

NEIGHBOURHOOD SERVICES COMMITTEE

AGENDA



Wednesday 14 June, 2023

at 1.00 pm

**in the Council Chamber,
Civic Centre, Hartlepool.**

MEMBERS: NEIGHBOURHOOD SERVICES COMMITTEE

Councillors Cowie, Darby, Howson, Little, Moore, Oliver and Thompson.

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

- 3.1 To receive the Minutes and Decision Record of the meeting held on 13 March, 2023.
- 3.2 To receive the Minutes and Decision Record of the meeting of the Emergency Planning Joint Committee held on 28 April, 2023.

4. PRESENTATION

- 4.1 The Role and Remit of the Neighbourhood Services Committee – *Director of Neighbourhoods and Regulatory Services*

5. BUDGET AND POLICY FRAMEWORK

- 5.1 Hartlepool Local Plan Review – *Assistant Director, Neighbourhood Services*

6. KEY DECISIONS

- 6.1 Housing Civil Penalties Policy – *Assistant Director, Regulatory Services*
- 6.2 Air Quality Strategy – *Assistant Director, Regulatory Services*

CIVIC CENTRE EVACUATION AND ASSEMBLY PROCEDURE

In the event of a fire alarm or a bomb alarm, please leave by the nearest emergency exit as directed by Council Officers. A Fire Alarm is a continuous ringing. A Bomb Alarm is a continuous tone. The Assembly Point for everyone is Victory Square by the Cenotaph. If the meeting has to be evacuated, please proceed to the Assembly Point so that you can be safely accounted for.

7. OTHER ITEMS REQUIRING DECISION

None.

8. ITEMS FOR INFORMATION

None.

9. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

FOR INFORMATION

Dates of forthcoming meetings –

Monday 4 September, 2023 at 10.00 am
Monday 6 November, 2023 at 10.00 am
Monday 4 December, 2023 at 4.00 pm
Monday 8 January, 2024 at 10.00 am
Monday 5 February, 2024 at 10.00 am.



NEIGHBOURHOOD SERVICES COMMITTEE

MINUTES AND DECISION RECORD

13 MARCH 2023

The meeting commenced at 3.15 pm in the Civic Centre, Hartlepool.

Present:

Councillor: Shane Moore (Vice-Chair) (In the Chair)

Councillors: Rachel Creevy, Helen Howson, Peter Jackson, Sue Little, and Cameron Sharp.

Also Present: Councillor Mike Young as substitute for Councillor Tom Cassidy in accordance with Council Procedure Rule 4.2.
Councillor Ben Clayton.

Officers: Tony Hanson, Director of Neighbourhoods and Regulatory Services
Kieran Bostock, Assistant Director, Place Management
Sylvia Pinkney, Assistant Director, Regulatory Services
Phil Hepburn, Community Safety and Operations Manager
Zoe Craig, Environmental Health Manager (Environment Protection)
Rachael Readman, Senior Trading Standards Officer
Steve Hilton, Communications and Marketing Team
David Cosgrove, Democratic Services Team

35. Apologies for Absence

Councillors Tom Cassidy.

36. Declarations of Interest

None.

37. Minutes of the meeting held on 12 January 2023

Received.

38. Local Transport Plan 2022/23 Out-Turn and 2023/24 Programme *(Assistant Director, Place Management)*

Type of decision

Key Decision test (ii) applies. Forward Plan Reference No. NRS 02/23.

Purpose of report

To inform Neighbourhood Services Committee of the current position with the Local Transport Plan Delivery Plan, progress made under the Local Transport Plan delivery programme during 2022/2023, and to identify potential schemes for 2023/2024.

Issue(s) for consideration

The Assistant Director, Place Management reported that the third Local Transport Plan (LTP) 2011-2026, set out how a safe and sustainable transport system could be delivered within Hartlepool. It was recognised that funding, particularly in the short to medium term, was significantly reduced from the second LTP period and, while this represented a significant barrier to delivering the Council's aspirations for improving the transport network in Hartlepool, it provided opportunities to work more closely with our partner organisations for the overall benefit of the Borough.

Individual scheme type allocations for 2022/23, along with the allocations for 2023/24 were shown in Appendix 1 to the report, while the works identified for delivery during 2022/2023 were shown at Appendix 2, along with proposed schemes for 2023/2024 (subject to further committee reports where necessary). The Assistant Director commented that while demand significantly outstripped the funding available there was still a significant amount of work being undertaken across the town.

A Member questioned a scheme that had been included in last year's list but had not yet been implemented and not in this year's list. The Assistant Director stated that there were schemes still being designed but not yet implemented and those would go ahead as the money had already been identified for them. The Assistant Director confirmed the normal ward Member consultation would be undertaken once the scheme had been designed and before implementation. A number of Members raised questions around schemes within their wards including bus stop renewals and the potential of a crossing in Elizabeth Way in Seaton Carew. The Assistant Director reminded Members of the process for getting a scheme to be considered in line with the previously approved prioritisation matrix.

Decision

That the works and schemes delivered during 2022/2023 be noted, and the anticipated budget breakdown for 2023/2024 be approved.

39. Five Year Highway Maintenance Programme (*Assistant Director, Place Management*)

Type of decision

Key Decision test (i) and (ii) applies. Forward Plan Reference No. NRS 03/23.

Purpose of report

To seek approval for a 5 year Highway Maintenance Programme, determined by carriageway condition surveys and following Department for Transport recommended asset management processes.

Issue(s) for consideration

The Assistant Director, Place Management reported that for the financial year 2023/2024 the capital grant allocation for highway maintenance was the same as the 2022/23 allocation – £1,525,747. This was made up of Highways Maintenance formula funding, Incentive Fund and Pot-hole Fund allocations, and the Council had now received a multi-year settlement of the same amount, up to and including 2026/27.

The roads and footways included in the maintenance programme were those that are in the most need of repair. The priorities may change, however, over the coming years, as one highway can deteriorate more quickly than another. The highway network was constantly deteriorating through increased traffic volume, greater vehicle weights, the weather and the disturbance of the structure of the road through the digging of utility trenches. The key to maintaining the highway network successfully was to monitor the condition, and at the best time, apply the most cost effective treatment to maximise the life of the road. The Council achieved this through both planned and reactive maintenance based on an assessment of need, and making use of the latest available processes and techniques.

The rolling 5-year programme submitted with the report was based on the multi-year settlement now received, and assumed that this would continue for Year 5 of the programme.

Members raised some concerns at not receiving feedback on issues raised through the Councillors Portal. The Assistant Director stated that reports received were visited by inspectors. Issues such as trip hazards would have priority. Members were advised, however, that staff were involved in preparation work for the Tall Ships weekend which may account for the delays in some responses coming through, though the Assistant Director stated he was confident that any issues reported were inspected in a timely manner.

A Member noted that the recommendation in the report sought delegation to the Director to make changes to the programme if necessary. The

Member commented that no feedback had been provided to the Committee on any such decisions. The Assistant Director assured Members that if the delegation were used, Members would be informed but it had not been used for several years, hence why no feedback had been provided.

A Member raised concerns around the condition of the highway in Roxby Close, Seaton Carew. The Assistant Director stated that Roxby Close had been inspected and would be dealt with when its condition brought it to the top of the priority list however it was currently on the list to be addressed in future years. Members questioned the funding and from where it was allocated. The Director stated that the funding came via the Tees Valley Combined Authority based on government direction. Hartlepool was a high performer in terms of the funding allocated for highway maintenance and this was reflected in the amount of money awarded. Deviating from the government guidance on highway maintenance could be counter-productive.

Decision

1. That the proposed programme set out in Appendix 1 to the report be approved, and it was noted that this will fully commit the funding available in 2023/2024 using the most cost effective materials available.
2. That any changes to the proposed programme be delegated to the Director of Neighbourhoods and Regulatory Services, in consultation with the Chair of Neighbourhood Services Committee, and that any changes be shared with the Members of the Committee.

40. Air Quality Strategy (*Assistant Director, Regulatory Services*)

Type of decision

Non-Key Decision.

Purpose of report

To inform Neighbourhood Services Committee of the current position regarding air quality in the Borough and to present members with a draft Air Quality Strategy for their consideration. To request approval for the draft strategy to undergo a process of consultation prior to submission as a key decision to the forward plan.

Issue(s) for consideration

The Assistant Director, Regulatory Services reported that Department for Food, Environment and Rural Affairs (DEFRA) had notified officers that, in addition to the submission of Annual Air Quality Status Reports (ASRs), a local Air Quality Strategy must be produced in 2023. While air quality did have a significant effect on public health and was high on the government's

agenda, air quality monitoring results across the Borough were good and were consistently below objective levels set by Government.

The Assistant Director reported that informal consultation was undertaken with officers from various departments and agreement sought for proposals identified in the Air Quality Strategy. The submitted draft version of the Air Quality Strategy would be open for public consultation and following this exercise the final document would be brought back to a future Committee for approval.

A Member commented that air quality in Seaton Carew was not good at all with significant odour problems that could be blamed on commercial operators in the town. The problem for residents was that the regulation of those companies lay with the Environment Agency and not the local authority. The Assistant Director stated that officers were aware of the odour problems in Seaton Carew and that the regulation of those did lay with the Environment Agency. The elected Member stated that their concerns had been raised with the Director of Public Health.

A Member asked if there was any benchmarking data alongside the Air Quality Strategy that could be used for comparator purposes. The Assistant Director stated that comparator information was shared between the Tees Valley authorities and the Environment Agency did publish some information on its website. Members also discussed the potential for action to be taken if monitoring through the strategy revealed problems that needed to be tackled.

Decision

That the contents of the Air Quality Strategy be noted and the document approved for public consultation.

41. Elwick Road – 20mph Speed Limit *(Assistant Director, Place Management)*

Type of decision

Non-Key Decision.

Purpose of report

To seek approval for the implementation of a 20mph speed limit on Elwick Road between Catcote Road and York Road, and report objections following the advertisement of the Traffic Regulation Order.

Issue(s) for consideration

The Assistant Director, Place Management reported that concerns had been raised by residents regarding the speed of traffic travelling on Elwick Road, and a request to implement a 20mph speed limit was subsequently

made by a Ward Member. The section of Elwick Road concerned was between Catcote Road and York Road.

This stretch of road is a mixture of residential homes, a school and a section of commercial properties. The speed limit on the road is currently 30mph, which is the default limit for an urban road with street lighting. Since 2017 there have been 5 recorded injury accidents on these roads (4 slight and 1 serious). Following discussions with the Police and other members of the Traffic Liaison Group, it was proposed to consult on the introduction of a 20mph speed limit.

The consultation exercise produce eight objections to the proposals which included comments around policing and current lack of enforcement and the need for a low traffic neighbourhood as an alternative. There were also six letters of support citing the improvements to pedestrian safety and a reduction in accidents. Social media articles led to a mixed response with comments around greater enforcement and physical traffic calming measures. This location was, however, a main road and not an appropriate site for physical traffic calming measures.

The Assistant Director stated that the accident record of this section of Elwick Road did give cause for concern and consultation did show there was support for the 20 mph proposal, while acknowledging this was not universal. The Police, as the agency with the powers for speed enforcement, were in favour of the proposal.

Members expressed support for the proposal though suggested that continued data needed to be gathered to monitor if the 20 mph zone was having the desired effect. Members noted the discussions at the Traffic Liaison Group and the wish of Cleveland Police to subject the whole section of Elwick Road to the 20 mph scheme. Members were concerned that in the past the Police had suggested that 20 mph zones could not be adequately enforced and while there were obvious safety benefits here, there was the potential for criticism if it wasn't enforced. The Assistant Director stated that officers did meet regularly with the Police and these comments would be put forward.

There was no dissent to the following decision.

Decision

That the proposed 20mph speed limit on Elwick Road be implemented.

42. Local Plan Authorities Monitoring Report 2021/22 (Assistant Director, Place Management)

Type of decision

Non-key Decision.

Purpose of report

The purpose of the report was to inform Neighbourhood Services Committee of the Local Plan Authorities Monitoring Report (AMR) 2021/22.

Issue(s) for consideration

The Assistant Director, Place Management reported that the AMR is a statutory Local Development Framework (LDF) document which reviewed the progress made on the implementation of policies in the Local Plan and generally assesses their effectiveness and the extent to which they were being implemented.

Members welcomed the report but commented that while it contained positive information consideration should be given in the future to presenting it in a more easily understandable way for the general public. The Chair echoed the comments and noted how the Director of Public Health's annual report had evolved over recent years.

Decision

That the Local Plan Authorities Monitoring Report 2021/22 be noted and endorsed as part of the Local Development Framework.

43. Restriction of Vehicular Access to Land at the Rear of West View Road *(Assistant Director, Regulatory Services)***Type of decision**

Non Key decision.

Purpose of report

To prohibit vehicular access to the area of land to the rear of 166 – 294 (evens) West View Road, Hartlepool.

Issue(s) for consideration

The Assistant Director, Regulatory Services reported that there had been a number of reports of fly-tipping taking place in an area of land behind 166 – 294 (evens) West View Road. A number of deliberate fires had also been set. CCTV monitoring had reduced the fly tipping temporarily and Ward Councillors had approached officers seeking a more permanent solution to the problem.

Access to the area was gained through a narrow lane between 278 and 280 West View Road. There was also access to a number of garages on the rear gardens of some of the properties and it was noted that some other vehicles parked on this land. Enquiries had been undertaken with the Legal Department and they had advised that residents have no formal rights of

access, nor have any licences to allow vehicle access been granted. Any current access arrangement was, therefore, informal and historical but could have been established for a number of years.

A gate on the access point had been trialled in the past but was frequently left unsecure allowing free access and it was now proposed to close this access point to vehicles using bollards while still allowing access by foot as the area was regularly used by dog walkers. Consultation with residents showed there was support for this proposal.

A ward Councillor shared some additional photographs of some recent fly-tipping on the land and echoed her strong support for the residents and proposed closure of the access road. The Chair commented that he had seen the fly-tipping problems first hand and supported the proposal though sought assurance those who used the lane for access to garages etc. had sufficient notice to remove their vehicles.

Decision

1. That the prohibition of vehicular access to the area of land behind 166 – 294 (evens) West View Road (accessed by the lane between numbers 278 and 280) be approved.
2. That Legal Services be asked to prepare the necessary legal documentation to facilitate the closure.

44. Pay and Display Parking Machines – Disability Access *(Assistant Director, Regulatory Services)*

Type of decision

For information.

