direction adopted in April 2012, which extended the requirement for all HIMO's to apply for Planning permission, to enable there to be a check on the local density of HIMO's.

3.2 We are concerned that the original policy was written before the development of large purpose built blocks of accommodation. We now have at least three finished properties (Station House, Wise Terrace/Tachbrook Road, Union Court); Alumno is due to be completed in August, and more are being considered. The current policy does not address the issue of large blocks of student accommodation, which effectively turn parts of our town into a mini-campus.

3.3 In any work on student accommodation policy, we will be strongly urging that all student accommodation housing eight or more people must be required to have an on-site designated person to manage the property.

3.4 We therefore suggest that the policy is inadequate in its current form and for the period covered by the Local Plan; for effective implementation it should be extended to all other towns in the District.

3.5 Recent concerns also include the way in which the HIMO policy is applied. It is not clear, to either residents or the Town Council, how the policy is being operated, particularly with reference to the definition of residential/mixed housing, and the need to demonstrate 'harm'. It seems to us that this inadequate clarity and application of the policy demonstrates a failure to appreciate the effect this is having on settled residents. This is causing consternation expressed in letters to both local and national newspapers.

3.6 The ABC study quoted above, suggests that planning officers and committees need stronger policies to contain an aggressive student housing market. They quote Loughborough, Nottingham and Leeds as cities that have introduced more robust policies, and operated them for years.

3.7 Stronger measures could include acknowledgement of a saturation point, where no more HIMO's will be considered; a moratorium on any more purpose built student block accommodation until a strategy has been agreed; and ending any exceptions to the 10% rule, especially exemption 3 (ii) – (applied in a mixed use area).

3.8 Additionally, the 10% rule is not taking into account unregistered HIMO's. These properties, together with those that are the subject of retrospective planning permission and have been *de facto* HIMO's for several years, make the mapping of HIMO distribution and the application of the rule inaccurate.

3.9 We strongly urge that the policy is operated to deliver the intention/aims stated:

1.1 *"The main aim of the policy is to control existing concentrations of HMOs, including student accommodation, and to ensure that other such concentrations do not occur elsewhere. Existing concentrations in parts of south Leamington have led to a significant loss of amenity for more settled residents."*

This means that exceptions *must be exceptions*, such that no applicants can quote precedent.

3.10 It also requires that in the event of an appeal, Officers produce the most robust evidence and case for the original decision. We believe that Inspectors in planning appeals do consider the effect of decisions on communities and neighbourhoods, if the appropriate information is supplied and policies are applied consistently.

3.11 The Town Council has reason to believe that WDC is now considering enforcement measures when landlords do not operate within their licence requirements. We welcome this, particularly in relation to refuse storage and noise. There are HMOs that are properly managed and where neighbours have no complaints. Many complaints regarding HMOs are matters of compliance with licence conditions therefore regular and effective inspection of these premises is essential.

3.12 We would like to be reassured that all departments of WDC will be informed of their responsibilities in the HMO policy. We believe that Planning, Licensing, Private Sector Housing, ASB, Waste Management and Environmental Health, must act in an appropriately co-ordinated manner.

4. ADDITIONAL LICENSING ARRANGEMENTS

4.1 We need to ensure that we are up to speed with strategies to prevent a worsening of the situation. Many cities and towns are already taking steps, e.g. Cardiff, Brighton, and Exeter.

4.2 We most strongly suggest that the Task and Finish Group give due consideration to the viability of an additional Licensing Scheme for South Leamington. For example such a scheme operates in two wards of Cardiff. This Scheme extends the scope of licensing of HMOs to rented property with 3 or more occupiers, which form 2 or more households, regardless of the number of storeys.

**Royal Leamington Spa Town Council
February 2017**

Warwick Town Council Response

1. Following a discussion, it was resolved to support the District Council in their investigation. We look forward to seeing the results and recommendations. The Town Council would like to see Article 4 extending across the whole of the District.

Regards

Jayne Topham

Town Clerk
Warwick Town Council
The Court House
2 Jury Street
Warwick

Whitnash Town Council Response

23rd January 2017

Houses in Multiple Occupation

Whitnash Town Council would like to express our dismay at the short time afforded to Town Councils, i.e. 6 days to review Houses in Multiple Occupation within our town; and the lack of detail and reference to work undertaken by the Task and Finish Group, to enable us to comment.

The views of Whitnash Town Council Members are:

1. Councils need to lobby government to make landlords pay tax to pay for the services provided.
2. The rule restricting how many houses in a road can be Houses in Multiple Occupation should be restricted if there is evidence of problems.
3. All houses with three or more unrelated occupiers should be included within the Article 4 declaration and be subject to licensing.
4. Warwick District Council should maintain a spreadsheet, accessible by Councillors, of addresses, landlord details, and contact telephone numbers etc. so that they can be identified and contacted to resolve problems with their tenants.
5. Houses in Multiple Occupation for student accommodation should make business rates contributions towards local authority services.
6. Houses in Multiple Occupation tend to mean more cars, more waste, and means another house that a family who would be keen to buy being unavailable to buy in the town.
7. More cars, means parking on the roads / kerbs etc., and more obstruction of both the roads and the footpaths. On cul-de-sac roads, this can mean permanent residents struggling to find somewhere to park.
8. More waste / rubbish, means more strain on recycling and rubbish collections, and more bins and bags being left outside. This could attract vermin.
9. It may be contentious, but it has been known that many landlords do not look after the properties, in terms of maintenance / appearance and general decor, in a manner that would be reasonable to do. This is evident in all cities London, Coventry and even in Whitnash over

the years. The tenants have no interest in maintaining the appearance of the property or gardens either, and they end up looking untidy and unloved. Add to this the multitude of cars and general rubbish generated and you are into the realms of the property bringing down the tone of the area. This in turn puts people off buying houses in that area, apart from investors, and you then get more and more rented housing and Houses in Multiple Occupation. The downward spiral then begins!!! This is ultimately un-neighbourly, not just on behalf of the tenants (who may actually keep the place in good order, but then again perhaps not), but also the (absent) landlords.

10. With Warwick District Council approving various student Houses in Multiple Occupation developments in Leamington Old Town, residents there are continuously highlighting, in the press, the issues which they face, but they seem to be largely ignored. However, in Whitnash, I think we are talking about houses being converted to house more people than there are bedrooms for, and this restricts supply of homes to buy to live in.

11. How will Warwick District Council manage and identify the unregistered Houses in Multiple Occupation and our concerns about parking and waste collection, especially student accommodations at end of terms?

12. Houses in Multiple Occupation do not pay rates and this puts more pressure on refuse collections and parking with no increase in rates revenue as these houses are being run as a business. It is unfair that landlords are running a business and do not pay rates!

13. Whitnash currently has approximately 11 Houses in Multiple Occupation that we are aware of and think this should be the maximum allowed.

Hopefully the Task and Finish Working Group will take on board the above comments in producing a Policy.

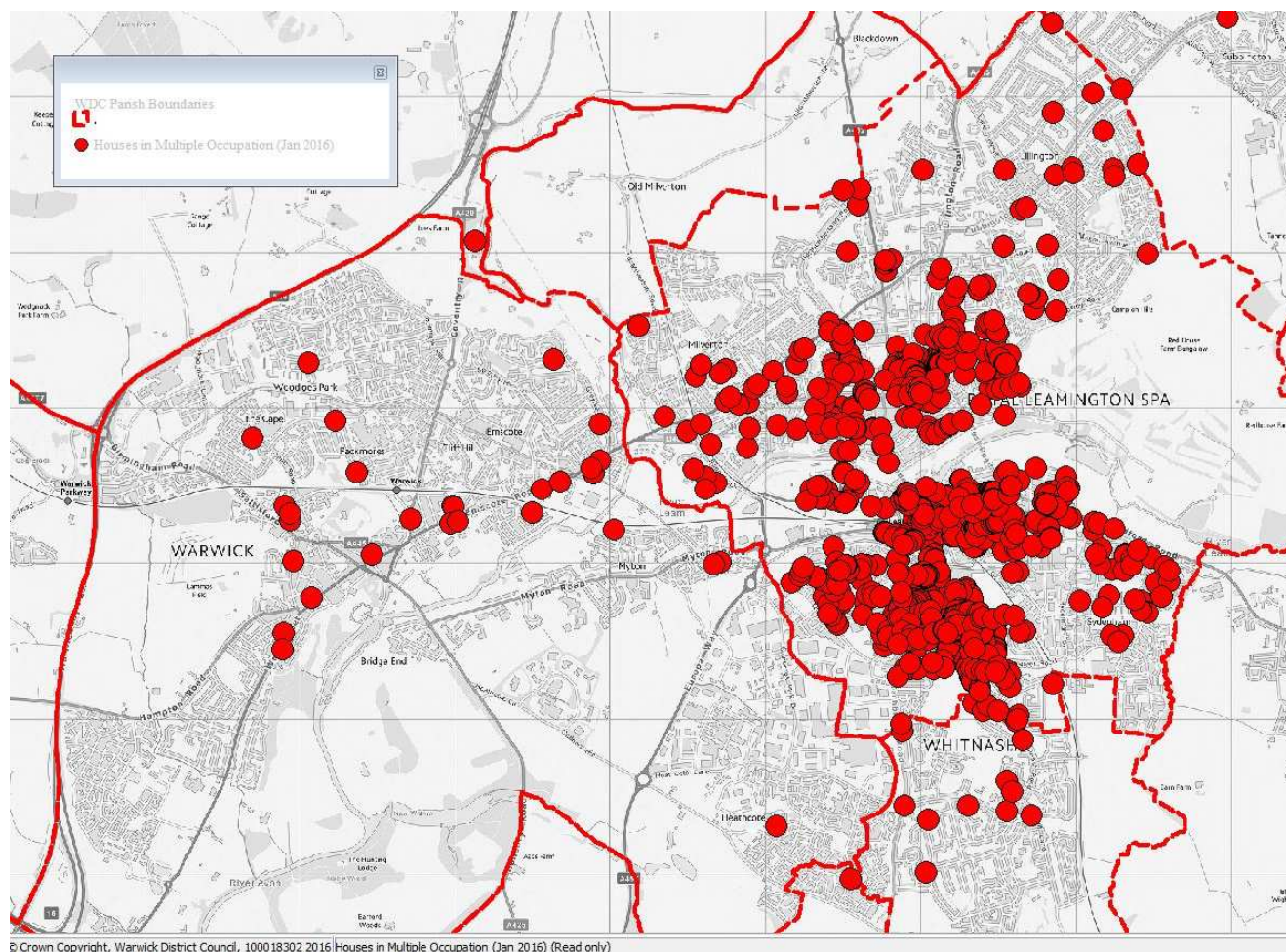
The Policy should ensure that Warwick District Council's Planning Department Officers do not have the authority to approve all planning applications for Homes in Multiple Occupation as they have done with housing developments in the District.

Yours sincerely

Jenny Mason

TOWN CLERK

Maps of HMOs in Warwick District



Warwick University Statement

- The University of Warwick is a significant contributor to employment and the economy in South Warwickshire. As one of the world's top 100 universities it remains highly attractive to staff, students, and commercial partners. Despite its continued success and growth the University is not seeking to significantly expand the number of students resident in the Warwick District Council area.

The University has in fact made it a major strategic objective to invest in the creation of new accommodation on its campus in order to cater for any future student demand. Around £90 million pounds will be invested on new accommodation on campus and the first 270 new rooms in this plan will be ready for occupation in October this year (2017). A further scheme consisting of circa 700 beds on campus is ready to be submitted for planning approval and if approved would be due to become available over the period 2018 -2020.

- To ensure that we cater for anticipated demand for our 2017 intake, we are also reserving 477 additional rooms in already existing bespoke student accommodation in Coventry.
- The University also wishes to work with Warwick District Council and local residents in order to build and sustain a consistent community focused approach student housing in the District. However one challenge to that work is the fact that only a minority of properties housing students in the District are part of the University's own managed student accommodation service, Warwick Accommodation.
- The University will therefore shortly be embarking on an advertising campaign which will be directed specifically at private landlords in the District who operate already existing student HMO (Houses of Multiple Occupancy) to encourage them to become part of the University's managed student accommodation service, and we would very much welcome the District Council's support in encouraging already existing student HMO Private Landlords to join that scheme.
- The scheme gives more certainty and peace of mind to both landlords and local residents. Landlords have a guaranteed income with less worry about their properties and neighbours of those properties would welcome the fact that University will be more empowered to deal with any issues that may arise with the students tenants in those properties. We hope that many current private landlords of student HMO will see the advertising campaign and engage with the University possibly through our accommodation office in Leamington Spa.
- The University is committed to working collaboratively in a range of ways with the Council for the benefit of the communities, the landlords and the tenant students. We believe that through our actively managed accommodation service the University can exert greater influence on issues such as: nuisance and long term over-crowding. We also continue to support and fund the Street Marshall scheme in Leamington with the Council which aims to protect students and encourage more responsible student behaviour late at night.
- In addition to the above, the University remains happy to discuss any proposals that might help shape the future of student accommodation in the District and which would help reduce the impact on existing residential areas, especially South Leamington.

