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COMMITTEE:	BABERGH CABINET
DATE:	MONDAY, 9 JANUARY 2023 2.00 PM
VENUE:	KING EDMUND CHAMBER, ENDEAVOUR HOUSE, 8 RUSSELL ROAD, IPSWICH

Members		
<u>Independent Conservatives</u> Jan Osborne John Ward (Chair) Mary McLaren	<u>Independent</u> Clive Arthey Elisabeth Malvisi Alastair McCraw	<u>Liberal Democrat</u> David Busby <u>Green Party</u> Jane Gould

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REVISED AGENDA

PART 1

MATTERS TO BE CONSIDERED WITH THE PRESS AND PUBLIC PRESENT

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Please note the most up to date version can be found via the website:

[Forthcoming Decisions List » Babergh](#)

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- 13 **BCa/22/43 SUDBURY LAND SALE** 115 - 124
Cabinet Member for Finance, Asset and Investments
- 14 **EXCLUSION OF THE PUBLIC (WHICH TERM INCLUDES THE PRESS)**

To consider whether, pursuant to Part 1 of Schedule 12A of the Local Government Act 1972, the public should be excluded from the meeting for the business specified below on the grounds that if the public were present during this/these item(s), it is likely that there would be the disclosure to them of exempt information as indicated against the/each item.

The author(s) of the report(s) proposed to be considered in Part 2 of the Agenda is/are satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 15 **BCa/22/43 SUDBURY LAND SALE** 125 - 146
Cabinet Member for Finance, Assets and Investments

Date and Time of next meeting

Please note that the next meeting is scheduled for Monday, 6 February 2023 at 2.00 pm.

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Agenda Item 3

BABERGH DISTRICT COUNCIL

Minutes of the meeting of the **BABERGH CABINET** held in the King Edmund Chamber, Endeavour House, 8 Russell Road, Ipswich on Monday, 5 December 2022

PRESENT:

Councillor: John Ward (Chair)

Councillors: Jan Osborne
David Busby
Elisabeth Malvisi
Clive Arthey
Jane Gould
Alastair McCraw

In attendance:

Councillor(s): John Hinton
Adrian Osborne

Officers: Chief Executive (AC)
Deputy Chief Executive (KN)
Deputy Monitoring Officer (JR)
Director - Corporate Resources & Section 151 Officer (ME)
Director – Customers, Digital Transformation and Improvement (SW)
Director – Operations (ME)
Director - Housing (DF)
Director - Assets & Investments (EA)
Corporate Manager - Finance, Commissioning & Procurement (RH)
Corporate Manager - Customer Operations (SL)
Corporate Manager – Communities (VM)
Regenerations and Capital Projects Manager (LC)
Assistant Manager – Governance (HH)

Apologies:

Mary McLaren

64 DECLARATION OF INTERESTS BY COUNCILLORS

None received.

65 BCA/22/31 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 7 NOVEMBER 2022

It was **RESOLVED**: -

That minutes of the meeting held on the 7 November 2022 be confirmed and signed as a correct record of the meeting.

66 TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH THE COUNCIL'S PETITION SCHEME

None received.

67 QUESTIONS BY COUNCILLORS

None received.

68 MATTERS REFERRED BY THE OVERVIEW AND SCRUTINY OR JOINT AUDIT AND STANDARDS COMMITTEES

No matters were referred.

69 FORTHCOMING DECISIONS LIST

The Forthcoming Decisions List was noted.

70 BCA/22/32 GENERAL FUND FINANCIAL MONITORING 2022/23 - QUARTER 2

70.1 The Chair, Councillor Ward invited the Cabinet Member for Finance, Assets and Investments, Councillor Busby to introduce the report.

70.2 Councillor Busby gave an overview of the report and moved the recommendations as detailed in the report. Councillor Malvisi seconded the recommendations.

70.3 Councillor McCraw queried whether any late changes were likely to be made to the budget.

70.4 Councillor Busby stated that there were still uncertainties from the Government on business rates and settlements, additionally calculations in the budget were ongoing.

70.5 Councillor Arthey questioned the Corporate Resources figure, and the vacancy management underspends in all services.

70.6 Councillor Busby responded that the underspend on staff vacancies was budgeted for the whole Council under Corporate Resources.

70.7 The Corporate Manager - Finance, Commissioning & Procurement added that during the year when vacancies occurred the underspends were put under the relevant service areas.

70.8 During the debate Councillor Ward commented that the Quarter 2 Performance was an improvement on the forecast from Quarter 1. In addition, due to the surplus last year being placed in the Inflationary Pressures Reserve, this reserve could be used for the forecasted overspend.

It was RESOLVED: -

1.1 That, subject to any further budget variations that arise during the rest of the financial year, the net expenditure overspend position of £693k and forecast reserve movements, referred to in section 5.5 and Appendix A of the report, be noted;

1.2 The revised 2022/23 Capital Programme referred to in Appendix B and section 5.9 be noted.

71 BCA/22/33 HOUSING REVENUE ACCOUNT (HRA) FINANCIAL MONITORING 2022/23

71.1 The Chair, Councillor Ward invited the Cabinet Member for Finance, Assets and Investments, Councillor Busby to introduce the report.

71.2 Councillor Busby gave an overview of the report and moved the recommendations as detailed in the report. Councillor Osborne seconded the recommendations.

71.3 Councillor Arthey queried the overspend on subcontractors to support the trades team following the lifting of covid restrictions.

71.4 The Cabinet Member for Housing Councillor Osborne stated that the Council had underestimated repair costs and as a result of this the cost of contractors had been underestimated in the budget.

71.5 The Director for Housing added that due to the backlog of repairs use of contractors would be continued. A transformation plan and a stock condition survey were being developed, and both would inform the Housing Revenue 30-year business plan. This would create a planned approach to maintenance instead of a reactive approach.

71.6 During the debate Councillor Osborne commented that Members should support the work of the housing team, as they were working hard in challenging circumstances.

It was RESOLVED: -

1.1 That, subject to any further budget variations that arise during the rest of the financial year, the adverse variance of £825k, referred to in section 6.5 of the report, be noted.

1.2 The 2022/23 revised Capital Programme referred to in Appendix A and section 6.12 be noted.

72 BCA/22/34 QUARTER 2 PERFORMANCE 2022/23

72.1 The Chair, Councillor Ward invited the Cabinet Member for Customers, Digital Transformation and Improvement, Councillor McCraw to introduce the report.

- 72.2 Councillor McCraw provided a brief introduction and outlined that an average of 556 calls had been received per day, however this was a reduction from quarter one. Additionally, there had been a total of 506 visits to customer access points across the district.
- 72.3 Councillor McCraw invited Cabinet Members to outline the progress under their portfolio.
- 72.4 Councillor Ward, Cabinet Member for Economic Growth, highlighted the innovate local scheme in Hadleigh Markets with nine additional businesses supported under the scheme.
- 72.5 Councillor Malvisi, Cabinet Member for Environment, outlined that garden waste subscribers had increased by 51. Additionally, 98 fly tipping incidents had been cleared within 48 hours.
- 72.6 Councillor McCraw outlined that under the Communities & Wellbeing portfolio a total of 11 new anti-social behaviour (ASB) cases were discussed at the ASB partnership panel, and 29 lower risk ASB cases were dealt with by officers. Additionally, under Wellbeing 36,722 households had received the council tax energy rebate.
- 72.7 Councillor Osborne, Cabinet Member for Housing, highlighted that the Empty Homes Policy had been approved and as a result six empty homes had been inspected, and 122 owners had been engaged with. This had led to 26 homes being brought back into use.
- 72.8 Councillor Arthey queried whether in the next quarter there would be an improvement in the call abandonment rates and wait times for customers. Councillor McCraw responded that new staff had been trained which would help decrease the response times.
- 72.9 Councillor Osborne asked for an Update on the introduction of a pilot scheme in Great Cornard to reduce domestic fly tipping and whether the scheme would be rolled out across Babergh District. The Director for Operations would provide a response outside of the meeting.

The Quarter 2 Performance 2022/23 report was noted.

73 BCA/22/35 COST OF LIVING CRISIS: 5 POINT ACTION PLAN PROGRESS REPORT (PHASE 1) AND PHASE 2 ACTION PLAN

- 73.1 The Chair, Councillor Ward invited the Cabinet Member for Housing, Councillor Osborne to introduce the report on behalf of the Cabinet Member for Communities and Wellbeing.
- 73.2 Councillor Osborne provided an overview of the report and moved the recommendations as detailed in the report. Councillor Malvisi seconded the recommendations.

- 73.3 In response to Councillor Osborne's query regarding whether officers had been working with town and parish councils, as many had developed their own schemes separate from the Council, the Corporate Manager – Communities detailed the information sharing processes between town and parish councils and the District Council. In addition, locality officers were also directly involved with town and parish councils to assist with partnership working.
- 73.4 Members debated the issues including the importance of partnership working, the work of some community groups, and the involvement of Ward Members with communities.
- 73.5 The Cabinet Member for Housing Councillor Osborne stated that working with partners would be key to the success of the action plan, including the involvement of Suffolk County Council, and healthcare providers.
- 73.6 Councillor Ward queried the number of discretionary housing payments that had been administered through the Shared Revenues Partnership, and whether there was a cap on the funds that could be distributed. Councillor Osborne responded that the full grant was £86,572 and that £33,580 had been paid out. Currently £8522 was committed for payment, with £44,469 of the fund remaining to be spent.

It was RESOLVED: -

1.1 To review and note the content of the Phase 1 Cost of Living 5 Point Action Plan Dashboard Report at Appendix 1.

1.2 To note the focus of the Phase 2 Cost of Living Action Plan at Appendix 2.

74 BCA/22/36 HADLEIGH A1071 ROADSIDE COMMERCIAL WORKSPACE DEVELOPMENT

- 74.1 The Chair, Councillor Ward provided an overview of the report and moved the recommendations as detailed in the report. Councillor McCraw seconded the recommendations.
- 74.1 Councillor McCraw moved that the meeting went into closed session to enable consideration of the confidential appendices. This was seconded by Councillor Malvisi.

It was RESOLVED: -

That pursuant to Part 1 of Schedule 12A of the Local Government Act 1972, the public should be excluded from the meeting for the business specified below on the grounds that if the public were present during this item, it was likely that there would be the disclosure to them of exempt information as indicated against the item. The author of the report proposed to be considered in Part 2 of the Agenda is satisfied that the public interest in

maintaining the exemption outweighs the public interest in disclosing the information.

74.2 The meeting went into closed session between 3:02pm – 3:20pm.

74.3 Upon returning to Open session Councillor Busby queried whether there had been any interest in the units. The Regenerations and Capital Projects Manager responded that there had been enquiries into the units and this interest would continue once the development was approved.

It was RESOLVED: -

1.1 That Cabinet noted progress, since its last meeting of 08 July 2022, on refinement of an optimal scheme layout and design to support the Council's regeneration priorities. Further, that Cabinet notes the updated order of costs estimate and viability assessment (attached as Confidential Appendix A).

1.2 That Cabinet authorised the Director for Economic Growth and Climate Change to conclude an optimal scheme design and layout, based upon occupier and local marketing intelligence gathered, and proceed to submit a planning application during early 2023.

1.3 That Cabinet approved the draft Heads of Terms lease agreement for the office unit (with associated parking and service areas) identified in Confidential Appendix B, and with the tenant identified within that draft agreement.

1.4 That Cabinet delegated to the Director for Economic Growth and Climate Change the authority to agree or vary the final terms for the lease agreement of the land shown in Confidential Appendix B.

1.5 That Cabinet approved the substituted bid terms of offer for the freehold transfer of the A1 use-class convenience retail/drive-thru unit identified in Confidential Appendix C, and as being the best consideration reasonably obtainable.

1.6 That Cabinet delegated to the Director for Economic Growth and Climate Change the authority to agree or vary the final terms for the freehold disposal of the land shown in Confidential Appendix C. Further, that the Director for Economic Growth and Climate Change be delegated authority to accept a substitute bid received on the same or similar terms, in the event this latest sale agreement does not proceed.

1.7 That Cabinet authorised the Director for Economic Growth and Climate Change to proceed with marketing for the Light Industrial (B1 use class) units.

75 EXCLUSION OF THE PUBLIC (TERM WHICH INCLUDES THE PRESS)

It was RESOLVED: -

That pursuant to Part 1 of Schedule 12A of the Local Government Act 1972, the public should be excluded from the meeting for the business specified below on the grounds that if the public were present during this item, it is likely that there would be the disclosure to them of exempt information as indicated against the item. The author of the report proposed to be considered in Part 2 of the Agenda is satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

76 BCA/22/36 HADLEIGH A1071 ROADSIDE COMMERCIAL WORKSPACE DEVELOPMENT - CONFIDENTIAL APPENDICES

The business of the meeting was concluded at 3:24 pm.

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Chair

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Agenda Item 8

BABERGH DISTRICT COUNCIL

TO: Cabinet	REPORT NUMBER: BCa/22/28
FROM: Cabinet Member for Finance Dave Busby	DATE OF MEETING: 9 th January 2023
OFFICER: Melissa Evans – Director Corporate Resources	KEY DECISION REF NO. CAB410

Council Tax Reduction (Working Age) Scheme 2023/24

1. PURPOSE OF REPORT

- 1.1 To propose changes to the Council Tax Reduction (Working Age) Scheme and seek support from Cabinet in recommending to Council that the new scheme be adopted. The Council Tax Reduction (Working Age) Revised Scheme will come into effect on 1st April 2023.
- 1.2 The report includes details of the responses from the 6-week public consultation at Appendix D.

2. OPTIONS CONSIDERED

- 2.1 Option 1
Renew the existing Working Age LCTR Scheme to allow an up to 100% maximum reduction for all households.
- 2.2 Option 2
Renew the existing Working Age LCTR Scheme to allow an up to 100% maximum reduction for all legacy benefit households and introduce a simplified scheme for UC customers that will allow 'passport' claims to be automated based on the UC financial data without additional verification.
- 2.3 Option 3
Renew the existing Working Age LCTR Scheme to allow an up to 100% maximum reduction for all legacy benefit households and introduce a simplified scheme for UC customers that will allow 'passport' claims to be automated based on the UC financial data without additional verification. Create a transitional protection scheme to support those households who would be worse off under the simplified UC scheme.
- 2.4 Option 4
Continue with the existing Working Age LCTR Scheme of up to 95% maximum reduction for all households

<p>3. RECOMMENDATIONS</p> <p>3.1 To recommend to Council that Option 3 (as set out in Appendix C of this report) be used as the basis for a revised (Working Age) Council Tax Reduction Scheme for 2023/24.</p>
<p>REASON FOR DECISION</p> <p>3.2 To increase the maximum reduction available to 100% and reduce the number of customers undergoing recovery processes.</p> <p>3.3 To avoid unnecessary means testing and provide equitable access to CTR for all customers who receive welfare benefits.</p> <p>3.4 To reduce the requirement for recalculation of awards for customers on UC with fluctuating earnings.</p> <p>3.5 To ensure that no customer is disadvantaged on the introduction of the new CTR Scheme</p>

4. KEY INFORMATION

- 4.1 The Council currently operates two Council Tax Reduction (CTR) schemes:
- CTR State Pension Age Scheme; and
 - CTR Working Age (Local) Scheme
- 4.2 The State Pension Age Scheme is a prescribed scheme and councils are prohibited from changing any aspect of the scheme.
- 4.3 The Council’s CTR Working Age (Local) Scheme (CTRS) was first introduced in April 2013 offering a maximum reduction in Council Tax to eligible households of 91.5%
- 4.4 The Scheme was subsequently revised in 2018 – increasing the maximum reduction available to 95% for both councils whilst allowing customers in receipt of the then new Universal Credit (UC) the same access to CTR as recipients of the legacy benefits which Universal Credit had replaced.
- 4.5 In response to the ‘cost of living’ crisis there is a proposal to renew the Working Age LCTR to allow an up to 100% reduction. Helping the most financially vulnerable across the districts and provide some much-needed support within a well-established scheme.
- 4.6 In order to deliver this support three options have been reviewed with a recommendation for the option that protects the most financially vulnerable, will be least bureaucratic and can also deliver service efficiencies in the future. This is reflected in a new banded scheme that encompasses transitional protection in 2023/24.

5. Background

- 5.1 The CTR schemes 'piggyback' on the means-tested Housing Benefit (HB) scheme using the same calculation method & rules for entitlement. This works well for those customers who receive both Housing Benefit and Council Tax Reduction although, for a number of customers, this means-testing is undertaken solely to calculate entitlement to CTR. I will refer to these as CTR only cases.
- 5.2 The number of CTR only cases have grown as Universal Credit becomes the primary benefit claimed by new customers requiring help with rent. Additionally, the Department for Work and Pensions (DWP) have been migrating all existing working age HB claimants onto Universal Credit. This migration will continue for legacy benefits at an unspecified date in the future. Whilst a 'natural' migration had been planned, the Coronavirus pandemic caused a significant acceleration in this migration as many existing customers experienced a significant change in their circumstances which required a move from HB to UC.
- 5.3 Since the introduction of the revised scheme in 2018, the caseload profile for recipients of Council Tax Reduction has changed significantly and now almost 60% of CTR customers receive Universal Credit.
- 5.4 The operation of the current CTR scheme is administratively burdensome. UC has award periods which require reviews to entitlement of UC every month for people who work. These reviews generate new award notifications to Local Authorities (LA's) for any change in circumstances which, in turn, prompt a reassessment of CTR awards. The proposals for an up to 100% reduction scheme will also produce a reduction in printing, postage and recalculation of awards.
- 5.5 The efficiencies highlighted above will deliver service savings within the Shared Revenues Partnership. These will be realised through potentially lower financial contributions from Babergh, Mid Suffolk and Ipswich for the financial year following the introduction of a 100% reduction scheme. This could be in the region of £75,000 to £150,000 in subsequent years.
- 5.6 The continual reassessments consequently create Council Tax (CT) adjustments which necessitate the production of a new CT bill. Each new bill notifies the customer that a new instalment plan has been set (satisfying the legal notice period) and of the date when the first instalment falls due. This effectively defers the customer from making CT payments and, just before that new instalment falls due, UC recalculates again, and the process is repeated. This constant deferral causes confusion for customers as to when and how much to pay and can lead to accrual of CT arrear debt. A mechanism which reduces the requirement to recalculate awards would provide clarity for customers with fluctuating earnings and allow for any Council Tax due to be spread over the year.
- 5.7 As the current scheme requires that everyone contributes towards their Council Tax by at least 5%, many CTR customers are left with small balances to pay. These balances are difficult to collect, and recovery processes can lead to customers incurring costs – sometimes the cost of which exceeds the balance to pay. These balances are difficult to collect, and recovery processes can lead to customers incurring costs – sometimes the cost of which exceeds the balance to pay. Moving

to a 100% reduction maximum scheme would mean those customers who are living on welfare benefits alone would have no Council Tax to pay and would not be subject to recovery processes or related costs. The reduction in recovery action will reduce the printing and postage of reminders, final notices and summons'. These processes themselves are generally automated and offer no potential for officer time savings.

- 5.8 The existing LCTR scheme does not work well for customers in receipt of UC and the proposals detailed within this report will significantly alleviate the pressures of financial uncertainty for this group of customers.
- 5.9 The additional financial pressures brought about by the current 'cost of living' crisis make this timely for the Council to offer additional financial support to its most financially vulnerable residents

6. Options considered

6.1 Option 1

Renew the existing Working Age LCTR Scheme to allow an up to 100% maximum reduction for all households.

- 6.2 Moving to a 100% reduction maximum scheme would mean those customers who are living on welfare benefits alone would have no Council Tax to pay and would not be subject to recovery processes or related costs.
- 6.3 This is the simplest change to introduce but perpetuates the existing problems of Universal Credit customers being put through a secondary means-test process and then being subject to monthly means-tested reviews as UC awards change. As the UC caseload increases, the workload is likely to become unmanageable and lead to long delays for all customers (including those on Housing Benefit) unless there is to be further investment in additional resources.
- 6.4 Approximately 2459 individuals will be better off. Each customer will gain CTR equal to 5% of their Council Tax liability. An average increase of £1.15 per week.
- 6.5 **Option 2**
Renew the existing Working Age LCTR Scheme to allow an up to 100% maximum reduction for all legacy benefit households and introduce a simplified scheme for UC customers that will allow 'passported' claims to be automated based on the UC financial data without additional verification.
- 6.6 UC claims without additional earnings would be awarded a 100% reduction on their Council Tax automatically based on their calculated UC entitlement. Customers with additional earnings will be managed within the scheme based on the level of earnings they receive as evidenced to and reported by DWP.
- 6.7 This scheme will maximise the opportunity for automation of UC notifications, offer a transparent scheme that will allow customers to calculate their own entitlement 'at a glance' and dramatically reduce the number of transactions that would lead to new bills/notifications being produced.

6.8 Approximately 2288 individuals will have the same/better reduction with an average benefit increase of £1.32 per week and a maximum benefit increase of £32.77 per week.

6.9 This option could deliver future operational savings of £75,000 to £150,000 in subsequent financial years following the introduction

6.10 **Option 3**

Same as Option 2 above but introduces a Transitional Protection Scheme for Universal Credit customers that would otherwise receive a lower entitlement at the introduction of the new scheme.

6.11 This scheme could operate until a change in circumstances or break in claim. The details of operation are part of the consultation.

6.12 As with Option 2 except approximately an additional 171 individuals will receive Transitional Protection. This results in 2459 individuals having the same/better reduction. The transitional cost for 2023/24 would have an estimated cost of £24.4K to be funded from the COVID19 earmarked reserve.

6.13 This option could deliver future operational savings in subsequent financial years following the introduction.

6.14 This option will ensure that no customer is financially 'worse off' on the introduction of a new CTR Scheme.

7. **LINKS TO CORPORATE PLAN**

7.1 Ensuring that the Council makes best use of its resources is what underpins the ability to achieve the priorities set out in the Corporate Plan.

8. **FINANCIAL IMPLICATIONS**

8.1 The table below shows the total Council Tax liability and value of Working Age Council Tax Reduction for the current financial year. As CTR is a daily reduction, the value of liabilities and reductions changes on a daily basis as this is affected by the number of live claims and their entitlement to CTR as well as the impact of reliefs and discounts on liabilities for Council Tax itself.

