



**NORTHAMPTON**  
**BOROUGH COUNCIL**

# **CABINET AGENDA**

**Wednesday, 10 February 2016**

The Jeffrey Room, St. Giles Square, Northampton,  
NN1 1DE.

6:00 pm

**Members of the Cabinet:**

**Councillor:** Mary Markham (Leader of the Council)

**Councillor:** Mike Hallam (Deputy Leader)

**Councillors:** Alan Bottwood, Tim Hadland, Stephen Hibbert, Brandon Eldred and Anna King.

**Chief Executive** David Kennedy

If you have any enquiries about this agenda please contact  
[democraticservices@northampton.gov.uk](mailto:democraticservices@northampton.gov.uk) or 01604 837722

## PORTFOLIOS OF CABINET MEMBERS

CABINET MEMBER	TITLE
Councillor M Markham	Leader
Councillor M Hallam	Deputy Leader Finance
Councillor A Bottwood	Environment
Councillor B Eldred	Community Engagement
Councillor T Hadland	Regeneration, Enterprise and Planning
Councillor S Hibbert	Housing
Councillor A King	Community Safety

### SPEAKING AT CABINET MEETINGS

Persons (other than Members) wishing to address Cabinet must register their intention to do so by 12 noon on the day of the meeting and may speak on any item on that meeting's agenda.

Registration can be by:

Telephone: (01604) 837722  
(Fax 01604 838729)


In writing: Democratic Services Manager  
The Guildhall, St Giles Square, Northampton NN1 1DE  
For the attention of the Democratic Services Officer

By e-mail to [democraticservices@northampton.gov.uk](mailto:democraticservices@northampton.gov.uk)

Only thirty minutes in total will be allowed for addresses, so that if speakers each take three minutes no more than ten speakers will be heard. Each speaker will be allowed to speak for a maximum of three minutes at each meeting. Speakers will normally be heard in the order in which they registered to speak. However, the Chair of Cabinet may decide to depart from that order in the interest of hearing a greater diversity of views on an item, or hearing views on a greater number of items. The Chair of Cabinet may also decide to allow a greater number of addresses and a greater time slot subject still to the maximum three minutes per address for such addresses for items of special public interest.

Members who wish to address Cabinet shall notify the Chair prior to the commencement of the meeting and may speak on any item on that meeting's agenda. A maximum of thirty minutes in total will be allowed for addresses by Members unless the Chair exercises discretion to allow longer. The time these addresses take will not count towards the thirty minute period referred to above so as to prejudice any other persons who have registered their wish to speak.

### KEY DECISIONS

 denotes the issue is a 'Key' decision:

- Any decision in relation to the Executive function\* which results in the Council incurring expenditure which is, or the making of saving which are significant having regard to the Council's budget for the service or function to which the decision relates. For these purpose the minimum financial threshold will be £250,000;
- Where decisions are not likely to involve significant expenditure or savings but nevertheless are likely to be significant in terms of their effects on communities in two or more wards or electoral divisions; and
- For the purpose of interpretation a decision, which is ancillary or incidental to a Key decision, which had been previously taken by or on behalf of the Council shall not of itself be further deemed to be significant for the purpose of the definition.


**NORTHAMPTON BOROUGH COUNCIL**

**CABINET**

Your attendance is requested at a meeting to be held:  
in The Jeffrey Room, St. Giles Square, Northampton, NN1 1DE.  
on Wednesday, 10 February 2016  
at 6:00 pm.

**D Kennedy**  
**Chief Executive**

**AGENDA**

- 1. APOLOGIES**
- 2. MINUTES**
- 3. INTENTION TO HOLD PART OF THE MEETING IN PRIVATE**
- 4. DEPUTATIONS/PUBLIC ADDRESSES**
- 5. DECLARATIONS OF INTEREST**
- 6. ISSUES ARISING FROM OVERVIEW AND SCRUTINY COMMITTEES**  
(None)
- 7.  PRIVATE SECTOR HOUSING ENFORCEMENT POLICY AND FEES AND CHARGES POLICY**  
(Copy herewith)
- 8. FINANCE REPORT FOR PERIOD 9**  
(Copy herewith)
- 9. EXCLUSION OF PUBLIC AND PRESS**

THE CHAIR TO MOVE:

“THAT THE PUBLIC AND PRESS BE EXCLUDED FROM THE REMAINDER OF THE MEETING ON THE GROUNDS THAT THERE IS LIKELY TO BE DISCLOSURE TO THEM OF SUCH CATEGORIES OF EXEMPT INFORMATION AS DEFINED BY SECTION 100(1) OF THE LOCAL GOVERNMENT ACT 1972 AS LISTED AGAINST SUCH ITEMS OF BUSINESS BY REFERENCE TO THE APPROPRIATE PARAGRAPH OF SCHEDULE 12A TO SUCH ACT.”

**SUPPLEMENTARY AGENDA**

**Exempted Under Schedule  
12A of L.Govt Act 1972  
Para No:-**



## NORTHAMPTON BOROUGH COUNCIL

### CABINET

Wednesday, 13 January 2016

**PRESENT:** Councillor Markham (Chair); Councillor Hallam (Deputy Chair); Councillors Bottwood, Eldred, Hadland, Hibbert and King.

#### 1. APOLOGIES

There were none.

#### 2. MINUTES

Under Item 3 of the minutes, Councillor Markham requested that the minutes to be changed to "The Leader explained that there was continued commitment to Disabled Facilities Grants and noted that there were ongoing meetings with NPH and stated that any issues arising from the 1% reduction should be shared with them".

It was also noted that the minutes should refer to £1.87 million, not £187 million.

With the corrections referred to above, the Minutes of the meeting held on the 16th December 2015 were agreed and signed by the Chair.

#### 3. INTENTION TO HOLD PART OF THE MEETING IN PRIVATE

There were no items to be heard in private.

#### 4. DEPUTATIONS/PUBLIC ADDRESSES

There were none.

#### 5. DECLARATIONS OF INTEREST

Councillor Hallam declared a personal non-pecuniary interest in Item 7 – Replacement of the West Northamptonshire Joint Strategic Planning Committee as a substitute member of the West Northamptonshire Joint Strategic Planning Committee.

Councillor Bottwood declared a personal non-pecuniary interest in Item 7 - as a substitute member of the West Northamptonshire Joint Strategic Planning Committee.

Councillor Hadland declared a personal non-pecuniary interest in Item 7 - as a member of the West Northamptonshire Joint Strategic Planning Committee.

#### 6. ISSUES ARISING FROM OVERVIEW AND SCRUTINY COMMITTEES

None

#### 7. REPLACEMENT OF THE WEST NORTHAMPTONSHIRE JOINT STRATEGIC PLANNING COMMITTEE

Councillor Stone addressed Cabinet and expressed her concerns about partnership working and suggested that the Council should be working more closely with Wellingborough and Kettering Council and stated that a strategic approach across the County to address Planning issues was necessary.

Councillor McCutcheon commented that pressure had been placed on the infrastructure

from developments outside of the Borough and emphasised the need for issues and problems to be resolved more successfully and succinctly than in the past. He noted that a talking shop would be beneficial and asked that the Labour Group be consulted and represented.

Councillor Russell requested that opposition group members be on the board and asked what measures would be taken to ensure that existing bad practices would not happen to the new Board.

Councillor Hadland as the relevant Cabinet Member submitted a report and elaborated thereon. He explained that the members of the West Northamptonshire Joint Strategic Planning Committee had reached a stage where they all wanted to go their separate ways, and to request the Secretary of State to revoke the Order which set up the joint arrangements. He noted that a proposed new Board would comprise members from the adjoining authorities to consult about planning matters and there would be a continuous review of the Joint Core Strategy data. He further noted that the National Planning Policy Framework includes a statutory duty to cooperate. The Council would have greater control in its own area, and the Board would provide a means of co-operation in the wider area.

**RESOLVED:**

- 2.1 That the Leader writes to the Secretary of State to request the revocation of the Order pursuant to section 31(2) of the Planning and Compulsory Purchase Act 2004; and
- 2.2 That in the event that the Secretary of State revokes the Order, the Cabinet supports its replacement by a Joint Planning and Infrastructure Board supported by a Memorandum of Cooperation as set out in Section 4 and Appendix 1 of the , subject to all the member authorities making a financial contribution.

The meeting concluded at 6.17pm

**Appendices**

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## CABINET REPORT

<b>Report Title</b>	<b>Private Sector Housing Enforcement Policy and Fees &amp; Charges Policy</b>
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**AGENDA STATUS: PUBLIC**

<b>Cabinet Meeting Date:</b>	10 February 2016
<b>Key Decision:</b>	Yes
<b>Within Policy:</b>	Yes
<b>Policy Document:</b>	Yes
<b>Directorate:</b>	Chief Executive's
<b>Accountable Cabinet Member:</b>	Councillor Stephen Hibbert
<b>Ward(s)</b>	All

### 1. Purpose

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- 1.1 The purpose of this report is to seek Cabinet's approval of a new Enforcement Policy, and a new Fees and Charges Policy, for Private Sector Housing.
- 1.2 These two policies will help the Council to improve standards in private sector housing, bring empty properties back into use, ensure that all Houses in Multiple Occupation that require a licence are licensed on time, and make sure that all private rented accommodation is safe, well managed and properly maintained.

