

30 May 2023

Committee	Executive
Date	Wednesday, 7 June 2023
Time of Meeting	2:00 pm
Venue	Tewkesbury Borough Council Offices, Severn Room

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND

Agenda

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (during office hours staff should proceed to their usual assembly point; outside of office hours proceed to the visitors' car park). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

To receive apologies for absence and advise of any substitutions.

3. DECLARATIONS OF INTEREST

Pursuant to the adoption by the Council on 24 January 2023 of the Tewkesbury Borough Council Code of Conduct, effective from 1 February 2023, as set out in Minute No. CL.72, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.

	Item	Page(s)
4.	MINUTES To approve the Minutes of the meeting held on 1 March 2023.	1 - 10
5.	ITEMS FROM MEMBERS OF THE PUBLIC To receive any questions, deputations or petitions submitted under Rule of Procedure 12. <i>(The deadline for public participation submissions for this meeting is 1 June 2023).</i>	
6.	EXECUTIVE COMMITTEE FORWARD PLAN To consider the Committee's Forward Plan.	11 - 18
7.	HEALTH, SAFETY & WELFARE POLICY REVIEW To approve the revised Health, Safety and Welfare Policy and delegate authority to the Director: Communities, in consultation with the Lead Member, to make minor changes to the Policy including changes to the management structure, minor typographical changes etc.	19 - 33
8.	DATA PROTECTION POLICY REVIEW To approve the revised Data Protection Policy following consideration by Audit & Governance Committee in March 2023.	34 - 48
9.	RESPONSE TO THE TECHNICAL CONSULTATION ON THE INFRASTRUCTURE LEVY 2023 To consider and agree the Council's response to the Technical Consultation on the Infrastructure Levy.	49 - 67
10.	SEPARATE BUSINESS The Chairman will move the adoption of the following resolution: That under Section 100(A)(4) Local Government Act 1972, the public be excluded for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.	
11.	SEPARATE MINUTES To approve the separate Minutes of the meeting of the Committee held on 1 March 2023.	68 - 70
12.	FUTURE OF WINCHCOMBE TOURIST INFORMATION CENTRE <i>(Exempt –Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)</i> To consider and agree the future of Winchcombe Tourist Information Centre.	71 - 77

DATE OF NEXT MEETING
WEDNESDAY, 5 JULY 2023

COUNCILLORS CONSTITUTING COMMITTEE

Councillors: C M Cody, C F Coleman, S R Dove, D W Gray, S Hands (Vice-Chair), D J Harwood, A Hegenbarth, M L Jordan, J R Mason, J K Smith, R J Stanley (Chair) and M G Sztymiak

Substitution Arrangements

The Council has a substitution procedure and any substitutions will be announced at the beginning of the meeting.

Recording of Meetings

In accordance with the Openness of Local Government Bodies Regulations 2014, please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chairman will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Executive Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Wednesday, 1 March 2023 commencing at
2:00 pm**

Present:

Chair
Vice Chair

Councillor R A Bird
Councillor J R Mason

and Councillors:

G F Blackwell, M Dean, M A Gore, M L Jordan, E J MacTiernan, R J Stanley and M G Sztymiak

EX.91 ANNOUNCEMENTS

91.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

EX.92 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

92.1 Apologies for absence were received from Councillors D J Harwood and R J E Vines.

EX.93 DECLARATIONS OF INTEREST

93.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

93.2 There were no declarations of interest made on this occasion.

EX.94 MINUTES

94.1 The Minutes of the meeting held on 1 February 2023, copies of which had been circulated, were approved as a correct record and signed by the Chair.

EX.95 ITEMS FROM MEMBERS OF THE PUBLIC

95.1 There were no items from members of the public.

EX.96 EXECUTIVE COMMITTEE FORWARD PLAN

96.1 Attention was drawn to the Committee's Forward Plan, circulated at Pages No.6-14. Members were asked to consider the Plan.

96.2 Accordingly, it was

RESOLVED: That the Executive Committee's Forward Plan be **NOTED**.

EX.97 FINANCIAL UPDATE - QUARTER THREE 2022/23

- 97.1 The report of the Head of Finance and Asset Management, circulated at Pages No. 15-28, set out the third quarterly monitoring report of the Council's financial performance for 2022/23. Members were asked to consider the information.
- 97.2 The Head of Finance and Asset Management explained that the report highlighted a projected outturn surplus based on the quarter three position of £1.18m on the revenue budget and detailed the expenditure to date against both the capital programme and the approved reserves – the pay award had now been finalised and paid during quarter 3 which was fully funded from reserves. The significant increase in surplus projection was due to the costs of both the pay line review phase 1 and the excess cost of the national pay award having been taken from the reserves which were set aside to fund those costs – the total cost of those were £353,000; increased business rates retention of £249,000; increase in planning fees – quarter 2 income was greater than expected by £90,000 and the Council forward projected a further £200,000 due to one large application; the receipt of the UK Shared Prosperity Fund grant of £128,000 which was not expected to be spent by year-end; investment interest received was £100,000 more than expected; the Material Recovery Facility (MRF) gate fee had reduced by a further £35,000; and Ubico's forecast deficit had reduced since Q2 by £100,000 mainly within diesel and employment costs.
- 97.3 The main element of surplus expenditure was employees and the full-year projection for employees highlighted a potential gross surplus of £640,830 - although it should be noted that within the Council's corporate expenditure was a target to save £100,000 from employment costs around the Council – the net position was therefore a surplus against target of £540,830. There were employee savings being accrued across most service areas but the majority of the overall surplus was in One Legal – those savings would be shared by all of the partners in One Legal. The national pay award was agreed in November and had resulted in an uplift of £1,925 on every scale point – the Council had budgeted for 2% increase in salaries and, as a result, the excess cost calculated at £215,111 had now been charged to the pay award revenue reserve. Similarly, the first phase of the local pay line review had now been calculated at a cost of £138,503 and this had been charged against the Medium Term Financial Strategy.
- 97.4 The projected outturn for supplies and services highlighted a potential underspend of £133,418 – computer annual renewals was expected to be £34,000 below budget across many service areas, this was due to a large majority of licenses remaining with current contracts or being renegotiated at current levels. It was anticipated that bank charges would deliver a saving of £29,000; IT equipment would be £52,000 under budget, as some equipment had been purchased at a lower cost than expected and some would not be purchased until the next financial year. Payments to third parties highlighted a projected overspend of £187,994 – the Ubico contract was forecast to be overspent, mainly driven by the annual pay award which equalled £152,000. Due to the increased cost of fuel, Ubico estimated an overspend of £99,500 on diesel – other areas of additional spend within the contract included vehicle hire, which had been partly funded from reserves, for the additional food round. In addition, at the start of the year, and after the budget was set, the Council was informed by Cheltenham Borough Council of additional running costs in relation to the Swindon Road Depot estimated in the region of £150,000 per year. The MRF gate fee was expected to be £244,000 lower than budget which was due to be a significant reduction in the gate fee per tonne being paid.
- 97.5 Income in several services was doing well with many income streams projected to deliver income more than budget including planning fees and licensing; however, there were also a few areas which were projecting lower income than budget as a

reduced management fee had been agreed. In addition, the vacant commercial unit in the Council offices meant rental income was predicted to be £60,000 down on budget and One Legal income was below target – although this was offset against savings within employee costs and was again shared with One Legal partners. The income position was boosted by the receipt of external ringfenced funding for the UK Shared Prosperity Fund of £128,000. This was to be carried over at year-end into reserves as expenditure was not anticipated until the next financial year. The expenditure associated with corporate activities, as well as the financing of the Council, highlighted an estimated surplus of £648,964 for the financial year largely driven by treasury activities. The commercial property portfolio was currently predicting a deficit in the year as a result of the expected temporary void at one office unit – whilst the unit had now been let, inducements of six months rent free would mean only limited income on the unit in the current year; similarly, another unit had been let using inducements meaning income would be restricted in this financial year – it had not been included in next year's budget so any income received was additional to expectations. The overall projected position on retained business rates was currently exceeding budget expectations due to awarding more reliefs than anticipated which resulted in more S31 grants income. At year-end the Council would also have the windfall benefit of the Gloucestershire business rates pool which was estimated at around £400,000.

- 97.6 Appendix B to the report provided the capital position which was currently showing an underspend of £2.4million against the profiled budget of £4.1million – the capital programme estimated total expenditure for the year to be approximately £5.17million – the main elements of this year's forecast included Ashchurch Bridge; solar canopy; and Disabled Facilities Grant. There were currently unavoidable delays with the delivery of the Ashchurch bridge project and that accounted for the majority of the reported underspend on land and buildings. The solar canopy project was completed in quarter 2 with a final cost of £599,000. An overspend was reported for vehicle replacement as the new sweeper, which was expected in quarter 4 of 2021/22, had been delayed to the new financial year. Appendix C set out a summary of the current usage of available reserves and supporting notes were provided for reserves where expenditure was high. As at 1 April 2022, those reserves stood at £18.13million which was an increase of £1.93million on the previous year. The increase reflected the 2021/22 budget surplus and included significant external funding for a range of projects.
- 97.7 The inclusion of Key Performance Indicators reflected requirements of the Chartered Institute of Public Finance and Accountancy (CIPFA) Financial Management Code which was designed to support good practice in financial management and to assist local authorities in demonstrating their financial sustainability. An area which was closely monitored was the Council's aged sundry debt – service areas received monthly reports to make them aware of aged debt and focus attention on collecting those debts where possible. Appendix D to the report showed the level of bad debt for each service area and the percentage that was greater than one year. In addition, the Appendix included some statistics on the treasury management position with investments at quarter three being £42.6million and the return averaging at 2.88% with a total year-end forecast return of £952,000.
- 97.8 A Member questioned what the UK Shared Prosperity Fund (UKSPF) was earmarked for and was advised that this was a three year fund from the government of just over £1million in total for a range of projects supporting the economy / climate ambitions. It was unlikely to be spent in year one due to the lateness of the award from government so all authorities had been allowed to carry it over to year two – the funding would be used to help provide electric charging points, for retrofitting to make low carbon communities, economic development support and growing skills around the Borough. Referring to the commercial portfolio, the Member queried whether profits would be shown eventually after the

incentives provided at the beginning of the contracts. In response, the Head of Finance and Asset Management explained that, overall, the portfolio produced a healthy return – there were two units which had been vacant for a short time, those had now been filled and as part of that inducements had been offered – going forward inducements would cease and income targets should be hit. The Member noted that 15% of total staff levels were vacant and she questioned whether some would not be replaced or were all being filled. In response, she was advised that the Council was trying to fill the majority but there were one or two areas which were being reviewed to understand why they were not being filled / how the posts could be used going forward. In respect of the Garden Town funding, the Head of Finance and Asset Management confirmed that, with the exception of the Garden Town Communications Officer, the funding associated with the Garden Town came from Homes England.

97.9 Accordingly, it was

RESOLVED: That the financial performance information for the third quarter of 2022/23 be **NOTED**.

EX.98 UBICO FLEET REPLACEMENT

98.1 The report of the Waste Contracts Manager, circulated at Pages No. 29-50, considered the options available to the Council, taking into account budgetary constraints, for the most appropriate way forward for the fleet replacement. The report set out five options and it was proposed that a hybrid of those options be progressed. Members were asked to endorse the procurement approach and to delegate authority to the Head of Community Services, in consultation with the Head of Finance and Asset Management, the Director of One Legal and the Lead Member for Clean and Green Environment to proceed with the procurement for fleet replacement.

98.2 The Head of Community Services explained that the waste vehicle fleet was due to be replaced by April 2024. The government was currently looking to introduce legislation in three areas which would impact local authority waste collections. The official position was that the large scale changes being considered would be mandatory, funded where necessary from national new burdens funding and would need to be in place for 2024; however, timescales were likely to slip as the detailed consultation responses for two of the elements had not yet been published by the Department for Environment, Food and Rural Affairs (DEFRA). In addition, due to changes in government, and a move towards cost saving, it was not clear if the anticipated level of funding would still be available for new burdens or if elements of the proposals would be watered down. The three areas were Extended Producer Responsibility – this looked to move all life cycle costs for handling and reprocessing packaging to the producer of the packaging; Deposit Return Scheme – an additional charge levied on individual drinks cans and bottles to be refunded to the consumer when those containers were returned; and Consistency of Collections – proposed several mandatory changes such as separate food waste collections for all households, source segregated recycling and free garden waste collections for all households. Unfortunately, this meant the Council was not purchasing its fleet at the best time so it was proposed that the purchase of six recycling vehicles be held back until 2025 when there was more clarity. The biggest risk was a mandatory change of service to a source separated collection – if imposed this may require a twin stream system such as keeping paper and card separate from the remaining recycling rather than full separation but this was yet to be decided and was the reason it made sense to delay the purchase of the recycling vehicles for a year.

- 98.3 The main procurement exercise would be led by Ubico's fleet team and overseen by the Head of Fleet Operations as they had the detailed expertise on vehicle specifications required. There was a wish to replace like for like with the inclusion of euro six engines; inclusion of bin lifts and use of HV oil which was better for the environment. A full electric fleet was not an option as the technology was not quite ready and the costs were prohibitive. The hybrid approach had been sense checked by the Association for Public Service Excellence (APSE). In seven years' time (when the fleet would need replacement) it was anticipated that technology would have moved on and the Council should be considering hydrogen for its vehicles. A Member questioned whether it was possible to have built-in migratory stages as money became available – being conscious of the climate emergency he felt it would be beneficial to see progress as soon as possible. He also questioned whether investigations had been made into the use of Section 106 monies to improve the vehicle fleet. In response, the Head of Community Services advised that Officers were trying to smooth out the fleet purchase for a better balance of gaining best value for vehicles versus running them until the end of their lifespan or changing them earlier if the technology became available. In respect of S106 monies, they could be used for waste but a link to the development would have to be demonstrated e.g. x number of houses related to a vehicle – there needed to be an evidence base in place to enable that going forward. The evidence base was a piece of work which would be completed in the next month or two. In terms of Community Infrastructure Levy (CIL), this had been raised in respect of a new waste depot as a key piece of infrastructure – the CIL rates were currently being reviewed and there was potential to include waste but consideration needed to be given to it as a priority as CIL had to remain viable.
- 98.4 A Member expressed the view that with the government uncertainty on recycling collections going forward meant it may be better to do nothing until those matters were decided. The Head of Community Services indicated that it was only the recycling service which was affected by new legislation and as the vehicles got older they became unreliable meaning greater hire costs and reputational issues – therefore it would be better to replace all but the recycling vehicles in the fleet as planned. A Member suggested that type and sizes of vehicles needed to be considered carefully due to the way developments were planned. The Head of Community Services agreed there was a need to consider the specification of developments – estates should be designed in a manner which meant vehicles did not need to reverse but size and manoeuvrability of vehicles would remain important. A Member noted that one of the issues discussed at a recent meeting was the size of new estates; interestingly, some roads were wide enough but people parked in the wrong places – it was possible that the planning stage may need to consider where 'no parking' signs would be required.
- 98.5 In terms of Ubico, a Member felt that it would have better purchasing power if it purchased the fleet for all districts than if the individual districts purchased their own fleet. The Head of Community Services explained this was one of a number of projects being worked on with Ubico. A Member agreed that the technology was not currently viable but he felt the importance of the fleet in terms of carbon emissions did need to be stated and this should be a focus which needed to be invested in. Another Member understood the concerns raised but indicated that he would not want the Council to waste money on buying electric vehicles that did not meet the Council's requirements. The distances across the Borough meant electric vehicles would not work in many areas and the current depot did not have the infrastructure to cope.