Purpose of report

This report is submitted for information and follows a Full Council Motion / Question for clarification in relation to the accessibility of the pay and display parking payment machines that the Council operates within our Off Street Car Parks and managed parking sites.

Issue(s) for consideration

The Assistant Director, Regulatory Services reported that at Council on 15th December 2022, it was reported by an elected member that several wheel chair users had contacted him highlighting difficulties in accessing town centre car parking meters. Therefore it was agreed, with no dissent, that the issue be referred to this Committee.

The Council operated 60 pay and display machines located in both off street car parks and on street sites. The pay and display machines have a

recognised working life of approximately 10 years and a significant number of the machines in use in Hartlepool have already exceeded this period. Therefore, plans were already in place for a phased upgrade of the stock.

In December 2021, Members approved a decision to remove the then free parking concession offered to Blue Badge holders. As a consequence officers carried out an assessment of all pay and display stations and identified 5 of the 60 that may require some alterations in order to assist with disability access. The findings identified a number of concerns which varied from a lack of safe hatched area in front of the machine to potentially addressing the height of the machine to making them more wheelchair accessible. It was highlighted that in many of Hartlepool's more popular town centre car parks there were often several payment machines so in most cases alternative payment stations could be available should one be unavailable or be less accessible. In addition, the sites all accept payment via the mobile phone payment provider "RINGO".

Members questioned the time frame for the replacement programme. Officers indicated that the procurement process was still at an early stage with a lead in for new machines being at least 4 to 6 months. A Member considered asking the disabled to use another machine was simply unreasonable. Payment either had to be as convenient as possible by placing machines near the disabled bays or by going back and removing the fee for disabled blue badge holders. Members also commented that using RINGO cost users more and could be seen to be further penalising blue badge holders.

Decision

That the report and the actions taken to meet the short and long term accessibility for disabled and blue badge holders required to pay to park be noted.

45. Any Other Items which the Chairman Considers are Urgent

Tall Ships 2023

The Director of Neighbourhoods and Regulatory Services highlighted that the Tall Ships weekend was now only 15 weeks away. Many of the department's staff were becoming more involved with the arrangements for the event so the Director asked that Members bear with staff during this period as while queries and emails would be responded to, they may not be as prompt as Members were used to.

A Member commented that it was not fair on residents or elected Members that queries were not being replied to promptly and where staff were being diverted to the Tall Ships event, there should be back-filling to maintain services.

In concluding the meeting the Chair noted this was the last meeting of the Committee for the Municipal Year and he thanked Members for their input into the meetings of the Committee during the year.

The meeting concluded at 4.50 pm.

H MARTIN

CHIEF SOLICITOR

PUBLICATION DATE: 23 MARCH 2023

EMERGENCY PLANNING JOINT COMMITTEE**MINUTES AND DECISION RECORD****28 APRIL 2023**

The meeting commenced at 10.00 am at the Emergency Planning Annex, Stockton Police Station, Bishop Street, Stockton-on-Tees.

Present:

Councillor: Councillor Mike Smith (Stockton Borough Council) (In the Chair)

Councillors: Councillor Eric Polano (Middlesbrough Borough Council)
Councillor Cliff Foggo (Redcar and Cleveland Borough Council)

Officers: Stuart Marshall, Chief Emergency Planning Officer
Jon Hepworth, Group Accountant (Regeneration and Neighbourhoods)
David Cosgrove, Democratic Services Team

20. Apologies for Absence

Councillor Tom Cassidy (Hartlepool Borough Council).

21. Declarations of interest by Members

None.

22. Minutes of the meeting held on 22 November 2022

Received

23. Activity Report (*Chief Emergency Planning Officer*)**Purpose of report**

To assist members of the EPJC in overseeing the performance and effectiveness of the Emergency Planning Unit and its value to the four unitary authorities.

Issue(s) for consideration by the Committee

The Chief Emergency Planning Officer reported on progress against the EPU's action plan for 2022/23 highlighting the significant areas of work completed. It was highlighted that the 2023/24 work plan would include the training of Elected Members. Each borough undertakes this role differently

and following elections in May there would be a number of new members requiring familiarisation with Civil Contingencies.

Progress against the Local Resilience Forum (LRF) action plan was also reported with details of the key activities delivered to date. Work also continued on the recommendations from the National Preparedness Commission following the non-statutory review of the Civil Contingencies Act.

During his report the Chief Emergency Planning Officer highlighted the changing nature of industrial risks across the Cleveland area, many brought through the move towards green energies. Members referred to the proposed import of lithium ore at Tees Port and the changing electricity generation landscape. A Member asked if the EPU had been consulted on the proposals to build a 5000 seater entertainment arena in Redcar. The Chief Emergency Planning Officer identified that the Unit hadn't been consulted as yet, but are engaged with the planning process so are likely to be consulted if the venue was to go ahead. The Chief EPO also highlighted the incoming "Martyn's Law" which will require venues to ensure that they are prepared for and ready to respond in the event of an attack.

Decision

That the Chief Emergency Planning Officer continues to develop the Cleveland Emergency Planning Unit Annual Action Plan and the EPJC standard report to provide assurance to Emergency Planning Joint Committee members that the key considerations continue to be met and that members are updated at the quarterly meetings and that any amendments / additional actions are referenced.

24. Financial Management Update Report (*Director of Resources and Development and Chief Emergency Planning Officer*)

Purpose of report

To provide details of the forecast outturn as at 31st January, 2023 for current financial year ending 31st March, 2023.

To propose the budget for 2023/24 and contributions to be requested from Councils.

Issue(s) for consideration by the Committee

The Group Accountant reported on the outturn for the Emergency Planning Unit budget for 2023/24 stating that as predicted in the report, the projected net outturn was nil. There had been a favourable variance on staffing costs due to the redistribution of management costs linked to activity drivers and reflects the greater amount of time spent on LRF and the supervision of 4 new staff funded by the Pilot Grant. This is offset by reduced income from Service Level Agreement recharges to external bodies, i.e. the Cleveland Police and Environment Agency.

In relation to the Local Resilience Forum, the Group Accountant reported that the net position showed an underspend of £44,000 which was to be carried forward to 2023/23. The LRF budget included the Pilot Funding grant which was £202,000 and, therefore, £6,000 less than estimated at the time of setting the budget. This was a Section 31 non-ring-fenced grant awarded by the Government Department for Levelling Up Housing and Communities.

The Group Accountant reported that 2023/24 would be the first year of a formal budget being set for the EPU and LRF in order to establish the necessary contributions from local authorities. The previous five-year agreement on funding had ended and the new budget allowed for a proper review of costs and income to allow contributions to be set accordingly.

For the 2023/24 the recommended Local Authority contributions were £321,000, which was a 5% increase compared to the previous year. The remainder of the budget would be met by income from fees and recharges. This had required a £21,000 release of reserves to balance the budget. Staffing costs had also been inflated to reflect the current year pay award exceeding the estimate in addition to an amount to allow for an assumed pay award from April, 2023.

Details of the proposed budgets were set out in the report.

Decision

1. That the outturn forecast for 2022/23 be noted.
2. That the 2023/24 budgets for Emergency Planning including the 5% increase in the Contribution from each Council be approved.
3. That the 2023/24 Local Resilience Forum (LRF) budget be approved.

25. The UK Government Resilience Framework (*Chief Emergency Planning Officer*)

Purpose of report

To highlight the publication of the UK Government Resilience Framework issued 19/12/2022 and to provide Emergency Planning Joint Committee members with an overview of the key future impacts on the Local Resilience Forum (LRF).

Issue(s) for consideration by the Committee

The Chief Emergency Planning Officer reported on the UK Government Resilience Framework is built on three core principles:

- 1 A shared understanding of the risks we face is foundational: it must underpin everything that we do to prepare for and recover from crises;
- 2 Prevention rather than cure wherever possible: resilience-building spans the whole risk cycle so we must focus effort across the cycle, particularly before crises happen;
- 3 Resilience is a 'whole of society' endeavour, so we must be more transparent and empower everyone to make a contribution.

The new framework focuses on how resilience can be built across six key thematic areas: -

- Understanding risk
- Responsibilities and accountability
- Partnerships
- Communities
- Investment
- Skills

The Chief Emergency Planning Officer highlighted the two appendices to the report. Appendix 1 provided a summary of the specific actions built around these key thematic areas for delivery by 2030. The government highlighted that there is a desire to integrate resilience into a number of policies, not least Levelling Up. Appendix 2 provides further detail on the framework in relation to proposed future leadership and accountability of LRFs and place making policy. How this would apply to the Cleveland LRF area is uncertain at the current time.

The Chief Emergency Planning Officer reported that the government was looking to identify eight pilot areas across the country to assess different models of improved accountability as the first steps in the process of some fundamental changes in resilience and accountability.

Members discussed some local issues around accountability and the legacy of past decisions such as the close proximity between industrial / petro-chemical sites and residential areas which originally housed the workers.

Decision

1. That the key principles included in the UK Government Resilience Framework be noted.
2. That partner organisations consider and raise any concerns or opportunities based on the framework / proposed actions and advise on any action they feel is required.
3. That further guidance and Government direction is monitored and where appropriate the Joint Committee engages with the Local Resilience Forum and Councils with reference to any application / development / implementation etc.

26. Community Resilience Workshop 29th November 2022 and future direction of Community Resilience (Chief Emergency Planning Officer)

Purpose of report

To provide members of the Emergency Planning Joint Committee with feedback following the Local Resilience Forum (LRF) Community Resilience Workshop on 29th November 2022 at the Riverside Stadium, Middlesbrough and to provide an outline of the future Community Resilience focus.

Issue(s) for consideration by the Committee

The Chief Emergency Planning Officer reported that the LRF had, in line with a number of other LRFs, been running a quarterly Community Resilience Group. While there are a number of committed members it was clear from the recent very limited attendance that the group isn't fully meeting the needs of the LRF or communities. In recognition of this the LRF had sought assistance from two academics and the Middlesbrough Voluntary Development Agency (MVDA). Agreement was reached to run a workshop building on the research undertaken by Ed Rollason (Northumbria University) on behalf of the LRF.

A targeted and selective approach was implemented to ensure representation from groups not currently engaged with LRF and Community Resilience Group. Feedback from the event was mainly positive, and encouraging. The event was well received by attendees as it facilitated connection and discussions amongst attendees from several organisations. It was also encouraging to note, most attendees would like to see more of these events and requested follow up learning/report from this workshop.

Given the event feedback, and the evidence base of the value of building networks and engagement of partners, it was proposed that this style of workshop is offered by the LRF three times per year rotating between boroughs. Each session will have a key theme or focus.

Following the event, the following recommendations have been presented to the LRF:

Recommendation 1: Further Community Resilience workshops and events to be supported by the LRF to enable community groups, VCS and agencies to network and develop connections and ways of working together

Recommendation 2: As part of the workshops explore ways of proportionality sharing information of the role of LRF and its members and how/what support available to VCS/community groups.

Recommendation 3: The future of the LRF Community Resilience Group be considered, potentially becoming a steering group focused around the

development of the workshops rather than a standing group and recommendations made to Strategic Board.

Recommendation 4: Agencies wishing to get involved contact / establish links to the LRF Community Resilience Officer.

Members commented that they were aware of some of the feedback from the event from attendees, though it was noted that many of the more involved community representatives were 'of an age' and ensuring there were new younger representatives from the communities to follow them would be key to the success of future local emergency response.

Decision

That the report be noted.

27. Incident Report (5th November 2022 – 1st March 2023) (Chief Emergency Planning Officer)

Purpose of report

To inform members of the EPJC of the incidents reported and responded to by the Cleveland Emergency Planning Unit (CEPU).

Issue(s) for consideration by the Committee

The Chief Emergency Planning Officer submitted a report outlining the incidents reported and responded to by the Cleveland Emergency Planning Unit (CEPU). The report covered the period between from 5th November 2022 to 1st March 2023.

The Chief Emergency Planning Officer highlighted the incidents at an industrial site in Hartlepool in November and the ammonia release at a tanker depot in Preston Farm Industrial Estate in Stockton. Both had led to 'unexpected' casualties presenting at the A&E department at North Tees Hospital. This could have been a significant issue, impacting on the provision of services within the hospital and a multi-agency debrief had been facilitated by the LRF. This has identified a number of possible improvements in the management of potentially contaminated persons applicable to both minor / isolated incidents and major incidents.

Members discussed issues around incidents where structural engineers were often called for as such roles were not now common in local authorities and required the calling of independent private sector engineers with no clarity over who was responsible for the costs. The Chief Emergency Planning Officer stated that with privately owned buildings the owners insurers should be the first call for such structural advice, but where there was a threat to life / property action may be required which should then look to be recharged.

Decision

That the report be noted.

28. Any Other Items which the Chairman Considers are Urgent

None.

The meeting concluded at 11.05 am.

H MARTIN

CHIEF SOLICITOR

PUBLICATION DATE: 10 MAY 2023

<p>NEIGHBOURHOOD SERVICES COMMITTEE</p> <p>14th June 2023</p>
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Report of: Assistant Director of Neighbourhood Services

Subject: HARTLEPOOL LOCAL PLAN REVIEW

Decision Type: PART OF THE BUDGET AND POLICY FRAMEWORK
(FORWARD PLAN REFERENCE NRS 06 / 23)

1. COUNCIL PLAN PRIORITY

Hartlepool will be a place:
- that is sustainable, clean, safe and green.
- that has an inclusive and growing economy.

2. PURPOSE OF REPORT

2.1 To advise members on the Local Plan review position and a time frame for a Local Plan update.

3. BACKGROUND

3.1 The Hartlepool Local Plan 2018 was adopted by Full Council on the 22nd May 2018 following receipt of the Planning Inspectors Report from the Local Plan Examination.

3.2 Legislation¹ and the National Planning Policy Framework (NPPF) set out that policies within the Local Plan should be reviewed to assess their effectiveness, and such reviews should be undertaken no later than five years from the adoption date of a plan.

3.3 Officers are of the view that the Council fulfils its duty to review the Local Plan via the Authorities Monitoring Report (AMR) which is produced annually and includes an assessment of all policies, their effectiveness and a

¹ Regulation 10A(1) Town and Country Planning (Local Planning) (England) Regulations 2012.

recommendation as to whether policies require updating or not. Officers are satisfied that the AMR process is an effective and robust method of Local Plan review and is undertaken yearly, which is more regularly than legislation requires. Officers will continue to assess Local Plan policies each year via the AMR. The latest AMR (2021/2022) concludes that policies are performing as they should and there is no urgent need to update them, with the most recent report presented to Neighbourhood Services Committee in March 2023.