### 2. Recommendations

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- 2.1 That Cabinet approves the Private Sector Housing Enforcement Policy (attached to this report as Appendix A) and the Private Sector Housing Fees & Charges Policy (attached to this report as Appendix B) with effect from 15 February 2016.

### **3. Issues and Choices**

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#### **3.1 Report Background**

- 3.1.1 In Northampton, the private rented sector has doubled in size during the past ten years and now amounts to almost 16,000 (18%) of the homes in the borough. For the first time in decades, there are now more people living in Northampton's private rented sector than are living in social rented housing.
- 3.1.2 As well as having a growing university population, the town is attracting more people through the creation of extra jobs by the Northampton Alive projects and Enterprise Zone. Together with the difficulty that many people are experiencing in buying a home of their own, this is leading to more people wanting to rent accommodation in the town.
- 3.1.3 Although the private rented sector plays a vital role in helping to meet the demand for housing in Northampton, the Council is committed to improving housing standards, encouraging good practice and tackling criminal, rogue and irresponsible landlords.
- 3.1.4 In November 2014, the Council introduced an Additional HMO Licensing Scheme and Article 4 Directive to help regulate and manage the growing number of Houses in Multiple Occupation (HMOs) in parts of the town.
- 3.1.5 Later this year, the Council is planning to establish a not-for-profit social lettings agency – which will let and manage private rented accommodation, on behalf of owners, in return for a management fee – and consult with landlords, residents and other stakeholders on the merits of introducing a star rating system that will help prospective tenants make an informed choice when they are looking for housing.
- 3.1.6 The social lettings agency will offer an immediate solution to those landlords and property owners who are unwilling or unable to manage the property themselves. It will also make it a lot easier for the Council to meet its statutory obligations in relation to the management of any properties that are the subject of a Management Order.

#### **3.2 Issues**

- 3.2.1 Although Northampton has some excellent landlords and letting agents, the Council now needs to deal more robustly with the owners and managers of unlicensed HMOs, criminal and rogue landlords and the owners of problematic empty homes.
- 3.2.2 Even though the Additional HMO Licensing Scheme and Article 4 Directive have been in place for more than 15 months, it is estimated that 800 - 1,000 of the licensable HMOs in the designated area are operating without a licence or planning permission.
- 3.2.3 Officers from the Housing & Wellbeing Service are also becoming increasingly concerned about the unsafe, substandard and badly managed private rented accommodation that they are uncovering in the course of their work, and the growing number of incidents involving the harassment and illegal eviction of tenants.
- 3.2.4 Although the Council's Regeneration Team has been very successful in facilitating the conversion of surplus or redundant office space / commercial premises into affordable housing, almost 200 of Northampton's privately owned homes have been empty for at least two years and, of these, many are problematic and blighting neighbourhoods.



3.2.5 During discussions with residents and stakeholders – including the landlords and letting agents that attend Northampton’s regular Landlord Forum – it has become increasingly evident that there is strong and widespread support for the idea of the Council adopting a fresh approach to private sector housing in the borough.

3.2.6 This fresh approach – which is reflected in the Private Sector Housing Enforcement Policy (Appendix A) and the Fees & Charges Policy (Appendix B) – seeks to encourage a change in the behaviour of owners, landlords and letting agents by rewarding good behaviour, making offenders pay for enforcement and ensuring that criminal, rogue and irresponsible landlords do not profit from their non-compliance.

#### Private Sector Housing Enforcement Policy

3.2.7 The Enforcement Policy is designed to provide an overview of the broad principles and processes with which the Council will seek to comply when taking action to ensure that all private sector housing in the borough is healthy, well managed and safe.

3.2.8 Its purpose is to ensure that:

- Tenants of private landlords and registered social landlords live in homes that are free of unacceptable hazards and risks to their health and safety;
- All Houses in Multiple Occupation are safe and well managed and all relevant Management Regulations are adhered to;
- All licensable Houses in Multiple Occupation are licensed and all licensing conditions are met;
- Private housing is not left empty for an unreasonable amount of time and/or becomes an eyesore and nuisance to neighbouring properties;
- Privately owned property and land does not present a statutory nuisance to other land owners, and does not directly or indirectly present an unacceptable risk to public health, safety or the environment; and
- The Council meets its statutory obligations in relation to private housing.

3.2.9 Although the Enforcement Policy confirms that decisions on the appropriate course of action will be made on a case-by-case basis, it explains what action the Council can take and describes the reasons why it may take that action. It also confirms that the Private Sector Housing Team’s enforcement activity will be targeted, proportionate, consistent, transparent, fair and objective.

#### Private Sector Housing Fees & Charges Policy

3.2.10 The law allows Councils to charge for the licensing of Houses in Multiple Occupation and the cost of the enforcement action it takes in relation to private sector housing.

3.2.11 In order to support and complement Northampton’s Private Sector Housing Enforcement Policy, the Fees & Charges Policy is designed to encourage good and responsible behaviour and ensure that, where possible, the cost of enforcement is borne by the offender, rather than by the taxpayer and responsible landlords.

3.2.12 To this end, the Council will offer a reduction in the HMO licence fee where a completed application (for a new licence or the renewal of a licence) is made on time. It will also shorten the term of an HMO licence where the licence application is submitted very late and/or the Council has reason to believe that its Officers will need to spend a lot of time monitoring and enforcing standards in that HMO.

3.2.13 Northampton's new Fees & Charges Policy is based on the following principles:

- The Council will enforce the law efficiently and effectively without imposing unnecessary burdens on responsible owners, landlords and occupiers;
- All fees and charges will be calculated on the basis of what it costs the Council to license HMOs, take enforcement action, carry out works in default and provide advice and written reports;
- All licensable HMOs will be subject to the same fees and charges arrangements, irrespective of whether they are affected by the Mandatory HMO Licensing regime or the Additional HMO Licensing regime;
- Owners and landlords who fail to license their HMOs on time will be required to pay more for their HMO licence and, when they are eventually issued with an HMO licence, the Council is likely to issue them with a shorter licence that lasts less than the standard term;
- Owners and landlords (including the owners of long-term and problematic empty properties) who are served with formal Notice(s) by the Council will be required to bear the full cost of enforcement in line with this Policy;
- Where it is necessary for the Council to carry out works in default, the Council will seek to recover all of its costs (including the cost of the works) from the owner or landlord at the earliest opportunity; and
- The Council will ensure that its fees are as low as possible by improving efficiency and making effective use of information technology.

### **3.3 Choices (Options)**

3.3.1 Cabinet can choose to approve the Private Sector Housing Enforcement Policy and the Private Sector Housing Fees & Charges Policy.

3.3.2 Cabinet can choose to approve only the Enforcement Policy.

3.3.3 Cabinet can choose to approve only the Fees & Charges Policy.

3.3.4 Cabinet can choose to do nothing.

## **4. Implications (including financial implications)**

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### **4.1 Policy**

- 4.1.1 The Private Sector Housing Enforcement Policy and the Private Sector Housing Fees & Charges Policy are in line with Council policy and reflect its corporate priorities.
- 4.1.2 As the new, approved Fees & Charges (attached to this report as Appendix B) will come into effect on 15 February 2016, a note to this effect has been included in the Fees & Charges Schedule of the 2016/17 budget setting reports that are due to be presented to Cabinet on 24 February 2016 and Full Council on 29 February 2016. This approach and the 2016/17 Fees and Charges will be ratified by Full Council.
- 4.1.3 It is proposed that, from February 2017 onwards, there will be an annual review of the fees and charges for Private Sector Housing, to ensure that they reflect the true cost of the work involved. Any changes will come into effect in the following financial year.

### **4.2 Resources and Risk**

- 4.2.1 Although there is a risk that the new Fees & Charges Policy will reduce the income that the Council receives from HMO licensing – by extending the licence term for Additional HMOs from 3 years to 5 years and by offering an ‘Early Bird’ discount to people who license (or renew their licence) on time, this is likely to be offset by the extra income that the Council receives in respect of late applications.
- 4.2.2 In order to ensure that it is able to process an increased number of HMO licence applications, the Private Sector Housing Team is proposing to purchase an online HMO licensing system that will save a substantial amount of Officer time and prevent any build-up of outstanding licence applications. The cost of the new online licensing system will be met from existing budgets.

### **4.3 Legal**

- 4.3.1 The Private Sector Housing Enforcement Policy and Fees & Charges Policy will provide a useful framework within which the Private Sector Housing Team will operate.
- 4.3.2 The Council is permitted to charge for the licensing of Houses in Multiple Occupation and the cost of the enforcement action it takes in relation to private sector housing. The proposed fees and charges – as set out in the Fees & Charges Policy – reflect what it costs to carry out the work, so can be justified if challenged.

### **4.4 Equality**

- 4.4.1 The Private Sector Housing Enforcement Policy and Fees & Charges Policy will help improve housing conditions and the life chances of people with protected characteristics, including homeless people, people with disabilities and families with children. They will therefore have a positive impact on Equality and Diversity.
- 4.4.2 The new policies are part of the Borough Council’s commitment to improving communities and our town as a place to live. Community Impact Assessments have been completed and, when implementing the policies, the Council will have due regard to its Public Sector Duty and will continue to work to tackle discrimination and inequality and contribute to the development of a fairer society.

