

**MEETING OF HARLOW COUNCIL
7.30 pm on Thursday 9 December 2021
In the Council Chamber, Civic Centre**

AGENDA

1. Apologies for Absence

2. Declarations of Interest

Councillors' declarations of interest (if any) in relation to any items on the agenda.

3. Minutes (Pages 3 - 21)

To agree the minutes of the meeting held on 28 October 2021

4. Communications from the Chair

5. Petitions from the Public

6. Questions from the Public

7. Questions from Councillors

8. Motions from Councillors

9. References from Cabinet and Committees

a) Referral from Licensing Committee - Adoption of Street Trading Policy (Pages 22 - 87)

The Licensing Committee recommended to Full Council that the Street Trading Policy, attached as Appendix 2 to the report, is adopted.

b) Referral from Audit and Standards Committee - Auditor Appointment (Pages 88 - 115)

The Audit and Standards Committee recommended to Full Council that:

- i) The Council participates in the national procurement process led by Public Sector Audit Appointments Limited (PSAA) for the appointment of its external auditors.
- ii) Delegated authority be granted to the Director of Finance, as the Council's statutory officer under Section 151 of the Local Government Act 1972 to formally give notice of the

Council's intention to opt in to the PSAA procurement exercise.

- c) Referral from Electoral Review Working Group - Harlow Council Electoral Cycles (to follow)
 - d) Referral from Cabinet - Corporate Strategy (to follow)
 - e) Referral from Cabinet - Local Council Tax Support Scheme Proposals (to follow)
10. Reports from Officers
- a) Polling Station Review (Pages 116 - 127)
11. Appointment to Committees, Sub Committee and Panels of the Council and their Chairs and Vice Chairs (Pages 128 - 129)
12. Appointment of Council Representatives on Outside Bodies (Pages 130 - 131)
13. Minutes of Cabinet and Committee Meetings

To note the following Cabinet and Committee minutes:

- a) Minutes of meeting Thursday, 14 October 2021 of Cabinet (Pages 132 - 139)
 - b) Minutes of meeting Thursday, 4 November 2021 of Cabinet (Pages 140 - 151)
 - c) Minutes of meeting Tuesday, 16 November 2021 of Licensing Committee (to follow)
 - d) Minutes of meeting Wednesday, 24 November 2021 of Audit and Standards Committee (Pages 152 - 154)
14. Matters of Urgent Business

Such other business which, in the opinion of the Chair, should be received as a matter of urgency by reason of special circumstances to be specified in the minutes.

**MINUTES OF THE COUNCIL
HELD ON**

28 October 2021

7.30 - 9.27 pm

PRESENT**COUNCILLORS**

Clive Souter (Chair)
Maggie Hulcoop (Vice-Chair)

David Carter	James Leppard
Simon Carter	Sue Livings
Joel Charles	Ash Malik
Jean Clark	Colleen Morrison
Mike Danvers	Russell Perrin
Bob Davis	Nicky Purse
Jodi Dunne	Matthew Saggars
Tony Durcan	John Steer
Tony Edwards	Dan Swords
Michael Garnett	Chris Vince
Alastair Gunn	Nancy Watson
Michael Hardware	Mark Wilkinson
Eugenie Harvey	Gareth Williams
Eddie Johnson	

OFFICERS

Niel Churchill,
Communications Manager
Simon Freeman, Deputy to the
Chief Executive and Director of
Finance
Simon Hill, Director of
Governance and Corporate
Support
Adam Rees, Senior
Governance Support Officer

41. **MINUTES' SILENCE**

A minutes' silence was held following the death of Sir David Amess MP.

42. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Nick Churchill, Andrew Johnson, Shona Johnson and John Strachan.

43. **DECLARATIONS OF INTEREST**

None.

44. **MINUTES**

RESOLVED that the minutes of the meeting held on 16 September 2021 are agreed as a correct record and signed by the Chair subject to the inclusion of John Steer to the list of those in attendance.

45. **COMMUNICATIONS FROM THE CHAIR**

The Chair outlined the events he had attended since the previous Full Council meeting. He had attended 15 events in total, including visiting Water Lane Primary School to unveil a new play area, opening Black History Month, the Broxbourne Civic Service, laying a wreath with Councillor Charles at Leigh on Sea to pay respect to Sir David Amess, and attending the Great British Spring Clean Awards.

46. **PETITIONS FROM THE PUBLIC**

None.

47. **QUESTIONS FROM THE PUBLIC**

The questions, together with the answers, are appended to the minutes.

48. **QUESTIONS FROM COUNCILLORS**

The questions, together with the answers, are appended to the minutes.

49. **MOTIONS FROM COUNCILLORS**

a) Harlow Draft Town Plan

Proposed by Councillor Tony Edwards (seconded by Councillor Mike Danvers):

This Council notes that:

- i) By 2047 a large proportion of the housing stock will be between 70 and 100 years old;
- ii) At the time of their build, standards with regards to energy efficiency and insulation and were markedly different from those required today; and
- iii) In July 2019 the Town made a Climate Emergency commitment.

This Council calls for the insertion of a substantial statement in the Draft Plan to reflect an ambition for all currently existing houses within the Town to be insulated and if necessary retrofitted to modern energy efficient standards by 2047.

This Council will:

- i) Quantify the numbers of houses that will need to be brought up modern energy efficient standards;

- ii) Embark on a plan of action for its own Housing stock; and
- iii) Take a strong strategic lead in working with others with regards to non-council owned stock.

RESOLVED that the motion was lost.

b) Universal Credit

Proposed by Councillor Chris Vince (seconded by Councillor Tony Edwards):

“Harlow Council recognises the significant financial impact on 11,000 plus Harlow residents of the decision of the Government to remove the Uplift provision for those on Universal Credit. Particularly when this comes at a time of rising inflation and soaring energy, fuel and food bills which hit hardest the poorest in society.

This Council will therefore:

- i) Work with organisations such as the Citizen’s Advice Bureau, Mind West Essex and others to monitor and further understand the impact the removal of the uplift will have on children, young people and those most vulnerable in our town;
- ii) Keep under constant review how we as a Council can best direct support;
- iii) Actively participate in the Kickstart Scheme and promote the scheme to local employers; and
- iv) Ask the Chief Finance Officer to write a letter on behalf of the Council to the Chancellor and Prime Minister requesting the government re-introduce the Universal Credit Uplift payment as a matter of urgency.”

Councillor Dan Swords (seconded by Councillor Gareth Williams) proposed that the motion was amended as follows:

“Harlow Council recognises the significant financial impact on 11,000 plus Harlow residents of the decision of the Government to remove the Uplift provision for those on Universal Credit. Particularly when this comes at a time of rising inflation and soaring energy, fuel and food bills which hit hardest the poorest in society.

This Council will therefore:

- i) Work with organisations such as the Citizen’s Advice Bureau, Mind West Essex and others to monitor and further

understand the impact the removal of the uplift will have on children, young people and those most vulnerable in our town;

- ii) Keep under constant review how we as a Council can best direct support;
- iii) Recognise the enormous package of financial support the Prime Minister, Chancellor and HM Government put in place throughout the coronavirus pandemic and introduced in the 2021 Budget including: cutting the Universal Credit Taper Rate by 8%; increasing the Work Allowances by £500 resulting in Harlow families keeping an extra £1,000 a year; a new £500 million Household Support Fund to help families with bills, food and clothing; the twelve year fuel duty freeze saving the average Harlow motorist £15 every time they fill up and £30 for small van drivers; increasing the National Living Wage next year by 6.6% resulting in a £1,000 pay rise for thousands of low paid Harlow residents; £200 million per year to run Free School Meal and Holiday Activity camp provision throughout school holidays to help thousands of young families in Harlow; ending the Public Sector Pay Freeze; providing over £250 million of support to Harlow businesses through grants and loans throughout the pandemic; the furlough scheme which protected over 19,000 jobs in Harlow; the Self-Employment Support Scheme which equated to £60 million of support for Harlow's self-employed workers; the £407 billion the Government spent to support the nation through the pandemic; the wide ranging package of measures introduced in the 2021 Budget to support employment in Harlow; and
- iv) Calls on this Council actively promote all of the measures in place to support Harlow families with the cost of living and actively participate in these schemes where it is possible for a local authority to do so, including by supporting job creation to ensure more Harlow families have secure, well-paid jobs."

The amendment was agreed and became part of the substantive motion.

RESOLVED that the substantive motion, as amended, was carried.

50. **ELECTION OF LEADER OF THE COUNCIL**

Councillor Joel Charles proposed and Councillor Dan Swords seconded the nomination of Councillor Russell Perrin as Leader of the Council.

RESOLVED that Councillor Russell Perrin is elected as Leader of the Council.

51. **REFERENCES FROM CABINET AND COMMITTEES**

- a) Annual Treasury Management Report 2020/21

Full Council received a referral from Cabinet on the Annual Treasury Management Report 2020/21.

Proposed by Councillor Russell Perrin (seconded by Councillor James Leppard) it was:

RESOLVED that the Annual Treasury Management Report for 2020/21 (attached as Appendix A to the report), including that the Council operated within the Treasury Management Strategy Statement during 2020/21, be approved.

52. **REPORTS FROM OFFICERS**

- a) Terms of Reference for Electoral Review Working Group

Full Council received a report to approve the terms of reference for the Electoral Working Group. It was noted that the Conservative appointments to the Working Group would be agreed in consultation with the Leader.

Proposed by Councillor Joel Charles (seconded by Councillor Simon Carter) it was:

RESOLVED that:

A The terms of reference for the Electoral Working Group be approved as set out in Appendix A to the report.

B Councillors Tony Edwards and Chris Vince be appointed to the Working Group, with the Conservative nominations to be agreed in consultation with the Leader.

53. **MINUTES OF CABINET AND COMMITTEE MEETINGS**

RESOLVED that the minutes of the following meetings are noted.

- a) Minutes of meeting Tuesday, 7 September 2021 of Licensing Committee
- b) Minutes of meeting Thursday, 9 September 2021 of Cabinet
- c) Minutes of meeting Tuesday, 14 September 2021 of Scrutiny Committee

- d) Minutes of meeting Wednesday, 15 September 2021 of Development Management Committee
- e) Minutes of meeting Wednesday, 13 October 2021 of Development Management Committee

54. **MATTERS OF URGENT BUSINESS**

None.

CHAIR OF THE COUNCIL

Full Council – 28 October 2021

Questions from the Public

1 Nicholas Taylor to Councillor Simon Carter (Portfolio Holder for Housing):

During the recent election campaign the Conservative Party pledged to build many Council homes in Harlow. The previous administration's record on this subject can best be described as abysmal, sites such as at Elm Hatch and the former Lister House site have lain derelict for years and residents living in homes which will need to be demolished have been left in limbo. A document giving a timeline for development was produced by the Council in 2019 and another appeared in the Local Plan of December 2020.

Will you please advise me what progress is being made to develop the following sites, all of which form the first five year supply of homes in the Local Plan?

- a) Former Lister House site with Staple Tye Mews and the Staple Tye Depot
- b) Riddings Lane
- c) Pollard Hatch
- d) Elm Hatch
- e) Fishers Hatch

Reply from Councillor Simon Carter (Portfolio Holder for Housing):

Thank you for your question Mr Taylor.

The list to which you refer appearing in the Harlow Development Plan adopted in December 2020 is of sites identified for development over the plan period and are not specific to the Council. This information is available to developers and the Council actively promotes them,

For details of the Council's pipeline of potential new houses I refer you to the quarterly Capital Expenditure performance reports presented to Cabinet.

The performance of the previous administration in building new council homes has been dire since the Pathfinder programme some seven years ago. The quarterly performance reports prompted many questions and comments from us in Opposition. We regularly challenged the previous administration over the absence of activity and interest in pursuing one of their key priorities, building more council house.

We are undertaking a rigorous and comprehensive review of the sites in the pipeline to ensure we achieve the homes that are needed and are value for money. We are also working with our subsidiary HTS to build properties in the pipeline through their emerging Business Plan, something else the previous administration failed to do.

The action we are taking now will result in this new administration building many more new Council properties, we are aiming for hundreds, and I look forward to making more announcements on the details of these schemes in due course.

Supplementary question from Nicholas Taylor:

Is Councillor Carter aware that the sites at the Readings and Pollards Hatch are subject to Community Right to Bid.

Supplementary reply from Councillor Carter (Portfolio Holder for Housing):

They may be subject to bids but they have not yet been completed.

2 Nicholas Taylor to Councillor Dan Swords (Portfolio Holder for Regeneration):

Over a quarter of a million pounds was spent on refurbishing Market Square just three years ago. Like me, many residents have been concerned to see that about a third of this surface in the square is being dug up and replaced with another surface. This work has been going on for about seven months during which time the whole area looks like a building site.

I understand that Essex County Council may be paying for this work, nevertheless, can you explain why this work is being done, what is the expected cost and when can residents expect the work to be finished?

Reply from Councillor Dan Swords (Portfolio Holder for Regeneration):

Thank you Mr Taylor.

I was not the portfolio holder at the time that these works were agreed, nor when they commenced. Indeed, this was agreed by the previous administration following the awarding of £1 million of funding from the Government towards town centre regeneration.

I have been clear publicly that this is not what I would have spent £1 million of Government funding on to kick start town centre regeneration.

Nevertheless, I understand that the scheme is scheduled to finish in Winter this year. I hope that this improvement to public realm makes a difference to the area.

However, I would like to be very clear that this administration has extremely ambitious plans to deliver the biggest programme of regeneration since Harlow was built, including a total rebuilding of the town centre. Not a tinkering at the edges, not a repaving nor a repainting and plans for that rebuilding will be published in due course.

3 Alan Leverett to Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

At the last Full Council meeting it was agreed that the Chief Executive would be asked to submit a formal objection to the Epping Forest DC Local Development Plan.

Can you advise me on what date that was sent, when will you make its contents known to residents and what if any response has been received?

Reply from Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

An objection to the Epping Forest Local Plan was formally submitted by this authority on the 23 September 2021. No response to this has yet been received. The contents of this letter will be made public as part of the Main Modifications process of the Epping Forest Local Plan. It is understood that formal communications will be made publicly available at the point at which all comments on the Local Plan are published.

The Council looks forward to the publication of the formal objection as it directly aligns with the motion passed at Full Council on 16 September 2021.

Supplementary question from Alan Leverett:

Do you feel that the Council should be consulting the Department for Levelling Up, Housing and Communities?

Supplementary reply from Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

This administration will work with all partners to reinforce the motion it set out.

4 Alan Leverett to Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

As a result of the ill feeling expressed by residents living in Bynghams to the warehouse development nearby, I understand that the Council undertook to review the procedures it uses when advertising Planning Applications.

Can you advise me if this review has taken place, if not when will it be completed and if it has, what changes the Council has or will be making to the procedures used?

Reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

Thank you for your question, and yes, we have been undertaking a review of our planning procedures and communications, and this is still ongoing. There is an item on the next Cabinet agenda reviewing the council's Statement of Community Involvement which sets out how we will consult residents on forward planning such as the local plan review, new Community Infrastructure Levy, supplementary planning documents and, as relating to your question, with development control, planning applications. This will set out some of the changes we propose for consultation.

There are three participants in the planning process: the applicants, the public and the council and council members. Our aim is to make the process as transparent and accessible as we can for all three participants.

We have already introduced measures to ensure council members are fully aware of all planning applications as they are validated – they now receive a weekly report.

We are reviewing the letters we send to residents advising them of planning applications to ensure people know what they are and not mistaken them for circulars and put them straight in the bin. The content of the letter is also being looked at, ensuring it is readable in plain English, says everything it needs to and directs people to where there is further information.

We are also considering the size of the area around a site where the letter is sent, looking to do more than the legal minimum.

Making the website more accessible so that residents can find the further information they are seeking. This could include a mapping application so they are more readily identifiable, and asking applicants to provide a summary of the application to make it easier for the public to understand the key points.

By law, a notice has to be posted near to the property and the application has to be advertised in a physical newspaper. As we are all aware, we only have the Harlow Guardian which only a few people read. We are looking at other media outlets in the town to ensure greater outreach to residents.

When an application comes before the Development Management Committee, we are considering increasing the number of speakers for larger, complex or controversial applications, allowing more residents to give their views.

And we are looking at the broadcasting and virtual involvement of people with the committee. We saw far greater involvement and engagement during lockdown when meetings were virtual which we would like to see carry on.

Once this review has concluded, the recommendations to be adopted will be announced.

Supplementary question from Alan Leverett:

Will the Council be paying any form of compensation to the residents of Bynghams most affected by this warehouse development?

Supplementary reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

The issues raised are still being investigated so I can't comment at the moment.

5 Hugh Hoad to Councillor Simon Carter (Portfolio Holder for Housing):

I have had at least 15 workmen from HTS call at my address to carry out work or obtain the key for the Greenhills common room with no ID at the first knock. What is the council doing about this?

Reply from Councillor Simon Carter (Portfolio Holder for Housing):

Thank you for your question

All HTS employees and sub contractors are provided with ID badges. Employees are also trained on working with residents and this includes the importance of ensuring staff can identify themselves.

Residents are encouraged to always ask for ID from anyone proposing to enter their home. HTS employees and sub contractors are actively encouraged to show ID at first point of contact.

If no ID is presented when requested, residents should refuse access. It is important that residents report this to HTS. HTS will always take action if advised of such circumstances.

I will undertake to do everything possible to ensure that all HTS and sub contracted workers show their ID upon entry to a property.

Supplementary question from Hugh Hoad:

It was about time something was actually done about this?

Supplementary reply from Councillor Simon Carter (Portfolio Holder for Housing):

This is an issue that comes up on a regular basis. Where issues occur go back to your housing manager or HTS.

6 Hugh Hoad to Councillor Dan Swords (Portfolio Holder for Regeneration):

In the plan to regenerate the town centre tabled at Cabinet 14/10/21 there was plenty of green space in the scheme. Will this be watered throughout its life and not left to die like the red flower pots scheme?

Reply from Councillor Dan Swords (Portfolio Holder for Regeneration):

Greening our town in line with the Gibberd principles is key driver for this administration. That new greenery will be maintained to the highest standards because the rebuilt town centre truly will be one of the best town centres in Britain.