	Gross Liability	CTR 22/23 95% Scheme	Net Liability
Working Age	£3,282,856	£2,478,442	£804,413

8.2 Any additional costs associated with the recommendation are to be funded from the Councils Covid19 earmarked reserve.

8.3 The financial impacts in respect of cost arising from the proposals within this report are detailed within the appendices.

8.4 All calculations undertaken for this report are based on 2022/23 caseload and liabilities.

9. LEGAL IMPLICATIONS

9.1 Section 13A(1) of the Local Government Finance Act 1992 (as amended) states that the amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (a) is to be reduced to the extent if any required by the Council's council tax reduction scheme under section 13A(2). Subsection 13A(1)(c) allows that in any case the council tax liability may be reduced, or if the amount has already been reduced under section 13A(1)(a), to such further extent, as the Council thinks fit. Under Section 13A(2) the Council must make a scheme specifying the reductions which are to apply to amounts of council tax payable in respect of dwellings situated in its area, by (a) persons whom the Council considers to be in financial need, or (b) persons in classes consisting of persons whom the Council considers to be, in general, in financial need. Section 13A(6) confirms the power under subsection (1)(c) includes the power for the Council to reduce an amount of council tax liability to nil.

9.2 Schedule 1A sets the arrangements for council tax reduction schemes. Paragraph 2 details the matters to be included in schemes, for example Paragraph 2(1) states that a scheme must state the class of persons who are to be entitled to a reduction under the scheme, and paragraph 2(3) says a scheme must set out the reduction to which each person in each class are to be entitled, and different reductions may be set out for different classes. Paragraph 4(d) confirms a reduction may be the whole amount of council tax (so that the amount payable is nil). Paragraph 5 of Schedule 1A requires the Council each financial year to consider whether to revise its scheme or replace it with another scheme.

9.3 Before making a scheme, the Council has a duty to (in the following order): (a) consult any major precepting authority which has the power to issue a precept to it; (b) publish a draft scheme, and (c) consult "such other persons as it considers are likely to have an interest in the operation of the scheme." (Schedule 1A Paragraph 3(1)). Once the Council has made the scheme it must publish it in the manner it thinks fit (Paragraph 3(3) of Schedule 1A).

9.4 If a Council fails to consult in accordance with the Act and the so-called Gunning principles on consultation, there is a possibility that any scheme could be subject to a challenge of Judicial Review, and if successful may be set aside. These principles are: (1) proposals are still at a formative stage; (2) there is sufficient information to give 'intelligent consideration'; (3) there is adequate time for consideration and response; and (4) 'conscientious consideration' must be given to the consultation responses before a decision is made. The Council should therefore ensure that it consults with anyone who is likely to have an interest in the scheme, provide enough information of the scheme, and sufficiently reasonably time to respond, and it must then properly consider and take into account any responses received.

10. RISK MANAGEMENT

- 10.1 This report is most closely linked with the Council's Corporate / Significant Business. Key risks are set out below:

Key Risk Description	Likelihood 1-4	Impact 1-4	Key Mitigation Measures	Risk Register and Reference
Successful legal challenge to the Working Age CTR scheme changes	1 Highly unlikely	3 Bad/ Serious	Follow legal requirements for public consultation	Finance, Commissioning and Procurement Operational Risk Register 011
Failure to meet the deadlines for agreeing/ implementing the scheme	1 Highly Unlikely	3 Bad/ Serious	Project Management Committee Scheduling Gateway Reviews Test system set-up	Finance, Commissioning and Procurement Operational Risk Register 011

11. CONSULTATIONS

- 11.1 The Leader of the Council and the Cabinet Member for Finance were consulted in the designing of the options for consideration.
- 11.2 Before any changes could be adopted, the Council was required to:
- consult any major precepting authority which has power to issue a precept to it,
 - publish a draft scheme in such manner as it thinks fit, and
 - consult such other persons as it considers are likely to have an interest in the operation of the scheme.
- 11.3 A period of public consultation was undertaken for 6 weeks based on the scheme as detailed within Option 3. Suffolk County Council and the Police and Crime Commissioner were approached directly and invited to respond.
- 11.4 The revised CTR Scheme was published on the Council's Web Site, with attention drawn to it on the "Home" page and elsewhere, including:
- in Social Media posts,
 - in a standard paragraph in every Council Tax, CTR and Housing Benefit letter sent, and
 - in a local press release.
- 11.5 The consultation communication methods ensured that the revised scheme was made available to:

- a) Council Tax liable persons.
- b) Those currently in receipt of a Council Tax Reduction (CTR):
- c) Advisers regarding debt problems – including SCC Financial Inclusion Advice Service and Citizens Advice

11.6 The full survey results are available within Appendix D of this report but importantly 91% of the 53 persons who responded were in favour of simplifying the revised scheme to reduce administrative costs, 79% (42 respondents) supported amending the scheme to offering up to 100% reduction yet only 28% (15 respondents) were in receipt of CTR and as such were potential beneficiaries of the revised scheme.

12. EQUALITY ANALYSIS

- 12.1 The proposals in this report equalise the Pension Age CTR Scheme and the Working Age CTR Scheme by offering up to 100% Council Tax Reduction thus ensuring that as well as age, there won't be discrimination against the other protected characteristics under the Equality Act 2010 (disability, sex, gender reassignment, pregnancy, maternity, race, sexual orientation, religion or belief or because someone is married or in civil partnership)
- 12.2 The law requires that this duty to have due regard be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of the equality duty.
- 12.3 The proposals in this report equalise the pension age CTR scheme and the working age CTR scheme by offering up to 100% council tax reduction thus ensuring age is not a reason for difference in treatment under either scheme.
- 12.4 Equality Impact Assessment (EIA) not required for consultation but will be undertaken prior to any scheme change implementation.

ENVIRONMENTAL IMPLICATIONS

- 12.5 The proposal to amend the Local Council Tax Reduction Scheme does not have a detrimental impact on the Council's climate change objectives.

13. APPENDICES

Title	Location
Option 1 Increase the maximum rate of CTR from 95% to 100%	Appendix A
Option 2 Increase the maximum rate of CTR from 95% to 100% and introduce a Banded Earnings scheme for UC customers	Appendix B
Option 3	Appendix C

Increase the maximum rate of CTR from 95% to 100% and introduce a Banded Earnings scheme for UC customers and Transitional Protection.	
Survey Response Analysis	Appendix D

14. BACKGROUND DOCUMENTS

14.1 JOS/22/9 Council Tax Reduction Scheme

14.2 BCa/22/27 Council Tax Reduction (Working Age) Scheme 2023/24 - Consultation

Option 1

Increase the maximum rate of CTR from 95% to 100% reduction of the Council Tax charge maintaining alignment with the Housing Benefit Scheme.

This provides for the simplest change and allows for all customers to be treated in the same way. The caseload changes on a daily basis but the table below demonstrates the approximate cost of change.

Table 1

Adoption	Cost of CTR 22/23 95% Scheme	Cost of CTR 22/23 100% Scheme	Cost of 1uplift to 100% Scheme (+5% liability)	Caseload on 31st October
Working Age	£2,505,144	£2,658,267	£153,123	2,459

The cost of the CTR scheme is borne proportionally by precepting authorities.

Based on the 2022/23 Council Tax Band D figures, the increase in the scheme costs would impact the preceptors by the following amounts:

Table 2

Cost of uplift to 100% Scheme	Suffolk County Council 73.7%	Police & Crime Commissioner 12.7%	Babergh Council 9.1%	Parish Average 4.6%
£153.1k	£112.8k	£19.4k	£13.9k	£7k

Option 2

Increase the maximum rate of CTR from 95% to 100% reduction of the Council Tax charge maintaining alignment with the Housing Benefit Scheme for legacy customers and introduce a Banded Earnings element to the scheme to account for Universal Credit customers.

This scheme (as modelled) costs BDC just £3k more to support than option 1.

The cost of the CTR scheme is borne proportionally by precepting authorities. Based on the 2022/23 Council Tax Band D figures, the increase in the scheme costs would impact the preceptors by the following amounts:

Table 3

Cost of uplift to 100% Scheme and UC Banded Scheme	Suffolk County Council 73.7%	Police & Crime Commissioner 12.7%	Babergh Council 9.1%	Parish Average 4.6%
£175.4k	£129.3k	£22.3k	£15.9k	£8k

Option 2 was modelled assuming the following income thresholds for customers on UC. These are completely flexible, and both the band thresholds and weekly contribution can be amended.

Table 4 – Income Bands

Income Bands (Monthly)	monthly contribution	Income Bands (Weekly up to)	Weekly contribution
Not in work or less than £290	£0	Not in work or less than £66.92	£0
£290 - £609.99	£35	£140.77	£8.08
£610 - £1159.99	£80	£267.69	£18.46
£1160 to £1844.99	£120	£425.77	£27.69
£1845 - £2369.99	£185	£546.92	£42.69
£2370 - £2899.99	£240	£669.23	£55.39
Over £2900	No entitlement to CTS	over £669.23	No entitlement to CTS

Only those UC customers who earn over £290 per month would need to make any contribution towards their Council Tax and, provided their earnings do not fluctuate greatly, payments would remain the same throughout the year.

The main groups of people who benefit from this scheme are those where the claimant or partner had Carers Allowance or Employment Support Allowance included within their Universal Credit. This is counted as income within the current scheme and 20% of that income is used to reduce weekly entitlement to CTR. Under the new scheme, those customers who do not work are 'passported' to full CTR. Those customers who work and have Carers/Employment Support Allowance, have this 'other' income disregarded as additional income and, as such, see less of a reduction to their weekly entitlement.

93.05% of customers receive the same/better reduction than under the current scheme.

The customers who are adversely affected by this change are those who have Housing Costs included within their UC. The current scheme assumes that the assessed UC level is equivalent to the 'basic living allowance' used for legacy benefit customers and results in higher entitlement to CTR

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Option 3

Increase the maximum rate of CTR from 95% to 100% reduction of the Council Tax charge maintaining alignment with the Housing Benefit Scheme for legacy customers, introduce a Banded Earnings element to the scheme to account for Universal Credit customers and Transitional Protection.

Option 3 details are as for Option 2 but, for those customers who would be adversely affected under Option 2, Transitional Protection would be awarded to 'top up' entitlement to that of entitlement levels at the 31st March 2022.

Transitional Protection is awarded under Section 13A (1)(c) of the Local Government Finance Act 1992 which gives Local Authorities the ability to make a further reduction to an established LCTR scheme in saying that the amount of Council Tax which a person is liable to pay in respect of any chargeable dwelling and any day 'may be reduced to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit'. Such additional awards are made at the Councils discretion.

Awards made at the Council's discretion are to be financed by the Council.

Introducing a Transitional Protection Scheme to preserve the award for 23/24 to at least that of the entitlement in 22/23 would have the following estimated cost **£24.4k**

This estimate assumes a Transitional Protection award for the whole of the financial year 2023/24 at the rate of detriment on transfer. However, the scheme will operate in such a way that it 'tops-up' entitlement to the award made in 22/23 and ceases at the point that the customer is better-off on the new scheme. This estimate is therefore a worse case estimate.

Babergh and Mid Suffolk District Councils CTR Scheme Survey Results
(53 People Surveyed)

1. Do you pay council tax to Babergh District Council/Mid Suffolk District Council?

Yes – 94% (50)
No – 6% (3)

2. Do you receive Council Tax Reduction?

Yes – 28% (15)
No – 72% (38)

3. Pensioners currently receive up to 100% council tax reduction, while working age customers receive up to 95% council tax reduction. During the council tax year 2023-23, do you support amending the scheme so that all customers can receive up to 100% reduction?

Yes – 79% (42)
No – 21% (11)

4. Do you support simplifying the scheme for Universal Credit customers and reducing administration costs?

Yes – 91% (48)
No – 8% (4)
No Response – 2% (1)

5. Do you support the retention of the scheme for customers not in receipt of Universal Credit that follows the same rules and allowances used for Housing Benefit?

Yes – 81% (43)
No – 17% (9)
No Response – 2 % (1)

6. What do you think of the proposed income bands that will apply to Universal Credit customers?

The bands should be set lower – 17% (9)
The bands should be set higher – 15% (8)
The bands seem about right – 23% (12)
I'm not sure – 32% (17)
There should be fewer bands – 6% (3)
There should be more bands – 4% (2)
No Response – 4% (2)

7. Do you want to tell us anything about income bands?

- They are a great idea - if the amount received each month doesn't change as that is confusing and requires a lot of administration on both sides. Having the income bands would mean that it will be more consistent, and I could budget better.

- With the current band proposals, I will be jumping back and forth between 2 bands all year. You should accept a total annual income divided into 12 equal amounts verified by my employer and issue a single council tax bill for the year.
- Consideration needs to be given to carers, as Carer's Allowance is considered as income. Special circumstances should apply to those caring for others, especially if they are living in the same household. People who have a recognised disability, but who are not in receipt of PIP should also be considered for a reduction.
- The income bands should include higher household incomes. We are all struggling and some of us can't access the same help that lower earners earn.
- Not fair that only people on UC are getting help.
- More needs to be considered. Just because a household has a good income doesn't mean they should pay more council tax than neighbours in the same house who claim benefits.
- I support having more bands to stop frequent changes due to income changes. All changes should be for the better of all those who are affected by the changes.
- It will help people know where they are each month, but banding could be better for people on low incomes.
- Council tax bandings should be set across the board for everyone. Those on benefits should not receive a reduction, neither should pensioners.

8. Should other adults in the house contribute towards the Council Tax bill?

Yes – 68% (36)

No – 32% (17)

9. Should the scheme for households on Universal Credit only consider earned income? If yes, Council Tax Reduction will change in a similar way to Universal Credit awards.

Yes – 62% (33)

No – 32% (17)

No Response – 6% (3)

10. Should the scheme for households on Universal Credit be reviewed every year to reflect changes in Council Tax and National Living Wage rates? This would impact upon the value of income bands, non-dependant deductions and Council Tax Contributions.

Yes – 91% (48)

No – 4% (2)

No Response – 6% (3)

11. Do you agree with the proposal to introduce a Transitional Protection Scheme for 2023/24 to ensure no customer is financially disadvantaged upon the introduction of a new scheme?

Yes – 79% (42)

No – 13% (7)

No Response – 8% (4)

12. Do you want to tell us anything else about Transitional Protection?

- There should be a transitional period for those it affects.
- The change will impact eventually, just make the change.
- There needs to be a smooth change over especially if during the transition people move.
- Changes should be for the better of all those who are affected by the changes.

13. Changing the Council Tax Reduction Scheme in line with the proposal will save money by producing less bills and statutory notices to print and post out. Do you agree that the Council should always look for ways to work in a more cost-effective, efficient way?

Yes – 96% (51)

No – 0% (0)

No Response – 4% (2)

14. If no, how else could the Council look to make savings?

- Do site visits to evaluate the true need for benefits.
- Get the people who claim benefits to do jobs in the community to earn their money, therefore saving money on paying out for jobs to be done.
- Lobbying the National Government to impose a windfall tax (and a fairer but more expensive income tax system for those who can afford it) to properly fund councils to help those most in need, as well as paying for roads, education, care, services, climate change etc.
- Council tax reductions should be carefully means tested and all adults living in the property should have their income considered for the overall household.

15. Do you have any other thoughts about the scheme that is proposed?

- As a low-income household who can't claim UC due to having a small savings contingency, we are unable to claim financial support. There ought to be opportunities to apply for support available by all agencies for those in our situation.
- It is a great idea. Please make the forms that we need to fill out more user friendly. I gave up on my last attempt at filling one out even though I am probably entitled to help.
- I hope this will mean I will know how much money my council tax will be each month for the whole year, without any more changes during the year. This will mean I will be able to budget better without worrying if next month my council tax will go up, only to find out at the end of the tax year I've paid too much.
- It will result in a net benefit so that must be good. In the current financial climate awareness of the scheme needs to be generated to help those most vulnerable.
- The idea is excellent and humane. It will give benefit and hope to those that are affected.
- Reduce it for everyone. Everyone uses the services. All adults in every household should have their income considered.

Agenda Item 9

BABERGH DISTRICT COUNCIL

TO: Babergh Cabinet	REPORT NUMBER: BCa/22/39
FROM: Councillor David Busby, Cabinet Member for Finance, Assets and Investments	DATE OF MEETING: 9 January 2023
OFFICER: Melissa Evans, Director - Corporate Resources	KEY DECISION REF NO. CAB387

FEES AND CHARGES 2023/24

1. PURPOSE OF REPORT

- 1.1 This report presents the 2023/24 proposed fees and charges for a range of services provided by the Council, including charges for services governed by statute and charges for discretionary services.
- 1.2 The approved fees and charges will be built into the draft budget for 2023/24.

2. OPTIONS CONSIDERED

- 2.1 The options that have been considered are:
 - a) To review and approve the proposed changes to the fees and charges for the forthcoming financial year (recommended) or,
 - b) To make no change, leave them at the current year's level

3. RECOMMENDATIONS

- 3.1 That, the proposed Fees and Charges for 2023/24 as shown in Appendix A, be approved.

REASON FOR DECISION

To ensure that the Council achieves sufficient income and thereby reduces the subsidy on non-essential services which may compromise the Councils ability to fund statutory services.

4. KEY INFORMATION

Introduction

- 4.1 Fees and charges are an important source of income to the Council, enabling important services to be sustained and provided. In 2023/24 Babergh's fees and charges are budgeted at £4.074m, which is 11% of the Councils gross expenditure. In order to sustain the delivery of services in the future this revenue is essential.
- 4.2 One of the key themes in the medium-term financial strategy is income generation and to achieve a robust financial strategy. With reducing Government funding, the

stability and growth in the Councils fees and charges is a major part of delivering this strategy.

4.3 The Council provides a wide range of services for which it has the ability to make a charge – either under statutory powers (set by the Government) or discretionary (set by the Council). Fees and charges fall into three categories:

4.4 **Statutory prohibition on charging:** Local authorities must provide such services free of charge at the point of service. Generally, these are services which the authority has a duty to provide.

4.5 **Statutory charges:** Charges are set nationally, and local authorities have little or no opportunity to control such charges. These charges can still contribute to the financial position of the Authority. Income cannot be assumed to increase in line with other fees and charges.

4.6 **Discretionary charges:** Local authorities can make their own decisions on setting such charges. Generally, these are services that an authority can provide but is not required to provide.

5. PROPOSED FEES AND CHARGES 2023/24

5.1 This report sets out the proposed fees and charges for 2023/24 for a range of services provided by the Council. The Council regularly reviews and revises its rates for fees and charges so that either all or a proportion of the cost-of-service provision can be met and built into the Revenue Budget accordingly.

5.2 The fees and charges set out in this report have been built into the Draft General Fund Budget 2023/24.

5.3 It should be noted that if the increases in charges are too high, income levels may drop due to customer resistance and affordability for the customer. Usage and uptake of services needs to continue at optimum levels to support funding of increasing service costs, including administration and contract uplifts where applicable. Failure to achieve sufficient income and thereby reduce subsidy on non-essential services may compromise the Councils ability to fund statutory services and savings may need to be made elsewhere in the budget to mitigate a loss of income.

5.4 The charges set out are inclusive of value added tax (VAT) at the current rate, where appropriate.

5.5 The total income from the proposed fees and charges for 2023/24 is £4.074m compared to £4.109m in 2022/23, a decrease of £35k or 1%. A detailed breakdown by service area can be found in Appendix B.

5.6 Service Managers have reviewed the fees and charges for their relevant areas and are confident that where changes are proposed these are reasonable increases in terms of benchmarking against others. The proposed detailed schedule of fees and charges for 2023/24 is shown in Appendix A.

5.7 The proposed changes for 2023/24 are summarised in the tables below:

5.8 Statutory Charges

Statutory charges that have seen an increase from 2022/23 can be broken down as follows:

Detail	Fee 2022/23	Fee 2023/24	Increase	
Licensing				
Charges for inspections:				
Food export certificate	£85.00	£93.50	£8.50	10.0%
Destruction of surrendered food certificate	£146.00	£168.85	£22.85	15.6%
Food Hygiene Rating (FHRS) rescore visits	£108.00	£180.00	£72.00	66.7%
Animal welfare:				
Dangerous Wild Animal Licence - New	£315.00	£496.00	£181.00	57.4%
Dangerous Wild Animal Licence – Renewal	NEW	£310.00	-	-
Zoos:				
Zoo licence Application – notice of intention	£535.00	£589.00	£54.00	10.1%
Zoo licence – New (duration of 4 years)	£535.00	£930.00	£395.00	73.8%
Skin piercing:				
Registration for skin piercing (tattooing, electrolysis, ear piercing etc)				
For new person or premises	£170.00	£187.00	£17.00	10.0%
For additional practitioners at existing premises	£120.00	£133.00	£13.00	10.8%
For existing practitioners moving into new unregistered premises	£120.00	£133.00	£13.00	10.8%
Scrap metal dealers:				
Collector NEW	£422.00	£464.00	£42.00	10.0%
Site NEW	£684.00	£752.00	£68.00	10.0%
Site RENEW	£606.00	£752.00	£146.00	24.1%
Private water supplies:				
Sampling	£75.00	£83.00	£8.00	10.1%
Investigation of problems with PWS	£52 per hour	£57 per hour	£5.00 per hour	
Administration	£52 per hour	£57 per hour	£5.00 per hour	
Building Control				
Property Name Change (per request)	£100.00	£110.00	£10.00	10.0%
New Developments:				
1 plot	£103.00	£110.00	£7.00	6.8%
2-5 plots	£206.00	£215.00	£9.00	4.7%
6-10 plots	£309.00	£325.00	£16.00	5.2%
11-20 plots	£515.00	£540.00	£25.00	4.8%
21-50 plots	£1,030.00	£1,080.00	£50.00	4.8%
51-100 plots	£1,545.00	Quotation	-	-
101+ plots	£10 per plot + £1,545	Quotation	-	-
Green environment				
Bins:				
Litter Bins	£37.13	£39.73	£2.60	7.0%
Dog Bins	£43.49	£46.53	£3.04	7.0%

5.9 Discretionary Charges

Discretionary charges that have seen an increase from 2022/23 can be broken down as follows:

Detail	Fee 2022/23	Fee 2023/24	Increase	
Green environment				
Household Waste:				
Bulky Item Collections	£45.00	£49.50	£4.50	10.0%
Garden Waste Collection NEW	£62.00	£69.00	£7.00	11.3%
Garden Waste Collection RENEW	£57.00	£59.00	£2.00	3.5%
Larger Bins	£37.50	£41.25	£3.75	10.0%
Replacement Missing Bins	£37.50	£41.25	£3.75	10.0%
Additional Waste Sacks – clear recycling	£0.10	£0.12	£0.02	20.0%
Additional Waste Sacks - orange	£0.70	£0.84	£0.14	20.0%
New Set of Bins	£63.00	£69.00	£6.00	9.5%
High hedges:				
High Hedges 2.00 - 3.99 Metres Tall	£350.00	£12.00 per linear metre	-	-
High Hedges 4.00 - 5.99 Metres Tall		£24.00 per linear Metre	-	-
Planning				
Copies of Microfiche from Storetec	£15.00	£25.00	£10.00	66.7%
History search (1-4 dwellings)	£54.00	£60.00	£6.00	11.1%
History search (over 4 dwellings)	£75.00	£80.00	£5.00	6.7%
Public Path Orders				
Public rights of way	£60.68 per hour	£68.15 per hour	£7.47 per hour	12.3%

6. LINKS TO JOINT CORPORATE PLAN

6.1 Ensuring that the Council makes best use of its resources is what underpins the ability to achieve the 6 corporate strategic priorities set out in the Corporate Plan, and ensuring the Council has a robust financial strategy. One of the key themes in the Medium-Term Financial Strategy is increasing the Councils income.