98.6 It was proposed, seconded and

RESOLVED:

1. That the procurement approach outlined in the report be **ENDORSED**.
2. That authority be delegated to the Head of Community Services, in consultation with the Head of Finance and Asset Management, the Director: One Legal and the Lead Member for Clean and Green Environment, to proceed with the procurement for fleet replacement as outlined within the report.

EX.99 RESPONSE TO THE LEVELLING UP AND REGENERATION BILL: REFORMS TO NATIONAL PLANNING POLICY DECEMBER 2022

- 99.1 The report of the Interim Planning Policy Manager, circulated at Pages No. 51-69, set out a proposed response to the government consultation on the Levelling Up and Regeneration Bill: Reforms to National Planning Policy December 2022 which Members were asked to consider.
- 99.2 The Interim Planning Policy Manager explained that Member briefings on the subject had been held and there was now a need to confirm the Council's response to the consultation prior to Thursday 2 March. Unlike the White Paper consultation in 2020, this did not represent a comprehensive view of all changes which might be proposed. There were several things which would be introduced in time but were not within the remit of the current consultation i.e. the levy to replace Community Infrastructure Levy (CIL) and Section 106, changes to the duty to cooperate and policy around custom and self-build. There were some clear proposals within the consultation in important areas. Overall, the purpose of the consultation was to recognise that the government remained committed to seeing 300,000 dwellings built each year but ensuring they had closer links with existing communities; provided effective infrastructure and achieved beautiful places and development. The consultation was set out over 15 chapters in a prospectus style with 58 specific questions. Officers had concerns about some of the content which seemed to be lengthy, vague and worded in a way which was difficult to understand, although there were some welcome suggestions within the reforms and these were set out in the report - not least the changes to the housing supply calculation and aligning to the needs of an ageing population. The key concerns were included within the proposed response which was attached at Appendix 1 to the report.
- 99.3 A Member referred to question 13 and the requirement for a 35% uplift in the largest 20 cities and towns and questioned whether any of them were near Tewkesbury. He was advised that the nearest were Bristol and Birmingham. The Member queried whether that uplift would reduce the pressure on places like Tewkesbury Borough Council. In response the Interim Planning Policy Manager advised that this was related to the government formula – at one time changes were proposed which could have resulted in significantly higher numbers for places like Tewkesbury Borough Council but that was withdrawn and, if the new proposal was not implemented, it may mean that other areas would have to take higher growth - the proposed response to the question was framed around the issue that urban uplift may not be possible.
- 99.4 Members thanked the Officers for their work in putting together the response, taking into account the comments made by Members prior to the meeting.

99.5 Accordingly, it was

RESOLVED:

1. That the proposed responses to the Levelling Up and Regeneration Bill: Reforms to National Planning Policy December 2022, as set out in Paragraphs 3.4-3.6 and at Appendix 1 to the report, be **APPROVED** and formally submitted as Tewkesbury Borough Council's response to the consultation.
2. That authority be delegated to the Head of Development Services, in consultation with the Lead Member for Built Environment, to make any necessary minor amendment to the response prior to submission.

EX.100 THE WOODMANCOTE NEIGHBOURHOOD DEVELOPMENT PLAN REFERENDUM

- 100.1 The report of the Interim Planning Policy Manager, circulated at Pages No. 70-197, provided the Committee with the report of the examination into the Woodmancote Neighbourhood Development Plan; the schedule of the examiner's recommended modifications; and the submission draft of the Woodmancote Neighbourhood Development Plan. Members were asked to consider the information provided and approve the Plan to progress to a community referendum as prescribed by the Neighbourhood Planning (General) Regulations 2012.
- 100.2 The Interim Planning Policy Manager explained that Neighbourhood Plans formed an important part of the Development Plan Framework and the local planning authority had a legal duty to support Parish Councils and other qualifying bodies. The examination process was a lighter touch for neighbourhood planning than for the Council's local plan and usually involved written representations for the public examination. The Neighbourhood Plan had been submitted to Tewkesbury Borough Council in September 2021 and the public examination had taken place from February to August 2022. The Plan covered landscape, the Green Belt, housing and settlement boundaries; flood risk and drainage; and design. The Inspector had found the Plan to be sound subject to certain modifications and the next step was to send it to public referendum and, with a simple majority voting in favour, it would be 'made'. The examiner's key findings were summarised within the report and related to 10 key policies the most significant of which was policy one which covered the Cotswolds Area of Outstanding Natural Beauty. The examiner had wanted the policy deleted in its entirety; however, the Parish Council still felt there was merit in retaining some kind of policy and One Legal had agreed that, whilst clauses 1B and C should be deleted, 1A could be amended in order to remove any ambiguity and/or policy conflict. It was within the Council's discretion to retain a policy if it felt it would not prejudice any other parties.
- 100.3 A Member expressed the view that it was fantastic that Woodmancote had a Neighbourhood Development Plan and that it was lovely to read the history of Woodmancote. The Interim Planning Policy Manager advised that the Plan did include an allocation for residential development. Paragraph 14 of the NPPF related to the Plan setting out to meet housing requirements which this Plan did not do so, in his view, in the case of tilted balance Paragraph 14 would not be relevant.

100.4 Upon being proposed and seconded, it was

RESOLVED:

1. That the Woodmancote Neighbourhood Development Plan, modified according to the recommended modifications set out within Appendix 2, be formally approved to progress to Community Referendum, prescribed by Regulation 18 of the Neighbourhood Planning (General) Regulations 2012, as amended.
2. That authority be delegated to the Head of Development Services, in consultation with the Lead Member for Built Environment, to make any necessary minor amendments prior to referendum.

EX.101 HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE LICENSING POLICY

101.1 The report of the Licensing Operations and Development Team Leader, circulated at Pages No. 198-257, asked Members to consider an amendment to the current Hackney Carriage (Taxi) and Private Hire Licensing Policy in relation to vehicle requirements to specify that all converted vehicles which had not been re-categorised on the V5 (vehicle logbook) provided documentation to demonstrate the vehicle was safe and to adopt the updated vehicle requirements for Hackney Carriage (Taxi) and Private Hire Vehicle Policy agreed by the Licensing Committee at its meeting on 16 February 2023.

101.2 The Licensing Operations and Development Team Leader explained that in 2021, 53 vehicles had been identified as being category N on the logbook (goods vehicle converted to passenger vehicle) and those should have gone through the relevant tests – those owners had been written to and advised to get their logbooks updated; however, the DVLA would not update the logbooks so the Council had indicated it would be satisfied if those vehicles were taken to a DVLA test station and declared to be safe for the use of carrying passengers. This had been undertaken and the Council was satisfied that all historic vehicles were safe.

101.3 During the 12 week consultation with all licence holders, one representation had been received, which was contained within the appendices to the report along with the response from the Licensing Operations and Development Team Leader. Further to the consultation, and approval by the Licensing Committee, it was proposed to include a requirement in the Hackney Carriage (Taxi) and Private Hire Licensing Policy regarding accessible vehicle conversions and this was set out at Paragraph 2.3 of the report.

101.4 Accordingly, it was

RESOLVED:

1. That the amendment to the Hackney Carriage (Taxi) and Private Hire Licensing Policy, as set out at Paragraph 2.3 of the report, in relation to vehicle requirements be **ADOPTED**.
2. That the revised Hackney Carriage (Taxi) and Private Hire Licensing Policy, attached at Appendix C to the report, incorporating the revised wording which the Licensing Committee agreed at its meeting on 16 February 2023, be **ADOPTED**.

EX.102 COUNCIL TAX SUPPORT FUND POLICY

- 102.1 The report of the Revenues and Benefits Manager, circulated at Pages No. 258-269, attached a Council Tax Support Fund 2023/24 policy which Members were asked to approve. It was also recommended that a delegation be given to the Revenues and Benefits Manager, in consultation with the Head of Corporate Services and Lead Member for Finance and Asset Management, to make minor and non-consequential adjustments to the scheme and to approve that any remaining balance be used in line with the Council Tax Discretionary Hardship Fund.
- 102.2 The Revenues and Benefits Manager explained that funding had been allocated to each local authority and there was a proposal to award all eligible local Council Tax Support claimants a one-off amount of £25 against their Council Tax liability for 2023/24 to be shown on their annual Council tax bills. The number of households in the Borough in receipt of Council Tax support as at 1 February 2023 was approximately 4,787. 3,500 claimants were in receipt of maximum Council Tax Reduction and would not be eligible for Council Tax support payments – figures showed an approximate spend of £42,000. The government's guidance stated that a local authority could use the government funding as it saw fit to support vulnerable households with Council Tax bills and it was therefore proposed that the remaining balance of approximately £83,000 be used for Council Tax Hardship during 2023/24.
- 102.3 Accordingly, it was proposed, seconded and

RESOLVED:

1. That the Council Tax Support Fund 2023/24 Policy, as attached to the report at Appendix A, be **APPROVED**.
2. That authority be delegated to the Revenues and Benefits Manager to make minor and non-consequential adjustments to the Scheme, in consultation with the Head of Corporate Services and the Lead Member for Finance and Asset Management.
3. That any remaining balance be used in line with the Council Tax Discretionary Hardship Fund in accordance with the guidance that stated Councils could use their remaining allocation as they saw fit to support vulnerable households with their Council Tax bills.

EX.103 SEPARATE BUSINESS

- 103.1 The Chair proposed, and it was

RESOLVED

That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

EX.104 TEWKESBURY LEISURE CENTRE MANAGEMENT FEE

(Exempt –Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 –Information relating to the financial or business affairs of any particular person (including the authority holding that information))

- 104.1 The Committee considered a request from Tewkesbury Leisure Centre and approved a reduced management fee.

EX.105 TRADE WASTE SERVICE

(Exempt –Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 –Information relating to the financial or business affairs of any particular person (including the authority holding that information))

- 105.1 The Committee considered and agreed the way forward for the Trade Waste service.

The meeting closed at 3:55 pm

EXECUTIVE COMMITTEE FORWARD PLAN 2023/24

REGULAR ITEM:

- **Forward Plan – To note the forthcoming items.**

Additions to 7 June 2023

- Response technical consultation on the Infrastructure Levy.
- Confidential Item: Future of Winchcombe Tourist Information Centre.

Committee Date: 5 July 2023

Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Financial Outturn Report (including Capital Financing and Earmarked Reserves) (Annual).	To consider the Council's financial outturn.	Executive Director: Resources and S151.	No.
Council Plan Performance Tracker – Quarter Four 2022/23.	To receive and respond to the findings of the Overview and Scrutiny Committee's review of the quarter four performance management information.	Director: Corporate Resources.	No.
Use of Mobile Surveillance Equipment for Fly-Tipping Investigations	To consider.	Director: Communities.	Yes – from June 2023

Committee Date: 6 September 2023			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Financial Update – Quarter One 2023/24.	To consider the quarterly budget position.	Executive Director: Resources and S151.	No.
Pavement Licensing Policy.	To consider the Pavement Licensing Policy.	Licensing Operations and Development Team Leader.	No.
First Floor Refurbishment Project.	To approve the project.	Head of Service: Asset Management.	Removed from January 2023 until further information is known.
Economic Development and Tourism Strategy.	To approve the Economic Development and Tourism Strategy.	Head of Service: Community and Economic Development.	Yes - moved from 1 March 2023.
Confidential Item: Irrecoverable Debts Write-Off Report (Quarterly).	To consider the write-off of irrecoverable debts.	Director: Corporate Resources.	No.
(To be considered in private because of the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)).			

Committee Date: 18 October 2023			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Council Plan Performance Tracker – Quarter One 2023/24.	To receive and respond to the findings of the Overview and Scrutiny Committee's review of the quarter one performance management information.	Director: Corporate Resources.	

Committee Date: 29 November 2023			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Financial Update – Quarter Two 2023/24.	To consider the quarterly budget position.	Executive Director: Resources and S151.	No.
Taxi and Private Hire Licensing Policy.	To consider the Taxi and Private Hire Licensing Policy.	Licensing Operations and Development Team Leader.	No.
Street Trading Licensing Policy.	To consider the Street Trading Licensing Policy.	Licensing Operations and Development Team Leader.	No.
Planned Maintenance Programme.	To approve the Planned Maintenance Programme.	Head of Service: Asset Management.	No.
Confidential Item: Irrecoverable Debts Write-Off Report (Quarterly).	To consider the write-off of irrecoverable debts.	Director: Corporate Resources.	No.
(To be considered in private because of the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)).			

Committee Date: 10 January 2024			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Medium Term Financial Strategy (Annual).	To recommend to Council the adoption of the five-year MTFs which describes the financial environment the Council is operating in and the pressures it will face in delivering its services and a balanced budget over the period.	Executive Director: Resources and S151.	No.
Housing Strategy Monitoring Report (Annual).	To approve the Housing Strategy Monitoring Report.	Head of Service: Housing.	No.
Treasury and Capital Management (Annual)	To approve and recommend approval to Council, a range of statutorily required policies and strategies relating to treasury and capital management.	Executive Director: Resources and S151.	No.
ICT Strategy.	To approve the ICT Strategy.	Associate Director: IT and Cyber.	Removed from January 2023 to go into January 2024.
Asset Management Strategy.	To approve the Asset Management Strategy.	Executive Director: Resources and S151.	Yes – from 1 February 2023.

Committee Date: 7 February 2024			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Budget 2024/25 (Annual).	To recommend a budget for 2024/25 to the Council.	Executive Director: Resources and S151.	No.
Council Plan Performance Tracker – Quarter Two 2023/24.	To receive and respond to the findings of the Overview and Scrutiny Committee's review of the quarter two performance management information.	Director: Corporate Resources.	No.
Confidential Item: Irrecoverable Debts Write-Off Report (Quarterly).	To consider the write-off of irrecoverable debts.	Director: Corporate Resources.	No.
(To be considered in private because of the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)).			

Committee Date: 20 March 2024			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Council Plan Performance Tracker – Quarter Three 2023/24.	To receive and respond to the findings of the Overview and Scrutiny Committee's review of the quarter three performance management information.	Director: Corporate Resources.	No.
Council Plan 2020/24 Refresh (Annual).	To consider the Council Plan and make a recommendation to Council.	Director: Corporate Resources.	No.
Financial Update - Quarter Three 2023/24.	To consider the quarterly budget position.	Executive Director: Resources and S151.	No.