Officer	Ref	Date	Category
BKG Baljinder Gill	258617	21/12/2015	HIMO - Licence Enquiry
BKG Baljinder Gill	260843	12/01/2016	HIMO - HHSRS/conditions complaint
BKG Baljinder Gill	261639	20/01/2016	HIMO - General Enquiry/Advice
BKG Baljinder Gill	265937	29/02/2016	HIMO - General Enquiry/Advice
BKG Baljinder Gill	275826	23/06/2016	HIMO - General Enquiry/Advice
BKG Baljinder Gill	280249	08/09/2016	HIMO - HHSRS/conditions complaint
BKG Baljinder Gill	281076	19/09/2016	HIMO - HHSRS/conditions complaint
BKG Baljinder Gill	281856	05/10/2016	HIMO - General Enquiry/Advice
PRH Paul Hughes	260570	08/01/2016	HIMO - General Enquiry/Advice
PRH Paul Hughes	260692	11/01/2016	HIMO - HHSRS/conditions complaint
PRH Paul Hughes	261770	21/01/2016	HIMO - General Enquiry/Advice
PRH Paul Hughes	263132	03/02/2016	HIMO - HHSRS/conditions complaint
PRH Paul Hughes	264260	16/02/2016	HIMO - HHSRS/conditions complaint
PRH Paul Hughes	266346	03/03/2016	HIMO - General Enquiry/Advice
PRH Paul Hughes	267862	03/03/2016	HIMO - HHSRS/conditions complaint
PRH Paul Hughes	270689	09/03/2016	HIMO - HHSRS/conditions complaint
PRH Paul Hughes	271240	21/04/2016	HIMO - General Enquiry/Advice
PRH Paul Hughes	272157	04/05/2016	HIMO - HHSRS/conditions complaint
PRH Paul Hughes	272523	10/05/2016	HIMO - General Enquiry/Advice
PRH Paul Hughes	277850	28/07/2016	HIMO - General Enquiry/Advice
PRH Paul Hughes	279420	23/08/2016	HIMO - General Enquiry/Advice
PRH Paul Hughes	283748	08/11/2016	HIMO - Licence Enquiry
RAF Rebecca Frazer	261053	13/01/2016	HIMO - General Enquiry/Advice
RAF Rebecca Frazer	275841	23/06/2016	HIMO - General Enquiry/Advice
RAF Rebecca Frazer	276613	28/06/2016	HIMO - General Enquiry/Advice
RAF Rebecca Frazer	278027	18/07/2016	HIMO – refuse/curtilage issues
RAF Rebecca Frazer	282712	19/10/2016	HIMO - General Enquiry/Advice
RBR Rita Braham	257734	07/12/2015	HIMO - HHSRS/conditions complaint
RBR Rita Braham	258133	15/12/2015	HIMO - HHSRS/conditions complaint
RBR Rita Braham	258378	18/12/2015	HIMO - HHSRS/conditions complaint
RBR Rita Braham	263104	04/02/2016	HIMO - HHSRS/conditions complaint
RBR Rita Braham	263484	08/02/2016	HIMO - HHSRS/conditions complaint
RBR Rita Braham	264269	16/02/2016	HIMO - HHSRS/conditions complaint
RBR Rita Braham	265871	25/02/2016	HIMO - General Enquiry/Advice
RBR Rita Braham	265875	25/02/2016	HIMO - General Enquiry/Advice
RWA Rachel Watton	267143	10/03/2016	HIMO - HHSRS/conditions complaint
RWA Rachel Watton	271339	22/04/2016	HIMO - General Enquiry/Advice
RWA Rachel Watton	276925	03/06/2016	HIMO - General Enquiry/Advice
RWA Rachel Watton	275002	10/06/2016	HIMO - HHSRS/conditions complaint
RWA Rachel Watton	280901	19/09/2016	HIMO - HHSRS/conditions complaint
RWA Rachel Watton	282522	17/10/2016	HIMO - General Enquiry/Advice
RWA Rachel Watton	283231	28/10/2016	HIMO – refuse/curtilage issues
VAL Verity Almond	280253	08/09/2016	HIMO - HHSRS/conditions complaint
VAL Verity Almond	282273	12/10/2016	HIMO - HHSRS/conditions complaint
VAL Verity Almond	283507	03/11/2016	HIMO – refuse/curtilage issues

Status	Property	Enq
N	CV31 1AW	L
N	CV31 1JA	T
N	CV8 1HH	O
N	CV31 2ER	T
N	CV31 2NR	L
N	CV32 5SG	T
N	CV32 4QY	T
N	CV8 1QB	L
N	N/A	T
N	CV31 1LB	O
N		L
N	CV32 5EH	O
N	CV31 2JJ	N
N	CV34 6BG	O
N	CV31 2AL	O
N	CV31 3AY	O
N	CV31 1NN	L
N	CV32 5EH	T
N	CV31 3QF	N
N	CV31 1NE	N
N	CV31 1EH	L
N	CV34 6AN	O
N	CV31 1LX	L
N	CV31 2NR	L
N	CV32 5EZ	L
N	CV31 1LX	N
N	CV31 2EJ	L
N	CV31 1LP	N
N	CV31 1EF	T
N	CV32 5LD	T
N	CV32 6DJ	T
N	CV31 1EH	T
N	CV31 1JP	T
N	CV31 1LB	N
N	CV31 1LB	N
N	CV8 1JN	L
N	CV32 6JG	T
N	CV32 4HN	L
N	CV31 3HY	N
N	CV31 3EB	T
N	CV32 5QL	L
N	CV31 1LX	N
N	CV31 2PG	T
N	CV31 2NW	T
N		N

Details

identifying a licensable HMO
Rising damp in bedroom, damaged mortar to external wall
possible licensable HMO
advice on HMO's
Proposed 3 bed HMO, in process of applying for planning permission
Poor sanitary facilities at hostel
leak, damp & mould
New HMO Advice
HMO definition enquiry, most in relation to 'main or only residence'
flat being sub-divided,? causing noise nuisance
advice on creating an hmo
fire occurred in the kitchen of student HMO (fridge freezer)
Possible HMO
Possible licensable HMO, fire at property
HMO Inspection
6 bed hmo
advice on cou to hmo
leaks in flat
Complaint of new HMO being set up without PP
possible conversion to hmo
new HMO, would like inspection for mortgage
possible licensable HMO
HMO enquiry
Information on Article 4
HMO advice, landlord looking to purchase a property
Refuse issues
HMO advice
brick pillars at front entrance are unsecure and may present hazard
Moved in rented room, LL hid broken window/being difficult re. fixing
Damp problems as well as issues with other fixtures and fittings
Broken water pipe outside and fungus damp and flaking walls.
Sect 257 HMO, Mould and damp, cooker tripping electrics
Landlord doing building works with 2 tenants in property
Possible HMO/subletting/overcrowding
Possible HMO/Overcrowding/subletting
communal corridor being used for storage and clothes drying
query regarding suitability of drinking water
hmo query is licence needed ?
Garden overgrown, brambles, & rubbish
Small HMO, concerns re boiler. No gas safety cert provided
New 5 bed HMO, visit with building control
No adequate refuse facilities within curtilage
Broken windows, no article 4 permission, poor housing standards
No gas supply for a week, meter condemned by engineer
unacceptable condition of exterior HMO

[illegible]

Inspection (Y/N)	Outcome	Issue 1
N	telephone/email advice	Licensing
Y	telephone/email advice	Damp
Y	letter to landlord	Minor Repairs
N	telephone/email advice	Licensing
Y	telephone/email advice	General HMO advice
Y	telephone/email advice	Facilities
Y	telephone/email advice	Damp
Y	telephone/email advice	General HMO advice
N	telephone/email advice	General HMO advice
Y	letter to landlord	Fire
N	telephone/email advice	General HMO advice
Y	letter to landlord	Fire
N	telephone/email advice	Planning
Y	letter to landlord	Fire
Y	letter to landlord	Fire
Y	letter to landlord	Fire
Y	letter to landlord	Fire
Y	letter to landlord	Minor Repairs
Y	letter to landlord	Fire
N	telephone/email advice	Licensing
Y	letter to landlord	Licensing
Y	letter to landlord	Fire
N	Referred to Planning	Planning
N	telephone/email advice	Planning
N	telephone/email advice	General HMO advice
Y	telephone/email advice	Refuse
N	Referred to Planning	Planning
Y	telephone/email advice	Major repair
Y	telephone/email advice	Minor Repairs
N	letter to landlord	Damp
N	telephone/email advice	Damp
Y	telephone/email advice	Damp
Y	telephone/email advice	Harassment
Y	telephone/email advice	Sub letting
Y	telephone/email advice	Sub letting
N	telephone/email advice	Fire
n	telephone/email advice	Facilities
y	telephone/email advice	Fire
Y	telephone/email advice	Minor Repairs
y	telephone/email advice	Minor Repairs
Y	telephone/email advice	Facilities
Y	telephone/email advice	Refuse
Y	telephone/email advice	Minor Repairs
Y	improvement notice	Major repair
N	letter to landlord	Minor Repairs

Issue 2	Issue 3	Issue 4	Issue 5	Cat 1	
Minor Repairs					
Minor Repairs					
Management	Disrepair				
Management					
Management	Overcrowding	Facilities			
Falls	Damp			Fire, Falls between levels	
Planning					
Planning					
Management				Fire	
Drainage					
electrical safety					
Overcrowding					
Overcrowding					
Fire					
security	Gas			Falls on Level	Excess col

PRIVATE SECTOR HOUSING INSPECTIONS AND SERVICE REQUESTS 19/11/14 to 19/11/15

INSPECTIONS/VISITS

REACTIVE (SERVICE REQUESTS)	
ADVISORY VISIT	25
WARNING VISIT	1
MONITORING VISIT	103
INSPECTIONS	105

HMO LICENSING	
INITIAL INSPECTIONS	41
RE-INSPECTIONS	5
COMPLIANCE INSPECTION	30

NON LICENSABLE INSPECTION PROGRAMME	
INSPECTIONS/VISITS	22

LLEWELLYN ROAD SURVEY	
INSPECTIONS/VISITS	23

SECTION 257 HMO SURVEY	
SURVEYS	12

TOTAL NO. OF INSPECTIONS/VISITS	367
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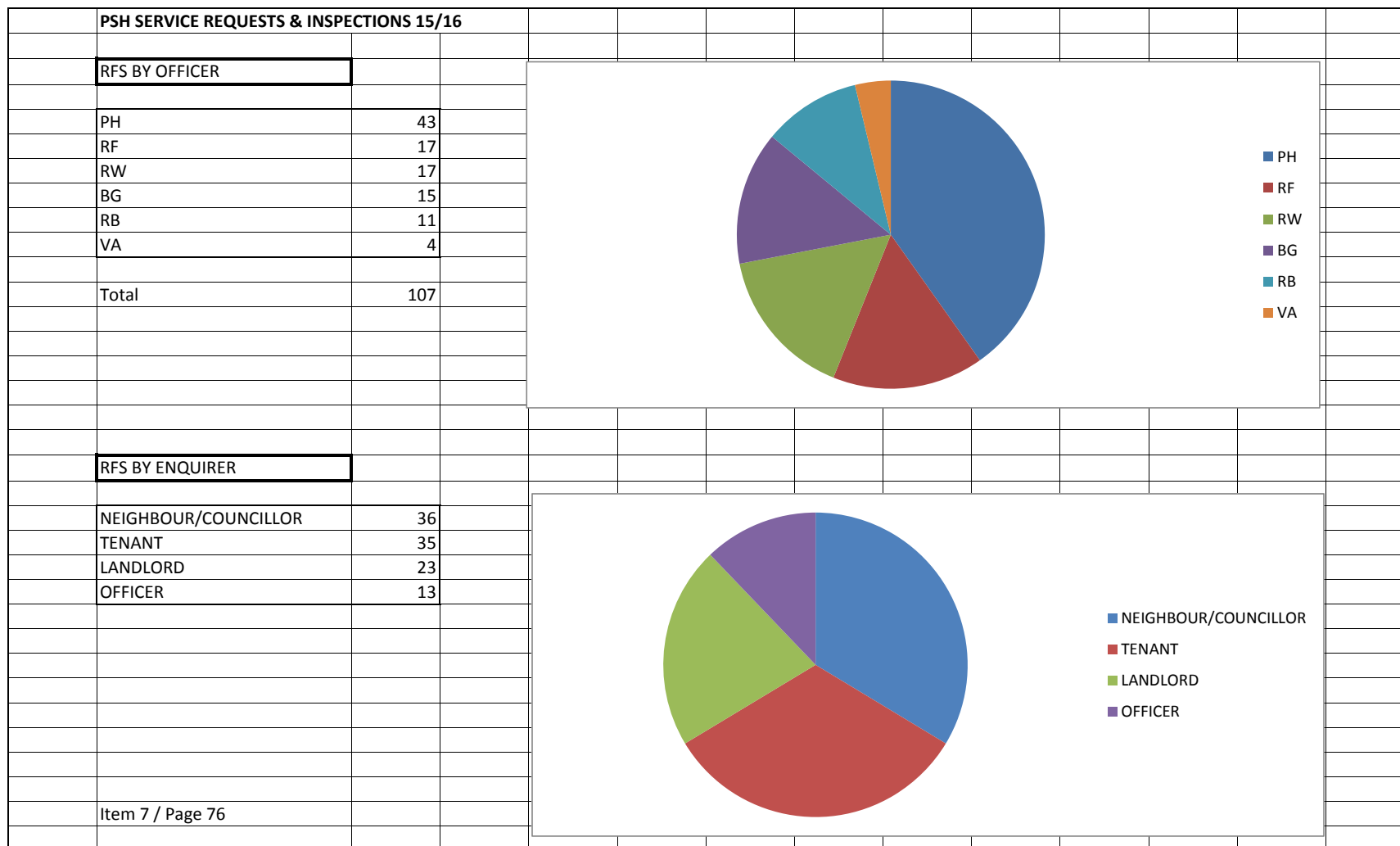
HMO & non