## 4.5 Consultees (Internal and External)

4.5.1 In December 2015, the Council hosted 4 focus groups to obtain the views of a wide range of stakeholders, including Council Officers, the National Landlords Association, Northampton Student Landlords Network, the Association of Residential Letting Agents, private landlords, letting agents, Trading Standards and the East Midlands landlord accreditation scheme.

4.5.2 Everyone who attended the focus groups was very positive about the Council's new approach to enforcement and fees and charges, and were especially keen on the idea of making offenders pay and reducing the financial burden on responsible businesses.

## 4.6 How the Proposals deliver Priority Outcomes

4.6.1 As well as contributing to the delivery of a number of the borough's key strategies and policies (including the Housing Strategy, Homelessness Strategy and Empty Property Strategy), the new Private Sector Housing Enforcement Policy and Fees & Charges Policy will help meet three of the priorities in the Corporate Plan:

- **Priority 4 – Making Every £ Go Further:** The new policies will increase the amount of fee income generated by the licensing of HMOs and ensure that the cost of enforcement action is borne by the offender rather than the taxpayer.
- **Priority 5 – Better Homes for the Future:** The new policies will increase the supply of good quality, well managed private rented housing by raising standards and bringing empty homes back into use.
- **Priority 7 – Promoting Health and Wellbeing:** The new policies will support the Council's efforts to improve housing standards in the private sector and, by providing healthier, safer homes, will have a positive impact on people's lives.

## Appendices

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Appendix A – Private Sector Housing Enforcement Policy

Appendix B – Private Sector Housing Fees & Charges Policy

## Background Papers

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Community Impact Assessment – Private Sector Housing Enforcement Policy

Community Impact Assessment – Private Sector Housing Fees & Charges Policy

**Phil Harris**  
**Head of Housing and Wellbeing**  
**01604 837666**



# **Private Sector Housing Enforcement Policy**

**for the Regulation of Housing Standards**

**15 February 2016**

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## **1. Introduction**

- 1.1 Northampton Borough Council is committed to improving standards in private sector housing, bringing empty properties back into use and ensuring that all private rented accommodation is well managed, properly maintained and safe and habitable.
- 1.2 Although Northampton has some excellent landlords and letting agents, the Council has a vital role to play in tackling criminal, rogue and irresponsible landlords and preventing them from profiting from their non-compliance.
- 1.3 The Council has statutory powers and duties to regulate private sector housing and these are assisted by the Housing Health and Safety Rating System (HHSRS), the Mandatory Licensing of Houses in Multiple Occupation and, in designated parts of the borough, the Additional Licensing of Houses in Multiple Occupation.
- 1.4 In order to regulate private sector housing, the Council's Private Sector Housing Team will request information, carry out inspections, process licence applications, bring empty properties back into use, encourage and promote good practice, provide owners and landlords with advice and information, investigate possible offences and, where appropriate, take enforcement action and prosecute offenders.

## **2. Purpose of the Enforcement Policy**

- 2.1 The purpose of the Private Sector Housing Enforcement Policy is to ensure that:
  - Tenants of private landlords and registered social landlords live in homes that are free of unacceptable hazards and risks to their health and safety;
  - All Houses in Multiple Occupation are safe and well managed and all relevant Management Regulations are adhered to;
  - All licensable Houses in Multiple Occupation are licensed and all licensing conditions are met;
  - Private housing is not left empty for an unreasonable amount of time and/or becomes an eyesore and nuisance to neighbouring properties;
  - Privately owned property and land does not present a statutory nuisance to other land owners, and does not directly or indirectly present an unacceptable risk to public health, safety or the environment; and
  - The Council meets its statutory obligations in relation to private housing.
- 2.2 The Enforcement Policy provides an overview of the broad principles and processes with which the Council will seek to comply when taking action to ensure that all private sector housing in the borough is healthy, well managed and safe. It should be read in conjunction with other strategies and policies including, for example, the Private Sector Housing Fees & Charges Policy and the HHSRS Procedure, etc.

### **3. Principles of Good Enforcement**

3.1 When discharging its duties in relation to private sector housing, the Council will follow the principles of good enforcement set out in the following:

- Regulators Compliance Code
- The Police and Criminal Evidence Act 1984 (as amended)
- Criminal Procedures and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000

3.2 The Private Sector Housing Team will enforce the law efficiently and effectively without imposing unnecessary burdens on responsible owners and occupiers. In doing so, it will have regard to the local economy, the role of inspections, compliance visits and advice and guidance, and the principles underpinning enforcement activity.

#### **Benefits to the Local Economy**

3.3 Northampton Borough Council aims to create neighbourhoods of choice: areas where people want to live, bring up their children and work. Maintaining healthy housing and attractive neighbourhoods will benefit the local economy.

#### **Property Inspections and Compliance Visits**

3.4 The Private Sector Housing Team will undertake proactive property inspections, based on risk and intelligence, and ensure that its resources are targeted at the worst properties first including, for example, licensable Houses in Multiple Occupation that are avoiding Mandatory and Additional HMO licensing.

3.5 Officers will target 'eyesore' empty properties and land in order to end the blight, improve neighbourhoods and increase the supply of housing.

3.6 The Private Sector Housing Team will respond to residents' complaints about substandard, unsafe and problematic private housing and adopt an escalating regulatory approach to enforcement.

#### **Advice and Guidance**

3.7 The Council will provide general information, advice and guidance to make it easier for businesses to understand and meet their responsibilities. This will normally be done through the Council's website: [www.northampton.gov.uk](http://www.northampton.gov.uk)



## Principles underpinning Enforcement Action

3.8 The Private Sector Housing Team's enforcement activity will be:

- **Targeted** – Enforcement action will target the properties and people that pose the greatest risk, including the owners and landlords that evade licensing and regulation, and those whose properties cause a nuisance or put people's health and safety at risk.
- **Proportionate** – Enforcement action will be proportionate and reflect the nature, scale and seriousness of any breach or non-compliance.
- **Fair and objective** – Enforcement action will be based on the individual circumstances of the case, taking all available facts into account. Officers will carry out investigations with a balanced and open mind.
- **Transparent** – Enforcement action will be undertaken in accordance with clearly defined policies and procedures that are readily available. All communications will be easy to understand, with clear reasons being given for any enforcement action taken.
- **Consistent** – Enforcement action will be undertaken by well-trained investigators, and the Private Sector Housing Team will ensure consistency in the interpretation and enforcement of legislation, work with other regulatory agencies and share and develop good practice.
- **Accountable** – Enforcement action will be undertaken in a responsible manner that has a clear purpose. Where appropriate, the Private Sector Housing Team will work closely with landlords, tenants and other stakeholders that have an interest in private sector housing.

## 4. Regulation of Private Sector Housing

### Dealing with Complaints

4.1 The Private Sector Housing Team will respond to complaints from tenants and other residents about private housing, prioritising the complaints on the basis of an assessment of the risk and seriousness. If enforcement action is necessary, a variety of regulatory powers may be used to address and resolve the problem.

### Housing, Health and Safety Rating System (HHSRS)

4.2 The HHSRS is set out in Part 1 of the Housing Act 2004. It is a method of assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupant(s). There are two categories of possible hazards:

- **Category 1 hazards** represent a serious danger to health and the Council has a duty to take appropriate action to deal with these.

- **Category 2 hazards** represent a lesser danger and, although it has no duty to take action, the Council will exercise its power to reduce category 2 hazards through appropriate action.

- 4.3 In most cases, the Council will follow a pre-formal process in which it will seek to work with landlords to reduce hazards. However, it will reserve the right to avoid actions that may encourage owners, landlords and agents to be non-compliant, such as carrying out costly works in default where it may be difficult for the Council to recover its costs.
- 4.4 Charges will be made for any formal enforcement action that the Council takes (see separate Private Sector Housing Fees & Charges Policy for further information).

### **Houses in Multiple Occupation (HMOs)**

- 4.5 In Northampton, there are many hundreds of Houses in Multiple Occupation: properties that are occupied by more than one household that share facilities.
- 4.6 As HMOs are higher risk than single family homes, the conditions, facilities and management are regulated. Some HMOs are subject to licensing:
- **Mandatory HMO Licensing** – An HMO licence is required for HMOs that have 3 or more storeys and are occupied by 5 or more persons who are sharing facilities and comprise 2 or more households.
  - **Additional HMO Licensing** – An HMO licence is required for HMOs that are situated in the Additional HMO area, have 2 storeys and are occupied by at least 3 persons who are sharing facilities and comprise 2 or more households.
- 4.7 The HMO licensing regime includes arrangements for assessing the suitability of the premises for the number of occupants, including the adequacy of the amenities. It also provides for the assessment of the fitness of a person to be the licence holder and the potential management arrangements of the premises.
- 4.8 It is a criminal offence if a person controlling or managing an HMO does not have the required licence. Failure to comply with any condition attached to a licence is also an offence. The Council will consider all available enforcement options when dealing with unlicensed HMOs and breaches of the licence conditions.
- 4.9 The Council will vigorously pursue anyone who is controlling or managing a licensable HMO without a licence and, where appropriate, it will prosecute them.
- 4.10 Where a non-licensable HMO is being badly managed and/or is in a poor state of repair, the Private Sector Housing Team will prioritise it for action, based on an assessment of risk.
- 4.11 Further details of the Council's approach are contained in the HMO Licensing Policy.