ITEMS FOR 2024/25

Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required

PENDING ITEMS

Agenda Item	Overview of Agenda Item		Date Item Added to Pending
CIL Review of Charging Schedule(s) with the new 'draft' Charging Schedule submitted for approval to go out to formal public consultation.	To consider and make a recommendation to Council.	Associate Director: Planning.	January 2022. JSP partners to undertake the review at the same time.
Capital Funding for Additional Waste Vehicle.	To receive a report following exploration of the mechanism for requesting additional capital funding for an additional waste vehicle, and for adding the provision of a new waste collection depot to the Infrastructure List to enable Community Infrastructure Levy funding to be used.	Head of Service: Waste and Recycling.	Request by Overview and Scrutiny Committee April 2022.
Council Tax, Business Rates and Housing Benefits Overpayments Debt Recovery Policy	To approve the Council Tax, Business Rates and Housing Benefits Overpayments Debt Recovery Policy.	Director: Corporate Resources.	21 June 2022
Licensing Services Review and Restructure.	To approve the new licensing service structure and associated use of funds.	Director: Communities.	Removed from 5 October 2002 and added to pending on 7 September 2022.
Equalities and Diversity Policy.	To approve the Equalities and Diversity Policy.	Associate Director: People, Culture and Performance.	Removed from 5 October 2022 and added to pending on 21 September 2022.
Car Parking Strategy.	To approve the Car Parking Strategy.	Executive Director: Place.	Added to pending on 11 October. Deferred from 16 November until consideration by the O&S Committee and the Car Parking Working Group.

To approve the 'Health in All Policies' policy.	To approve a policy to better consider the Council's approach to health and wellbeing in the community.	Director: Communities.	Removed from 1 February 2023 until the policy has been considered by Management Team.
Economic Development and Tourism Strategy.	To approve the Economic Development and Tourism Strategy.	Head of Service: Community and Economic Development.	Removed from 1 March 2023 until the new Council is in place.
Council Plan 2020/24 Refresh.	To consider the Council Plan and make a recommendation to Council.	Director: Corporate Resources.	Removed from 1 March 2023 until the new Council is in place.
Volunteering Policy.	To approve the Volunteering Policy.	Director: Corporate Resources.	Removed from 1 March 2023 until the new Council is in place.

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	7 June 2023
Subject:	Health, Safety & Welfare Policy Review
Report of:	Environmental Safety Officer
Head of Service/Director:	Director of Communities
Lead Member:	Lead Member for Organisational Development
Number of Appendices:	One

Executive Summary:

Tewkesbury Borough Council recognises its duty under the Health and Safety at Work etc. Act 1974 Section 2(3), to have a written statement of policy which sets out the general intentions, approach and objectives which should be reviewed and updated on a regular basis. The current policy has been reviewed and updated to take account of the new management structure changes which were implemented on 1 April 2023.

Recommendation:

1. That the Executive Committee **APPROVES** the revised Health, Safety & Welfare Policy.
2. That authority be delegated to the Director of Communities, in consultation with the Lead Member for Organisational Development, to make minor changes to the policy including change to management structure and minor typographical changes etc.

Financial Implications:

None directly from this report

Legal Implications:

Section 2 of the Health & Safety at Work etc. Act 1974 places a duty on employers to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all their employees.

Further to that duty, the Council must prepare, and keep updated, a written statement of their general policy with respect to the health and safety at work of their employees, the organisation, and the arrangements in force for carrying out that policy. The Council must bring the updated policy to the notice of their employees.

The Council must also consult representatives regarding the maintenance of arrangements to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.

Environmental and Sustainability Implications: None.
Resource Implications (including impact on equalities): None.
Safeguarding Implications: None.
Impact on the Customer: The Health and Safety at Work etc. Act 1974 protects employees and others who may be affected by work activities. This policy sets out how this will be achieved.

1.0 INTRODUCTION

- 1.1 Every employer has a legal duty to have a written Health & Safety policy as required under the Health & Safety at Work etc. Act 1974. The Health, Safety and Welfare policy sets out the Council's aims and objectives and the organisational structure to achieve this requirement.
- 1.2 Tewkesbury Borough Council is responsible for ensuring that health and safety standards are set and maintained. The Council determines the Council's Health, Safety and Welfare Policy and in so doing will ensure that sufficient resources are available to achieve and maintain a high standard of safety proficiency, including provision of any health and safety training, information, safety equipment and clothing, etc. for employees and to monitor and review the health and safety activities of the Council.
- 1.3 This Health, Safety and Welfare Policy sets out a general framework for the organisation and the arrangements for health and safety across the Council. To support this policy and to effectively manage the health and safety risks and issues within the organisation, a series of topic-based health, safety and welfare policies have been developed. These policies, which are held on the Council's intranet, provide the detailed arrangements for effective management of specific health, safety and welfare risks.

2.0 KEY POLICY CHANGES

- 2.1 The Council has an existing overarching Health, Safety & Welfare policy in place which is updated on a regular basis. A further review and update of this policy is required due to the new management structure which was implemented on 1 April 2023 and is detailed within the attached policy. The policy formalises the health and safety responsibilities for managers under this new management structure. Under the new structure Operational Managers have a new job title which is Head of Service and previous Heads of Service also have a new job title which is Director, therefore the policy has been changed accordingly to reflect this.
- 2.2 Tewkesbury Borough Council is organised into three main service groups with the Chief Executive having overall responsibility for the health, safety and welfare of employees whilst at work, and where relevant, members of the public.

2.3 Directors are responsible to the Chief Executive for the health and safety performance within their service areas and the implementation of this policy. Each Director will ensure that Heads of Service plan their work programmes with safety in mind and provide the necessary leadership and resources to encourage a positive health and safety culture.

2.4 The organisational structure and lines of communication are shown in Appendix 1 of the attached policy and referred to in section 2 of the policy.

3.0 CONSULTATION

3.1 The Council recognises the important role of safety representatives and safety groups in consulting with employees on health and safety matters. Staff representatives from the recognised trade unions will form part of these groups. Representatives will be given the necessary time and facilities to enable them to carry out their duties. The Council's Keep Safe Stay Healthy Group will advise the Audit and Governance Committee of health, safety and welfare policy.

4.0 ASSOCIATED RISKS

4.1 In the absence of an up-to-date Health, Safety & Welfare policy and associated management system, the Council could be at risk of an increase in accidents/incidents/ill health and or property damage and the associated financial and legal implications.

5.0 MONITORING

5.1 The policy will be monitored actively through health and safety auditing systems carried out by the Council's Keep Safe Stay Healthy Group in conjunction with the health and safety advisor or delegated representative.

6.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES

6.1 To support this policy and to effectively manage the health and safety risks and issues within the organisation, a series of topic-based health, safety and welfare policies have been developed. These policies, which are held on the Council's intranet, provide the detailed arrangements for effective management of specific health, safety and welfare risks.

Background Papers: None.

Contact Officer: Environmental Safety Officer

Appendices: 1 – Revised Health, Safety & Welfare Policy.

TEWKESBURY BOROUGH COUNCIL

HEALTH, SAFETY AND WELFARE POLICY

The signed original of this policy is held by the Health and Safety Advisor, Council Offices,
Gloucester Road, TEWKESBURY, GL20 5TT.

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INTRODUCTION

- 1 Tewkesbury Borough Council recognises its duty under the Health and Safety at Work etc. Act 1974 Section 2(3), to have a written statement of general policy with respect to the health, safety and welfare of employees. Such policy should also determine the organisation and arrangements for implementing the policy and for ensuring that employees are made aware of the policy and revisions to it.
- 2 The council's framework for health and safety is through its policy that comprises:
 - a) Section 1 - Statement of policy.
 - b) Section 2 - Organisational responsibilities.
 - c) Section 3 - The arrangements for implementing the policy.
- 3 This policy is structured on the advice and recommendations set out in the Health and Safety Executive publication "HSG65 - Managing for Health and Safety". The principal aspects being:
 - a) Establishing the policy.
 - b) Establishing the arrangements for implementing the policy.
 - c) Planning and implementing the policy.
 - d) Measuring performance.
 - e) Auditing and reviewing the policy.
- 4 The policy will be brought to employees' notice through publishing it on the council's intranet and making paper copies available where necessary.

SECTION 1 - POLICY STATEMENT

Tewkesbury Borough Council recognises and accepts its responsibility as an employer for providing a safe workplace and healthy working environment for all of its employees.

The council will take all steps within its power to meet this responsibility, paying particular attention to: -

- a) Plant, equipment and systems of work to ensure that these are safe.
- b) Sufficient information, instruction, training and supervision to enable all employees to work safely and contribute positively to their own safety and health at work.
- c) A safe place of work with safe access and egress to and from it.
- d) A healthy working environment.
- e) Adequate welfare facilities.

Without detracting from the primary responsibility of managers and supervisors for ensuring safe conditions of work, the council will provide competent technical advice on health, safety and welfare matters to support line management in its task.

Consultation with employees will be an essential aspect in the effective implementation of this policy. To achieve this, the council will support the appointment of both trade union and non-trade union safety representatives.

This policy will be reviewed on a 3-year rolling programme as contained in the Keep Safe Stay Healthy Plan, or when changes take place within the organisation, whichever is soonest.

Signed _____

Alistair Cunningham

Chief Executive

September 2022

SECTION 2: Organisation and Responsibilities

2.1 Introduction

Tewkesbury Borough Council is organised into three main service groups with the Chief Executive having overall responsibility for the health, safety and welfare of employees whilst at work, and where relevant, members of the public. The organisational structure and lines of communication are shown in appendix 1 attached to this policy.

2.2 Tewkesbury Borough Council and its elected members

Tewkesbury Borough Council is responsible for ensuring that health and safety standards are set and maintained. The council determines the council's Health, Safety and Welfare Policy and in so doing will ensure that sufficient resources are available to achieve and maintain a high standard of safety proficiency, including provision of any health and safety training and information for employees, safety equipment or clothing, etc. and also to monitor and review the health and safety activities of the council.

Elected members have a responsibility for ensuring that the Chief Executive is adequately resourced and supported in achieving compliance with the legal requirements of the Health and Safety at Work etc. Act 1974 and regulations made under it.

2.3 Chief Executive

The Chief Executive is the council's Head of Paid Service and therefore assumes overall responsibility for health and safety in the council and is accountable to the elected members for the overall operation of the Health, Safety and Welfare Policy. The Chief Executive will monitor and review as necessary the policy on a regular basis and ensure through Directors and Heads of Service that a positive health and safety culture is in evidence across the whole council and in their work activities.

2.4 Directors

Directors are responsible to the Chief Executive for the health and safety performance within their service areas and the implementation of this policy. Each Director will ensure that Heads of Service plan their work programmes with safety in mind and provide the necessary leadership and resources to encourage a positive health and safety culture. Directors will be advised of health, safety and welfare policy issues by the Keep Safe Stay Healthy Group and Heads of Service within their service. In particular Directors are required to:

- a) Initiate and maintain safety procedures, clearly defining the responsibilities of employees for health and safety in the areas over which they have control, and to ensure assessments in respect of Control of Substances Hazardous to Health (COSHH) and risk assessments of all tasks and activities are undertaken.
- b) Ensure that all statutory requirements for health and safety at work and the council's codes of practice are complied with where applicable.
- c) Ensure that all employees are instructed and trained in safe methods of work in order to ensure the prevention of accidents. Particular emphasis is to be placed on the instruction of new employees.

HEALTH, SAFETY AND WELFARE POLICY

- d) Provide adequate first aid equipment appropriate to the work being undertaken and ensure that all employees are made aware of the facilities available;
- e) Ensure that all accidents and incidents are recorded and reported as detailed in the accident reporting guidance.
- f) Ensure that all accidents relating to the functions of the council which result in death, major injury or over seven days absence from work, or result in a member of the public being taken directly to hospital are notified to the council's health and safety advisor (or nominated representative in their absence) immediately.
- g) Undertake regular inspections of all areas of the establishment and ensure that all defects are remedied as soon as possible.
- h) Liaise with safety representatives concerning health and safety matters and resolve or refer problems that are outside the scope of authority of an individual manager, to the appropriate level of management.
- i) Attend health and safety meetings when required.
- j) Undertake such responsibilities as detailed for supervisors / Operational Managers as and when these are appropriate.
- k) Nominate representatives to participate in the Keep Safe Stay Healthy Group as detailed in the group's terms of reference.

2.6 Supervisors and Heads of Service

Supervisors and Heads of Service often provide the most important link between individual employees and Directors.

Supervisors / Heads of Service are required to:

- a) Be aware of the council's Health, Safety and Welfare Policy.
- b) Have a sound knowledge of all legislation applicable to their work.
- c) Have a sound knowledge of the council's current codes of practice applicable to their work.
- d) Arrange for all employees under their control to be instructed in all relevant safe working methods and that they comply with all safety instructions.
- e) Ensure that all known hazards are brought to the attention of employees.
- f) Undertake and record safety inspections in order to monitor the safe working practices of employees in accordance with agreed schedules and programmes.
- g) Ensure that employees are aware of first aid facilities.
- h) Record any reported accident/incident on the Accident/Incident Report Form (IR1) and the Accident/Incident Investigation Form (IR2) if required.
- i) Assist as necessary in accident investigations.
- j) Liaise with safety representatives on all matters concerning health and safety.
- k) Resolve problems of a health and safety nature where possible or refer matters to the appropriate level of management.
- l) Take part in safety inspections where required.
- m) Attend health and safety meetings as and when required.

2.7 Employees and other workers

All employees* are required to be safety conscious and continuously be aware of their own safety and the safety of others in the work area. In particular they must:

HEALTH, SAFETY AND WELFARE POLICY

- a) Follow correct working procedures as trained, including the wearing of personal protective equipment.
- b) Report accidents, 'near miss incidents, and new or developing hazards to their immediate supervisor or line manager, including any shortcomings in the health and safety arrangements.
- c) Carry out user checks and inspections of plant and equipment, report defects and ensure proper use.
- d) Assist as required in completion of accident reports and accident investigations.
- e) Co-operate with managers to ensure the prevention of accidents, abuse, or interference with plant equipment and materials; to enable management to carry out their duties in the interest of the safety of all concerned.
- f) Study the council's Health, Safety and Welfare Policy and codes of practice relevant to their work, be familiar with them and conform to them at all times.
- g) Not attempt or undertake work of a dangerous nature, nor operate machines or apparatus unless authorised to do so and for which specific training has been given.
- h) Actively suggest improvements in health and safety.

*For the purpose of this policy an "employee" is defined as any individual who has entered into or works under a contract of employment or any other contract, whether express or implied. This includes permanent, temporary and casual employees, contractors, agency, volunteer staff and work experience students.

Elected members, whilst not considered as employees, have the same duties as employees and others to be safety conscious and continuously be aware of their own safety and the safety of others.