7. FINANCIAL IMPLICATIONS

7.1 The increase in fees and charges income will either have been included in the Draft General Fund budget 2023/24 as a saving or be used to offset the operational costs of the service, for example, the inflationary increases in running costs.

8. LEGAL IMPLICATIONS

8.1 Local authorities have a variety of powers to charge for specific statutory services set out in statute.

8.2 The Local Government Act 2003 also provides a power to trade and a power to charge for discretionary services, the latter on a cost recovery basis. The power to charge for discretionary services is not available to local authorities if there is a

statutory duty to provide the service or if there is a specific power to charge for it or if there is a prohibition on charging.

- 8.3 Additionally, the Localism Act 2011 provides local authorities with a general power of competence that confers on them the power to charge for services but again subject to conditions/limitations similar to those noted above.
- 8.4 Where authorities have a duty to provide a statutory service free of charge to a certain standard, no charge can be made for delivery to that standard, however delivery beyond that point may constitute a discretionary service for which a charge could be made.
- 8.5 All items/services listed in the appendices are pursuant to a power to provide the relevant service whether it is provided because of a statutory obligation to do so, or on a discretionary basis where the authority is not obliged to provide the service but can choose to do so. In relation to the latter, an authority charging for such services would do so on a cost recovery basis, pursuant to the Local Government Act 2003/Localism Act 2011.

9. RISK MANAGEMENT

- 9.1 This report is most closely linked with the Councils' Significant Risk No.4 – We may be unable to react in a timely and effective way to financial demands. Other key risks are set out below:

Key Risk Description	Likelihood 1-4	Impact 1-4	Key Mitigation Measures	Risk Register and Reference
If the increases proposed adversely affect demand for the service, the Council may suffer a loss of income and will not recover the costs of providing the service.	Unlikely (2)	Noticeable (2)	Fees and charges will be monitored as part of monthly budget monitoring in conjunction with SLT and Corporate Managers	005 Finance, Commissioning and Procurement Operational Risk Register – 005

10. CONSULTATIONS

- 10.1 The relevant Portfolio Holders and Councillors have been consulted on any significant areas of increase or change to fee and charges. The need for wider consultation when increasing fees and charges is reviewed by each Corporate Manager and relevant Director, none of the proposed increases in this report have resulted in a need for wider consultation.

11. EQUALITY ANALYSIS

- 11.1 An equality impact assessment will be undertaken by each Director for any significant changes within these fee and charges proposals.

12. ENVIRONMENTAL IMPLICATIONS

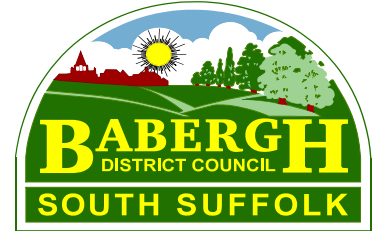
12.1 The use of fees and charges can influence behaviour that will in turn have a positive impact on the environment. Corporate Managers will consider this impact as part of their service strategies.

13. APPENDICES

Title	Location
Appendix A - Fees and charges schedule 2023/24	Attached
Appendix B – Fees and charges by service 2023/24 compared to 2022/23	Attached

14. BACKGROUND DOCUMENTS

Draft General Fund Budget 2023/24 and four-year outlook



Fees and Charges Schedule 2023/24



Charges Schedule for 2023/24

Generally any increase in fees and charges will take effect from 1st April each year. Details of variations from this date, for example, where a fee or charge is governed by statute, are included in this schedule.

The current standard rate of Value Added Tax (VAT) is 20%. The schedules for fees and charges show whether VAT is applicable.

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Statutory Charges

	2022/23 Total Charge	2023/24 Total Charge	VAT Status	Notes
1. Licensing				
1.1. Charges for Inspections				
Food export certificate	£85.00	£93.50	VAT	
Destruction of surrendered food certificate	£146.00	£168.85	Non-VAT	Plus £62 per hour or part hour for time spent processing condemnation on-site plus cost of disposal
Food Hygiene Rating (FHRS) rescore visits	£108.00	£180.00	Non-VAT	

1.2. Charges for Licensing					
<u>Animal Welfare</u>					
Dangerous Wild Animal Licence - New *	£315.00	£496.00	Non-VAT		
Dangerous Wild Animal Licence - Renewal *	NEW	£310.00	Non-VAT		Renewal due every 2 years
Dangerous Wild Animal Licence - Variation *	NEW	Quotation	Non-VAT		Fee based on nature of variation eg new species, addition to collection
<u>Zoos</u>					
Zoo licence Application (Notice of intention) *	£535.00	£589.00	Non-VAT		
Zoo licence – New *	£535.00	£930.00	Non-VAT		4-year licence
Zoo licence – Renewal *	£805.00	£805.00	Non-VAT		6-year licence
Periodical inspection	NEW	Quotation	Non-VAT		Years 1 and 3
Special inspection	NEW	Quotation	Non-VAT		
Informal inspection	No charge	No charge	Non-VAT		
Variation	NEW	Quotation	Non-VAT		
Additional inspector fee	NEW	Quotation	Non-VAT		Zoos with no dispensation under the Zoo Licensing Act 1981 and for new applications and renewals (where appropriate)
* plus Vets Inspection Fee – recovery of costs					
Animal Welfare Licences	See website	See website			https://www.babergh.gov.uk/business/licensing/dog-breeding-establishments/
<u>Skin Piercing</u>					
Registration for skin piercing (tattooing, electrolysis, ear piercing etc)					
- For new person or premises	£170.00	£187.00	Non-VAT		
- For additional practitioners at existing premises	£120.00	£133.00	Non-VAT		
- For existing practitioners moving into new unregistered premises	£120.00	£133.00	Non-VAT		
<u>Licensing Act 2003 (Alcohol, Entertainment and Late Night Refreshment)</u>					
Temporary Event Notice (TEN)	£21.00	£21.00			Per TEN
Premises Licences incl. annual fee	Variable	Variable			
Club premises incl. annual fee	Variable	Variable			
DPS Variation/Community DPS	£23.00	£23.00			
Transfer	£23.00	£23.00			
Notice of Interest	£21.00	£21.00			
Copy or replace licence	£10.50	£12.00			
Personal licences	£37.00	£37.00			
<u>Street Trading</u>					
Please contact our Customer Services Team on 0300 1234000					

Statutory Charges

	2022/23 Total Charge	2023/24 Total Charge	VAT Status	Notes
1. Licensing (continued)				
1.3. Scrap Metal Dealers				
Collector NEW	£422.00	£464.00		
Collector RENEW	£344.00	£464.00		
Site NEW	£684.00	£752.00		
Site RENEW	£606.00	£752.00		
1.4. Local Authority Pollution Prevention & Control (LAPPC)				
LAPPC	See website	See website	Non-VAT	https://www.babergh.gov.uk/assets/Environment/EP-Fees-2022-23-2.pdf
1.5. Private Water Supplies				
Risk Assessment – typical cost	£200.00- £250.00	£200.00 - £250.00	Non-VAT	
Sampling	£75.00	£83.00		
Investigation of problems with PWS	£52 per hour	£57 per hour		
Administration	£52 per hour	£57 per hour		

Statutory Charges

	2022/23 Total Charge	2023/24 Total Charge	VAT Status	Notes
2. Planning				
Planning Applications	See website	See website		https://ecab.planningportal.co.uk/uploads/english_application_fees.pdf
Pre-planning advice	See website	See website		https://www.babergh.gov.uk/assets/DM-Planning-Uploads/Fees-for-pre-app-web-version2.pdf
3. Building Control				
Building control	See website	See website	Non-VAT	https://www.babergh.gov.uk/building-control/building-regulations/building-regulations-charges/
Property Name Change (per request)	£100.00	£110.00	Non-VAT	
New Developments:				
1 plot	£103.00	£110.00	Non-VAT	
2-5 plots	£206.00	£215.00	Non-VAT	
6-10 plots	£309.00	£325.00	Non-VAT	
11-20 plots	£515.00	£540.00	Non-VAT	
21-50 plots	£1,030.00	£1,080.00	Non-VAT	
51-100 plots	£1,545.00	Quotation	Non-VAT	
101+ plots	£10 per plot + £1,545	Quotation	Non-VAT	

Statutory Charges

	2022/23 Total Charge	2023/24 Total Charge	VAT Status	Notes
4. Land Charges				
Land charges	See website	See website		https://www.babergh.gov.uk/planning/land-charges
5. Green Environment				
5.1. Dog Control				
Statutory Penalty	£25.00	£25.00	Non-VAT	See Discretionary Charges for administration fee, kennelling and vet treatments.
Lost & Found	Schedule J	See website £38.50 with up to date tag and microchip/ £49.50 without. £16.50 + VAT per kennelling day (min charge two days).		https://www.babergh.gov.uk/environment/dog-control/lost-and-found/
5.2. Bins				
Litter Bins	£37.13	£39.73		Per annum – charges made to Town & Parish Councils
Dog Bins	£43.49	£46.53		
5.3. Abandoned Vehicles				
Removal of Vehicles	See website	See website		http://www.legislation.gov.uk/ukxi/2008/2095/regulation/4/made https://www.babergh.gov.uk/assets/Environment/abandonedvehicles.pdf
6. Resources				
6.1. Sale of Electoral Roll				
Copies of full register for entitled access only	£126.50	£126.50		Based on register size (price per elector) as at 01.12.20
Monthly Updates	£193.50	£193.50		£21.50 per month for 9 months
General Public Copy of Edited Register	£62.00	£62.00		

Discretionary Charges

	2022/23 Total Charge	2023/24 Total Charge	VAT Status	Notes
1. Public Protection				
1.1. Hackney Carriage / Private Hire Vehicles Charges				
Hackney Carriage New	£344.50	£344.50		
Hackney Carriage Renewal	£344.50	£344.50		
Hackney Carriage Change	Variable	Variable		
Private Hire Vehicle New	£319.50	£319.50		
Private Hire Vehicle Renewal	£319.50	£319.50		
Private Hire Vehicle Change	Variable	Variable		
Combined HC/PHV Driver New	£153.50	£153.50		
Combined HC/PHV Driver Renew	£104.50	£104.50		
Operator Licence New	Variable	Variable		Price ranges from £137.50 to £430.00
Operator Licence Renewal	Variable	Variable		
Vehicle Plate (cost if lost etc)	£22.00 rear £8.00 interior	£22.00 rear £8.00 interior		
Vehicle Plate Bracket	£20.00	£20.00		
Transfer of Vehicle Licence	£45.00	£45.00		
Vehicle Change from PHV to HC	£45.00	£45.00		Plus test fee, if appropriate
Vehicle Change from HC to PHV	£45.00	£45.00		
Temporary Vehicles HC	£124.00 to £197.00	£124.00 to £197.00		
Temporary Vehicles PHV	£121.00 to £192.00	£121.00 to £192.00		
Change of Name	£15.00	£15.00		
Change of Address	£15.00	£15.00		
Replacement licence Paper/Badge of Drivers Licence or Paper / Interior Licence of Vehicle	£12.00	£12.00		
Drivers Knowledge Test	£20.00	£20.00		
Drivers Knowledge Test (Re-Test)	£20.00	£20.00		
Licence reissued after suspension	£15.00	£15.00		
HC Fare Tariff Card	£5.00	£5.00		
HC Meter Calibration Check	£25.00	£25.00		

Discretionary Charges

	2022//23 Total Charge	2023/24 Total Charge	VAT Status	Notes
1.2. Premises Licences (Gambling Act 2005)				
<u>Small Lotteries (part of Gambling Act 2005)</u>				
Lottery NEW	£40.00	£40.00		
Lottery RENEWAL	£20.00	£20.00		

<u>Gambling Premises & Permits</u>		
Betting Shop (Non-Track) NEW	£3,000.00	£3,000.00
Betting Shop (Non-Track) RENEWAL	£600.00	£600.00
Betting Shop (Non-Track) Variation	£1,500.00	£1,500.00
Betting Shop (Non-Track) Transfer and/or Reinstatement	£1,200.00	£1,200.00
Betting Shop (Non-Track) Provisional Statement	£3,000.00	£3,000.00
Betting Shop (Non-Track) Licence Application (Provisional Statement Holders)	£1,200.00	£1,200.00
Betting Shop (Track) NEW	£2,500.00	£2,500.00
Betting Shop (Track) Annual Fee	£1,000.00	£1,000.00
Betting Shop (Track) Variation	£1,250.00	£1,250.00
Betting Shop (Track) Transfer and/or Reinstatement	£950.00	£950.00
Betting Shop (Track) Provisional Statement	£2,500.00	£2,500.00
Betting Shop (Track) Licence Application (Provisional Statement Holders)	£950.00	£950.00
On-Licence Gaming Machine Permit NEW	£150.00	£150.00
On-Licence Gaming Machine Permit - Variation	£100.00	£100.00
On-Licence Gaming Machine Permit - Annual Fee	£50.00	£50.00
On-Licence Gaming Machine Permit - Copy Fee	£15.00	£15.00
On-Licence Gaming Machine Permit - Transfer of Amend	£25.00	£25.00
Club Machine or Gaming Permit - NEW	£200.00	£200.00
Club Machine or Gaming Permit - Variation	£100.00	£100.00
Club Machine or Gaming Permit - Annual Fee	£50.00	£50.00
Club Machine or Gaming Permit - Copy Fee	£15.00	£15.00
Club Machine or Gaming Permit - Transfer or Amend	£25.00	£25.00
Adult Gaming Centre - NEW	£2,000.00	£2,000.00
Adult Gaming Centre - Annual Fee	£750.00	£750.00
Adult Gaming Centre - Variation	£1,000.00	£1,000.00
Adult Gaming Centre - Transfer/Reinstatement	£1,200.00	£1,200.00
Adult Gaming Centre -Provisional Statement	£2,000.00	£2,000.00
Adult Gaming Centre - Licence Application (Provisional Statement Holders)	£1,200.00	£1,200.00
Family Entertainment Centres - NEW	£2,000.00	£2,000.00
Family Entertainment Centre's - Annual Fee	£1,000.00	£1,000.00

<u>Gambling Premises & Permits</u>		
Family Entertainment Centre's - Variation	£1,000.00	£1,000.00
Family Entertainment Centre's - Transfer/Reinstatement	£950.00	£950.00
Family Entertainment Centre's - Provisional Statement	£2,000.00	£2,000.00
Family Entertainment Centre's - Licence Application (Provisional Statement Holders)	£950.00	£950.00
Regional Casino - NEW	£15,000.00	£15,000.00
Regional Casino - Annual Fee	£15,000.00	£15,000.00
Regional Casino - Variation	£7,500.00	£7,500.00
Regional Casino - Transfer/Reinstatement	£8,500.00	£8,500.00
Regional Casino - Provisional Statement	£15,000.00	£15,000.00
Regional Casino - Licence Application (Provisional Statement Holders)	£8,000.00	£8,000.00
Large Casino - NEW	£10,000.00	£10,000.00,
Large Casino - Annual Fee	£10,000.00	£10,000.00
Large Casino - Variation	£5,000.00	£5,000.00
Large Casino - Transfer/Reinstatement	£2,150.00	£2,150.00
Large Casino - Provisional Statement	£10,000.00	£10,000.00
Large Casino - Licence Application (Provisional Statement Holders)	£5,000.00	£5,000.00
Small Casino - NEW	£8,000.00	£8,000.00
Small Casino - Annual Fee	£5,000.00	£5,000.00
Small Casino - Variation	£4,000.00	£4,000.00
Small Casino - Transfer/Reinstatement	£1,800.00	£1,800.00
Small Casino - Provisional Statement	£8,000.00	£8,000.00
Small Casino - Licence Application (Provisional Statement Holders)	£3,000.00	£3,000.00
Bingo - NEW	£3,500.00	£3,500.00
Bingo - Annual Fee	£1,000.00	£1,000.00
Bingo - Variation	£1,750.00	£1,750.00
Bingo - Transfer/Reinstatement	£1,200.00	£1,200.00
Bingo - Provisional Statement	£3,500.00	£3,500.00
Bingo - Licence Application (Provisional Statement Holders)	£1,200.00	£1,200.00
Copy of Licence	£25.00	£25.00

<u>Gambling Premises & Permits</u>		
Notification of change	£50.00	£50.00
Temporary Use Notice - NEW	£500.00	£500.00
Temporary Use Notice - Copy Fee	£25.00	£25.00
1.3. Caravan Licensing		
New Park Home Licence	£276 to £378	£276 to £378
Annual Licence Fee	Up to £221	Up to £221
Licence Transfer	£101 to £122	£101 to £122
Licence Variation	£120	£120
Deposit of Site Rules	£20	£20
1.4. Other Licensing		
Pavement Licences	£80	£80
Pleasure Boat Licences	£46	£46
Boatman Licences	£23.50	£23.50
Street Trading	£820 to £2,450	£820 to £2,450
Requests for Environmental Information		£68.40 first hour then £34.20 per half hour thereafter.
		Note: these charges are at the Council's discretion and having regard to relevant factors (in accordance with ICO guidance), may be waived for very simple requests.

2. Community Access

2.1. Car Parking

Car Parking Charges	See website	See website	https://www.babergh.gov.uk/environment/parking/
Permits:			
1 Month	£25.00	£25.00	https://www.babergh.gov.uk/environment/parking/season-tickets-and-parking-permits/
3 Months	£70.00	£70.00	
12 Months	£250.00	£250.00	
Pin Mill Residents' Car Park by licence agreement	£196.22	£196.22	Per annum, payable quarterly by Direct Debit

3. Housing

3.1. Houses of Multiple Occupation

License Cost	£567.53	£567.53
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3.2. Amenity Charges for Bed & Breakfast Accommodation

B&B Rate	£10.30 per Week	£10.30 per Week
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3.3. Mobile Home Fee Policy

Fees	See website	See website	https://www.babergh.gov.uk/business/licensing/caravans-park-homes-and-camping-sites/mobile-homes-fees-policy/
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Discretionary Charges

	2022/23 Total Charge	2023/24 Total Charge	VAT Status	Notes
4. Green Environment				
4.1. Household Waste				
Bulky Item Collections	£45.00	£49.50	Exempt	Up to five items or 10 bags of household refuse/garden waste
Garden Waste Collection NEW	£62.00	£69.00	Exempt	Annual Charge
Garden Waste Collection RENEW	£57.00	£59.00	Exempt	
Hazardous Waste Collection (25 working days)	£48.16	Quoted price		(Declared from contractor SCC – TBA cost price.)DIY products such as varnishes, Flammable liquids, Garden chemicals or pesticides, Household cleaning products and chemicals, Motoring products such as antifreeze, Poisons such as rat or mouse. Contact the Waste Department.
Bonded Asbestos Collection (25 working days)	£80.17	Quoted price		Up to 50kgs
Larger Bins	£37.50	£41.25	Exempt	If entitled to a larger bin, refuse bin charge. Recycling bin no charge.
Replacement Missing Bins	£37.50	£41.25	Exempt	Refuse bin, no charge for recycling bin
Additional Waste Sacks	£0.10	£0.12	VAT	Clear recycling sacks per sack
Business Waste Services	Quoted price	Quoted price	Exempt	Contact Waste department
New Set of Bins	£63.00	£69.00	Exempt	Newly built properties – this cost covers refuse and recycling bin
4.2. High Hedges				
High Hedges 2.00 - 3.99 Metres Tall	£350.00	£12.00 per linear metre	Non-VAT	
High Hedges 4.00 - 5.99 Metres Tall	£350.00	£24.00 per linear Metre		

Discretionary Charges

	2022/23 Total Charge	2023/24 Total Charge	VAT Status	Notes
5. Planning				
5.1. Planning				
Planning charges	See website	See website	VAT	https://www.babergh.gov.uk/assets/DM-Planning-Uploads/Fees-for-pre-app-web-version2.pdf
Copies of Microfiche from Storetec	£15.00	£25.00	VAT	
History search (1-4 dwellings)	£54.00	£60.00	VAT	
History search (over 4 dwellings)	£75.00	£80.00		
5.2. Public Path Orders				
Public Rights of Way	See website £60.68 p/h	See website £68.15 p/h		Application Fees £400.00 https://www.babergh.gov.uk/environment/public-rights-of-way/
5.3. Building Control				
Building Control	See website	See website		https://www.babergh.gov.uk/building-control/building-regulations/building-regulations-charges/
Energy performance and assessment (EPC)	See website	See website		https://www.babergh.gov.uk/building-control/building-control-services-and-information/energy-performance-and-assessment/

Levy Charges

	2022/23 Total Charge	2023/24 Total Charge	VAT Status	Notes
1. Levies				
1.1. Community Infrastructure Levy (CIL)				
CIL	See website	See website		https://www.babergh.gov.uk/assets/CIL-and-S106-Documents/BDC-Charging-Schedule-11-Apr-2016.pdf

Fees and charges by service 2023/24 compared to 2022/23

	Budget 2022/23 (£'000)	Budget 2023/24 (£'000)	Increase/ (Decrease) (£'000)	Increase/ - Decrease (%)
Alcohol, Entertainments & Late Night Refreshment	(82)	(90)	8	10%
Animal Welfare Licensing	(12)	(15)	3	27%
Car Parks	(141)	(146)	4	3%
Civil Parking Enforcement	(57)	(62)	6	10%
Domestic Waste	(67)	(83)	16	23%
Environmental Protection	(6)	(14)	8	132%
Gambling & Small Lotteries	(6)	(7)	1	15%
Garden Waste	(1,010)	(1,123)	112	11%
Street & Major Road Cleansing	(35)	(41)	6	18%
Taxi & Private Hire Licensing	(81)	(97)	15	19%
Trade Waste	(666)	(684)	18	3%
Water Sampling	(10)	(10)	-	0%
Land Charges	(172)	(135)	(37)	-22%
Building Control Commercial Income	(6)	(6)	-	0%
Building Regulations Chargeable Service	(386)	(380)	(5)	-1%
Community Infrastructure Levy	(102)	(155)	53	52%
Conservation	(20)	(15)	(5)	-25%
Development Management	(1,111)	(889)	(222)	-20%
Planning Performance Agreement	(25)	(25)	-	0%
Pre-Application Charging	(60)	(45)	(15)	-25%
Street Naming & Numbering	(34)	(23)	(11)	-33%
Other (less than £5k)	(19)	(29)	11	58%
Grand Total	(4,109)	(4,074)	(35)	-1%

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Agenda Item 10

BABERGH DISTRICT COUNCIL

TO: Babergh Cabinet	REPORT NUMBER: BCa/22/40
FROM: Councillor Jan Osborne Cabinet Member for Housing	DATE OF MEETING: 09/01/23
OFFICER: Deborah Fenton, Director for Housing	KEY DECISION REF NO. CAB352

TENANCY POLICY

1. PURPOSE OF REPORT

- 1.1 This briefing note provides context for the proposed Tenancy Policy for tenants of Babergh and Mid Suffolk District Councils. It should be read in conjunction with the Tenancy Policy (Appendix A).
- 1.2 The policy will ensure that Babergh & Mid Suffolk Councils (BMSDC) comply with the Regulator of Social Housing (RSH) Tenancy Standard, current legislation, and best practice.
- 1.3 The Tenancy Policy is in-line with the direction of travel in Government policy and proposes that the Councils continue to provide long-term security of tenure and the letting of the Councils' homes. There are no significant changes to our current practice of tenancy management, or the rights of existing or new tenants proposed in the new policy.