## Overcrowding

- 4.12 Overcrowding is a difficult issue to deal with because, unlike other hazards, there is often very little that the landlord can do to resolve the problem unless the tenant has moved other people into the accommodation since the start of the tenancy.
- 4.13 In cases of severe overcrowding, the Council will explore the housing options available to the tenant, including a move to alternative accommodation.

## Empty Properties

- 4.14 There is a high demand for accommodation in Northampton. As well as being a wasted source of housing, empty properties can be an eyesore, damage adjoining properties, blight neighbourhoods and attract anti-social behaviour.
- 4.15 The Council will identify, risk assess and prioritise long-term, problematic and nuisance empty properties, using the full range of informal and formal action (including enforced sales and compulsory purchase) to bring them back into use.

## 5. Options to Regulate and Ensure Compliance

- 5.1 The following table contains some examples of situations where different types of action may be taken. Decisions are made, however, on a case-by-case basis.

ACTION	GENERAL CIRCUMSTANCES
<b>No Action</b>	<ul style="list-style-type: none"> <li>• Where formal action may not be appropriate.</li> </ul> <p>In such cases, customers may be directed to other sources of advice and support.</p>
<b>Informal Action and Advice</b> includes verbal advice and advisory letters	<ul style="list-style-type: none"> <li>• Where it may be appropriate to deal with the issues through informal action and advice.</li> </ul> <p>In such cases, the pre-formal stage of the HHSRS may be followed, with the Council working collaboratively with responsible landlords to address and resolve any problems.</p>
<b>Service of Notice</b> requiring repairs or specific legal requirements	<ul style="list-style-type: none"> <li>• Where a person refuses or fails to carry out works through the pre-formal HHSRS process;</li> <li>• Where there is a lack of confidence or there is positive intelligence that the responsible individual or company will not respond to a pre-formal approach;</li> <li>• Where there is risk to the health, safety and wellbeing of a household or a member of the public (dangerous gas or electrical services; no heating in the winter; no hot water for personal hygiene or to wash and prepare food safely; etc);</li> </ul>

	<ul style="list-style-type: none"> <li>• Where standards are extremely poor and the responsible individual or company shows little or no awareness of the management regulations or statutory requirements;</li> <li>• Where the person has a history of non-compliance with the Council and/or other relevant regulators;</li> <li>• Where the person has a record of criminal convictions for failure to comply with the housing requirements (which may include housing management);</li> <li>• Where it is necessary to safeguard and protect the occupiers' future health and safety; and/or</li> <li>• Where it is necessary to bring an empty property back into use and informal requests either fail or are not appropriate.</li> </ul>
<p><b>Powers of Entry</b> (for more information, see Paragraphs 5.2 - 5.5 below)</p>	<ul style="list-style-type: none"> <li>• Where it is necessary to carry out a statutory duty or power;</li> <li>• Where it is necessary to investigate an offence;</li> <li>• Where it is necessary to prevent the obstruction of Officers; and/or</li> <li>• Where it is necessary to protect the health and safety of any person, or to protect the environment, without delay.</li> </ul>
<p><b>Powers to Require Information and/or Documents</b></p>	<ul style="list-style-type: none"> <li>• Where it is necessary for information to be provided to enable Officers to carry out their powers and duties;</li> <li>• Where it is necessary for documents to be provided to enable Officers to carry out their powers and duties under the Housing Act 2004;</li> <li>• Where it is necessary for electrical certificates, gas safety certificates and fire risk assessments to be provided in relation to HMOs;</li> <li>• Where it is necessary for insurance documents and energy performance certificates to be provided in relation to privately rented properties; and/or</li> <li>• Where it is necessary for any person with an interest in a property to provide details about its ownership and occupation, etc.</li> </ul>

ACTION	EMERGENCY SITUATIONS
<b>Emergency Remedial Action / Emergency Prohibition Order</b>	<ul style="list-style-type: none"> <li>Where there is an imminent risk of serious harm to the health and safety of any occupiers of the premises or any other residential premises</li> </ul>
<b>Works in Default for failing to comply with a Notice</b> (for more information, see Paragraphs 5.6 - 5.9 below)	<ul style="list-style-type: none"> <li>Where works are required – in accordance with a Notice – to address a serious hazard, but these are not carried out within the permitted time.</li> </ul> <p>In such cases, these works may be carried out by the Council, as works in default, prior to any prosecution.</p>
<b>Injunctive Action</b> (for more information, see Paragraph 5.10 below)	<ul style="list-style-type: none"> <li>Where the situation is dangerous and/or there is significant public detriment, and the offenders have repeatedly been found guilty of similar offences; and/or</li> <li>Where it is necessary to prevent further offences and/or the harassment of tenants, witnesses or other people.</li> </ul>
ACTION	CONTRAVENTIONS
<b>Revocation of HMO Licenses and Approvals</b>	<ul style="list-style-type: none"> <li>Where the Manager is not a “fit and proper person”; and/or</li> <li>Where there are serious breaches of the licensing conditions and/or serious management offences.</li> </ul>
<b>Simple Caution</b> (for more information, see Paragraphs 5.11 - 5.13 below)	<ul style="list-style-type: none"> <li>Where an offence is less serious and the person who has committed the offence has admitted their guilt.</li> </ul> <p>In such cases, a Simple Caution may be offered (as an alternative to Court action, and on the understanding that the Council’s costs will be paid by the offender) where it is likely that they will heed a warning about their behaviour and the legal consequences if they commit further offences.</p>
<b>Prosecution</b> (for more information, see Paragraphs 5.14 – 5.17 below)	<ul style="list-style-type: none"> <li>Where an individual or company has endangered the health, safety or wellbeing of occupiers, visitors or members of the general public;</li> <li>Where an individual or company has deliberately, negligently or persistently breached their legal obligations, especially where the economic advantages of breaking the law are substantial and, compared to them, those businesses that comply with the law are disadvantaged;</li> </ul>

	<ul style="list-style-type: none"> <li>• Where an individual or company has deliberately or persistently ignored written warnings or formal notices / orders or no reasonable progress has been made in relation to the carrying out of the requirements;</li> <li>• Where the alternative means of achieving compliance (works in default, for example) are considered inappropriate;</li> <li>• Where a simple caution is considered inappropriate or the defendant has refused to accept a simple caution; and/or</li> <li>• Where the defendant has assaulted or obstructed an Officer in the course of their duties or provided false information.</li> </ul>
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### **Powers of Entry**

- 5.2 In certain circumstances, Powers of Entry into a property are provided to authorised Officers in accordance with the legislation. In general, the powers will allow an Officer at any reasonable time to:
- Enter a property to carry out an inspection
  - Take any appropriate persons with them
  - Take equipment or materials with them
  - Take measurements, photographs or make recordings
  - Take samples of articles or substances
  - Sometimes carry out works
- 5.3 In most cases, prior notice will be given to owners and to occupiers. Although the notice will normally be given in writing or by e-mail, it may sometimes be given verbally, depending on the relevant statutory notice. The amount of notice given will depend on the legislation being enforced and can range from 24 hours to 7 days.
- 5.4 Powers of Entry can (and, in some circumstances, will) be enforced with a Warrant, obtained from a Magistrate. Police and/or other regulatory agencies – including Planning Enforcement, the Immigration Service, the Fire Service, the Gangmasters Licencing Authority and Trading Standards – may be in attendance, as necessary.
- 5.5 It is an offence to obstruct an Officer in the course of their duty. Officers exercising their Power of Entry will carry identification and details of their authorisation to carry out their action.

## **Carrying out Works in Default**

- 5.6 The Council has been given powers under the Housing Act 2004 and other legislation to carry out works in default where a person has been required to do works but has failed to do so.
- 5.7 In most circumstances, a person will be given notice of the Council's intention to carry out works in default. As soon as the Council has commenced the works, it is an offence for any person to obstruct the Council or any of the contractors or agents that have been employed to carry out the works.
- 5.8 The full cost of the works will be recovered in accordance with the relevant statutory provisions. A Charge will be placed on the property and the debt will be pursued. If interest can be charged while the debt remains unpaid, this will be added to the debt. (For further information, see the Private Sector Housing Fees & Charges Policy).
- 5.9 The Council is not obliged to carry out the works and reserves the right not to do so where the cost of the works is likely to be high or there may be difficulties recovering the costs. Works may be considered to remove serious hazards only.

## **Injunctive Actions**

- 5.10 In certain circumstances injunctive actions may be used to deal with repeat offenders and dangerous situations, or to prevent harassment or illegal evictions.

## **Simple Cautions**

- 5.11 Where someone has committed an offence or offences and fully accepts responsibility for the offence(s), Officers may offer a Simple Caution where the circumstances suit a Simple Caution rather than a Court case.
- 5.12 Simple Cautions will be considered where:
- The defendant has admitted their guilt;
  - The defendant is aged 18 or over; and
  - The defendant agrees to be given a Simple Caution
- 5.13 If the defendant agrees to receive a Simple Caution, the Council will seek to recover the costs of the investigation from them by including, in the Simple Caution, that the defendant accepts the Caution and will pay the Council an agreed amount of money in relation to the costs of the investigation. If the defendant accepts the Simple Caution and then fails to pay the agreed amount, the Council will pursue them for the debt. If they do not agree to receive a Simple Caution, they will be prosecuted.