Dying plants have no role in that plan and we will be building back more beautifully, building back bigger, building back brighter in order to build back better.

Supplementary question from Hugh Hoad:

Can you be sure that the trees will be watered?

Supplementary reply from Councillor Dan Swords (Portfolio Holder for Regeneration):

Yes.

Full Council – 28 October 2021

Questions from Councillors

1 Councillor Mike Danvers to Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

Will you give an estimate of the cost of drawing up a town plan including officers' time, meetings, published documentation and public consultation?

Reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

There are no direct costs involved in the production of the Town Plan. The Town Plan seeks to create a long term vision for the future of the town and does not require significant amounts of external consultancy support. The plan is being produced through the use of officer time across the Council. This is part of their day to day job and does not incur additional cost for the Council.

Supplementary question from Councillor Mike Danvers:

Why has it taken six months for a reply?

Supplementary reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

I was supposed to write you but I forgot.

2 Councillor Mike Danvers to Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

Will the present leader of the Council please give details, if any, of official meetings between Harlow council members and officers and Epping Forest council members and officers since May 2021 to discuss the Epping Forest local plan? If meetings have taken place can minutes of these meetings be published?

Reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

Harlow Council has extensive liaison with Epping Forest District Council at both Member and Officer level as part of the Harlow and Gilston Garden Town Partnership. Many of the conversations about the Epping Forest Local Plan have taken place in these fora. Additionally, informal meetings took

place in late August and early September at a political leadership level between Harlow Council and Epping Forest District Council to discuss the Epping Forest Local Plan. There are no minutes of these meetings as the discussions were informal. At officer level, formal meetings, outside of ongoing meetings within the HGGT structures took place with EFDC to discuss Local Plan issues, as well as other matters, on 15 September and 6 October. Minutes of these meetings are not published.

Supplementary question from Councillor Mike Danvers:

Why hasn't the new leadership met formally with Epping Forest since May?

Supplementary question from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

It is Epping Forest's local plan so it is up to them how they take it forward.

3 Councillor Tony Durcan to Councillor Russell Perrin (Portfolio Holder for Finance and Governance):

On Tuesday 12 October 2021, the local social media newspaper published a statement from the editor Michael Casey "Comment is free (but don't abuse the privilege)."

The article indicated that a significant number of articles that at times were offensive against others including myself came from an address within Harlow Council.

I have two asks of the new Leader.

Would under your leadership re enforce to all councillors the need to maintain the Nolan Principles and I ask that they are included in your reply? Could you assure me that you will work with the Chief Executive of the council to ensure no staff member is using IT equipment to provide personal views and comments of a political nature?

Reply from Councillor Russell Perrin (Portfolio Holder for Finance and Governance):

I thank the Councillor for his question. I agree that all Councillors should be held to the highest standard of conduct whilst in office and abide by the Nolan Principles as required by the Council's Code of Conduct. You will be aware that the Monitoring Officer has undertaken a number of training sessions for Councillors on the Code which has given guidance to members about their online activities, and all but one of the current Councillors has attended this

training in the last year or so. This training is repeated every year so members should be well aware of the codes requirements.

A number of training sessions have also been carried out by the Monitoring Officer for Officers again this year on their own Code of Conduct which is set out in Part 5 of the Constitution. These were well attended and this training specifically covers use of Council IT equipment and online media.

The Nolan Principles are set out below:

- a) Selflessness - Holders of public office should act solely in terms of the public interest.
- b) Integrity - Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or takes decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- c) Objectivity - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- d) Accountability - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- e) Openness - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- f) Honesty - Holders of public office should be truthful.
- g) Leadership - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Supplementary question from Councillor Tony Durcan:

What actions will you take to stop abusive messages being sent using council equipment as its clear they are Tory led?

Supplementary reply from Councillor Russell Perrin (Portfolio Holder for Finance and Governance):

If he has specific instances where members have breached the Code he should report these to the Monitoring Officer. All Councillors should be held accountable to those standards.

4 Councillor Tony Durcan to Councillor Russell Perrin (Portfolio Holder for Finance and Governance):

This year we have seen an increase in racial tension both at locally and at national level.

This is due to many factors but would he agree that we need to call this out and speak with one voice that these matter are anti-racist and we need to take strong action against those who promote hatred against others.

Black History month enable us to reflect and celebrate the wonderful diversity of culture within the town.

As the new leader what difference will you make to ensure that you will do everything to reduce and stop such vile racial behaviour against our friends and neighbours?

Reply from Councillor Russell Perrin (Portfolio Holder for Finance and Governance):

Hate Crime, and incidents that are not considered a crime in law but are equally unacceptable, not only harm victims but also their friends and families and the wider community.

Such behaviour is not acceptable and we are committed to raising awareness of what Hate Crime is; how damaging it can be to communities; the difference between a hate crime and a hate incident and how to report concerns to ensure that perpetrators are dealt with appropriately and are aware that this behaviour will not be tolerated in our town.

The Safer Harlow Partnership has identified Hate Crime as one of five top priorities for 2021/22 and there is an established multi-agency working group that concentrates its efforts on delivering an action plan that aims to raise awareness of what Hate Crime is and how to report it. The group also works with Essex Police to deliver a programme of Hate Crime Ambassador training and to date more than 130 Ambassadors have been trained in Harlow. Harlow Youth Councillors have also been trained as Hate Crime Ambassadors to help educate other children and young people in Harlow and help protect the next generation from this abhorrent and intolerable type of behaviour.

During Hate Crime Awareness Week (9 – 16 October 2021) the working group delivered awareness raising events in the community, at Harlow College and at places of worship and were successful in engaging around 200 people at these events and distributing useful and informative resources to members of the public.

Councillor Durcan will be aware that Cabinet has recently approved a draft Community Resilience Strategy which will be published later this year following a short consultation period. At the heart of this strategy lies a commitment to build a strong, better connected town that celebrates diversity and helps people from all backgrounds feel a greater sense of belonging and empowerment. It is a strategy that will help build a renewed sense of community purpose and contribute towards identifying and tackling inequality and ensuring social inclusion for all. The strategy is supported by six strategic pillars to ensure the whole community will benefit from recovery, opportunity, inclusion and future prosperity regardless of identity or background. One of the six pillars is centred around Safe Communities and we have set out how we will tackle and reduce crime, violence and ASB and how we will work collaboratively with partners to ensure that all residents feel and are safe in the community and in their own homes and have the confidence to report crime and concerns without fear of recriminations.

We will continue to support events like Black History Month and work with partners such as the Harlow Ethnic Minority Umbrella (HEMU) and Integration Support Services (ISS) to both support and celebrate our wide and wonderfully diverse population and promote all the benefits that this can bring to our town.

Supplementary question from Councillor Tony Durcan:

What will you do that is different?

Supplementary reply from Councillor Russell Perrin (Portfolio Holder for Finance and Governance):

I will make sure the Community Resilience Strategy is fully embedded within our organisation.

5 Councillor Chris Vince to Councillor Russell Perrin (Portfolio Holder for Finance and Governance):

In February of this year Mervyn Juliff sadly past away. In the 1970s, Mervyn served as Leader and Chair of Harlow Council, as well as becoming Chair of

the Harlow Development Corporation. He was also the last Labour Leader of Essex County Council from 1997 to 2001.

Would it be possible to get a cross party group together to form a policy to ensure civic leaders of all political colours, like Mervyn, are properly recognised with a permanent tribute to him either in the form of a blue plaque or other memorial?

Reply from Councillor Russell Perrin (Portfolio Holder for Finance and Governance):

Like you, I was saddened by Mervyn's passing. His legacy in and commitment to the town was considerable. Just outside the Chair's suite, you can find Mervyn's portrait, along with other previous Chairs of the Council. All of these people served the town with distinction.

I recognise that many civic leaders never receive the honour of being Chair so this administration will look to develop a framework for commemorating civic leaders. I will ensure that there is cross-party involvement in developing this.

6 Councillor Bob Davis to Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

Would you consider having a thank you event for the people that put in so much effort during the worst of the Covid Pandemic? There are Officers, Councillors, Nurses, Charities and Individuals that put in a lot of effort during this crisis and I think they should be recognised.

Reply from Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

The Council continues to recognise what the NHS, charities, key workers, faith groups and the many volunteers are doing to support all residents, and those who are particularly vulnerable from COVID-19. Their acts of courage and selflessness will not be forgotten. The level of community spirit and resilience in Harlow was evident from the first lockdown and I want the Council to harness this as we work towards a social and economic recovery, but we cannot become complacent as the pandemic is not over yet.

The timings for when and how to celebrate the commitment of those who have stepped up to support our community is something the Council has been actively considering. I feel it is premature to say more at this time as the Council continues to monitor COVID-19 infection levels in the town carefully. The judgement about when the appropriate time for the celebration should take place will be included as an action for the Cross-Party COVID-19

Recovery Working Group. I expect the celebration will take place after the winter period and once COVID-19 infections have returned to lower levels across the town.

7 Councillor Jean Clark to Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

Can you confirm that the town park will have a revenue budget for the year April 2022-23?

Reply from Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

Yes, the Town Park has a revenue budget of nearly £300,000 per annum to enable the park to be maintained to a high standard. This investment has been put in place because the Council takes pride in the fact that it has successfully been able to secure yet another Green Flag award and is determined to maintain its record on the environment.

Supplementary question from Councillor Jean Clark:

If the Town Park receives another Green Flag award next year will the Council give it another £100,000?

Supplementary reply from Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

One of our key priorities is the environment and we would consider further environmental support as part of the budget process.

REPORT TO: LICENSING COMMITTEE

DATE: 16 NOVEMBER 2021

TITLE: ADOPTION OF STREET TRADING POLICY

LEAD OFFICER: MICHAEL PITT, ENVIRONMENT AND
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OFFICER (01279 446114)

RECOMMENDED that:

- A** The Committee consider the proposed street trading policy, as set out at Appendix 2 to this report, representations made on consultation concerning the proposed street trading policy, as set out in Appendix 1 to the report, and determine whether any amendments to the draft policy are required.
- B** Subject to A above, the Committee recommend to Full Council adoption of the proposed Street Trading Policy 2021 – 2026, as set out in Appendix 2 to this report.

BACKGROUND

1. At the Licensing Committee meeting of 9 March 2021 consultation on the proposed updated street trading policy presented at that meeting was approved. For ease of reference the report of 9 March 2021 is attached at Appendix 3 to the report.
2. The Council carried out a twelve week consultation process which ended on 24 August 2021. Details of consultation process are set out at Part 5 of Appendix 2 to the report.
3. A total of seven consultation responses were received. These comprise four responses from interested parties and three from existing licensed street traders.
4. The consultation responses are presented at Appendix 1 together with officer comments in relation to the matters raised.
5. The proposed policy incorporating any amendments considered necessary following consultation are intended to secure proper, up to date and equitable application of the legislation pertaining to this matter.

IMPLICATIONS

Environment and Planning (Includes Sustainability)

As set out in the report.

Author: Andrew Bramidge, Director of Strategic Growth and Regeneration

Finance (Includes ICT, and Property and Facilities)

The proposed fees and charges will seek to recover Council costs in administering the scheme.

Author: Simon Freeman, Deputy to the Chief Executive and Director of Finance

Housing

None specific.

Author: Andrew Murray, Director of Housing

Community Wellbeing (Includes Equalities and Social Inclusion)

Allowing stakeholders to comment during policy formation is likely to lead to more transparent regulatory processes.

Author: Jane Greer, Director of Communities and Environment

Governance (Includes HR)

As set out in the report.

Author: Simon Hill, Director of Governance and Corporate Support

Appendices

Appendix 1 - Results of Consultation incorporating officer comments.

Appendix 2 - Proposed Street Trading Policy 2021 – 2026

Appendix 3 - Report of 9 March 2021

Appendix 1 - Responses received

Respondent	Comments	Officer Comment
<p>Portfolio Holder for Environment</p>	<ul style="list-style-type: none"> <li data-bbox="568 331 1413 499">- Why is a DBS considered necessary? Any interaction with vulnerable people would be in a public setting. Does this risk deterring people who are rehabilitating after a custodial sentence and who may have limited other employment opportunities? <li data-bbox="568 639 1368 807">- Does the extension of the consultation period constitute a delay in how long prospective street traders have to wait before starting trade? I'd be put off if told I had to wait a month, and doubt that two weeks is insufficient time to consider an application. <li data-bbox="568 1114 1413 1182">- What are the options around setting the minimum food hygiene rating at 4, & how often are street traders assessed? 	<p data-bbox="1444 331 2045 635">The council has a responsibility to ensure the holder of a street traders' licence is a fit and person, the basic DBS check helps to achieve this and is common practice among Local Authorities. The provisions of the Rehabilitation of Offenders Act 1974 require that "spent" convictions are not taken into consideration when determining a licence application.</p> <p data-bbox="1444 671 2045 1007">This would mean a longer minimum period before prospective traders could begin work. Extending the consultation period to 28 days from the current 14 days will enable officers to carefully consider relevant information received and follow up necessary enquires. This would also achieve consistency with other licensing procedures including licensing under the Licensing Act 2003 and Highways Act tables and chairs licensing.</p> <p data-bbox="1444 1145 2045 1377">This is a matter for Council discretion, although where a licence is declined the applicant may appeal, so should be reasonable. Fixed premises may trade legally with a lower rating. Officers have recommended a minimum rating of 3 which means that hygiene standards are "generally</p>

	<ul style="list-style-type: none"> - Will Sunday trading remain prohibited under these proposals? - What is the rationale for 50 metres between traders? Aren't street stalls more effective when they are clustered together? - By a restriction on traders keeping their vans or diesel generators running, I presume this means a ban? 	<p>satisfactory". A rating of 4 means that the premises hygiene standards are "high".</p> <p>Once a business has been rated it cannot normally be re-rated until at least three months later.</p> <p>Sunday trading laws do not apply to street traders because they are not classed as large premises. The conditions which restrict trading around places of worship on Sundays will continue.</p> <p>This is a matter for the discretion of the Council. The intention is primarily to reduce congestion and to address concerns that have historically been raised by traders in fixed premises who face higher costs including business rates.</p> <p>The intention is to stop licensed traders at fixed pitches relying on internal combustion engines running continually for reasons of air quality and carbon reduction</p>
Principal Environmental Health Officer [Commercial Premises] Harlow Council	<p>I wish to make a comment on the consultation for the Street Trading Policy.</p> <ul style="list-style-type: none"> - The policy should be amended on page 20, paragraph 20 to state 'where gas/lpg is used each applicant must provide a copy of their latest gas safety inspection certificate'. It is possible that gas will not be used by the applicant. - I would suggest reference is made to safety testing for electrical installations and appliances, particularly where this is the main power source, for example 	<p>Recommended this amendment be made</p> <p>Recommended this amendment be made</p>

	<p>'All electrical installations and equipment must be maintained in a safe condition and should be tested regularly by someone competent to carry out such a test'</p> <ul style="list-style-type: none"> - I agree that a broadly compliant score of 3 on the food hygiene rating scheme is achieved by the applicant to provide some reassurance of good food hygiene for the public, however this may hold up the application process. Where the applicant stores their mobile vehicle/premises in Harlow, the Environmental Health department at Harlow council will undertake the food hygiene inspection in order to award a food hygiene rating. Where the applicant/food business operator is new, there may be a delay in carrying out that inspection. Current food standards agency guidance asks for Local Authorities to prioritise food hygiene inspections in accordance risk therefore new lower risk businesses may not receive their inspection for a number of months. Applicants may also submit a registration and not be ready for their inspection for a number of months, for example whilst they are awaiting delivery of their vehicle/trailer. Where the applicant keeps their mobile premises/trailer in another Local Authority, the applicant would be registered by that Local Authority, whose policy may be not to award a rating if they haven't seen the applicant trading. 	<p>As is currently the case the council will take all steps to expedite applications as soon as practicable.</p>
<p>Watch Manager Essex Fire & Rescue</p>	<p>I have read the street trading policy and from a fire service perspective there is little to comment on. I would ask that we take into consideration some of the principles we apply to other areas such as;</p> <ul style="list-style-type: none"> - Ensuring that there is sufficient width to allow a fire appliance to pass (3.7m) 	<p>Recommended these principles be incorporated into the policy inspection/approval process.</p>

	<ul style="list-style-type: none"> - Ensuring that access to buildings is not hindered by street traders - Fire hydrants and the indication plates are not obstructed. - Street traders should not obstruct emergency escape routes from buildings <p>Much of this is in spirit, covered by paragraph 3.13 but perhaps something a little more specific might help reinforce the principles.</p>	
<p>Highways Officer Essex Highways</p>	<p>Thank you for giving me the opportunity to comment.</p> <ul style="list-style-type: none"> - It is not clear enough or has not been emphasised within the documentation that Essex County Council are the care takers of the public highway and that consent/support from them is required. - Page 14 3.6 it states 20 traders permitted operative under one licence, each trader should apply for their own street trading licence unless it is a market (which the relevant council has market status) - No street licences can be issued to adjacent businesses. - Any street licence being given to a trader located within a carriageway must be parked a minimum of 15 metres from a junction. - Any street licence being given to a trader located within a carriageway must not be parked on any parking restrictions. 	<p>Recommended the draft policy be amended to reflect this Comment</p> <p>Essex County Council are listed in the policy as a consultee for individual applications and as such are able to comment on applications on an individual basis. The Council would expect such comments to incorporate the matters outlined in their consultation response.</p>