2. OPTIONS CONSIDERED

- 2.1 At an 'Early Warning' Cabinet Briefing on 26th September 2022, Cabinet members considered the following fundamental decision in the Tenancy Policy:
- 2.2 Option 1: to continue the current practice of granting Secure Tenancies which provide long-term security of tenancy, or;
- 2.3 Option 2: to grant Flexible (fixed term) Tenancies which only provide security for a short period of time (typically 5 years).
- 2.4 In light of the changes in Government agenda and the Housing Sector in recent years (please refer to explanatory note in Appendix B), and mindful of Government's intention to abolish fixed-term tenancies in private and social housing by 2030, Cabinet members voted in favour of Option 1, for Secure Tenancies to remain the primary form of tenancy for Council tenants. The Tenancy Policy has therefore been created to confirm and clarify the Councils' current practice of providing and managing tenancies.

3. RECOMMENDATIONS
3.1 To approve the Tenancy Policy (Appendix A)
REASON FOR DECISION
3.2 The Tenancy Policy meets the requirements of the Regulator for Social Housing, providing information for tenants to understand how their occupation of Council homes will be managed.
3.3 Consistent with the current political agenda for social housing the Tenancy Policy prioritises long-term security of tenure for tenants over tenancies of a fixed length. This will allow tenants and their families to create a home in Council properties and build thriving and diverse communities in our housing estates.
3.4 In the time elapsed since their introduction, fixed term tenancies have been proven to be a largely ineffective in providing their anticipated benefits of reducing housing waiting lists. Managing and administering Flexible fixed term tenancies has proven to be costly and time consuming for landlords, and unsettling for tenants, particularly vulnerable tenants and those suffering with mental illness.
3.5 The Councils will create a new, separate policy which will support efficient use of the Councils' housing stock by encouraging tenants to downsize. Such policy is included in the Homes and Housing Strategy (objective 2g) and may include provide financial incentives, advice and practical support to tenants who are under-occupying their homes to assist and encourage them to free-up larger homes for families.

4. KEY INFORMATION

- 4.1 The landlord and tenant relationship is governed by the tenancy agreement. The Housing Acts and associated legislation provide a legal framework for the tenancy agreement and the majority of rights and obligations are set out in law.
- 4.2 In addition to the statutory provisions in the tenancy agreement, the landlord may set out additional contractual rights or obligations in the tenancy agreement, however these cannot take away or lessen the statutory rights.
- 4.3 The Tenancy Policy provides an explanation of how BMSDC will operate within the statutory requirements and flexibilities afforded to it. This is a requirement of the Regulator for Social Housing (RSH) as set out in the 'Tenancy Standard'.
- 4.4 The proposed Tenancy Policy does not require any material amendments to the Tenancy Agreement which was approved by the Councils in 2015. If there are any significant changes to the policy decided by Cabinet, a revised tenancy agreement will need to be prepared for approval at a future date.
- 4.5 Flexible (fixed term) Tenancies
- 4.6 The Councils have the flexibility to create a policy to offer tenancies of a limited length, known as Flexible (fixed term) Tenancies.

- 4.7 Long-term security of tenure was introduced for Council housing tenants by the Housing Act 1980 (later consolidated into the Housing Act 1985) and the introduction of the 'Secure Tenancy'. Long-term security of tenure has been generally considered an important and attractive aspect of social housing in England since its introduction. Long-term security of tenure means, with some limited exceptions, that if a Secure tenant does not breach the conditions of their tenancy agreement they cannot be evicted from their home.
- 4.8 The Localism Act 2011 introduced a power for local authorities and housing associations to offer 'flexible (fixed term) tenancies' to new social tenants after 1 April 2012. Flexible tenancies have a minimum term of two years, the maximum duration is a policy decision for the landlord. The Government's rationale for giving social landlords more flexibility over the length of tenancy offered was that a "one size fits all" model was no longer appropriate and was seen to contribute to under- and over-occupation.
- 4.9 There was a limited take-up of fixed-term tenancies by councils and housing associations, in 2014/15 a report found that only 15% of social housing tenancies were let on a fixed-term basis.
- 4.10 Government made provision to mandate the issuing of Flexible (fixed term) Tenancies in the Housing and Planning Act 2016. Regulations setting out the detail of how local authorities would operate this new regime were expected; however, on publication of the social housing Green Paper on 14 August 2018, [A new deal for social housing](#), the Government announced that it will not implement these provisions "at this time".
- 4.11 The Social Housing White Paper was published on 17 November 2020. An underpinning theme of the White Paper is to address the stigma and treatment of tenants in social housing. The Paper described how tenants have been made to feel like 'second class citizens' and a shift is needed in the way they are treated and perceived in our Society. The balance has shifted significantly from treating social housing as one aspect of the welfare system and towards promoting equality and inclusion of tenants in communities. The Councils are committed to tackling stigma with policies which enhance inclusion and provide for quality homes and services for tenants.
- 4.12 Landlords across the social housing sector who had implemented fixed term tenancies have, or are in the process, of moving back to long-term security of tenure for tenants because in practice, fixed term tenancies do not produce their anticipated benefits and are extremely resource intensive (Appendix B).
- 4.13 The Government's long awaited white paper on rental reform was published in June 2022 announcing the abolishment of fixed term tenancies by 2030, signalling the potential of an end to the current flexibilities provided.

5. LINKS TO CORPORATE PLAN

- 5.1 Our housing vision is for residents to live in affordable and high-quality homes that enable them to build settled, safe and healthy lives, within sustainable and thriving

communities. The recommendation to provide secure tenancies for life better fits the current housing vision than the adoption of Flexible (fixed term) tenancies.

6. FINANCIAL IMPLICATIONS

- 6.1 The Councils will invest in a Downsizing Incentive Scheme to support individuals to move to suitable alternative accommodation when their needs change. We are currently engaging with tenants to design a scheme which will result in improved mobility for tenants, the policy to be brought before Cabinet for implementation in 2024.

7. LEGAL IMPLICATIONS

- 7.1 The policy has been reviewed by Counsel and has been confirmed as fit for purpose.

8. RISK MANAGEMENT

Risk Description	Likelihood	Impact	Mitigation Measures
Long-term security of tenure may lead to unwanted under-occupation of Council homes, which in turn leads to families waiting longer for a property suitable for their needs	Medium	Low	Formulation of a Downsize Incentive Scheme will encourage and support tenants to move to suitable accommodation. Tenants who are in receipt of benefits are affected by the 'bedroom tax' which provides a financial disincentive to remaining in a home which is larger than they need. Promotion of mutual exchange scheme will encourage moves. Improved data collection on households will enable targeted contact with tenants under-occupying.

9. CONSULTATIONS

- 9.1 *Engaged tenants, the 'Resident Readers' will review the tenancy policy for accessibility and content prior to Cabinet.*
- 9.2 We are in the process of consulting with our tenants to establish a Downsize Incentive Scheme which is attractive to tenants and encourages tenants to downsize.

10. EQUALITY ANALYSIS

- 10.1 An Equality Impact Assessment (EIA) screening has been completed and no EIA is required (Appendix C).

11. ENVIRONMENTAL IMPLICATIONS

- 11.1 There are no environmental implications arising from this report.

12. APPENDICES

Title	Location
(a) Draft Tenancy Policy for Babergh and Mid Suffolk	Attached
(b) Explanatory note: Social Housing Policy Context: Flexible (fixed term) tenancies	Attached
(c) EIA Screening	Attached

13. BACKGROUND DOCUMENTS

n/a

14. REPORT AUTHORS

14.1 Robert Longfoot – Tenancy Services Corporate Manager

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TENANCY POLICY



Policy approval date	Mid Suffolk Cabinet Babergh Cabinet
Replacing/Updating	N/A
New review date	January 2028
Responsible Director	Deborah Fenton, Director of Housing
Author	Robert Longfoot, Tenancy Services Corporate Manager

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1. Policy Statement

- 1.1. Babergh and Mid Suffolk District Councils (BMSDC) recognise that having a place to call home is a key component to improve tenants wellbeing, provide equal opportunities and to support thriving communities.
- 1.2. This policy explains our approach to the use of different tenancy types; when different tenancies will be offered and the ways in which they will be managed.

2. Scope

- 2.1. This policy applies to the letting of settled council housing including 'social' and 'affordable' rented accommodation.
- 2.2. Temporary accommodation and shared equity tenures are not within the scope of this policy.

3. Aims and Objectives

- 3.1. The Tenancy Policy aims to:
 - explain clearly how tenancies will be managed
 - provide our tenants in settled accommodation with security of tenure which supports their wellbeing, the development of family life and thriving communities
 - recognise our tenants' needs, aspirations and changing lives and provide a service which meets these
 - make best use of our limited supply of homes by enabling and encouraging tenants to move to more suitable accommodation if their home no longer meets their needs
 - support our tenants to sustain their tenancies
 - tackle breaches of the tenancy proportionately
 - deter and tackle tenancy fraud.

4. Legal and Regulatory Framework

Regulator of Social Housing: Tenancy Standard

Housing Act 1985

Housing Act 1996

Housing Act 1980

Immigration Act 2014

Protection from Eviction Act 1977

Localism Act 2011

HMCTS Pre-Action Protocol for Possession Claims by Social Landlords

Part VII of the Family Law Act 1996

Prevention of Social Housing Fraud Act 2013

5. Eligibility to Rent

- 5.1. The granting and assigning of Tenancy agreements will only be to individuals with a 'Right to Rent' in the UK. Checks will be undertaken and records maintained in accordance with the requirements of the Immigration Act 2014.
- 5.2. There are occasionally situations where a person under that age of 18 may be allocated a home or succeed to a tenancy. In law a person under 18 years of age cannot hold a legal interest in land and so cannot hold a tenancy but they can 'benefit' from one. The tenancy may be granted to a third party, a 'trustee', and held on trust for the minor until they reach the age of 18. The trustee could be an adult relative or friend or a social worker and is in effect a caretaker of the tenancy. The trustee is responsible for ensuring the rent is paid, but is not liable to pay the rent out of their own resources unless they give a personal guarantee to do so. Once the tenant reaches the age of 18, a new tenancy will be issued to them which is not held in trust.

6. Joint and Sole Tenancies

- 6.1. Tenancies will be issued to main applicants on the housing application.

- 6.2. If the application is in one person's name, they will be granted a tenancy in their name only, known as a 'sole tenancy'. A sole tenant can have others live with them but remains the only person legally responsible for the tenancy.
- 6.3. If the application for housing is for two or more people, a 'joint tenancy' will be issued. A joint tenancy is where two or more people (legally up to four) have signed the tenancy agreement. With joint tenants:
- each tenant has the right to occupy the property
 - each tenant is jointly and severally (individually) liable for the tenancy and the rent – meaning all joint tenants are equally responsible for the whole tenancy
 - neither tenant can exclude the other tenant, unless they get an Occupation Order under the Family Law Act 1996
 - either tenant can end the tenancy by serving a Notice to Quit.

7. Types of Tenancies

- 7.1. BMSDC use two forms of tenancy agreement to let settled accommodation:
- Introductory tenancy
 - Secure tenancy

8. Introductory Tenancies

- 8.1. Introductory Tenancies support our aim to protect communities from anti-social behaviour and encourage new tenants to adhere to all tenancy conditions. The limited security of the Introductory Tenancy acts as a deterrent for tenancy fraud and anti-social behaviour and enables us to tackle any serious breaches of tenancy swiftly (as set out in section 21.12).
- 8.2. All new tenants are granted an Introductory Tenancy unless immediately prior to the letting they held a more secure form of tenancy in social housing, such as a Secure, Assured Non-Shorthold, Flexible or Fixed-Term Tenancy.
- 8.3. Introductory Tenancies are for 12 months but may be extended to a maximum of 18 months. During this time, the tenant has less security and fewer rights than under a Secure Tenancy, for example:
- The tenancy can be ended at the landlord's discretion if the tenant does not keep to the terms of the tenancy agreement
 - They cannot buy their home.
 - They cannot exchange homes with other tenants.
 - They cannot take in lodgers
 - They cannot make any improvements or alterations to the property
- 8.4. If a tenant has complied with the terms and conditions of their Introductory Tenancy, it will convert to a Secure Tenancy after 12 months unless we have served an Extension Notice, are in the process of regaining possession or have repossessed the property.
- 8.5. We may extend the Introductory Tenancy by up to 6 months where we have concerns about, or evidence of a breach of the tenancy agreement. The Introductory Tenancy can be extended by serving an Extension Notice at least 8 weeks prior to the end of the tenancy. The Extension Notice will provide details of the tenant's right to request a review of the decision to extend (see section 22).

9. Secure Tenancies

- 9.1. Secure Tenancies provide protection and assurance to tenants, supporting their wellbeing and providing a firm foundation for them to be part of the local community.

- 9.2. Tenants will be granted a Secure Tenancy if they have held either a Secure, Assured Non-Shorthold, Flexible or Fixed Term Tenancy of a social housing property immediately prior to letting.
- 9.3. Secure Tenants enjoy the following rights;
- A greater security of tenure; a Secure Tenant can only be evicted from their home by the order of the Court. We can only apply for a Court order on one or more of the grounds for possession in the Housing Act 1985 (as amended by the Housing Act 1996). For most tenants this means that they can enjoy a settled life in their home for as long as they wish, provided that they do not breach the tenancy conditions.
 - A right to exchange their home with another tenant, for example if they need to move to be closer to work or to get a smaller or larger home to better accommodate their family.
 - A right to make improvements to their home provided they have obtained prior written permission from the Council.
 - A right of succession; to pass the Tenancy to a partner or family member in the event of their death (see section 11)

10. Ending a Tenancy

- 10.1. Only a tenant or a person who has a Power of Attorney in place to deal with the tenant's property and financial affairs can serve Notice to Quit to bring the tenancy to an end.
- 10.2. At least 28 days' written Notice to Quit must be served on us, the notice must start on a Monday and end on a Sunday. Notice can be received by email or hard copy to our address as detailed in the Tenancy Agreement. We will offer reasonable alternatives where a tenant may have difficulty writing to us.
- 10.3. In a joint tenancy, either tenant can serve Notice to Quit which will be legally binding and will bring the tenancy to an end (see 11.11).
- 10.4. If a tenant is unable to end their tenancy themselves for any reason and there is no Power of Attorney in place, then a suitable person needs to be appointed by the Office of the Public Guardian.
- 10.5. If a sole tenant has passed away and there is nobody with a right of succession, an Executor of their Will can issue us with a Notice to Quit to end the Tenancy. In these instances we allow a shorter notice period of at least 2 weeks notice, the notice must start on a Monday and end on a Sunday.
- 10.6. If there is no Executor to serve notice on behalf of the deceased, then we will serve a 28 day Notice to Quit upon the personal representatives of the late tenant at the property and send a copy of the Notice to Quit to The Office of the Public Trustee. Rent will continue to be charged in all situations until the Tenancy can be legally ended.

11. Succession

- 11.1. When a tenant dies there may be a right for the Tenancy to be passed on; this is known as a succession.
- 11.2. There can only be one succession to a tenancy. If the tenancy is assigned to a would-be successor this also counts as a succession (see section 15)
- 11.3. Details of who can succeed to a tenancy are set out in the tenancy agreement.
- 11.4. If the tenancy is in joint names and one joint tenant dies, then the remaining tenant will succeed by 'survivorship' and the tenancy will continue in their sole name, this counts as one succession.

- 11.5. Succession can only be to people who are living in the property as their only or principal home at the time of the tenant's death.
- 11.6. For successors other than a spouse, civil partner or a person who was living with the tenant as if they were a married couple or civil partner, there is an additional requirement to have resided with the tenant for a period of 12 months before their death to be eligible to succeed.
- 11.7. Under-occupation after Succession to Tenancy
- 11.8. A spouse, civil partner or a person who was living with the tenant as if they were a married couple or civil partner has the right to remain in the property regardless of their need for it.
- 11.9. Any other qualifying person with the right of succession can be required to move to a more suitable property if the property does not meet their housing needs. We will treat each case sensitively and on its own merits. We may require successors to move in some situations, including when:
- the property has become underoccupied by more than one bedroom
 - the property has been adapted for a person with disabilities and there is no longer a person with disabilities living in the home
- 11.10. Ground 15A of the Housing Act 1985 gives us the ability to obtain a possession order to move a successor to suitable alternative accommodation if they are unwilling to move of their own accord.
- 11.11. Persons residing in the property at the end of the tenancy
- 11.12. There are occasions where the tenancy has ended but people still reside within the property, for example where one joint tenant has moved and ended the tenancy for both tenants, or where there is no person with a legal right of succession.
- 11.13. In these instances we will act with compassion towards the resident(s), treat each case on its own merits and assess their eligibility for homelessness assistance and/or social housing with the aim of preventing homelessness. We reserve discretion in deciding whether to offer another tenancy of the property or another Council property.
- 11.14. We will charge for use and occupation to the remaining occupier(s) in the property once the tenancy has been ended. The use and occupation charge will be equivalent to the rent charged for the property.

12. Assignment

- 12.1. Assignment is where a tenancy is passed to another person. Assignment is prohibited except for three situations as set out in s.91 of the Housing Act 1985:
- Assignment by mutual exchange
 - Assignment under property adjustment orders in connection with family/matrimonial proceedings
 - Assignment to a person who would qualify to succeed to the tenancy (counts as a succession)
- 12.2. Tenants must seek our consent to assign their tenancy. We will not unreasonably withhold our consent to an assignment.
- 12.3. If an assignment takes place outside the specified circumstances in which assignment is permitted, without our consent, it will not result in the transfer of the tenancy. The tenancy will no longer be secure, and the assignee will not become a Secure Tenant. The Council will then be able to terminate the tenancy by service of a Notice to Quit.

12.4. Details of each type of assignment is explained in the following sections.

13. Mutual Exchange

- 13.1. Secure tenants have a statutory right to exchange their tenancy and home with another council or housing association tenant, known as a 'mutual exchange'. Mutual exchanges are completed by assignment and are facilitated by the landlord(s). In an exchange, tenants pass responsibility for the tenancy and home to another tenant and there is no break in the tenancy. This means that the responsibility to put right any tenancy breach (damaged fittings, poor decorative order etc) is also passed on.
- 13.2. Tenants wishing to exchange their homes must complete an application form seeking permission to proceed. We have the right to refuse a mutual exchange on certain grounds contained in Schedule 3 of the Housing Act 1985 within 42 days of the date of application. If one of the grounds in schedule 3 applies to the mutual exchange, the request may be refused.
- 13.3. Some properties have covenants which restrict who can be allocated the property when it becomes vacant. Typically these covenants give priority or restrict occupation to people with a local connection to a village, neighbouring parishes and/or a district in a cascading fashion. These covenants do not restrict tenants wanting to exchange their home because no letting takes place and the property is not vacant at any point. This means that tenants in these properties can legitimately exchange tenancies with other tenants who may not have a local connection.
- 13.4. Tenants are advised to exercise caution when considering an exchange with a tenant of another landlord, to ensure that they fully understand the type of tenancy they will be taking over in their new home.
- Tenants with a Secure Tenancy which began *before* 1 April 2012 exchanging with a tenant on a fixed-term tenancy will be able to retain their periodic tenancy status with their new landlord. The exchange will not be completed by assignment, as the other landlord is obliged to grant a new periodic tenancy of their property.
 - Tenants with a Secure Tenancy which began *on or after* 1 April 2012, exchanging homes with a tenant on a fixed term Tenancy will take on a fixed term Tenancy with their new landlord, thereby losing their long-term security of tenure.