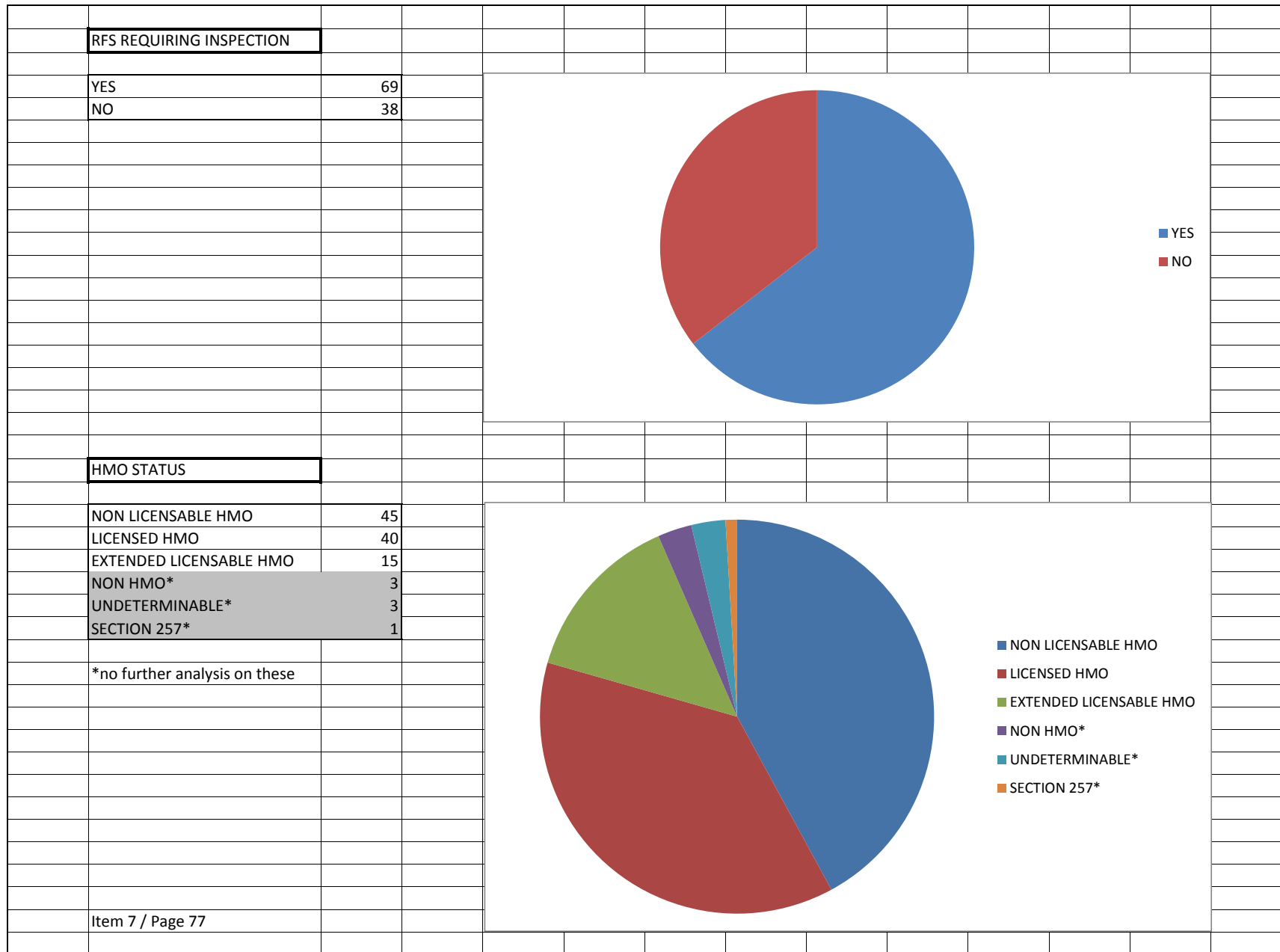
REQUESTS

SERVICE REQUESTS RE: PRIVATE RENTED PROPERTY	321
BREAKDOWN OF PRIVATE RENTED SERVICE REQUESTS	
Harassment/illegal eviction	31
HMO	78
non HMO HHSRS	143
Overcrowding	10
Miscellaneous	30
Landlord & tenant advice	29

H&S

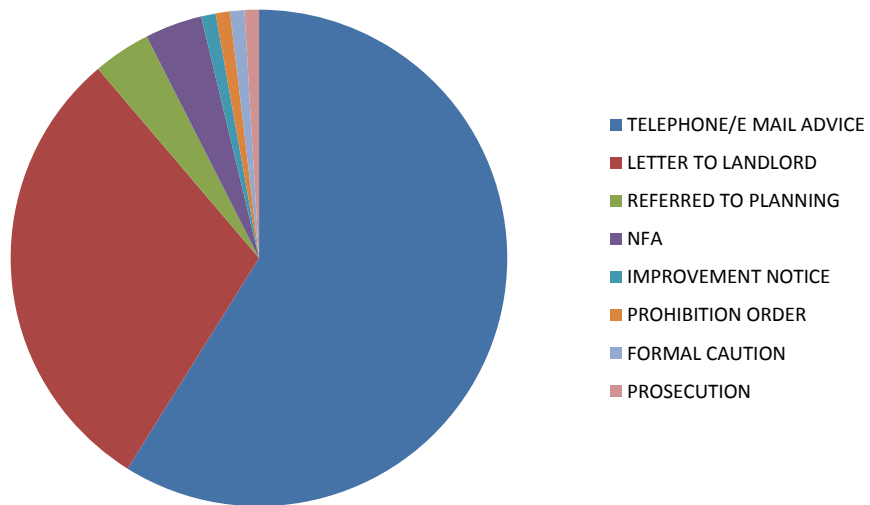
Mark Lingard looking for analysis of outcomes on this and all recent requests/visits to the three categories of HMO, current licenced, new licenced and non-licenced.



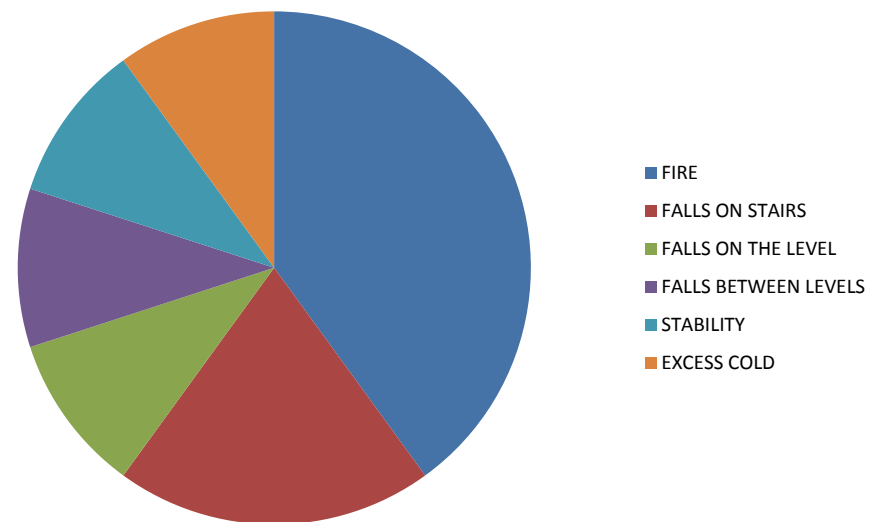


OUTCOMES

TELEPHONE/E MAIL ADVICE	63
LETTER TO LANDLORD	32
REFERRED TO PLANNING	4
NFA	4
IMPROVEMENT NOTICE	1
PROHIBITION ORDER	1
FORMAL CAUTION	1
PROSECUTION	1

**CAT 1 HAZARDS**

FIRE	4
FALLS ON STAIRS	2
FALLS ON THE LEVEL	1
FALLS BETWEEN LEVELS	1
STABILITY	1
EXCESS COLD	1



[illegible]

Landlords Survey

How many HMO properties do you manage?

Most respondents had 6 or more properties, 1 had only 1

How many of these properties are licensed?

Half said none, half had some

What are the benefits to you as a landlord/agent of having a licence?

Awareness that the property has reached Warwick District Council's requirements for HMO Licensing approval. It helps to improve housing standards in the private rented sector.

I currently do not need a licence for my student properties. I have 4 students in each of my properties over two floors. I can't think of any benefits of having a licence other than a further income stream for a cash strapped Council. It appears to me that local authorities often extend schemes to raise funding to counter austerity cutbacks and for local political window-dressing.

Keeps on top of landlords managing standards, and keeps on top of safety in properties.

being in the clear as to letting arrangements/standards/compliance reassurance for tenants

What are the negatives of having a licence?

None

1. The licence standard would be much lower than the standards that I apply to my HMOs, so why do I need a licence? Extending schemes of this kind will see responsible landlords paying for expensive licences, while the criminals will continue to operate under the radar. 2. Complex regulatory systems are pushing up rents and preventing more investment in the private rented sector at a time when it needs to expand to help tackle the housing crisis. It would increase my rents by at least an additional £20 per month to include fees and my administration charges. As a long distance landlord who manages my own properties, for example, I would travel a round journey of around 360 miles to open a property for the Council to view. Though I am happy for the Council to view my student properties in Leamington. 3. Criminal landlords often continue to operate as local authorities fail to use their enforcement powers. Let's get the existing legislation working to route out poor quality landlords. Councils already have enforcement powers to take action against those who act illegally and bring the whole sector into disrepute, but are failing to use them, with only 827 prosecutions against landlords over the last five years. 4. Yet more paperwork. Already introduced recently - right to rent booklet, immigration checks, higher taxes etc. 5. The licensing scheme is not fully supported by recognised landlord associations. For example, the RLA objects to local authority proposals for discretionary licensing – particularly with regard to the fee levels imposed and are speaking out against schemes across the country. 6. Local authorities already have the powers needed to effectively monitor landlords through council tax documentation. 96% of councils ask for landlords' data on these forms.

Sometimes less important areas are focussed on and still don't cover some fundamental common issues, such as damp & condensation

Costs

Would you support the idea of extending licensing to ALL HMOs?

Yes

No

No

No

In relation to your answer for question 5, please explain why.

Your survey assumes we know anything about the licence, so essentially, I don't know.

1. The Council should offer benefits and incentives to good landlords to improve properties. There was an excellent, free to join Student House Accreditation Scheme, which WDC abandoned. This scheme incentivised landlords over time to develop their properties through gaining more stars for improvements. I imagine cost was a factor that stopped the Council from continuing with this excellent scheme? It should be re-introduced, free, as a local initiative and incentive for good landlords.

2. Co-regulation should be an alternative to licensing. Such a scheme would commit its members to providing high standards of housing. This should be available as an alternative to the council's own licensing scheme. I believe in self-regulation for compliant landlords.

3. Licensing penalises good landlords. My properties are already considerably higher in standard than a licence would require. The additional expense of applying for a licence would be passed to the tenant. For example, in my unlicensed properties I already have hard wired smoke/carbon monoxide detectors, fire doors to bedrooms, coded burglar alarm, 5 lever locks external doors, window locks, double glazed, external security light, security chain on external door, fire extinguishers and fire blanket, annual gas landlord gas service/certificate, 5 year electrical certificate, annual PAT of my electrical equipment, risk assessment, smoking not permitted in house etc

4. Licensing provides a spot check in time - anything can happen in the 5 year intervening period between when the licence is granted to when it is renewed. How often do the Council check on a property, once it is licensed?