- 3.4 This report has been prepared to advise members that the 2018 Local Plan is effective and does not require an update at this point in time. This report is put forward at this date due to events that occurred in June 2022.
- 3.5 In June 2022, Neighbourhood Services Committee were presented with a report from the department seeking permission to undertake a partial Local Plan Review and Update, along with permission to commence work on the evidence base that would support an updated Local Plan.
- 3.6 Members of Neighbourhood Services Committee decided not to undertake an early review and update of the Local Plan and instead requested that the matter be reconsidered in June 2023 on the basis that the Council was still recovering from the COVID-19 pandemic.
- 3.7 Since June 2022, there has been significant further developments regarding reforms to the planning system. The Levelling Up and Regeneration Bill (LURB), which is currently passing through Parliament, proposes significant changes to the planning system, via primary and secondary legislation, along with amendments to the National Planning Policy Framework (NPPF) and associated guidance. The emerging LURB has been used as the basis for a number of recent government consultations.
- 3.8 Changes to law and national planning policy will have a bearing on what will be included in a new style Local Plan and how the plan will be prepared and assessed. A summary of the significant changes and potential implications is set out below:
- Rewriting of the National Planning Policy Framework (changes expected to be implemented in 2023 with a significant revision due at a later date which is currently unknown);
 - Introduction of a 30 month Plan making timeframe;
 - Changes to the tests of soundness;
 - Revocation of the Duty to Cooperate and the application of a simplified alignment policy;
 - Significant emphasis placed on digital community engagement and a drive towards better digitalisation;
 - Reviewing policy and guidance on Strategic Flood Risk Assessments;
 - Introduction of National Development Management Policies;
 - Introduction of mandatory design codes;
 - Introduction of Environmental Outcomes Reports (EOR) in replacement of existing EU-derived system of environmental assessment;

- Introduction of Infrastructure Levy in replacement of existing development contributions (Section 106 agreements); and
 - Removal of Supplementary Planning Documents in favour of Supplementary Documents that will be independently examined.
- 3.9 Given there are to be significant changes within planning law and national planning policy, the final details of which are not yet available, it is considered that given the uncertainty, it would be unwise to progress with a partial Local Plan update at this time.
- 3.10 The Council should commence writing a new Local Plan when the relevant legislation and policy changes are in place. To update the Local Plan prior to the legislation coming into force could lead to a significant amount of abortive work.
- 3.11 Once the relevant legislation and national policy is in place, officers will report back to members and advise on when, and how, to proceed with the development of new style Local Plan. Current Planning Advisory Service (PAS) advice is that new style Local Plans are expected to be able to commence in late 2024 at the earliest, meaning adoption in spring 2027 is the soonest that this could happen.
- 3.12 With regards to the statutory requirement to completing a review of the Local Plan (2018) by May 2023, members should note that the Council fulfils this duty via the Authorities Monitoring Report (AMR), which is produced annually and includes an assessment of all policies, their effectiveness and a recommendation as to whether policies require updating or not. The latest AMR (2021/2022) concludes that policies are performing as they should and there is no urgent need to update them, as agreed by Members of Neighbourhood Services Committee in March 2022.

4. PROPOSALS/OPTIONS FOR CONSIDERATION

- 4.1 No options submitted for consideration other than the recommendation.

5. LEGAL CONSIDERATIONS

- 5.1 The Council has a statutory duty to review the Local Plan within five years from the date of adoption pursuant to Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council is satisfied that it has fulfilled this duty, via the AMR process. The conclusion within that report is that the policies that make up the Local Plan do not need updating at the current time. The Council is aware of the current position regarding the Government's intention to reform the planning process and the progress of the Levelling Up and Regeneration Bill, and therefore we will continue to monitor its progress.

6. STAFF CONSIDERATIONS

- 6.1 There are no staff considerations relating to this report, however if members did seek to undertake a full/partial plan review and update, then it is likely that there will be a need for additional resource within the Planning Policy Team.

7. OTHER CONSIDERATIONS

Risk Implications	No relevant issues
Financial Considerations	No relevant issues
Child/Family Poverty Considerations	No relevant issues
Equality and Diversity Considerations	No relevant issues
Asset Management Considerations	No relevant issues
Environment, Sustainability and Climate Change Considerations	No relevant issues
Consultation	No relevant issues

8. RECOMMENDATIONS

- 8.1 That members confirm that no Local Plan review and update commences at this time.

9. REASONS FOR RECOMMENDATIONS

- 9.1 To ensure that abortive work is not undertaken in light of the current statutory uncertainty.

10. BACKGROUND PAPERS

- 10.1 The existing Hartlepool Local Plan and policies map can be accessed at the following links

Hartlepool Local Plan 2018

https://www.hartlepool.gov.uk/downloads/file/4393/hartlepool_local_plan_-_adopted_may_2018pdf

Hartlepool Local Plan Policies Map 2018

https://www.hartlepool.gov.uk/downloads/file/4394/hartlepool_local_plan_policies_map_may_2018_front_mappdf

11. CONTACT OFFICER

Kieran Bostock
Assistant Director of Neighbourhood Services
Civic Centre

Hartlepool Borough Council
TS24 8AY

Tel: (01429) 284291

E-mail: kieran.bostock@hartlepool.gov.uk

Helen Smith
Interim Planning Policy Team Leader
Civic Centre
Hartlepool Borough Council
TS24 8AY

Tel: (01429) 284008

E-mail: helen.smith@hartlepool.gov.uk

Sign Off:-

Managing Director	Date: 30/05/2023
Director of Finance, IT and Digital	Date: 30/05/2023
Director of Legal, Governance and HR	Date: 30/05/2023

NEIGHBOURHOOD SERVICES COMMITTEE

14th June 2023



Report of: Assistant Director (Regulatory Services)

Subject: HOUSING CIVIL PENALTIES POLICY

Decision Type: Key Decision (test (i)/(ii)) (Forward Plan Reference NRS 05 / 23)

1. COUNCIL PLAN PRIORITY

Hartlepool will be a place:
- where those who are vulnerable will be safe and protected from harm.
- that is sustainable, clean, safe and green.

2. PURPOSE OF REPORT

- 2.1 The purpose of this report is to seek approval to adopt the Nottingham Housing Civil Penalties Policy, which sets out the framework within which decisions will normally be made regarding the issuing of Civil Penalties.
- 2.2 Therefore, a decision is needed to adopt a policy relating to a discretionary power to impose financial penalties, as an alternative to prosecution, for certain housing offences, as attached at **Appendix 1**.
- 2.3 The Council adopted an overarching General Enforcement Policy in 2021 which sets out the use of Penalty Notices. However, we need a robust policy in place specifically relating to Housing Civil Penalties due to the nature of the offences and level of penalty that may be applied (up to £30,000). This is essential in the event of any appeals against the penalty imposed.
- 2.4 It is believed that civil penalties will act as a powerful deterrent for those landlords who might otherwise have considered that the financial benefits of non-compliance outweighed the risk of enforcement action against them. The power to impose civil penalties will encourage landlords to reconsider poor

practices which will lead to greater levels of compliance and improved housing standards across the private rented sector.

3. BACKGROUND

- 3.1 The Housing and Planning Act 2016 introduced a number of amendments to the Housing Act 2004, in particular Section 126 and Schedule 9 introduced a power to enable Councils to impose a civil penalty as an alternative to prosecution for specific offences under the 2004 Act.
- 3.2 A civil penalty of up to £30,000 may be imposed where a serious offence has been committed and the Local Housing Authority may decide that a financial penalty or penalties, rather than prosecution, is the most appropriate and effective sanction in a particular case.
- 3.3 Statutory guidance sets out the process and the criteria that must be considered when determining civil penalties, and these are:
- Severity of the offence;
 - Culpability and track record of the offender;
 - The harm caused to the tenant;
 - Punishment of the offender;
 - Deter the offender from repeating the offence;
 - Deter others from committing similar offences; and
 - Remove any financial benefit the offender may have obtained as a result of committing the offence.
- 3.4 The same criminal standard of proof is required for a civil penalty as for a prosecution, so we must have regard to the Crown Prosecution Service Code for Crown Prosecutors, when establishing whether there is sufficient evidence to secure a conviction.
- 3.5 In determining whether there is sufficient evidence to secure a conviction, the Council will also have regard to the Council's General Enforcement Policy. The Council must be satisfied beyond reasonable doubt that the landlord committed the offence(s) and if the matter were to be prosecuted in the magistrates' court, that there would be a realistic prospect of conviction. Therefore in accordance with the General Enforcement Policy, cases will be assessed on a case by case basis.
- 3.6 Civil penalties are an alternative when a landlord fails to comply with the following Housing Act offences:
- Section 30 – failure to comply with an Improvement Notice;
 - Section 72 – HMO licensing under part 2 of the Act;
 - Section 95 – licensing under part 3 of the Act;
 - Section 139 – failure to comply with an overcrowding notice; or
 - Section 234 – breach of HMO management regulations.

3.7 While the Council would have the power to impose a civil penalty of up to £30,000, the actual level of the penalty has to be determined on a case by case basis, taking into account the criteria set out in Section 3.3 above. The penalty will be made up of two distinct components:

- The penalty calculation: Consideration of the severity of the offence, the landlord's track record and the landlord's income; and
- Financial Benefit: The amount, if any, which the landlord obtained from committing the offence.

These two components are combined to determine the financial penalty that will be imposed.

3.8 The process to determine a civil penalty is broken down into four main stages:

Stage 1 determines the penalty band for the offence. Each penalty has a minimum and maximum amount;

Stage 2 determines how much will be added to the penalty amount as a result of the landlord's income and track record;

Stage 3 is where the figures from stages 1 and 2 are combined; and

Stage 4 considers any financial benefit the landlord obtained from committing the offence. This amount will be added to the figure from stage 3

3.9 The landlord will have a right of appeal to the First-tier Tribunal against a civil penalty and the tribunal has the power to confirm, vary (increase or decrease) or cancel the penalty imposed.

3.10 The model used to determine fine levels was developed by Nottingham City Council and has been widely adopted by Local Authorities and has also been tested in the First-tier Tribunal.

4. PROPOSALS

4.1 It is proposed to adopt the Civil Penalties Policy devised by Nottingham City Council.

5. FINANCIAL CONSIDERATIONS

5.1 Income received from civil penalties is retained by the Local Housing Authority for the sole purpose of furthering the local authority's statutory functions relating to enforcement activities in the private rented sector as specified in the Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017.

6. LEGAL CONSIDERATIONS

6.1 All legal considerations are included in the report and policy.

7. CONSULTATION

7.1 Consultation has already been undertaken relating to the overarching general enforcement policy prior to its introduction.

7.2 Individuals who are directly affected by the proposed imposition of a financial penalty must be issued with a Notice of Intent before the penalty is imposed and must be given 28 days to make a representation.

8. OTHER CONSIDERATIONS

Risk	No relevant issues
Child and Family Poverty	No relevant issues
Equality and Diversity	No relevant issues
Staff Considerations	No relevant issues
Asset Management	No relevant issues
Environmental, Sustainability and Climate Change	No relevant issues

9. RECOMMENDATIONS

9.1 It is recommended that the Nottingham Civil Penalties Policy is adopted in full.

10. REASONS FOR RECOMMENDATIONS

10.1 The Nottingham Civil Penalties Policy has been developed, used and tested for a number of years and is considered to be an example of best practice. By adopting the Policy, we will have an additional and extremely beneficial tool to be able to enforce standards in the private rented sector.

11. BACKGROUND PAPERS

Nottingham City Council Civil Penalties Policy

<https://committee.nottinghamcity.gov.uk/documents/s60961/Nottingham%20Civil%20Penalties%20Enforcement%20Guidance.pdf>

Regulators' Code, Department for Business Innovation & Skills, Better Regulation Delivery Office, April 2014

<https://www.gov.uk/government/publications/regulators-code>

The Code for Crown Prosecutors, CPS, October 2018
<https://www.cps.gov.uk/publication/code-crown-prosecutors>

Hartlepool Borough Council General Enforcement Policy

Housing Act 2004 (as amended)

Housing and Planning Act 2016

(DCLG) Civil Penalties Guidance for Local Housing Authorities

12. CONTACT OFFICERS

Sylvia Pinkney
 Assistant Director (Regulatory Services)
 Hartlepool Borough Council
 Civic Centre
 Victoria Road
 Hartlepool
 TS24 8AY

01429 523315
sylvia.pinkney@hartlepool.gov.uk

Joanne Burnley
 Environmental Health Manager (Housing)
 Hartlepool Borough Council
 Civic Centre
 Victoria Road
 Hartlepool
 TS24 8AY

01429 523324
joanne.burnley@hartlepool.gov.uk

Sign Off:-

Executive Director of Development, Neighbourhoods and Regulatory Services	Date: 01/06/2023
Director of Finance, IT and Digital	Date: 02/06/2023
Assistant Chief Solicitor	Date: 02/06/2023



Housing Civil Penalties Policy

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Section 1

Introduction & Overview

1.1 Introduction

This guidance document was created in accordance with Section 3.5 of the ‘Civil Penalties under the Housing and Planning Act 2016: Guidance for Local Authorities’ (“the DCLG Guidance”), published by the Department for Communities and Local Government. It is intended to work in accordance with the Hartlepool General Enforcement Policy Council. The policy is based on the Civil Penalties Guidance version 4.7 (2017) produced by Community Protection, Nottingham City Council.

In this document, the term “landlord” will be used to refer to the “owner”, “person having control”, “person managing” or “licence holder”, as defined under the Housing Act 2004 (“the 2004 Act”). The term “the Council” will be used to refer to Hartlepool Borough Council in its capacity as a Local Housing Authority.

1.2 What is a civil penalty?

A civil penalty is a financial penalty of up to £30,000 which can be imposed on a landlord as an alternative to prosecution for specific offences under the 2004 Act. The amount of penalty is determined by the Council in each case; section 2 sets out how the Council will determine the appropriate level of civil penalty.

1.3 What offences can civil penalties be imposed for?

A civil penalty can be considered as an alternative to prosecution for any of the following offences under the 2004 Act:

- Failure to comply with an Improvement Notice (section 30);
- Offences in relation to licensing of HMOs (section 72);
- Offences in relation to licensing of houses under Part 3 of the Act (section 95);
- Contravention of an overcrowding notice (section 139);
- Failure to comply with management regulations in respect of HMOs (section 234).