2.8 Health and Safety Advisor (Director of Communities or delegated representative: Environmental Safety Officer)

To promote the development and maintenance of sound health, safety and welfare practices and provide competent technical and advisory assistance to elected members and the management team, the council will provide an appropriately trained and qualified health and safety advisor who will have the following responsibilities:

- a) To advise on the formation and development of health and safety policies and procedures.
- b) To co-ordinate and monitor the health and safety activities of the council to ensure a consistent, corporate and prioritised approach to health and safety matters.
- c) To secure an effective health and safety management system based on the systematic identification of hazards so as to reduce the risk of injury or ill health to the lowest level reasonably practicable.
- d) To promote a positive health and safety culture and secure effective communication on health and safety matters.
- e) To attend meetings of the Keep Safe Stay Healthy Group plus attendance at the Corporate Leadership Team meetings and / or Management Team meetings, Audit Governance Committee and Overview & Scrutiny Committee meetings as appropriate or required.
- f) To provide prompt, authoritative and independent advice on health and safety to managers and employees.
- g) To maintain adequate health and safety information systems and to effectively disseminate relevant / useful information to appropriate personnel within the council.

HEALTH, SAFETY AND WELFARE POLICY

- h) To liaise with and provide relevant information for health and safety representatives to optimise their contribution to the council's health and safety management system.
- i) To liaise and assist supervisors or Heads of Service, where appropriate, in the investigation of accidents, incidents and occupational ill health.
- j) To liaise with appropriate enforcement agencies (e.g., Health and Safety Executive, Fire Authority, Police etc.) and ensure that recommendations or requirements are implemented as necessary.
- k) To monitor and report to the Corporate Leadership Team and or Management Team, Audit & Governance Committee as appropriate on the safety performance of the council and in particular the achievement of health and safety objectives; the implementation of policies and procedures; accident / incident analysis and the findings of health and safety audits.

2.9 Occupational health service

The council provides a suitable occupational health service to employees and others affected by the council's activities, provided by an appointed occupational health nurse and physician. Its responsibility extends to providing advice, when requested, on all matters relating to occupational health. It will, when requested, carry out medical assessments as part of any medical surveillance required by health and safety legislation.

2.10 Safety representatives

These are employees appointed by their trade union to promote and monitor health and safety standards in the workplace. They are accountable to their trade union for the performance of their responsibilities, as defined in the Safety Representatives and Safety Committees Regulations 1977. Nontrade union safety representatives appointed in compliance with the Health and Safety (Consultation with Employees) Regulations 1996 are responsible for compliance with Regulation 6 of the subject regulations.

SECTION 3: Arrangements

3.1 Management arrangements

This Health, Safety and Welfare Policy sets out a general framework for the organisation and arrangements for health and safety across the council. To support this policy and to effectively manage the health and safety risks and issues within the organisation, a series of topic-based health, safety and welfare policies have been developed. These policies, which are held on the council's intranet, provide the detailed arrangements for effective management of specific health, safety and welfare risks.

3.2 Consultation arrangements

The council recognises the important role of safety representatives and safety groups in consulting with employees on health and safety matters. Staff representatives from the recognised trade unions will form part of these groups. Representatives will be given the necessary time off and facilities to enable them to carry out their duties. The council's Keep Safe Stay Healthy Group will advise the Audit & Governance Committee of health, safety and welfare policy.

3.3 The Keep Safe Stay Healthy Group

The objectives of the group are as follows:

To bring together management, staff, elected members and trade union representatives on a quarterly basis to:

- a) consider matters relating to the health and safety of all employees.
- b) provide a forum on a regular basis for consultation and consideration on matters relating to health, safety and welfare including demonstrating a proactive approach in order to develop a programme of work to inform, advise and train.
- c) report matters to the Corporate Leadership Team and or Management Team if appropriate.
- d) to report an update on the work plan annually to the Audit & Governance Committee.

The Group is chaired by the Director of Communities, vice chair is the Environmental Health Manager. Each meeting includes the following standing items:

- a) health and safety statistics and associated reports.
- b) requirements of the Keep Safe Stay Healthy work plan.
- c) departmental health and safety updates.

3.4 Audit and Governance Committee

An annual report on corporate health and safety matters, along with a work plan for the forthcoming year is considered by the Audit & Governance Committee. The Audit & Governance Committee comprises of 9 members and its role includes control of the council's regulatory framework and specifically in relation to health and safety issues, include:

- a) To maintain an overview of the council's constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
- b) To review any issue referred to it by the Chief Executive and / or the Management Team, or any council body.

- c) To monitor the effective development and operation of risk management and corporate governance in the council.
- d) To consider the council's arrangements for corporate governance and agree necessary actions to ensure compliance with best practice.
- e) To consider the council's compliance with its own and other published standards and controls.

3.5 The Executive Committee

Authorisation is obtained by the Keep Safe Stay Healthy Group from the Executive Committee for any new health and safety policy or changes to policy if appropriate.

The Executive Committee comprises of 11 members and its Chairman and Vice-Chairman are the Leader and Deputy Leader of the council respectively.

The Executive Committee review and monitor the operation of the policy framework and recommend to council proposals for new initiatives and policy developments.

3.6 Monitoring, review and communication

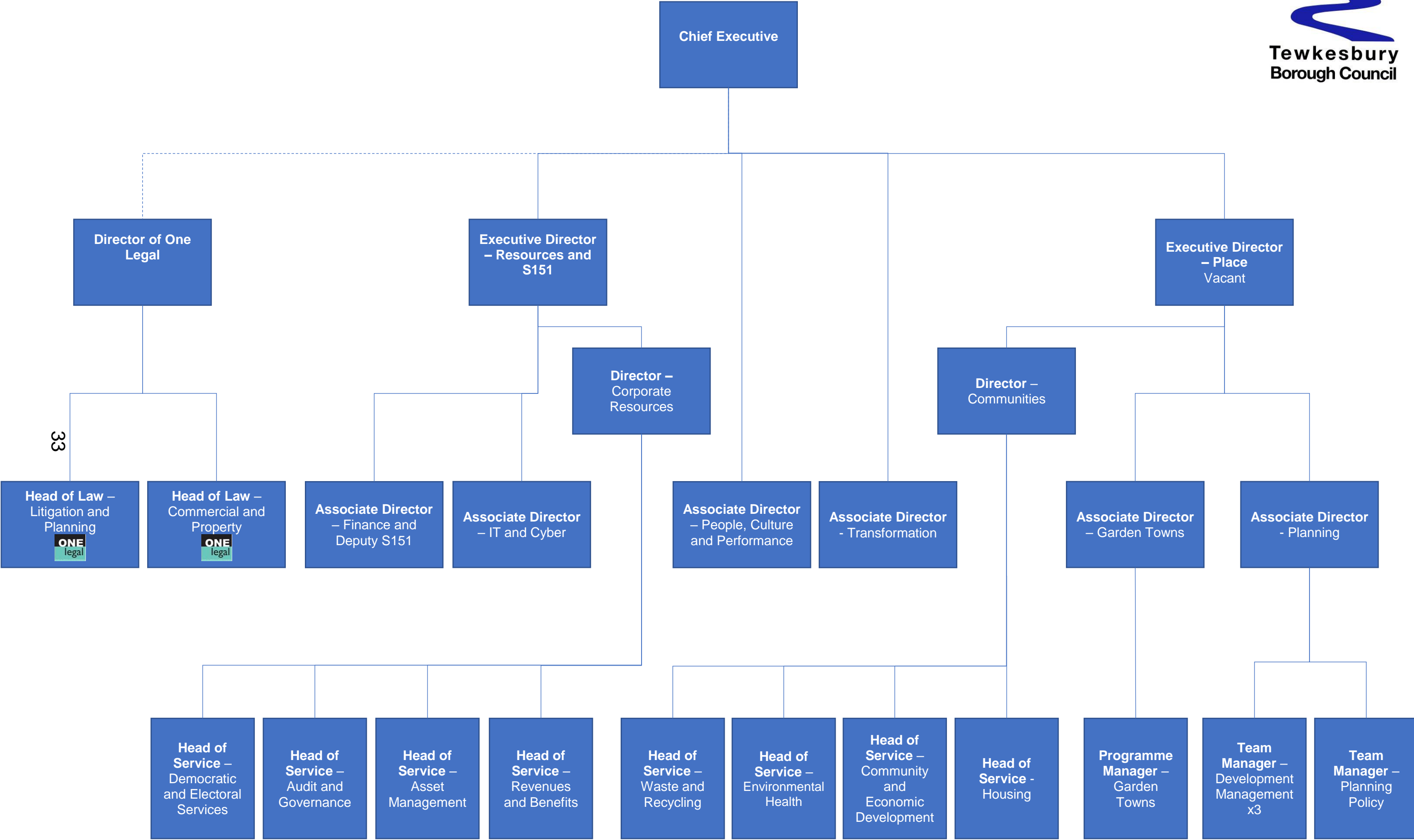
This policy will be monitored actively through health and safety auditing systems carried out by the council's Keep Safe Stay Healthy Group in conjunction with the health and safety advisor or delegated representative. The policy will also be monitored through the role and functions of trade union appointed health and safety representatives / employee representatives. It will also be reactively monitored by the continued collation of accident, near miss, violent incident and ill health statistics produced on a regular basis. This information will be reviewed quarterly by the Keep Safe Stay Healthy Group and reported to the Corporate Leadership Team and or the Management Team and the Audit & Governance Committee where appropriate.

The policy will continually be developed, reviewed and updated as necessary on a 3-year rolling programme as per the Keep Safe Stay Healthy Plan. Any changes will be brought to the attention of all managers and employees through a variety of communication channels, including the Keep Safe Stay Healthy Group, Corporate Leadership Team and or the Management Team, Audit & Governance Committee, employee newsletters, employee notice boards, internal email and the staff intranet.

A copy of this Health, Safety and Welfare Policy, which is a declaration of the authority's commitment to health, safety and welfare, will be made available to all employees via the staff intranet.

3.7 Measuring performance

The performance of the Health, Safety and Welfare Policy arrangements will be measured by collecting data which can be analysed and provide key performance information. This will also allow the council to track continuous improvement. The health and safety advisor or delegated representative will produce an annual report detailing the health and safety performance to be considered by the Audit & Governance Committee and Keep Safe Stay Healthy Group.



Corporate Leadership Team (CLT) - Chief Executive and Executive Directors
Management Team (MT) - Chief Executive; Executive Directors; Directors and Associate Directors
One Legal is a shared service with Cheltenham Borough Council, Stroud District Council and Gloucester City Council

Transitional arrangements will be in place until the end of June 2023 with Head of Democratic Services, Head of Development Services and the Corporate Director remaining in their current roles until then.

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	7 June 2023
Subject:	Data Protection Policy Review
Report of:	Director: Corporate Resources
Head of Service/Director:	Corporate Director
Lead Member:	Lead Member for Corporate Governance
Number of Appendices:	One

Executive Summary:

The Council is committed to compliance with the requirements of the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR).

The Council's Data Protection Policy sets out the legislative framework and principles that all Council staff and Members must follow when handling and processing personal data. The policy also outlines the roles, responsibilities, and governance arrangements in place to ensure the council continues to fulfil its obligations.

A review of the current policy has been carried out to incorporate changes to the UK data protection law, ensure it remains in line with legal requirements and reflects best practice.

This policy was considered at Audit and Governance Committee on 23 March 2023 where it was recommended to Executive Committee for approval.

Recommendation:

To APPROVE the revised Data Protection Policy.

Financial Implications:

None arising directly from this report.

Legal Implications:

The Council is legally required to comply with the Data Protection Act 2018 and the UK GDPR. Any non-compliance therefore gives rise to a number of risks. The proposed policy ensures that appropriate safeguards and arrangements are in place to mitigate these risks as far as reasonably practical. The Data Protection and Digital Information Bill 2022-23 is due to receive Royal Assent in due course (possibly in the Summer of 2023) and this Policy will require further review and possible amendment at that stage.

Environmental and Sustainability Implications:

None arising directly from this report.

Resource Implications (including impact on equalities):

None arising directly from this report.

Safeguarding Implications:

None arising directly from this report.

Impact on the Customer:

Having an up-to-date Data Protection Policy helps demonstrate to customers, as well as employees, suppliers and other third parties, that they can have trust in engaging with the Council and feel confident that their personal data will be safe. It also ensures that the duty to inform customers of their rights under data protection legislation is met.

1.0 INTRODUCTION

- 1.1** The Council's current Data Protection Policy was adopted in 2018. A regular review of the policy is necessary to ensure that it remains consistent with legal requirements, reflects best practice and continues to be fit for purpose.
- 1.2** Since the adoption of the current policy, there have been changes to the UK data protection law following the UK's withdrawal from the European Union. The provisions of the EU GDPR have been incorporated directly into UK law, now known as the UK GDPR. In practice, this has meant little change, the core data protection principles, rights and obligations have remained the same. However, it is prudent to ensure that this change is reflected in the policy.

2.0 DATA PROTECTION REQUIREMENTS

- 2.1** In delivering services, the Council collects, stores and processes personal data about its customers, service users, employees, suppliers and other third parties. The Council must therefore comply with all relevant legislation and maintain good practices in order to protect the personal data held.
- 2.2** There are seven key principles which lie at the heart of data protection legislation. Compliance with these principles is fundamental to good data protection practice and the basis for our approach to processing personal data. These are:
- lawfulness, fairness and transparency.
 - purpose limitation.
 - data minimisation.
 - Accuracy.
 - storage limitation.
 - integrity and confidentiality (security).
 - Accountability.
- 2.3** There are a number of key risks to the Council if it fails to meet these requirements. An accidental or deliberate breach of data protection could lead to sanctions being imposed by the Information Commissioners Office (ICO), including substantial fines. There is also a risk of reputational damage as a direct result of any non-compliance.

- 2.4** The Data Protection Policy therefore helps to mitigate these risks by clearly setting out the Council's approach and acting as a point of reference for all staff and Members. It is the duty of all staff and Members to ensure that personal data held by the Council is handled in accordance with the policy.
- 3.0 MAIN UPDATES TO THE POLICY**
- 3.1** It is important we carry out a regular review of our data protection approach to ensure the Council is meeting legal requirements and reflecting best practice. The current policy is, subject to the following amendments, considered to be relevant and up to date:
- the inclusion of an introduction/ policy statement, setting out the Council's commitment to safeguarding personal data.
 - updating legislation referred to in the policy i.e., UK GDPR.
 - the inclusion of a definition of personal data.
 - reference to the data protection governance arrangements in place.
 - inclusion of the Council's new data request system.
- 4.0 CONSULTATION**
- 4.1** None.
- 5.0 ASSOCIATED RISKS**
- 5.1** There are inherent risks associated with not having an up-to-date Data Protection Policy and any non-compliance with data protection legislation. These include both financial and reputational risks to the Council.
- 6.0 MONITORING**
- 6.1** The Data Protection Officer will monitor this policy on an annual basis. Compliance with the policy will also be monitored by the Council's Information Governance and Security Board.
- 7.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES**
- 7.1** None directly but the policy underpins the Council's values.

Background Papers: Data Protection Policy Review- (Audit Committee 23.03.23).

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Appendices: 1 – Data Protection Policy 2023.

Data protection policy



March 2023



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Section one: Introduction

Tewkesbury Borough Council (the council) is committed to safeguarding the personal data that it collects and processes, and to ensuring that it is used only in ways that people would reasonably expect.