	<ul style="list-style-type: none"> - Any street licence being given to a trader located within a carriageway must not be parked in front of or opposite a dropped kerb which will cause issues for entering/exiting a business or property. - Any street licence being given to a trader located within a carriageway must not obstruct any forward visibility. - Any street licence being given to a trader located within a carriageway cannot use the footway/verges to place any bins/tables/chairs/signage/umbrellas without written consent 	
<p>Licensed Street trader – multiple mobile units</p>	<p>In response to the notification of the introduction of a new Street Trading Policy: Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 Consultation on the introduction of a Harlow Council Street Trading Policy.</p> <p>We would like to oppose the requirements stipulated in the below point:</p> <ul style="list-style-type: none"> - Restriction on mobile traders stopping within 50 metres of any school (from an hour before the start of the school day until an hour after the end of the school), hospitals, and places of worship (on Sundays and other recognised day of worship). <p>We have operated in Harlow for 30 years and have a long standing relationship with the local schools, with a number of schools allowing us to park on their grounds (Passmore and Layton Green) The nature of our relationships have resulted in many numerous donations, by us, to the schools. In addition, we are regularly requested, by the schools, to trade at their events; fetes, sports days etc.</p> <p>Given the seasonal nature of our business and the fact that we are</p>	<p>Members are invited to consider this representation. The proposed restriction supports the formally recognised code of practice to on noise from ice cream van [etc.] chimes which when applied can protect traders from action for noise nuisance. A further consideration is congestion in the vicinity of school and promotion of healthy eating goals.</p>

	<p>only present during the term time, we strongly feel that the proposed requirement of a 50 metre distance will have a lasting impact on, not only our business, but on us as a family.</p> <p>The pandemic has hit us hard, with schools closed and events cancelled. It is in recent months that we have been able to work again.</p> <p>We plead with you that this proposed restriction be reviewed.</p>	
Licensed Street trader	<p>I have taken a look at the new suggestions with regards to street trading for our licences for ice cream vans please see some suggestions/responses below,</p> <ul style="list-style-type: none"> - I agree with some of these new things like CRB checks it's a good idea being as we work with the general public. - One major thing which should be re considered is the rule about no ice cream vans near schools. <p>We get asked by so many schools to attend there school fetes, leaver prom days to treat the children, also when the weather is good schools book us to treat the children to ice cream too.</p> <p>Also the majority of parents want us there so they can give the kids a treat after there long day at school, if we happen to miss a day at the school most parents ask where we was as kids was upset we wasn't there.</p> <p>We don't only serve children/parents but often teachers come out to buy ice cream to. If this was to be put in place it would upset many people as well as having a detriment effect to our business.</p> <p>Over the years it has got harder trading on the streets so for the opportunity to trade at schools to be taken away would have a big</p>	<p>Members are invited to consider this representation. The proposed restriction supports the formally recognised code of practice to on noise from ice cream van [etc.] chimes which when applied can protect traders from action for noise nuisance. A further consideration is congestion in the vicinity of school and promotion of healthy eating goals.</p>

	<p>effect to the trade and it has become part of our living.</p> <p>I know we make a lot of children happy when they see us after school and I hear most parents say to the children they deserve it as been good all day at school.</p> <ul style="list-style-type: none"> - Also I know I have brought this up many times and I understand you don't want engines on in Broadwalk and have asked if we can run from electric, after modifying a van at a large cost to me to be told there is no longer electric is also having an effect on the business. <p>Myself personally have been in the town with a street trading license for over 25 years with no complaints and to not be given electric to trade after making changes to run from electric and no new electric points been put in for me is very disappointing.</p> <p>I have a van there this month with just scoop ice cream which just isn't the same as people can buy this from the shops they all ask for the whippy machine which needs power and this has had a huge reflection in our takings and I'm not sure we can carry on trading with no power.</p> <p>Please can we investigate further on getting a power supply fitted?</p>	<p>The Council owns Broadwalk and has in recent years taken the view that it does not wish to let pitches to traders using continuously running combustion engines.</p> <p>This is a specific commercial matter for the trader and the Town Centre management to resolve and not a matter of licensing Policy as such.</p>
Pritpal Dhingra	<p>Re: Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982</p> <p>Consultation on the introduction of a Harlow Council Street Trading Policy</p> <p>I want to draw your attention to proposed clause no V. As a full time market trader, I have worked at many council and private run markets over the years.</p>	<p>There would be a cost to applicants in obtaining a basic DBS certificate. The Council has a responsibility to ensure the holder of a street traders' licence is a fit and person, the basic DBS check helps to achieve this and is common practice among Local Authorities. The provisions of the Rehabilitation of Offenders Act 1974 require that "spent" convictions are not taken into consideration</p>

	<p>None of them required me, or other traders, Basic Disclosure and Barring Service (DBS). I think it is extra cost burden and red tape for the traders. I probably would have understood if this was the criteria for a new trader but you have known us (only 3 of us) for years. I therefore ask to you to do not implement this clause. If you insist on doing it, then the council should absorb the cost for every renewal application (£23).</p>	<p>when determining a licence application.</p> <p>The Council has taken a supportive position with regard to pitch fees for traders in the Town Centre.</p>
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Street Trading Policy 2021 – 2026

Date policy adopted:

Adopted by: Licensing Committee

Date of implementation:

Next review period: 2026

CONTENTS

		Page
1	INTRODUCTION	
1.1	Introduction	
1.2	Scope	
1.3	Prohibited Streets	
1.4	Licence Streets	
1.5	Town Centre	
1.6	Special Markets/Events	
1.7	Case Law	
1.8	Legislative Framework	
1.9	Human Rights	
1.10	Duplication	
1.11	Equality	
1.12	Purpose	
1.13	Consultation	
1.14	Review of Policy	
1.15	Conditions	
2	LICENSING PROCESS AND DELEGATION	
2.1	Introduction	
2.2	Licensing Committee	
2.3	Licensing Sub-Committee	
2.4	Consideration of a Licence application by the Licensing Committee / Licensing Sub-Committee	
2.5	Contentious Applications	
2.6	Decisions	
2.7	Right of Appeal	
2.8	Setting Fees	
3	STREET TRADING ACTIVITES, APPLICATION PROCESS AND REQUIREMENTS	
3.1	Introduction	
3.2	Static Street Trading	
3.3	Mobile Street Trading	
3.4	Ice Cream Van Chimes	
3.5	Buskers	
3.6	Special Events/Markets Street Trading	
3.7	Community & Charity Events	
3.8	Promotional Stall /Pitches	
3.9	Pedlars	
3.10	Permitted Hours	
3.11	Late Night Refreshment	
3.12	Planning Permission	
3.13	Suitability of the site	
3.14	Needs of the Area	

3.15	Trading Near to a School	
3.16	Application Process Advice for New Applicants Applications forms:	
3.17	Criminal Record Disclosure	
3.18	Trading in food or drink:	
3.19	Waste	
3.20	Nuisance / air quality	
3.21	Temporary Vehicles	
3.22	Employees	
3.23	Consultation	
3.24	Determining an Application	
3.25	Granting of Applications	
3.26	Renewal of Street Trading Licence	
3.27	Variation of a Street Trading Licence	
3.28	Transfer of a Licence	
3.29	Revocation of a Street Trading Licence	
4	ENFORCEMENT, COMPLIANCE AND INSPECTIONS	
4.1	Summary	
4.2	Inspection, Compliance and enforcement	
4.3	Offences	
4.4	Complaints	
4.5	Deciding the Level of Action to Take/Decision Making Process	
4.6	Verbal Warnings and Advice	
4.7	Written Warning and Advice	
4.8	Formal Action	
4.9	Revocation of Licence	
4.10	Prosecution	
4.11	Existing Licence Holders	
4.12	Appeals	
5	CONSULTATION	
6	LICENSING CONTACT DETAILS	

Appendices

Appendix 1 – Prohibited and Licenced Streets

Appendix 2 - Safeguarding Children and Adults with Care and Support Needs

Appendix 3 – Harlow Council Delegation of Functions

Appendix 4 – Matters to be considered when determining an application

Appendix 5 – Suitability of an applicant to hold a Licence

Appendix 6 - Relevance of Criminal Convictions and Cautions

Appendix 7 – Standard Licence Conditions (Subsidiary Terms)

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PART 1 – INTRODUCTION

- 1.1 The powers to control street trading within the Council's area are contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, 'the Act'. Under Schedule 4 of the Act the Council can manage street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'.

Harlow Council on 1 March 2001 adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and has designated all the streets within the boundaries of the district as either Prohibited Streets or Licence Streets for the purpose of regulating street trading.

Street trading is not permitted whatsoever in any of the designated Prohibited Streets. Street trading is not permitted in the remaining streets which are designated Licence Streets, unless a Street Trading Licence has been issued by the Council's Licensing Team.

1.2 Scope

"Street trading" is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street, with the following exceptions:

The following shall be considered as prohibited goods for the purpose of the policy (this is not an exhaustive list):

- (a) Second hand electrical goods
- (b) Medicines or treatments
- (c) Sex articles as defined by the Local Government (Miscellaneous Provisions) Act 1982
- (d) Cigarettes/tobacco
- (e) Any form of gambling
- (f) Firearms (including replicas) and ammunition
- (g) Fireworks

Exemptions from the need to obtain a street trading licence:

- (a) Trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871 (i.e. travelling on foot from place to place selling goods directly).
- (b) Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order.
- (c) Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.
- (d) Trading as a news vendor (selling newspapers or periodicals, Big Issue vendors).
- (e) Trading which—
 - (i) is carried on at premises used as a petrol filling station; or
 - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop.
- (f) Selling things, or offering or exposing them for sale, as a roundsman (a person who follows a set route to attend on specific/identifiable customers for the purposes of either taking orders or for the delivery of goods e.g. milk round, grocery delivery service).
- (g) The use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway.
- (h) The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.
- (j) The doing of anything authorised by regulations made under section 5 of the Police,

Factories, etc. (Miscellaneous Provisions) Act 1916.

With regard to point (f) above it has been established in law that mobile ice cream sales are not normally deemed to be roundsmen and, therefore, are not exempt from street trading.

“Street” includes any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.

The schedule for Streets within Harlow as Prohibited and Licence Streets under the Local Government (Miscellaneous Provisions) Act 1982 is shown in **Appendix 1**.

At the Environment and Community Committee on 22 June 2009, taking on board the High Court judgement, it was agreed to extend the licensing arrangements for street trading by adopting a wider interpretation of Land open to the public to include areas of Harlow that would have been previously considered private land.

Street traders must always seek permission to use the land from the land owner. This includes the Highway Authority where the land is a highway.

1.3 Prohibited Street

“Prohibited Street” means a street in which street trading is prohibited.

If a street is designated as a “prohibited street” then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited. For example, the street may not be wide enough to facilitate a trader or the Council may wish to restrict trading at a particular location. It may be considered that the prohibited status might be the most appropriate designation for the majority of residential streets in a town. There is no right of appeal in respect of a Council decision to designate a street as prohibited; challenge is by way of Judicial Review.

1.4 Licence Street

“Licence Street” means a street in which street trading is prohibited without a licence granted by the Council.

Street trading in a licence street without a licence is a criminal offence. If a street is designated as a “licence street” then applications can be made by persons over 17 for a licence to trade in the articles described in the application on certain days on that street. For so long as the designation of licence street remains in place for that particular street or part of street the council is duty bound to grant or renew a properly made application unless one or more of the statutory grounds for refusal applies. When granting or renewing a licence the Council may attach any reasonable condition, furthermore the Council can at any time vary the conditions attached to a licence. There is a right of appeal against a council decision made in respect of a street trading licence.

The Act creates offences associated with trading in consent or licence streets without the necessary authority; a person guilty of such an offence may be liable, on conviction to a fine up to £1000.

Exemption - sales of articles by residential occupiers within the curtilage of their properties, or on land contiguous with it.

1.5 Town Centre

In 2015 under the Act, designated trading pitches on Broad Walk and East Gate (land which the Council owns) are on a licence street and would require a street trading licence, and pay a monthly pitch rental fee.

1.6 Special Markets/Events

In 2011 a policy was adopted by the Council which allowed street trading licences to be applied in a different way. This accommodates groups of traders such as specialist markets which trades from time to time in the Water Gardens (on private land). One street trading application could be submitted on behalf of the whole group of traders.

This was reviewed in 2017 where a limit of five such applications in one year, a maximum of 20 stalls to be included in the application and the maximum number of trading days being five consecutive days per application. Except during December when a single licence may be issued for a period of not more than 14 days.

1.7 Relevant Case Law

Kempin (T/A British Bulldog Ice Cream) v Brighton & Hove Council [2001]

This case determined that a roundsman was someone who delivered pre-ordered goods within a locality; and on this basis an ice cream salesman driving around an area was not a roundsman because he/she would not be delivering pre-ordered goods.

West Berkshire DC v Paine [2009]

This case determined that if the trading took place in an area where the public had access without payment (even if the public did not go there) it was a "street" and would require a licence to trade there.

1.8 Legislative framework

The primary legislation relating to street trading is Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

The Children and Young Persons Act 1933, as amended by the Children and Young Persons Act 1963, controls the employment of children in street trading. The Act prohibits the employment of children under 17 years of age for the purpose of street trading.

1.9 Human Rights

The Licensing Authority deal with applications for Street Trading Licence in a manner consistent with the Human Rights Act 1998. In particular, by giving due consideration to the rights under the following articles of the European Convention on Human Rights and Fundamental Freedoms:

- (i) Article 1 – property right (including the right to apply to hold a licence and operate a business);
- (ii) Article 6 – right to a fair hearing in the case of representations against applicant or licence holder;
- (iii) Article 8 – respect for your private life, your family life, your home and your correspondence (letters, telephone calls and emails, for example).

1.10 Duplication

Street Trading has the potential for the overlapping of trading activities covered by different regulatory regimes, for example food hygiene and standards, sale of alcohol or late night refreshment.

In addition, street trading activities may require Planning or Highways permissions depending on the nature of the trading location. So far as is reasonably practicable the Council will avoid duplication with other regulatory regimes that already place obligations on employees and operators.

Street traders are required to ensure all relevant provisions are satisfied with the relevant responsible authority in these respects.

1.11 Equality

Licence holders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.

1.12 Purpose

The purpose of this street trading policy is to provide a fair, consistent and transparent decision making framework and process for the determination of applications for street trading licences.

To facilitate the creation of a street trading environment that is sensitive to the needs of the public (including local residents) provides diversity and consumer choice, and enhances the character ambience and safety of local environments for people who live, work and visit in Harlow.

Each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

Harlow Council is particularly concerned to ensure:

- public safety;
- the prevention of public nuisance;
- the prevention of crime and disorder; and
- the protection of children, young persons and adults with care and support needs from harm.

The Council recognises that promoting the welfare of children and protecting them from harm is everyone's responsibility. Street Traders who may have dealings with children, young people and adults with care and support needs have a duty to report matters of concern to the relevant authorities.

Further details are set out in **Appendix 2**.

1.13 Consultation and Communication

In determining the Policy, the Council has consulted as set out in Part 5. The views of relevant stakeholders have been taken into consideration.

In order to deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communication and consultation with all stakeholders.

1.14 Review of Policy

This policy will be reviewed every five years. If required, periodic updates may be undertaken following the consultation process

1.15 Conditions

The Council will adopt any reasonable conditions that it deems necessary and appropriate to ensure that traders comply with relevant legislation and the fundamental purpose of the Policy.

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PART 2 - LICENSING PROCESS AND DELEGATION

2.1 The licensing of street trading is a Council function that is discharged by the Council's Licensing Committee, who may delegate the matter to a Licensing Sub-Committee or Licensing Manager under delegated authority.

2.2 Licensing Committee

The Licensing Committee is made up of 10 members of the Council. It has the power to determine applications and also to suspend, revoke or refuse to renew licences.

Meetings are open to members of the public, except for when confidential information is being considered.

2.3 Licensing Sub-Committee

The Licensing Committee is made up of 10 members of the Council. A quorum of three members will sit on hearings to consider any matters referred to it by the Licensing Committee or Officers in relation to functions conferred upon the Council as The Licensing Authority.

Members, when determining applications for a licence, renewals or reviews of a licence, will have regard to the Local Government (Miscellaneous Provisions) Act 1982 and other relevant legislation, the Human Rights Act 1998, the Equality Act 2010, any relevant legal case law and other relevant Council policies.

2.4 Consideration of a Licence application by the Licensing Sub-Committee

On receipt of relevant written representations and/or if the applicant has not met the criteria, arrangements will be made for the application to be heard by the Licensing Sub-Committee.

2.5 Contentious Applications

Determination of contentious applications will be undertaken by Harlow Council's Licensing Committee, who would normally delegate the matter to a Licensing Sub Committee, or Environment & Licensing Manager under delegated authority.

The main reasons why an application will be deemed contentious are:

- An objection from consultees have been received which are relevant to grounds for refusal
- An objection has been received as a result of the public notices
- An Authorised Officer decision has been taken to refuse an application and a notice to that effect has been served on the applicant. The applicant then has seven days in which to make a relevant representation and this will be referred to a Licensing Sub Committee. [If the application is still refused then there is a right of appeal to the Magistrates Court.]

The applicant and all parties making representations will be notified in writing of the date, time and place where the application will be heard.

The person or body making a representation will be expected to attend the hearing and be allowed the opportunity to address the Licensing Committee and ask questions relating to the application. The applicant can be represented by a solicitor, or supported by a friend or colleague.

Representations received by the Council will be circulated to members of the

Committee in advance. Where appropriate, the representations will also be sent to the applicant but without any information that would identify the person submitting the representation.

The Licensing Sub-Committee will determine applications with consideration to the points below:

- Each application on its own merits;
- Using this Policy;
- Dealing with the hearing in a balanced and impartial manner;
- Ensuring that the rules of natural justice are applied in any hearings held;
- Giving all parties sufficient opportunity to present their case and ask questions;
- Present information for consideration in support of their application or representation.

2.6 Decisions

The Council, by virtue of an officer with delegated authority, has the power to refuse, grant or renew licences or licences and also to vary or revoke existing licences and licences in accordance with relevant legislative provisions.

Any decision to refuse to grant or renew a licence or licence or to vary or revoke an existing licence or licence will be made in accordance with the Council's scheme of delegation as set out in **Appendix 3** and other relevant procedures.

In particular, applications will be considered favourably where there is clear and robust evidence of effective mitigating measures offered by the applicant in relation to those matters set out in **Appendix 4**.

Following the determination of an application by the Council the applicant will Receive a copy of the decision in writing. This written decision will be delivered as soon as is practicable after the decision has been made.

2.7 Right of Appeal

Under Section 6 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 there is a right of appeal to the Magistrates Court against the refusal of the Local Authority to grant, renew, revoke or vary the principle terms of a Street Trading Licence.