1.4 What is the legal basis for imposing a civil penalty?

Section 126 and Schedule 9 of the Housing and Planning Act 2016 (“the 2016 Act”) enables the Council to impose a civil penalty as an alternative to prosecution for specific offences under the 2004 Act

1.5 What is the burden of proof for a civil penalty?

The same criminal standard of proof is required for a civil penalty as for a criminal prosecution. This means that before a civil penalty can be imposed, the Council must be satisfied beyond reasonable doubt that the landlord committed the offence(s) and that if the matter were to be prosecuted in the magistrates’ court, there would be a realistic prospect of conviction.

In determining whether there is sufficient evidence to secure a conviction, the Council will have regard to the Hartlepool Borough Council General Enforcement Policy and the Crown Prosecution Service Code for Crown Prosecutors, published by the Director of Public Prosecutions. The finding that there is a realistic prospect of conviction is based on an objective assessment of the evidence, including whether the evidence is admissible, reliable and credible and the impact of any defence.

See appendix III for an excerpt from the Crown Prosecution Service Code for Crown Prosecutors on the Evidential Stage of the Full Code Test for criminal prosecutions.

1.6 What must be done before a Civil Penalty can be considered?

The Council must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against the landlord and that the public interest will be properly served by imposing a civil penalty. The following questions should be considered:

- Does the Council have sufficient evidence to prove beyond reasonable doubt that the offence was committed by the landlord in question?
- Is the public interest properly served by imposing a Civil Penalty on the landlord in respect of the offence?
- Has the evidence been reviewed by the appropriate senior colleague at the Council?
- Has the evidence been reviewed by the Council's legal services?
- Are there any reasons why a prosecution may be more appropriate than a civil penalty? I.e. the offence is particularly serious and the landlord has committed similar offences in the past and/or a banning order should be considered.

See appendix II for an excerpt from the Crown Prosecution Service Code for Crown Prosecutors on the Public Interest Stage of the Full Code Test for criminal prosecutions.

1.7 When will the Council consider civil penalties an enforcement option?

The Council will consider Civil Penalties for all landlords that are in breach of one or more of the sections of the 2004 Act listed in section 1.3. Enforcement action will be considered on a case-by-case basis in line with the Hartlepool Borough Council General Enforcement Policy.

Section 2

Determining the Civil Penalty Amount

2.1 Overview

The Council has the power to impose a civil penalty of up to £30,000; this section sets out how the Council will determine the appropriate level of civil penalty in each particular case. The actual amount levied in each case should reflect the severity of the offence and take into account the landlord's income and track record.

The civil penalty will be made up of two distinct components. The first is the penalty calculation; this is where the severity of the offence, the landlord's track record and the landlord's income are considered. The second considers the amount of financial benefit, if any, which the landlord obtained from committing the offence. These two components are added together to determine the final penalty amount that will be imposed on the landlord.

This process is broken down into four main stages:

- **Stage 1** determines the penalty band for the offence. Each penalty band has a starting amount and a maximum amount.
- **Stage 2** determines how much will be added to the penalty amount as a result of the landlord's income and track record.
- **Stage 3** is where the figures from stage 2 are added to the penalty band from stage 1. The total amount at this stage cannot go above the maximum amount for the particular penalty band.
- **Stage 4** considers any financial benefit that the landlord may have obtained from committing the offence. This amount will be added to the figure from stage 3.

Stage 1 Determining the Penalty Band

2.2 Stage 1 Overview

This stage considers the landlord's culpability for the offence and the seriousness of harm risked to the tenants or visitors to the property.

A higher penalty will appropriate where the landlord has a history of failing to comply with their obligations and/or their actions were deliberate. Landlords are running a business and are expected to be aware of their legal obligations. There are four steps to this process and each step is set out below.

2.3 Step 1: Culpability

Table 1 sets out the four levels of culpability that will be considered: each level has accompanying examples of the behaviours that could constitute that particular level. The behaviour of the landlord should be compared to this table to determine the appropriate level of culpability. This exercise will be repeated for each offence that is being considered as the landlord's culpability may vary between offences.

Table 1 - Levels of Culpability

Very high	<ul style="list-style-type: none"> • Deliberate breach of or flagrant disregard for the law
High	<ul style="list-style-type: none"> • Offender fell far short of their legal duties; for example, by: <ul style="list-style-type: none"> - failing to put in place measures that are recognised legal requirements or regulations; - ignoring warnings raised by the local Council, tenants or others; - failing to make appropriate changes after being made aware of risks, breaches or offences; - allowing risks, breaches or offences to continue over a long period of time. • Serious and/or systemic failure by the person or organisation to comply with legal duties.
Medium	<ul style="list-style-type: none"> • Offender fell short of their legal duties in a manner that falls between descriptions in 'high' and 'low' culpability categories. • Systems were in place to manage risk or comply with legal duties but these were not sufficiently adhered to or implemented.
Low	<ul style="list-style-type: none"> • Offender did not fall far short of their legal duties; for example, because: <ul style="list-style-type: none"> - significant efforts were made to address the risk, breaches or offences, although they were inadequate on this occasion; - they have offered a reasonable defence for why they were unaware of the risk, breach or offence. • Failings were minor and occurred as an isolated incident

2.4 Assessing a landlord’s culpability

When assessing culpability, consider any the evidence gathered as part of the investigation into the offence and identify any aggravating or mitigating factors which may be relevant to an assessment of culpability.

Using these factors, consider each category of culpability in the table 1 and identify the one that the landlord’s behaviour falls within; where a landlord’s behaviour could meet more than one of the categories, choose the highest one of those met.

Any assessment of culpability should include a consideration of any past enforcement action against the landlord. Not all past enforcement action will be appropriate to consider but further details on what can be considered can be found in section 2.12.

2.5 Step 2: Seriousness of Harm Risked

Table 2 separates the seriousness of harm risked into three levels and each one has an accompanying description to illustrate what would constitute that level of harm risked.

The harm risked by the offence should be compared to the table to determine the appropriate level. This exercise will be repeated for each offence that is being considered as the seriousness of harm risked can vary between offences.

When using the table to determine the appropriate level, consideration should be given to the worst possible harm outcomes that could reasonably occur as a result of the landlord committing the offence. This means that even if some harm has already come to tenants or visitors to the property, consideration should still be given to whether there was the potential for even greater harm to have occurred.

Table 2 - Seriousness of Harm Risked

Level A	The seriousness of harm risked would meet the guidance for Class I and Class II harm outcomes in the Housing Health and Safety Rating System ¹ .
Level B	The seriousness of harm risked would meet the guidance for Class III and Class IV harm outcomes in the ‘Housing Health and Safety Rating System’ ³ .
Level C	All other cases not falling within Level A or Level B (e.g. where an offence occurred but the level of harm to the tenants or visitors does not meet the descriptions for Level A or Level B).

Further information about the classes of harm under the Housing Health and Safety Rating System can be found in appendix I.

¹ Office of the Deputy Prime Minister: London (2006), *Housing Health and Safety Rating System Operating Guidance*, page 47

2.6 Step 3: Penalty Levels

Using the already determined level of culpability and the seriousness of harm risked, find the appropriate penalty level (1 – 5+) in Table 3.

Table 3 - Penalty Levels

Seriousness of Harm Risked	Culpability			
	Very high	High	Medium	Low
Level A	5+	5	4	3
Level B	5	4	3	2
Level C	4	3	2	1

2.7 Step 4: Penalty Bands

Table 4 - Penalty Bands

Penalty Level	Penalty Band
1	£600 - £1200
2	£1200 - £3000
3	£3000 - £6000
4	£6000 - £15,000
5 / 5+	£15,000 - £30,000

Compare the penalty level from Step 3 to table 4 and this will give the penalty band for the offence. This penalty band determines both the starting amount and the upper limit for the penalty calculation.

Stage 2

Considering the landlord's income and track record

2.8 Stage 2 Overview

There are two elements to consider in stage 2: the landlord's income and the landlord's track record. Each of these will affect the penalty calculation and further details are set out below.

2.9 The landlord's Finances

Although the Council is permitted to consider all of a landlord's income and assets when calculating a civil penalty, full financial investigations will normally only be considered for the more serious offences.

For penalties that fall within bands 5 and 5+, a financial investigation of the landlord will be usually carried out and all sources of income received by the landlord can be considered as 'relevant income' for the purpose calculating the civil penalty. Specifically, the average weekly income of the landlord for the 12 months preceding the date of the offence will be used.

For penalties that fall within bands 1 to 4, the landlord's income will still be considered but the 'relevant income' will normally be limited to the income that the landlord received in relation to the property where the offence occurred.

For property owners, this will be the weekly rental income, as declared on the tenancy agreements, for the property where offence occurred and at the time the offence occurred.

For property agents, the relevant income will be any fees they received for the management of the property, as stated on the management contract between the agent and the other parties to the contract. Where the fees include VAT or any other charges, the gross amount of the fees will be used.

IMPORTANT: although the Council will not normally consider carrying out a full financial investigation where the offence falls within penalty bands 1 to 4, the Council does reserve the right to do so where it considers it reasonable and proportionate to the circumstances.

2.10 How is the increase as a result of the landlord's income calculated?

This is a two-step process with step 1 determining what counts as relevant weekly income and step 2 determining what percentage of this relevant weekly income should be added to the penalty amount. These steps are set out in more detail below.

Table 5 - Defining relevant weekly income

Penalty Level	Relevant Weekly Income
1	
2	Gross rental income or management fees for the property where the offence occurred
3	
4	
5 / 5+	All income for the offender (carry out a financial assessment)

Step 1 - take the penalty band, as determined in Stage 1, and compare it to Table 5: this will state what can be considered as relevant weekly income for the offence.

Table 6 - % of relevant weekly income

Penalty Level	% of Relevant Weekly Income
1	50% of relevant weekly income
2	100% of relevant weekly income
3	150% of relevant weekly income
4	250% of relevant weekly income
5	400% of relevant weekly income
5+	600% of relevant weekly income

Step 2 - take the penalty band, as determined in Stage 1, and compare it to Table 6. This will give the percentage of the landlord's relevant weekly income will be added to the civil penalty.

2.11 What if tenancy agreements or management contracts are not available?

Tenancy agreements and property management contracts can be requested using the Council's existing powers and this should be done where copies are not already available.

In cases where the landlord is not forthcoming with this information or documentation, an estimate of the average weekly income will be used instead and it will be for the landlord to make representations against this estimated figure if they deem it to be too high.

Representations against estimated incomes will only be accepted where sufficient evidence of the landlord's income is provided to support these claims. Estimates of average weekly income will be calculated on a case by case basis but they will generally be based on an assessment of similar sized rental properties in the same area as the property to which the offence relates.

IMPORTANT – the Council will not normally consider a landlord's assets but does reserve the right to consider assets in any cases where the Council considers it reasonable and proportionate to do so. Each of these cases will be dealt with on a case by case basis.

2.12 The Landlord's track record

A higher penalty will be appropriate where the landlord has a history of failing to comply with their obligations; as such, the track record of the landlord will be an important factor in determining the final amount of the civil penalty that is imposed. Below are questions that must be asked for each landlord that will receive a civil penalty.

- 1) *Has the landlord had any relevant¹ notices, under Part 1 of the Housing Act 2004, served on them in the last 2 years? If so, how many times have they been subject to such enforcement action in that timeframe?*
- 2) *Has the landlord had any civil penalties imposed on them in the last 2 years? If so, how many civil penalties have been imposed on them in that timeframe?*
- 3) *Has the landlord accepted any cautions for relevant¹ offences in the last 2 years? If so, how many cautions for relevant offences¹ have they accepted in that timeframe?*
- 4) *Has the landlord been sent a letter, in the last 2 years, which informed them that they are now subject to a 'straight to enforcement action' approach?*
- 5) *Has the landlord owned or managed a property where the term of an existing licence for the property, under the Housing Act 2004, was reduced due to enforcement action or significant concerns, in the last 2 years?*
- 6) *Has the landlord breached any relevant² notices, which resulted in works in default being carried out, in the last 2 years? If so, how many times have works in default been carried out under such circumstances in that timeframe?*
- 7) *Has the landlord owned or managed a property where a licence for the property, under the Housing Act 2004, was revoked due to enforcement action or significant concerns, in the last 2 years?*
- 8) *Has the landlord been prosecuted for any relevant³ offences in the last 2 years? If so, how many times have such prosecutions taken place in that time frame?*
- 9) *Has the landlord owned or managed a property which was subject to an interim or final management order under the Housing Act 2004 in the last 2 years?*
- 10) *Has the Landlord been the subject of a banning order under the Housing and Planning Act 2016 in the last 2 years?*

¹ any action under Part 1 other than a 'hazard awareness' notice or a 'clearance area'.

² any notices served under any legislation relating to housing, public health or environmental health.

³ any unspent convictions relating to any provision of any enactment relating to housing, public health, environmental health or landlord and tenant law which led to civil or criminal proceedings resulting in a judgement being made against the offender.

IMPORTANT – question 1 refers to all relevant notices served during the two years: this means that where the offence is failure to comply with an improvement notice, that notice should also be included in the answer to the question.

2.13 How is the increase as a result of the Landlord’s track record calculated?

Each of the questions will be placed into one of four categories, based on the seriousness of the offence or enforcement action to which the question refers. Each category of question is given a weighting that increases with the seriousness of the category. Table 7 shows the four categories and the weighting which is applied to each one.

Table 7 – Weightings

Category	Weighting
Category 1 (<i>Least serious</i>)	1
Category 2 (<i>Moderately Serious</i>)	5
Category 3 (<i>Very Serious</i>)	10
Category 4 (<i>Most serious</i>)	20

Any questions where the answer is ‘no’ will have a weighting of zero but ‘yes’ answers will accrue the weighting for that particular question. E.g. the weighting for a question is 10 and the answer to that question is ‘yes’ so the score for that particular question will be 10.

For those questions where the number of occasions is relevant, the total weighting for a ‘yes’ answer will be the weighting for that question multiplied by the number of occasions. E.g. if a question has a weighting of 5 and the landlord has committed the offence 3 times, this will give a total score of 15 for the question. Table 8 shows the category which each of the questions falls within and the subsequent weighting that is applied as a result.