5. Landlords may wait until the licence is up for renewal before they make any necessary improvements. I make annual improvements regardless.

6. There is no national system of setting licence fees, a minority of landlords might migrate to cheaper licence fee areas.

7. The Council already has sufficient powers to investigate and bring to account poor landlords.

this would increase costs and put up rents, i dont think this is needed in smaller hmos

Have you had to apply for change of use under Warwick District Council's HMO Article 4 Direction?

No

No

No

Yes

No

Do you know how to find information about Warwick District Council's HMO licensing and/or planning process?

Yes

No

Yes, but I am a long distance landlord and although my correspondence address is known by Warwick District Council, I never receive any information directly either by email or post from WDC other than that which I receive as a Landlord Steering Group member.

Yes via website

Yes

Please add any additional comments

I rent out a house I used to live in. A HMO opposite forced me to move as student lifestyles are simply incompatible with the rest of the population. Who do the HMOs suit? The big landlords, but not the residents. Students simply keep different hours to working people and families. When they live together in large groups the anti-social nature of this is exacerbated. Eg. if they are going out they may not leave their premises until 11 or 12 at night, and then this can be in very large (therefore noisy) groups. I am essentially anti, any further HMO developments. The ones that exist should also have to provide a concierge/security to ensure that students impact on the neighbours is minimal. It is possible to coexist but HMOs make it harder. A HMO on George St has 40+ residents, the footprint of the building allows for 3 or 4 cars. So that has an impact, why does a student need a car? The buses run to Warwick Uni extremely regularly. Most students I have spoken to are decent people and the policy is not their fault. But genuine acceptance of student lifestyle has to go hand in hand with these developments. They go out in groups, leaving late, and coming back in the early hours. This is often midweek, as town is considered safer by them then. Did you know that the council noise pollution team doesn't work late midweek? Just when you need them, it's simple observations like that which could help if HMOs must exist at all. Personally, I'd have them all on campus, just saying.

1. The Council should look for positive ways to incentivise landlords. 2. It would be helpful, for example, if the Council recognised that some landlords who volunteer to sit on the Landlord Steering group travel very long distances. I have a round journey of approximately 360 miles and it takes me at least 6 hours to travel to and from a meeting. The Council could find, a very small sum, to pay a reasonable mileage allowance to reward landlords who give up their time to assist the Council at Landlord Steering Group meetings. 3. In my view a well run local self regulation scheme involves landlords. A licensing scheme does little to involve landlords. In several ways it alienates landlords. 4. The Council already has sufficient powers to deal with poor landlords. 5. Have you evaluated the success or otherwise of your licensing scheme? What effect has it had, when compared with, for example, the Student House Accreditation Scheme? There seems little point in introducing an extension, if there has been little effect with the licensing scheme. 6. Time to think outside the box? Self-regulation?

Comment from Officers at Draft Recommendations given on 21st February 2017**1. Summary**

1.1 This report sets out the findings and recommendations from Task & Finish Group on Houses of Multiple Occupation (HMOs) for consideration by the Overview & Scrutiny Committee.

2.1 The Task & Finish Group asks that the Overview & Scrutiny Committee recommends to the Executive that it:

a) i) supports the draft Community Protection Notices Waste Policy, being developed by Neighbourhood Services **(Appendix A attach draft CPN)** and following approval of the Policy by the Portfolio Holder develops a cost-effective system to pilot this Policy as soon as possible with a report being brought to Executive should the implementation of the Policy require additional financial resources.

(b) asks officers to work with its existing waste contractors, and others, to develop a scheme for waste/recycling collection from HMO properties at peak end-of-lease times, for use by landlords and tenants; in particular working with local charities and student organisations as seen elsewhere, **See appendix B (attach comparison with other universities eg Exeter, Durham, Newcastle /Durham briefing note)**

(c) makes improvements to the management of the noise nuisance service by:

- i) reviewing the current process to ensure they meet the need **(Appendix C Local Case studies of incidents on Radford Road 31st Oct)** **We are not sure what the reference is to appendix C, as the incident at Halloween in 2016 on Radford Road which was subject to the stage 1 complaint was a police matter it was not a failing to deal with noise nuisance or failure to deal with the landlord of a HMO. Notwithstanding this, we have begun the process of reviewing the night noise service but this was put on hold whilst the redesign of other elements of Health & Community Protection took place. This work can now recommence. Currently the service runs only two nights per week (Friday and Saturday). The officers volunteer to do the work i.e. it is not a contractual obligation so we would need to go through a consultation process to change this. It currently requires two officers per shift and cannot run if it cannot be resourced. The service did run on a Thursday night but was stopped due to the lower level of demand on this night compared to the others.**
- ii) formalising the processes and procedures to ensure they are as clear and concise as possible, and making these publicly accessible on the WDC website.
- iii) ensuring landlords' responsibilities for this issue within the HMO management regulations are clarified and enforced, for example through licensing conditions **(The Management of Houses in Multiple Occupation (England) Regulations 2006 <http://www.legislation.gov.uk/ukxi/2006/372/contents/made>)**
Happy to pick up this last point in the review of licence conditions – section (f)

(d) ensures the H6 Policy **(see appendix D H6 policy)** is consistently and fully applied with immediate effect, as laid out, in particular, in respect of the following provisions:

- i) providing the percentage of HMOs within a 100m radius at the point of planning validation, by making it publicly visible on the Planning Portal
- ii) giving proper and significant weight to the overall objectives of the policy, notably the community and longer-term harms specified in 4.61, 4.62 and 4.64 as per recent legal advice arising from a Complaint **(See appendix XX);**
- iii) where an exception to the policy is recommended by Officers, setting out the reasons and assumptions clearly and in detail (again following legal advice);

- iv) applying clause e) in the H6 policy regarding the provision of adequate waste container storage;
- v) clarifying how larger developments should be counted when applying the '10%' count for limiting concentrations of HMOs in the designated area
- vi) noting that the concentration of HMOs in areas outside the designated Article 4 area is growing (**Article 4** https://www.warwickdc.gov.uk/info/20794/guidance_and_policies/272/hmo_article_4_direction), but is not yet of the type and scale which justifies recommending immediate action; however trends should be carefully monitored and the Overview & Scrutiny Committee should review the position annually (**see Appendix XX- maps of Warwick, Kenilworth and Whitnash?**) **Officers are happy with the points in this recommendation.**

(e) Develops a **Student Housing Strategy** similar to other towns with high concentrations of students (**Brighton & Hove** http://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/SP070%20University%20of%20Brighton%20Accommodation%20Strategy_0.pdf and other uni towns student housing strategies), and as part of this strategy, asks officers to develop a **Student Accommodation Policy** to:

- i. facilitate the development of Purpose Built Student Accommodation (PBSAs) across suitable District locations, as a better way of meeting need than conversion of existing family properties;
- ii. encourage all Purpose Built Student Accommodation to include on-site management;
- iii. review parking policies with PBSAs, in particular on student tenant vehicle use; and provide both adequate off-street parking for all new HMO proposals and adequate cycle racks in all cases. **The Housing and Homeless Strategy will commit to developing a Student Housing Strategy.**

(f) reviews and adjusts the current licensing and reporting arrangements for HMOs, in the lead up to the extension of statutory HMO licensing due in 2017. (**Licensing of Houses in Multiple Occupation in England A guide for landlords and managers** <https://www.gov.uk/government/publications/licensing-of-houses-in-multiple-occupation-in-england-a-guide-for-landlords-and-managers>). This review should include:

- i. adding a condition on the licence that the licence is not operational until appropriate planning consents are in place; **Licensing and Planning decisions are based on totally separate legislation. Planning is not mentioned at all as a factor in determining HMO license applications. Therefore whilst I clearly understand the desire and the need to link these processes, I think we will need some legal advice before responding to this issue.**
- ii. licensing inspections giving more weight than at present to issues that are regarded as unsatisfactory and unacceptable, but are not Category 1 Health and Safety issues, in the approval process; **We do focus on Cat 1 and Cat 2 hazards, as we are required to do. In the review we will need some specifics around the unspecified unsatisfactory and unacceptable behaviour issues.**
- iii. requiring landlords to undertake remedial work within specified timeframes following inspections; **Already do this.**
- iv. requiring landlords to incorporate appropriate rules and penalties within their leases so that they can deal effectively with tenants who are causing serious ASB issues, as identified by the Council and for which landlords are responsible under HMO regulations;; **The terms and conditions of tenancy agreements already cover ASB issues. We would need legal advice about any new clauses in respect of can we impose them, will they be enforceable and to ensure that they not an unfair contract term.**

- v. introducing flexibility in the process **(as other authorities do Appendix X)** by allowing shorter licence cycles and higher licence costs for landlords causing concern, and imposing formal conditions on landlords who do not take appropriate and timely action. **This approach could leave the Council open to a legal challenge. The preferred, and our current, response to concerns would be to visit more frequently and serve Notices and then ultimately prosecute if the landlord does not cooperate.**

(g) reviews the Council's Fit and Proper Test for licensed HMO landlords, (**Rogue landlord provisions - Housing & Planning Act 2016** <https://www.publications.parliament.uk/pa/bills/lbill/2015-2016/0087/16087.pdf>), for both new applications and renewals, to include such requirements as:

- definition of a fit and proper person; **This would need to be the legal definition when the detailed Housing and Planning Act regulations are available, probably in April 2017.**
- financial suitability; **We can ask but the reality is that we will not know a landlord's financial position.**
- a valid formal Disclosure and Barring Service (DBS) check, the cost of which to be borne by the applicant; **We hope and expect that this will be in the detailed Housing and Planning Act regulations.**
- honest disclosures of relevant information such as planning decisions; and
- a history of all breaches of regulations, such as those relating to management of waste, provision of waste containers, external condition of property and noise nuisances, whether at the property being licensed or other properties under the same agent/landlord. **To link with Neighbourhood Services action via CPN's.**

(h) asks officers to collect evidence, to enable a rational decision to be made in due course whether to extend licensing to all HMOs across the District (additional licensing), including:

- i. maintaining for current and future years a comprehensive database of inspections of all HMO's, that includes address, type of property, reason for inspection, nature of issues and how quickly they were addressed (Appendix XXX); **Information already collected but will need to be reorganised to separate out unlicensed HMO's.**
- ii. recording and reporting on the benefits and costs of extending statutory licensing to a further 250-300 premises during 2017;
- iii. undertaking a substantial survey of smaller HMOs including inspecting the properties and asking tenants and near neighbours about the HMO and its management. **Internal resources not available for this work due to the peak of existing HMO licence renewals and the extension of statutory licensing in 2017.**

(i) endorses the work by the Deputy Chief Executive & Monitoring Officer to review enforcement work across the Council, and recommends that co-ordination across the relevant departments is improved to make full use of HMO licensing and regulatory powers.

(j) endorses the work of the Finance & Audit Scrutiny Committee that is looking at implications of the reduced revenue support on such matters as the statutory reduction in Council Tax for student properties; and to monitor the planned new system of financial compensation together with other University town authorities to ensure WDC is not put at a financial disadvantage. **(see report on 4th Jan 2017 at** <https://estates4.warwickdc.gov.uk/cmis/MeetingDates/tabid/149/ctl/ViewMeetingPublic/mid/637/Meeting/2512/Committee/44/Default.aspx>)

(k) commends the roll out of the community map app to all Councillors

- 2.2 That a report be brought back to the Overview & Scrutiny Committee in 12 months outlining the progress made to date on the recommendations from the Task & Finish Group.

Warwick University Response

HMO Task & Finish group

Report from Luke Pilot (President) & Becky Gittins (Democracy & Development Officer), Warwick Students' Union.

The Students' Union's interaction with the community and accommodation issues:

In our SU Advice Centre, we predominantly receive complaints from students regarding issues with their accommodation. We are able to help students recover thousands in deposits and compensation every year and are also often able to help relocate students in extreme circumstances. Our recorded data unfortunately does not record housing complaints in specific categories, but we are aware of landlords and lettings agents who frequently cause issues for our members. We also have a strong relationship with Warwick Accommodation and have communication with some landlords and lettings agents.

The Students' Union has traditionally, and will continue to, run a series of 'Students as Good Neighbours' and 'Leave Leam Tidy' campaigns to encourage community cohesion and mitigate the ramifications of the student end of term departures from Leamington. We have recently recruited a Community Project Worker, who will be based primarily in Leamington and will liaise with multiple community stakeholders to ultimately advocate for and benefit the lives of students in the local community, by developing integration methods and embedding an understanding of community and a collaborative relationship between all stakeholders. We have also been lobbying the University on the community and student accommodation issues.

Our response to the current context:

Warwick SU warmly welcomes Warwick District Council's decision to develop a student housing strategy. We cannot express in stronger terms the necessity for both the University of Warwick and Warwick Students' Union to be involved in the development of this strategy.