2.8 Setting Fees

The cost of dealing with street trading is covered by fees from licences.

The Council does not recover costs for the collection of refuse or the cleansing of streets on the basis that the conditions of each licence requires the licence holder to take responsibility for such matters.

The Licensing Committee reviews the fees annually under delegated authority from the Council.

On 29 March 2018 the Council decided to waive any Street Trading Licence fee in the case groups of traders taking part in a licensable event with a primarily non-commercial nature that has sufficient benefit to the community to warrant Council support.

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PART 3 – STREET TRADING ACTIVITIES, APPLICATION PROCESS AND REQUIREMENTS

3.1 Introduction

This part of the Policy focusses on the licensable activities and the necessary steps required obtaining and holding a licence. These steps will include the standards that applicants must attain and the conditions that apply. Where appropriate, any reference to ‘applicant’ is deemed to include existing and new licence holders.

3.2 Static Street Trading

A static Street Trading licence is issued for a trader who remains in one place during trading and not positioned on a Prohibited Street in the District. Static Street Trading Application Form is downloadable from;
<https://www.harlow.gov.uk/business/licensing/street-trading-licence>

Licence holders are not permitted to trade within a 50 metre radius of any static traders, mobile traders, or shops, trading in similar goods / articles.

3.3 Mobile Street Trading (including ice cream traders)

Static Street Trading Application Form is downloadable from;
<https://www.harlow.gov.uk/business/licensing/street-trading-licence>

Mobile licences are issued to those who want to trade from numerous locations for a short period of time around the District.

In order to meet the criteria for mobile licence a trader generally must not remain in one place for more than 15 minutes at a time and not return to the same street within 2 hours. A ‘particular length of street/site’ should normally be interpreted as being a length of street up to 500 metres long.

Mobile traders cannot stop within 50 metres of any school (from an hour before the start of the school day until an hour after the end of the school), hospitals, and places of worship (on Sundays and other recognised day of worship).

Licence holders are not permitted to trade within a 50 metre radius of any static traders, mobile traders, or shops, trading in similar goods / articles.

3.4 Ice Cream Van Chimes

Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/245699/pb14030-ice-cream-vans.pdf

It is an offence to sound your chimes before 12:00 noon or after 19:00hrs.

Do not sound chimes as loudly in areas of low background noise or narrow streets as elsewhere and:

- for longer than 12 seconds at a time;
- more often than once every 2 minutes;
- more than once when the vehicle is stationary at a selling point;
- except on approach to or at a selling point;

- when in sight of another vehicle which is trading;
- when within 50 metres of schools (during school hours), hospitals, and places of worship (on Sundays and other recognised day of worship);
- more often than once every 2 hours in the same length of street;
- louder than LAmax 80dB at 7.5 metres;

3.5 Buskers

Buskers do not normally require a street trading licence and accordingly are not within the scope of this policy. However, a Street trading licence may be required for buskers who wish to sell items associated with their performance for example CD's or merchandise.

3.6 Special Markets/Events Street Trading

The Council operates a periodic Makers Market in the Harlow Town Centre Market Square. Market Square has a 'Market Charter' designation and accordingly street trading licences are not required for the Makers Markets. Makers Markets are managed by Harlow Councils Town Centre management team. Please see link below for more information:

<https://www.harlow.gov.uk/community/council-events-and-award-nights/harlow-makers-market>

The Council recognises the need to trade in items of a seasonal nature and wants to support where possible this type of activity within the Street Trading scheme.

For events such as Christmas or Street Markets or Continental Markets, which occur for a limited time, the Council may accept one application (and associated fee) from the person organising the event. The 'Event Street Trading Application' will require full details of each trader attending the event and must be submitted at least six weeks before event. Event Application Forms are downloadable from:

<https://www.harlow.gov.uk/business/licensing/street-trading-licence>

The Council will permit a group licence for single consecutive periods of not more than five days except during December when a single licence may be issued for a period of not more than 14 days.

The licence shall remain subject to the following conditions;

- No more than 20 traders shall be permitted to operate under one licence;
- No more than five licenses per year shall be issued in relation to any land; and
- The fee payable shall be equivalent to the annual street trading licence fee.

The licence will be issued for the duration of the specified event only and will be to a named individual. Where the application is made by an organisation they must nominate a named individual who will be responsible for managing the use of the licence.

The licence holder will be responsible for ensuring compliance with the conditions attached to the licence at all times whilst the licence is being used to facilitate street trading.

The licence holder will be required to keep records of all traders that use the special

event consent including the date, trading location, name and company name, address, vehicle registration, contact telephone numbers and items being offered for sale.

Special Events Licences do not provide exclusive control over trading in the designated area. Individuals are still able to apply direct to the Council for a licence.

Any trading on Council owned land for which permission has been obtained and for which a separate agreement is in place with the Council; proof of which must be provided.

3.7 Community & Charity Events

The Council has provisions to issue a Street Trading licence for a community and or charitable event. On the 29 March 2018 the Council approved proposals to waive any Street Trading licence fee in the case groups of traders taking part in a licensable event with a primarily non-commercial nature that has sufficient benefit to the community to warrant Council support.

In the case of organised events involving a charity, and groups of traders meeting the criteria and can be deemed in the individual circumstances of the case:

- to be of sufficient benefit to the community to warrant Council support;
- not to be of a primarily commercial nature; such as:
 - i. Fetes, carnivals or similar community based and run events of short duration (less than 1 day), e.g., Christmas lights switch-on events;
 - ii. Non-commercial, community or charitable events where the profits are not used for private gain or are wholly passed to a charity, educational organisation or community-based organisation.

This policy further requires that the following criteria must be met in order to qualify for the exemption;

- Traders cannot trade at the location more frequently than once in any four week period.
- Traders must be pre-booked by the organisers.
- Submission of a Returns form within 28 days of the event – detailing monies raised and details of the charity, educational or community based organisation that the monies have been passed to.

This exemption includes community car boot sales.

For 'hybrid' events that are part community or charity based the fee will not be reduced.

Use of this pitch will be subject to the Council's standard street trading conditions.

Street Collection permits will also be required if cash is collected in a public place for charitable purposes. Please contact the Market Team for a street collection permit.

3.8 Promotional Stalls/Pitches

The Council has a very limited number of promotional pitches in the Broad Walk area of Harlow Town Centre. These pitches cannot be used for street trading. Further information can be found on the following link.

<https://www.harlow.gov.uk/business/licensing/other-licences/promotional-pitches>

3.9 Pedlars

Pedlars are currently regulated by the Pedlars Acts 1871 and 1881. A person intending to trade as a pedlar (anywhere in the UK) must apply for a pedlar's certificate from the Police and must meet statutory criteria.

A Pedlars Certificate allows a Pedlar to trade anywhere nationally.

Pedlars are not permitted to remain in a fixed location and must be continually on the move, stopping only to make a sale.

If pedlars are suspected for selling illegal or poor quality goods then enforcement becomes the responsibility of Trading Standards.

Pedlars are not 'street traders' and do not fall within the scope of this Policy.

3.10 Permitted Trading Hours

Hours of street trading will be assessed in terms of public order, public nuisance, public safety, crime and disorder and avoidance of nuisance and the needs of the area.

The Council retains the right to specify permitted hours of trading if local circumstances require.

3.11 Late Night Refreshment

Should a street trader wish to sell alcohol or provide late night refreshment additional authorisation is needed under the terms of the Licensing Act 2003.

Late Night Refreshment is the supply of hot food or drink between the hours of 11pm and 5am on any day of the week. Licensing Officers will be able to provide further information on the requirements of the Licensing Act 2003.

3.12 Planning Permission

It is the responsibility of the applicant to identify the location(s) in which they wish to trade.

Private land is regarded as a 'street' if the public have access without payment. Written permission should be obtained from the land owner for the business to operate from that location. Units which are moved on and off a site on a regular basis will require a Street Trading licence.

Units which are permanently based on a site (even if they are capable of being moved) may need planning permission. If planning permission is granted for a permanent unit then it may not require a Street Trading licence.

3.13 Suitability of the site

The following will be considered when determining suitability of the site for a Street trading licence;

- any effect on road safety, either arising from the location of the pitch, or from customers visiting or leaving the site;
- the likelihood of nuisance from noise, light, smells, litter or fumes to households and businesses in the vicinity of the proposed street trading site;
- is there already adequate provision in the immediate vicinity of the proposed street trading site;
- any conflict with existing Traffic Orders such as waiting restrictions;
- any potential obstruction of pedestrian or vehicular access;
- any obstruction to the safe passage of users of the footway or carriageway;
- the safe access and egress of customers and staff from the pitch and immediate vicinity;
- if the pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities;
- the site does not allow the licence holder, staff and customers to park in a safe manner;
- if the street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff;
- Number of existing street traders in any one street.

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity can be inspected by an Authorised of the Council at any time.

3.14 Needs of the Area

It is important that street trading complements the area. Each application will be considered on its merits, however a licence will not normally be granted on sites that are within:

Residential areas or where there is likely to be an unacceptable impact on residential amenity.

- Residential areas or where there is likely to be an unacceptable impact on residential amenity.
- 50 metres of the boundary of any hospital, nursing or residential care home.
- 50 metres of the boundary of any school.
- any Council owned pay and display car parks.

Other key considerations will be:

- The speed limit of the road unless the area is segregated from live traffic lanes, or there is evidence that the mean traffic speed is significantly below the posted speed limit.

3.15 Trading Near to a School

As part of the Every Child Matters: Change for Children Agenda, Central Government made a commitment in the national Children's Plan to publish a child health strategy jointly between the Department of Health and the Department for

Children, Schools and Families. Published on 12 February 2009, the “Healthy lives, brighter futures: the strategy for children and young people’s health” strategy presents the Government’s vision for children and young people’s health and wellbeing.

Harlow District Council recognises that a healthy start in life is vital for all children and young people to realise their full potential. Harlow Health and Wellbeing Partnership Strategy 2018 – 2028 includes the following aim: ‘reducing smoking, drinking and child/adult obesity, plus increasing the levels of physical activity’. In terms of child obesity there are benefits of not having certain traders such as ice cream vehicles and burger vans outside a school.

This Policy seeks to support the Council’s commitment to reducing obesity and improving dental health and accordingly the Council has attached a condition to a street trading licence that states there is a 50 metre exclusion zone around the curtilage of the school, as measured from the main site entrance, in which street traders are not allowed to trade.

This restriction applies during term time and then between the hours of 12 noon to 2.00pm and 3.00pm to 5.00pm on any school day. The restrictions apply to all street trading consents, regardless of whom the licence holders are targeting and whether or not the application is new or for a renewal of an existing licence.

3.16 Application Process

Advice for New Applicants

New applicants are advised to contact the Council at their earliest opportunity, preferably before an application is made. This allows Officers to provide advice as well as clarifying any areas of uncertainty. No trading may take place until the new Licence is issued.

It is the responsibility of the applicant, in the first instance, to identify the location(s) they wish to trade as there is no designated list of street trading ‘pitches’ that can be traded from.

The Council can also provide advice in relation to other legal requirements of a new Licence Holder, for example, planning permission or food safety requirements.

Applications forms:

- May be downloaded from the Council’s website <https://www.harlow.gov.uk/business/licensing/street-trading-licence>
- Electronic applications can be made via email licensing@harlow.gov.uk

The following are applicable to all licence types:

- Where an applicant has failed to declare relevant information or provided false information the application is likely to be refused; where this relates to an existing licence, the licence is likely to be revoked. Applicants are reminded that any applicant who makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.
- All fees are payable at the time of application. Where a licence is not granted, i.e.

the applicant withdraws their application or it is refused then no refund will be made.

- The application process must be completed within 6 months unless prevented from doing so by matters that are outside the applicant's control, otherwise the application process will cease to progress further until such time as the applicant provides all the required information;
- Where a licence has been surrendered or revoked a new application must be submitted in accordance with the relevant new licence procedure before the Council will consider the application;
- When a licence expires, the Council will not permit any 'periods of grace' for the submission of a renewal application unless there is satisfactory evidence of exceptional circumstances that are accepted by the Council.

Applicants must submit the following to the Licensing Authority:

- A completed and signed relevant Street Trading Licence application form.
- The appropriate application fee.
- Two passport size photographs, countersigned in accordance with passport rules.
- Evidence of right to work in the UK in accordance with the Home Office requirements (if applicable).
- Proof of identity, address and date of birth documentation: e.g. passport, photo driving licence, national proof of age standards photo card, birth certificate, current utility bill/bank statement not more than 3 months old.
- Provide a basic criminal record disclosure from the Disclosure and Barring Service (see note below and **Appendix 5**). Any unspent convictions or proven criminal behaviour shall be taken into account assessing the suitability of the applicant. This will include offences of dishonesty, violence, sexual and indecency related offences, drugs, theft and deception.
- Persons who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. In the event that an applicant is not able to obtain a certificate of good conduct, they may submit a statutory declaration with regard to their conduct, which must be completed in the presence of a practising solicitor. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided. Proof of a right to work in the United Kingdom will also be required. Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at <https://www.gov.uk/government/world>. The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at fcocorrespondence@fco.gov.uk or by post at the FCO, King Charles Street, London, SW1A 2AH.
- Where the proposed street activity is from a fixed position, a copy of map of at least 1:1250 scale clearly outlining the proposed trading location in red should be provided. An additional map to scale clearly identifying the precise trading position and its proximity to other similar retail outlets (shops etc.).

- Colour photographs of any stall, van, barrow, cart, etc. that will be used for the street trading activity showing the front, rear and side of the unit. The photographs must also show any proposed branding and/or advertisements that will be displayed.
- A sketch or diagram of the stall, van, barrow, cart, etc. identifying the external dimensions.
- Copy of insurance that covers the street trading activity for third party and public liability risks of £5,000,000. (This may be provided following confirmation that the application has been granted but the licence will not be issued until the certificate has been provided).
- Details of employees that will work in connection with this business.
- Any permissions or licence already granted with regard to the proposed operation, e.g. including but not limited to planning consent, licence for the sale of alcohol, late night refreshment premises licence.
- Copy of waste transfer agreement.
- A copy of evidence that appropriate permission has been obtained from the landowner of the proposed trading location.
- If the land is in the ownership of Harlow District Council, written permission from the Property and Facilities Team will be required.
- MOT and Insurance certificate (for mobile vehicle licences)
- Each applicant must provide a copy of their last Gas Safety inspection certificate (Current within the last 12 months). This certificate can only be produced by an authorised engineer who is Gas Safe Registered for LPG - Commercial Catering -Mobile Catering.
Please see link below for further information on LPG Gas Safety;
<https://www.hse.gov.uk/gas/lpg/about.htm>

3.17 Criminal Record Disclosure

Criminal record disclosure is relevant to those persons who wish to apply for a Street Trading licence because the Council has a responsibility to ensure the suitability of the applicant for this particular licence.

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, 'the Act'. Sub Section 3 (6) Subject to sub-paragraph (8) below, the council may refuse an application on any of the following grounds;

(d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
<https://www.legislation.gov.uk/ukpga/1982/30/schedule/4>

The Council may grant a licence if it thinks fit, suitability of applicants is set out in **Appendix 5** and **Appendix 6** for further details in this respect.

The basic criminal record disclosure from the Disclosure and Barring Service must be a new certificate requested as part of this application process. It should be no more than three months old at the time the application was submitted.

A satisfactory enhanced Disclosure and Barring Service (DBS) report will be accepted as an alternative to the basic criminal record disclosure from the Disclosure and Barring Service.

The DBS certificate must be in the name and address of the applicant as detailed on the application form. The original certificate must accompany the application form.

NB For partnerships or companies, the above requirements apply to all partners and directors/company secretaries. In addition, where necessary the Council will undertake further checks with Essex Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from.

3.18 Trading in food or drink:

Harlow Council requires evidence that the food business has a food hygiene score rating of 3 or above at the time of licence application. This applies to new and renewal applications.

In relation to mobile food vendors, if an Authorised Officer identifies conditions that result in a lower food hygiene rating being issued i.e. 2 or lower, then the Council reserves the right to suspend a street trading licence with immediate effect until a time that the issues have been addressed.

3.19 Waste

The licence holder shall take reasonable steps to ensure that litter arising from their own trade is minimised as far as possible, for example by making a bin available for customers to use.

The Environmental Protection Act 1990 places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier; details of carrier must be given at the time of application. Further details about trade waste and your responsibilities can be requested from licensing@harlow.gov.uk

3.20 Nuisance / air quality

The holder must not use or permit to be used any ancillary equipment e.g. generators, televisions, radio receivers etc. in such a manner as to cause a disturbance or nuisance. The licence holder must take sufficient steps at the request of an authorised officer to prevent any impact on amenity.

The use of generators is not permitted in the Town Centre. In addition, petrol and diesel engines must not be left idling in the town centre whilst trading.

3.21 Temporary Vehicles

The licence holder shall only trade from a vehicle, stall, trailer or other unit specified in the licence. A holder may only use an alternative vehicle or trailer in an emergency situation, and then only having notified the Council in advance and after receiving authorisation to do so. If a vehicle, stall, trailer or other device specified in the licence is to be permanently replaced part way through the licence period, the holder must notify the Council and apply for a variation. Approval must be received before trading takes place.

3.22 Employees

You are required to check the residency status and right to work of anyone who you employ to trade under your street trading licence before including their names on an application form. For more information on the Immigration Act, and the duties of employers to check the rights of their employees to work, please review the Home Office guidance.

Licence holders may have up to three people registered to work on a particular licence.

The Licence holder must apply to the licensing service to register people to work on a licensed pitch or vehicle either by the original application or by way of a variation.

At the time of original application the licence holder must produce the following for each employee to be registered on the licence:

- Name Address and Date of Birth
- Passport Photograph
- Basic Disclosure (DBS) Certificate which cannot be more than 30 days old
- DVLA driving licence (if the person will be driving a vehicle in their duties as an assistant)
- Evidence of employment

Up to date DBS Certificates will be required upon application or by way of variation for new workers.

3.23 Consultation

Upon submission of a valid street trading licence application, applicants will be required to display a site notice on or immediately outside the proposed trading location, for a period of 28 days to allow for any representations to the application to be made.