14. Assignment by Order of the Court

- 14.1. Tenants may seek to transfer the Tenancy by Court Order, for example in divorce proceedings. We will assign tenancy at the Order of the Court.

15. Assignment to a Qualifying Successor

- 15.1. Sole tenants have the right to assign their Secure Tenancy to a person who would qualify to succeed to the tenancy in the event of their death with our consent. The right to assignment in this way does not apply to a joint secure tenant who wishes to relinquish their interest in the tenancy to the remaining joint tenant (see section 16).
- 15.2. We will not unreasonably withhold our consent, reasons for refusing consent include but are not limited to:
- The person is not eligible for social housing under our Allocations Policy
 - The prospective tenant is not able to afford the rent
 - There are rent arrears
 - We have started possession proceedings

- The property has been adapted for a person with disabilities and there would no longer be a person with disabilities living there.

16. Relationship Breakdown

- 16.1. When one tenant in a joint tenancy decides to no longer reside in the property, they may request for the tenancy of the property to be in the sole name of the remaining occupant.
- 16.2. It is not possible for a joint tenancy to be passed on by deed of assignment or deed of release except in the case where it is required by a Court Order. The change can only be made if we agree to create a new sole tenancy for the remaining tenant.
- 16.3. Applications for a sole tenancy will be determined on a case-by-case basis. We may refuse requests for a sole tenancy in situations where:
 - The person is not eligible for social housing under our Allocations Policy
 - The property would be under-occupied by more than one bedroom
 - The remaining tenant is not able to afford the rent
 - The departing tenant is not adequately housed elsewhere
 - There are rent arrears
 - We have started possession proceedings
 - The property has been adapted for a person with disabilities and there would no longer be a person with disabilities living there.
 - Domestic abuse has been disclosed and the alleged perpetrator proposes to remain in the property
- 16.4. If we confirm that a new sole tenancy is to be issued, a Notice to Quit can then be served by one of the joint tenants to terminate the existing joint tenancy. A new sole tenancy of the property will be created to commence once the Notice to Quit expires.
- 16.5. If the application is refused, or if no application is received, and the departing joint tenant serves notice to end the tenancy regardless, it will be legally effective in ending the tenancy (see 11.11 for next steps).

17. Requests to Create a Joint Tenancy

- 17.1. A tenant can request to add their partner, spouse or civil partner to their Tenancy, provided that they are not themselves a successor to the tenancy.
- 17.2. If approved, the change will be facilitated by issuing a new tenancy of the property in joint names.
- 17.3. The requirements for us to approve such requests are:
 - The prospective new tenant must provide evidence they have lived with the tenant at the property for the preceding 12 months as their principal home, or provide a marriage or civil partnership certificate.
 - The prospective new tenant must not hold a tenancy or own a property elsewhere.
 - The existing tenancy must not be in arrears
 - There must not be any current breaches of the tenancy agreement
 - The prospective tenant must evidence a Right to Rent in the UK (see 5.1).
- 17.4. If we confirm that a new joint tenancy is to be issued, a Notice to Quit can then be served by the tenant to terminate their existing sole tenancy. A new joint tenancy of the property will be created to commence once the Notice to Quit expires.

18. Abandonment

- 18.1. It is a requirement of a tenancy that the tenant occupies their property as their only or principal home. If a tenant is not occupying their property as their only or principal home and has no

intention to return, then the tenancy falls away and the landlord may regain possession within 28 days by serving a Notice to Quit.

- 18.2. Temporary absence from the property is permissible providing that the tenant intends to return. A tenant may have genuine reasons for being away from their home for a period, including periods of ill health, the need to care for another person or a period spent in custody and so thorough investigations will be undertaken prior to taking legal action for abandonment.

19. Making Best Use of Housing

- 19.1. We recognise that there is a limited supply of larger homes and that these homes can become under-occupied as children grow up and move on. We want to support tenants to move when their homes no longer meet their needs, to free-up these larger homes for families living in overcrowded or temporary accommodation.
- 19.2. Tenants whose needs are not met in their current accommodation are encouraged to apply to the Councils' housing register. Provided they are eligible they will be awarded a priority for downsizing in accordance with the Allocations Policy, and they will be able to apply for more suitable accommodation on the Gateway to Homechoice system.
- 19.3. We encourage tenants to register on the House Exchange website (free of charge) and look for opportunities in other settings, such as social media.
- 19.4. We will develop incentive schemes and promotions which support and encourage tenants to downsize to more appropriate accommodation. Details of which will be available on our website and in other formats on request.

20. Tenancy Fraud

- 20.1. We will take a proactive approach to tackling unlawful subletting and other instances of tenancy fraud, including; obtaining housing by deception, wrongly claimed succession, key selling, unlawful assignment and making false right to buy applications.
- 20.2. Immediate action will be taken to evict those that are unlawfully subletting or that have obtained a Tenancy by deception by giving false or misleading statements. Tenancy Fraud is a criminal offence and individuals risk prosecution under the Prevention of Social Housing Fraud Act 2013 which could result in imprisonment and/or a fine.
- 20.3. Tenancy audits will be carried out from time to time and staff will request details of identification of all persons living in the property. Photographs will be taken of tenants when they receive the keys to their property to help us prevent and tackle Tenancy fraud.
- 20.4. We will encourage and enable residents to confidentially report any concerns of Tenancy fraud to us.

21. Tenancy Sustainment and Enforcement

- 21.1. We commit to providing clear and accessible information to tenants about their obligations and rights as a tenant.
- 21.2. If there are any issues or concerns about the tenancy being breached, we will contact tenants at an early stage to understand how we can work with them to resolve any breaches of the tenancy.
- 21.3. We offer appropriate advice, financial inclusion and tenancy sustainment support either directly or by referral/signposting to external specialist agency.
- 21.4. We will make use of powers granted to us in the Anti-Social Behaviour Crime and Policing Act 2014 to tackle anti-social behaviour perpetrated by tenants, their families and visitors.
- 21.5. The majority of tenancy issues are resolved without the need for tenancy enforcement however, we may seek to obtain a possession order from the County Court for serious or persistent breaches of the tenancy, or to resolve another tenancy or property related issue.

- 21.6. We will follow the Pre-Action Protocol for Possession Claims by Social Landlords when taking possession action, and offer tenants the right to an internal review of certain decisions affecting their tenancies (see section 22)
- 21.7. We will undertake an Equality Impact Assessment prior to asking the Court to make a possession order on a mandatory ground, including applying to Court following service of a 'Notice of Proceedings for Possession' under s128 of the Housing Act 1996 to end an Introductory Tenancy. As part of the assessment, we will invite the tenant to provide details of any and all circumstances and protected characteristics they wish us to consider in our decision-making.
- 21.8. We will encourage tenants facing possession action to seek independent legal advice.
- 21.9. Tenants will be referred to our Housing Solutions team where they are at risk of losing their home, in order that avenues to prevent homelessness can be explored.
- 21.10. Possession may also be pursued where the tenant is not in breach of the agreement, for example if the property needs to be vacated for major improvement works, to dispose of it, or to redevelop the land on which it sits. Tenants may also be required to move where there has been a succession to the Tenancy but the remaining occupants would be more appropriately housed in alternative accommodation (see paragraph 11.7)
- 21.11. We may ask the Court that the tenant pay our legal costs if we make an application to the court. Each case will be considered on its own merits.
- 21.12. Possession action: Introductory Tenancies
- 21.13. Introductory Tenancies can be terminated by service of a 'Notice of Proceedings for Possession' under s128 of the Housing Act 1996. On expiry of the notice, we can apply to Court for an Order for Possession. So long as we have acted lawfully, served the correct notice and followed the correct procedure, the Court must make grant us possession.
- 21.14. As an alternative we may seek a to apply to the Court for a possession order under one of the grounds for possession set out in Schedule 2 of the Housing Act 1985 (as amended by the Housing Act 1996).
- 21.15. Possession action: Secure Tenancies
- 21.16. Secure Tenancies have security of tenure and can only be ended by the landlord if the Court grants a possession order under one of the grounds for possession (as set out in Schedule 2 of the Housing Act 1985 (as amended by the Housing Act 1996)).
- 21.17. Possession orders may be suspended on terms that the tenant complies with their Tenancy agreement and undertakes certain commitments (for example the repayment of rent arrears). Outright possession action and eviction will be used where other options have been exhausted or are not appropriate to resolve the issue.

22. Right to Review

- 22.1. We commit to equality and fairness in decision-making affecting tenant's homes. The right to a review gives tenants the opportunity to challenge decisions and present additional information about their personal circumstances which they wish us to consider.
- 22.2. Tenants are given the opportunity to request an internal review of certain Council decisions.
- 22.3. Details of the right to a review will be set out in a letter accompanying any relevant legal notice. For all other disputes or complaints about tenancy management, tenants may raise a formal complaint.

- 22.4. The request for a review must be in writing and received before the deadline. Tenants are given 14 calendar days from the date of service to submit a written request for review of the following:
- Notice to extend an Introductory Tenancy
 - Notice to terminate an Introductory Tenancy (Notice of Proceedings for Possession' under s128 of the Housing Act 1996)
 - Notice of intention to seek possession under mandatory grounds, i.e. where the Court will be required to make an order if the ground is proven
- 22.5. The person conducting the review will be an Officer of greater seniority than the Officer who made the decision, and who was not involved in the original decision. The tenant can choose to submit information to the reviewing Officer either in writing or by way of an oral hearing. At least 5 days' notice must be given by the Councils of any oral hearing and reasonable adjustments will be made to allow for the tenant to attend.

23. Equality, Diversity and Inclusion

- 23.1. The Councils commit to providing equal opportunities to all in the management of Tenancies.
- 23.2. We will make adjustments to our communications to ensure that every tenant understands their rights and obligations in their Tenancy and has access to services. Translation services are provided and we will make reasonable adjustments for tenants who may find communication in writing difficult.
- We will undertake an Equality Impact Assessment prior to asking the Court to make a possession order on a mandatory ground, including applying to Court following service of a 'Notice of Proceedings for Possession' under s128 of the Housing Act 1996 to end an Introductory Tenancy.

24. Policy Monitoring and Review

- 24.1. The Tenancy Services Corporate Manager will oversee the consistent and fair implementation of this policy and will consult with colleagues to ensure timely and accurate updates of the policy are given. We will carry out a fundamental review of this policy every 5 years or sooner, subject to legal, regulatory changes or if internal changes necessitate.

APPENDIX B

Explanatory note: Social Housing Policy Context: Flexible (fixed term) tenancies

This explanatory note provides additional information about the two main forms of tenancy which are currently available to the Councils in the provision of settled accommodation (as opposed to temporary accommodation for persons experiencing homelessness which is outside of the scope of this policy).

Name	Description
<p>Secure tenancy</p> <p><i>Periodic tenancy</i> <i>Lifetime tenancy</i></p>	<p>A secure tenancy is the traditional form of tenancy in Council housing.</p> <p>It is the form of tenancy that Babergh and Mid Suffolk have issued to tenants since the 1985 Housing Act.</p> <p>The tenancy is periodic and has no fixed end date. It runs from period-to-period, i.e. from week to week, until the agreement is ended by landlord or tenant intervening. It is often referred to as being a 'lifetime' tenancy as it can provide a home for life.</p> <p>The Tenant can serve notice to quit to end the agreement, the landlord may only seek to recover possession using the grounds for possession in the Housing Act 1985 in the County Court.</p>
<p>Flexible Tenancies</p> <p><i>Fixed term tenancy</i></p>	<p>A flexible tenancy is very different type of secure tenancy, which is granted for a fixed term, meaning that it ends on a specified date. Local authorities typically grant flexible tenancies for at least five years, the minimum period is two years. Referring to these tenancies as 'flexible' can be confusing, the name refers to the flexibility they offer landlords to manage tenancies how they see fit, the tenancies themselves are in fact <i>inflexible</i> in that they are for a set period.</p> <p>At the end of the fixed term the landlord has a mandatory ground for possession which would require the tenant to move out. In light of this, flexible tenancies are often referred to as fixed-term tenancies.</p> <p>Flexible Tenancies were introduced to Councils in 2011 with the Localism Act to provide a mechanism for reviewing tenants' need for social housing on a regular basis when the tenancy is due to come to an end.</p> <p>Renewing a tenancy: When a tenancy is approaching the end of the fixed term, but the tenant continues to need the social housing property, a new flexible tenancy can be offered for a further period.</p> <p>Terminating a tenancy: where the tenant is deemed no longer to need the property or social housing more generally, the Council</p>

	<p>can recover possession under s107D Housing Act 1985. The property can then be re-let to a household in greater need. The departing tenant would be helped and encouraged to source suitable alternative accommodation within the social or private sector, dependant on their needs and status.</p> <p>The criteria for assessing whether a tenant would be required to stay, or to go, would be contained within a Tenancy Policy.</p>
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1.1 For clarity, the tenancy agreements above can be preceded by an Introductory Tenancy which creates a probationary period of 12 months. This probationary period allows for swift possession action to be taken for very serious breaches of the tenancy agreement or fraudulent applications for social housing. This report does not provide details of these tenancy types, further information is available in the Tenancy Policy. The intention is to continue to use Introductory Tenancies to deter anti-social behaviour and tenancy fraud.

2. CONTEXT

2.1 Long-term security of tenure, the ‘lifetime tenancy’, was introduced for most council housing tenants by the Housing Act 1980 (later consolidated into the Housing Act 1985). This security of tenure has been generally considered an important and attractive aspect of social housing in England since its introduction.

2.2 The lifetime tenancy means, with some limited exceptions, that if a secure tenant does not breach the conditions of their tenancy agreement then they cannot be evicted from their home.

2.3 The Localism Act 2011 introduced a power for local authorities and housing associations to offer ‘flexible tenancies’ to new social tenants after 1 April 2012. Flexible tenancies are secure fixed-term tenancies with a minimum term of two years. The Government’s rationale for giving social landlords more flexibility over the length of tenancy offered was that a “one size fits all” model was no longer appropriate and was seen to contribute to under- and over-occupation ([Local decisions: a fairer future for social housing](#), para 1.11-12 and 2.11 – 12)

2.4 The Government published an [Impact Assessment](#) in January 2011 for the Localism Bill, which set out its evidence base for changes to tenure policy:

- *The current statutory and regulatory framework requires social landlords to grant ‘life-time’ tenancies in most cases – irrespective of how households’ circumstances might change in the future.*
- *Some social tenancies can be inherited by family members (other than partner/spouse), who may be in no housing need. Landlords have little control over this process.*
- *Current provisions fail to ensure that the support social housing provides to vulnerable households is sufficiently focused on those people who need it most.*

- *It is unfair – both on the most vulnerable households and taxpayers who subsidise its provision – that the current tenancy and succession arrangements prevent landlords from addressing as many people’s housing needs as they could.*

- *The preferred option would increase the freedom social landlords have to determine the sort of tenancy they grant to new tenants, allowing them to vary conditions such as tenancy length (subject to a statutory minimum). Existing social tenants would be unaffected.*

2.5 The Department for Communities and Local Government (DCLG) stated that fixed term tenancies would be offered for two years in exceptional circumstances, with five years or more being the norm. Local authorities were able to offer secure tenancies if they wish but must publish a tenancy policy setting out whether and how they intend to use fixed term tenancies.

2.6 Local authority tenants who have a fixed term tenancy enjoy similar rights as secure tenants, including the Right to Buy their home after a qualifying period and the Right to Repair. However, under section 155 of the Localism Act, flexible tenants do not have a statutory right to improve their properties or be compensated for those improvements. These rights are enjoyed by secure tenants of local authorities.

2.7 There was a limited take-up of fixed-term tenancies by councils and housing associations. The [Equality Impact Assessment on Lifetime Tenancies](#) (May 2016) said that in 2014/15 “only 15% of social housing tenancies were let on a fixed-term basis.”

2.8 The Housing and Planning Act 2016 introduced new provisions aimed at phasing out lifetime tenancies. The new provisions would prevent local authorities in England from offering secure tenancies for life in most circumstances. Housing associations would retain discretion over whether to offer a flexible tenancy.

2.9 Existing council tenants would not lose their security of tenure. If these tenants were forced to move, e.g. due to a regeneration scheme, they would retain their existing tenancy rights. However, where they chose to move their landlord would have had “limited discretion” to offer “further lifetime tenancies.” If the move was part of a mutual exchange, then local authorities would be allowed to continue to grant lifetime tenancies.

2.10 Regulations setting out the detail of how local authorities would operate this new regime were expected; however, on publication of the social housing Green Paper on 14 August 2018, [A new deal for social housing](#), the Government announced that it will not implement these provisions “at this time”.

2.11 There was wide agreement among providers of social housing and organisations representing tenants that lifetime tenancies, which offer security and stability for residents, are a core underpinning principle. [Shelter](#) said;

“The best starting point for people needing to rebuild their lives, or for those wanting to settle down and start a family, is a secure and stable home. The stability provided by a permanent tenancy means that people can make their accommodation a real home – decorate, get to know neighbours, and feel part of the local community.”

- 2.12 Shelter went on to say that it “strongly supports social landlords continuing to let their home on permanent or longer-term tenancies” and went on to highlight several negative consequences it believes could arise from the use of fixed-term tenancies:

The needs of individual households: For vulnerable people, the security given by their home can be especially valuable and can provide the basis for rebuilding their lives.

The efficient use of housing stock: One of the main arguments for tenure reform is to focus scarce social housing resources on those who need it most. However, the Government has an assessment that tenure reform will not significantly increase the number of vacant homes available until the late 2030s. It also highlights the administration and costs involved in conducting tenancy reviews, which the DCLG estimates at between £35 million and £74 million over 30 years.

The purpose of the accommodation: It is possible that making tenure dependent on proof of continuing need for social housing could disincentivise tenants from seeking or taking up work.

The sustainability of the community: There is a risk that the use of fixed-term tenancies could undermine the sustainability of communities by increasing the transience and social exclusion of neighbourhoods leading to the need for increased housing management resources, such as dealing with neighbour disputes.

- 2.13 The [Chartered Institute of Housing](#) said that it “supports in principle a more flexible approach to tenure”, but wishes to see this used to offer tenants positive and supported choices to improving their housing options and to support the development of sustainable communities:

We are clear that social housing should not be exclusively used as part of the welfare system and we are very resistant to any proposals which could see tenancies ended after a fixed term on the basis of an income-based means test. We are concerned that this would lead to social housing becoming more residualised, and further stigmatise those living in the sector.

- 2.14 The Communities and Local Government Select Committee considered the position on lifetime tenancies during its [2015-16 inquiry into housing associations and the Right to Buy](#). Evidence was taken from Stephen Hills, Director of Housing for South Cambridgeshire District Council:

We are 350 square miles, 103 villages. We have not got any towns at the moment. Those village communities are really important to people, and, if people have got caring commitments, local work or childcare commitments, they need to be able to live and to form part of that community. As to the thought that we would somehow have to move people on every few years, I cannot see how that would work. There are so few houses that come available in most of those villages, and if you move to the other side of the district, you might as well be moving to Mars for some people ... I think it would have quite a negative effect on the ability to sustain rural life in those areas.

2.15 Research carried out by Professor Suzanne Fitzpatrick and Dr Beth Watts from Heriot Watt University. [Welfare Conditionality Initial findings: fixed term tenancies in social housing](#) (February 2016) outlined interim findings from the initial stages of a five-year longitudinal study assessing the effectiveness and ethicality of welfare conditionality in the social housing sphere in England and Scotland. The key findings on existing use of fixed-term tenancies included:

- *A small number of highly 'interventionist' housing associations in England view fixed-term tenancies as an important mechanism in their broader attempts to recalibrate their relationship with tenants and 'nudge' them towards more socially and economically engaged lifestyles.*

- *Other 'early adopters' of fixed-term tenancies now appear disillusioned about their merits, particularly with regard to the scope for using them to generate additional social lettings in high demand areas. There is likewise scepticism about the efficacy of fixed-term tenancies as a tool to promote social mobility or to encourage positive tenant conduct, as well as concerns about administrative cost and complexity and the potential for community destabilisation.*

- *Some social tenants with fixed-term tenancies or probationary tenancies were unaware or unconcerned about their tenancy status, but it was a cause of considerable anxiety for some tenants, especially those with a disability or health problems and for families with children.*

2.16 The [final results of the research](#) were published in May 2018, the key findings are reproduced below:

- *There is little evidence that social tenants adjust their behaviour as a result of having a fixed-term rather than open-ended tenancy, other than in relatively minor ways (for example, some may be less likely to invest in home improvements).*

- *Most social tenants with fixed-term tenancies were only mildly or moderately anxious about their tenancy status, in part because the termination date in all cases was at least two years away. But it was a cause of considerable distress for a minority, especially older tenants, those with a disability or health problems, and some families with children.*

- *Tenants generally had only a vague idea of the grounds upon which their fixed-term tenancies may be terminated, though most had formed the (probably accurate) impression that their tenancies would be renewed so long as they did not run up rent arrears or engage in serious antisocial behaviour.*

- *The prospect that people's fixed-term tenancies could be terminated on the grounds of a rise in income was disapproved of by most tenants, and only a small minority saw the idea of income-related rents (sometimes called 'pay to stay') as fair.*

- *There was likewise very little support for the notion that renewal of tenancies should be linked to job search or volunteering activities, even some shock that such a proposition should be entertained.*
- *There were considerably more mixed views on the notion that, in a context of acute pressure on the housing stock, under-occupation could be a legitimate reason for non-renewal where alternative suitable accommodation could be made available.*

2.17 Shelter described the introduction of mandatory fixed-term tenancies as “toxic”:

So, is the government’s amendment really so toxic if it looks like the majority of tenancies will be renewed? We’d argue yes. The government’s insistence on reviewing everyone, even households with long-term health needs and disabilities, to see if their circumstances have changed seems unnecessary onerous and will cause bureaucratic cost for landlords and unnecessary stress for tenants.

Many people on low incomes are realistic about their prospects of purchasing property, despite the aspiration to own one. Only a quarter of current social tenants say they expect to ever be able to buy. Losing a social home would not propel them into social mobility but relegate them to a lifetime of insecurity in the private rented sector.