## **Prosecution**

- 5.14 When deciding to prosecute, the Council must be satisfied that there is sufficient, admissible and reliable evidence that an offence has been committed by an identifiable individual or individuals or company and that there is a realistic prospect of conviction.

- 5.15 A decision must also be made as to whether a prosecution would be in the public interest. Where there is evidence, Officers will consider prosecution and, as part of their investigation, they will take into account, amongst other things, the following:
- Any reasonable explanation provided by the individual or company
  - Evidence that the individual or company intends to prevent any recurrence of the problem
  - An individual's age and state of health
  - The offender's attitude to the offence
- 5.16 Any decision to prosecute will initially be considered at a case conference attended by the Officers and the Private Sector Housing Manager. If a prosecution is deemed appropriate, then the case will be fully prepared to include an interview under caution of potential defendant(s) and referred to the Council's Legal Officers for processing.
- 5.17 Prosecutions will be brought without unavoidable delay and generally there is a requirement to lay information with the Courts within six months of the offence being committed. To ensure fair and consistent decisions in relation to prosecutions, any decision to prosecute must take into account the Code for Crown Prosecutors.

### **Special Interim Management Orders**

- 5.18 Where the Council is satisfied that a significant and persistent problem of anti-social behaviour in an area is attributable, in full or in part, to the anti-social behaviour of an occupier of an HMO or other dwelling and that the landlord is failing to take action to combat the problem, it can make a Special Interim Management Order.
- 5.19 A Special Interim Management Order – which operates in the same way an Interim Management Order (see Paragraphs 6.3 – 6.5) – may also be applied where it is necessary for protecting the health and safety or welfare of persons occupying, visiting or otherwise engaging in lawful activities in the vicinity of the house.

## **6. Additional Enforcement Options for HMOs**

- 6.1 In addition to the enforcement options described above, the Council has further powers to ensure that adequate standards are met and maintained in HMOs.
- 6.2 The additional enforcement powers available in relation to HMOs are:
- Interim Management Orders
  - Final Management Orders
  - HMO Management Regulations
  - Rent Repayment Orders



## **Interim Management Orders**

- 6.3 If the Council is satisfied that there is no reasonable prospect of a licensable HMO being licensed (with appropriate conditions) in the near future, or if it is necessary to protect the health, safety or welfare of the occupiers of the property or properties in the vicinity, it must make an Interim Management Order in respect of the HMO.
- 6.4 Although the Council may delegate the management of the HMO to another agency or partner – and there are provisions to vary, revoke and appeal against an Interim Management Order – an Interim Management Order will be in force for 12 months or until an HMO licence is granted if this happens within 12 months.
- 6.5 An Interim Management Order allows the Council to manage the property with many of the rights of a landlord, including the right to collect rent and to use that rent to pay for work to the property.

## **Final Management Orders**

- 6.6 If the Council is satisfied (on the expiry of the Interim Management Order) that the HMO still requires a licence but it is still not able to grant the HMO a licence, it must make a Final Management Order.
- 6.7 A Final Management Order is similar to an Interim Management Order in that there are provisions to vary, revoke and appeal against a Final Management Order, the Council may delegate the Management of the HMO to another agency or partner, and the Council continues to manage the property with many of the rights of the landlord. However, it must review the arrangements from time to time.

## **Rent Repayment Orders**

- 6.8 A Rent Repayment Order is a financial penalty that can be imposed upon a landlord who manages or lets a licensable HMO without a licence.
- 6.9 If a landlord is convicted of operating a licensable HMO without a licence, the Council will apply to the First Tier Tribunal (Property Chamber) for a Rent Repayment Order if it is satisfied that Housing Benefit has been paid to the landlord during a period when the HMO was being used without a licence.
- 6.10 Even if the landlord has not been convicted for not licensing a licensable HMO, the Council may still decide to apply to the First Tier Tribunal (Property Chamber) if it is satisfied that the HMO should have been licensed and an offence has been committed.

## **7. Delegated Authority**

- 7.1 Using its powers of delegation, Northampton Borough Council has delegated to the Head of Housing & Wellbeing responsibility for making day to day decisions, using its statutory duties and powers, in relation to private sector housing.
- 7.1 The Head of Housing & Wellbeing may further delegate to other Council Officers, where appropriate and subject to them holding any requisite competencies and qualifications, the responsibility for making day to day decisions in the performance of the Council's statutory duties and powers in relation to private sector housing.

7.2 The list of delegated functions is not exhaustive and may change from time. However, the principal functions that have been delegated to the Head of Housing & Wellbeing and the Private Sector Housing Team include the following:

- To undertake the enforcement of housing standards.
- To serve Improvement Notices, Prohibition Orders, Hazard Awareness Notices, Emergency Remedial Action, Emergency Prohibition Orders, Suspended Improvement Notices and Suspended Prohibition Orders.
- To make a reasonable charge for enforcement action, ensuring that it does not exceed the amount specified by the Order.
- To prosecute for non-compliance and carry out works in default.
- To grant, refuse, vary or revoke HMO licences, and vary the fee for the renewal of an HMO licence.
- To serve a Temporary Exemption Notice.
- To prosecute for offences relating to the licensing of HMOs.
- To make applications to the First Tier Tribunal (Property Chamber) for Rent Repayment Orders.
- To make, vary or revoke Interim (Special Interim) and final HMO Management Orders.
- To serve, vary or revoke an Overcrowding Notice, and prosecute for contraventions of an Overcrowding Notice.
- To make Interim and Final Empty Dwellings Management Orders.
- To request information and require documents to be produced.
- To prosecute persons for contravening a Notice.
- To exercise Powers of Entry, and apply for a Warrant of Entry.
- To prosecute for obstruction.
- To specify authorisations for enforcement purposes, etc.
- To serve or revoke HMO declarations.

## **Guidance**

8.1 A wide range of guidance on enforcement has been issued by the Government and other agencies, and the Council will continue to have regard to all relevant guidance when formulating its policies and procedures. Enforcement Officers will follow these policies and procedures, will be highly trained investigators and will approach enforcement in a professional and competent manner.



# **Private Sector Housing Fees & Charges Policy**

**for the Regulation of Housing Standards**

**15 February 2016**

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## **1. Introduction**

- 1.1 Northampton Borough Council is committed to improving standards in private sector housing, bringing empty properties back into use and ensuring that all private rented accommodation is well managed, properly maintained and safe and habitable.
- 1.2 It is also committed to ensuring that all Houses in Multiple Occupation (HMOs) that require a licence are licensed on time and comply with the licence conditions.
- 1.3 Although Northampton has some excellent landlords and letting agents, the Council has a vital role to play in tackling criminal, rogue and irresponsible landlords and preventing them from profiting from their non-compliance.
- 1.4 In order to regulate private sector housing, the Council's Private Sector Housing Team will request information, carry out inspections, process licence applications, provide owners and landlords with advice and information, investigate possible offences and, where appropriate, take enforcement action and prosecute offenders.

## **2. Purpose of the Fees & Charges Policy**

- 2.1 The law allows Councils to charge for the licensing of Houses in Multiple Occupation and the cost of the enforcement action it takes in relation to private sector housing.
- 2.2 Although the Council values the very important role that the private rented sector plays in meeting the high demand for housing in Northampton, it also recognises the need to take robust action against those landlords whose selfish, anti-social and unlawful behaviour is putting tenants' health and wellbeing at risk, spoiling local neighbourhoods and placing an additional financial burden on public services.
- 2.3 In order to support and complement Northampton's Private Sector Housing Enforcement Policy, this Fees & Charges Policy is designed to encourage good and responsible behaviour and ensure that, where possible, the cost of enforcement is borne by the offender, rather than by the taxpayer and responsible landlords.
- 2.4 To this end, the Council will offer a reduction in the HMO licence fee where a completed application (for a new licence or the renewal of a licence) is made on time. It will also shorten the term of an HMO licence where the licence application is submitted very late and/or the Council has reason to believe that its Officers will need to spend a lot of time monitoring and enforcing standards in that HMO.
- 2.5 As it has been a number of years since the Council last reviewed its fees and charges for Private Sector Housing, this Policy reflects the current cost of enforcement actions and processes, and it sets out an approach that is designed to ensure transparency, consistency and fairness in how fees and charges are applied.
- 2.6 The Fees & Charges Policy should be read in conjunction with other policies and strategies including, for example, the Private Sector Housing Enforcement Policy, the HHSRS Procedure and the Empty Property Strategy.

### 3. Principles underpinning the Policy

3.1 Northampton's Fees & Charges Policy is based on the following principles:

- The Council will enforce the law efficiently and effectively without imposing unnecessary burdens on responsible owners, landlords and occupiers;
- All fees and charges will be calculated on the basis of what it costs the Council to license HMOs, take enforcement action, carry out works in default and provide advice and written reports;
- All licensable HMOs will be subject to the same fees and charges arrangements, irrespective of whether they are affected by the Mandatory HMO Licensing regime or the Additional HMO Licensing regime;
- Owners and landlords who fail to license their HMOs on time will be required to pay more for their HMO licence and, when they are eventually issued with an HMO licence, the Council is likely to issue them with a shorter licence that lasts less than the standard term;
- Owners and landlords (including the owners of long-term and problematic empty properties) who are served with formal Notice(s) by the Council will be required to bear the full cost of enforcement in line with this Policy;
- Where it is necessary for the Council to carry out works in default, the Council will seek to recover all of its costs (including the cost of the works) from the owner or landlord at the earliest opportunity; and
- The Council will ensure its fees and charges are as low as possible by improving efficiency and making effective use of information technology;

### 4. Calculating the Fees & Charges

4.1 In 2015, a review of the fees and charges for Private Sector Housing revealed that the Council has been charging less than what it has cost to undertake the work.