The consultation period commences on the next working day following the receipt of the full application. Before a licence is granted, the Council will consult with and seek written observations from;

- Copy of the Public Notice published on Council website (new applications only).
- The Landowner
- Harlow Council Environmental Health – Commercial Team
- Harlow Council Properties and Facilities Management – Parking Services
- Harlow Council Properties and Facilities Management – Property Officer
- Harlow Council Regeneration – Town Centre Manager (where applicable)
- Harlow Council Community Safety Team
- Councillor(s) for the Ward(s) concerned (excluding mobile applications)
- Essex Police
- Essex Fire and Rescue Service (where applicable)
- Essex County Council Highways
- Essex County Council Trading Standards
- Planning and Development Services
- Any other person(s) or bodies the Council deems relevant

Relevant objections will be considered where it is one made by a person, business or body that is likely to be directly affected by the proposal. In addition, the objection must not be vexatious or frivolous and should concern itself only with matters relevant to the objectives arising from the application. The relevant delegated officer will determine whether an objection is relevant and not vexatious or frivolous.

3.24 Determining an Application

If no representations are received following the 28 days consultation the Licensing Team may grant the application in the terms applied for, and standard conditions will be attached to the licence (subject to all other requirements in this policy).

Where objections are received and not resolved relating to the grant or renewal of a licence the application will be referred to the Licensing Sub- Committee for determination.

The main reasons why an application will be deemed contentious are:

- An objection from consultees have been received which are relevant to grounds for refusal.
- An objection has been received as a result of the public notices.

Where an application is referred to the Licensing Sub-Committee as a result of a valid representation being made, it will determine each application on its own merits. Applicants and the person/agency making the representation will be invited to attend. Members of the Licensing Sub-Committee will consider the information submitted as part of the application and give due consideration to persons making a representation.

Following the determination of an application, the Licensing Section will notify the applicant of the decision in writing within ten working days of the decision.

All street trading licences are subject to the Council's standard conditions. Individual applications may be approved subject to additional conditions. Additional conditions form part of the street trading licence and must be complied with at all times.

The Local Government (Miscellaneous Provisions) Act 1982 makes provision, as below, for a Council to refuse an application on any of the following grounds;

- a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;
- b) that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;
- c) that the applicant desires to trade on fewer days than the minimum number specified in a resolution under paragraph 2(11) of the Act;
- d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- e) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it or charges due to them under paragraph 9(6) of the Act;
- f) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it;
- g) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.

- h) If the council consider that grounds for refusal exist under sub-paragraph (6)(a), (b) or (g) above, they may grant the applicant a licence which permits him—
- i) to trade on fewer days or during a shorter period in each day than specified in the application; or
- j) to trade only in one or more of the descriptions of goods specified in the application

Parties aggrieved by a decision of the Council, with respect to a refusal to grant or renew a licence or vary or revoke an existing licence, have a right of appeal to the Magistrates' Court. This must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice in such circumstances.

3.25 Granting of Applications

The Licensing sub-committee or Officers with delegated authority will grant applications meeting the criteria contained within this Policy.

On granting the application the Council will issue a Street Trading Licence for a period of twelve months or shorter period as specified in the licence and shall also specify the following principle terms:

- the street(s) and where relevant a particular place in that street(s);
- the day(s);
- the trading times; and,
- the description of articles/goods that may be sold.

In addition, the Council will attach standard conditions in Appendix 7 and where necessary any additional specific conditions.

3.26 Renewal of Street Trading Licence

An application to renew an existing street trading licence should be made at least six weeks before it is due to expire. Once the renewal application has been received, the Council may consult further to determine if the licence holder is a cause for concern or has been subject to any complaints, or if the application to renew differs from the expiring licence in any way.

Where an application is made to renew a licence to trade on land in private ownership, the application must include written approval from the landowner.

If a renewal application is not made before the expiry date of the current licence, a new application will be required. The effect of this will be that no street trading will be permitted until the new application has been determined and consulted upon.

If a renewal application has been received prior to the expiry of the current licence, the licence holder will be able to continue to trade whilst the application is being determined. The Licensing Team will aim to post the licence at least 72 hours before expiry of the current licence.

In order to ensure the Council is in a position to make as accurate an assessment of the applicant's suitability to hold a licence as is reasonably practicable, all applicants on initial application and renewal must provide a satisfactory basic criminal record disclosure from the Disclosure and Barring Service (applicants can apply to the Disclosure and Barring Service by telephone on

03000 200 190, online at www.gov.uk/request-copy-criminal-record or by email at customerservices@dbs.gsi.gov.uk

When assessing the suitability of an applicant to hold a licence, the Council will consider the applicant's criminal history as a whole and in accordance with the principles set out in **Appendix 5 and Appendix 6**.

In relation to the determination of the renewal application, if there have been no justifiable complaints or enforcement issues and the fee has been paid, the licence will be renewed.

3.27 Variation of a Street Trading Licence

Any variation to the details of the licence holder must be notified to the Council in writing. The Council will issue an amended licence on payment of the relevant variation fee (fee to be set in line with annual fees and charges review). The original licence must be returned to the Council.

Any variation to the range of goods for sale days and/or hours of trading must be notified to the Council in writing and will need to be done via a variation application:

- Removing or altering the appearance of a vehicle/stall/trailer attached to the licence
- Reduction in trading hours or days
- Adding a new vehicle/stall/trailer to the licence
- Changes to the goods to be sold.
- Adding or removing street trading employee
- Updated list of streets or trading location's

3.28 Transfer of a Licence

A street trading licence cannot be transferred or sold to another person except that the licence may be transferred to a member of the licence holder's immediate family in the event of the licence holder's death or incapacity.

The sub-letting of a pitch is prohibited.

Other business commitments, holidays and family or social engagements will not be considered. In these circumstances the licence holder may employ up to three registered workers to operate the stall subject to approval by the licensing authority and the terms of this policy.

Applications to take over existing licences will be treated as new applications. These will be treated on a 'first come first served basis' basis following the expiry of existing licence. Any application will be treated on its relevant merits in accordance with the policy requirements for a new application.

3.29 Revocation of a Street Trading Licence

In line with Part 4 of this Policy, if there are any concerns about the licence holder through justified complaints or evidence of breach of conditions, the Licensing Department may refer the licence holder to the Licensing Sub- committee for consideration.

The licence holder will be provided with the opportunity to present oral and/or written evidence to Members for consideration.

Where licence is revoked, there will be no refund of the application fee.

PART 4 – INSPECTION, COMPLIANCE, ENFORCEMENT AND COMPLAINTS

4.1 Summary

This part of the Policy sets out the manner in which the Council approaches inspection, compliance and enforcement, including the way in which complaints will be dealt with, as it relates to Street Trading Licences.

All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Licensing Team Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's compliance Code.

Unless covered specifically within the enforcement policy, where immediate action is required to secure public safety this is delegated to the Environment and Licensing Manager in consultation with the Chair or Vice Chair of the Licensing Committee.

4.2 Inspection, Compliance and enforcement

The Council will generally use the least intrusive regulatory tool to achieve compliance and will ensure that any regulatory action is proportionate to the importance of the matters to which it relates. Council officers may undertake inspection, compliance and enforcement activities for the purpose of assessing compliance with licences, and to determine whether an offence is being committed.

In doing so, the Council's officers will work closely with other enforcement authorities to achieve compliance with the relevant legislation, licence requirements and specific conditions of each licence.

The Council will undertake all inspection, compliance and enforcement work. In relation to the prevention, investigation and prosecution of offences under the Act, the Council will give priority, based on the level of risk posed, to crimes in which there is a greater risk of harm or exploitation to children and vulnerable persons, including adults with care and support needs.

The Council will default, in the first instance, to its regulatory rather than criminal powers when considering a breach of licence conditions. These regulatory powers include revocation, suspension and adding/removing/amending conditions.

4.3 Offences

The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:-

- engaging in street trading in a prohibited street;
- engaging in street trading in a consent street without a licence;
- contravention of a condition in relation to trading licence; and
- contravention of a condition in relation as to the times between which or periods for which a licence holder can trade.

4.4 Complaints

Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

4.5 Deciding the Level of Action to Take/Decision Making Process

If a complaint is found to be justified then the following actions may be taken:-

- Verbal Warning and Advice
- Written Warning and Advice
- Simple Caution
- Revocation of Licence
- Prosecution
- referral of the Licence Holder to a Licensing Sub-Committee.

4.6 Verbal Warnings and Advice

In some circumstances we verbally advise the offender, clearly identifying the contraventions, giving advice on how to put them right including a deadline by which this must be done. Failure to comply could result in formal enforcement action being taken, including a prosecution. The time allowed must be reasonable, but must also take into account the implications of the contravention. A verbal warning can be issued by an authorised officer of Harlow Council or a Licensing Sub Committee as part of a hearing decision.

4.7 Written Warning and Advice

For some contraventions we will send the offender a firm warning letter clearly identifying the contraventions. This may contain advice on how to put them right, and include a deadline by which this must be done. Failure to comply could result in further enforcement action being taken in the future, including a prosecution. Any time allowed must be reasonable, but must also take into account the implications of the contravention. A written warning can be issued by an authorised officer of Harlow Council or a Licensing Sub Committee as part of a hearing decision.

4.8 Simple Caution

This procedure is used as a final warning and can only be issued by an authorised officer of Harlow Council.

For a simple caution to be issued a number of criteria must be satisfied.

- Sufficient evidence must be available to prove the case.
- The offender must admit the offence.
- The offender must agree to be cautioned.
- The offender must not have committed the same offence before.

4.9 Revocation of Licence

In order to warrant revocation of a licence, the individual or organisation must have met one of the following criteria.

- Owing to circumstances which have arisen since the grant or renewal of the licence, there is not enough space in the street for the licence holder to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons using the street.
- That the licence holder is unsuitable to hold the licence by reason of having been convicted of an offence, or for any other reason.
- That since the grant or renewal of the licence, the licence holder has persistently refused or neglected to pay fees due to the Council.
- That since the grant or renewal of the licence, the licence holder has without reasonable excuse failed to use the licence for a reasonable period.

4.10 Prosecution

The circumstances where prosecution is available will normally include one of the following.

- Engages in street trading in a prohibited street
- Engages in street trading in a licensed street without being authorised to do so
- Contravenes any of the principal terms of a street trading licence
- Contravenes a condition imposed on the licence

The final decision to prosecute will be taken by the Environment and Licensing Manager in consultation with Legal Services.

4.11 Existing licence holders

If an existing licence Holder is referred to a Licensing Sub-Committee, the Committee may take any one of the following steps as are deemed desirable to meet the objectives of the Policy.

- take no further action
- give a warning to the licence holder
- amend the days on which trading can take place
- amend the times during which trading can take place
- amend the location(s) where trading can take place
- amend the articles that can be traded
- amend the conditions attached to the licence
- amend the duration of the licence or
- revoke the licence.

4.12 Appeals

Parties aggrieved by a decision of the Council, with respect to a refusal to grant or renew a licence or vary or revoke an existing licence, have a right of appeal to the Magistrates' Court. This must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice in such circumstances.

A person aggrieved by a decision of the Council may make an application to the High Court for Judicial Review of the decision. For further information on potential grounds for Judicial Review applicants should seek advice from an independent solicitor as soon as they receive notice of decision.

PART 5 – CONSULTATION

Formal consultation was undertaken for a period from **DATE to DATE**.

The representations received during the consultation process, together with the Council's responses, is available on the Council's website as part of the report that was presented to the Licensing Committee on **DATE**.

During the process of assessing the representations of those who were consulted, the Council had regard to guidance issued under the Act and gave appropriate weight to the views of those it consulted.

In determining the weight to give particular representations the following factors were taken into account:

- Who made the representations (their expertise or interest)
- Relevance of the factors to the licensing objectives
- How many people expressed the same or similar views
- How far the representations related to matters that the Council should be including in this Policy

Members of the public were invited to put forward their comments to the proposed policy document during the consultation periods. In addition consultation was undertaken with the following stakeholders and partners:

- Essex Highways
- Essex Fire and Rescue
- Essex Trading Standards
- Ward Councillors
- Current Street Traders

We have also consulted various other teams within the Council, these include:

- Harlow Council Property and Facilities (Property)
- Harlow Council Property and Facilities (Parking Services)
- Harlow Council Community Safety Team
- Harlow Council Environmental Health Commercial Team
- Harlow Council Regeneration (for locations within the Town Centre)
- Harlow Planning Services
- Harlow Council Legal Services
- Harlow Council Street Scene
- Harlow Council Designated Safe Guarding Officer - Christine Howard
- Harlow Chamber of Commerce
- Chair and members of the Licensing Committee.

We have considered and taken into account the views of all the appropriate bodies and organisations.

PART 6 – LICENSING CONTACT DETAILS

For information, advice and guidance relating to Street Trading Licences:

**Licensing Team
Harlow Council
Civic Centre
The Water Gardens
Harlow
Essex
CM20 1WG**

Email: licensing@harlow.gov.uk

Website: www.harlow.gov.uk

Licence Fee Payments:

Payment can be made at Contact Harlow on 01279 446655 quoting reference: **19241 2772**. Please provide your payment reference number with your application submission.

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Local Government (Miscellaneous Provisions) Act 1982

Street Trading Prohibited and Licence Streets (schedule A)

In accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, Harlow Council has designated all the streets within the Harlow district as either "PROHIBITED" or "LICENCE" streets for the purposes of street trading.

It is an offence for any person to engage in street trading:

- i) in a PROHIBITED street
- ii) in a LICENCE street, unless he is authorised to trade in that street by a Street Trading Licence granted by the Council.

The list of streets is set out below:-

Prohibited Streets

(a) Town Centre

Street Trading is not permitted in the streets and pedestrianised areas of the Town centre, namely:-

Linkway	Birdcage Walk
Post Office Road	Post Office Walk
Crown Gate	Cross Street
South Gate	The Rows
East Walk	

A limited number of designated trading pitches are licenced in Broad Walk, Harvey Centre Approach and East Gate. Details of availability can be provided on request.

(b) Regional Primary Routes

The A414 (for its entire length between the Town boundary)

(c) Principal Urban Distributor Roads

Elizabeth Way
Velizy Avenue
Third Avenue
Second Avenue
Katherines Way
Water Lane (Town Boundary to Katherines Way)
Fifth Avenue (A414 to Second Avenue/Allende Avenue)
A1184 (A414 to Town boundary)

(d) Secondary Distributor Roads

Gilden Way (London Road to Town boundary)
First Avenue/Mandela Avenue
Fourth Avenue
Southern Way
Howard Way
Tillwicks Road
Abercrombie Way

(e) Local Distributor or Other Roads

Roydon Road (Elizabeth Way to Town boundary)
Burnt Mill Lane
Harlow Town Station Approach Road
Harlow Mill Station Approach Road
Station Road
London Road
Haydens Road
Wayre Street
Service Road to south of Old Harlow Shopping Precinct
Church Langley Way
Kiln Lane
Flex Meadow

Licence Streets

Every street or part of a street which is not to be a PROHIBITED street will be a LICENCE street.

8 March 2006

Appendix 2

Safeguarding Children and Adults with Care and Support Needs

Introduction

This information for street traders is to help them report matters of concern to the relevant authorities that could relate to the safety of children and adults with care and support needs, particularly as it relates to child sexual exploitation and trafficking as set out below.

General Information

Harlow Council believes that all children and adults with care and support needs have the right to be safe, happy and healthy and that they deserve protection from abuse and exploitation. The Council is committed to safeguarding from harm all children and adults with care and support needs in receipt of its services and/or when involved in any of its activities and to treat them with respect during their dealings with the Council.

Harlow Council Child and Adult Safeguarding Policy 2018/19 – 2020/21,

<https://www.harlow.gov.uk/sites/default/files/documents/Child%20and%20adult%20safeguarding%20policy%202018%20-%202021.pdf>

Safeguarding Children

The definition of child sexual exploitation is as follows:

Child sexual exploitation is a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact; it can also occur through the use of technology.

Department for Education February 2017,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/591903/CSE_Guidance_Core_Document_13.02.2017.pdf

One of the key factors found in most cases of child sexual exploitation is the presence of some form of exchange (sexual activity in return for something); for the victim and/or perpetrator or facilitator.

Where it is the victim who is offered, promised or given something they need or want, the exchange can include both tangible (such as money, drugs or alcohol) and intangible rewards (such as status, protection or perceived receipt of love or affection). It is critical to remember the unequal power dynamic within which this exchange occurs and to remember that the receipt of something by a child/young person does not make them any less of a victim. It is also important to note that the prevention of something negative can also fulfil the requirement for exchange, for example a child who engages in sexual activity to stop someone carrying out a threat to harm his/her family.

Harnessing the wider community

Educating those who work in local services and businesses about what to look for, and how to report concerns, can significantly enhance local disruption and protective capabilities.

In particular, street traders should consider the following questions when trading:

- Does your customer appear to be under 18 years old?

- Are they with a much older person and appear to be in a relationship?
- Do you think that they are under the influence of alcohol or drugs?
- Are you aware of any conversations that suggest children or young people are being or have been taken to a hotel, party or secluded location? If so, ask yourself why?
- Are you aware of children/young people being taken regularly to the same localities? If so, ask yourself why?

Safeguarding Adults

An adult safeguarding concern is when there is a suspicion that an adult at risk is experiencing or has experienced, abuse or neglect, or there is a concern that the adult at risk is neglecting to look after their home, personal care, health or social requirements and it is having a negative effect on their quality of life and or safety.

Therefore, an adult safeguarding concern should include an adult at risk, known or suspected abuse or neglect and a person alleged to have caused the abuse or neglect, alternatively the concern could be that an adult at risk is neglecting to take care of themselves, their home or hoarding. An adult at risk is someone who:

- 1) has or appears to have care and support needs
- 2) that they may be subject to, or may be at risk of, abuse and neglect and
- 3) may be unable to protect themselves against this.