Table 8 - Questions & Weightings

Questions	Weighting for a ‘Yes’ answer	Multiplied by the number of occasions?
Has the landlord had any relevant ¹ notices, under Part 1 of the Housing Act 2004, served on them in the last 2 years?	1	Yes
Has the landlord had any civil penalties imposed on them in the last 2 years?	5	Yes
Has the landlord accepted any cautions for relevant ¹ offences in the last 2 years?	10	Yes
Has the landlord been sent a letter, in the last 2 years, which informed them that they are now subject to a ‘straight to enforcement action’ approach?	5	No

Has the landlord owned or managed a property where the term of an existing licence for the property, under the Housing Act 2004, was reduced due to enforcement action or significant concerns, in the last 2 years?	5	No
Has the landlord breached any relevant ² notices, which resulted in works in default being carried out, in the last 2 years?	10	Yes
Has the landlord owned or managed a property where a licence for the property, under the Housing Act 2004, was revoked due to enforcement action or significant concerns, in the last 2 years?	10	No
Has the landlord been prosecuted for any relevant ³ offences in the last 2 years?	20	Yes
Has the landlord owned or managed a property which was subject to an interim or final management order under the Housing Act 2004 in the last 2 years?	20	No
Has the landlord been the subject of a banning order under the Housing and Planning Act 2016 in the last 2 years?	20	No

¹ any action under Part 1 other than a 'hazard awareness' notice or a 'clearance area'.

² any notices served under any legislation relating to housing, public health or environmental health.

³ any unspent convictions relating to any provision of any enactment relating to housing, public health, environmental health or landlord and tenant law which led to civil or criminal proceedings resulting in a judgement being made against the offender

Table 9 - % Increase

Score	%	Score	%
0	0%	21	55%
1	5%	23	60%
3	10%	25	65%
5	15%	27	70%
7	20%	29	75%
9	25%	31	80%
11	30%	33	85%
13	35%	35	90%
15	40%	37	95%
17	45%	39+	100%

Once all the questions have been answered, the weighting for each is totalled and compared to Table 9: this gives the percentage increase that will be applied to the penalty amount. The increase will be a percentage of the starting amount for the penalty band that the offence falls within. E.g. the total score for the questions is 23 and so the corresponding percentage increase in Table 9 will be 60%.

IMPORTANT - the penalty calculation will never be increased past the upper limit of the penalty band: however, where the landlord has a history of non-compliance, it is appropriate to factor this into your assessment of their overall culpability. This could affect your initial assessment of the appropriate penalty level and lead to a higher penalty band being used as the starting point.

Stage 3

Adding Income and Track Records Amounts to the Penalty Band

2.14 Stage 3 Overview

Stage 1 gives the penalty band for the offence and this determines the starting amount and the upper limit for the penalty calculation. Stage 2 gives the amount that should be added as a result of the landlord's income and the amount that should be added as a result of the landlord's track record.

2.15 How are the figures from stage 1 and stage 2 combined?

To get the amount of the penalty calculation, the two figures from Stage 2 should be added to the starting amount for the penalty band. E.g. if the increase for income is £500 and the increase due to the landlord's track record is £1000, these two figures are added to the starting amount for the penalty to get the penalty calculation amount.

If the amount calculated, by adding the figures for the landlord's income and track record, is less than the upper limit for the penalty band, then this is the amount that will be used. However, if the amount calculated is greater than the upper limit for the penalty band, then the upper limit will be used instead.

Stage 4

Financial benefit obtained from committing the offence

2.16 Stage 4 Overview

A guiding principle of civil penalties is that they should remove any financial benefit that the landlord may have obtained as a result of committing the offence. This means that the amount of the civil penalty imposed should never be less than it would have reasonably cost the landlord to comply in the first place.

2.17 How is the financial benefit determined?

Calculating the amount of financial benefit obtained will need to be done on a case by case basis but the table below gives some examples of potential financial benefit for each of the offences.

Offence	Examples of potential financial benefit
Failure to comply with an Improvement Notice (section 30)	The cost of any works that were required to comply with the improvement notice but which have not been removed by works in default.
Offences in relation to licensing of HMOs (section 72)	Rental income whilst the HMO was operating unlicensed or where it was occupied by more than the number of persons authorised by the licence; the cost of complying with any works conditions on the licence; the cost of the licence application fee.
Offences in relation to licensing of houses under Part 3 of the Act (section 95)	Rental income whilst the property was operating unlicensed or where it was occupied by more than the number of persons authorised by the licence; the cost of complying with any works conditions on the licence; the cost of the licence application fee.
Offence of contravention of an overcrowding notice (section 139)	Rental income whilst the property is being occupied in contravention of the overcrowding notice.
Failure to comply with management regulations in respect of HMOs (section 234)	The cost of any works that are required to avoid breaching the regulations.

2.18 How is financial benefit added to the penalty amount?

The Council will need to be able to prove that financial benefit was obtained before it can be included in the civil penalty calculation. However, where it can be proven, the amount obtained should be added to the penalty calculation amount from Stage 3 and this will give the final civil penalty amount that will be imposed on the landlord.

IMPORTANT – where the landlord has obtained financial benefit in the form of rental income and this full amount has been added to the total penalty, it will be appropriate to take this into consideration when deciding whether or not to pursue a Rent Repayment Order.

Section 3

Imposing a Civil Penalty

3.1 Where is the process for civil penalties set out?

Schedule 9 of the Housing and Planning Act 2016 sets out the process which must be followed when imposing a civil penalty.

3.2 Notice of Intent

Before imposing a civil penalty on a landlord, the Council must serve a 'notice of intent' on the landlord in question. This notice must be served within 6 months of the last day on which the Council has evidence of the offence occurring. This notice must contain the following information:

- The amount of the proposed civil penalty;
- The reasons for proposing to impose a civil penalty, and;
- Information about the Landlord's right to make representations to the Council.

3.3 Representations

Any landlord who is in receipt of a notice of intent has the right to make representations against that notice within 28 days of the date on which the notice was given. Representations can be against any part of the proposed course of action. All representations from landlords will be considered by an appropriate senior colleague.

Where a landlord challenges the amount of the civil penalty, it will be for the landlord to provide documentary evidence (e.g. tenancy agreements etc.) to show that the calculation of the penalty amount is incorrect. Where no such supporting evidence is provided, the representation against the amount will not be accepted.

Written responses will be provided to all representations made by the recipients of a notice of intent. No other parties have an automatic right to make representations but if any are received, they will be considered on a case by case basis and responded to where the Council considers it necessary.

3.4 Final Notice

Once the representation period has ended, the Council must decide, taking into consideration any representations that were made, whether to impose a civil penalty and the final amount of the civil penalty. The final amount of a civil penalty can be a

lower amount than was proposed in the notice of intent but it cannot be a greater amount.

The imposing of a civil penalty involves serving a final notice and this notice must contain the following information:

- The amount of the financial penalty;
- The reasons for imposing the penalty;
- Information about how to pay the penalty;
- The period for payment of the penalty;
- Information about rights of appeal, and;
- The consequences of failure to comply with the notice.

The period of payment for the civil penalty must be 28 days beginning with the day after that on which the notice was given.

3.5 Withdrawing or Amending Notices

At any time, the Council may withdraw a notice of intent or a final notice or reduce the amount of a civil penalty. This is done by giving notice in writing to the person on whom the notice was served.

Where a civil penalty has been withdrawn, and there is a public interest in doing so, the Council can still pursue a prosecution against the landlord for the conduct for which the penalty was originally imposed. Each case will be considered on a case by case basis.

3.6 Appeals to the Tribunal

If a civil penalty is imposed on a landlord, that Landlord can appeal to the First-tier Tribunal (“the Tribunal”) against the decision to impose a penalty or the amount of the penalty. The Tribunal has the power to confirm, vary (increase or reduce) the size of the civil penalty imposed by the Council, or to cancel the civil penalty. Where an appeal has been made, this suspends the civil penalty until the appeal is determined or withdrawn.

3.7 Payment of a Civil Penalty

A civil penalty must be paid within 28 days, beginning with the day after that on which the final notice was given (“the 28 day payment period”), unless that notice is suspended due to an appeal. Details of how to pay the penalty will be provided on the final notice.

3.8 Other consequences of having a Civil Penalty imposed

Where a civil penalty has been imposed on a landlord, this will form a part of our consideration when reviewing licence applications for properties in which they have some involvement. This includes licences under Part 2 or Part 3 of the Housing Act 2004.

Whilst a civil penalty will not automatically preclude us from granting a licence where such persons are involved, the reasons for imposing the penalty and the extent of the person's involvement in the property will be considered.

Where a landlord has two civil penalties imposed on them in a 12 month period, each for a banning order offence, the Council will include their details on the Database of Rogue Landlords and Property Agents.

“Banning order offence” means an offence of a description specified in regulations made by the Secretary of State under Section 14(3) of the Housing and Planning Act 2016.

3.9 Recovering an unpaid Civil Penalty

It is the policy of the Council to consider all legal options available for the collection of unpaid civil penalties and to pursue unpaid penalties in all cases through the county courts. Some of the orders available to the Council through the county courts are as follows:

- A Warrant of Control for amounts up to £5000;
- A Third Party Debt Order;
- A Charging Order, and;
- Bankruptcy or insolvency.

A certificate, signed by the Chief Finance Officer for the Council and stating that the amount due has not been received by the date of the certificate, will be accepted by the courts as conclusive evidence of the payment due.

Where a Charging Order has been made, and the amount of the order is over £1000, the Council can consider applying for an Order for Sale against the property or asset in question. When considering which properties to apply for a Charging Order against, the Council can consider all properties owned by the Landlord and not just the property to which the offence relates.

Where the civil penalty was appealed and the Council has a tribunal decision, confirming or varying the penalty, the decision will be automatically registered on the Register of Judgments, Orders and Fines, once accepted by the county court.

Inclusion on this Register may make it more difficult for the Landlord to get financial credit.

3.10 Income from Civil Penalties

Any income from Civil Penalties is retained by the Local Housing Council which imposed the penalty. The Council must spend any income from Civil Penalties on its enforcement functions in relation to the private rented sector. Further details can be found in Statutory Instrument 367 (2017).

Section 4

Worked Examples

4.1 Worked Example 1

Landlord A owns and operates an unlicensed HMO. Landlord A has been made aware of the need to apply for an HMO licence but has failed to do so and has continued to operate unlicensed for the past 6 months. The rental income received by Landlord A during this 6 month period is £7500. This is not the first time that Landlord A has been the subject of enforcement action, having previously been cautioned for operating another unlicensed HMO a year ago and being served improvement notices on two separate occasions in the last 12 months. Both notices were complied with.

Offence: Operating an unlicensed HMO

Culpability: 'Very High' (*Deliberate breach of or flagrant disregard for the law*)

Justification: Landlord A is aware of requirement to licence the property and the consequences of not doing so but has chosen not to comply anyway.

Seriousness of harm risked: 'Level C'

(*All other cases not falling within Level A or Level B*)

Justification: the specific offence of operating an unlicensed HMO does not implicitly mean that there are any defects or deficiencies in the property. As such, the seriousness of harm risked would not meet the descriptions of 'Level A' or 'Level B'.

Penalty band: 4 - £6000 to £15,000 (*'Very High' culpability and 'Level C' harm*)

Increase due to the landlord's track record: £1800

(*30% of the starting point for the penalty*)

Justification: in the last two years, Landlord A has accepted 1 caution for a relevant offence and has been served 2 relevant notices, under Part 1 of the Housing Act 2004. This gives us a score of 12 and an increase of 30% of the penalty amount. This is an increase of £1800.

Increase due to the landlord's income: £721.15

(*250% of weekly rental income from the property where the offence occurred*)

Justification: the penalty band is 4 and Landlord A is the owner of the property where the offence occurred. As such, the relevant income for consideration is the weekly rental income for the property and 250% of this will be added to the penalty amount. In this case, the relevant weekly income is £288.46 and so £721.15 will be added.

Penalty calculation amount: £8521.15 (£6000 + £1800 + £721.15 = £8521.15)

Financial benefit obtained from committing the offence: £7500

Justification: Landlord A has received £7500 in rental income from the property during the time that it has been unlicensed and so this can be considered the financial benefit received from committing the offence.

Final amount of the civil penalty: £16021.15 (£8521.15 + £7500 = £16021.15)

4.2 Worked Example 2

Landlord B owns and manages a single family dwelling. During an inspection, a category 1 hazard (falls on stairs) and multiple category 2 hazards were identified at the property. The stairs were in an extremely dangerous condition but could be made safe fairly easily. An improvement notice was served on Landlord B and some of the works to reduce the category 2 hazards were carried out but the remainder of the works on the notice were not. Works in default were carried out at the property with a total cost of £2000. Landlord B was also prosecuted 18 months ago for failing to comply with an improvement notice. A financial investigation into Landlord B found that they have received an annual income of £50,000.

Offence: Failing to comply with an improvement notice.

Culpability: ‘Very High’ (*Deliberate breach of or flagrant disregard for the law*)

Justification: Landlord B was aware of the need to comply with the Improvement Notice as some of the works were completed. Landlord B is also aware of the consequences of failing to comply with the notice as previous enforcement action has been taken against them for this reason.

Seriousness of harm risked: ‘Level A’

Justification: The condition of the staircase creates a Category 1 hazard and if someone were to trip or fall on the stairs, they could reasonably end up with harm outcomes that meet the descriptions of Class 1 and Class 2 harm outcomes under the Housing Health & Safety Rating System. This means that the seriousness of harm risked meets the description of ‘Level A’.

Penalty band: 5+ - £15,000 to £30,000 (*‘Very High’ culpability and ‘Level A’ harm*)

Increase due to the landlord’s track record: £12,000
(*80% of the starting point for the penalty*)

Justification: in the last two years, Landlord B has been prosecuted for a relevant offence, has been served 1 relevant notice under Part 1 of the Housing Act 2004, and has been subject to works in default. This gives us a score of 31 for his track record and an increase of 80% of the penalty amount. This is an increase of £12,000.

Increase due to the landlord's income: £5769.23

(600% of the Landlord's average weekly income)

Justification: the penalty band is 5+ and so a financial investigation was carried out to identify all of Landlord B's income. The investigation found they received a total annual income of £50,000 and 600% of their average weekly income will be added to the penalty amount. In this case, the average weekly income is £961.54 and so £5769.23 will be added.

Penalty calculation amount: £30,000 ($£15000 + £12000 + £5769.23 = £32,769.23$)

Financial benefit obtained from committing the offence: None

Justification: works in default were carried out at the property and the cost of these works, plus an administration fee, were charged to Landlord B. As such, it cannot be said that Landlord B obtained financial benefit from committing the offence.

Final amount of the civil penalty: £30,000

(£15000 + £12000 + £5769.23 = £32,769.23 - civil penalties are capped at £30,000)

4.3 Worked Example 3

Landlord C is the appointed manager of a three bedroom licenced HMO. The company is paid £90 per month to manage the property on behalf of the owner. During a compliance inspection, it was found that they had neglected to display any of the manager's details anywhere in the property. They were warned about this one year ago and stated that they were aware of the requirement but an oversight meant that they missed this property when displaying details. They have not been the subject of any formal enforcement action in the last 2 years and the property was otherwise in a satisfactory condition.