4.2 The revised fees and charges – set out in **Appendix A** – take into account the true cost of the work involved and have been calculated by determining the average number of hours taken to complete a range of licensing and enforcement tasks, the hourly rate of the Officers involved and the service on-costs.

4.3 From February 2017 onwards, the Council will be carrying out an annual review of its fees and charges for Private Sector Housing, to ensure that they reflect the true cost of the work involved. Any changes will come into effect in the following financial year.

## **5. Licensing of Houses in Multiple Occupation**

- 5.1 Since introducing its Additional HMO Licensing Scheme on 3 November 2014, Northampton Borough Council has licensed approximately one third of the estimated number of licensable HMOs operating in the designated area.
- 5.2 Although a bigger proportion of licensable Mandatory HMOs are licensed, the Council is continually uncovering Mandatory and Additional HMOs that are being operated, unlawfully, without an HMO licence.
- 5.3 It is a criminal offence if a person controlling or managing an HMO does not have the required licence. Failure to comply with any condition attached to a licence is also an offence. The Council will consider all available enforcement options when dealing with unlicensed HMOs and breaches of the licence conditions.
- 5.4 If a licensable HMO does not have a licence, any Section 21 Notice (a notice seeking possession) that the landlord serves on the tenants is likely to be invalid. Identifying and targeting licensable HMOs that are operating without a licence, therefore, will not only help the Council to tackle criminal, rogue and irresponsible landlords, but it will also prevent homelessness.
- 5.5 Although enforcement action has an important role to play in ensuring that HMOs are properly managed and meet the required standards – and the Council is firmly committed to ensuring that the cost of such action is borne by the offenders – this Fees & Charges Policy includes a number of incentives and penalties that are designed to encourage good practice and the timely licensing of HMOs:
- All licensable HMOs (Mandatory and Additional) will be subject to the same fees and charges arrangements, including incentives and penalties;
  - Owners and landlords who submit their completed licence application (for the initial HMO licence or the renewal of their HMO licence) in a timely manner will receive a 5 year HMO licence and an ‘Early Bird Discount’ that will reduce the size of the licence fee they are required to pay; and
  - Owners and landlords who fail to submit their completed licence application (for the initial HMO licence or the renewal of their HMO licence) in a timely manner will not receive an ‘Early Bird Discount’ and, when they are issued with an HMO licence, they may be issued with a shorter licence lasting less than 5 years.

### **Cost of the initial HMO Licence**

- 5.6 The cost of the initial licence fee will depend on the number of people that the HMO can accommodate, and when the licence application is received by the Council.
- 5.7 A bigger licence fee will be charged if the HMO is able to accommodate more than 5 persons, and an ‘Early Bird Discount’ will be allowed if the completed licence application is received by the Council within the required timescales.

5.8 Up until 31 March 2017 [see **Appendix A**], a licence fee of £700 will be payable for an HMO that can accommodate up to 5 persons and, if the HMO can accommodate more than 5 persons, an extra £30 will be payable for each additional person. If an 'Early Bird Discount' is appropriate, the HMO licence fee will be reduced by £150.

### **Award of an 'Early Bird Discount' for initial Licences**

5.9 An 'Early Bird Discount' will be awarded, at the discretion of the Council, where the completed HMO licence application (including the licence fee) is received:

- within 8 weeks of the HMO becoming licensable; or
- within 8 weeks of the owner completing the purchase of an existing, licensable HMO

5.10 In order to determine whether or not an 'Early Bird Discount' should be awarded, the Council may ask the applicant to provide evidence to confirm the date of purchase or support their claim that the HMO has only recently become licensable.

5.11 Where the Council is satisfied that the applicant has withheld relevant information or provided misleading information – especially in relation to the way in which the HMO is being (or has been) occupied – it will not award an 'Early Bird Discount'.

### **Length of the initial HMO Licence**

5.12 The length of the initial licence will depend on when the completed licence application (including the licence fee) is received by the Council.

5.13 A 5 year licence will be issued if the completed licence application is received:

- within 13 weeks of the HMO becoming licensable; or
- within 13 weeks of the owner completing the purchase of an existing, licensable HMO

5.14 A 3 year licence will be issued if the completed licence application is received:

- within 26 weeks of the HMO becoming licensable; or
- within 26 weeks of the owner completing the purchase of an existing, licensable HMO

5.15 A 2 year licence will be issued if the completed licence application is received:

- more than 26 weeks after the HMO became licensable; or
- more than 26 weeks after the owner completing the purchase of an existing, licensable HMO



- 5.16 Where a 2 year licence is issued – because the completed licence application is received by the Council more than 26 weeks after it should have been – the licence will be reduced to 1 year if the Council’s inspection of the HMO results in Category 1 hazards and/or offences under the HMO Management Regulations being identified and a Notice being served on the owner or landlord.

### **Late applications received by 31 March 2016**

- 5.17 In order to encourage the licensing of HMOs that have been operating without a licence for more than six months, the Council will issue a 3 year licence (rather than a 2 year licence) if a completed licence application (including the licence fee) is received by the Council by 31 March 2016, despite being more than 26 weeks late.
- 5.18 Where a 3 year licence is being considered under this special arrangement, the licence will be reduced to 1 year if the Council’s inspection of the HMO results in Category 1 hazards and/or offences under the HMO Management Regulations being identified and a Notice being served.

### **Cost of renewing an HMO Licence**

- 5.19 The cost of renewing an HMO licence will depend on the number of people that the HMO can accommodate, and when the licence application is submitted.
- 5.20 Up until 31 March 2017 [see Appendix A], £700 will be payable for an HMO that can accommodate up to 5 persons and, if the HMO can accommodate more than 5 persons, an extra £30 will be payable for each additional person. This is the amount that will need to be paid when the existing HMO licence expires.

### **Award of an ‘Early Bird Discount’ for the renewal of Licences**

- 5.21 Three months before the HMO licence is due to expire, the Council will write to the licence holder, reminding them of the need to renew the licence and providing details of the process and the availability of an ‘Early Bird Discount’.
- 5.22 An ‘Early Bird Discount’ will be awarded, at the discretion of the Council, if the completed renewal application (including the licence fee) is received by the Council at least 28 days before the existing HMO licence expires.
- 5.23 Up until 31 March 2017 [see Appendix A], the ‘Early Bird Discount’ will reduce, by £200, the cost of renewing an HMO licence.

### **Purchase of an existing licensed HMO**

- 5.24 Although an existing HMO licence cannot be transferred to the new owner when the HMO is sold, the fee that is charged for the new HMO licence may, at the Council’s discretion, be treated as a licence renewal and qualify for an ‘Early Bird Discount’.

- 5.25 To be treated as a licence renewal and qualify for an 'Early Bird Discount', the HMO that has been sold must have had a valid HMO licence at the time the sale was completed, the new owner must already be operating a licensed HMO in Northampton and a completed licence application (including the licence fee) must have been received by the Council within 8 weeks of the purchase being completed.

### **Additional charges**

- 5.26 In order to improve efficiency and keep its HMO fees and charges as low as possible, the Council is planning to introduce online HMO licensing in 2016 and, when the new system is up and running, the Council will require all HMO licence applications (including licence renewals) and payments to be made online.
- 5.27 Where it is necessary for an Officer to sit with the applicant to complete their licence application online, the Council will normally charge them £50 for this.
- 5.28 A charge of £75 will normally be made if the applicant requires urgent pre-application advice and/or a written report with accompanying plans.
- 5.29 A charge of £60 will normally be made if the applicant fails to attend a pre-arranged HMO inspection or cancels a pre-arranged inspection with less than 24 hours' notice.

## **6. Housing Enforcement**

- 6.1 The Council's Private Sector Housing Team will respond to complaints from tenants and other residents about private housing and it will prioritise the complaints on the basis of an assessment of the risk and seriousness.
- 6.2 The Housing, Health and Safety Rating System (HHSRS), set out in Part 1 of the Housing Act 2004, is a method of assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupant(s) of the property or neighbouring properties.
- 6.3 The HMO licensing regime includes arrangements for assessing the suitability of the premises for the number of occupants, including the adequacy of the amenities. It also provides for the assessment of the fitness of a person to be the licence holder and the potential management arrangements of the premises.

### **The pre-formal process**

- 6.4 In many instances, the Council will follow a pre-formal process in which it will seek to work with landlords to reduce hazards. This will provide owners and landlords with the opportunity to quickly resolve any problems, to the Council's satisfaction, without incurring any of the charges that will be made for any formal enforcement action.
- 6.5 The Council will avoid any actions, however, that may encourage owners, landlords and agents to be non-compliant.

## **The formal process**

- 6.6 Where enforcement action is necessary, the Council will use a variety of regulatory powers and will normally charge offenders for the cost of preparing and serving Statutory Notices. The amount charged [see **Appendix A**] reflects the true cost of the work and takes into account the average number of hours taken to complete the task, the hourly rate of the Officers involved and the service on-costs.
- 6.7 In exceptional circumstances, the Council may exercise its discretion and decide not to charge an offender for the cost of enforcement. Such decisions will be made by the Council's Head of Housing and Wellbeing or Private Sector Housing Manager and will be based on the individual circumstances and merits of each case.