Southend, Essex & Thurrock (SET) Safeguarding Adults Guidelines,

<https://www.essexsab.org.uk/media/2798/set-safeguarding-adult-guidelines-final-050820-pdf.pdf>

Report a concern

- If you are concerned about the immediate safety of a child or vulnerable adult you should call 999.
- If you are concerned about an adult you can call Adult Social Care on 0345 603 7630.
- If you are concerned about a child you can use the [Children and Families Hub website \(https://www.essex.gov.uk/report-a-concern-about-a-child\)](https://www.essex.gov.uk/report-a-concern-about-a-child) or call them on 0345 603 7627
- You can also report concerns about a child to the NSPCC on 0808 800 5000.
- If you are a child or young person, you can talk to someone in confidence by calling [ChildLine](https://www.childline.gov.uk) on 0800 1111.

For more information on safeguarding you can visit the [Essex Safeguarding Adults Board \(https://www.essexsab.org.uk/\)](https://www.essexsab.org.uk/)

or [Essex Safeguarding Children Board website \(https://www.escb.co.uk/\)](https://www.escb.co.uk/)

Appendix 3

Harlow Council Delegation of Functions for the provision of Street Trading

Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

Matter to be determined	Full Council	Licensing Committee	Sub-Committee of Licensing Committee	Environment & Licensing Manager (under delegated authority)
Final approval of the relevant Local Authority Policy Statement	X			
Fee setting	X			
Exemptions from fees			X	X
Application for a licence (new or renewal)			X where representations received and not withdrawn	X where no representations received or representations have been withdrawn
Specify principle and Subsidiary terms of the licence			X where representations received and not withdrawn	X where no representations received or representations have been withdrawn
Revocation of a licence			X where representations received and not withdrawn	X where no representations received or representations have been withdrawn

Appendix 4

Matters to be considered when determining an application

In considering applications for the grant or renewal of a Street Trading Licence or the decision to revoke a current licence the following factors will be considered (This is not an exhaustive list and each application will be judged on its own individual merits);

1.1 Suitability of Applicant

Whether the applicant or operator of the stall is under the age of 17 years;

Whether a control order under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force on the proposed trading location;

Whether the applicant has been convicted of an offence that the Council considers makes them unsuitable to hold such licence/licence, (guidance relating to the relevance of convictions is set out in Appendix 6);

Whether the applicant has at anytime persistently refused or neglected to pay fees or charges due in relation to a licence;

Whether the applicant has without reasonable excuse failed to trade on the street and on the days and times agreed in relation to a licence;

Whether the applicant of the licence has failed to comply with the conditions relating to a licence;

Whether any earlier licence to the applicant has been surrendered, refused or revoked (whether it be by this Council or another);

The levels of complaints received about the operation of the street trading activity, taking into account whether and how such matters were resolved;

The attitude of the applicant and/or their staff in dealing with concerns and queries raised by any person, Officer or organisation; and

Any other relevant information relating to the suitability of the applicant to hold such a licence.

1.2 Public Safety / Highway

Whether the street trading activity represents or is likely to represent a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site;

Whether there is sufficient space in the street for the applicant to engage in the trade in which he/she is proposing without causing undue interference or inconvenience to other persons using the street;

Whether the street trading activity may damage the structure or surface of the street;

Whether the location and operating times will be such that the highway can be maintained and that there are no dangers to those who have a right to use the highway and no obstruction for emergency services.

1.3 Public Order

Whether the street trading activity represents, or is likely to represent a risk to public order.

1.4 Avoidance of Public Nuisance

Whether the street trading activity represents, or is likely to represent a risk of nuisance or annoyance, particularly in residential areas.

Whether the granting of the application is likely to give rise to nuisances or loss of amenity caused by noise, odour, litter, disturbance or anti-social behaviour;

Whether the street trading activity is in an area which is residential and where trading would not normally take place.

1.5 Street Trading stall [This will include a van, barrow, cart, individual item for sale (e.g. motor vehicles), etc.]

Whether the unit satisfies all relevant Health and Safety requirements.

Whether the unit satisfies all relevant hygiene standards.

Whether the unit is of a smart appearance.

Whether the appearance of the trading unit or structure and the associated branding and advertising is compatible with the character of the area in which it is proposed to be situated.

1.6 Environmental Impact

Whether the proposed operation will or is likely to have a negative impact on the local environment (e.g. street surfaces and materials, verges, power supply, carbon footprint, supply chain, packaging, surface water or foul drainage system, waste minimisation, waste disposal and waste created by customers).

1.7 Goods to be Sold

If trading in food, whether the food business has achieved a food hygiene rating score of 3 or more;

Whether the sale of the articles would conflict with those provided by nearby business premises providing similar goods or services;

Whether the trading in a particular location will conflict with concessions granted to other existing street traders;

Whether the quality of the goods to be sold and the hours and days for which it is intended to trade are suitable.

1.8 Number of Street Trading Licence/Licences

Whether there are enough traders trading in the street from shops or otherwise in the goods in which the applicant decides to trade.

1.9 Objections

Any objections made about the application or licence/licence holder from interested parties.

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Appendix 5

Suitability of an applicant to hold a Licence

- 1.0 The Council has a responsibility for determining the suitability of applicants to hold a licence. The principles set out below will be taken into account.
- 1.1 The Council will not grant a licence to anyone unless it is satisfied that they are a suitable applicant. The Council will consider the following criteria when assessing the suitability of an applicant:
- the integrity of the applicant;
the competence of the applicant to undertake street trading in a manner consistent with this Policy; and
any previous criminal history and/or pattern of behaviour.
- 1.2 In order to ensure the Council is in a position to make as accurate an assessment of the applicant's suitability to hold a licence as is reasonably practicable, all applicants (including sole traders, partnerships and companies) on initial application and renewal must:
- provide a satisfactory basic criminal record disclosure from the Disclosure and Barring Service (applicants can apply to the Disclosure and Barring Service by telephone on 03000 200 190, online at www.gov.uk/request-copy-criminal-record or by email at customerservices@dbs.gsi.gov.uk³;
- NB** For partnerships or companies, the above requirements apply to all partners and directors/company secretaries. In addition, where necessary the Council will undertake further checks with Essex Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from.
- 1.3 Persons who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. In the event that an applicant is not able to obtain a certificate of good conduct, they may submit a statutory declaration with regard to their conduct, which must be completed in the presence of a practising solicitor. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided. Proof of a right to work in the United Kingdom will also be required. Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at

³ The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (April 2009) and abides by the handling of DBS certificate information requirements on the secure storage, handling, use, retention and disposal of disclosure certificates and certificate information. Further information about the DBS can be found on the GOV.UK website at: <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>. Where practical, the Council encourages the use of the DBS Update Service for all applicants.

<https://www.gov.uk/government/world>. The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at fcocorrespondence@fco.gov.uk or by post at the FCO, King Charles Street, London, SW1A 2AH.

- 1.4 When assessing the suitability of an applicant to hold a licence, the Council will consider the applicant's criminal history as a whole, together with all other relevant evidence, information and intelligence including their history (e.g. complaints and positive comments from the public, level of previous compliance, and willingness to co-operate with Council officers) whilst holding a licence/licence from the Council or any other authority. Particular attention will be given to patterns of behaviour, the time-scale over which they have occurred, both in terms of proven criminal offences and other behaviour/conduct that may call into question the integrity and competence of the applicant to undertake street trading activities.
- 1.5 In addition, the Council considers that an important element associated with the suitability to continue to hold a licence is the appearance and behaviour of the applicant. Consequently, the Council requires all licence holders to maintain a reasonable standard of appearance and behaviour when in contact and dealing with customers, the general public, other license holders, other traders, Council officers and elected members at all times.
- 1.6 Applicants and licence holders must also co-operate with any reasonable request made by an authorised officer of the Council, any relevant authorised Highways officer, or any officer from the emergency services.
- 1.7 The Council will also consider all criminal history, behaviour and conduct irrespective of whether the specific history, behaviour or conduct occurred whilst licence holders were directly engaged in permitted work at the time or whether they occurred during the licence holder's own personal time.

Criminal Record Disclosure

- 1.8 The Rehabilitation of Offenders Act 1974 applies to persons who wish to apply for a licence. This means that convictions (not all) and cautions become spent in accordance with the provisions of the 1974 Act.
- 1.9 Although cautions are generally not as serious as convictions, they do require an admission of guilt before they can be issued and are therefore a valuable indication as to an applicant's character and whether they are a suitable person to be granted or hold a licence.
- 1.10 The Council does not deem that a criminal record automatically bars an applicant from holding a licence; however, it will be a significant factor when determining whether a licence ought to be granted or not. Where an applicant has previous criminal convictions, these will be considered in line with the guidance set out under 'Relevance of Criminal Convictions. However, the over-riding consideration will always be to ensure the safety and welfare of the licence holder's existing and potential customers. Decision making will be proportionate and focuses on the risks posed and whether these can be managed. This approach balances the rights of individuals to engage in work whilst protecting the public from risk.
- 1.11 Where an applicant is the subject of an outstanding charge or summons, their application may continue to be processed; however, depending on the circumstances, it is unlikely that a decision on the application will be made until the conclusion of the criminal proceedings.

- 1.12 Where the outstanding charge or summons involves a serious offence and/or the individual's offending history and behaviour/conduct indicates a pattern of unlawful or unacceptable behaviour/character traits, then the application is likely to be refused.
- 1.13 Where there is evidence/information that an applicant has been arrested or charged but not convicted of offences but the nature of this evidence/information suggests the applicant may not be a suitable person, the Council will give serious consideration to refusing an application or revoking an existing licence/licence.

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Appendix 6

Relevance of Criminal Convictions and Cautions

Introduction

- 1.0 The purpose of this section is to provide additional guidance to determine whether or not an applicant or an existing licence holder is a suitable person to hold a street trading licence as it relates specifically to convictions and cautions.
- 1.1 The guidance has been produced to assist the Council in its decision-making and to maintain the consistency of the decisions made. It has also been formulated to provide clearer information to current and potential applicants, with a view to minimising the cost and time spent on the licensing process by both the Council and the applicant.
- 1.2 The aim of the guidance is not to punish the applicant twice for a conviction or caution but to ensure that public safety is not compromised. The Council cannot review the merits of any conviction.
- 1.3 Each case is to be decided on its own individual merits and, where the circumstances demand, the decision making body may depart from the guidance in which case the reasons for this will be made clear.

Legislation

- 1.4 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 sets out that the Council may refuse or revoke an application on the basis that the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason.

Defining 'suitability of an applicant'

- 1.5 There is no legal definition as to what definitively constitutes a 'suitable applicant'. However, because of the potential vulnerability of the customers that licence/licence holders may come into contact with, it is incumbent on the Council to take a very robust stance when deciding whether or not a person is suitable to hold a licence granted by the Council.
- 1.6 In essence, a suitable applicant will be:
 - Honest and trustworthy
 - Not abusive, violent or threatening
 - Knowledgeable and competent in the area of street trading able to communicate effectively with customers

The Council's approach when considering convictions

- 1.7 The disclosure of any convictions or cautions will not necessarily mean an applicant is an unsuitable applicant and, therefore, automatically prevented from being issued a licence. However, the Council will have regard to unspent convictions and

cautions and they will be assessed accordingly. Consideration will be given, but not restricted to, the following:

How relevant the offence(s) are to the licence being applied for. How serious the offences (s) were.

- When the offence(s) were committed.
- The date of conviction.
- The extent of any mitigating factors.
- Sentence imposed by the court.
- Whether the offence(s) form part of a pattern of offending or indicate a pattern of unacceptable behaviour.
- The applicant's explanation around the offence
- Any other character check considered reasonable, e.g. personal references. Any other factor that may be relevant.

- 1.8 If the Council has any doubts as to the suitability of an applicant/existing licence holder, then an application must be refused or licence revoked until those doubts can be effectively allayed through the provision of further adequate evidence.
- 1.9 If the applicant or holder of a licence has notified the Council of a conviction but is appealing against it to a higher court the matter will be referred to the Licensing Sub-committee for a decision as to whether the permit ought to be revoked.

Patterns of behaviour

- 1.10 A series of offences or a pattern of behaviour/conduct over a period of time is more likely to give cause for concern than an isolated conviction/incident. However, that is not to say that an isolated conviction/incident cannot give cause for concern in its own right, particularly where it relates to a serious matter. In such circumstances, the Council will give significant consideration to refusing to grant a licence/licence or to revoking an existing licence.
- 1.11 A serious view will always be taken where an applicant shows any tendency towards criminal and/or unacceptable/inappropriate behaviour patterns. In such instances, the Council is unlikely to consider such an applicant/existing licence holder is a suitable person to hold a licence and will give significant consideration to refusing to grant a licence or to revoking an existing licence.

Rehabilitation periods

- 1.12 Detailed guidance (effective March 2014) on the Rehabilitation of Offenders Act 1974 is available on the GOV.UK website at <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>
- 1.13 A person with a conviction for an offence need not be automatically barred from obtaining a licence. However, they would be expected to remain free of conviction for an appropriate period of time (as set out in Tables A and B below) and demonstrate adequate evidence that they are a suitable person to hold a licence. The onus is on the person to produce such evidence.

NB Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is suitable.

Table A

Sentence/disposal	Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).	Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the end Date of the sentence (including the licence period).
Custodial sentence* of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentence of over 30 months (2 ½ years) and up to and including 48 months (4 years)	7 years	3½ years
Custodial sentence of over 6 months and up to and including 30 months (2 ½ years)	4 years	2 years
Custodial sentence of 6 months or less	2 years	18 months
Community order or youth rehabilitation order **	1 year	6 months

*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.

**In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

Table B

Sentence/disposal	Rehabilitation period for adults(18 and over at the time of conviction or the time the disposal is administered).	Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).
Fine	1 year	6 months
Conditional discharge,	Period of the order	Period of the order
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months
Simple caution, youth caution	Spent immediately	Spent immediately
Compensation order*	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Binding over order	Period of the order	Period of the order
Attendance centre order	Period of the order	Period of the order
Hospital order (with or without a restriction order)	Period of the order	Period of the order
Referral order	Not available for adults	Period of the order
Reparation order	Not available for adults	None

- 1.14 Where a person does not satisfy the rehabilitation periods referred to in the tables above, then the Council will refuse to grant a new licence or revoke an existing licence until the applicant is in a position to satisfy them.
- 1.15 The specific periods of rehabilitation are not intended to be taken as definitive time periods by which an applicant/licence holder is automatically granted a licence simply on the basis that the rehabilitation period has elapsed. Rather they are intended to give parameters for consideration when taken with the overall history of an applicant/licence holder in order to assist the Council to determine whether an applicant/existing licence holder is a suitable person or not. The rehabilitation periods will not be considered in isolation.
- 1.16 The Council will not grant a licence to an applicant who has been convicted of a specified sexual or violent offence unless significant and exceptional circumstances apply.

Street Trading offences

- 1.17 In addition to the consideration of rehabilitation periods, where an existing licence holder is found guilty of street trading related offences or multiple breaches of licence requirements, licence holders will be referred to the Licensing Sub-Committee or relevant officer with delegated authority in line with the Council's scheme of delegation with a view to determining whether the licence should be revoked.

Right of appeal

- 1.18 Any applicant refused a licence on the grounds that they are not a suitable person, or who has had their licence revoked has a right of appeal to the Magistrates' Court within 21 days of the notice of decision.

Conclusion

- 1.19 Any applicant having a previous or current conviction should not, in principle, be debarred from obtaining a licence. However, previous convictions are a significant factor in the decision making process and it will inevitably be more difficult for such applicants to obtain a licence. It is this Council's policy to consider the protection of the public above all else by ensuring all holders of a licence are honest and trustworthy, will not be a threat to the public, and are competent in their role and able to communicate effectively. In doing so, the Council will focus on the background of an applicant as a whole and will not consider individual offences and their rehabilitation periods identified above in isolation from other factors, in particular patterns of unacceptable or inappropriate behaviour and conduct that may not necessarily be linked to proven convictions.

Appendix 7

Standard Licence Conditions

In this Licence the term "licence holder" means the person to whom the Licence is issued and includes any person employed by or working for him in the course of the trading which is licensed to be carried on.

- 1.1 This Licence is valid for a maximum of 12 months or shorter if specified in the licence from the date of issue and allows the holder to trade in Harlow in designated Licence Streets specified in **Appendix 1** only, and on the days and between the hours specified, and is subject to the following conditions:
- 1.2 Nothing contained in these conditions shall relieve or excuse the licence holder or their employee or agent from any legal duty or liability and the licence holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from their Street Trading.
- 1.3 Nothing herein contained shall prejudice the rights, powers, duties and obligations of the Council or any other enforcing authority under any public or private statutes, orders, regulations or byelaws.
- 1.4 The licence holder or their employee must move the Street Trading unit or vacate the site immediately upon the instruction of a Police Officer or Authorised Officer of the Council.
- 1.5 The licence holder must be 17 years of age or over and shall be responsible at all times for control of the Street Trading Unit. Any persons assisting on the unit shall be 17 years of age or over
- 1.6 The licence holder must apply to the licensing service to register people to work on a licensed pitch or vehicle either by the original application or by way of a variation.
- 1.7 This Licence is personal to the trader to whom it is issued and is not transferable. Any change of vehicle must be notified to the Licensing Team, an application to vary the licence maybe required.
- 1.8 If the street trading site is located on private land, including forecourts, satisfactory written evidence must be provided to the Council that permission of the land owner or lessee has been obtained to carry out the street trading activity.
- 1.9 The trader must not, in exercising the rights granted under this Licence, cause, allow or permit any
 - (i) obstruction of the street or danger to persons using it, or
 - (ii) nuisance or annoyance (whether to persons using the street or otherwise).
- 1.10 This Licence, or a photocopy of it, must be displayed on the vehicle or stall whilst trading is in progress and must be shown on request to a Licensing Officer or other authorised officer of the Council, or to a Police Officer.
- 1.11 The Licence holder must comply with any relevant statutory requirements as relevant to their type of business.