Offence: Failure to comply with management regulations in respect of Houses in Multiple Occupation.

Culpability: 'Low' (*Failings were minor and occurred as an isolated incident*)

Justification: the company does not have a history of non-compliance and the breach was fairly minor and easily rectified.

Seriousness of harm risked: 'Level C'

(All other cases not falling within Level A or Level B)

Justification: The seriousness of harm risked to the tenants was low and so it would not meet the descriptions of harm found in 'Level A' or 'Level B'.

Penalty band: 1 - £600 to £1200 ('Low' culpability and 'Level C' harm)

Increase due to the landlord's track record: None

Justification: in the last two years, Landlord C has not been the subject of any formal enforcement action and so there is no increase in the penalty amount due to their track record.

Increase due to the landlord's income: £10.39 (50% of weekly rental income from the property where the offence occurred)

Justification: the penalty band is 1 and Landlord C is the manager of the property where the offence occurred. As such, the relevant income for consideration is the weekly management fees received for the property and 50% of this will be added to the penalty amount. In this case, the relevant weekly income is £20.77 and so £10.39 will be added.

Initial penalty calculation amount: £610.39 ($£600 + £10.39 = £610.39$)

Financial benefit obtained from committing the offence: None

Justification: the cost of displaying Landlord C's management details would be negligible and so it would not be reasonable to claim that financial benefit was obtained from committing the offence.

Final amount of the civil penalty: £610.39 ($£600.00 + £10.39 = £610.39$)

Appendix I – Classes of Harm (HHSRS)

The following is an extract from the Housing Health and Safety Rating System Operating Guidance (page 47 - 48), published by the Office of the Deputy Prime Minister (2006).

“Examples for the Four HHSRS Classes of Harm

- C1 *The Classes of Harm used for the HHSRS are based on the top four Classes of Harm as identified in A Risk Assessment Procedure for Health and Safety in Buildings (2000) BRE. While this work identified seven Classes of Harm, only the top four are used for the purposes of the HHSRS as these are harms of sufficient severity that they will either prove fatal or require medical attention and, therefore, are likely to be recorded in hospital admissions or GP records.*
- C2 *Work on developing and refining the Statistical Evidence supporting the Rating System involved classifying a more comprehensive list of harm outcomes.*
- C3 *The examples given below are intended for guidance only. It should be noted that some of the harm outcomes may appear in more than one Class depending on the severity of the condition. For example, respiratory disease will be in Class II or III depending on the severity and duration.*

Class I

This Class covers the most extreme harm outcomes including: Death from any cause; Lung cancer; Mesothelioma and other malignant lung tumours; Permanent paralysis below the neck; Regular severe pneumonia; Permanent loss of consciousness; 80% burn injuries.

Class II

This Class covers severe harm outcomes, including: Cardio-respiratory disease; Asthma; Non-malignant respiratory diseases; Lead poisoning; Anaphylactic shock; Cryptosporidiosis; Legionnaires disease; Myocardial infarction; Mild stroke; Chronic confusion; Regular severe fever; Loss of a hand or foot; Serious fractures; Serious burns; Loss of consciousness for days.

Class III

This Class covers serious harm outcomes, including: Eye disorders; Rhinitis; Hypertension; Sleep disturbance; Neuro-psychological impairment; Sick building syndrome; Regular and persistent dermatitis, including contact dermatitis; Allergy; Gastro-enteritis; Diarrhoea; Vomiting; Chronic severe stress; Mild heart attack; Malignant but treatable skin cancer; Loss of a finger; Fractured skull and severe concussion; Serious puncture wounds to head or body; Severe burns to hands; Serious strain or sprain injuries; Regular and severe migraine.

Class IV

This Class includes moderate harm outcomes which are still significant enough to warrant medical attention. Examples are: I Pleural plaques; Occasional severe discomfort; Benign tumours; Occasional mild pneumonia; Broken finger; Slight concussion; Moderate cuts to face or body; Severe bruising to body; Regular serious coughs or colds.”

Appendix II – Public Interest Stage of the Full Code Test

The following is an extract from pages 7-10 of The Code for Crown Prosecutors (January 2013, 7th Edition) issued by the Director of Public Prosecutions (DPP) under section 10 of the Prosecution of Offences Act 1985.

The Public Interest Stage

- 4.7 *In every case where there is sufficient evidence to justify a prosecution, prosecutors must go on to consider whether a prosecution is required in the public interest.*
- 4.8 *It has never been the rule that a prosecution will automatically take place once the evidential stage is met. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In some cases the prosecutor may be satisfied that the public interest can be properly served by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal rather than bringing a prosecution.*
- 4.9 *When deciding the public interest, prosecutors should consider each of the questions set out below in paragraphs 4.12 a) to g) so as to identify and determine the relevant public interest factors tending for and against prosecution. These factors, together with any public interest factors set out in relevant guidance or policy issued by the DPP, should enable prosecutors to form an overall assessment of the public interest.*
- 4.10 *The explanatory text below each question in paragraphs 4.12 a) to g) provides guidance to prosecutors when addressing each particular question and determining whether it identifies public interest factors for or against prosecution. The questions identified are not exhaustive, and not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will also vary according to the facts and merits of each case.*
- 4.11 *It is quite possible that one public interest factor alone may outweigh a number of other factors which tend in the opposite direction. Although there may be public interest factors tending against prosecution in a particular case, prosecutors should consider whether nonetheless a prosecution should go ahead and those factors put to the court for consideration when sentence is passed.*
- 4.12 *Prosecutors should consider each of the following questions:*

a) How serious is the offence committed?

The more serious the offence, the more likely it is that a prosecution is required. When deciding the level of seriousness of the offence committed, prosecutors should include amongst the factors for consideration the suspect's culpability and the harm to the victim by asking themselves the questions at b) and c).

b) What is the level of culpability of the suspect?

The greater the suspect's level of culpability, the more likely it is that a prosecution is required.

Culpability is likely to be determined by the suspect's level of involvement; the extent to which the offending was premeditated and/or planned; whether they have previous criminal convictions and/or out-of-court disposals and any offending whilst on bail or

whilst subject to a court order; whether the offending was or is likely to be continued, repeated or escalated; and the suspect's age or maturity (see paragraph d) below for suspects under 18).

Prosecutors should also have regard when considering culpability as to whether the suspect is, or was at the time of the offence, suffering from any significant mental or physical ill health as in some circumstances this may mean that it is less likely that a prosecution is required. However, prosecutors will also need to consider how serious the offence was, whether it is likely to be repeated and the need to safeguard the public or those providing care to such persons.

c) What are the circumstances of and the harm caused to the victim?

The circumstances of the victim are highly relevant. The greater the vulnerability of the victim, the more likely it is that a prosecution is required. This includes where a position of trust or authority exists between the suspect and victim.

A prosecution is also more likely if the offence has been committed against a victim who was at the time a person serving the public.

Prosecutors must also have regard to whether the offence was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or the suspect demonstrated hostility towards the victim based on any of those characteristics. The presence of any such motivation or hostility will mean that it is more likely that prosecution is required.

In deciding whether a prosecution is required in the public interest, prosecutors should take into account the views expressed by the victim about the impact that the offence has had. In appropriate cases, this may also include the views of the victim's family.

Prosecutors also need to consider if a prosecution is likely to have an adverse effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence. If there is evidence that prosecution is likely to have an adverse impact on the victim's health it may make a prosecution less likely, taking into account the victim's views.

However, the CPS does not act for victims or their families in the same way as solicitors act for their clients, and prosecutors must form an overall view of the public interest.

d) Was the suspect under the age of 18 at the time of the offence?

The criminal justice system treats children and young people differently from adults and significant weight must be attached to the age of the suspect if they are a child or young person under 18. The best interests and welfare of the child or young person must be considered including whether a prosecution is likely to have an adverse impact on his or her future prospects that is disproportionate to the seriousness of the offending. Prosecutors must have regard to the principal aim of the youth justice system which is to prevent offending by children and young people. Prosecutors must also have regard to the obligations arising under the United Nations 1989 Convention on the Rights of the Child.

As a starting point, the younger the suspect, the less likely it is that a prosecution is required.

However, there may be circumstances which mean that notwithstanding the fact that the suspect is under 18, a prosecution is in the public interest. These include where the offence committed is serious, where the suspect's past record suggests that there are no suitable alternatives to prosecution, or where the absence of an admission means that out-of-court disposals which might have addressed the offending behaviour are not available.

e) What is the impact on the community?

The greater the impact of the offending on the community, the more likely it is that a prosecution is required. In considering this question, prosecutors should have regard to how community is an inclusive term and is not restricted to communities defined by location.

f) Is prosecution a proportionate response?

Prosecutors should also consider whether prosecution is proportionate to the likely outcome, and in so doing the following may be relevant to the case under consideration:

The cost to the CPS and the wider criminal justice system, especially where it could be regarded as excessive when weighed against any likely penalty. (Prosecutors should not decide the public interest on the basis of this factor alone. It is essential that regard is also given to the public interest factors identified when considering the other questions in paragraphs 4.12 a) to g), but cost is a relevant factor when making an overall assessment of the public interest.)

Cases should be capable of being prosecuted in a way that is consistent with principles of effective case management. For example, in a case involving multiple suspects, prosecution might be reserved for the main participants in order to avoid excessively long and complex proceedings.

g) Do sources of information require protecting?

In cases where public interest immunity does not apply, special care should be taken when proceeding with a prosecution where details may need to be made public that could harm sources of information, international relations or national security. It is essential that such cases are kept under continuing review.

Appendix III – The Evidential Stage of the Full Code Test

The following is an extract from pages 6-7 of The Code for Crown Prosecutors (January 2013, 7th Edition) issued by the Director of Public Prosecutions (DPP) under section 10 of the Prosecution of Offences Act 1985.

The Evidential Stage

- 4.4 *Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.*
- 4.5 *The finding that there is a realistic prospect of conviction is based on the prosecutor's objective assessment of the evidence, including the impact of any defence and any other information that the suspect has put forward or on which he or she might rely. It means that an objective, impartial and reasonable jury or bench of magistrates or judge hearing a case alone, properly directed and acting in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a different test from the one that the criminal courts themselves must apply. A court may only convict if it is sure that the defendant is guilty.*
- 4.6 *When deciding whether there is sufficient evidence to prosecute, prosecutors should ask themselves the following:*

Can the evidence be used in court?

Prosecutors should consider whether there is any question over the admissibility of certain evidence. In doing so, prosecutors should assess:

- a) the likelihood of that evidence being held as inadmissible by the court; and*
- b) the importance of that evidence in relation to the evidence as a whole.*

Is the evidence reliable?

Prosecutors should consider whether there are any reasons to question the reliability of the evidence, including its accuracy or integrity.

Is the evidence credible?

Prosecutors should consider whether there are any reasons to doubt the credibility of the evidence.

<p>NEIGHBOURHOOD SERVICES COMMITTEE</p> <p>14th June 2023</p>
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Report of: Assistant Director (Regulatory Services)

Subject: AIR QUALITY STRATEGY

Decision Type: Key Decision (Forward Plan Ref: NRS 04 / 23)

1. COUNCIL PLAN PRIORITY

Hartlepool will be a place:
- where people are enabled to live healthy, independent and prosperous lives.
- that is sustainable, clean, safe and green.

2. PURPOSE OF REPORT

2.1 To inform Neighbourhood Services Committee of the current position regarding air quality in the Borough and to present members with a draft Air Quality Strategy for their consideration and approval. This is following a consultation period as approved by members at the previous Neighbourhood Service Committee held on 13th March 2023.

3. BACKGROUND

3.1 Air pollution has a significant effect on Public Health in the UK and clean air is extremely important for the health and wellbeing of people who live and work in the Borough.

3.2 Air quality is currently high on the Government’s agenda and the UK has set stringent targets to cut national emissions of five air pollutants (fine particulate matter, ammonia, nitrogen oxides, sulphur dioxide, and non-

methane volatile compounds) with the goal to reduce the harm to human health from air pollution by half by 2030.

- 3.3 Officers from the Environmental Protection Team monitor air pollution in the Borough in order to fulfil the Council's statutory duties under the Environmental Act 1995 (Part IV Local Air Quality Management), check compliance against current UK air quality objectives, guidelines and limits, and assess trends in air quality and thereby the effectiveness of policies and local interventions to improve air quality.
- 3.4 Monitoring results across the Borough are good and are consistently below objective levels set by Government.
- 3.5 Annual Air Quality Status Reports (ASRs) are produced and, once approved by the Department for Food, Environment and Rural Affairs (DEFRA), are published on the Council's website to raise awareness and provide reassurance to the public of local air quality.
- 3.6 DEFRA have notified officers that, in addition to the submission of ASR 2023 by 30th June 2023, a local Air Quality Strategy must be produced in 2023.
- 3.7 A draft Air Quality Strategy has been produced (see **Appendix 1**) which would fulfil DEFRA's requirements, enable the Council to respond to the increasing national recognition of the impact of air pollution on Public Health, and raise local awareness of the importance of air pollution, emphasising the Council's role in maintaining and improving air quality.
- 3.8 The proposed Strategy includes a range of inter-departmental policies which have been agreed and will help ensure that air quality is an integral part of the Council's remit, with an action plan to be produced to deliver on the policies.
- 3.9 The Council has committed to be a Net Zero Authority by 2030 and on 13th December 2021, Finance and Policy Committee approved the production of a Net Zero and Climate Change Plan for the Council. This Air Quality Strategy would be integral to the plan which is currently being developed.

4. PROPOSALS

- 4.1 That the Committee notes the report and approves the Air Quality Strategy for submission to DEFRA in June 2023.
- 4.2 That the Committee notes the Consultation feedback and approves the Air Quality Strategy with no further amendments.

5. RISK IMPLICATIONS

- 5.1 DEFRA may instigate measures if their requirement for the Council to produce an Air Quality Strategy is not fulfilled.
- 5.2 There is a secondary, reputational risk if the required documentation is not produced, approved and published.

6. FINANCIAL CONSIDERATIONS

- 6.1 There are currently no specific financial considerations, however these may develop where departments implement initiatives to support the strategy. These will be reported and approval sought as and when they arise.

7. LEGAL CONSIDERATIONS

- 7.1 There are no legal considerations.