Landlords will be able to give scant reassurance to households, as they will have to go through the bureaucratic, costly and intrusive process of reviews before they can say with certainty that a household will be allowed to remain in their home. The ban on security of tenure is an example of policy being damned if it works and damned if it doesn’t.

Whatever happens to the roof above their heads, households will have lost the essential security of knowing they can call a place home.

2.18 The social housing Green Paper, [A new deal for social housing](#) on 14 August 2018, set out the Government’s position as follows:

Given the pressures on social housing the Government introduced further changes in the Housing and Planning Act 2016 to restrict the use of lifetime tenancies by local authority landlords. These changes are not yet in force but would require local authorities generally to grant tenancies on a fixed term basis and to review them towards the end of the fixed term period to decide whether to grant a further tenancy.

Since this legislation there has been a growing recognition of the importance of housing stability for those who rent. The challenges facing renters, including those in the private sector, were recognised in our White Paper, ‘Fixing our broken housing market’, and we are consulting on how to overcome the barriers to longer tenancies in the private rented sector.

Many residents spoke about the benefits of security in their tenancies, saying that they created strong, supportive communities, and particularly enabled people with vulnerabilities to thrive. Some felt that residents were more likely

to look after their property, their neighbours, and the community if they had a lifetime tenancy. While some people thought it was right that residents should move out of social housing if they no longer needed it given the pressures on housing, many also had concerns about the uncertainty when fixed term tenancies came to an end and the impact this could have on their families and communities.

We have listened carefully to the views and concerns of residents and have decided not to implement the provisions in the Housing and Planning Act 2016 at this time (paras 183-186).

- 2.19 The [Social Housing White Paper](#) was published on 17 November 2020. An underpinning theme of the White Paper is to address the stigma and treatment of tenants in social housing. The Paper described how tenants have been made to feel like ‘second class citizens’ and a shift is needed in the way they are treated and perceived in our Society. The balance has shifted significantly from treating social housing as one aspect of a welfare system, to providing secure, healthy, inclusive and safe homes and services.
- 2.20 Announced in the Renters Reform White Paper in June 2022, the Government plans to abolish all fixed term tenancies in the private and social housing sectors by 2030.

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Equality Impact Assessment (EIA) Initial Screening Form



Screening determines whether the policy has any relevance for equality, ie is there any impact on one or more of the 9 protected characteristics as defined by the Equality Act 2010. These are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief (including lack of belief)
- Sex
- Sexual orientation

<p>1. Policy/service/function title</p>	<p>Tenancy Policy (for Council Tenants)</p>
<p>2. Lead officer (responsible for the policy/service/function)</p>	<p>Robert Longfoot Tenancy Services Corporate Manager</p>
<p>3. Is this a new or existing policy/service/function?</p>	<p>New Policy to set out an existing function.</p> <p>To complicate matters – The Strategy Committees of the Councils considered the implementing Flexible (fixed term) Tenancies in July 2013 and decided in favour of doing so. These fixed term tenancies would replace Secure Tenancies as the primary form of tenure in its Council Housing Stock. The necessary policy and tenancy agreement needed to implement said change have not been realised and this decision not acted upon. As a result the Councils continue to offer Secure Tenancies as the primary form of tenancy agreement.</p> <p>The new policy proposes to reverse the decision in 2013 and instead continue the practice of issuing secure (lifetime) tenancies in Council Housing.</p> <p>Therefore no change to tenancy arrangements for current or future tenants</p>
<p>4. What exactly is proposed? (Describe the policy/service/ function and the changes that are being planned?)</p>	<p>BMSDC will manage tenancies in the same way they have been up to this point, in accordance with regulation and legislation.</p> <p>As there is no current policy in place, the policy will ensure that staff operate consistently in the management of tenancies.</p>

	The policy spells out the importance of considering protected characteristics in decision making and includes a section outlining the opportunity for internal review offered to tenants to further equality.
5. Why? (Give reasons why these changes are being introduced)	The regulator of Social Housing requires all social landlords to have a tenancy policy which is accessible to residents and clearly explains how tenancies will be managed.
6. How will it be implemented? (Describe the decision making process, timescales, process for implementation)	The policy will 'go live' on the date it is approved (Cabinet, 9 th January 2023) and will apply to current tenants and new. There may be a requirement to vary the current tenancy agreement to take account of any changes Cabinet, this will take time to produce. It is envisaged that any changes could be approved by Cabinet and implemented by 30/06/23 at the latest.

7. Is there potential for differential impact (negative or positive) on any of the protected characteristics?	No change is proposed to the current practice of issuing secure tenancies and introductory tenancies. The type of tenancy issued depends upon the type of tenancy the applicant for housing held immediately before the letting. The only exception, where a protected characteristic triggers a different approach to issuing a tenancy, is based entirely in law: the issuing of tenancies to people aged under 18. Children are unable to hold a legal interest in land and so the tenancy must be held in trust until they are an adult. Again, this is current practice albeit not a common occurrence.
8. Is there the possibility of discriminating unlawfully , directly or indirectly, against people from any protected characteristic?	Management of tenancies is to be equally provided and considerate of protected characteristics – with equality impact assessments forming an essential element of any tenancy enforcement and rights of review/appeal offered to tenants to encourage them to provide details of any circumstances or characteristics they need us to take into account.
9. Could there be an effect on relations between certain groups ?	No
10. Does the policy explicitly involve, or focus on a particular equalities group , i.e. because they have particular needs?	No The tenancy policy generally provides for equal treatment and rights to all tenants.

If the answers are 'no' to questions 7-10 then there is no need to proceed to a full impact assessment and this form should then be signed off as appropriate.

If 'yes' then a full impact assessment must be completed.

Authors signature Robert Longfoot

Date of completion 9th November 2022

Any queries concerning the completion of this form should be addressed to the Equality and Diversity Lead.

* Public sector duty does not apply to marriage and civil partnership.

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Agenda Item 11

BABERGH DISTRICT COUNCIL

From: Corporate Manager - Governance and Civic Office.	Report Number: BCa/22/41
To: Cabinet	Date of meeting: 9 January 2023

SCRUTINY/CABINET PROTOCOL

1. Purpose of Report

- 1.1 To agree a Scrutiny/Cabinet Protocol for Overview and Scrutiny to promote a culture of accountability, openness, and transparency within Babergh and Mid Suffolk District Councils, recognising scrutiny as a key enabler within that culture.

2. Options Considered

- 2.1 The proposal to formulate a Scrutiny/Cabinet Protocol was an action from the Corporate Peer Review and is considered best practice by the Centre for Governance and Scrutiny.

3. Recommendations

- 3.1 That Cabinet approves the Scrutiny/Cabinet protocol attached.

Reason: To promote a culture of accountability, openness, and transparency within Babergh and Mid Suffolk District Councils, recognising scrutiny as a key enabler within that culture.

4. Financial Implications

N/A

5. Legal Implications

- 5.1 The requirement for local authorities in England to establish Overview and Scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011. The Statutory Guidance has been issued under Section 9Q of the Local Government Act 2000, which requires authorities to have regard to it. In addition, authorities may have regard to other material they might choose to consider, including that issued by the Centre for Governance and Scrutiny, when exercising their overview and scrutiny functions.
- 5.2 Overview and Scrutiny committees have statutory powers to scrutinise decisions the Cabinet is planning to take, those it plans to implement, and those that have already been taken/implemented. Recommendations following scrutiny enable improvements to be made to decisions and policies and how they are implemented.
- 5.3 Overview and scrutiny committees can also play a valuable role in developing policy.

6. Risk Management

6.1 Key risks are set out below:

Key Risk Description	Likelihood 1-4	Impact 1-4	Key Mitigation Measures	Risk Register and Reference*
Lack of Robust Governance Arrangements	1	2	Processes and protocols are put in place to ensure a clear robust decision-making process	Governance Reference 2

7. Consultations

7.1 The Leaders and Overview and Scrutiny Chairs and Vice Chairs have been consulted.

7.2 Joint Overview and Scrutiny Committee formally approved the protocol on the 21st November 2022.

8. Equality Analysis

N/A

9. Shared Service / Partnership Implications

9.1 This protocol has been written for both Councils to adopt.

10. Links to Corporate Plan

10.1 This decision will strengthen and support the Councils' governance arrangements to enable delivery of all strands of the Corporate Plan and provide members of the public with confidence around the Councils' decision-making processes.

11. Key Information

11.1 Following the House of Commons' Communities and Local Government Select Committees report of December 2017 into the 'Effectiveness of local authority overview and scrutiny committees', the Government published new statutory guidance in May 2019 on overview and scrutiny in local and combined authorities.

11.2 The Council in operating a Leader and Executive Governance model must have regard to it when exercising their functions and should be followed unless there is a good reason not to in a particular case. Section 2 of the Statutory Guidance refers to Culture within an organisation and its importance in whether its scrutiny function succeeds or fails.

- 11.3 This protocol has been formulated based on the Statutory Guidance following the creation of an action plan for Overview and Scrutiny as a result of the Councils' peer review and the requirement for Overview and Scrutiny to have a clear role and focus.
- 11.4 The protocol clearly defines the role of Overview and Scrutiny, Cabinet and Officers to promote a culture of accountability, openness, and transparency within Babergh and Mid Suffolk District Councils,' recognising scrutiny as a key enabler within that culture.

Appendices

Title	Location
(a) Scrutiny/Cabinet Protocol	Attached

12. Background Documents

[Babergh and Mid Suffolk District Council Corporate Peer Challenge Action Plan](#)

<https://www.gov.uk/government/publications/overview-and-scrutiny>

Authorship:

Janice Robinson
 Corporate Manager – Governance and
 Civic Office


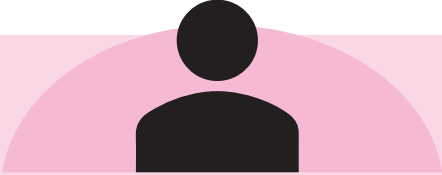

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SCRUTINY & CABINET PROTOCOL



The purpose of this protocol is to promote a culture of accountability, openness and transparency within Babergh and Mid Suffolk Councils, recognising scrutiny as a key enabler within that culture. The protocol sets out how Overview & Scrutiny Committee Members, the Cabinet and Officers will work together to deliver effective, outcome-focussed scrutiny.

 Overview and Scrutiny Committee Members will:	 Cabinet Members will:	 Officers will:
<p>Take their role on the O&S committees seriously, preparing for meetings in advance and committing to attending for the whole of the meeting</p>	<p>Respect the impartiality, value and independence of the O&S Committees</p>	<p>Proactively participate in the scrutiny process – attending Committee meetings and Chairs’ briefings, preparing and presenting clear and concise information to the Committees and responding positively to questioning by the Committee Members</p>
<p>Participate in regular training to develop their scrutiny skills</p>	<p>Proactively seek the O&S Committees’ input in executive decision-making and policy formation</p>	<p>Respect and value the contributions made by the O&S Committees - actively seeking out the expertise of the Committees when developing solutions and preparing reports to support decision-making</p>
<p>Focus their attention on strategic scrutiny topic with clear value added for residents and communities, rather than specific ward or personal interests</p>	<p>Attend and participate positively in O&S Committee meetings where items are being discussed that fall within their portfolio</p>	<p>Promote the role and importance of scrutiny inside and outside the Councils</p>
<p>Undertake scrutiny with openness and impartiality and without political motivation</p>	<p>Respond positively to feedback from the O&S Committees and give reasonable and timely consideration to their recommendations</p>	
<p>Provide constructive challenge as a ‘critical friend’ of the Cabinets to engage decision and policy making</p>	<p>Promote the role and importance of scrutiny inside and outside the Councils</p>	
<p>Make recommendations which have a clear purpose and set out expectations for response and implementation</p>		
<p>Promote the role and importance of scrutiny inside and outside the Councils</p>		

How will we achieve it?

- Working together in a culture of mutual trust and respect and adhering to the Code of Conduct.
- Monthly meetings of the Overview & Scrutiny Committees, held in public and livestreamed.
- A realistic and robust work programme, developed at the start of each municipal year and aligned, where appropriate, to the work programme of the Cabinets and Councils.
- Monthly O&S Strategy Meetings between the Leaders of the Councils and the Chairs of Overview & Scrutiny.
- Fully scoped scrutiny reviews, demonstrating clear links to the Councils’ strategic priorities and proposed outcomes.
- Tracking the recommendations made by Overview & Scrutiny Committees and evaluating their impact.

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Agenda Item 12

BABERGH DISTRICT COUNCIL

TO: Babergh Cabinet	REPORT NUMBER: BCa/22/42
FROM: Cabinet Member for Customers, Digital Transformation and Improvement	DATE OF MEETING: 09/01/2023
OFFICER: Jane Kennedy, Corporate Manager, Policy, Performance, Insight, Risk and Improvement	KEY DECISION REF NO. CAB388

RISK MANGEMENT IMPROVEMENT

1. PURPOSE OF REPORT

- 1.1 This report updates members on risk management improvement since responsibility for risk transferred to the Policy, Performance, Insight, Risk and Improvement team in January 2022. The report has been reviewed at JASC on 28th November 2022 and the Cabinet views are now sought on the draft Risk Management Policy and Strategy which provides a comprehensive framework for ensuring risk is managed effectively, efficiently, and coherently across the Councils.

2. OPTIONS CONSIDERED

- 2.1 The Councils could have maintained the existing responsibility for risk rather than integrate it with performance and improvement, but it was felt this would not drive the improvement required or maximise the opportunities to join up with a new corporate approach.

3. RECOMMENDATIONS

- 3.1 That members of Babergh and Mid Suffolk Cabinets are asked to note the progress so far to improve strategic risk management and agree the new draft risk management policy and strategy which aligns with the Orange Book.

REASON FOR DECISION

Babergh and Mid Suffolk Cabinets are responsible for Strategic Risk Management and approval of the joint Risk Management Policy and Strategy.

4. KEY INFORMATION

Background

Why is risk management important?

- 4.1 We are likely to be living with some variant of Covid-19 or a new pandemic disease for the foreseeable future. Other risks are emerging for example, cost of living, energy crisis, digital innovation, cyber-crime, demographic change, and the direct and indirect impacts of climate change.
- 4.2 Good risk management enables us to deliver the outcomes we have agreed for Babergh and Mid Suffolk. It also improves service delivery and helps to achieve better value for money and demonstrate compliance.

- 4.3 Risk management enhances strategic planning and prioritisation, assists in achieving outcomes and strengthens our ability to be agile in responding to challenges. It is an essential and integral part of planning and decision-making.
- 4.4 Without good risk management practice our Councils cannot manage resources effectively. It also helps us to take advantage of the opportunities to improve services or to reduce costs.
- 4.5 Risk management provides early warning on key / emerging matters to enable transparent, timely decision-making and intervention at appropriate levels, it improves decision-making allowing intelligent 'informed' risk-taking, helps to prioritise, protect assets, people and the Council's reputation, supports consistent good governance and internal control and allows better informed financial decision-making leading to greater financial and budget control.

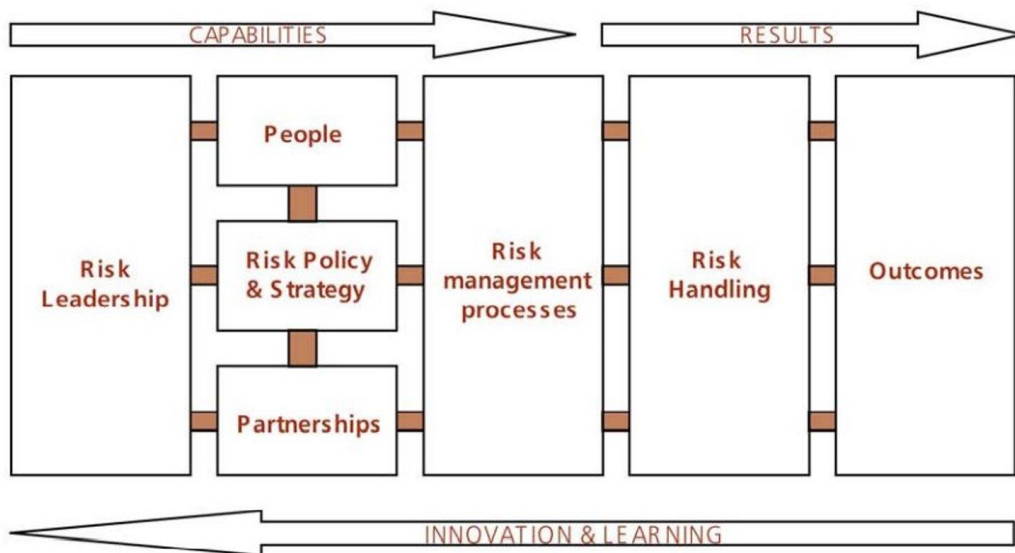
External opinion on our risk approach

- 4.6 In April 2021, our external audit partners, TIAA undertook a review of our strategic risk management arrangements. They identified some good practice in our risk management framework and made several recommendations to improve.
- 4.7 TIAA identified the good practice as: all risks in the Strategic Risk Register (SRR) have risk owners, Cabinet member leads, mitigation actions and all other areas of the SRR was completed. Risks in the SRR include the original, current and target risk scores. The SRR is structured so risks are articulated in terms of cause, risk and consequence. Mitigations are included along with further actions necessary to reduce the risk.
- 4.8 In March 2022, the Councils also received feedback on our approach to risk management in the LGA Corporate Peer Challenge report. One of their recommendations was to revisit the risk management strategy and "bring it to life" to ensure a more effective corporate approach to risk including financial risk.
- 4.9 TIAA recommended the Councils review their risk management strategy to include how the SRR links to the Council's Objectives. The LGA also made this recommendation to review the risk strategy and include review, moderation, and approval process for new risks for both the SRR and the Departmental Risk Registers, how we address programme risk and embed our work on risk appetite. The risk management strategy and policy is now revised and is attached for comment and will be taken to both Cabinets in January 2023.
- 4.10 TIAA asked us to consider the latest guidance for risk appetite and to set out more specific tolerance levels within the risk management strategy for each type of risk. We have now established specific tolerances for each of the risk types identified in the Orange Book and worked with SLT to develop detailed tolerances that we have tested with both Cabinets. These have been embedded into the SRR.
- 4.11 TIAA recommended we embed sources of assurance in the SRR and reflect those in the Risk Management Strategy. Sources of assurance are now included for each of the strategic risks and sources of assurance are noted as a necessary component of risk treatment in the risk strategy.
- 4.12 TIAA recommended we review significant risks where they have met their 'Target Risk', to decide if they can be de-escalated or closed. This has been completed for the Strategic Risk Register and is part of the quarterly review process with SLT.
- 4.13 TIAA asked us to be more specific with planned completion dates to make it easier for SLT and Members to monitor and understand any gaps between the current and target scores. These dates are now built into the SRR and are monitored as part of the quarterly review process with SLT and are included in the risk register attached to this report.

An holistic approach to risk management

- 4.14 In addition to the TIAA report and the LGA CPC report driving improvement, as part of the new Outcomes Framework agreed by both Cabinets in January 2022, we also committed to integrating performance and strategic risk management. This led to a decision to bring strategic risk management into the newly formed Corporate Centre.
- 4.15 In January 2022 following risk management moving to Policy, Performance, Insight, Risk and Improvement from Audit, SLT agreed to adopt a whole systems approach to risk management, known as the Orange Book (see Figure 1). This central government approach integrates risk with our outcomes and will help us to improve the culture and leadership of risk management across the Councils.
- 4.16 Also, in January 2022 we updated the SRR to reflect the recommendations of our audit partner, significantly reducing the number of risks and adding new ones. We also reset quarterly reporting on the risk register to SLT.
- 4.17 Since then, we worked with SLT to develop detailed risk appetites for the 13 types of risk identified in the Orange Book and in Spring 2022 held joint workshops with SLT and Cabinets to test these for both Councils at a high level. Risk appetite is also discussed in the revised risk management strategy and will also inform improvement work to embed risk into our services and programmes.

Figure 1 – Whole systems view of risk taken from the Orange Book.



- 4.18 Our work on risk appetites was done using the five levels of risk appetite identified in the Orange Book:

Averse - Avoidance of risk and uncertainty in achievement of key deliverables or initiatives is key objective. Activities undertaken will only be those considered to carry virtually no inherent risk.

Minimalist - Preference for very safe business delivery options that have a low degree of inherent risk with the potential for benefit/return not a key driver. Activities will only be undertaken where they have a low degree of inherent risk.

Cautious - Preference for safe options that have low degree of inherent risk and only limited potential for benefit. Willing to tolerate a degree of risk in selecting which activities to undertake to achieve key deliverables or initiatives, where we have identified scope to achieve significant benefit and/or realise an opportunity. Activities undertaken may carry a high degree of inherent risk that is deemed controllable to a large extent.

Open - willing to consider all options and choose one most likely to result in successful delivery while providing an acceptable level of benefit. Seek to achieve a balance between a high likelihood of successful delivery and a high degree of benefit and value for money. Activities themselves may potentially carry, or contribute to, a high degree of residual risk.

Eager - Eager to innovate and choose options based on maximising opportunities and potential higher benefit even if those activities carry a very high residual risk.

- 4.19 Understanding risk appetite results in improved organisational health to help prioritise and allocate resources to where they are most needed to manage risks, achieve our outcomes, and demonstrate value for money.
- 4.20 This risk improvement programme is being led by the new Risk Management Lead in PPIRI who is driving this plan through a process of change management to achieve the organisational objectives, maintain the commitment of stakeholders, both during and after implementation, to embed the Orange Book and associated risk culture across the Councils and work with performance colleagues to integrate risk and performance reporting using the agreed outcomes framework.

5. LINKS TO CORPORATE PLAN

- 5.1 This holistic approach to risk management links across all aspects of the corporate plan and the strategic framework.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications to this report.

7. LEGAL IMPLICATIONS

- 7.1 There are no legal implications to this report.

8. RISK MANAGEMENT

- 8.1 Achieving a whole systems approach to risk management across the councils will need support and leadership across the whole organisation. There is significant work to do to embed risk across all operational delivery, and programmes and for staff at all levels to see the business benefits of this approach is a significant cultural change that will need effective management.