Conduct of Licence Holder

- 1.12 The licence holder must ensure that all employees are made aware of the responsibility to promote the welfare of children, young people, adults with care and support needs and vulnerable persons and to protect them from harm. To this end a licence holder must ensure that all employees are made fully aware of the information contained in the policy in particular **Appendix 2** relating to child sexual exploitation and adult safeguarding.
- 1.13 Throughout the duration of the licence, the licence holder must continue to be a suitable person to hold the licence. In this respect, the licence holder must have due regard to the relevant provisions of the Council's policy, be aware of the checks that will be undertaken by the Council and act in accordance with the responsibilities that being a suitable person would reasonably place on a license holder.
- 1.14 In particular, during the duration of a licence, the licence holder must notify the Council, in writing, within 48 hours, if:
- They receive any warnings, cautions or fixed penalties; Are arrested (whether or not charged with an offence); Are charged with any criminal offence;
 - Are convicted of any criminal offence; or
 - Allegations are made of their involvement in criminal activity.

The licence holder must notify the Council in writing, of any change of address and contact details which may occur during the duration of their licence.

- 1.15 The licence holder **MUST** at all times when undertaking the street trading activity:
- comply with all reasonable requests made by an authorised officer of the Council, emergency services, or any relevant authorised officer of the appropriate Highways Authority.
 - at all times maintain a valid third party public liability insurance to the satisfaction of the Council and shall produce a valid certificate of such insurance when requested by an authorised officer of the Council.
 - Be clean and respectable in their dress and person and maintain a high standard of personal hygiene.
 - Behave in a civil and orderly manner towards all persons including, but not limited to, pedestrians, customers, the general public, other street users, police officers, officers and elected members of the Council.
 - Be courteous to customers.
- 1.16 The licence holder **MUST NOT**, at any time when undertaking the street trading activity:
- Use offensive, racist, abusive, profane or insulting language or behaviour.
 - smoke (this includes electronic cigarettes).
 - leave their stall, van, barrow, cart, etc. unattended at any time.
 - not trade outside the street and the days and times permitted by the licence.
 - not trade using a street trading licence where there are other licence, licence, approval or registration requirements under any other statutory provisions.
 - not assigned or transfer the licence to any other person.

- 1.17 Where the licence holder is not in sole control of the stall, van, barrow, cart, etc. they must ensure that those persons left in charge of the stall, van, barrow, cart, etc. or assisting are adequately trained to undertake the street trading activity.

Public Safety / Highway

- 1.18 The street trading activity must not obstruct any of the street in which trading takes place other than as granted by the licence. No street trading to be on a roundabout, nor park within 15 metres of a junction, across a dropped kerb, on any form of parking restrictions, in parking bays which require permits, we would also expect the opening to be on a footway and not have customers queueing or being served in a carriageway. Not to park opposite a vehicular access and cause difficulty for vehicles turning in/out of the premises. Not to place any form of furniture on the public highway in relation to the vehicle (i.e., bins (this can be placed on/attached to the trailer) or tables or chairs or umbrellas)
- 1.19 The licence holder must undertake regular checks to ensure enough space is maintained in the street to prevent undue interference or inconvenience to other stall holders and persons using the street.
- 1.20 The street trading activity must not endanger any persons using the street.
- 1.21 The street trading activity must not damage the structure or surface of the street.
- 1.22 The licence holder shall at all times maintain a valid Third Party Public Liability Insurance policy to the satisfaction of the Council and shall produce evidence of such insurance any time upon request

Public Order

- 1.23 The licence holder must take appropriate steps to manage and control customers waiting to be served to ensure that public order is maintained.

Avoidance of Public Nuisance

- 1.24 Cause or permit sound emitted from any radio/sound reproducing instrument or equipment to be an annoyance/nuisance to any person.
- 1.25 The street trading activity must not cause annoyance, nuisance or loss of amenity to occupiers in the vicinity by virtue of noise, odour, litter and disturbance or anti-social behaviour.
- 1.26 The licence holder must not operate a generator or other plant or equipment if it gives or is, in the opinion of an authorised officer of the Council, likely to give rise to nuisance to other persons and shall immediately comply with any direction of an authorised officer of the Council to mitigate or abate such nuisance.

Environmental Impact

- 1.27 A waste transfer agreement must be made available on request for all waste connected from the operation of this licence.
- 1.28 At the end of the trading period the licence holder shall remove all waste resulting from the street trading activity and ensure that the surrounding area is left clean and tidy.

- 1.29 The licence holder must not dispose of waste in public waste bins.
- 1.30 The licence holder must provide adequate waste bins and ensure that throughout the period of trading the bins do not overflow.
- 1.31 Ensure any litter that is not adequately disposed of by customers is removed and the surrounding area is kept clean and tidy at all times.
- 1.32 The licence holder must not deposit on any street surface, verges or into surface water drains any solid or liquid refuse, waste water or oil or other matter.
- 1.33 The licence holder must ensure that fuel, oil and any other waste does not leak onto the street, highway or verge or pollute any surface water or foul drainage system.
- 1.34 The licence holder must remove the Street Trading Stall from the approved site immediately upon the expiry of the licence.

Goods to be Sold

- 1.35 The licence holder must not offer, display, sell or supply any article other than as specified in the licence.
- 1.36 The licence holder must ensure articles stored, offered, displayed, sold or supplied in such a manner to ensure that they meet all relevant hygiene standards. If trading in food, whether the food business has achieved a food hygiene rating score of 3 or more;
- 1.37 Licence holders are not permitted to trade within a 50 metre radius of any static traders, mobile traders, or shops, trading in similar goods / articles. Traders in the Broad Walk, East Gate and Harvey centre Approach areas are exempt from this condition.

2. Additional Conditions applicable to Mobile Street Trading

(This will include a van, ice cream van, barrow, cart, caravan, and individual item for sale (e.g. motor vehicles))

- 2.1 The licence holder must ensure that the stall, van, barrow, cart, etc. satisfies all relevant Health and Safety requirements.
- 2.2 The licence holder must ensure that the stall, van, barrow, cart, etc. satisfies all relevant hygiene standards. If trading in food, whether the food business has achieved a food hygiene rating score of 3 or more;
- 2.3 Whilst trading the licence holder must at all times display in a conspicuous position the licence issued ensuring the licence holders name and licence number are fully visible to the public.
- 2.4 The size and type of stall or container must accord with the photographs/diagram, including the branding and advertisements, submitted as part of the licence application. Any alterations to the stall/container and branding or advertising must be notified to the Council and approval agreed prior to use.

- 2.5 The storage and use of fuel e.g. liquefied petroleum gas, petrol, calor gas etc. must comply with relevant safety requirements including, but not limited to, the number and method of securing full and empty gas cylinders. (The licence holder is responsible for ensuring that a competent person carries out the necessary installation and maintenance checks to ensure this condition is satisfied).
- 2.6 Suitable and sufficient fire extinguishers shall be held and maintained on the stall, van, barrow, cart, etc.
- 2.7 All electrical installations shall comply with any relevant safety requirement. (The licence holder is responsible for ensuring that a competent person carries out the necessary installation and maintenance checks to ensure this condition is satisfied).
- 2.8 The licence holder must, if requested by an authorised officer of the Council, arrange a test of any electrical or gas installation by a competent person and must submit a certificate of test to the Council.
- 2.9 Mobile licence holders must not remain in one place for more than 15 minutes at a time and not return to the same street within 2 hours. A 'particular length of street/site' should normally be interpreted as being a length of street up to 500 metres long.
- 2.10 Mobile traders cannot stop within 50 metres of any school (from an hour before the start of the school day until an hour after the end of the school), hospitals, and places of worship (on Sundays and other recognised day of worship).
- 2.11 Licence holders are not permitted to trade within a 50 metre radius of any static traders, other mobile traders, or shops, trading in similar goods / articles. Traders in the Broad Walk, East Gate and Harvey centre Approach areas are exempt from this condition.
- 2.12 For mobile licence holders no street trading may be carried on at any location on any bus route for any continuous period of more than 10 minutes.
- 2.13 Mobile traders must ensure that any stopping position does not infringe any parking or traffic requirements or cause obstruction of the highway, and does not present any dangers to other road users or pedestrians.
- 2.14 Mobile units may sound chimes but NOT before 12 noon or after 19hrs, on any day.
- 2.15 The licence holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate
- 2.16 Any stall, container, vehicle or other article used for street trading shall be removed from the trading location no later than one hour after the end of trading period and shall not be return until trading commences the next day unless otherwise authorised by the Council.
- 2.17 Any licensed stall, vehicle or trailer must be capable of being immediately removed at the request of emergency services or an authorised officer of the Council.

If any of the conditions attached to this licence are not complied with or strictly observed, the Council may refuse to renew or revoke the licence. Failure to trade in compliance with the

Principal Terms of the licence i.e. in Licence Streets only, and in articles stated on the Licence, may result in prosecution, leading to a fine of up to £1000.

This licence does not in any way protect the licence holder from prosecution for obstruction of the highway (NB. "highways" includes lay-bys) or from civil action for trespass onto private land.

DRAFT

REPORT TO: LICENSING COMMITTEE

DATE: 9 MARCH 2021

TITLE: STREET TRADING POLICY

LEAD OFFICER: MICHAEL PITT, ENVIRONMENT AND LICENSING MANAGER
(env.health@harlow.gov.uk)

CONTRIBUTING OFFICERS: CHRIS BENNETT, PRINCIPAL ENVIRONMENTAL HEALTH OFFICER
(licensing@harlow.gov.uk)

RACHEL CROUCH, SENIOR LICENSING OFFICER
(licensing@harlow.gov.uk)

CHRISTINE CHEUNG, SENIOR LICENSING OFFICER
(licensing@harlow.gov.uk)

RECOMMENDED that:

- A** The Committee approves, with any necessary amendments, the proposed Street Trading Policy 2021 – 2026, as set out in Appendix 5 to the report, and instructs the Environment and Licensing Manager to commence a 12 week public consultation.
- B** Subject to A, authority to approve the details of consultation, including when consultation starts, is delegated to the Environment and Licensing Manager, in consultation with the Chair of the Licensing Committee.
- C** Subject to A and B above, the response from the consultation process to be brought back to committee within the 21/22 Workplan and a final Policy to be agreed.

BACKGROUND

1. Street Trading is a function of the Council. Harlow Council is the Licensing Authority responsible for considering applications for a range of activities that require a street trading licence under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (referred to subsequently in this report as the 'Act').
2. Street trading is defined as the selling or exposing or offering for sale any article (including a living thing) in a street. A Street is defined in the Act as: "street" includes any road, footway, beach or other area to which the public have access without payment.
3. Councils usually control street trading so that they can decide where to allow this and to properly manage the environmental and safety implications that street trading creates. It allows the impact to be managed in terms of the local economy and impact on and benefit to the community. The control of street trading can also have benefit for traders as it provides security over their trading activities and location.

4. On 31 May 2001 by agreement at Committee the schedule for Streets within Harlow as Prohibited and Licensed streets under the Act came into effect. The control of Street Trading is currently based on a regime that exists within various different procedures, advice and published application forms which is supported by a series of Licensing Committee decisions set out below;
 - i) Street Trading Licence Procedure - Amended 23 May 2016 (as set out in Appendix 1 to the report)
 - ii) Street Trading Prohibited and Licence Streets - 8 March 2006 (as set out in Appendix 2 to the report)
 - iii) Street Trading Subsidiary Terms – Amended 22 July 2014 (as set out in Appendix 3 to the report)
 - iv) Street Trading Ice Cream Van Chimes Updated - 1 April 2014 (as set out in Appendix 4 to the report)
5. The current regime has historically worked well with some streets having been determined 'prohibited' streets and the remaining streets designated as 'licence' streets.
6. This means that anyone who wishes to trade on a street (which includes a road, footway or other area to which the public have access without payment) must hold a street trading licence.
7. The administration of Street Trading includes the determination of Prohibited, Licensed and Consent Streets, the setting of fees, the administration of licences and consents, and enforcement in the event of non-compliance. There is no appeal against the refusal to issue consent, but there is an appeal in the event there is a refusal to issue a licence. If the local authority does not apply a designation for street trading the only other legislative controls are minimal and generally only cover pedlars and charity issues.
8. Work has been undertaken to consolidate, update and formalise Street Trading controls across the administrative area of the Council. This has led to a draft Street Trading Policy that members are now being asked to consider and approve for public consultation taking into account relevant case law and best practice.
9. The preparation and publishing of the Policy is not a legal requirement. However, the aim is that a published Policy will provide a useful tool for Officers and Councillors to ensure that the Council can properly regulate those who trade in the street and not from within a business premises. It will create transparency for all stakeholders providing the manner in which the Council intends to regulate Street Trading.

PROPOSALS

10. The main purpose of this report is to seek approval for a formal consultation. It is proposed to undertake the consultation through the Council's website and directly with relevant stakeholders including existing Street Traders, Essex Highways, Trading Standards and Ward Councillors to generate feedback in relation to the wider approach that the Council is considering, particularly around the introduction of Basic Disclosure and Barring Service (DBS) checks for applicants and employees.
11. Should the consultation process identify any changes to the designation of prohibited streets then there is a prescribed process in the Act. This process requires public consultation and a resolution from the Committee.

12. A draft policy which is now being proposed is set out at Appendix 5 to the report. The proposed changes reflect case law and best practice established over the near 40 years since the Act's introduction. It is intended that the new Policy will cover a five year period but could be reviewed earlier if required.

13. The revised policy includes the following key changes;

- i) Publication of a new over-arching cohesive policy which has previously been documented in various Council guidance and procedure documents.
- ii) Introduction of clear guidelines on what can be taken into account when considering a street trading licence application.
- iii) Introduction of acceptable standards of behaviour for street traders- supported by conditions.
- iv) An increase in the range of consultees when considering applications.
- v) Basic Disclosure and Barring Service (DBS) required for applicants and employees. A basic DBS check currently costs £23 per check. A new basic DBS will be required for every new and renewal application.
- vi) Inclusions of safeguarding measures to protect children and vulnerable adults- supported by conditions.
- vii) Consultation period extended to 28 days from the current 14 days in respect of an application, by extending this period this will support officers to carefully consider relevant information received and follow up necessary enquires during this period without delay.
- viii) Remove the need for the Council to publish notice of application in local paper, during this current age the requirement of publication can be satisfied by way of publication on the Councils website and where necessary by public notice at the relevant site. The Act does not prescribe that an application must be published in a newspaper.
- ix) Specification of the level of food hygiene requirement for a minimum rating of 3 under the national Food Hygiene Rating Scheme (within the range of 0-5). A rating of 3 is considered to be 'generally satisfactory' in terms of food hygiene- supported by way of condition.
- x) Restriction on mobile traders stopping within 50 metres of any school (from an hour before the start of the school day until an hour after the end of the school), hospitals, and places of worship (on Sundays and other recognised day of worship)- supported by way of condition.
- xi) Proposal to remove existing Town Centre trading day restrictions with the proposal of no restrictions on trading days, each application should be considered on its own merit. Currently no trading is permitted on a Wednesday, Thursday and Sunday.

- xii) Number of licence conditions increasing from current total of 12 licence conditions to 36; including conduct, highway safety, nuisance, environmental impact and trading restrictions.
- xiii) Introduction of no trading within 50m of other traders (with an exemption for street trading in Broad Walk, East Gate and Harvey centre Approach)- supported by way of condition.
- xiv) Introduction of a charge (to be calculated) for licence variations such as changing a vehicle or adding new employees, this is an additional cost to the service not currently covered by the application fee. The Act allows local authorities to:
 - a) Charge fees as they consider 'reasonable' for granting or renewal of a street trading licence or a street trading consent
 - b) Determine different fees for different types of licence/consent according to duration of licence/consent the street in which it authorises trading description of articles in which the holder is authorised to trade.

It is appropriate when setting a fee to consider charging on a full cost recovery basis, incorporating costs for processing applications/renewals and any further costs of enforcement and officer training.

Introduction of acceptable standards of appearance for any street trading vehicle or stall- supported by way of condition.

- xv) Restriction on street trading in the Town Centre for those traders who require their vehicle engines to be running while trading or the use of a petrol or diesel generator in the Town Centre- supported by way of condition.

CONSULTATION

14. Subject to recommendation A, the intention is to publish the notice of public consultation to review the existing regime. The example consultation notice is attached as Appendix 6 to the report. Further information regarding the consultation process, including stakeholder details can be found in the proposed policy (please see Appendix 5 - Part 5).
15. The Licensing Committee must consider any representations made as soon as possible after the consultation ends. After consideration, if they consider it appropriate, the Licensing Committee would need to agree the Street Trading Policy 2021 for publication. It is proposed that the Policy will be formalised during the 2021/2022 financial year.

IMPLICATIONS

Environment and Planning (Includes Sustainability)

As set out in the report.

Author: Michael Pitt, Environment and Licensing Manager on behalf of Andrew Bramidge, Head of Environment and Planning

Finance (Includes ICT, and Property and Facilities)

The proposed fees and charges will seek to recover Council costs in administering the scheme.

Author: Richard Criddle, Senior Services Accountant on behalf of Simon Freeman, Head of Finance and Deputy to the Chief Executive

Housing

None specific.

Author: Andrew Murray, Head of Housing

Community Wellbeing (Includes Equalities and Social Inclusion)

Allowing stakeholders to comment during policy formation is likely to lead to more transparent regulatory processes.

Author: Julie Houston, Strategy and Economic Development Manager on behalf of Jane Greer, Head of Community Wellbeing

Governance (Includes HR)

As set out in the report.

Author: Simon Hill, Head of Governance

Appendices

Appendix 1 - Street Trading Licence Procedure - Amended 23 May 2016

Appendix 2 - Street Trading Prohibited and Licence Streets - 8 March 2006

Appendix 3 - Street Trading Subsidiary Terms – Amended 22 July 2014

Appendix 4 - Street Trading Ice Cream Van Chimes Updated - 1 April 2014

Appendix 5 – Proposed Street Trading Policy 2021 - 2026

Appendix 6 – Notice of Public Consultation

Glossary of terms/abbreviations used

DBS - Disclosure and Barring Service

REPORT TO: **AUDIT & STANDARDS COMMITTEE**

DATE: **24 NOVEMBER 2021**

TITLE: **AUDITORS APPOINTMENT**

LEAD OFFICER: **SIMON FREEMAN, DEPUTY CHIEF
EXECUTIVE AND DIRECTOR OF FINANCE
(01279) 446228**

RECOMMENDED that:

- A** The Audit & Standards Committee recommends to Council that Harlow Council participates in the national procurement process led by Public Sector Audit Appointments Limited (PSAA) for the appointment of its external auditors.
- B** Subject to the agreement of recommendation A, the Audit and Standards Committee recommends to Council that delegated authority be granted to the Director of Finance, as the Council's statutory officer under Section 151 of the Local Government Act 1972 to formally give notice of the Council's intention to opt in to the PSAA procurement exercise.