8. CONSULTATION

- 8.1 Informal consultation was undertaken with officers from various departments and agreement sought for proposals identified in the Air Quality Strategy.
- 8.2 This draft version of the Air Quality Strategy went out for public consultation on the 5th May 2023 for a period of 3 weeks, with a closing date of 26th May 2023. A list of all consultees can be found in **Appendix 2**.
- 8.3 A total of 117 visitors have viewed the consultation page, with 54 visitors following the link and viewing the Draft Air Quality Strategy that was attached.
- 8.4 39 of those visitors subsequently viewed the Air Quality Strategy and did nothing further suggesting the strategy was satisfactory and had no further comments to make.
- 8.5 15 visitors made comments on the Draft Air Quality Strategy with 3 of them only answering question 1 and skipping the remaining two questions. Comments were received for questions 2 and 3 by 12 consultees, all of whom remained anonymous.
- 8.6 Visitors who wished to make representation were asked 3 questions as follows:
 - Q1. Do you agree with these Aims?
 - Q2. If there is anything that you think is missing from the strategy please tell us.
 - Q3. If you had any other comments about the strategy please let us know.

- 8.7 A pie chart was produced to show the 15 visitors that engaged with regards to Question 1 and this can be found in **Appendix 3**.
- 8.8 A table was produced to show text analysis for Question 2 and this can be found in **Appendix 4**.
- 8.9 A table was produced to show text analysis for Question 3 and this can be found in **Appendix 5**.
- 8.10 After reviewing and evaluating the results from the consultation it has been determined that no amendments to the Air Quality Strategy are deemed necessary.

9. CHILD/FAMILY POVERTY CONSIDERATIONS

- 9.1 The Air Quality Strategy includes a policy to support householders in the Borough to access a range of energy efficiency measures to reduce use of fossil fuels and help reduce heating costs and a Poverty Impact Assessment can be found at **Appendix 6**.

10. EQUALITY AND DIVERSITY CONSIDERATIONS

- 10.1 The effects of air pollution are often worse in the most vulnerable in our communities, including children, the disabled, individuals with existing respiratory disease and the elderly. Furthermore the health impacts of air pollution disproportionately impacts those who live in less affluent areas, exacerbating health inequalities and an Equality and Diversity Impact Assessment can be found at **Appendix 7**.

11. ENVIRONMENT, SUSTAINABILITY AND CLIMATE CHANGE CONSIDERATIONS

- 11.1 The proposed strategy is integral to the work the Council is undertaking to improve the environment and adapt to, and mitigate, the effects of Climate Change.

12. STAFF CONSIDERATIONS

- 12.1 Additional staff time may be necessary to enable effective partnership working and to achieve the aims and policies identified within the strategy.

13. ASSET MANAGEMENT CONSIDERATIONS

- 13.1 The Air Quality Strategy includes a policy that the Council will continue to address its energy usage within Council buildings through adoption of efficient energy practices and the use of the best available technology to deliver energy savings.

14. RECOMMENDATIONS

- 14.1 That Members note the contents of the report and approve the draft Air Quality Strategy as detailed in **Appendix 1**.

15. REASONS FOR RECOMMENDATIONS

- 15.1 DEFRA has introduced a new requirement that a local Air Quality Strategy be submitted by June 2023.

16. BACKGROUND PAPERS

- 16.1 Finance and Policy Committee – Net Zero and Climate Change Strategy Report – 13th December 2021.
- 16.2 Neighbourhood Service Committee Air – Quality Strategy – 13th March 2023.
- 16.2 [DEFRA - Local Air Quality Management Policy Guidance \(PG22\)](#).
- 16.3 [Chief Medical Officer annual report 2017](#).

17. CONTACT OFFICER

Sylvia Pinkney
 Assistant Director (Regulatory Services)
 Hartlepool Borough Council
 TS24 8AY
 Tel: (01429) 523315
 E-mail: Sylvia.pinkney@hartlepool.gov.uk

Sign Off:-

Executive Director of Development, Neighbourhoods and Regulatory Services	Date: 01/06/2023
Director of Finance, IT and Digital	Date: 01/06/2023
Director of Legal, Governance and HR	Date: 16/02/2023



(Draft) Air Quality Strategy

‘A Breath of Fresh Air’

2023 -2030

For further information contact:

Environmental Protection Team

Hartlepool Borough Council

Civic Centre

Victoria Road

Hartlepool

TS24 8AY

Tel: 01429 284024

Email: environmental.protection@hartlepool.gov.uk

This report will be available on the Hartlepool Borough Council web site at www.hartlepool.gov.uk

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1. EXECUTIVE SUMMARY

This Air Quality Strategy outlines the approach Hartlepool Borough Council (hereafter referred to as ‘the Council’) will take to help protect and, where possible, improve air quality in the Borough.

Air pollution is associated with a number of adverse health impacts and it is recognised as a contributing factor in the onset of heart disease and cancer. Additionally, air pollution particularly affects the most vulnerable in society and often has a strong correlation with equalities issues because less affluent areas are often those with poorest air quality.

Air pollution comes from many sources and pollutants can travel long distances and combine with each other to create different pollutants. Emissions from distant and local sources can build up into high local concentrations of pollution.

The Council monitors air pollution in the Borough in order to fulfil its statutory duties under the Environmental Act 1995 (Part IV Local Air Quality Management) and publishes an Air Quality Status Report each year. These reports have consistently concluded that air quality in the Borough is good.

As part of its commitment to protecting and improving air quality in the Borough, the Council has introduced a range of initiatives and actions across departments, and in partnership with external organisations, which will help to reduce pollution and maintain good air quality. The majority of these actions and initiatives are to reduce the environmental impact of traffic on the roads and encourage healthier, alternative methods of transport.

An integral part of the strategy are the statements of intent which have been defined and developed by officers from relevant service areas across the Council. Actions to help achieve the aims of the strategy will be developed and collated and an Action Plan produced.

The Council has a unique role in achieving and maintaining good air quality through a combination of enforcement, education and partnership working. The Council is ideally placed to interact with the general public, statutory and voluntary organisations and local businesses to develop partnerships which will assist in identifying and implementing initiatives necessary to achieving the aims of the Strategy.

2. INTRODUCTION

Air pollution has a significant effect on Public Health in the United Kingdom (UK) and clean air is extremely important for the health and wellbeing of people who live in the Borough. It is also essential for making sure that Hartlepool is a welcoming place to visit and work and every one of us deserves to breathe air free from harmful levels of air pollutants.

Air pollution is a mixture of particles and gases in the air which impacts on the health of people or has other harmful environmental effects. Air pollution has been linked to many long term health conditions, including respiratory and cardiac disease, cancer and more recently associated with changes linked to dementia.¹ Between 2017 and 2025, the total cost to the NHS and social care of air pollution is estimated to be £1.60 billion for Particulate Matter (PM^{2.5}) and Nitrogen Dioxide (NO²) combined. This figure increases to £5.6 billion if diseases are included for which there is currently less robust evidence for an association.²

It is estimated that long-term exposure to air pollution in the UK has an annual effect equivalent to 28,000 to 36,000 deaths and research indicates that eliminating air pollution could increase the life expectancy of people in the UK by 6 months.³

The effects of air pollution are often worse in the most vulnerable in our communities, including children, the disabled, individuals with existing respiratory disease and the elderly. Furthermore the health impacts of air pollution disproportionately impacts those who live in less affluent areas, exacerbating health inequalities. In her Annual Report of 2017 the (then) Chief Medical Officer Professor Dame Sally C. Davies stated 'There are strong geographical differences in the occurrence and concentration of pollutants. Analysis shows that these patterns, which vary by pollutant type, are related to measures of socioeconomic status, with pollution sources and higher concentrations of ambient pollution typically found in more socially disadvantaged areas'.⁴

Whilst air quality has improved significantly in recent decades, and will continue to improve due to national policy decisions, there are some areas where local action is needed to improve air quality further. The Council has, over many years, delivered local initiatives to improve health and the environment and this work will continue to be developed and implemented where possible.

The Council is committed to improving air quality across the Borough and minimising pollution levels which will bring significant and positive effects to the local environment and

on health, quality of life and the local economy. The Council will work collaboratively within and external to the Council to bring about meaningful improvements in air quality.

3. AIMS OF THE AIR QUALITY STRATEGY

The Strategy enables the Council to respond to the increasing recognition nationally of the impact of air pollution on public health and the importance of good air quality.

The Strategy aims to raise local awareness of the importance of air pollution and emphasise the role of the Council in maintaining and improving air quality.

The Council is committed to openness and transparency. The Strategy will be regularly reviewed and progress monitored and reported on the Council's website. This will provide re-assurance to the general public that the Council is meeting its statutory obligations, has put its 'Own House in Order' and is leading by example.

The Strategy highlights current initiatives and strategies which help to deliver cleaner air. Furthermore it proposes statements of intent which will help to further demonstrate the Council's commitment to improving air quality and provides a framework for partnership working.

4. AIR QUALITY IN THE UK

Air pollution and its effects on population health became an increasingly serious problem in the early 19th Century when, as a result of the Industrial Revolution, there were an increasing number of factories burning fossil fuels and the population was rapidly growing resulting in increased air pollution from coal burning fires. During unfavourable weather conditions in the 1950's and 60's, these pollutants formed the infamous 'smogs' which sources suggest that, when they were particularly bad events, caused thousands of premature deaths of susceptible people.⁵

These smogs, and the effects they had on population health, resulted in the first Clean Air Act of 1956, and by 1961 the UK had established the world's first co-ordinated national air pollution monitoring network. The Clean Air Acts of 1956 and 1968 were later consolidated into the Clean Air Act 1993⁶ which allowed the establishment of designated Smoke Control Areas to improve air quality through the use of alternative fuels and authorised appliances.

Since the introduction of successful (Domestic, European Union (EU) and internationally driven) legislation and the introduction of cleaner fuels and technologies, there has been a dramatic decline in levels of harmful pollutants and current concentrations of many recognised pollutants are now at their lowest since measurements began. Between 1970 and 2020 (the most recent year for which data are available), UK estimated emissions of nitrogen oxides have fallen by 76%, UK estimated emissions of PM¹⁰ particulate matter have fallen by 80% and UK estimated emissions of PM^{2.5} particulate matter have fallen by 85%.⁷

Notwithstanding this, air quality remains high on the Government's agenda and the UK has set stringent targets to cut national emissions of five air pollutants (fine particulate matter, ammonia, nitrogen oxides, sulphur dioxide, and non-methane volatile compounds) by 2020 and 2030 with the goal to reduce the harm to human health from air pollution by half. The Clean Air Strategy published in 2019 sets out the comprehensive actions necessary to meet the goal and acknowledges that effective action is needed at all levels of government and that neighbouring local authorities and other public bodies need to work collectively to tackle air pollution.⁸ The Environment Act 2021 received Royal Assent on 9th November 2021 and introduced a requirement for the Secretary of State to set a target for an annual mean concentration level of fine particulate matter (PM_{2.5}) in ambient air. The proposed target is a maximum concentration of 10µg/m³ to be met across England by 2040. A further target has also been proposed of a 35% reduction in population exposure by 2040 (compared to a base year of 2018).⁹ The Act also enables local authorities to take more effective, co-ordinated actions to achieve their air quality objectives and deliver improvements to public health.

5. AIR QUALITY IN HARTLEPOOL

5.1 Main Sources of Air Pollution

Hartlepool has a strong industrial heritage and, in the past, this has often made a significant contribution to poor air quality in the area and, early air quality monitoring within Hartlepool and neighbouring councils was specifically targeted to industrial sources of pollution. Many of the old industrial plants have now closed and regulation has improved significantly over the decades. The closure of plants and better regulation has resulted in industrial air pollution at ground level being greatly reduced.

Hartlepool has an extensive coastline and at times of strong north-easterly weather, there can be high levels of natural particulates which may have health effects for some members

of the public. Although not frequent events, Hartlepool does experience foam storms. Sea foam can hold algal toxins or surface-active pollutants in its bubbles which, when released into the air can pose a health risk for individuals with pre-existing health conditions and may cause irritation to the eyes.

Over recent years there has been an increase in the use of solid fuel stoves as a source of heating for domestic properties potentially further increasing the emission of harmful environmental pollutants. Most residential properties in the Borough of Hartlepool are included in a smoke control area where the solid fuels used are restricted to those approved by DEFRA or fuels burned in a DEFRA approved appliance in order to reduce emissions to the atmosphere.¹⁰ The Air Quality (Domestic Solid Fuel Standards) (England) Regulations 2020 tightened the standards relating to the sale of wood and other fuels which can be burnt in a domestic property and ensures that the sale of wood for combustion in domestic properties includes a 'ready to burn' mark.

Although there are several factors which affect air quality, it is pollution from road traffic, that is now of greatest concern to public health. Within Hartlepool through traffic is generally light and is channelled onto the main A689 and A179 through-route leading to the main A19 trunk road which passes well to the west of the town, through rural areas. The main impact on public health is along commuter roads, and it is in this area that most action needs to be targeted to alleviate air pollution. Fortunately, most housing along these roads is low rise, and set back from kerbside so that there is good dispersion of air pollutants compared with older UK cities and towns. The focus for current air quality monitoring within Hartlepool is on potential pollution from road traffic.

5.2 Local Air Quality Monitoring

The Environmental Protection Team at the Council monitor air pollutants at a range of locations across the Borough using both automatic and non-automatic (diffusion tubes) monitoring stations. The monitoring is undertaken to check compliance against current UK air quality objectives, guidelines and limits¹¹ and also to assess trends in air quality and thereby the effectiveness of policies and local interventions to improve air quality.

Monitoring results across the Borough are generally good and are consistently below objective levels set by Government.

Annual Air Quality Status Reports (ASR) are produced and published on the Council's website to raise awareness and provide re-assurance to the public of local air quality.

The current focus of monitoring across the Borough is to obtain reliable, accurate data for nitrogen dioxide and PM¹⁰. PM^{2.5} data will be collated from 2023.

5.3 Environmental Enforcement

Local Authorities regulate small industries which can cause air pollution. Operators must obtain an environmental permit from the local authority, which sets out air quality standards. Once the permit is obtained, premises are inspected on a regular basis to ensure compliance. The permitting system operates in England and Wales through the Environmental Permitting (England and Wales) Regulations 2016.

The Council has enforcement powers under the Environmental Protection Act 1990 and the Clean Air Act 1993 which can be used if people allow smoke from bonfires and chimneys to cause a statutory nuisance and, subject to some exemptions, allow the emission of dark smoke from industrial or trade premises.