In delivering our services, we collect, store and process personal data about our citizens, service users, employees, suppliers and other third parties. In most cases, this information is held digitally, but also includes information that we hold physically on paper.

We recognise that the correct and lawful treatment of this data maintains trust and confidence in the organisation and provides for successful service delivery.

This policy therefore sets out how the council will fulfil its duties regarding the protection of personal data.



Section two - Policy objectives

2.1 Policy objectives

- To comply with all relevant legislation and good practice in order to protect the personal data held by the council.
- To monitor, demonstrate and review compliance with legislation and introduce changes where necessary.
- To ensure that personal data is processed fairly and lawfully.
- To respect the confidentiality of all personal data.
- To ensure that staff are able to recognise personal data.
- To provide staff with appropriate procedures and training to handle and process personal data.
- To assist members of the public in exercising their rights over their personal data held by the council
- To co-operate with the Information Commissioner and the external auditor as required.

2.2 Staff and Member responsibility

It is the duty of individual staff and Members to ensure that personal data held by the council is handled and processed in accordance with current data protection legislation and this policy. Action may be taken against any employee or Member who fails to comply or commits any breach of the data protection legislation and/or this policy.

Section three - Data protection legislation

What is personal data

The UK General Data Protection Regulation (GDPR) defines personal data as any information relating to an identified or identifiable natural person (data subject) who can be identified, directly or indirectly, in particular by reference to an identifier such as:

- A name.
- An identification number.
- Location/ address data.
- Online identifier.
- Health information.
- Income.
- Cultural profile.

Special category data (sensitive personal data)

Special category data is personal data that needs more protection because of its sensitive nature. The processing of this data creates more significant risks to a person's fundamental rights and freedoms and as such it is subject to a stricter set of conditions. This includes information such as:

- Racial or ethnic origin.
- Political opinions.
- Religious beliefs.
- Trade Union membership.
- Physical or mental health.
- Sexual orientation or sex life.
- Criminal proceeding or convictions.
- Genetic data.
- Biometric data.

3.1 Data protection legislation was introduced to balance the rights of individuals, to protect their personal data and an organisation's right to use their personal data. Data protection legislation covers both electronic information and manual files the council holds.

3.2 This policy is applicable to all data protection legislation relating to the use of personal data. This includes, but is not limited to:

- Data Protection Act 2018.
- UK General Data Protection Regulation (GDPR).
- Freedom of Information Act 2000.
- Environmental Information Regulations 2004.

3.3 The council processes and keeps personal data about data subjects to enable it to conduct council business, provide services and to employ staff.

3.4 The data protection principles

The council will:

- Process personal data lawfully, fairly and transparently (the first data protection principle).
- Only obtain personal data for specified, explicit and legitimate purposes (the second data protection principle).
- Only collect personal data that is adequate, relevant and not excessive (the third data protection principle).
- Ensure that personal data is accurate and kept up to date (the fourth data protection principle).
- Ensure that personal data is not being kept for longer than is necessary (the fifth data protection principle).
- Ensure that personal data is processed in a secure manner (the sixth data protection principle).

Section four – Accountability and demonstrating compliance

Training and awareness

Regular data protection training is mandatory for all council staff and Members. The training provided is aimed to ensure that all individuals understand their responsibilities for managing data in line with legislation.

4.1 The council is accountable for and must be able to demonstrate compliance with the data protection legislation.

Roles and responsibilities

4.2 The council allocates the following roles and responsibilities:

SENIOR INFORMATION RISK OWNER (SIRO) – to ensure information assets and risks within the council are managed as a business, actively work with the Data Protection Officer and other experts within or outside the council to determine the most effective and proportionate information control measure. The SIRO is responsible for building an informed culture within the council to promote the best practice for the use and protection of Information assets. The SIRO is responsible for implementing current data protection legislation on behalf of the council (the Data Controller).

SINGLE POINT OF CONTACT FOR CONTROLLER (SPoC) – to act as single point of contact for customers, staff and the Data Protection Officer in relation to personal data. Support the SIRO in ensuring the council can demonstrate compliance with current data protection legislation.

DATA PROTECTION OFFICER (DPO) – to undertake the statutory role by monitoring compliance and by providing training, advice and assistance to the SIRO.

INFORMATION ASSET OWNERS – service managers have been nominated as Information Asset Owners for the information held within their service areas and are responsible for ensuring that their services area can demonstrate compliance with current data protection legislation.

STAFF – all staff are responsible for ensuring that the personal data they handle is processed in accordance with this policy and current data protection legislation.

MEMBERS - all members are responsible for ensuring that the personal data they handle when acting as a member of the council is processed in accordance with this policy and current data protection legislation.

Governance

4.3 Compliance with this policy and the related legislation is monitored by the council's Information Governance and Security Board. The board also ensures that information and security risks are properly assessed and mitigated and that data protection procedures are applied consistently across the authority.

4.4 Examples of how the council will do this:

- Holding a list of processing and keeping it up to date (kept by the SIRO).
- Minimising the personal data collected (Information Asset Owners).
- Having and complying with its retention schedules (Information Asset Owners).
- Being open and transparent and telling people what we are doing with their data (SIRO).
- Checking that any processors are data protection legislation compliant and have written processing agreements and written data sharing agreements in place (Information Asset Owners).
- Carrying out privacy by design and privacy impact assessments where necessary (Information Asset Owners).
- Ensuring that it has appropriate technical and organisational security (SIRO).
- Regularly review and update its policies and procedures (SIRO).

4.5 The council will pay the fee due to the Information Commissioner on an annual basis (SIRO).

Section five - Organisational security

Security

5.1 The council will implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks arising from the processing of personal data.

5.2 Security shall be applied to all stages of processing to prevent unauthorised access, disclosure (internal or external), loss, damage (accidental or deliberate), or unauthorised alteration.

5.3 Examples of security measures are:

- Personal data must not be left on display or unsecured when unattended.
- System entry passwords shall be kept secure and be changed regularly and not shared.
- Authorised users will only have access to personal data where access is essential to their duties.

- The secure disposal of paper and electronic data.
- Internal procedures must be followed in relation to the disclosure of any personal data.

5.4 The SIRO will undertake a regular review of security measures and an audit shall be made of the way personal data is managed. This will include an assessment of the methods of handling personal data and processing carried out by a third party on behalf of the council or jointly with other local authorities shall be subject to a written contract, which stipulates compliance with the data protection principles.

Privacy by design

5.5 Privacy by design means that privacy and data protection is a key consideration in the early stages of any project and throughout its lifecycle.

5.6 Where the council changes the way it processes personal data or purchases a new or upgrades an IT system that processes large amounts of personal data, the council will carry out a privacy impact assessment in accordance with the current data protection legislation and Information Commissioner guidance and ensure that privacy by design is built in the processing.

5.7 Examples of when privacy by design should be considered:

- Building, developing or purchasing new IT systems for storing or accessing personal data.
- Developing policy, procedures or strategies that have privacy implications.
- Embarking on a data sharing initiative.
- Using personal data for new purposes.

5.8 Copies of the privacy impact assessments carried out will be held by the SIRO and available for inspection by the Data Protection Officer.

Storing personal data

5.9 The fifth data protection principle requires that personal data should not be kept longer than

necessary for the purpose for which it is processed. It is the responsibility of the Information Asset Owner to ensure that personal data is used and stored properly to prevent any unauthorised access and ensure that a retention schedule is in place for the personal data used within their service area and ensure staff comply with that retention schedule.

5.10 Personal data should:

- Be stored in locked desks or filing cabinets.
- Be securely protected on computers using industry standards authentication methodologies and limited access.
- Not be visible on screens by unauthorised persons (including other members of staff).
- Not be taken out of the council offices or stored externally unless such use or storage is necessary and authorised by a line manager or Information Asset Owner.
- Only be kept for as long as is necessary and disposed of securely when it is no longer needed. It should be reviewed regularly and deleted promptly when no longer needed.

5.11 Special categories of data should be kept secure and subject to very limited access.

5.12 Duplicate records should be kept to a minimum to reduce the risk of unauthorised access or loss and to avoid anomalies in personal data being kept longer than is necessary.

5.13 Portable storage devices such as handheld devices, mobile phones and laptops must be encrypted; they should not be left unattended and should be locked away when not in use.

Protective marking

5.14 The protective marking scheme supplied by the Government Protective Marking Scheme (GPMS) provides a framework for users to share and protect information.

Section six - Handling personal data

Collecting personal data/information

- 6.1 The council will only collect personal data that is necessary to carry out the purpose for which it was collected. Staff will not collect personal data on the grounds that it might come in useful. Extra care will be taken when collecting or using special categories of data and will only be collected where absolutely necessary.
- 6.2 When collecting personal data the Information Asset Owner will ensure that the person is told what will be done with their personal data at the time it is collected. This must be conveyed in a concise, transparent, intelligible, easily accessible way, and use clear and plain language.
- 6.3 The council will provide individuals with all the following privacy information:
- The contact details of the council.
 - The contact details of the council's SpOC.
 - The contact details of the council's Data Protection Officer.
 - The purposes of the processing.
 - The lawful basis for the processing.
 - The legitimate interests for the processing (if applicable).
 - The categories of data subjects and personal data obtained.
 - The recipients or categories of recipients of the personal data.
 - Details of the use of profiling.
 - The categories of transfers of the personal data to any third world countries or international organisations (if applicable).
 - Where possible, a general description of the council's technical and organisational security measures.
 - The retention periods for the personal data.
 - The rights available to individuals in respect of the processing.
 - The right to withdraw consent (if applicable).
 - The right to lodge a complaint with the ICO.
 - The source of the personal data (if the personal data is not obtained from the individual it relates to).
 - The details of whether individuals are under a statutory or contractual obligation to provide the

personal data (if applicable, and if the personal data is collected from the individual it relates to).

- The details of the existence of automated decision-making, including profiling (if applicable).
- 6.4 All staff will inform their line manager or Information Asset Owner if personal data is collected or used in a new or different way so that this can be added to the list of processing held by the SIRO.

Using personal data

- 6.5 When processing personal data, the first data protection principle requires that it must be done lawfully and in a fair and transparent manner. Personal data is considered to be lawfully processed if one of the following conditions apply:
- The data subject has given their consent to the processing.
 - The processing is necessary for:
 - The performance of a contract to which the data subject is a party.
 - The compliance with any legal obligation of the council as a Data Controller.
 - The protection the vital interests of the data subject. This means a life or death situation.
 - The exercise of a function conferred on the council by law.
 - For the exercise of any other function of a public nature exercised in the public interest by the council.
 - For the purposes of legitimate interests of the council subject to the legitimate rights and freedoms of the data subject.
- 6.6 When processing Special Categories of Data a further processing condition set out in the data protection legislation is required. (See section three of this policy).
- 6.7 The second data protection principle requires that personal data should only be used for the purpose(s) for which it is collected and not for any incompatible purpose. If it is to be used for any other purpose then the individual concerned must be informed and there must be a legal basis for processing the personal data for the other purpose.

Disclosing personal data

- 6.8 The disclosure of personal data must be processed through the council's data request procedure. This ensures that appropriate verification checks are carried out and we can be satisfied that the information is being disclosed to the correct person, or where it is being disclosed to a third party, that they have the authority to receive the information.
- 6.9 In some cases staff may be asked to provide information by law. It is the responsibility of staff to ensure that any requests for personal data are directed through the council's data request procedure. The data protection legislation may give the person the right to ask for the information but we may not be under a legal obligation to release that information. Personal data must not be disclosed outside of the data request procedure unless a specific data sharing agreement is in place.
- 6.10 Disclosure may be necessary to protect the vital interests of the data subject for example to prevent serious harm, or in a life or death situation. Do not disclose any personal data until satisfied it is lawful to do so.
- 6.11 Obtain legal advice if you are unsure.

Disclosing personal data to Members

- 6.12 Before releasing information to elected Members, staff need to ascertain for what purpose the Member is requesting the information. Elected Members have up to three roles:
1. **Acting as a Member**
Members have the same rights of access to personal data as staff when acting in this role. Staff should ensure that Members need the personal data to carry out their official duties and when releasing the information should specify the purpose(s) for which the personal data may be used or disclosed.
 2. **Acting on behalf of local residents**
Staff do not, generally, need to obtain the individuals consent to disclose their personal data to a Member if:

- The Member represents the ward in which the individual lives; and
- The Member makes it clear that they are representing the individual when requesting the personal data; and
- The information is necessary to respond to the individual's complaint or requests.

Otherwise, Members must obtain consent from the data subject before any personal data is released.

3. Acting for political purposes

Personal data should not be released for political purposes without the individual's consent. Exceptions to this:

Personal data which the council is required by law to make public for that purpose.

Personal data presented in a form which does not identify any living individuals, for example statistical information or council tax band information and any other information that cannot be linked to the individual concerned, for example by comparing data to the electoral register.

Disposal of personal data

- 6.13 Personal data must be disposed of securely.
- 6.14 **Paper records** must be shredded. If an outside company is used they must be data protection compliant and a certificate of shredding must be obtained when the information is shredded.
- 6.15 **Electronic records** must be removed permanently. Just because it is not visible on the screen does not mean it is not still recoverable.
- 6.16 Information Asset Owners are responsible for ensuring that staff follow their retention schedule when disposing of personal data.

Dealing with data subject requests

- 6.17 Individuals (data subjects) have rights over their personal data held by the council on computer and paper records.

6.18 Data subjects are entitled to:

- Know what information is being processed and why.
- Have information about them erased (be forgotten).
- Object to direct marketing and automated decisions.
- Be told about automated profiling.
- Obtain information about decision making.
- Data portability – consent or contract.
- Have information about them rectified – if inaccurate.
- The right to restrict or object to processing – inaccurate/unlawful.
- The right to withdraw consent.

The council will respond to a data subject request without undue delay and at the latest within one calendar month of receipt. Where we require proof of the data subject's identity, the timescale for responding will not begin until the requested information has been received. In certain circumstances where requests are complex, it may be possible to extend the time to respond by a further two months.

6.19 In certain circumstance the council may charge a reasonable fee or refuse a data subject request where it is manifestly unfounded, excessive or repetitive.

6.20 Data subject requests should be logged via the self service portal on the council website or made in writing and posted to the council offices.

Data protection breaches

6.21 Any **breach of security** leading to or which is likely to lead to accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed must be reported to your line manager or the Information Asset Owner immediately and the process for breach reporting in the Information Security Policy followed.

6.22 In all cases a data breach incident form will be completed by the Information Asset Owner and sent to the SPoC. Where these are assessed as low risk they will be reported internally to the Information Governance and Security Board. Where they are

reported as high risk, the SIRO in consultation with the Data Protection Officer shall report breaches to the Information Commissioner within 72 hours in accordance with current Data Protection Legislation and any guidance issued by the Information Commissioner.

Section seven - Sharing persona data and processing of personal data by third parties

Data transfers

The council will only transfer any personal data we hold to a third party outside the UK, if the country to which the personal data is transferred ensures an adequate level of protection for the data subjects' rights and freedoms, or if an appropriate safeguard is in place between the council and the third party.