We believe a fundamental issue lies with the enforcement and monitoring of Houses in Multiple Occupation (HMOs) and their landlords, with the dominant market forces, a lack of responsibility on the part of the University of Warwick and a surplus in demand contributing to both an issue in community relationships, but also accommodation problems for our students. We do not however believe this discussion should focus solely on capacity on the University of Warwick campus or whether students should live in Leamington Spa. Given the University intends to expand their student numbers, and Coventry University is constantly expanding and pushing more Warwick students out of Coventry, it is highly likely more students will look to live in Leamington Spa.

Leaving allocation of housing to the market doesn't work when you have surplus demand. The market cannot drive up standards in the absence of consumer choice, thus a lack of housing and increasing student numbers means there's no motivation for landlords to provide good quality housing.

Rogue landlords not only have no incentives to maintain housing quality, they also have no binding duty to the local community - some of them even live remotely themselves. This means they are often oblivious, or negligent towards, the problems faced by student residents and other member of the community when their properties are not appropriately looked after.

We believe widespread application of selective licensing on HMOs and charging business rates for refuse collection and other services to HMOs are insufficient solutions. It is our understanding the Council does not have the resources to enforce these rules and that these measures still do not put

the responsibility on the landlord for the maintenance of the property. Student tenants, the majority of whom are not equipped to take certain refuse or recycling to a recycling centre or to conduct DIY work on a property, would end up shouldering the responsibility, when this responsibility should lie with the landlord. Equally, landlords are far more likely to pass the expense of selective licensing and business rates on services like refuse collection onto the student tenants. Students do not have the financial ability to afford this.

We further believe that the application of Community protection Notices (CPNs) is a blunt instrument. We understand these are supposed to have a bearing on landlords too, but we believe it is all too easy for the student tenants to be burdened with handling the consequences of a CPN and the financial penalty and stress and time demanding- nature of interacting with the court process is too great a wellbeing issue and intrusion on students' time, particularly during exams and deadlines seasons.

New regulations will also require students to gain references from their landlords when looking for new accommodation. This will leave students in an incredibly vulnerable position. Not only will they be afraid to request repairs from their landlord for fear of receiving a bad reference, or no reference at all, but they will incur backlash from the community or a CPN if they choose not to request repairs from their landlord.

The transient nature of the student community, paired with a saturated local housing market and a dire national context (for housing) means we are left with very little choice and we are squeezed into a tight living situation. The lack of community cohesion and resistance towards students due to their living conditions, which they have no control over, sees some students lack the sense of duty to be an active resident and a good neighbour. This is not helpful without a required induction by landlords or induction-style introduction from the University or long term residents.

Students are also in competition with other young and transient populations. Young professionals and young people on internships and graduate schemes with companies like Jaguar Land Rover (JLR), who can either be in Leamington for short term periods (6 months) or for the long term, contribute to a surplus in demand. They are also in danger of pricing students out of 'affordable' accommodation as these young professionals are more likely to be able to afford higher rents. It must be noted these young professionals are also likely dealing with similar HIMO issues as students and contributing to tensions in the community.

It is apparent that when students graduate and choose to remain in Leamington however, there is profound economic and local benefit. Students are less likely to remain if they do not feel welcome or if they have had problems with their accommodation arrangements. It would therefore seem pertinent to develop a housing strategy, and a response to HIMO, which encourages students to become long-term residents. The question should perhaps change from "how can we stop students living in Leamington" to "how do we facilitate students integrating into the community" and "how do we keep students in Leamington after they graduate?"

The Postgraduate issues we witnessed in September, for the 3rd year in a row, where new postgraduates arrived at the University but had nowhere to live, demonstrates the situation is not being managed properly.


What is also unhelpful is uncoordinated growth of properties and proposals for purpose built student accommodation. Coordinated resistance to all of these is also unsustainable and unhelpful. Residents, the District Council and the University need to engage in a town planning operation in which new blocks of accommodation and HIMO are approved in an appropriate and sustainable

manner, such that the student population can be located in planned zones, potentially even in mixed economies.

It is clear several actions need to be taken:

- Standards in HIMO's need enforcing, but in a way that does not impede students but does attribute responsibility to landlords
- A strategy which adequately accommodates affordable family housing, student accommodation (HIMO's and not), social housing and homelessness is a necessity
- A student housing strategy which includes HIMO's and purpose-built student accommodation needs formulating so their construction can be facilitated in the appropriate places

"Let the market regulate itself" is no longer an acceptable option. It is clear a joint University, local and regional engagement strategy is necessary, a strategy which also addresses the needs for an infrastructure strategy to mirror it, ensuring the community can accommodate the student population. It is imperative all stakeholders are involved in developing this strategy and that students' voices are heard.

 Overview and Scrutiny Committee – 4 April 2017		Agenda Item No. 8
Title	Overview & Scrutiny Committee End of Term Report	
For further information about this report please contact	Lesley Dury, Committee Services Officer 01926 456114 committee@warwickdc.gov.uk	
Wards of the District directly affected	n/a	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	O & S 5 April 2016 Council, 20 April 2015	
Background Papers	Agendas/Minutes Municipal Year 2016/17	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality Impact Assessment Undertaken	No
Not required as this report gives a synopsis of work undertaken by the O & S Committee and contains no new material.	

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	22.03.17	Andy Jones
Head of Service		
CMT	22.03.17	Andy Jones
Section 151 Officer		
Monitoring Officer	22.03.17	Andy Jones
Finance		
Portfolio Holder(s)		
Consultation & Community Engagement		
Chairman of Overview and Scrutiny – Councillor Boad		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. **Summary**

- 1.1 An end of term report to the Council on the work the Overview & Scrutiny Committee has undertaken during the year. The report also includes work by the Health Scrutiny Sub-Committee.

2. **Recommendation**

- 2.1 It be recommended to Council that the list of matters considered by the Overview & Scrutiny Committee and Health Scrutiny Sub-Committee during the municipal year 2016/17, as detailed in appendix A to the report, be noted.

3. **Reasons for the Recommendation**

- 3.1 Under Article 6 of the Council's constitution Overview & Scrutiny Committees and Policy Committees are required to provide an end of term report to the Council on work they have undertaken during the year.
- 3.2 The matters considered during the year are attached at appendix A to the report. This will be updated to include matters considered at this meeting, before it is submitted to Council.

4. **Policy Framework**

4.1 **Policy Framework**

The recommendations of the report do not affect the Council's policy framework

4.2 **Fit for the Future**

This report is made annually as a matter of good practice and Council policy.

- 4.3 **Impact Assessments** – This should set out the impacts of new or significant policy changes proposed in respect of Equalities. Reference can be made to an appendix which sets out the detail of the impacts

5. **Budgetary Framework**

- 5.1 The recommendations of the report do not affect the Council's budgetary framework.

6. **Risks**

- 6.1 There are no risks associated with this report which is purely provided as a matter of good practice and Council policy concerning Scrutiny committees.

7. **Alternative Option(s) considered**

- 7.1 There are no alternative options because this report complies with the requirements of Article 6 of the Council's Constitution.

Work handled by Overview & Scrutiny Committee 2016/17

Chair's Introduction

The Overview and Scrutiny Committee, now in its second year, has shown its members to have developed and understood the dual roles of both Overview and Scrutiny.

As last year, the Committee has been kept busy with various reports that members have called in from the Executive to either seek out further information or to delve more deeply to understand the reasoning behind the recommendations being proposed.

We have had many briefing papers and verbal reports (see Appendix A) over the year either on new issues or initiatives that the Council has introduced. Our reviews of service delivery have ranged far and wide from the introduction of charges for waste containers through to action on letting boards.

I am particularly pleased that this year the O and S has undertaken its first Task and Finish groups on HIMO's and Car Parking Charges. Although both are shortly due to report there have been steep learning curves for members and they have faced challenges along the way. I look forward to reading the two reports when finalised and what subsequent actions, or not, arise from their findings.

I would suggest that the O and S Committee conduct a review of the Task and Finish process to learn lessons from the two groups of what has worked well and what didn't work so well and where improvements could be made to the process. e.g. was too much being included in the scope and would small bites have been better, was it too time consuming, what did the members think, and, how often were the scoping documents used to keep them on task.

The Health Scrutiny Committee got off to a very slow start but now appears to be getting a work programme together, I would suggest that its progress and effectiveness should be reviewed in early 2018.

The past two years as Chair have been an interesting period of development together and I have no doubt that members will continue to effectively overview and scrutinise the Executive on behalf of our residents.

Over the past two years as Chair I have enjoyed the journey that we have shared together. As I move on 2017/18 will bring a new Chair and new challenges that I am confident that the Committee will be more than capable of handling.

Cllr Alan Boad

A synopsis of work undertaken by the Overview & Scrutiny Committee during the municipal year 2016/2017.

Meetings of the Committee were held on:

[1 June 2016](#)

[28 June 2016](#)

[26 July 2016](#)

[27 September 2016](#)

[1 November 2016](#)

[29 November 2016](#)

[4 January 2017](#)

[7 February 2017](#)

[7 March 2017](#)

[4 April 2017](#)

1 June 2016

This was the first meeting of the 2016/2017 municipal year. The membership of the Committee remained unchanged from the previous municipal year, and Councillor Boad was elected as its Chairman for the second year running.

The Committee re-appointed Councillors D'Arcy, Edgington, Parkins and Mrs Redford to the Health Scrutiny Sub-Committee, and resolved that all members of the Overview & Scrutiny Committee could act as substitute members of the sub-committee.

Reports considered on the Overview & Scrutiny Work Programme:

Member Children's Champions – End of Term Report

The Committee was informed that Councillors Mrs Falp and Gallagher had both resigned from their positions as Children's Champions and Councillor Gallagher had filled the one vacancy. Councillor Parkins volunteered to take the other vacant position if required.

Task & Finish Group Work

- HMOs – the Committee agreed the Scoping Document.
- Off-street Car Parking Charges Review – Councillor Quinney had been appointed to chair the Group.

Reports considered on the Executive Agenda:

Item 5 – Fit for the Future Change Programme

The recommendations in the report were noted but the Committee emphasised to the Executive the need to monitor any recruitment and retention issues throughout the year to ensure that the service area plans could be delivered effectively.

The Executive approved the recommendations in the report.

Item 7 – Tourism Update

The Committee supported the recommendations in the report because the addressed the previous weakness of a lack of monitoring information and measurable objectives. It particularly welcomed the six monthly reports to the Committee on the progress of the DMO's work.

The Executive approved the recommendations in the report.

28 June 2016

Reports considered on the Overview & Scrutiny Work Programme:

Waste Collection Update

The Portfolio Holder and the Contract Services Manager answered questions on a report which provided a review of the performance of the waste collection services.

Recruitment and Retention

The HR Manager and the Head of Cultural Services answered questions on a report which set out the policies and procedures the Council operated relating to recruitment and retention of staff.

An update on the pre-application charging regime for development proposals

The Development Manager, the Head of Development Services and the Portfolio Holder answered questions on a report which provided an update on the progress with the introduction and operation of a chargeable pre-application advice scheme.

Task & Finish Group HMOs

Councillors Davison, Miss Grainger, Mrs Knight, Naimo, Quinney and Thompson were appointed to the Group.

26 July 2016

Reports considered on the Overview & Scrutiny Work Programme:

Update on the performance of the South Warwickshire Housing Assessment Team (HAT) (Aids and Adaptations Services)

The Head of Housing & Property Services, the Project Manager (HAT), the Private Sector Housing Manager and the Portfolio Holder answered questions on a report which provided an update on the performance of HAT which was conducting a pilot project in partnership with Stratford-on-Avon District Council and Warwickshire County Council, to deliver improved aids and adaptations services along with a range of home improvement agency services to allow residents in South Warwickshire to remain independent in their homes.

Task & Finish Group HMOs

It was agreed that Councillor Mrs Cain would join the Group unless she could find someone to take over who represented Kenilworth.

Reports considered on the Executive Agenda:

Item 8 – Review of Warwick District Members' Allowances Scheme

The Committee noted the report.

The Executive agreed the recommendations in the report subject to some changes:

- The Chairman of the Review Panel was asked to appoint three former Councillors to the review panel and not one;
- All members should be sent the timetable for the review once it was finalised with the Panel;

- All members should be encouraged to submit their views on the allowances scheme;
- A brief guide to the allowances regulations should be sent to all Councillors explaining what could and could not be included, for example the legalities of an attendance allowance; and
- The Review Panel was asked to consider the specific nature of the carer's allowance and if the requirement for professional carers could be removed.

27 September 2016

Reports considered on the Overview & Scrutiny Work Programme:

Portfolio Holder Update – Development Services

The Portfolio Holder answered questions on a report he had provided giving an update on the ongoing work and issues in Development Services, especially the implications of the changes in the planning process that would soon be imposed and how the Council would have to bid to write application reports for consideration by the Planning Committee.