6. CURRENT INITIATIVES

The National Institute for Health and Care Excellence (NICE) has produced guidelines (NG70) and a quality standard which covers road-traffic related air pollution and its impacts on health and is supported by a number of organisations including Public Health England and the British Lung Foundation and is endorsed by the Department of Health and Social Care.¹² The guidelines recommend a number of actions which, when taken together, are likely to cumulatively produce significant change.

The Council acknowledges and welcomes the NICE guidelines and key areas of actions which the Council are progressing include reducing emissions from public sector transport services and vehicle fleets, smooth driving and speed reduction, active travel and awareness raising.

7. FUTURE PLANS AND POLICIES

The Council is committed to protecting and improving air quality in the Borough and will continue to develop relationships with partners to achieve positive air quality outcomes.

The Environmental Protection Team will increase the level of non-automatic monitoring in 2022/2023 in order to gain a stronger understanding of the air quality issues within the Borough.

Officers have agreed the inter-departmental statements of intent below which will help ensure that air quality is an integral part of the Councils remit.

	Statement of Intent
1.	The Council will continue to fulfil its statutory duties under the Environmental Act 1995 Part IV Local Air Quality Management and meet the target deadlines for reporting as set by Defra.
2.	The Council will ensure the Air Quality Strategy and Air Quality Status Reports are available on the Council website.
3.	The Council will continue to work closely with local industry and businesses to reduce pollution and, in particular, help improve air quality through the regulation and permitting of installations in accordance with the Environmental Permitting (England and Wales) Regulations 2016.
4.	The Council will continue to promote activities to raise the profile of air quality in the Borough.
5.	The Council will continue to address its own energy usage within Council buildings through adoption of efficient energy practices and use of the best available technology to deliver energy savings.
6.	The Council will develop and implement a Net Zero and Climate Change Strategy by 2023.
7.	The Council will continue to work with neighbouring Local Authorities together with Tees Valley Combined Authority on sustainable transport issues within the Borough and encourage more sustainable transport modes to the car to protect and improve local air quality.
8.	The Council will continue to work with local schools to secure air quality improvements through the development of School Travel Plans and encouragement of sustainable practices.
9.	The Council will ensure that emissions from Council fleet vehicles will be fully considered.
10.	The Council will continue to fulfil its statutory duties with respect to waste management build upon its current achievements and strive to meet the recycling and composting targets.
11.	The Council will review its procurement policies and procedures and implement a Procurement Strategy that includes appropriate consideration of environmental and sustainability impacts and appraisal.
12.	The Council acknowledges the link between air quality and health and will continue to promote and implement health initiatives and environmental improvements to secure public health benefits. The Public Health Strategy

	will emphasise the link between air quality and health to raise awareness of the impacts of poor air quality.
13.	The Council will support householders in the Borough to access a range of energy efficiency measures to reduce use of fossil fuels and help reduce heating costs.
14.	The Council will ensure that environmental impact legislation is adhered too and that the planning process ensures the effects on air quality of proposals are duly considered.
15.	The Council will continue to work in partnership with external organisations and help to progress initiatives which have a positive impact on air quality.
16.	The Council will ensure that the aims of the Air Quality Strategy are integrated into all relevant Council's policies and strategies.

8. PARTNERSHIP WORKING

The Council acknowledges its key role in maintaining and improving air quality in the Borough and is committed to effectively tackling air quality issues within its control. However, we recognise that there are Local, Regional and National organisations which have an impact on air quality and are outside of our influence. In addition to local organisations, we will continue to work in partnership with regional and central government on policies and issues which are beyond the Council's influence.

GLOSSARY OF TERMS

Abbreviation	Description
DEFRA	Department for Environment Food and Rural Affairs
DfT	Department for Transport
EU	European Union
NICE	National Institute for Health and Care Excellence
(NO ²)	Nitrogen Dioxide
(PM ^{2.5})	Particulate Matter 2.5 (particles less than 2.5 µm)
(PM ¹⁰)	Particulate Matter 10 (particles less than 10 µm)
Smog	A mixture of smoke, gases and chemicals, especially in cities, that makes the atmosphere difficult to breathe and harmful for health.
(SO ²)	Sulphur Dioxide
UK	United Kingdom

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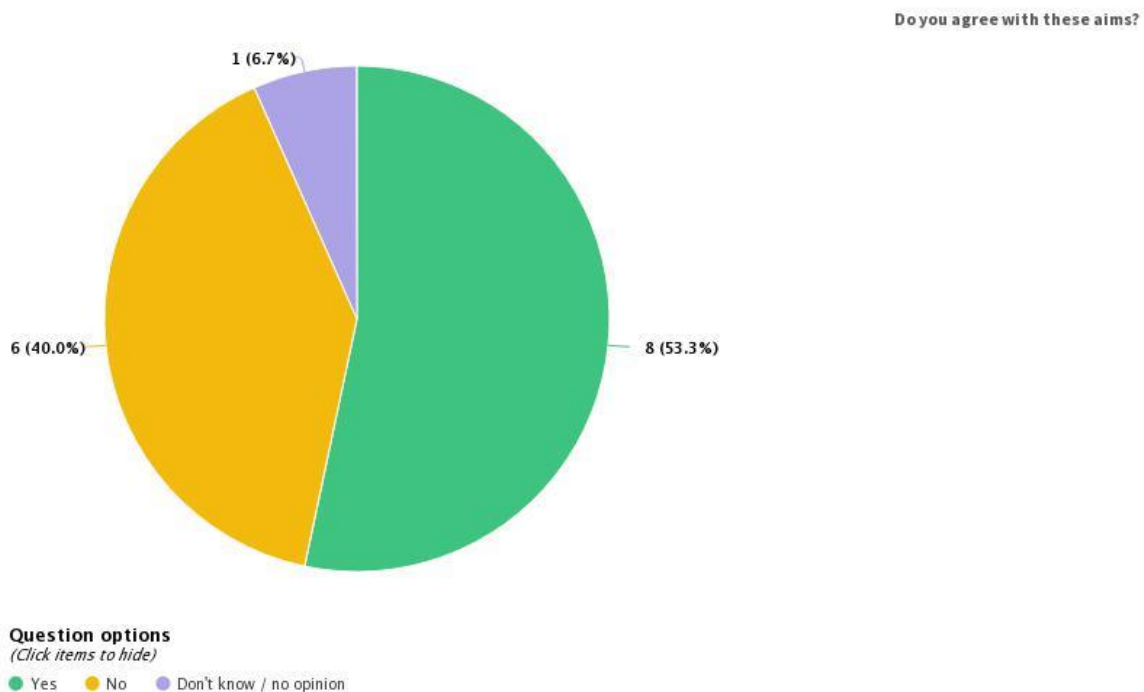
APPENDIX 2

A list of consultees and platforms that were used during consultation

1. Environment Agency
2. Stockton-on-Tees Borough Council
3. Middlesbrough Council
4. Darlington Borough Council
5. Redcar and Cleveland Council
6. Durham County Council
7. Northern Rail
8. Stagecoach
9. YourSay
10. Council's Facebook Page
11. Council's Slider on the intranet for staff viewing

APPENDIX 3

A Pie Chart to show responses given to Question 1



APPENDIX 4

A table to show text analysis for question 2

No.	Contribution	Sentiment	User
1.	The aims are meaningless in terms of actual improvements to air quality. Take action to reduce people who burn fossil fuels that don't Met smokeless fuel regulations.	Negative	Anonymous
2.	Air pollution isn't bad, nothing needs to be done	Positive	Anonymous
3.	Chem trails Planes out daily spreading chem trails which is damaging to our health and our weather	Neutral	Anonymous
4.	I think the strategy is ok but we'll overdue, Well done for getting it started	Mixed	Anonymous
5.	Speed limits must be enforced. 20mph on the headland is hardly ever observed. The benefits of reduced brake and tyre dust are rarely mentioned. Coal is frequently burnt for home heating.	Negative	Anonymous
6.	The responsibilities of businesses, particularly those who vent fumes/smoke or noxious substances into the air	Neutral	Anonymous
7.	To achieve better air quality the volume of motor traffic needs to be reduced significantly - it is mostly still internal combustion engine driven. To achieve this, active travel infrastructure needs to be put in place as a comprehensive system, suitable central roads pedestrianised road space for motor traffic reduced and speed limits lowered. This would contribute to the net zero target too.	Mixed	Anonymous
8.	Need more control over the air quality around Seaton Carew. Send officers out to areas to test it daily and not wait for residents to report.	Negative	Anonymous
9.	WEF climate scam	Negative	Anonymous
10.	Do you monitor key areas that have pollution industries and land fill sites, such as those in Seaton Carew?	Neutral	Anonymous
11.	complete waste of time	Negative	Anonymous
12.	no	Mixed	Anonymous

APPENDIX 5

A table to show text analysis for question 3

No.	Contribution	Sentiment	User
1.	Pointless in its current terms	Negative	Anonymous
2.	Another quango, made up jobs, spend the money on cleaning the streets.	Negative	Anonymous
3.	Do not try to impose “clean air zones” or 15 min cities/zones/towns etc	Neutral	Anonymous
4.	Hartlepool is a seaside town with hardly any polluting industries. Why do we need spend money on ridiculous surveys when we are constantly told we are strapped for cash.	Negative	Anonymous
5.	The Council needs to ensure and implement cross department joined up thinking. Street licensing allowing fossil fuel generators to be used for hours on the Headland sea front completely contradicts the strategy.	Neutral	Anonymous
6.	Proactive not reactive. The dump and factories round Seaton Carew make the air vile with not being able to open windows due to the smells. Kerry foods is under HBC but nothing is ever done about it.	Negative	Anonymous
7.	15 min cities are pushed on people who never voted for them, stealing peoples freedoms, you work for the people, not Klaus Schwab and co	Negative	Anonymous
8.	Is this the beginning of a Hartlepool moving towards a ULEZ town? If so I do not agree	Neutral	Anonymous
9.	The air quality around supposedly independent councillors/wife beaters is as pungent as the full nappies left on my beach on a hot Summers day... Hope that's up your street alderwoman	Negative	Anonymous
10.	The strategy should monitor specific areas with heavy industry that are known to cause pollution, as well as landfill sites and not just treat the process as a box ticking exercise in clean areas!	Neutral	Anonymous
11.	?	Neutral	Anonymous
12.	no	Mixed	Anonymous

APPENDIX 6

Poverty Impact Assessment Form

1. Is this decision a Budget & Policy Framework or Key Decision? YES / NO				
If YES please answer question 2 below				
2. Will there be an impact of the decision requested in respect of Child and Family Poverty? YES / NO				
If YES please complete the matrix below				
GROUP	POSITIVE IMPACT	NEGATIVE IMPACT	NO IMPACT	REASON & EVIDENCE
Young working people aged 18 – 21			✓	
Those who are disabled or suffer from illness / mental illness			✓	
Those with low educational attainment			✓	
Those who are unemployed			✓	
Those who are underemployed			✓	
Children born into families in poverty	✓			Support householders in the Borough to access a range of energy efficiency measures to reduce use of fossil fuels and help reduce heating costs.
Those who find difficulty in managing their finances			✓	
Lone parents			✓	
Those from minority ethnic backgrounds			✓	

Poverty is measured in different ways. Will the policy / decision have an impact on child and family poverty and in what way?				
Poverty Measure (examples of poverty measures appended overleaf)	POSITIVE IMPACT	NEGATIVE IMPACT	NO IMPACT	REASON & EVIDENCE
Life expectancy				Evidence in report that air quality affects life expectancy
Household income				Reduced heating costs
Overall impact of Policy / Decision				
POITIVE IMPACT/NO CHANGE	✓			
NO IMPACT / NO CHANGE			ADJUST / CHANGE POLICY / SERVICE	
ADVERSE IMPACT BUT CONTINUE			STOP / REMOVE POLICY / SERVICE	
Examples of Indicators that impact of Child and Family Poverty.				
Economic				
Children in Low Income Families (%)				
Children in Working Households (%)				
Overall employment rate (%)				
Proportion of young people who are NEET				
Adults with Learning difficulties in employment				
Education				
Free School meals attainment gap (key stage 2 and key stage 4)				
Gap in progression to higher education FSM / Non FSM				
Achievement gap between disadvantaged pupils and all pupils (key stage 2 and key stage 4)				
Housing				
Average time taken to process Housing Benefit / Council tax benefit claims				
Number of affordable homes built				
Health				
Prevalence of underweight children in reception year				
Prevalence of obese children in reception year				
Prevalence of underweight children in year 6				
Prevalence of obese children in reception year 6				
Life expectancy				

APPENDIX 7

EQUALITY AND DIVERSITY IMPACT ASSESSMENT FORM

Department	Division	Section	Owner/Officer
<i>Regulatory Services</i>	<i>Public Protection</i>	<i>Environmental Protection</i>	<i>Zoe Craig</i>
Service, policy, practice being reviewed/changed or planned	<i>Air Quality Strategy</i>		
Why are you making the change?	<i>DEFRA requirement</i>		
How might this impact (positively/negatively) on people who share protected characteristics?			
	<i>Please tick</i>	POSITIVELY	NEGATIVELY
Age		✓	✗
<i>The effects of air pollution are often worse in the most vulnerable in our communities, including children, the disabled, individuals with existing respiratory disease and the elderly. Furthermore the health impacts of air pollution disproportionately impacts those who live in less affluent areas, exacerbating health inequalities.</i>			
<i>Please describe...</i>			
Disability		✓	
<i>As above</i>			
Gender Re-assignment			
<i>Please describe...</i>			
Race			
<i>Please describe...</i>			
Religion			
<i>Please describe...</i>			
Gender			

<i>Please describe...</i>			
Sexual Orientation			
<i>Please describe...</i>			
Marriage & Civil Partnership			
<i>Please describe...</i>			
Pregnancy & Maternity			
<i>Please describe...</i>			
Has there been consultation /is consultation planned with people who will be affected by this policy? How has this affected your decision making?		<i>Internal consultation only</i>	
As a result of your decision how can you mitigate negative/maximise positive outcomes and foster good relationships?		<i>No negative effects</i>	
Describe how you will address and monitor the impact		1. No Impact - No Major Change <i>Please Detail</i>	
		2. Adjust/Change Policy <i>Please Detail</i>	
		3. Adverse Impact but Continue as is <i>Please Detail</i>	
		4. Stop/Remove Policy/Proposal <i>Please Detail</i>	
Initial Assessment	<i>00/00/00</i>	Reviewed	<i>00/00/00</i>
Completed	<i>00/00/00</i>	Published	<i>00/00/00</i>