## **Carrying out Works in Default**

- 6.8 The Council has been given powers under the Housing Act 2004 and other legislation to carry out works in default where a person has been required to do works but has failed to do so.
- 6.9 In most instances, a person will be given notice of the Council's intention to carry out works in default. As soon as the Council has commenced the works, it is an offence for any person to obstruct the Council or any of the contractors or agents that have been employed to carry out the works.
- 6.10 The full cost of the works will be recovered in accordance with the relevant statutory provisions. A Charge will be placed on the property and the debt will be pursued. If interest can be charged while the debt remains unpaid, this will be added to the debt.
- 6.11 In order to encourage owners and landlords to undertake the work themselves, the Council's charges for arranging works in default [see **Appendix A**] reflect the true cost of organising and paying for the work. These costs must be met by the offender.
- 6.12 The Council is not obliged to carry out the works and reserves the right not to do so where the cost of the works is likely to be high or there may be difficulties recovering the costs. Works may be considered to remove serious hazards only.

## **Empty Properties**

- 6.13 There is a high demand for accommodation in Northampton. As well as being a wasted source of housing, empty properties can be an eyesore, damage adjoining properties, blight neighbourhoods and attract anti-social behaviour.
- 6.14 The Council will identify, risk assess and prioritise long-term, problematic and nuisance empty properties, using the full range of informal and formal action (including works in default, enforced sales and, where appropriate, compulsory purchase) in order to bring them back into use.

## **7. Discretionary Services**

- 7.1 Where the Council is asked to provide a discretionary service in relation to private sector housing – such as an Immigration Compliance Visit & Report – it will make a reasonable charge that reflects the true cost of the work.
- 7.2 Although the Private Sector Housing Team will continue to provide owners and landlords with advice and guidance, this will be provided mainly through the Council's website. Site visits will continue to be undertaken but, if customers require written reports or scaled drawings, the Council will normally charge for these.

## **8. Debt Recovery**

- 8.1 Where a charge is made for enforcement action, the debt will be registered as a local land charge against the owner's property. This means that, when the property is sold, the whole debt (including the interest that has accrued) will have to be repaid.
- 8.2 The Council will vigorously pursue all debts that are owed to it in relation to its enforcement activity, works in default and other charges.
- 8.3 In order to recover outstanding debts, the Council may:
- Use databases and tracing agencies to track down debtors with a view to securing money judgments against them
  - Demand that rents are paid to the Council, rather than the landlord, where the law allows and it is appropriate to do so
  - Use the enforced sale procedure under the Law of Property Act 1925, where appropriate, to force the sale of the property in order to recover the money that is owed.

## **9. Guidance**

- 9.1 A wide range of guidance on licensing and enforcement has been issued by the Government and other agencies, and the Council will continue to have regard to all relevant guidance when formulating its policies and procedures.

## APPENDIX A – PRIVATE SECTOR HOUSING FEES & CHARGES

From 15 February 2016 until 31 March 2017, Northampton Borough Council's Private Sector Housing Fees & Charges will be as follows:

ELEMENT	DESCRIPTION	AMOUNT
<b>Standard HMO Licence Fee</b> (for up to 5 persons)	The fee charged for a new HMO licence (or the late renewal of an HMO licence that has already expired) in relation to an HMO that is able to accommodate up to 5 persons.	£700
<b>Standard HMO Licence Fee</b> (for 6 or more persons)	The fee charged for a new HMO licence (or the late renewal of an HMO licence that has already expired) in relation to an HMO that is able to accommodate 6 or more persons.	£730 for 6 persons  plus £30 per person if more than 6 persons
<b>Early Bird Discount for a new HMO Licence</b>	The discount that is allowed (at the discretion of the Council) to reduce the Standard HMO Licence Fee for new HMO licences.  (An Early Bird Discount will <u>not</u> be allowed if the new HMO licence is required because the previous HMO licence was not renewed on time and has already expired).	£150
<b>Standard HMO Licence Renewal Fee</b> (for up to 5 persons)	The fee charged for the renewal of an existing HMO licence in relation to an HMO that is able to accommodate up to 5 persons.	£700
<b>Standard HMO Licence Renewal Fee</b> (for 6 or more persons)	The fee charged for the renewal of an existing HMO licence in relation to an HMO that is able to accommodate 6 or more persons.	£730 for 6 persons  plus £30 per person if more than 6 persons
<b>Early Bird Discount for the Renewal of an existing HMO Licence</b>	The discount that is allowed (at the discretion of the Council) to reduce the Standard HMO Licence Renewal Fee where the completed renewal application (including the licence fee) is received by the Council at least 28 days <u>before</u> the existing HMO licence expires.  (Under certain circumstances, this Early Bird Discount will be allowed where an existing licensed HMO is purchased by a person who is already operating, and responsible for, another licensed HMO in Northampton).	£200

ELEMENT	DESCRIPTION	AMOUNT
<b>Practical help and support in completing an online licence application</b>	The charge made when it is necessary for an Officer to sit with the applicant to help them complete their licence application online.	£50
<b>Request for written report and plans</b>	The charge made when a written report and/or plan is requested in connection with pre-application advice about an HMO.	£75
<b>Missed or cancelled visit or inspection</b>	The charge made when a licence applicant fails to attend a pre-arranged HMO inspection or cancels a pre-arranged inspection with less than 24 hours' notice.	£60
<b>Service of an Improvement Notice or a Suspended Improvement Notice</b>	The charge made when it is necessary for the Council to serve an Improvement Notice or Suspended Improvement Notice because the owner or landlord has failed to engage with the Council or it is unlikely that a pre-formal process will result in a satisfactory resolution.	£400
<b>Service of a Prohibition Order</b>	The charge made when it is necessary for the Council to serve a Prohibition Order because all or part of the property cannot be occupied safely and resolution cannot be achieved by way of an informal agreement.	£400
<b>Service of an Emergency Prohibition Order</b>	The charge made when it is necessary for the Council to serve an Emergency Prohibition Order because there is an imminent risk of serious harm to the health and safety of the occupier(s) in all or part of the property.	£450
<b>Emergency Remedial Action</b>	The charge made when it is necessary for the Council to undertake Emergency Remedial Action because there is an immediate risk of serious harm to the health and safety of occupier(s) in all or part of the property.	£400 <u>plus</u> the cost of the works
<b>Works in Default</b>	The charge made when it is necessary for the Council to carry out works because the owner or landlord of the property has failed to comply with a statutory notice and, on its own, prosecution would not ensure the health and safety of the occupier(s).  The full cost of the works will be recovered in line with the relevant statutory provisions, a land charge will be placed on the property and the debt will be pursued. If interest can be charged while the debt remains unpaid, this will be added to the debt.	Cost of the works  <u>plus</u> a charge of £250 + VAT or 15% of the cost of the works + VAT (whichever is the greater)
<b>Immigration Compliance Visit &amp; Report</b>	The charge made when the Council is asked to provide a report on the suitability of a home to accommodate someone from abroad who is applying to reside in the UK.	£200

Appendices

1



**NORTHAMPTON**  
BOROUGH COUNCIL

## CABINET REPORT

<b>Report Title</b>	<b>Financial Monitoring Report to 31 December 2015</b>
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**AGENDA STATUS: PUBLIC**

<b>Cabinet Meeting Date:</b>	10th February 2016
<b>Key Decision:</b>	YES
<b>Within Policy:</b>	YES
<b>Policy Document:</b>	NO
<b>Directorate:</b>	Management Board
<b>Accountable Cabinet Member:</b>	Cllr M Hallam
<b>Ward(s)</b>	N/A

### 1 Purpose

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- 1.1 The purpose of this report is to assist Cabinet in monitoring the delivery of the Corporate Plan within the agreed capital and revenue budgets for the General Fund (GF) and Housing Revenue Account (HRA).
- 1.2 To inform Cabinet of the latest forecast outturn position for the Council's capital programme for 2015-16 and changes to the Programme approved since October 2015.

### 2 Recommendations

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- 2.1 That Cabinet reviews the contents of the report and appendix, and identifies actions to be taken to address any issues arising from it.
- 2.2 That Cabinet note the changes to the 2015-16 General Fund Capital Programme as detailed in Appendix 1.

### 3 Issues and Choices

#### 3.1 Report Background

3.1.1 This report presents the Council's key financial exceptions for the year to date, together with changes in the revenue budget and capital programme. It further highlights any emerging issues as identified by service managers.

3.1.2 The report also brings forward any capital appraisals and variations for noting and approval.

#### 3.2 Exceptions

Key Financial Indicator Exceptions

Dashboard Indicator Description	Variation from Budget	
	General Fund	Housing Revenue Account
	£000	£000
Controllable Budgets	253	(1,265)
Debt Financing and Recharges	(319)	(28)
Total	(66)	(1,293)
Net transfer to/(from) reserves	(656)	1,294
Total	(722)	0

#### 3.3 General Fund Revenue Budget (Blue)

The following table summarises the major variations from budget for the General Fund.