How HS2 planning applications will be processed

The Committee received a verbal report from the HS2 Project Officer and Head of Development Services on how HS2 Schedule 17 applications were going to be treated. The process would have to be slick because if the target eight week response period was missed, deemed consent would be given unless the Council was successful in negotiating an extension.

Portfolio Holder Update – Finance

The Portfolio Holder answered questions on a report he had provided giving an update on the ongoing work and issues in Finance. The Committee focussed its attention on recruitment of staff issues and the Procurement Policy, which had not been completed.

Creative Quarter Update

The Business Manager, Projects, gave a verbal report to the Committee on the progress made developing a creative quarter in the district.

Leamington Spa Town Centre Vision Update

The Business Manager, Projects, gave a verbal report to the Committee an update since the previous report given in February 2016.

Task & Finish Group Work

- HMOs – the Group provided a brief interim report and the deadline for delivery of the final report was extended to March 2017.
- Off-street Car Parking Charges Review – the Group was in the data gathering phase.

1 November 2016

Reports considered on the Overview & Scrutiny Work Programme:

Shakespeare's England

Two representatives from Shakespeare's England gave the Committee a presentation on the work being done to promote tourism in Warwick and the wider area, both within the UK and internationally.

Portfolio Holder Update – Cultural Services

The Portfolio Holder answered questions on a report he had provided giving an update on the ongoing work and issues in Cultural Services. The Committee focussed attention on the arrangements being made to provide alternative venues whilst swimming pools were closed for refurbishment, and ensuring that notification of these arrangements was given wide publicity.

An update on the pre-application charging regime for development proposals

This was a follow-on report to the one given 28 June 2016 and the Committee was informed that all signs were good that the scheme would be successful and it was anticipated that the costs of the pre-application advice service would be covered by the fees received.

Annual Feedback on Outside Appointments

The Committee considered a report which detailed the annual statement of work undertaken by Outside Bodies, written by the Councillors who represented the Council on these Outside Bodies.

29 November 2016

Reports considered on the Overview & Scrutiny Work Programme:

Portfolio Holder Update – Housing & Property Services

The Portfolio Holder answered questions on a report he had provided giving an update on the ongoing work and issues in Housing & Property Services. The Committee focussed its attention on the provision of affordable rented accommodation in the District.

Summary of the role, responsibility and work of the South Warwickshire Community Safety Partnership

The Committee considered a report from Health & Community Protection which set out the role, responsibilities and work of the South Warwickshire Safety Partnership (SWCSP). After many years when crime figures had reduced, the trend had changed, and the reasons for the increase were unclear. But it was noted that the District still had lower figures than elsewhere in the County.

Review of Health Scrutiny Sub-Committee

The Committee agreed the recommendations in a report from Health & Community Protection which would assist the Health Scrutiny Sub-Committee and the Council to have a greater input into the health and wellbeing arrangements for Warwickshire.

Reports considered on the Executive Agenda:

Item 9 – Development Brief for King’s High, Warwick

The Committee stressed that the Council should aim for 40% affordable housing. It wanted sustainable transport options mentioned in the report.

The Executive approved the recommendation in the report subject to Executive outlining they would expect the final wording of the document, to be agreed under the delegated authority by the Head of Development Services in consultation with the Development Portfolio Holder, to (a) be explicit that 40% affordable housing would be expected, in line with Council Policy; and (b) include reference to sustainable transport options for the development.

Item 11 – Notice of Motion

The Committee noted the Motion.

The Executive noted the motion and officers were asked to continue to bring forward reports as appropriate as part of their work on the Housing Advisory Group.

4 January 2017

Reports considered on the Overview & Scrutiny Work Programme:

Portfolio Holder Update – Health & Community Protection

The Portfolio Holder answered questions on a report she had provided giving an update on the ongoing work and issues in Health & Community Protection.

HQ Relocation Project – Committee Briefing Paper

The Deputy Chief Executive (BH) answered questions on a briefing paper from the HQ Relocation Project Manager, which gave an update on the progress made with the project and the issues currently in focus.

Reports considered on the Executive Agenda:

Item 4 – Pre-Application Charging Regime

The Committee felt that this was a good scheme and appeared to be well worth pursuing, providing full cost recovery was achieved at a minimum.

The Executive agreed the recommendation subject to the pre-application charging exemption for affordable housing schemes being amended so that it only applied to schemes which offered 90% (or greater) affordable housing.

Item 5 – The Rental Exchange Project

The Committee supported the scheme and looked forward to receiving information about the potential opportunity with Credit Union in the future.

The Executive agreed the recommendations in the report.

7 February 2017

Reports considered on the Overview & Scrutiny Work Programme:

Letting Boards Update

The Enforcement Manager, Development Services, provided an update on the report provided in November 2015, when there had been concerns raised about the proliferation of Letting Board notices in parts of Royal Leamington Spa with large numbers of student accommodation. Following on from initiatives to combat this problem, the Enforcement Manager was able to report a very significant improvement to the point where now, the council would be unable to demonstrate a reason for requesting the power to apply Regulation 7 from the Secretary of State.

Portfolio Holder Update – Neighbourhood Services

The Portfolio Holder answered questions on a report he had provided giving an update on the ongoing work and issues in Neighbourhood Services.

Waste Collection Service Update

The Contract Services Manager answered questions on a report which gave details on the latest six months of performance from the waste collection service for the period July 2016 to December 2016.

Waste Container Charging Regime

The Senior Contract Manager answered questions on a report which reviewed the first eight months of the policy introduced to charge households for the provision of waste containers. Most complaints from residents centred on being forced to pay for delivery of a replacement container.

Anti-social Behaviour Policy (Housing)

The Committee considered a report from Housing & Property Services which gave it an opportunity to pre-scrutinise the anti-social behaviour policy, going forward to Executive in March.

Revised Call-in Procedure for Warwick District Council

The Committee considered a report from the Democratic Services Manager and Deputy Monitoring Officer which brought forward a revised proposal for the call-in procedure for Warwick District Council. The Committee requested that the change in the procedure at paragraph 14 in the proposed procedure was taken out and returned to the current position.

Task & Finish Group Work

- HMOs – the Group planned to bring its report to the April meeting.
- Off-street Car Parking Charges Review – the Group had drawn up a list of recommendations and intended to present a report to the Committee in March.

Reports considered on the Executive Agenda:

Item 9 – A new bridge over the River Avon on St Nicholas' Park, Warwick, and improvements to the Myton Fields car park

The Committee noted the report.

The Executive recognised that this was a sensitive and important area that needed to be considered carefully to ensure all relevant parties were consulted. They noted the importance of paragraph 3.9 of the report that stated "Consultation with all interested parties would be needed including, but not limited to, Historic England, the Town Council, Chamber of Trade, Friends of St Nicholas Park, Warwick Society, Environment Agency, etc".

Recommendation was amended to provide greater clarity on the fact that the improvements to the car park and new bridge were, while related, separate projects to be considered.

Item 10 – Recommendations from the One Stop Shop Review.

The Committee noted the report.

The Executive agreed the recommendations in the report and the Portfolio Holder for Neighbourhood Services gave assurance that Ward Councillors would be consulted upon approval of the report.

7 March 2017

Reports considered on the Overview & Scrutiny Work Programme:

Update on Priority Families Programme

The Priority Families Coordinator from the WCC Children and Families Unit answered questions on a report which provided an update on Phase 2 of the Priority Families Programme.

Shakespeare's England

The Portfolio Holder, Business and the Business Manager, Policy & Development, answered questions on an update report from Shakespeare's England of the period of work from 1 November 2016 to 7 March 2016.

Portfolio Holder Update – Business

The Portfolio Holder answered questions on a report he had provided giving an update on the ongoing work to encourage and grow business opportunity in the District.

Member Children's Champions: End of Year Report

The Deputy Chief Executive and Monitoring Officer answered questions on a report which gave members information on the current position in respect of its safeguarding children arrangements. The Committee was pleased that there was now a clear remit for this role within the Council.

Task & Finish Group – Off-street Car Parking Charges Review

The Committee considered a draft report from the Group in anticipation of its finalisation for presentation to the Executive for consideration. The Committee asked for more background information to be provided in the report and for the report to be re-submitted to the June meeting.

Reports considered on the Executive Agenda:

Item 3 – Housing and Homelessness Strategy 2017-2020

The Committee supported the report, and in particular, was pleased to see that the council recognised that action was required on student accommodation.

The Executive approved the recommendations in the report subject to clarification on recommendation 2.2 so that it read:

"The Executive agrees to develop a Student Housing Strategy to run alongside the Housing and Homelessness Strategy"

Item 8 – Community Forums and Voluntary and Community Sector Spending Review

The Committee recommended that recommendation 2.6 in the report was amended so that the VCS Commissioning and Grants Panel membership should consist of seven interested members, one of which should be the Portfolio Holder. The allocation of seats by party membership should be removed.

Executive did not accept the recommendation from the Overview & Scrutiny Committee because they were of the opinion that all Councillors care about the community and that their intention was to have the Panel membership reflect the composition of the Council.

The recommendations in the report were approved subject to clarification that one of the Conservative appointments to the Panel must be the Portfolio Holder for Health & Community Protection.

4 April 2017

The details of this meeting will be completed after the meeting is held, and prior to the report being considered by Council on 19 April 2017.

A synopsis of work undertaken by the Health Scrutiny Sub-Committee during the municipal year 2016/2017.

Meetings of the Sub-Committee were held on:

[5 July 2016](#)

[24 August 2016](#)

[22 November 2016](#)

[17 January 2017](#)

5 July 2016

This was the first meeting of the 2016/2017 municipal year. The membership of the Sub-Committee remained unchanged from the previous municipal year, and Councillor Parkins was elected as its Chairman.

Councillors Mrs Falp, Mrs Knight and Quinney were appointed as co-opted Members.

Reports considered on the Health Scrutiny Sub-Committee Work Programme:

Staff Occupational Safety and Health Training

The Corporate Health & Safety Coordinator informed Members about the health & Safety training, carried out under the Institution of Occupational Safety and Health standards, that some of the staff at the Council were receiving. It was mostly targeted at managers and team leaders.

“Skip n Chip” / “Dump your Junk” – a proactive community engagement approach to fly tipping and providing advice and support to residents

Members were informed about an initiative run by the Community Partnership Team, in conjunctions with Orbit, Heart of England in the Brunswick and Leam wards. These events were held in fly tipping hotspots to address the ongoing issues of fly tipping. The success of the trial would be evaluated to see if it should be continued on a long-term basis.

24 August 2016

In Councillor Parkins’ absence, Councillor D’Arcy chaired the meeting. After consideration of the reports presented to them at the meeting, Members expressed concerns that whilst they were being fed a lot of information, they were not doing proper scrutiny work. It was agreed that the focus had to change and this would be discussed at a future meeting and presented to the parent Committee, Overview & Scrutiny, for agreement.

Members also asked that they should be presented with written reports because the preponderance of verbal reports did not allow time ahead of the meeting for consideration.

Reports considered on the Health Scrutiny Sub-Committee Work Programme:

WDC response to the Sport England "Towards and Active Nation"

The Programme Manager from Cultural Services informed Members about the new Sport England Strategy "Towards and Active Nation" and gave details on how the District Council planned to implement the key messages from the strategy.

Green Spaces/Friends of the Parks and the "Walking Scheme"

Members received a talk from a Community Ranger on how parks within the District helped residents to stay fit and healthy.

Review of Smoking Policy and updated figures

Members were given a verbal update on why the Council's Smoking Policy had been amended to include E-cigarettes.

22 November 2016

Following on from the previous meeting in August, Members considered a report from Health & Community Protection, which summarised the Council's current position in relation to Health and Wellbeing, including the delivery review. It was agreed that a report agreeing the recommendations of the Sub-Committee would go forward for consideration by the Overview and Scrutiny Committee.

Reports considered on the Health Scrutiny Sub-Committee Work Programme:

Update from the Peer Review

The Chief Executive gave Members a briefing on what he considered to be the key messages from the Draft Peer Challenge Feedback Report, 20-22 July 2016, in respect of its health and wellbeing delivery.

Purple Flag Accreditation

The Public Places & Projects Team Leader answered questions on a report that explained the bid process, the benefits and action plan resulting from the Purple Flag Assessment which led to accreditation.

Annual Status Report – Air Quality Management

The sub-committee considered a report from Health & Community Protection which gave an update on progress with air quality management. The report was based on an annual status report required by DEFRA.

Dementia Friendly Communities

Members were informed about the progress the Council was making to achieve dementia-friendly communities' recognition. The Alzheimer's Society had provided a list of recommendations to improve the Council's main office, and these would be considered when the new headquarters were built.

WDC submission to the County Council Health and Wellbeing Board annual report

The Health & Wellbeing Lead answered questions on a report which outlined the work that was being undertaken across the Council to improve the Health and Wellbeing of those who resided in, worked in, and visited Warwick District.