7.1 To share personal data and/or special categories of data for another purpose it must be done lawfully.

Internal one off requests for personal data

7.2 Staff requesting personal data must do so in writing and demonstrate that the personal data is necessary and that the sharing is lawful. Staff receiving requests must be satisfied that the sharing is lawful before any personal data can be released. A record of the personal data released, together with the legal basis for sharing, shall be kept by the Information Asset Owner to demonstrate compliance with the data protection legislation.

Regular or bulk transfers of personal data and special categories of data

7.3 In many instances the council shares data with other internal departments and external organisations on a regular basis. For instance, the council's shares personal data with third party services providers, the police or other councils as part of a joint initiative such as domestic violence and homelessness.

7.4 Although there may be a statutory requirement placed on the council to transfer data, the council is the controller and is responsible for demonstrating

compliance with data protection legislation. It is the responsibility of the Information asset owners to ensure that appropriate data processing and/ or sharing agreements are in place.

- 7.5 The council recommends that all staff read the Information Commissioners Office advice and guidance to ensure that they comply with legislation.

If you require assistance please contact One Legal email: legalservices@teWKesbury.gov.uk

- 7.6 Information Asset Owners will be responsible for ensuring that copies of the data sharing/processing agreement are sent to the SIRO and are regularly reviewed and kept up to date.

Copies of data sharing and processing agreements will be held by the SIRO.

Section eight - Specific uses

Processing of criminal convictions

- 8.1 Under data protection legislation there are specific rules regarding the processing of personal data relating to criminal convictions and offences. This includes:

- Criminal activity.
- Allegations.
- Investigations.
- Proceedings.

Such data will only be processed by the council where we have official authority i.e we have a public sector task laid down by law, or where the processing is authorised by law. This means that we must meet one of the conditions set out in Schedule 1 of the Data Protection Act 2018. Advice should be sought from One Legal to determine if these conditions are met

Law enforcement processing

CCTV systems and data

- 8.2 The council CCTV policy states that any system operator (Service Manager) who has the responsibility

for a CCTV scheme must have a scheme specific code of practice in place before it becomes operational or within six months of the approval of this policy.

- 8.3 This code of practice will provide the guidance for complying with the requirements of the data protection legislation in respect of the use and operation of these systems.

- 8.4 The current CCTV codes of practice are available on the council's website.

Direct marketing

- 8.5 Direct marketing means the communication (by whatever means) of any advertising or marketing material which is directed to particular individuals.

Genuine market research does not count as direct marketing. However, if a survey includes any promotional material or collects details to use in future marketing campaigns, the survey is for direct marketing purposes and the rules apply.

The council will not participate in direct marketing practices without:

- Explicit consent from the data subject, or
- A legitimate interest reason

All individuals must be given the opportunity to opt-in to receive material at the point of data collection.

Even where legitimate interests or explicit consent has been established, all correspondence must include opt-out options.

Data sharing for public service delivery, debt recovery and fraud investigations

- 8.6 Information Asset Owners will be responsible for ensuring that copies of the data sharing/processing agreement are sent to the SIRO and are regularly reviewed and kept up to date.

Copies of data sharing and processing agreements will be held by the SIRO.

Section nine - Complaints about data protection matter

Where a complaint is made alleging that the council has not complied with the statutory rights of a data subject, an investigation or review will be carried out by the SPoC, in conjunction with the Data Protection Officer.

Any complainant who is dissatisfied with the outcome or the manner in which their complaint was handled, may make a complaint under the council's formal complaints policy.

Complainants will also be made aware of their right to complain to the Information Commissioners Office (ICO).

Section ten - Monitoring and review

10.1 The Data Protection Officer will monitor this policy on an annual basis.

10.2 The SIRO will review this policy on a regular basis taking into account the advice of the Data Protection Officer.

Definitions

Controller	The person who determines the manner in which personal data is held and processed by the council.
Processor	The person who processes the data on behalf of the data controller.
Data subject	The person/ individual to whom the data relates.
Personal data	Any information relating to an identifiable person who can be directly or indirectly identified in particular by reference to an identifier.
Special categories of data	Information relating to the racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.
Processing data	Includes collecting, recording, use, organising, structuring, storing, adaptation or alteration, retrieval, consultation, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
Data protection legislation	(i) The UK General Data Protection Regulation (Regulation EU 016/679), the Law Enforcement Directive (Directive EU 2016/680) The Privacy and Electronic Communications (EC Directive) regulations 2003, Digital Economy Act 2017 and any applicable national implementing Laws as amended from time to time, (ii) The Data Protection Act 2018 subject to Royal Assent to the extent that it relates to Processing of personal data and privacy, (iii) all applicable laws relating to personal data and privacy.
Identifiers	Information that can distinguish an individual from other individuals, such as a name, identification number, location data or online identifier e.g. IP address.

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	7 June 2023
Subject:	Response to the Technical Consultation on the Infrastructure Levy 2023
Report of:	CIL Manager and Planning Policy Manager
Head of Service/Director:	Head of Development Services
Lead Member:	Lead Member for Built Environment
Number of Appendices:	One

Executive Summary:

In March 2023 the government published, for consultation, a proposed reform to the existing system of developer contributions – Section 106 planning obligations and the Community Infrastructure Levy – in England. It sets out a number of proposed changes to the current system.

The changes are designed to supplement the legislative changes effecting planning reform currently emerging through the Levelling Up and Regeneration Bill (LURB), which itself is expected to receive Royal Assent this year.

The consultation responses to the Department for Levelling Up Housing and Communities (DLUHC) will inform the preparation and content of changes to regulations, which will themselves be consulted on further, should the LURB receive Royal Assent this year.

The government wants to reform the current system to make sure that local authorities receive a fairer contribution from the money that typically accrues to landowners and developers. Increasing this contribution would provide the much-needed funding for infrastructure that results from development, such as: Affordable housing; schools; GP surgeries; green spaces; and transport infrastructure to support connectivity. The overall aim of the proposed reforms is to change the way in which contributions for infrastructure are collected to become a mandatory, more streamlined system.

The proposed Infrastructure Levy intends to create a more efficient system by removing the negotiation of some Section 106 planning obligations (“s106”) and, in so doing, increasing transparency as Levy charging schedules will make the expected value of a contribution clear up-front. It will also help to provide clarity to existing and new residents what new infrastructure will accompany development; and to developers what infrastructure will be required to make development acceptable. The Government intends to create a more consistent system, which synchronises infrastructure delivery with development delivery.

As part of the consultation, a set of 45 specific questions have been published.

The consultation sets out proposals that would have an impact on the way in which developer contributions are calculated and collected in Tewkesbury Borough. It is therefore important that a response is made to these proposals. Recommended responses from Tewkesbury Borough Council to each of these questions is set out in Appendix 1 to this report.

However, as set out in the main body of the report, there are some key proposed changes and overarching concerns which relate to the lack of clarity and detail contained within the proposals and the assumption of risk through borrowing by local authorities. As such officers would recommend the suggested formal response to the 45 questions be preceded by appropriate text setting out more general key concerns.

The deadline for responding to this consultation is Thursday 9th June 2023.

Recommendation:

1. **That the proposed responses to the Technical Consultation on the Infrastructure Levy, set out in Paragraph 3.3 of this report and at Appendix 1, are APPROVED by the Executive Committee to be formally submitted as Tewkesbury Borough Council's response to the consultation.**
2. **That authority is delegated to the Head of Development Services, in consultation with the Lead Member for Built Environment, to make any necessary minor amendments to the response prior to submission.**

Financial Implications:

No direct impacts at this stage, but proposals in the consultation could lead to further changes in legislation and regulation which will have financial implications.

Legal Implications:

No direct impacts at this stage, but proposals in the consultation could lead to further changes in legislation and regulation that will require further consideration when consulted upon.

Environmental and Sustainability Implications:

No direct impacts at this stage, but proposals in the consultation could lead to further changes in legislation which will have an impact on Environmental and Sustainability outcomes.

Resource Implications (including impact on equalities):

No direct impacts at this stage, but proposals in the consultation could lead to further changes in legislation which place additional requirements on the Council and have resource implications, particularly regarding officer time. An Equality Impact Assessment is not required at this stage.

Safeguarding Implications:

None.

Impact on the Customer:

None.

1.0 INTRODUCTION

- 1.1 The government has for some time been reviewing how the planning system should be improved in England to boost housebuilding, provide supporting infrastructure, and ensure communities have a stronger say in where homes are built and what they will look like.
- 1.2 The Secretary of State published a Written Ministerial Statement on 6 December 2022, stating that a new National Planning Policy Framework (NPPF) “Prospectus” was to be published, which would be followed by a number of related consultations to complement measures being introduced through the new Levelling Up and Regeneration Bill (LURB), including the introduction of a National Infrastructure Levy.
- 1.3 Accordingly, the Technical Consultation on the Infrastructure Levy (IL) was published on 17 March 2023. Of particular note is that the proposed IL is conceptually different from the existing system by which developer contributions are sought in England via s106 Agreements with local authorities also optionally choosing to adopt a Community Infrastructure Levy (CIL) to raise additional funding.
- 1.4 The consultation published two separate documents:
- [Technical consultation on the Infrastructure Levy](#) – this is arranged over seven chapters and sets out the design, the approach to charges, collection of the levy, the delivery of infrastructure and proposed changes to the delivery of affordable housing. Comments are invited in response to 45 specific questions.
 - A policy research report [Exploring the potential effects of the proposed Infrastructure Levy](#) a 303 page document published alongside the consultation, the study was undertaken to provide insight into how the Infrastructure Levy might work in practice. Working with six local authorities, illustrative and hypothetical models have been considered to inform the evolution of the proposed reforms set out within the technical consultation.

Responses are required to be submitted to the Department of Levelling Up, Housing and Communities (DLUHC) by the deadline of 9 June 2023.

- 1.5 The consultation covers a very wide range of technical and complex measures. This report summarises the key proposals and is accompanied, at Appendix 1, by suggested response to the individual consultation questions.

2.0 SCOPE AND DETAIL OF THE CONSULTATION

- 2.1 New development often creates a need for infrastructure and it is therefore imperative that these are planned for alongside growth and development. It is widely established that contributions from developers, which are secured by capturing a proportion of the uplift in the value of land generated by the granting of planning permission, are a key tool in mitigating the impacts of new development.

Under the current system, there are two broad routes for local authorities to secure developer contributions. Planning obligations, through Section 106 agreements, are negotiated with developers, and the Community Infrastructure Levy (CIL) is a fixed charge levied on the floorspace of a new development based on viability assessment undertaken in the creation of the charging schedule, before permission is granted or development takes place.

However, the government is concerned that planning obligations are subject to negotiation (and can be subject to subsequent renegotiation), which can be lengthy, ambiguous and can create uncertainty over the level of infrastructure and affordable housing that will be delivered. The concern is over not only whether this system is meeting arising needs but whether it is also leading to delays following the granting of planning permission.

The government believes that it should address these issues and reconsider how value is captured from new development creating what they believe will be a simpler, non-negotiable, and streamlined system that can capture more value and provide better outcomes for communities.

- 2.2** The consultation is seeking views on both the principles employed and some technical aspects of the proposed design of the Infrastructure Levy which are wide ranging and detailed. Whilst Appendix 1 sets out proposed responses to the individual questions, the following are highlighted as being areas of significant change to the current system which are of concern.

In a similar vein to the recent Planning Prospectus and NPPF consultation, the proposed Infrastructure Levy is confusingly interlinked with and/or overlaps other reforms being promoted through the LURB and will require further legislative changes and consultation.

This consultation is based on a hypothesis-based scenario test of the proposed new system. Different technical terminology is introduced, and, without further detail, it is potentially high risk to offer unqualified support. It is difficult to gain an understanding of how it will work in practice without further information as it is presented as a set of ideas for comment rather than a detailed proposal for imminent reform. These ideas are as follows:

Application - The Levy will be a **mandatory** charge.

Unlike the Community Infrastructure Levy, it will be mandatory for local authorities to establish and apply the charge. The Secretary of State for DLUHC will also have the powers to intervene in the preparation of National Infrastructure Levy charging schedules in certain circumstances.

Terminology - Route Pathways

‘Integral Infrastructure’ is the new terminology for ‘site-specific infrastructure’ that is integral to the successful functioning/mitigation of the impact of a development site. Integral Infrastructure would include: site access roads; sustainable urban drainage schemes; on-site or off-site play areas; cycle parking; electric vehicle charging points; carbon reduction measures; biodiversity net gain, street trees and public open space; as well as highway contributions, for example, secured under Section 278 (Highways Act 1980) or Section 38 agreements regarding the adoption of new roads. The intention is that integral infrastructure would be delivered via planning conditions or ‘targeted’ planning obligations to be known as **‘delivery agreements’**. It is unclear how this differs from current S106 of the Town and Country Planning Act 1990 agreements, but this still suggests that there will be a role for a S106 ‘routeway’ on certain schemes and ‘delivery agreements’ will take place where integral infrastructure cannot be conditioned.

‘Strategic infrastructure’ would then be delivered via the Infrastructure Levy. This levy-funded infrastructure mitigates the cumulative impact of new development on the local area. This infrastructure is to be planned and prioritised by local authorities in a new document – the **‘Infrastructure Delivery Strategy’** which is covered below, this is termed **‘Levy Funded Infrastructure’**.

Where infrastructure is delivered in-kind it would be subject to a '**levy backstop amount**' to ensure that any shortfall in the value of the infrastructure delivered in-kind is made up to the full Infrastructure Levy liability with cash.

Levy Charging and '**Gross Development Value**'

The levy would be charged as a percentage of the value of the property at completion (Gross Development Value (GDV)), unlike CIL which is currently charged on a set £ per square metre basis usually on commencement of development, and based on a viability assessment undertaken as part of the creation of the charging schedule, before permission is granted or development takes place.

Levy rates would be set by Local Planning Authorities in their role as charging authorities. When setting rates, charging authorities would have to consider a number of factors, including: the housing needs; the viability of development in the area; and the need to set rates at a level that can deliver affordable housing at a level equalling or exceeding what developers deliver now in that area.

The focus on calculating the end value of development rather than floorspace increases the risk of potential changes in values due to economic cycles. For example, longer term strategic developments may take decades to complete, values may increase or decrease but it would be the Local Authority who will bear the risk of future returns for the reasons set out in the section below.

Local Authority '**Borrowing**'

The proposal is for Local Planning Authorities to be able to borrow against future IL receipts to support the delivery of infrastructure alongside development. Legislation requires that they only borrow when they can afford to do so. In borrowing against IL proceeds, local authorities will be able to make use of the Public Works Loan Board (PWLB) facility. The normal rules for borrowing from the PWLB will apply, whereby the facility can support local authority capital spending provided that capital spending has a policy objective (in other words, is not for the purpose of generating a monetary return), and that it is within the Prudential Framework. **THE RISK** is where authorities are reliant on forecast revenue streams to afford debt if those revenue streams do not materialise or are less than forecast. Question 21 of the technical consultation, set out in Appendix 1, seeks views on borrowing against Infrastructure Levy proceeds. The consultation also seeks views on how an early payment mechanism might operate at questions 21-23, to provide local authorities with earlier access to capital. Officers are concerned that there is no guarantee of payment in full to cover the cost of potential borrowing. At present, without further details on how this would work in practice, it is difficult to not only evaluate the risk but also understand the potential implications.