Service Area	£000
Asset Management	(88)
Major projects and Enterprise	67
Head of Planning	523
Housing	59
Borough Secretary	138
Director of Customers & Communities	(403)
Local Government Shared Services	116
Corporate	(159)
Controllable Total	253
Debt Financing	(319)
Total	(66)
Net transfer to/(from) reserves	(656)
Total	(722)

*Budget Managers are working to mitigate the pressures on their budgets and bring forecasts back in line with budgets.*

##### 3.3.1 General Fund Revenue Budget (Blue)

3.3.1.1 **Asset Management (Green)** forecast underspend mainly relates to higher rental income than expected.



- 3.3.1.2 **Major Projects and Enterprise (Amber)** forecast overspend due to additional staffing costs delivering the demands of the Enterprise Zone and helping to deliver the Council's regeneration and growth agenda.
- 3.3.1.3 **Head of Planning (Red)** the Council is currently subject to two planning appeals, one in Hardingstone, the other in Collingtree. At present, the final total costs associated with these appeals are uncertain. Current estimates place the value at £656k, with the Council actively working to limit the final total cost. There are risks that the final position may change and these are explained in paragraph 4.2.5. Cabinet is asked to note this position to date, and to note that these appeals will be funded from in year underspends and reserves, once full costs have been substantiated.
- 3.3.1.4 **Housing (Amber)** forecast overspend mainly relates to additional cost of Agency Staff offset by vacancy savings.
- 3.3.1.5 **Borough Secretary (Red)** forecast overspend mainly relates to additional cost of increased resources being supplied by the Association of Electoral Administrators and additional cost of the Duston and Upton parish elections offset by vacancy savings.
- 3.3.1.6 **Director of Customers and Communities (Blue)** overall forecast saving reflecting additional deductions made through the Environmental Services Contract, additional income for grounds maintenance to accurately reflect work carried out on HRA land, savings in budgets for NNDR, Utilities and rent offset by forecast overspends reflecting unachievable sponsorship income, additional costs in relation to new cleaning contract, electrical works and museum opening hours.
- 3.3.1.7 **Local Government Shared Services (Red)** forecast overspend relates to the underachievement of budgeted savings for Revenues and Benefits offset by a saving due to the pension auto enrolment not starting in 2015/16.
- 3.3.1.8 **Corporate (Blue)** forecast saving reflecting forecast underspend on Carbon Tax budget as NBC no longer falls within the scope of the scheme.
- 3.3.1.9 **Debt Financing and HRA Recharges (Blue)** forecast saving reflecting lower interest on new borrowing and additional investment interest due to investment balances being higher than budgeted.
- 3.3.2 **Controllable HRA Revenue Budget (Blue)**
- 3.3.2.1 The forecast underspend position on the HRA relates mainly to continued good performance of arrears management resulting in lower arrears than anticipated leading to a reduction in the required contribution to the Bad Debt Provision. Repair and Maintenance costs are lower as a result of the transfer of costs to capital schemes. In addition to this, NPH staff savings within the Sheltered Accommodation Team are reflected in the forecast underspend within Special Services.
- 3.4 Capital Programme**
- 3.4.1 **General Fund Capital Programme**
- 3.4.1.1 In line with approved processes, the Capital Programme Board has approved changes to the General Fund capital programme as set out in Appendix 1. Additions, totalling £740k, are predominantly funded from self-funded borrowing and Section 106 contributions. The £3.25m budget for further loan to NTFC has been removed, giving a net reduction of £2.51m. The General Fund Capital Programme now stands at £68.3m.

- 3.4.1.2 Capital Programme Board reviews forecast expenditure on a monthly basis and provides robust challenge to budget managers. As at the end of December 2015 the overall position shows a forecast underspend of £0.2m and expected carry-forwards to 2016/17 of £1.6m. The most significant carry-forwards relate to the Vulcan Works (£710k) due to a reprofiling of works following the finalisation of designs, and Disabled Facilities Grants (£400k) reflecting the new refined processes and criteria.
- 3.4.1.3 Any further additions to the capital programme, including further strategic property purchases, will be subject to the development of a robust business case.

### **3.4.2 HRA Capital Programme**

- 3.4.2.1 The HRA Capital Programme is managed by Northampton Partnership Homes (NPH) via a managed budget arrangement. Overall expenditure on the HRA Capital Programme in 2015/16 is forecast to be below budget by around £1.5m as at the end of December. This sum is expected to be carried forward to 2016/17 to complete the programme of works.
- 3.4.2.2 The most significant area of expected carry forward is in relation to NPH's ICT improvement programme. Consultants have been employed to support these projects, which are expected to complete in June 2016, resulting in an expected carry forward of £788k.
- 3.4.2.3 The majority of the HRA Capital Programme is for improvements to Council Dwellings and their surrounding environments. The overall position in relation to these schemes has improved to a forecast carry forward of £732k, compared to a forecast £3.1m in September 2015. Following a review of priorities in the early part of the year, work has now accelerated and expenditure in 2015/16 will be maximised. The capital programme budgets for individual schemes will need to be aligned to the new priorities in line with approved virement rules.

### **3.5 Data Quality**

- 3.5.1 The Council has processes in place to ensure that the data and information it provides to support management decision making is as reliable as possible. The Council has a strategy to improve data quality and service areas are working to achieve the objectives within it. This is closely linked to the Council's risk assessment processes and is monitored each month as part of the Council's Performance Management Framework.

### **3.6 Choices (Options)**

- 3.6.1 Cabinet is asked to note the reported position financial position.
- 3.6.2 Cabinet are asked to note the changes to the General Fund Capital Programme for 2015-16 as set out in Appendix 1.

## **4 Implications (including financial)**

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### **4.1 Policy**

- 4.1.1 The Council agreed a balanced budget for the Capital Programme and Revenue Budgets for both the General Fund and the HRA in February 2015. Delivery of the budget is monitored through the budget monitoring framework.

- 4.1.2 Corporate measures are monitored regularly to track progress towards delivering our priorities, as detailed in the Council's Corporate Plan. Service areas annually develop objectives, measures and targets to ensure the delivery of the Corporate Plan through the service planning process. The monitoring of progress is through the Performance Management Framework.

## **4.2 Resources and Risk**

- 4.2.1 This report informs the Cabinet of the forecast outturn positions for capital and revenue, for both the General Fund and HRA, as at the end of December 2015. It also highlights the key risks identified to date in delivering those budgets and where performance measures are significantly over or under performing.
- 4.2.2 There will be an on-going impact in future years if any of the savings within the 2015/16 budget are not achieved, particularly where services move outside the direct control of the Council.
- 4.2.3 All schemes included in the capital programme, or put forward for approval, are fully funded, either through borrowing, internal resources or external funding arrangements.
- 4.2.4 As noted in paragraph 3.3.1.3 there is a risk that costs incurred by the developer from appeal maybe awarded against the Council. The Council is actively working to mitigate any such claims. If costs are awarded against the Council they will be needed to be funded from in year underspend and reserves.

## **4.3 Legal**

- 4.3.1 There are no specific legal implications arising from this report.

## **4.4 Equality and Health**

- 4.4.1 There are no specific equalities implications arising from this report.
- 4.4.2 A full Community/Equalities Impact Analysis has been completed for both the Corporate Plan, and the 2015/19 Budget, which are available on the Council website

## **4.5 Consultees (Internal and External)**

- 4.5.1 Heads of Service, Budget Managers and Management Board are consulted as part of the budget and performance monitoring process on a monthly basis.

## **4.6 How the Proposals Deliver Priority Outcomes**

- 4.6.1 Performance monitoring (financial and non-financial) by exception and using it to improve performance is good practice in terms of efficient and effective management. It contributes directly to the priorities of sustaining "effective and prudent financial management" and being "an agile, transparent organisation with good governance".

## **4.7 Other Implications**

- 4.7.1 There are no other implications arising from this report.

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## **5 Background Papers**

- 5.1 Cabinet and Council Budget and Capital Programme Reports February 2015

Management Board, c/o David Kennedy, Chief Executive, 01604 837726  
Glenn Hammons, Section 151 Officer, 01604 366521

Cabinet 10<sup>th</sup> February 2016

## Capital Budget Changes October to December 2015 – Approved under Delegation

## General Fund Schemes

Reference	Scheme Title	2015/16 £k	2016/17 £k	Comments
BA224	Delapre Abbey and Parklands Infrastructure	300		Budget for the provision of additional car park and the restoration of the Delapre Cottage. Approved by Cabinet 21 <sup>st</sup> October.
BA653	Delapre Abbey Restoration	85		To fund the fit out of the retail space within the heritage attraction and the fit out of the education space. Also, to fund the installation of superfast broadband & IT hardware to the Abbey. Approved by Cabinet 21 <sup>st</sup> October.
BA207	IT Infrastructure - Servers and Network Storage	65	65	Borrowing to be funded from IT Managed Budget – self-funded borrowing
BA229	Weston Favell Improvements	40		Improvements to environment around shopping centre on land owned by the Borough Council
BA671	Heritage Gateway	(40)		Reduction to fund BA229 above
BA660	Northampton Town Fc Loan	(3,250)		Budget removed as no longer required.
BA683	St James Mill Way - Electricity Substation Upgrade	225		Additional funding required to complete programme due to additional costs by Western Power through ground conditions.
BA230	St Crispins Allotments	65	200	The design and build of St Crispins allotments funded from S106 contribution.
	Total	(2,510)	265	