Members noted that the report did not give a full perspective on the numbers of affordable houses available against the number required.

17 January 2017

The Sub-Committee agreed that the next meeting in March should be replaced with a presentation to all Councillors on the Sustainable Transformation Plan.


Reports considered on the Health Scrutiny Sub-Committee Work Programme:

Domestic Violence & Abuse Policy

The Sub-Committee pre-scrutinised the draft Domestic Violence and Abuse Policy being produced by Housing & Property Services. The Sub-Committee welcomed the introduction of the policy.

Draft Housing & Homelessness Strategy 2017

The Sub-Committee pre-scrutinised the new strategy being produced by Housing & Property Services.

 Overview and Scrutiny Committee – 4 April 2017		Agenda Item No. 9
Title	Review of the Work Programme & Forward Plan	
For further information about this report please contact	Lesley Dury, Committee Services Officer, 01926 456114 or committee@warwickdc.gov.uk	
Service Area	Democratic Services	
Wards of the District directly affected	N/A	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	No	
Date and meeting when issue was last considered and relevant minute number	7 March 2017	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality and Sustainability Impact Assessment Undertaken	No
n/a	

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive		
Head of Service		
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)		
Consultation & Community Engagement		
n/a		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. **Summary**

- 1.1 This report informs the Committee of its work programme for 2017/2018 (Appendix 1) and of the current Forward Plan March to June 2017 (Appendix 2).
- 1.2 Appendix 3 is the draft report from the Task & Finish Group – Off-street car parking charges review. It is the responsibility of the Overview & Scrutiny Committee to authorise that the report can go forward to the Executive for consideration.

2. **Recommendations**

- 2.1 The report be noted;
- 2.2 Any amendments suggested at the meeting for the Work Programme, be made accordingly;
- 2.3 The Committee to identify any future Executive decisions to be made, or future policies to be adopted, which members wish to have an input into before the Executive take the decision, and either:
 - 1. nominate one member to investigate that future decision/policy and report back to a future meeting of the Overview and Scrutiny Committee, before the final report is submitted to the Executive.
 - 2. request an officer report to be submitted to a future meeting of the Overview and Scrutiny Committee, before the final report is submitted to the Executive.

3. **Reasons for the Recommendations**

- 3.1 The work programme needed to be updated at each meeting to reflect the work load of the Committee.
- 3.2 Two of the five main roles of overview and scrutiny in local government are to undertake pre-decision scrutiny of executive decisions and to feed into policy development.
- 3.2 If the Committee has an interest in a future decision to be made by the Executive, or policy to be implemented, it is within the Committee's remit to feed into the process.
- 3.3 The Forward Plan is actually the future work programme for the Executive. If a non-executive member highlighted a decision(s) which is to be taken by the Executive which they would like to be involved in, that member(s) could then provide useful background to the Committee when the report is submitted to the Executive and they are passing comment on it.

4. **Policy Framework**

- 4.1 The work carried out by the Committee helps the Council to improve in line with its priority to manage services openly efficiently and effectively.

5. **Budgetary Framework**

- 5.1 All work for the Committee has to be carried out within existing resources. Therefore, there is a limit to the time available that officers will have to assist Members, so the Committee may wish to prioritise areas of investigation.

6. **Risks**

- 6.1 This Committee contributes to the effective minimisation of risk by fulfilling its duties in a timely manner and scrutinising the work undertaken by the Executive.

7. **Alternative Options Considered**

- 7.1 The only alternative option is not to undertake this aspect of the overview and scrutiny function.

8. **Background**

- 8.1 There are five main roles of overview and scrutiny in local government. These being:

- Holding to account
- Performance management
- Policy review
- Policy development
- External scrutiny

- 8.2 The pre-decision scrutiny of Executive decisions falls within the role of 'holding to account'. To feed into the pre-decision scrutiny of Executive decisions, the Committee needs to examine the Council's Forward Plan and identify items which it would like to have an impact upon.

- 8.3 The Council's Forward Plan is published on a monthly basis and sets out the key decisions to be taken by the Council in the next twelve months. The Council only has a statutory duty to publish key decisions to be taken in the next four months. However, the Forward Plan was expanded to a twelve month period to give a clearer picture of how and when the Council will be making important decisions.

- 8.4 A key decision is a decision which has a significant impact or effect on two or more wards and/or a budgetary effect of £50,000 or more.

- 8.5 The Forward Plan also identifies non-key decisions to be made by the Council in the next twelve months, and the Committee, if it wishes, may also pre-scrutinise these decisions.

- 8.6 There may also be policies identified on the Forward Plan, either as key or non-key decisions, which the Committee could pre-scrutinise and have an impact upon how these are formulated.

- 8.7 The Committee should be mindful that any work it wishes to undertake would need to be undertaken without the need to change the timescales as set out within the Forward Plan.

- 8.8 At each meeting, the Committee will consider their work programme and make amendments where necessary, and also make comments on specific Executive items, where notice has been given by 9am on the day of the Overview and Scrutiny Committee meeting. The Committee will also receive a report detailing the response from the Executive, on the comments the Committee made on the Executive agenda in the previous cycle.
- 8.9 The Forward Plan is considered at each meeting and allows the Committee to look at future items and become involved in those Executive decisions to be taken, if members so wish.

**Overview and Scrutiny Committee
Work Programme 2017/2018**

4 April 2017

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Outside Bodies report – review of representation on certain of these prior to nominations in the new municipal year. <i>(moved to May 2017)</i>		Report	Andrew Jones			
T&F Group – Off-street car parking charges review <i>(moved to May 2017)</i>		Written report	Councillor Quinney			

31 May 2017

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
T&F Group – Off-street car parking charges review		Written report	Councillor Quinney			
Outside Bodies report – review of representation on certain of these prior to nominations in the new municipal year.		Report	Andrew Jones			
Elect an Overview and Scrutiny Committee Chairman					1st meeting of Municipal Year 2017/18	Annually
Heath Scrutiny Sub-Committee – Appoint members and substitutes					1st meeting of Municipal Year 2017/18	Annually

27 June 2017

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date

25 July 2017

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Holding Portfolio Holders to account – Development Services	Standing Annual Item	Written report followed by Q&A at meeting	Councillor Cross		Late Aug/Early Sept 2018	Annually
Waste Container Charging Review - Update subsequent to the last report February 2017 (to include a pie chart with updated figures as shown in paragraph 8.2 of the Waste Collection Service Update report, 7 Feb 2017.)	7 February 2017	Written report	Becky Davies			

30 August 2017

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Holding Portfolio Holders to account – Development Services	Standing Annual Item	Written report followed by Q&A at meeting	Councillor Cross		Late Aug/Early Sept 2018	Annually

26 September 2017

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Holding Portfolio Holders to account - Finance	Standing Annual Item	Written report followed by Q&A at meeting	Councillor Whiting		Late Sept / Early Oct 2018	Annually

31 October 2017

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Holding Portfolio Holders to account – Cultural Services	Standing Annual Item	Written report followed by Q&A at meeting	Councillor Coker		Late Oct / Early Nov 2018	Annually
Outside Bodies Annual Report	Standing Annual Item	Written Report			Late Oct / Early Nov 2018	Annually

28 November 2017

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Holding Portfolio Holders to account – Housing & Property Services	Standing Annual Item	Written report followed by Q&A at meeting	Councillor Phillips		Late November 2018	Annually
Current Arrangements for South Warwickshire Crime and Disorder Scrutiny	Mandatory	Report	Pete Cutts		Late Nov / Early Dec 2018	Annually
Progress report on the HEART service	Email request from Ken Bruno 27 Jan 2017	Written report	Mark Lingard			

3 January 2018

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Holding Portfolio Holders to account – Health & Community Protection	Standing Annual Item	Written report followed by Q&A at meeting	Councillor Grainger		January 2019	Annually

6 February 2018

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Holding Portfolio Holders to account – Neighbourhood Services	Standing Annual Item	Written report followed by Q&A at meeting	Councillor Shilton		February 2019	Annually

6 March 2018

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Holding Portfolio Holders to account – Business	Standing Annual Item	Written report followed by Q&A at meeting	Councillor Butler		March 2019	Annually
Shakespeare's England	Request from Report Author	Written Briefing Note	David Butler		March 2019	March 2019

4 April 2018

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Overview and Scrutiny Committee End of Term Report	Standing Annual Item	Written Report	Committee Services Officer		April 2019	Annually
Update from the Leader of the Council on his corporate and strategic leadership	Standing Annual Item	Verbal report followed by Q&A at meeting	Councillor Mobbs		April 2019	Annually
Member Children's Champions: End of Year Report	Standing Annual Item	Written Report	Andrew Jones		April 2019	Annually

TBA

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Housing & Homelessness Strategy	27 September 2016	Report	Charlotte Lancaster			
Phase 2 Leisure Development in Kenilworth	1 June 2016	Verbal Update	Rose Winship		C. Servs to notify when the report can be presented	
CWLEP update	30 June 2015	Verbal Report	Councillor Mobbs		BH to provide a copy of the Board Meeting Dates to LD	Quarterly if an update is available
Council Development Company (Forward Plan Ref 727)	February 2016		Head of H&PS		A report cannot be brought forward until housing futures and changes to the Housing and Planning Act have been completed	

Local Plan Infrastructure Delivery Plan	30 June 2015	Report	Tony Ward/Dave Barber			Quarterly Update once the Local Plan has been agreed.
Asset Management Strategy (Corporate Assets) (Forward Plan Ref 641) – Overview and Scrutiny Committee to determine if this should be a Work Programme item	November 2015	Report	Councillor Phillips			

March 2019

Title	Where did item originate from	Format	Lead Officer	Membership of Task & Finish	Next report date if applicable	Completion date
Shakespeare's England	Request from Report Author	Written Briefing Note	David Butler		September 2019	September 2019



Warwick District Council Forward Plan April to July 2017

**Councillor Andrew Mobbs
Leader of the Executive**

The Forward Plan is a list of all the Key Decisions which will be taken by the Executive in the next four months. The Warwick District Council definition of a key decision is: - a decision which has a significant impact or effect on two or more wards and/or a budgetary effect of £50,000 or more.

Whilst the majority of the Executive's business at the meetings listed in this Forward Plan will be open to the public and media organisations to attend, there will inevitably be some business to be considered that contains, for example, confidential, commercially sensitive or personal information.

This is formal notice under the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 that part of the Executive meeting listed in this Forward Plan will be held in private. This is because the agenda and reports for the meeting will contain exempt information under Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) and that the public interest in withholding the information outweighs the public interest in disclosing it. Those items which are proposed to be considered in private are marked as such along with the reason for the exclusion in the list below.

If you would like to make representations or comments on any of the topics listed below, including the confidentiality of any document, you can write to the contact officer, as shown below, at Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ. Alternatively you can phone the contact officer on (01926) 456114. If your comments are to be referred to in the report to the Executive or Committee they will need to be with the officer 7 working days before the publication of the agenda. You can, however, make comments or representations up to the date of the meeting, which will be reported orally at the meeting. The Forward Plan will be updated monthly and you should check to see the progress of the report you are interested in.

(867)

Section 1 – The Forward Plan April to July 2017

Topic and Reference	Purpose of report	If requested by Executive – date, decision & minute no.	Date of Executive, Committee or Council meeting	Publication Date of Agendas	Contact Officer & Portfolio Holder	External Consultees/ Consultation Method/ Background Papers
April 2017						
Service Area Plans for 2017/18 & Annual Performance Reports for 2016/17 (Ref 837)	To approve the Council's Service Area Plans for 2017/18 and report on performance against Service Area Plans for 2016/17.		Executive 4/4/2017	27/03/2017	Andrew Jones Cllr Mobbs	
Code of Procurement Practice (Ref 805)	To consider and recommend to Council an updated Code of Procurement Practice.		Executive Reason 5 28/9/2016 30/11/2016 5/1/2017 8/2/2017 4/4/2017	27/03/2017	John Roberts Cllr Whiting	
Corporate Property Planned Preventative Maintenance Programme (Ref 850)	To provide the rationale for the proposed allocation of works against the budget for the Corporate Repairs and Maintenance Programme.		Executive 4/4/2017	27/03/2017	Russell Marsden Cllr Phillips	
Housing Futures – Revised Housing Revenue Account Business Plan (Ref 775)	To propose a revised Housing Revenue Account Business Plan.		Executive 8/3/2017 Reason 5 4/4/2017	27/03/2017	Bill Hunt Cllr Phillips	
Leamington Creative Quarter (Ref 866)	To delegate authority to agree the boundary of the Creative Quarter during the procurement process – confidential report.		Executive 04/04/2017	27/03/2017	Bill Hunt / Phil Clarke Cllrs Mobbs, Cross & Coker	

May 2017 – there are no scheduled Executive meetings at this time.