9. CONSULTATIONS

- 9.1 Cllrs Suzie Morley, John Ward and Alastair McCraw have been consulted on this report as Leaders or Portfolio Leaders. Members of SLT have agreed the risk improvement priorities and the draft risk management strategy and policy. The Strategy has been presented at Joint Cabinet and Joint Audit and Standard Committee and was well received.

10. EQUALITY ANALYSIS

- 10.1 An Equality Impact Assessment is not required for this report.

11. ENVIRONMENTAL IMPLICATIONS

11.1 None

12. APPENDICES

12.1 Appendix 1 – Draft Risk Management Policy and Strategy 2022-2025 @October 2022

13. BACKGROUND DOCUMENTS

13.1 The Government's Orange Book - Source: PU829 - Risk Management assessment framework: a tool for departments (publishing.service.gov.uk).

14. REPORT AUTHORS

14.1 Dr Jane Kennedy, Corporate Manager Policy, Performance, Risk, Insight and Improvement and Tereza Fairbairn, Risk Management Lead.

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Risk Management Policy and Strategy

2022-2025

Document Control

Reference	Risk Management Policy and Strategy 2022-2025
Date	October 2022
Author	Risk Management Lead – Tereza Fairbairn Corporate Manager, Policy, Performance, Insight, Risk, and Improvement – Dr Jane Kennedy
Approved by	Senior Leadership Team – pending approval Joint Audit and Standards Committee – pending approval Babergh Cabinet – pending approval Mid Suffolk Cabinet – pending approval

Version History

Date	Version Number	Revision Notes
October 2022	1.2	New Risk Management Strategy

Contents

- 1 Policy Statement**
- 2 Our Strategic Approach**
- 3 Risk Management Principles**
- 4 Risk Appetite and Tolerance**
- 5 Risk Management Levels**
- 6 Escalation and De-escalation of Risks**
- 7 Risk Management Process**
- 8 Risk Matrix and Scoring Criteria**
- 9 Risk Register System**
- 10 Roles and Responsibilities**
- 11 Guidance, Education and Training**
- 12 Continuous Improvement**
- 13 Review**

1. Policy Statement

Risk management is the process by which Babergh and Mid Suffolk Councils consider uncertainty that poses the risk of an adverse effect on the community and its constituents, and an integral part of the Councils' activities when supporting decision making in achieving objectives. The development of a positive risk culture embraces openness, supports transparency, welcomes constructive challenge, and promotes collaboration, consultation, co-operation, and continual improvement.

By operating a robust risk management process, the Councils can:

- Improve governance, stakeholder confidence and trust;
- Set strategy and plans through informed decision making;
- Evaluate options and deliver programmes, projects, and policy initiatives;
- Prioritise and manage resources;
- Support efficient and effective operations;
- Manage performance, resources and assets; and
- Deliver goals and improved outcomes.

This strategy has drawn on guidance from: The Orange Book, Management of Risk - Principles and Concepts (HM Government, 2020), providing a comprehensive framework ensuring risk is managed effectively, efficiently, and coherently across the Councils.

This approach supports the consistent and robust identification and management of opportunities and risks within desired levels, across both Councils supporting openness, challenge, innovation, and excellence in the achievement of outcomes.

It is the role of the Policy, Performance, Insight, Risk, and Improvement team acting for both Councils to provide support, guidance, professional advice and the necessary tools and techniques to enable the Councils to take control of the risks that threaten delivery and maximise opportunities. The role of the team is also to provide a level of challenge and scrutiny to the risk owners. The work of the team will be directed to affect the achievement of the following risk management objectives:

- Align the Councils' culture with the risk management framework;

- Integrate and embed the risk management framework across both Councils;
- Enable the Councils to recognise and manage the risks they face;
- Minimise the cost of risk;
- Anticipate and respond to emerging risks, internal & external influences, and a changing operating environment; and
- Implement a consistent method of measuring risk.

The Councils are clear the responsibility for managing risk belongs to everyone and there needs to be an appropriate level of understanding of the nature of risk by all stakeholders supported by a positive risk culture.

As a corporate body, the Councils must protect their material assets and to minimise losses and liabilities. They recognise the need to equip their workforce with the skills and expertise to manage risk on their behalf and provide the necessary resources to ensure this can be delivered.

The Councils' risk management objectives are a long-term commitment, inherent to good governance practices and fully supported by the Senior Leadership Team (SLT), both Babergh and Mid Suffolk Cabinets and the Joint Audit and Standards Committee.

2. Our Strategic Approach

Led by the SLT but with responsibility assigned through all levels of the Councils' structure, risk management is integrated into the strategic planning and prioritisation of the Councils to assist in achieving outcomes and strengthening their ability to be agile in responding to the challenges they face. This is an essential and integral part of meeting objectives successfully, improving service delivery and achieving value for money.

Babergh and Mid Suffolk District Councils achieve successful risk management through guidance from the HM Government Orange Book – Management of Risk – Principles and Concepts (2020), within a setting of strong governance and leadership and integrating risk management across their organisational activities to support decision making in achieving their Outcomes Framework. The Councils ensure risk management is collaborative and informed, using the best information and expertise available to them, supported by a strong risk management process and programme of continuous improvement.

The Councils support a Three Lines of Defence Model with everyone within the Councils having some responsibility for risk management.

The Cabinets and the SLT focus on strategic and business critical risks that may impact on the achievement or successful delivery of outcomes. Operational, programme and company risks are the primary concern of the services, change boards, and company boards respectively, who control and monitor their risks, escalating to the strategic level if they are no longer manageable at the functional level.

Identified key risks and mitigations are managed through the Councils' Strategic risk register and regularly discussed, reviewed, and updated. Frequent risk reporting takes place across all levels of the organisation. This constitutes the First Line of Defence.

The Second Line of Defence is defined by the Policy, Performance, Insight, Risk, and Improvement team including the Risk Management Lead who oversee and specialise in risk management.

The Third Line of Defence is Internal Audit who can provide an objective evaluation of the adequacy and effectiveness of the framework, governance, risk management and control when necessary.

3. Risk Management Principles

The HM Government Orange Book (2020) risk management principles adopted by Babergh and Mid Suffolk Councils state:

- Risk management shall be an essential part of governance and leadership, and fundamental to how the Councils are directed, managed, and controlled at all levels;
- Risk management shall be an integral part of all Council activities to support decision making in achieving objectives;
- Risk management shall be collaborative and informed by the best available information and expertise;
- Risk management processes shall be structured to include:
 - Risk identification and assessment to determine and prioritise how the risks should be managed;
 - The selection, design and implementation of risk treatment options that support achievement of intended outcomes and manage risks to an acceptable level;

- The design and operation of integrated, insightful, and informative risk monitoring; and
- Timely, accurate and useful risk reporting to enhance the quality of decision-making and to support management and oversight bodies in meeting their responsibilities.
- Risk management shall be continually improved through learning and experience.

Risk Management Framework

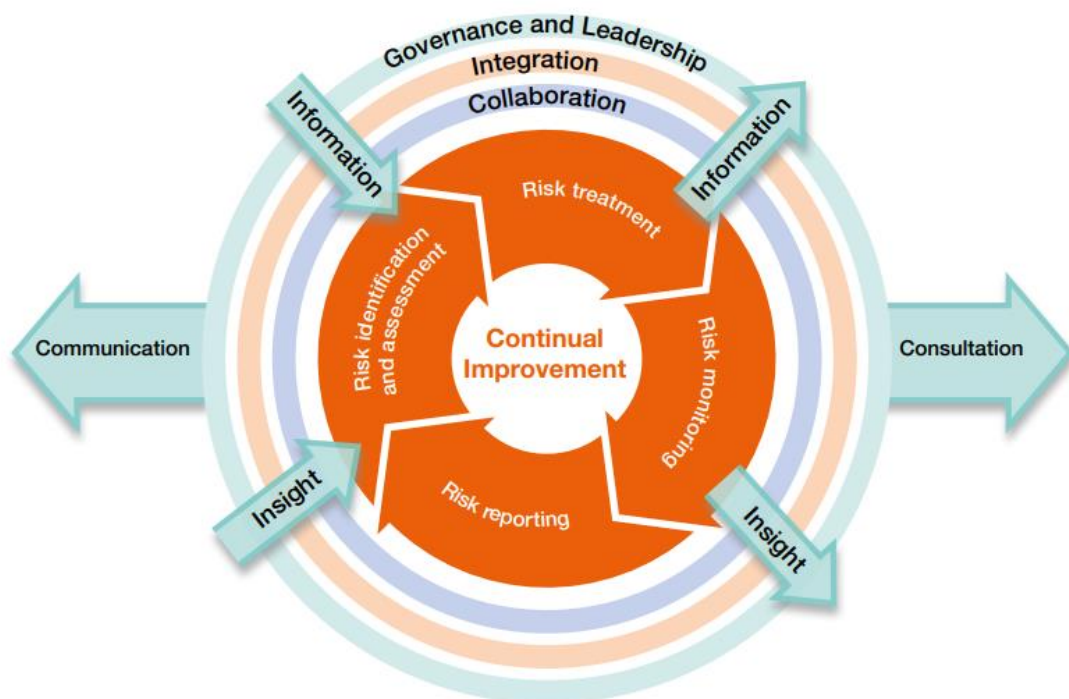


Fig. 1 (HM Government, *The Orange Book, Management of Risk – Principles and Concepts*, 2020)

4. Risk Appetite and Tolerance

Babergh and Mid Suffolk District Councils recognise that risk is inherent in delivering and commissioning services. The Councils' aim is to consider all options to respond to risk appropriately and make informed decisions that are most likely to result in successful delivery and securing of value for money.

The Councils do not seek to avoid all risk, but the acceptance of risk is subject to ensuring that potential benefits and risks are fully explored and that appropriate

measures to mitigate risk are established before decisions are made. The Councils recognise that the appetite for risk will vary according to the activity undertaken and the ability to exercise controls and hence different appetites and tolerances to risk will apply. The SLT undertake an annual review of risk appetite across the thirteen risk categories defined by the Orange Book. These appetites are referred to when considering the planned treatment of a particular risk.

Referring to our Values and considering our people and customers, being transparent, accepting ownership and being ambitious, also helps us to consider our appetite and tolerance for any given risk. Risks defined as 'high' will be managed down to a tolerable and targeted level wherever possible, however, it is important that risks across the Councils are not over-controlled.

Our work on risk appetites uses the five levels of risk appetite identified in the Orange Book:

Averse - Avoidance of risk and uncertainty in achievement of key deliverables or initiatives is key objective. Activities undertaken will only be those considered to carry virtually no inherent risk.

Minimalist - Preference for very safe business delivery options that have a low degree of inherent risk with the potential for benefit/return not a key driver. Activities will only be undertaken where they have a low degree of inherent risk.

Cautious - Preference for safe options that have low degree of inherent risk and only limited potential for benefit. Willing to tolerate a degree of risk in selecting which activities to undertake to achieve key deliverables or initiatives, where we have identified scope to achieve significant benefit and/or realise an opportunity. Activities undertaken may carry a high degree of inherent risk that is deemed controllable to a large extent.

Open - willing to consider all options and choose one most likely to result in successful delivery while providing an acceptable level of benefit. Seek to achieve a balance between a high likelihood of successful delivery and a high degree of benefit and value for money. Activities themselves may potentially carry, or contribute to, a high degree of residual risk.

Eager - Eager to innovate and choose options based on maximising opportunities and potential higher benefit even if those activities carry a very high residual risk.

Risk appetite and tolerance is considered with reference to strategic outcomes and service delivery in each area. Risks that would be seen to be unacceptable would be those that would breach law and regulatory compliance, would adversely impact the safety of our service users, residents, or employees, would critically damage the

reputation of the Councils, risk future operations of the Councils or negatively impact their financial resilience.

The Councils' appetite for risk also reflects the diverse types of risk that could impact on the Councils' ability to meet its statutory requirements and strategic outcomes, and are described in more detail below:

Strategic risks - identifying and pursuing a strategy, which is poorly defined, based on flawed or inaccurate data or fails to support the delivery of commitments, plans or objectives due to external changes.

Governance risks - unclear plans, priorities, and accountabilities, and/or ineffective or disproportionate oversight of decision-making and/or performance, political risks.

Operational risks - Inefficient internal processes resulting in fraud, error, impaired customer service (quality and/or quantity of service), non-compliance and/or poor value for money.

Legal risks - claims being made or some other legal liability or other loss, or a failure to respond appropriately to meet legal or regulatory requirements or to protect assets (for example, intellectual property).

Property risks - property deficiencies or poorly designed or ineffective safety management resulting in non-compliance and/or harm and suffering to employees, contractors, service users or the public.

Financial risks - not managing finances in accordance with requirements and financial constraints resulting in poor returns from investments, failure to manage assets/liabilities or to obtain value for money from the resources deployed, and/or non-compliant financial reporting.

Commercial risks - weaknesses in the management of commercial partnerships, supply chains and contractual requirements, resulting in deficient performance, inefficiency, poor value for money, fraud, and /or failure to meet business requirements/objectives.

People risks – ineffective leadership and engagement, poor culture, inappropriate behaviours, the unavailability of sufficient capacity and capability, industrial action and/or non-compliance with relevant employment legislation/HR policies resulting in negative impact on performance.

Technology risks - technology not delivering the expected services due to inadequate or deficient system/process development and performance or inadequate resilience.

Information risks - failure to produce robust, suitable, and appropriate data/information and to exploit data/information to its full potential.

Security risks - failure to prevent unauthorised and/or inappropriate access to key systems and assets, including people, platforms, information, and resources. This includes cyber security.

Project/Programme risks - change programmes and projects are not aligned with strategic priorities and do not successfully and safely deliver requirements and intended benefits to time, cost and quality.

Reputational risks - adverse events, systemic or repeated failures or inferior quality or a lack of innovation, leading to damages to reputation and or destruction of trust and relations.

5. Risk Management Levels

Babergh and Mid Suffolk District Councils' approach to risk management is founded upon ensuring risk is effectively and consistently managed across all levels of the organisation.

Service Level: The day-to-day management activities provide reasonable assurance that the main tactical and operational risks arising from service areas are identified, assessed, treated, monitored, and reported through the service plan risk registers. Close links between the Directors, Service Managers and the Risk Management Lead strengthen the process and ensure consistency of risk management delivered within and across the services.

Programme/Project Level: The identification of risks from the initial business case stage in a programme/project and continued risk management throughout the programme/project lifecycle ensures deliveries are achieved. Programme and Project Managers are supported by the Risk Management Lead to ensure risk management delivered is aligned to the service and strategic levels for escalation purposes.

Company Level: The Councils as shareholders of the Babergh and Mid Suffolk District Councils Holding Companies have ultimate oversight of risk management for all Council Companies, however the Companies by virtue of their articles and governance process are responsible for the management of operational risk and the Companies Risk Panel meets each quarter to review their risks with the Councils' Risk

Management Lead. Company risks are reflected on the Strategic risk register where required.

Leadership/Strategic Level: The highest level of risk is managed at Senior Leadership Level. A risk report and the Strategic risk register detailing business critical risks are reviewed quarterly by the SLT and the Risk Management Lead. This level sets the tone for effective risk management across the whole organisation. At Joint Audit and Standards Committee, the risk management strategy is agreed, and its principles championed by the SLT.

6. Escalation and De-escalation of Risks

Strategic risks are those where there is the probability that an event will interfere with the Councils' business model. If a single risk or group of risks meet the escalation criteria below, then the risk/s should be escalated to the SLT and the Risk Management Lead. The risk owner will initially be responsible for either deciding on a course of action or escalating the information further up the process to a senior level if:

- the risk becomes too unwieldy to manage at the current level;
- the risk rating cannot be controlled/managed within its current level;
- the risk remains extremely high even after mitigations are implemented;
- the risk will impact on more than one service/project if the risk event materialises;
- instinct tells the owner it is out of their control; and/or
- the risk moves outside the appetite boundaries.

Similarly, risk owners should consider de-escalation where a risk or set of risks become operational and related to process or transactions and meet the de-escalation criteria below:

- the risk can be controlled/managed at the Service, Programme or Company level;
- the risk scoring meets its' target or decreases significantly; and/or

- the risk event will only affect one Service area / team and the impact will be limited.

Escalation/De-escalation Process

If risk owners identify that a risk or group of risks need to be moved because they fit into one of the criteria above, they should initially seek the advice of the Risk Management Lead regarding moving the risk. If a risk is multi service or organisation wide the risk owner should consult with other relevant parties before recommending a change of level.

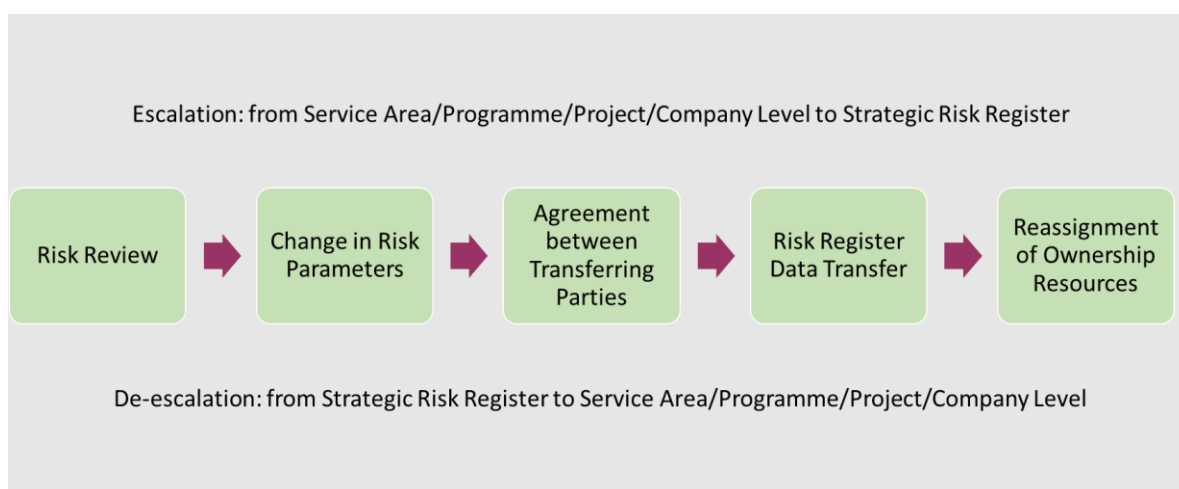


Fig. 2 Escalation and De-escalation Process for Risks

7. Risk Management Process

The risk management process follows defined steps whereby:

- Risks are identified and assessed to determine and prioritise how they should be managed;
- Treatment options are selected, designed, and implemented to support the achievement of intended outcomes and manage risks to an acceptable level;
- Integrated, insightful and informative risk monitoring is implemented; and
- Timely, accurate and useful risk reporting is applied to enhance the quality of decision-making and to support the SLT and the Councils in meeting their responsibilities.



Fig. 3 (HM Government, *The Orange Book, Management of Risk – Principles and Concepts*, 2020)

Whilst the risk management process is represented as sequential, it may in practice be iterative.

Risk identification and assessment

New and emerging risks are identified whilst considering, changing internal or external events, tangible and intangible sources of risk, uncertainties and assumptions, and limitations and reliability of information. New risk identification needs to be agile and may be ad hoc at Service or SLT level, or through regular risk meetings. New risks are discussed between members of the Extended or Senior Leadership Teams and the Risk Management Lead, to agree reporting either at operational or strategic level.

For strategic level risks, the Risk Management Lead works with the identified risk owner to register the risk. New operational risks will be embedded within the Service risk registers by the Service Managers and reported monthly through Directorate risk discussions. New strategic risks are reported to the SLT by the Risk Management Lead immediately. Emerging strategic risks are reported to the SLT by the Risk Management Lead through the quarterly risk report.

Risk treatment

Each risk has a considered risk treatment known as a ‘mitigation plan’ applied. This planning considers risk appetite, in addition to expected benefits, proposed actions, nomination of those responsible for owning and implementing the mitigation activity, resource requirements, sources of assurance, key performance indicators and control indicators, constraints, and a planned date for when the action is expected to be resolved.

Risk monitoring

Ongoing monitoring before, during and following implementation of the risk treatment supports the Councils' understanding of how the risk profile is changing to provide assurance over the management of risks to an achievable level in the achievement of the Outcomes Framework. Recording and reporting transparently communicates management activities and outcomes across the organisation, provides information for decision making improving risk management activities and ensures interaction with all stakeholders including those responsible and accountable for risk management activities.

Risk reporting

On an ongoing basis Committee Report risks are circled back to the relevant risk registers to ensure report risks cited are captured and being actively mitigated.

Service risk registers are maintained and reviewed monthly by the Extended Leadership Team to discuss directorate risks.

Through the monthly meetings, Directors are equipped to escalate risks to the Strategic risk register and receive risks de-escalated from the Strategic risk register via the quarterly SLT risk meeting. A quarterly briefing to Cabinet details priority strategic risks and risk management, aligned to performance and finance reporting, which is supported by monthly Portfolio Holder meetings.

Annually there is a risk assurance briefing and review of current risk management strategy to the Joint Audit and Standards Committee.

Programmes/Projects manage risk through a model of risk, assumptions, issues, and dependencies which are reviewed by the Change Board of the programme of work.

The Companies review their risk at a quarterly Companies Risk Panel.

8. Risk Matrix and Scoring Criteria

Babergh and Mid Suffolk District Councils use the following risk matrix to evaluate risks to understand the level of risk exposure. This influences the level of risk treatment applied to manage/reduce/prevent the risk from occurring.

Ensuring that all business risks are assessed and managed through the adopted risk management methodology drives consistency through the risk management

framework and enables risks to be compared and reported on against a like for like basis. It also provides the Councils with the ability to map their collective risk exposure of a particular activity, objective, outcome, function(s), or indeed whole Councils' operation.