Affordable Housing - the '**Right to Require**'

On-site affordable housing would be delivered predominantly as an in-kind payment of the Levy through a new 'right to require' level set within the charging schedule instead of through S106 negotiation, on the basis of Local Plan policy. This would see a percentage of the Levy value delivered in-kind by developers as on-site affordable housing or if not on-site as an increased Levy contribution. The 'right to require', and the rest of the Levy receipts will be able to be used to secure affordable tenures such as Social Rent homes, Affordable Rent homes, Shared Ownership homes and First Homes. The amount of affordable housing that a local planning authority can secure through the 'right to require' will depend on the tenure type. It is unclear at this stage how this will be set out in policy, however there will be a role for the Local Plan to determine the level and viability of affordable housing within future site allocation policies. As an example, where there is a demonstrable need for housing of a particular tenure, a steeper discount from the market rate may be applied and the local authority should expect to secure fewer units through the right to require. The government intend the IL to be adaptable to any potential policy changes around affordable housing tenure types in the future.

‘Infrastructure Delivery Strategy’ & Charging Schedules

Local Planning Authorities would develop an Infrastructure Delivery Strategy (IDS). The IDS would be a replacement for the current Infrastructure Delivery Plan (IDP) which underpins the Local Plan, CIL charging and the current annual Infrastructure Funding Statement (IFS). Chapter 4 of the technical consultation sets out the proposed content of the IDS. The IDS will set out levy-funded infrastructure which may include: Healthcare; schools; strategic green infrastructure; sports facilities; and transport improvements, for example. The IDS would set out a ‘**spending plan**’ which would replace elements, in particular the Infrastructure List, of the IFS. This could also go further to include information about the authority’s approach to affordable housing, including the tenure mix. Question 27 of the consultation seeks views on the content of the spending plan. Like CIL the Infrastructure Levy would be required to undergo examination in public, for the evidence underpinning the rates to be adopted to be tested. Officers are of the view that this is potentially a streamlining of the current processes now in place, which is welcomed, but more guidelines are needed to set out the clear expectations by the government.

One important aspect, that remains uncertain, is that the LURB provides for the levy to be spent on non-infrastructure matters like social care and free childcare. This is a **CONCERN** given recent announcements in the Budget about expanding childcare and could divert funding away from key infrastructure.

Transitional Arrangements

There is a proposed ‘**test and learn**’ roll out starting in 2025 following Royal Assent of the LURB, although consideration of consultation responses, the drafting of new regulations and consultation on that draft will need to take place, there is an overall target for full roll out from 2030.

3.0 ASSESSMENT AND PROPOSED RESPONSE

3.1 Although the consultation sets out proposed changes to the way in which developer contributions would be secured, fundamentally the nature of the way in which the assessment of need, viability, and the broad approach to the collation of developer contributions would remain. Many proposals appear to be just the renaming of existing processes which are in place via S106 and CIL and there would continue to be a neighbourhood share of Levy receipts. As a result, the proposed IL should not affect the Council’s broad approach to plan-making more widely.

3.2 Nevertheless, the package of proposed measures would be significant in terms of the practical operation of an infrastructure levy and Appendix 1 sets out proposed responses to each of the 45 detailed technical consultation questions.

More fundamentally, officers have two overarching concerns with the proposals, namely that insufficient detail is provided to give confidence over how the system would work in practice, and that the local authorities would be exposed to unacceptable financial risk.

3.3 It is therefore being recommended that the following overarching paragraphs be submitted alongside the detailed comments in Appendix 1 to form part of the consultation response:

- The consultation lacks detail and until this is provided and legislation emerges which may be assessed, it is not possible to conclude that the proposals would deliver the improvements over the current system that is suggested in the consultation; and
- The area of greatest unknown risk is the proposal for local authority borrowing against future levy receipts, shifting the risk of development return from the developer to the local authority. There is no guarantee of payment in full to

cover the cost of potential borrowing. This represents an unacceptable risk which would mean it would not be possible to deliver necessary strategic infrastructure alongside development. At present, without further detail of how this would work in practice, it is not possible to evaluate the risk(s) and understand the potential implications this would have for the council.

4.0 CONSULTATION

4.1 None.

5.0 ASSOCIATED RISKS

5.1 None.

6.0 MONITORING

6.1 The outcomes of the government's consultation will be carefully monitored and incorporated as necessary in the Council's plan-making and related functions.

7.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES

7.1 Tewkesbury Borough Council Plan 2020 – 2024.
Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031.
Tewkesbury Borough Plan 2011 – 2031.

Background Papers: None.

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Appendices: 1 – Draft Response to the Infrastructure Levy Technical Consultation Questions.

Appendix 1 – Draft Response to Infrastructure Levy Technical Consultation

Questions	Proposed response
<p>Question 1: Do you agree that the existing CIL definition of 'development' should be maintained under the Infrastructure Levy, with the following excluded from the definition:</p> <ul style="list-style-type: none"> - developments of less than 100 square metres (unless this consists of one or more dwellings and does not meet the self-build criteria) – Yes/No/Unsure - Buildings which people do not normally go into - Yes/No/Unsure - Buildings into which peoples go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery - Yes/No/Unsure - Structures which are not buildings, such as pylons and wind turbines. Yes/No/Unsure <p>Please provide a free text response to explain your answer where necessary.</p>	<p>No: Tewkesbury Borough Council (TBC) disagree with excluding developments of less than 100 sqm from the definition, they are 'development' but are exempt from CIL as 'Minor Development' in Regulation 42. TBC agrees with maintaining the assertion that 'one or more dwellings' irrespective of size is chargeable development and would prima facie be chargeable. Officers do not agree that if a dwelling meets the self-build criteria it should be excluded from the definition of development. A self-build extension, annexe or whole dwelling is defined as 'development' that may be eligible for exemption under Regulation 42 (no claim required) or for relief (which must be claimed) under Regulations 42A,B and C, Regulations 54A,B,C and D respectively.</p> <p>There needs to be a clear distinction between the definition of 'development' and 'chargeable development' in the legislation for the purposes of CIL and in the future Infrastructure Levy.</p> <ul style="list-style-type: none"> - Yes. Buildings which people normally go into. - Yes. Buildings for plant/machinery. - Yes. Structures which are not buildings.
<p>Question 2: Do you agree that developers should continue to provide certain kinds of infrastructure, including infrastructure that is incorporated into the design of the site, outside of the Infrastructure Levy? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.</p>	<p>Yes: Consideration should be given for the continuation of S106 for 'integral infrastructure' and 'infrastructure that is necessary in planning terms' in addition to the Infrastructure Levy.</p>
<p>Question 3: What should be the approach for setting the distinction between integral and Levy-funded infrastructure? [see para 1.28 for options a), b), or c) or a combination of these]. Please provide a free text response to explain your answer, using case study examples if possible.</p>	<p>'Attributable' v 'Cumulative' Impacts and Requirements should be assessed. C sets principles and typologies are set locally, integral or site specific and cumulative impacts to determine infrastructure will be needed alongside the development of an emerging Local Plan, viability tested and tested via examination through the Infrastructure Delivery Strategy,</p>

<p>Question 4: Do you agree that local authorities should have the flexibility to use some of their levy funding for non-infrastructure items such as service provision? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.</p>	<p>Unsure. The definition of service provision is unclear and could be open to interpretation. The current system is clear in that monies sought should be related to the development. Service provision is broad and ambiguous, further clarification and guidance is welcomed on the parameters of flexibility that could be in place for local authorities.</p>
<p>Question 5: Should local authorities be expected to prioritise infrastructure and affordable housing needs before using the Levy to pay for non-infrastructure items such as local services? [Yes/No/Unsure]. Should expectations be set through regulations or policy? Please provide a free text response to explain your answer where necessary.</p>	<p>No. The prioritisation of infrastructure is a local decision, based on evidence, which can be decision which can be determined through the Local Plan process, in consultation with the public, developers and key stakeholders. It should not be prioritised nationally but left for local authorities to decide, based on a robust baseline assessment of needs.</p>
<p>Question 6: Are there other non-infrastructure items not mentioned in this document that this element of the Levy funds could be spent on? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.</p>	<p>No. All infrastructure needs should be robustly needs assessed to inform and justify both the collection and spending of Levy funds.</p>
<p>Question 7: Do you have a favoured approach for setting the 'infrastructure in-kind' threshold? [high threshold/medium threshold/low threshold/local authority discretion/none of the above]. Please provide a free text response to explain your answer, using case study examples if possible.</p>	<p>Unsure. Infrastructure requirements 'in kind' can differ on a site by site basis, without further clarity and detail of what is the justification of the proposed thresholds or how this would work in practice, a preference cannot be provided given by the council without further evidence.</p>

<p>Question 8: Is there anything else you feel the government should consider in defining the use of s106 within the three routeways, including the role of delivery agreements to secure matters that cannot be secured via a planning condition? Please provide a free text response to explain your answer.</p>	<p>S106 should be retained for all requirements that meet the tests in Reg 122 and that a clear distinction should then be made between S106 and the Levy which is raised for the purposes of providing funding for infrastructure which arises as a result of the cumulative impact of development (all development over the plan period) and determined at examination/adoption of the Local Plan.</p>
<p>Question 9: Do you agree that the Levy should capture value uplift associated with permitted development rights that create new dwellings? [Yes/No/Unsure]. Are there some types of permitted development where no Levy should be charged? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.</p>	<p>Yes: Agree that the levy should capture the uplift in land value associated with PD rights by way of general consents and would recommend maintaining the requirement to submit a Notice of Chargeable Development in such cases. NO: The Council does not agree there are any types of PD that should not prima facie be charged, on the understanding that deductions, exemptions and reliefs to be claimed will be retained.</p>
<p>Question 10: Do you have views on the proposal to bring schemes brought forward through permitted development rights within scope of the Levy? Do you have views on an appropriate value threshold for qualifying permitted development? Do you have views on an appropriate Levy rate 'ceiling' for such sites, and how that might be decided?</p>	<p>Without further clarity and detail, it is unclear what is the justification of the proposed thresholds or how this would work in practice, a preference cannot be provided at this stage.</p>
<p>Question 11: Is there is a case for additional offsets from the Levy, beyond those identified in the paragraphs above to facilitate marginal brownfield development coming forward? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary, using case studies if possible.</p>	<p>No. This should be locally, there is a role for the viability evidence which underpins the Local Plan process to evaluate different offsets in lower value areas but with higher levels of brownfield land and regeneration areas. If supported by evidence, higher offsets could be identified through policies within a Local Plan either on a site basis or identified areas within the Planning Authority.</p>

<p>Question 12: The government wants the Infrastructure Levy to collect more than the existing system, whilst minimising the impact on viability. How strongly do you agree that the following components of Levy design will help achieve these aims?</p> <ul style="list-style-type: none"> - Charging the Levy on final sale GDV of a scheme [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] - The use of different Levy rates and minimum thresholds on different development uses and typologies [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] - Ability for local authorities to set 'stepped' Levy rates [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] - Separate Levy rates for thresholds for existing floorspace that is subject to change of use, and floorspace that is demolished and replaced [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] 	<ul style="list-style-type: none"> - Disagree. Final sale GDV. - Unsure. - Differentiation. Agree. - Stepped rates. A preference cannot be given by the council without further evidence provided. - COU and Demo/Replaced. Disagree.
<p>Question 13: Please provide a free text response to explain your answers above where necessary.</p>	<p>The current CIL Reg. 40, Schedule 1 deductions have a devastating impact on CIL income as no levy is often chargeable. Examples include - Regeneration projects where low value but extensive floorspace businesses such as warehouses or showrooms are replaced with high value residential, hotel and retail; and Barn Conversions where agricultural buildings are demolished or re-used.</p>
<p>Question 14: Do you agree that the process outlined in Table 3 is an effective way of calculating and paying the levy? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.</p>	<p>No. Without further clarity and detail, it is unclear how this would work in practice, a preference cannot be provided at this stage.</p>
<p>Question 15: Is there an alternative payment mechanism that would be more suitable for the Infrastructure Levy? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.</p>	<p>No. Without further detail, a preference cannot be provided at this stage.</p>
<p>Question 16: Do you agree with the proposed application of a land charge at commencement of development and removal of a local land charge once the provisional levy payment is made? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary</p>	<p>Yes. To 'on commencement'; however No. To removing the Local Land Charge once provisional levy payment is made as non-payment/debt collection could remain an issue until all charges are received.</p>

<p>Question 17: Will removal of the local land charge at the point the provisional Levy liability is paid prevent avoidance of Infrastructure Levy payments? [Strongly Agree/Agree/Neutral/Disagree/ Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.</p>	<p>Disagree. The council disagrees with the proposed removal as, the avoidance of significant payments will still occur after payment and the motivation to pay an outstanding CIL charge currently comes when an outstanding local land charge is revealed on a Solicitors search on behalf of a purchaser.</p>
<p>Question 18: To what extent do you agree that a local authority should be able to require that payment of the Levy (or a proportion of the Levy liability) is made prior to site completion? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure]. Please explain your answer.</p>	<p>The council agrees. Despite the focus of the changes to the Levy which appear to support the cashflow of developers and place the financial risk on Local Authorities, trigger points and phasing should be retained from the practice in S106 agreements to align payment of the Levy prior to completion. Whilst it is the proposals intention for Local Authorities to attain loans for infrastructure upfront, payment of the Levy should be made upfront to ensure the timely delivery of community infrastructure with housing growth but also to reduce risk and avoid interest and other costs to Local Authorities.</p>
<p>Question 19: Are there circumstances when a local authority should be able to require an early payment of the Levy or a proportion of the Levy? Please provide a free text response to explain your where necessary.</p>	<p>The current CIL Levy system imposes Surcharges and requires early payment where there is a breach of procedure. The retention of the ability to require early payment of the Levy is welcomed.</p>
<p>Question 20: Do you agree that the proposed role for valuations of GDV is proportionate and necessary in the context of creating a Levy that is responsive to market conditions [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.</p>	<p>No. There is insufficient detail within the consultation for the council to provide a full response to this question. The intention of the proposed Levy is that it will be charged on the value of a property on completion of sale, with minimum thresholds being set locally. The rates will be set as a percentage of gross development value rather than the current CIL, which is a charge fixed, based on the basis of costs and values evidence, prior to the consent for or commencement of development floorspace. It is unclear how this will enable local authorities to more accurately forecast revenue as changes to the market may result in lower than expected revenues as well as potentially higher. Local Authorities would have to bear the risk to fund high infrastructure costs, without the certainty of fixed repayments. In areas of low development value, the Local Authority could effectively be paying for infrastructure on loan, without recouping the costs. Without further detail and certainty, a full response cannot be provided, however Tewkesbury Borough Council would highlight significant concerns about how infrastructure will be funded and a risk of shortfall.</p>