1 June 2017

Car Parking Strategy (Ref 790)	To consider the future off-street car parking needs of Leamington, Warwick and Kenilworth and how these should be addressed.		Executive 2/6/16 27/7/2016 Reason 3 01/06/2017	23/05/2017	Paul Garrison Cllr. Shilton	
Task & Finish Group – Houses in Multiple Occupation (Ref 865)	To consider the report and recommendations from the HMO Task & Finish group.		Executive 01/06/2017	23/05/2017	Cllrs Naimo, Mrs Cain Quinney, Davison, Thompson, Mrs Knight & Miss Grainger Cllrs Cross & Phillips	Residents Associations (various), Warwick University, Landlords Forum, WCC Councillors, Parish & Town Councils.
Members' Allowances Scheme (Ref 853)	To consider the recommendations of the Independent Review Panel with regard to Warwick District Councillors Allowances.		Executive 4/4/2017 Reason 3 01/06/2017	23/05/2017	Graham Leach Cllr Mobbs	
St Mary's Lands Warwick Golf Centre (Ref 843)	To consider the business case for an investment proposal. (Private and Confidential by virtue of paragraph 3 of Local Government Act 1972 - Schedule 12A following the Local Government (Access to Information) (Variation) Order 2006)		Executive 4/4/2017 Reason 3 01/06/2017	23/05/2017	Chris Elliott Cllr Butler	
Task & Finish Group – Off-street car parking charges review (Ref 864)	To consider the report and recommendations from the Off-street car parking Task & Finish group.		Executive 01/06/2017	23/05/2017a	Cllrs Quinney, Day, Mrs Cain, Mrs Stevens,	BID Leamington, Warwick District Chambers of Trade, WCC Park & Ride and WCC On-street

					Boad & Ashford P/H Cllr Shilton	parking and liaison
28 June 2017						
Fit For the Future Change Programme (Ref 839)	To update the Council's Fit For the Future Change Programme.		Executive 28/06/2017	20/06/2017	Andrew Jones Cllr Mobbs	
Risk Based Verification (Ref 846)	To seek approval for using Risk Based Verification for Benefit Claims		Executive 28/06/2017	20/06/2017	Andrea Wyatt Cllr Whiting	
St Mary's Lands Master Plan and Delivery Plan Implementation Update (Ref 842)	To consider the masterplan for adoption as the policy for the area and further decisions on its implementation.		Executive 28/06/2017	20/06/2017	Chris Elliott Cllr Butler	
Housing Related Support (Ref 854)	To approve new budgetary arrangements following a restructure of Housing Support Services.		Executive 28/06/2017	20/06/2017	Simon Brooke Cllr Phillips	
Linen Street Car Park (Ref 861)	To consider recommendations for redevelopment for the Linen Street Car Park facility		Executive 28/06/2017	20/06/2017	Paul Garrison Cllr Shilton	
Leamington Cemetery North Lodge (Ref 828)	To review the future use of Leamington Cemetery North Lodge.		Executive 4/4/2017 Reason 3 28/06/2017	20/06/2017	Rob Hoof Cllr Shilton	
July 2017						
HQ Relocation Project – outcome of phase 1 work (Ref 801)	To consider the outcomes of the phase 1 work and, if appropriate, seek approval for commencement of the phase 2 delivery works.		Executive 26/07/2017	18/07/2016	Bill Hunt Cllrs Mobbs, Whiting, Cross,	

					Shilton	
Final Accounts 2016/17 (Ref 847)	To report on the Council's outturn position for both revenue and capital.		Executive 26/07/2017	18/07/2016	Marcus Miskinis Cllr Whiting	
Corporate Asset Management Strategy (Ref 641)	To propose an Asset Management Strategy for all the Council's buildings and land holdings.		Executive 29/6/2016 Reason 6 1/9/16 Reasons 3 & 5 5/1/2017 Reasons 3 & 5 8/2/2017 Reasons 3 & 5	18/07/2016	Bill Hunt Cllrs Mobbs, Cross, Shilton, Coker & Whiting	
Abbey Fields, Parks for People Bid (Ref 863)	To consider bringing forward a tender to scope and consult on a Heritage Lottery funding bid for Abbey Fields		Executive 26/07/2017	18/07/2016	Richard Lunwood Cllr Shilton	

Section 2 Key decisions which are anticipated to be considered by the Council between August and November 2017

Topic and Reference	Purpose of report	If requested by Executive – date, decision & minute no.	Date of Executive, Committee or Council meeting	Publication Date of Agendas	Contact Officer & Portfolio Holder	External Consultees/ Consultation Method/ Background Papers
August 2017						
Budget Review Quarter One to include Financial Projections (Ref 848)	To report on the latest financial prospects for the current and future 5 years.		Executive 31/08/2017	22/08/2017	Andy Crump Cllr Whiting	
12 Month Review of Waste Container Charging Policy (Ref 857)	To review the waste container charging policy after 12 months of it being in effect.		Executive 31/08/2017	22/08/2017	Becky Davies Cllr Shilton	Waste container charging paper: Executive meeting – 10 February 2016 - Agenda item no.3 and Council – 24 February 2016 8 month review of waste container charges: Finance and Audit Scrutiny Committee – 7 Feb 2017 Agenda item no.9 and Overview and Scrutiny Committee – 7 Feb 2017 Agenda item no.7

Leamington Spa Car Parking Displacement Plan (Ref 844)	To set out the options available should vehicles be displaced from Covent Garden car park and to consider alternative parking options within Leamington Town Centre.		Executive 4/4/2017 Reason 2 31/08/2017	22/08/2017	Gary Charlton Cllr Shilton	
Car Park Fees and Charges (Ref 862)	To consider the recommendations for changes to car park fees and charges.		Executive 31/08/2017	22/08/2017	Paul Garrison Cllr Shilton	Warwick District Chambers of Trade and BID Leamington.
September 2017						
Fees and Charges (Ref 849)	To propose the level of fees and charges to be levied from 2 January 2018.		Executive 27/09/2017	19/09/2017	Andy Crump Cllr Whiting	
Article 4 Direction for Royal Leamington Spa Conservation Area (Ref 859)	To authorise the creation of an Article 4 Direction for Royal Leamington Spa Conservation Area, to restrict those permitted development rights that are potentially harmful to the appearance of the Conservation Area.		Executive 27/09/2017	19/09/2017	Nick Corbett Cllr Cross	
October 2017 – No scheduled reports at this time.						
November 2017						
12 Month Review of New Housing Allocations Policy (Ref 858)	To review the working of the new Housing Allocations Policy.		Executive 29/11/2017	21/11/2017	Ken Bruno Cllr Phillips	

Section 3 Key decisions which are anticipated to be considered by the Council but the date for which is to be confirmed						
Topic and Reference	Purpose of report	History of Committee Dates & Reason code for deferment	Contact Officer & Portfolio Holder	Expansion on Reasons for Deferment	External Consultees/ Consultation Method/ Background Papers	Request for attendance by Committee
Private Sector Housing Grants Policy (Ref 658)	To propose a revised policy for the allocation of grant funding for private residents.		Ken Bruno Cllr Phillips	This will come forward in due course once the Future of Housing Adaptations Service has been determined		TBC
Council Development Company (Ref 727)	To consider a report on establishing a Council Development Company.	Executive 9/3/2016 2/6/2016 Reason 2 Reason 1 29/6/2016	Bill Hunt Cllr Phillips			
Revisions to the Constitution/ Delegation Agreement (Ref 819)	To request revisions to the Constitution/ Delegation Agreement with regard to the determination of Planning Applications.		Tracy Darke/Gary Fisher Cllr Cross	This is the subject of on-going discussion with key members		
Leisure Development – Phase II (Kenilworth) (Ref 803)	To agree the scope of Phase II.	Executive 28/9/2016 Reason 5	Rose Winship Cllr Coker			
HRA Asset Management and Development Policy (Ref 829)		Executive	Bill Hunt Cllr Phillips			

Strategic Opportunity Proposal (Ref 712)	To update Members on the current position. It is anticipated that this report will be, in part, Confidential by virtue of the information relating to the financial or business affairs of any particular person (including the authority holding that information).	Executive/ Council 03/09/15 30/09/15 02/12/2015 6/4/2016 2/6/2016 30/11/2016 Reason 3 5/1/2017 Reason 3 & 5	Chris Elliott Cllr Phillips	This item will be brought to Council on 22 February 2017, however it is not yet clear if Executive approval will be required for some aspects of the report.		
Recording and Broadcasting of Public Meetings (Ref 840)	To inform members of the research into the potential to record and broadcast all Council meetings as per the Notice of Motion to Council.	Council 29/6/2016 Executive 5/1/2017 8/2/2017 Reason 3	Graham Leach Cllr Mobbs	Currently being investigated in tandem with Council Chamber PA issues.		
Councillors IT (Ref 841)	To report back on the work of the Councillor IT Working Party.	Executive 5/1/2017 8/2/2017 Reason 3	Graham Leach Cllr Mobbs	Awaiting the outcome of Members' Allowances Review.		
Consideration of a Hackney Carriage Vehicle Limitation Policy (Ref 851)	To update members on the results of the WDC Hackney Carriage Unmet Demand Survey and: Meeting1 – Introduce highlights of survey and propose a 6 week consultation on recommended options outlined in the survey. Meeting 2 – Update on the consultation & determine any change to policy, following the consultation.		Lorna Hudson Cllr Grainger	This report will go to Licensing & Regulatory Committee on 20/02/17 & 30/05/17 prior to being brought to Executive.	Taxi trade, local business, safer communities, disability, equality and other local group representatives, Town Councils, Police.	

					Questionnaire on website/email. CTS Traffic & Transportation Final Report - July 2016.	
WDC Enterprise – New Trading Arm (Ref 817)	To seek approval to establish a Local Authority Trading Company, to expand support provision whilst capitalising on existing skills to maximise income.	Executive 2/11/2016 Reason5 5/1/2017 Reason5 8/2/2017 Reason 5	Gayle Spencer Cllr Butler			
Events Review (Ref 832)	To review the provision and support of events in the District.	Executive 8/3/2017 Reason 4	Stuart Poole Cllr Butler			

Section 4 – Items which are anticipated to be considered by the Executive but are NOT key decisions

Topic and Reference	Purpose of report	If requested by Executive – date, decision & minute no.	Date of Executive, Committee or Council meeting	Publication Date of Agendas	Contact Officer & Portfolio Holder	External Consultees/ Consultation Method/ Background Papers
April 2017						
Rural Urban Community Initiative Scheme Applications	To consider applications for Rural and Urban Initiative Grants.		Executive 5/4/2017	27/03/2017	Jon Dawson Cllr Whiting	
Review of Significant Business Risk Register	To inform Members of the Significant Risks to the Council.		Executive 5/4/2017	27/03/2017	Richard Barr Cllr Mobbs	
Local List of Historic Buildings	To authorise the creation of a Warwick District Local List of Heritage Assets, to protect those heritage assets that don't meet the national criteria for listing but which are worthy of protection due to their local heritage significance.		Executive 5/4/2017	27/03/2017	Nick Corbett Cllr Cross	
Housing Appeals and Review Panels (Ref 860)	To seek approval for streamlined processes for undertaking reviews of decisions undertaken in Housing Services and a move to officer led reviews to replace Councillor constituted Housing Advice and Review Panels undertaking these reviews		Executive 4/4/2017	27/03/2017	Simon Brooke Cllrs Mobbs & Phillips	
May 2017 – No scheduled Executive meetings at this time.						

June 2017						
Rural Urban Community Initiative Scheme Applications	To consider applications for Rural and Urban Initiative Grants.		Executive 28/06/2017	20/06/2017	Jon Dawson Cllr Whiting	
July 2017 – No scheduled reports at this time.						
August 2017						
Rural Urban Community Initiative Scheme Applications	To consider applications for Rural and Urban Initiative Grants.		Executive 31/08/2017	22/08/2017	Jon Dawson Cllr Whiting	
Contracts Register Review	To review the Service Area's Contract Register		Executive 31/08/2017	22/08/2017	John Roberts Cllr Whiting	
September 2017						
Review of Significant Business Risk Register	To inform Members of the Significant Risks to the Council.		Executive 27/09/2017	19/09/2017	Richard Barr Cllr Mobbs	
Rural Urban Community Initiative Scheme Applications	To consider applications for Rural and Urban Initiative Grants.		Executive 27/09/2017	19/09/2017	Jon Dawson Cllr Whiting	
October 2017 – No scheduled reports at this time.						
November 2017 – No scheduled reports at this time.						

Delayed reports:

If a report is late, officers will establish the reason(s) for the delay from the list below and these will be included within the plan above:

1. Portfolio Holder has deferred the consideration of the report
2. Waiting for further information from a Government Agency
3. Waiting for further information from another body
4. New information received requires revision to report

5. Seeking further clarification on implications of report

Details of all the Council's committees, Councillors and agenda papers are available via our website www.warwickdc.gov.uk/committees

**The forward plan is also available, on request, in large print on request, by telephoning
(01926) 456114**