Impact/Consequence	Disaster	4	4 (Medium)	8 (High)	12 (Very High)	16 (Very High)
	Bad/Serious	3	3 (Low)	6 (Medium)	9 (High)	12 (Very High)
	Noticeable /Minor	2	2 (Low)	4 (Medium)	6 (Medium)	8 (High)
	Minimal	1	1 (Low)	2 (Low)	3 (Low)	4 (Medium)
			1	2	3	4
			Highly Unlikely	Unlikely	Probable	Highly Probable
Likelihood/Probability						

Likelihood/Probability

1	Highly Unlikely	Less than 25% Has never occurred before Would only happen in exceptional circumstances
2	Unlikely	26% - 50% Not expected to occur but potential exists Has occurred once in the last ten years
3	Probable	51% - 75% May occur occasionally Has occurred within the last 5 years Reasonable chance of occurring again
4	Highly probable	Over 76% Expected to occur Occurs regularly or frequently

Impact/Consequence

		Finance	Compliance	Safety	Service Delivery	Reputation
1	Minimal	Minor loss <£5,000	Small, single non-compliance	No harm to persons /community	Very minor disruption (less than 1 day)	No noticeable media interest
2	Noticeable / Minor	Moderate loss £5,001 – £50,000	Sustained single or few short-term non-compliance	Potential for ill- health, injury, or equipment damage	Some service disruption, (more than one day)	Local media coverage

3	Bad / Serious	Significant loss £50,101 – £250,000	Multiple sustained non-compliance	Potential for serious harm or injury (non-life threatening)	Critical service disruption (statutory services not delivered)	Adverse local/national media coverage
4	Disaster	Substantial loss >£250,000	Significant non-compliance - Litigation, custodial sentence	Fatality, major injury (life threatening or life impacting)	Systemic or sustained service loss	Adverse/prolonged national media coverage

9. Risk Register System

As part of good governance, the Councils manage and maintain a Strategic risk register, assigning named individuals as responsible officers for ensuring the risks, and their treatment and assurance measures are monitored and effectively managed.

The Strategic risk register is a critical tool for the organisation to capture and report on risk activity and the Councils' risk profile. The Strategic risk register is a 'live' working tool where new risks are captured, others are managed to an acceptable level, some are closed and some de-escalated to service area, programme, or company risk registers for onward operational management. Equally the services, programmes and projects, and Companies can escalate risks to the Strategic risk register.

10. Roles and Responsibilities

Group or Individual	Responsibilities
Babergh Mid Suffolk District Council Cabinets	Strategic Risk Management and approval of the joint Risk Management Policy and Strategy. Quarterly Strategic risk register reviews aligned to performance and finance reporting.
Joint Audit and Standards Committee	Consideration of the effectiveness of the joint risk management arrangements, and the control environment. Be satisfied that the joint Annual Governance Statement

	accurately reflects the risk environment and any actions taken to improve it.
S151 Officer	Provide advice to underpin the financial regulations that Members, officers, and others acting on behalf of the authority, are required to follow including matters of financial risk.
Lead Cabinet Members	Demonstrate a clear understanding and responsibility of the nature of the key risks facing the Councils, particularly those within their allocated portfolios.
Chief Executive	Demonstrate a clear understanding and responsibility of the nature of the key risks facing the Councils. Be accountable for the Strategic risk register. Ensure that risk management is embedded within the job descriptions of the Management Team. Promote a positive risk management culture.
Senior Leadership Team Members (CEO, Deputy CEO, Directors)	Review the effective management of risks and internal controls and governance supported by the Risk Management Lead. Own, review and maintain risks on the Strategic risk register. Consult with members as required to appraise them of strategic risks. Promote a positive risk management culture.
Extended Leadership Team Members (SLT and Service Managers)	To support the effective implementation of risk management through effective service plan and programme/project risk registers, supported by the Risk Management Lead. Promote a positive risk management culture.
Risk Management Lead	Responsible for preparing and promoting the Councils risk management strategy, and maintaining and reporting on the Councils' integrated strategic risk register. Advise and report to management and the Joint Audit and Standards Committee on whether the Councils' governance, appropriate risk management processes, control systems and operational procedures are in place and operating properly. Provision education and training for the Councils regarding risk management. Strive for continuous improvement of risk management across the organisation and promote a positive risk management culture.
Internal Audit	Internal Audit will advise and report to management and the Joint Audit and Standards Committee on whether the Councils' governance, appropriate risk management processes, control systems and operational procedures are in place and operating properly.
All elected Members and Staff Members	Proactively identify risks and contribute to their management where required. Report inefficiencies, irrelevant or unworkable controls. Ensure loss events or near misses are escalated promptly to management.

In relation to individual risks:	
Risk owner	Accountable for the management and control of all risks assigned to them. Determine, authorise, implement, and monitor the selected controls and actions to address the threats and maximise the opportunities.
Mitigation owner	Responsible for the management and control of all risks assigned to them. Implement and monitor the selected controls and actions to address the threats and maximise the opportunities.
Control owner	Accountable for providing the assurance that specified management control is effective and fit for purpose.
Action owner	Responsible for managing the action on the owner's behalf and to keep them apprised of progress.

11. Guidance, Education and Training

The Risk Management Lead is responsible for developing the workforce risk management capability across the organisation, through the provision of guidance, education, training, and support.

Guidance, education, and training materials are regularly under review to ensure they provision for the needs and levels of the organisation, reflect the HM Government Orange Book (2020), and promote a positive and dynamic risk culture with strong stakeholder buy in.

12. Continuous Improvement

Risk management is a continuous and improving process that the Councils are committed to, to remain agile in addressing internal and external change. The Councils will continually seek to improve the suitability, adequacy and effectiveness of the risk management framework supported by lessons learned and an annual review of the risk management strategy.

As gaps and improvement opportunities are identified, the Councils will develop plans, tasks, and delegate actions to those responsible for implementation.

13. Review

The risk management strategy, guidance and associated working templates will be annually reviewed by the Risk Management Lead as part of the Councils' overall approach to the risk management process and overseen by the Corporate Manager, Policy, Performance, Insight, Risk and Improvement and the Director for Customers, Digital Transformation, and Improvement.

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Agenda Item 13

BABERGH DISTRICT COUNCIL

COMMITTEE: Babergh District Council Cabinet	REPORT NUMBER: BCa/22/43
FROM: David Busby Portfolio Holder Assets & Investments	DATE OF MEETING: 9 January 2023
OFFICER: Emily Atack Assistant Director Assets & Investments	KEY DECISION REF NO. CAB402

PARTLY CONFIDENTIAL

This report is partly open for public inspection as it contains exempt information by virtue of which the Council are likely to exclude the public during the discussion of the agenda item to which the report relates.

The description of the exempt information under Schedule 12A of the Local Government Act 1972 (as amended) is as follows: -

- 3.Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The author(s) confirm(s) that the public interest in maintaining the exemption outweighs the public interest in disclosing the information

SALE OF LAND IN SUDBURY

1. PURPOSE OF REPORT

- 1.1 In October 2020 Cabinet approved the terms for the sale of land at Station Road, Sudbury (as outlined on the plan at appendix 1) to bring forward the development of a new health centre in the town, to enable Hardwicke House and Meadow Lane GP doctors' surgeries to be relocated into state-of-the-art medical centre, in the heart of Sudbury. This centre would provide the facilities to enable primary health and care teams to meet the needs of the Sudbury population for the next 25 years.
- 1.2 The sale of the land is conditional upon detailed planning consent, NHS full business case approval and the doctors entering into an agreement to lease the new building for a period of 25 years from completion.
- 1.3 Detailed planning consent for the development was granted in April 2022 (Ref: DC/21/05017) to the purchasers/developers (Apollo Capital Projects Developments Ltd who have subsequently been acquired by Assura Plc).
- 1.4 The full business case for revenue funding alongside a small element of capital funding has also now been approved by the ICB but is awaiting final signoff by NHS England, this is anticipated in January. However, Hardwicke House Group Practice (HHGP) GP partners are no longer able to commit to a 25-year lease without break options. A lease with break options is not viable for the developer and as such consideration needs to be given whether the Council support this project further or not. The wish for a break clause at 15 years is now a common requirement for GP

partnerships due to their unlimited liability and uncertainty regarding the future of the national General Practice contract.

2. OPTIONS CONSIDERED

2.1 Option 1 - Do Nothing

2.1.1 This will result in the sale and development of the land as a Health Centre not proceeding. The current sub-standard and dated facilities will be retained and used to best effect. This option has previously been discounted by Cabinet as Sudbury has an urgent need for improved medical facilities in the town.

2.2 Option 2 - Assura accept a shorter lease commitment from the HHGP

2.2.1 Assura are committed to delivering this development and have invested significant time and finances into progressing the scheme for in excess of 8 years. [REDACTED]

2.2.2 Reducing the lease term from 25 years to 15 years creates a development with negative viability which Assura is unable to pursue. This is therefore not a viable option.

2.3 Option 3 - A headlease is entered into by NHS/ ICB with sub lease to HHGP

2.3.1 HHGP are prepared to commit to a 15-year lease, however for the development to be viable a longer 25-year lease commitment is required. A third party, with a substantial covenant, could therefore enter into an agreement to take a headlease for a term of 25 years simultaneous to a 15-year sublease being granted to HHGP.

2.3.2 The obvious third party to take a headlease in this situation would be part of the NHS. This has been explored by NHS organisations however primarily for accounting (namely the NHS adopting IFRS16 from 2022) and lack of appropriate policy reasons this cannot be progressed at the current time. The transition from CCGs to ICBs will enable ICBs to hold property assets in the future, which the CCGs were prohibited from doing, however whilst this is now permitted by legislation the policy framework is still to be developed nationally.

2.4 Babergh District Council enter into a headlease with sub lease to the HHGP

2.4.1 Our NHS partners have asked Babergh District Council to consider assisting further in the delivery of this development by taking a headlease of the health centre simultaneous to granting a sub-lease to HHGP as set out in the draft heads of terms attached at appendix 2. This would create a viable scheme that could be delivered for the benefit of the Sudbury area residents.

2.4.2 It is accepted that this would be beyond the normal general remit of a local authority with health services being the responsibility of the NHS. However, the new health centre would have a significant positive impact on the residents of Sudbury and as such due consideration should be given to this possibility.

- 2.4.3 There would be little to no impact on the Council for the duration of the sub-lease, with rent effectively being passed from the SNEE ICB to HHGP and then to the Landlord. The sub-tenant and Landlord would hold the responsibilities for maintaining the property and any outgoings. There are always risks connected with the ability of tenants to pay rent and comply with their lease obligations, this risk is mitigated by the re-imbusement of rent via the NHS GP contracts. Any administrative costs (such as raising invoices, managing payment of rents and property inspections) incurred by the Council as head tenant would be recoverable from the sub-tenant.
- 2.4.4 The main risks for the Council are therefore if the sub-tenants decide to operate their break clause at the 15th or 20th years resulting in the Council being responsible for paying the head rent but without receiving any sub rent.

2.5

[REDACTED]

- 2.5.1 There are also risks in relation to the change of GP contracts as identified by the current partners of HHGP, the most relevant to the Council as head tenant would be the removal of the rent reimbursement model. Assura has conceded that if rent is no longer reimbursed by the NHS, the head tenant would be able to terminate the lease. We understand this is an extremely unlikely circumstance.

2.5.2

[REDACTED]

■	RECOMMENDATIONS
3.1	Delegate authority to the Director of Assets and Investments in consultation with the Portfolio Holder for Assets & Investments to agree the detailed terms of the letter of comfort and headlease in accordance with this report.
3.2	Delegate authority to the Directors of Assets and Investments and Finance in consultation with the Portfolio Holders for Assets & Investments and Finance to review the final IFRS16 calculation and implement the headlease in accordance with this report.
REASON FOR DECISION	

To bring forward the development of the new health centre and subsequent capital receipt.

4. KEY INFORMATION

4.1 The Hardwicke House Group Practice (HHGP) in Sudbury is one of the largest GP practices in the East of England with a patient population of just under 24,000, this is expected to increase to circa 30,000 with housing growth over the next 10-15 years. The practice operates from five surgery sites, three of which are located within Sudbury and nearby in Cornard. Sudbury is also served by Siam Surgery, located at Sudbury Health Centre with a patient population of circa 11,000. HHGP and Siam Surgeries make up the Sudbury Area Primary Care network.

4.2 HHGP currently has seven GP partners. [REDACTED]

4.3 [REDACTED]

4.4 HHGP has been working with Assura for more than 8 years to identify alternative accommodation. After an extensive site search, land near to Kingfisher Leisure Centre, known as the Lorry Park in Sudbury, was identified and terms agreed initially in 2019 and subsequently in 2020. There were few suitable alternative sites, and this site was by far the most ideal, being in the town centre and close to existing transport links and in a broadly central point between Hardwicke, Meadow Lane and Cornard.

4.5 HHGP currently lease 3 of their current sites (Hardwicke, Meadow Lane and Bures) with unexpired lease terms of 10 years or less. [REDACTED]

[REDACTED] The Cornard site is privately owned so HHGP has no long-term control over its designated use, although no changes are tabled at present. If the new surgery does not proceed, they will continue to run and endeavour to improve their services from the current buildings until lease expiry whilst continuing to look for new accommodation.

4.6 HHGP have a contract with the NHS in perpetuity to provide general practice medial services to their patient list. This contract is revised on a regular basis and sets out how the practice will be paid and the responsibilities and services that sit with the

practice. Under these GP contracts, GP Practices are entitled to receive reimbursement for rent, business rates, water and clinical waste. The level of rent reimbursement is regulated nationally with regard to the nature of the building and services provided.

4.7 [REDACTED]

4.8 Assura are an investment and development company who specialise in health centres. [REDACTED] Assura has secured planning consent and NHS business case approval at their own costs. The contract will fall away if the conditions cannot be satisfied.

4.9 The Council has continued to be supportive of delivering a new health centre in Sudbury, recognising the pressing need to replace the Hardwicke House Group Practice's ageing premises, as outlined to the wider public as part of the 'Sudbury Vision'. The relocation and consolidation of the surgery would create 20 new jobs within Hardwicke House practices that will provide additional capacity to do more in the community. There would also be training facilities within the new building which would help train new GPs, Nurses and clinicians. There is currently a national workforce shortage of GPs/Nurses so new premises would aid GP and Nurse retention as well as helping to attract new staff particularly for longer term succession planning.

4.10 Should this development be able to progress, it is envisaged that works would start on site late Spring 2023 with the building being operational Summer 2024.

5. LINKS TO JOINT CORPORATE PLAN

5.1 Supporting the development of a new Health centre in Sudbury is identified as a priority output for the joint corporate plan, supporting the well-being of the residents of Sudbury and surrounding areas as well as benefitting the town centre economy and improving accessibility to the health centre by its location within the town centre with access to public transport.

6. FINANCIAL IMPLICATIONS

6.1 The capital receipt from the sale of land at Station Road, Sudbury can be used to repay the Council's debt or to help fund other capital expenditure.

6.2 [REDACTED]

6.3



6.4 The Council does not currently account in accordance with IFRS16 but is required to move to this basis by 1st April 2024. IFRS16 requires the whole value or liability of leases to be recorded within the Councils accounts. An initial assessment of the headlease and sublease has been undertaken which indicates an equal value and repayment profile of both the head and sub leases and as such there is no overall impact to the Councils accounts.

6.5 A final assessment would be required prior to any contractual arrangements being made.

7. LEGAL IMPLICATIONS

7.1 Councils have the powers to dispose of land and property subject to achieving best value. A market valuation has been obtained to support the sale of the land at the proposed sale price with the associated works to the retained adjacent car park being undertaken by the purchaser.

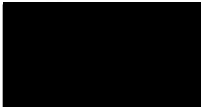
7.2 Councils have the powers to acquire land and property for the purposes of—

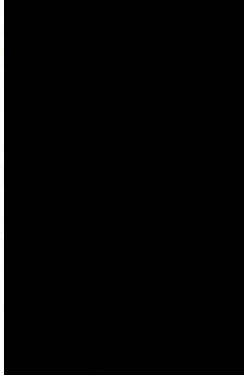
- (a) any of their functions under this or any other enactment, or
- (b) the benefit, improvement or development of their area.

7.3 The delivery of a new health centre to serve Sudbury would be a benefit to the District.

8. RISK MANAGEMENT

8.1 Key risks are set out below:

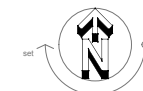
Risk Description	Likelihood	Impact	Mitigation Measures	Risk Register and Reference*
Tenant Failure during the term of the sub-lease resulting in responsibilities for rent payment and obligations within the lease.	1 - unlikely	3 - bad	<ul style="list-style-type: none"> • Rent reimbursement scheme • Landlord responsible for External repairs and structure •  	<ul style="list-style-type: none"> • Significant Risk Register SRR004BDC

Void following break/expiry of sub-lease resulting in responsibilities for rent payment and obligations within the lease.	1 - unlikely	3 - bad	<ul style="list-style-type: none"> • Rent reimbursement scheme • Landlord responsible for External repairs and structure • ICB responsibilities to provide Primary Care Services • Non-Reimbursement Break Provision •  • 12 months notice period 	<ul style="list-style-type: none"> • Significant Risk Register SRR004BDC
ICB don't honour the letter of comfort resulting in responsibilities for rent payment and obligations within the lease if the tenant vacates.	1- unlikely	3- bad	<ul style="list-style-type: none"> • 12 months notice period • Rent reimbursement scheme • ICB statutory duty to commission primary car facilities • Reputational impact on ICB and future partnership approach. • Alternative use of premises to generate income. 	<ul style="list-style-type: none"> • Significant Risk Register SRR005

*Name of risk register where risk is currently documented and being actively managed and its reference number

9. CONSULTATIONS

9.1 Development of this opportunity has included consultation with:



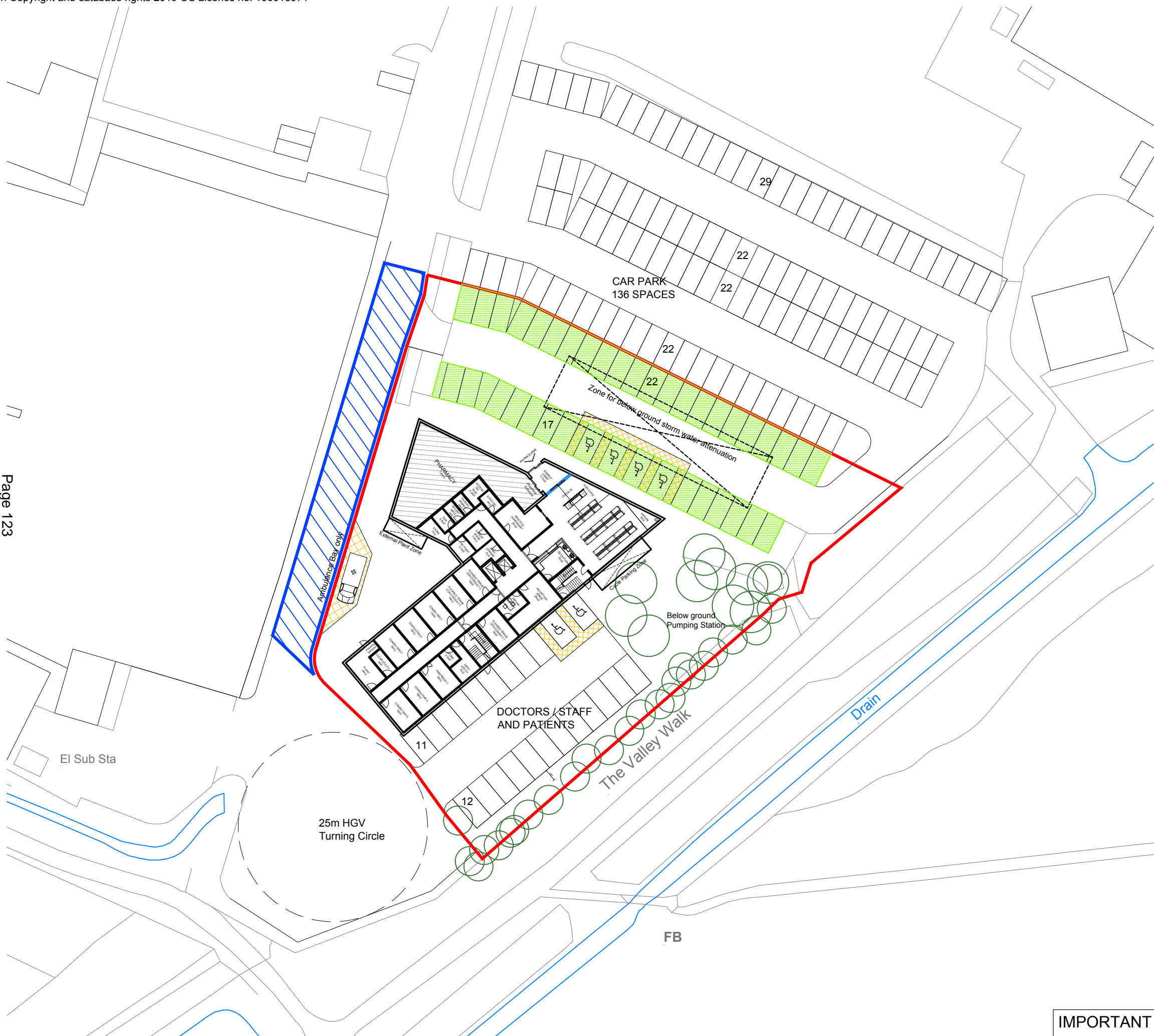
IMPORTANT GENERAL NOTES:

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IF IN DOUBT ASK !!

Revision

Rev	Date	By	App
A	19.08.20	BP	ED



AREA:
 Site Area (red line) - 3154m²
 Shared Area (blue line) - 293m²

CAR PARKING:
 Public Car Parking Spaces - 95no.
 Surgery Car Parking Spaces - 62no.
 incl. 39no. shared (hatched green)



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Client
APOLLO CAPITAL PROJECTS DEVELOPMENT
 Project
NEW PRIMARY CARE CENTRE, STATION ROAD, SUDBURY

Drawing
PROPOSED SITE PLAN

Drawing status
FEASIBILITY

Scale
 1:500 @ A3

Drawn by
 BP

Date
 MAY 20

Project number
20.002

Drawing number
SK01

Revision
A

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IMPORTANT NOTE:
 Site layout subject to Topographic and below ground subtronic scan surveys

PROPOSED SITE PLAN



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Agenda Item 15

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Agenda Item 16

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
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