<p>Question 21: To what extent do you agree that the borrowing against Infrastructure Levy proceeds will be sufficient to ensure the timely delivery of infrastructure? [Strongly Agree/Agree/Neutral/ Disagree/Strongly Disagree/Unsure]. Please provide a free text response to explain your answer where necessary</p>	<p>Strongly disagree. Without further detail officers cannot comment on this question in full. This risk of this change is so significant that without further detail, estimating how borrowing the proceeds of development will be sufficient to ensure both infrastructure is delivered, and/or that costs will be recouped, it is not possible to answer this question fully. Local Authorities will bear the risk of front loading the cost, without certainty of repayment. The scale of infrastructure costs identified in existing funding gap analysis undertaken as part of a review of the CIL charging schedule of Tewkesbury Borough Council, and partners in the JCS, suggest that unless such borrowing is underwritten by central government it will be impossible for local authorities, such as district councils, to assume the required level of financial exposure.</p>
<p>Question 22: To what extent do you agree that the government should look to go further, and enable specified upfront payments for items of infrastructure to be a condition for the granting of planning permission? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.</p>	<p>Strongly Agree. Payment terms should be clearly set out as a condition to the granting of planning permission.</p>
<p>Question 23: Are there other mechanisms for ensuring infrastructure is delivered in a timely fashion that the government should consider for the new Infrastructure Levy? [Yes/No/Unsure] Please provide free text response to explain your answer where necessary.</p>	<p>Unsure. The proposed delivery agreements seem to duplicate the existing role of current S106 agreements. For on-site 'right to require' Affordable Housing this would be necessary but not necessarily better than existing system that is in place, instead introducing duplication which will undermine the objective of achieving greater efficiency.</p>
<p>Question 24: To what extent do you agree that the strategic spending plan included in the Infrastructure Delivery Strategy will provide transparency and certainty on how the Levy will be spent? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree] Please provide a free text response to explain your answer where necessary.</p>	<p>Neutral. The Local Plan's and Infrastructure Delivery Strategy, including the strategic spending plan is intended to set the basis for charging. The Infrastructure Strategy will replace Infrastructure Delivery Plans and some elements of end of year Infrastructure Funding Statements. The statements. Both the former and proposed requirement to submit the Infrastructure Delivery Strategy to Examination in Public alongside the Local Plan will increase transparency. However, the documents will be examined prior to adoption, which will be a transparent. The complexity in determining Infrastructure costs and requirements such as Education, GP surgeries and NHS provision relies on third party evidence which will also need to be certain and transparent. Tewkesbury Borough Council would welcome further guidance/requirements for other departments, such as Health, Education and Transport to be linked to the proposed CIL reforms, for the preparation of IL charging schedules, particularly with Local Plans and their Infrastructure Delivery Strategy.</p>

Question 25: In the context of a streamlined document, what information do you consider is required for a local authority to identify infrastructure needs?	As referred to in Q24 officers would welcome further guidance/requirements for other governmental departments to align growth and investment plans to emerging Local Plans, which includes the plan period.
Question 26: Do you agree that views of the local community should be integrated into the drafting of an Infrastructure Delivery Strategy? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.	Yes. Infrastructure Delivery Plans are already consulted on as part of emerging Local Plans. In terms of the baseline assessments, audits and consultations, such as Parish Services Surveys, already underpin Local Plan evidence. Consultation and engagement is key to the existing process of developing an IDP. However, decisions on what is needed and spent should remain to be based on evidence and justified.
Question 27: Do you agree that a spending plan in the Infrastructure Delivery Strategy should include:	Yes. please see a detailed response below;
- Identification of general integral infrastructure requirements	Agreed. Supported by evidence and justification of baseline and future needs assessment.
- Identification of infrastructure/types of infrastructure that are to be funded by the Levy- Prioritisation of infrastructure and how the Levy will be spent	Agreed. In principle, though the discretion to be flexible provided by the current requirement to identify Infrastructure that “may”, “wholly or partly” be funded from CIL/IL on the Infrastructure List is essential to allow decisions on competing priorities where the demand for funding outstrips the supply and where choices may be made, mid plan, to adopt an alternative solution to an infrastructure requirement. For example the approach of ‘demand management’ rather than ‘predict and provide’ in relation to highways.
- Approach to affordable housing including right to require proportion and tenure mix	Agreed. Supported by evidence and justification of baseline and future needs assessment.
- Approach to any discretionary elements for the neighbourhood share	Agreed. If justified, for example there could be an option for neighbourhood shared to be pooled, in consultation with neighbourhood bodies, across neighbourhoods. Agree, if justified by evidence.
- Proportion for administration	Disagree. If the proportion permitted for administration is to be set in regulations, as it currently is for CIL in Reg 61 then this would not be necessary. This answer assumes that a progress/monitoring report would still be required in some form annually to report on income and expenditure from the various sources against the IDS spending plan.
- The anticipated borrowing that will be required to deliver infrastructure	Agreed. If borrowing is required but please see critical concerns expressed in response to Q21 to the proposal.
- Other – please explain your answer	None.
- All of the above	N/A
Question 28: How can we make sure that infrastructure providers such as county councils can effectively influence the identification of Levy priorities?	Through both connecting the timeframes of the long term planning of other government departments over a 15 year timeframe and encourage ongoing engagement of infrastructure providers through the Local Plan process.

- Guidance to local authorities on which infrastructure providers need to be consulted, how to engage and when	Disagree. Guidance and policy should not just be for Local Authorities to consult with providers. The requirement should go further so that policy crosses government departments to ensure that infrastructure is planned for over a 15 – 30 year period.
- Support to county councils on working collaboratively with the local authority as to what can be funded through the Levy	Support would be welcomed, not just to county councils but also to the local authorities in their role as charging (and collecting) authorities and to all providers such as the Health Sector, Canals and Waterways Trust and the Environment Agency. It would be helpful if it was clear what can and cannot be funded through the Levy.
- Use of other evidence documents when preparing the Infrastructure Delivery Strategy, such as Local Transport Plans and Local Education Strategies	Under the current system the Infrastructure Delivery Plan is prepared alongside the development of a Local Plan and takes into account all infrastructure provider's strategies. The coordination of the delivery of infrastructure requirements with planned development would benefit from timeframes and requirements of these strategies being aligned across government departments, for example a Local Education School Places Strategy is for the period 2021 - 2026 and Drainage and Wastewater Management Plan is for the period 2025 – 2085.
- Guidance to local authorities on prioritisation of funding	Disagree. The prioritisation of funding requires engagement with all consultees through both public consultation and examination, based on robust evidence and determined locally.
- Implementation of statutory timescales for infrastructure providers to respond to local authority requests	Agree. As there are already statutory timescales for infrastructure providers to respond to Local Plan consultations. Tewkesbury Borough Council's experience has been that there have been no issues or concerns on the response within statutory timescales. The issue that remains is on the variety of timeframes of the plans of multiple infrastructure providers. Aligned statutory time scales should be put in place for future investment plans by infrastructure bodies.
- Other – please explain your answer	None.
Question 29: To what extent do you agree that it is possible to identify infrastructure requirements at the local plan stage? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.	Strongly agree. It is not only possible but essential that Local Plans identify, through evidence, both the infrastructure requirements but also the timing of delivery and cost to enable sustainable growth to come forward.

<p>Question 30: To what extent do you agree that the 'right to require' will reduce the risk that affordable housing contributions are negotiated down on viability grounds? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.</p>	<p>Unsure. Tewkesbury Borough Council has a strong historic record of securing 40% affordable housing within the Borough. Without the experience of pilot local authorities introducing this as a mechanism it is premature to agree or disagree if the proposed approach will reduce the risk of less affordable housing. Further clarity is also sought as to how the Local Plan process this will set policy expectations by site and viability test the number of units to be delivered.</p>
<p>Question 31: To what extent do you agree that local authorities should charge a highly discounted/zero-rated Infrastructure Levy rate on high percentage/100% affordable housing schemes? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary</p>	<p>Disagree. Whilst the need to secure affordable housing should not be undermined, all development has an impact on the need for other infrastructure and in addition to the provision of Integral Infrastructure contributions should still be secured for Strategic (Levy) Infrastructure. The decision to discount should be a local decision for Local Authorities to determine through the Local Plan process and Infrastructure Delivery Strategy. It is worth noting the RTPi response to the White Paper (29 October 2020) section headed 'Instead of focusing on a new Infrastructure Levy, government should instead aim to reduce dependence on developer contributions in favour of a return to proper public subsidy through direct provision for housing and access to land'.</p>
<p>Question 32: How much infrastructure is normally delivered alongside registered provider-led schemes in the existing system? Please provide examples.</p>	<p>In the council's experience, only essential integral infrastructure is delivered alongside registered provider – led schemes.</p>

<p>Question 33: As per paragraph 5.13, do you think that an upper limit of where the 'right to require' could be set should be introduced by the government? [Yes/No/unsure] Alternatively, do you think where the 'right to require' is set should be left to the discretion of the local authority? [Yes/No/unsure]. Please provide a free text response to explain your answer where necessary.</p>	<p>Introduced by the government? No. Discretion of the local authority? Yes. Where the 'right to require' is set this should be left to Local Authorities to determine. Please see response to Q31.</p>
<p>Question 34: Are you content that the Neighbourhood Share should be retained under the Infrastructure Levy? [Yes/No/Unsure?]</p>	<p>Yes.</p>
<p>Question 35: In calculating the value of the Neighbourhood Share, do you think this should A) reflect the amount secured under CIL in parished areas (noting this will be a smaller proportion of total revenues), B) be higher than this equivalent amount C) be lower than this equivalent amount D) Other (please specify) or E) unsure. Please provide a free text response to explain your answer where necessary</p>	<p>E. unsure. Without costed examples it is not possible to currently form a view on the impact of different levels of neighbourhood funding. Please see response to Q36.</p>
<p>Question 36: The government is interested in views on arrangements for spending the neighbourhood share in unparished areas. What other bodies do you think could be in receipt of a Neighbourhood Share such areas?</p>	<p>The current legislation for the designation of a neighbourhood planning area means it could be wider than, or different to, a ward or even parish boundary. In unparished areas, designated neighbourhood forums could be in receipt of the Neighbourhood Share from development within their designated area once they have a 'made' Neighbourhood Plan in place. However, though if, as is currently the case, if the Neighbourhood Forum is an unaccountable body in finance terms the collecting authority hold and account for funding. In unparished areas the Neighbourhood Fund is also currently held by and administered by the charging authority under CA (currently Reg. 59F).</p>

<p>Question 37: Should the administrative portion for the new Levy A) reflect the 5% level which exists under CIL B) be higher than this equivalent amount, C) be lower than this equivalent amount, D) Other, (please specify), or E) unsure. Please provide a free text response to explain your answer where necessary.</p>	<p>Unsure. The additional demands that implementing and operating the national Infrastructure levy will place on local authorities cannot, until many of the requirements of and associated with the levy are established, be estimated. The current level permissible under Reg 61 is up to 5% of CIL income and there is provision for, in addition to meeting operational costs, paying back set-up costs over the first three full financial years of operation. Whilst Officer opinion is that this must as a minimum continue the experience in Tewkesbury Borough council and her JCS partners of Cheltenham Borough and Gloucester City Councils has been that this has not been possible and that the 5% pooled to meet joint operational costs was insufficient to meet even these. There are a number of reasons for this, which may continue to have an impact for authorities adopting the levy for the first time.</p> <p>These include:</p> <ul style="list-style-type: none"> • Income projections failing to take sufficient account of – • Reg 40, Sch 1 deductions for in-use buildings; • The mandatory nature of residential extensions, annexes and self-build relief; • The mandatory nature of most Social Housing relief; • The adoption of an Instalments Policy, delaying payment; and most recently • Inflationary impact on resource costs, not met by prior year indexation of charges.
<p>Question 38: Applicants can apply for mandatory or discretionary relief for social housing under CIL. Question 31 seeks views on exempting affordable housing from the Levy. This question seeks views on retaining other countryside exemptions. How strongly do you agree the following should be retained:</p>	<p>Please see detailed response below</p>
<p>- residential annexes and extensions; [Strongly Agree/Agree/Disagree/Strongly Disagree]</p>	<p>Agree. Where development does not arise in a net additional to dwelling stock an exemption is supported.</p>
<p>- self-build housing; [Strongly Agree/Agree/Disagree/Strongly Disagree]</p>	<p>Disagree. Please see the explanation above.</p>
<p>If you strongly agree/agree, should there be any further criteria that are applied to these exemptions, for example in relation to the size of the development?</p>	<p>Please see suggested criteria above.</p>

<p>Question 39: Do you consider there are other circumstances where relief from the Levy or reduced Levy rates should apply, such as for the provision of sustainable technologies? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.</p>	<p>Whilst providing a benefit in terms of a return on investment to the occupier/owner this has no impact on the need for infrastructure generated by such a development.</p>
<p>Question 40: To what extent do you agree with our proposed approach to small sites? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.</p>	<p>Disagree. Any development has the potential to impact on infrastructure locally. The current NPPF sets a threshold for all allocations to be 10% on small sites. The introduction of this policy could mean that 10% of allocations will contribute less to infrastructure, despite a potential need, leading to a gap in a provision. For example, there is no consideration of viability in this assumption that SME's do not incur risk or return. Arguably the cost of a rural site and the potential for more desirable homes, does not preclude CIL or NIL. Further thought on this intention is required by the government.</p>
<p>Question 41: What risks will this approach pose, if any, to SME housebuilders, or to the delivery of affordable housing in rural areas? Please provide a free text response using case study examples where appropriate.</p>	<p>The risk is, where rural affordable housing is in most need, in high value areas the needs will not be met. If contributions are lost or reduced then the ability to secure alternative provision is eliminated.</p>
<p>Question 42: Are there any other forms of infrastructure that should be exempted from the Levy through regulations?</p>	<p>No response.</p>
<p>Question 43: Do you agree that these enforcement mechanisms will be sufficient to secure Levy payments? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.</p>	<p>Disagree. Please see response to Question 17Q17 which sets out the concerns on the removal of the local land charge at point of payment of the provisional Levy liability.</p>
<p>Question 44: Do you agree that the proposed 'test and learn' approach to transitioning to the new Infrastructure Levy will help deliver an effective system? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary</p>	<p>Unsure. Consideration should first be given to the consultation feedback received through this exercise. Change should not be adopted for changes sake if it does not result in improved outcomes. It may be that the most effective approach is to continue with incremental changes to the existing system of CIL and S106 rather than a test and learn of an alternative system. Whether or not the current proposals are adopted, whilst the Levelling up and Regeneration Bill (published Monday 11th of May 2022) will provide the legislative framework for the changes, it will be important if we are to "learn" that secondary legislation (the Regulations) are frequently updated. This is something that has happened throughout the lifetime of the CIL Regulations 2010 (as amended)</p>
<p>Question 45: Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.</p>	<p>No.</p>

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