BACKGROUND

1. In August 2010, the Department for Communities and Local Government (DCLG) announced plans to put in place new arrangements for auditing England's local public bodies.
2. As a result, new legislation was developed and the Local Audit and Accountability Act 2014 received royal assent on 30 January 2014. The Act enabled the Government to close the Audit Commission on 31 March 2015.
3. Responsibility for management of the existing appointments was transferred to Public Sector Audit Appointments Limited (PSAA) under transitional arrangements. PSAA is an independent company established by the Local Government Association (LGA) for this purpose.

ISSUES/PROPOSALS

4. The current arrangements for the delivery of the Council's external independent audit work will end once the audits for the 2022/23 financial year are complete. However, under section 7 of the Act arrangements for the appointment of the new audit contract for the 2023/24 financial year must be in place no later than December 2022. The current contract, let through the PSAA procurement exercise is operated by BDO LLP.

5. Under the Local Audit and Accountability Act 2014, the Council has a number of choices for the appointment of its auditors going forward:
 - a) Undertake our own auditor procurement and appointment exercise.
 - b) Undertake a joint procurement and appointment exercise with other authorities.
 - c) Join the PSAA sector led national scheme.

6. To enable a direct or joint procurement to be undertaken it would first be necessary for the Council to establish an independent Auditor Panel. The functions of the auditor panel are set out in Local Audit and Accountability Act 2014 and also the Local Audit (Auditor Panel) Regulations 2014 (the Auditor Panel Regulations) Essentially the regulations set out the responsibilities of the panel as being to advise the authority on:
 - a) The selection and appointment of the auditor
 - b) Whether the authority should adopt a policy on obtaining non-audit services from the auditor, including the contents of such a policy.
 - c) Any proposal by the authority to enter into a liability limitation agreement (see chapter 7 for more information on this)
 - d) Maintaining an independent relationship with its auditor
 - e) The outcome of any investigation of an auditor's resignation from office, if this occurs, or on any proposal to remove a local auditor from office.

If the council was successful in achieving viable panel appointments the panel itself would then take responsibility for the full procurement and appointment process for the new audit appointments effective from the 2023/24 financial year.

7. Opting to undertake independent procurement and appointment either solely or jointly is likely to be very difficult to achieve and will take significant time and resources to progress. Indications are that for the very small number of authorities that have sought to undertake their own procurement responses from the sector have been very poor or simply there have been no interested parties willing to tender. The audit firms that are able to tender in any procurement process are required to be included on the Local Auditor Register along with their key partners who have met the eligibility criteria. However, the approved auditors are essentially the seven large firms that will be focussed on the PSSA tender process and it is extremely unlikely that they will consider any specific tender process run independently by individual or joint local authorities.

8. Given the timescales and the difficulties of opting to procure as an independent authority the option to choose to join the sector led procurement

through the PSAA is likely to be the most cost effective and efficient route for the Council to adopt as it did in 2017.

9. PSAA formally contacted all authorities on 22 September 2021 setting out their prospectus for the national scheme. The letter and the Prospectus are attached to this report as Appendix A and B respectively. The letter invited authorities to opt in to the PSAA lead national procurement in accordance with the Local Audit (Appointing Person) Regulations 2015 (the Regulations). To opt in to the process the council must formally notify PSAA no later than 11 March 2022 that it wishes to do so by way of completion of a form of notice of acceptance included as Appendix C to this report for information.
10. The decision to opt in to the sector led body procurement can only be made under the Regulations as a result of the decision being taken by “the members of an authority meeting as a whole” or effectively a meeting of Council.
11. The Audit and Standards Committee is therefore asked to consider the content of this report and appendices and to recommend to Council that the PSAA route is accepted. This will enable the Council to formally opt in to the procurement run by the sector led body for the purposes of appointing its external auditors from 2023/24.
12. The Council will not incur a fee for the procurement exercise through PSAA however there will be costs associated with the running of the contracts once appointed that will be recovered by PSAA through the Audit Scale Fees charged to councils participating in the scheme.
13. PSAA have prepared an information leaflet and a Frequently Asked Questions document for prospective councils wishing to opt in both of which are attached to this report for information.

IMPLICATIONS

Environment and Planning (includes Sustainability)

None specific

Author: Andrew Bramidge, Director of Strategic Growth and Regeneration

Finance (Includes ICT and Property and Facilities)

The Council must put in place adequate arrangements to secure the appointment of its external audit service. The recommendations and content of this report set out proposals to ensure that these requirements are met.

Author: Simon Freeman, Deputy to the Chief Executive and Director of Finance

Housing

None specific

Author: Andrew Murray, Director of Housing

Community Wellbeing (includes Equalities and Social Inclusion)

None specific

Author: Jane Greer, Director of Communities and Environment.

Governance (includes HR)

The Local Audit and Accountability Act 2014 sets out the arrangements for the audit of local authorities. This report sets out the recommended option for securing the services of an external audit provider from 2023/24 onwards.

Author: Simon Hill, Director of Governance and Corporate Support

Appendices

Appendix A – Harlow District Council Invitation

Appendix B – PSAA Prospectus

Appendix C – Harlow District Council Notice of Acceptance

Background Papers

Developing the option of a national scheme for local auditor appointments Public Sector Audit Appointments – A Prospectus August 2016

Appointing Persons FAQ's – PSAA October 2016

Glossary of terms/abbreviations used

DCLG - Department for Communities and Local Government

LGA – Local Government Authority

PSAA – Public Sector Audit Appointments Limited

22 September 2021

To: Mr Keane, Chief Executive
Harlow District Council

Copied to: Mr Freeman, S151 Officer
Councillor Johnson, Chair of Audit Committee or equivalent

Dear Mr Keane,

Invitation to opt into the national scheme for auditor appointments from April 2023

I want to ensure that you are aware the external auditor for the audit of your accounts for 2023/24 has to be appointed before the end of December 2022. That may seem a long way away but, as your organisation has a choice about how to make that appointment, your decision-making process needs to begin soon.

We are pleased that the Secretary of State has confirmed PSAA in the role of the appointing person for eligible principal bodies for the period commencing April 2023. Joining PSAA's national scheme for auditor appointments is one of the choices available to your organisation.

In June 2021 we issued a draft prospectus and invited your views and comments on our early thinking on the development of the national scheme for the next period. Feedback from the sector has been extremely helpful and has enabled us to refine our proposals which are now set out in the [scheme prospectus](#) and our [procurement strategy](#). Both documents can be downloaded from our website which also contains a range of useful information that you may find helpful.

The national scheme timetable for appointing auditors from 2023/24 means we now need to issue a formal invitation to you to opt into these arrangements. In order to meet the requirements of the relevant regulations, we also attach a form of acceptance of our invitation which you must use if your organisation decides to join the national scheme. We have specified the five consecutive financial years beginning 1 April 2023 as the compulsory appointing period for the purposes of the regulations which govern the national scheme.

Given the very challenging local audit market, we believe that eligible bodies will be best served by opting to join the scheme and have attached a short summary of why we believe that is the best solution both for individual bodies and the sector as a whole.

I would like to highlight three matters to you:

1. if you opt to join the national scheme, we need to receive your formal acceptance of this invitation by Friday 11 March 2022;

2. the relevant regulations require that, except for a body that is a corporation sole (e.g. a police and crime commissioner), the decision to accept our invitation and to opt in must be made by the members of the authority meeting as a whole e.g. Full Council or equivalent. We appreciate this will need to be built into your decision-making timetable. We have deliberately set a generous timescale for bodies to make opt in decisions (24 weeks compared to the statutory minimum of 8 weeks) to ensure that all eligible bodies have sufficient time to comply with this requirement; and
3. if you decide not to accept the invitation to opt in by the closing date, you may subsequently make a request to opt in, but only after 1 April 2023. We are required to consider such requests and agree to them unless there are reasonable grounds for their refusal. PSAA must consider a request as the appointing person in accordance with the Regulations. The Regulations allow us to recover our reasonable costs for making arrangements to appoint a local auditor in these circumstances, for example if we need to embark on a further procurement or enter into further discussions with our contracted firms.

If you have any other questions not covered by our information, do not hesitate to contact us by email at ap2@psaa.co.uk. We also publish answers to [frequently asked questions](#) on our website.

If you would like to discuss a particular issue with us, please send an email also to ap2@psaa.co.uk, and we will respond to you.

Yours sincerely

Tony Crawley
Chief Executive

Encl: Summary of the national scheme

Why accepting the national scheme opt-in invitation is the best solution

Public Sector Audit Appointments Limited (PSAA)

We are a not-for-profit, independent company limited by guarantee incorporated by the Local Government Association in August 2014.

We have the support of the LGA, which in 2014 worked to secure the option for principal local government and police bodies to appoint auditors through a dedicated sector-led national body.

We have the support of Government; MHCLG's Spring statement confirmed our appointment because of our "strong technical expertise and the proactive work they have done to help to identify improvements that can be made to the process".

We are an active member of the new Local Audit Liaison Committee, chaired by MHCLG and attended by key local audit stakeholders, enabling us to feed in body and audit perspectives to decisions about changes to the local audit framework, and the need to address timeliness through actions across the system.

We conduct research to raise awareness of local audit issues, and work with MHCLG and other stakeholders to enable changes arising from Sir Tony Redmond's review, such as more flexible fee setting and a timelier basis to set scale fees.

We have established an advisory panel, which meets three times per year. Its membership is drawn from relevant representative groups of local government and police bodies, to act as a sounding board for our scheme and to enable us to hear your views on the design and operation of the scheme.

The national scheme for appointing local auditors

In July 2016, the Secretary of State specified PSAA as an appointing person for principal local government and police bodies for audits from 2018/19, under the provisions of the Local Audit and Accountability Act 2014 and the Local Audit (Appointing Person) Regulations 2015. Acting in accordance with this role PSAA is responsible for appointing an auditor and setting scales of fees for relevant principal authorities that have chosen to opt into its national scheme. 98% of eligible bodies made the choice to opt-in for the five-year period commencing in April 2018.

We will appoint an auditor for all opted-in bodies for each of the five financial years beginning from 1 April 2023.

We aim for all opted-in bodies to receive an audit service of the required quality at a realistic market price and to support the drive towards a long term competitive and more sustainable market for local audit. The focus of our quality assessment will include resourcing capacity and capability including sector knowledge, and client relationship management and communication.

What the appointing person scheme from 2023 will offer

We believe that a sector-led, collaborative, national scheme stands out as the best option for all eligible bodies, offering the best value for money and assuring the independence of the auditor appointment.

The national scheme from 2023 will build on the range of benefits already available for members:

- transparent and independent auditor appointment via a third party;
- the best opportunity to secure the appointment of a qualified, registered auditor;
- appointment, if possible, of the same auditors to bodies involved in significant collaboration/joint working initiatives, if the parties believe that it will enhance efficiency;
- on-going management of any independence issues which may arise;
- access to a specialist PSAA team with significant experience of working within the context of the relevant regulations to appoint auditors, managing contracts with audit firms, and setting and determining audit fees;
- a value for money offer based on minimising PSAA costs and distribution of any surpluses to scheme members - in 2019 we returned a total £3.5million to relevant bodies and more recently we announced a further distribution of £5.6m in August 2021;
- collective efficiency savings for the sector through undertaking one major procurement as opposed to a multiplicity of smaller procurements;
- avoids the necessity for local bodies to establish an auditor panel and undertake an auditor procurement, enabling time and resources to be deployed on other pressing priorities;
- updates from PSAA to Section 151 officers and Audit Committee Chairs on a range of local audit related matters to inform and support effective auditor-audited body relationships; and
- concerted efforts to work with other stakeholders to develop a more sustainable local audit market.

We are committed to keep developing our scheme, taking into account feedback from scheme members, suppliers and other stakeholders, and learning from the collective post-2018 experience. This work is ongoing, and we have taken a number of initiatives to improve the operation of the scheme for the benefit of all parties.

Importantly we have listened to your feedback to our recent consultation, and our response is reflected in [the scheme prospectus](#).

Opting in

The closing date for opting in is 11 March 2022. We have allowed more than the minimum eight-week notice period required, because the formal approval process for most eligible bodies is a decision made by the members of the authority meeting as a whole [Full Council or equivalent], except police and crime commissioners who are able to make their own decision.

We will confirm receipt of all opt-in notices. A full list of eligible bodies that opt in will be published on our website. Once we have received an opt-in notice, we will write to you to request information on any joint working arrangements relevant to your auditor appointment, and any potential independence matters which may need to be taken into consideration when appointing your auditor.

Local Government Reorganisation

We are aware that reorganisations in the local government areas of Cumbria, Somerset, and North Yorkshire were announced in July 2021. Subject to parliamentary approval shadow elections will take place in May 2022 for the new Councils to become established from 1 April 2023. Newly established local government bodies have the right to opt into PSAA's scheme under Regulation 10 of the Appointing Person Regulations 2015. These Regulations also set out that a local government body that ceases to exist is automatically removed from the scheme.

If for any reason there is any uncertainty that reorganisations will take place or meet the current timetable, we would suggest that the current eligible bodies confirm their acceptance to opt in to avoid the requirement to have to make local arrangements should the reorganisation be delayed.

Next Steps

We expect to formally commence the procurement of audit services in early February 2022. At that time our procurement documentation will be available for opted-in bodies to view through our e-tendering platform.

Our recent webinars to support our consultation proved to be popular, and we will be running a series of webinars covering specific areas of our work and our progress to prepare for the second appointing period. Details can be found on [our website](#) and in [the scheme prospectus](#).

PROSPECTUS

The national scheme for local auditor appointments

All eligible bodies

September 2021

www.psaa.co.uk

About PSAA

Public Sector Audit Appointments Limited (PSAA) is an independent company limited by guarantee incorporated by the Local Government Association in August 2014.

In July 2016, the Secretary of State specified PSAA as an appointing person for principal local government and police bodies for audits from 2018/19, under the provisions of the Local Audit and Accountability Act 2014 and the Local Audit (Appointing Person) Regulations 2015. Acting in accordance with this role PSAA is responsible for appointing auditors and setting scales of fees for relevant principal authorities that have chosen to opt into its national scheme, overseeing issues of auditor independence and monitoring compliance by the auditor with the contracts we enter into with the audit firms.

Contents

About PSAA.....	2
Introduction.....	4
Audit does matter.....	5
Context: changes in the audit market.....	5
Responding to the post-2018 pressures	7
PSAA is well placed to lead the national scheme.....	9
PSAA's commitments	11
Procurement Strategy.....	12
Response to consultation feedback	13
Eligible Principal Bodies in England.....	16
Annex - Procurement Options.....	18

Introduction

PSAA has issued its formal invitation to all eligible bodies to opt into the national scheme for local auditor appointments for the second appointing period, which will provide external audit arrangements for the period commencing from the financial year 2023/24.

This prospectus is published to provide details of the national scheme and to assist eligible bodies in deciding whether or not to accept PSAA's invitation. The scheme has been shaped by [your feedback to the June 2021 consultation](#) on our draft prospectus. The key areas of our approach that have been refined in response to consultation feedback are set out later in this prospectus.

In relation to appointing auditors, eligible bodies have options to arrange their own procurement and make the appointment themselves or in conjunction with other bodies, or they can join and take advantage of the national collective scheme administered by PSAA.

A decision to become an opted-in authority must be taken in accordance with the Regulations, that is by the members of an authority meeting as a whole, i.e. in Full Council, except where the authority is a corporation sole, such as a police and crime commissioner, in which case this decision must be taken by the holder of that office.

An eligible body that has decided to join the scheme must inform PSAA by returning the Form of Acceptance Notice (issued with the opt-in invitation) **no later than midnight on Friday 11 March 2022**.

An eligible body that does not accept the opt-in invitation but subsequently wishes to join the scheme may apply to opt in only after the appointing period has commenced, that is on or after 1 April 2023. In accordance with the regulations, as the appointing person, PSAA must: consider a request to join its scheme; agree to the request unless it has reasonable grounds for refusing it; and notify the eligible body within four weeks of its decision with an explanation if the request is refused. Where the request is accepted, PSAA may recover its reasonable costs for making arrangements to appoint a local auditor from the opted-in body.

Audit does matter

The purpose of audit is to provide an independent opinion on the truth and fairness of the financial statements, whether they have been properly prepared and to report on certain other requirements. In relation to local audit the auditor has a number of distinctive duties including assessing the arrangements in place to deliver value for money, and dealing with electors' objections and issuing public interest reports.

Good quality independent audit is one of the cornerstones of public accountability. It gives assurance that taxpayers' money has been well managed and properly expended. It helps to inspire trust and confidence in the organisations and people responsible for managing public money.

“The LGA set up PSAA to provide a way for councils to meet the legislative requirements of audit procurement without unnecessary bureaucracy and to provide leverage for councils by collaborating in a difficult market. It is now more important than ever that councils work together to ensure we get what we need from the audit market.”

James Jamieson. Chairman of the Local Government Association

Context: changes in the audit market

In 2014 when the Local Audit and Accountability Act received Royal Assent the audit market was relatively stable. In 2017 PSAA benefitted from that continuing stability. Our initial procurement on behalf of more than 480 bodies (98% of those eligible to join the national scheme) was very successful, attracting very competitive bids from firms. As a result, we were able to enter into long term contracts with five experienced and respected firms and to make auditor appointments to all bodies. However, although we did not know it at the time, this was the calm before the storm.

2018 proved to be a very significant turning point for the audit industry. A series of financial crises and failures in the private sector gave rise to questioning about the role of auditors and the focus and value of their work. In rapid succession the Government commissioned four independent reviews, all of which have subsequently reported:

- Sir John Kingman's review of the Financial Reporting Council (FRC), the audit regulator;
- the Competition and Markets Authority review of the audit market;
- Sir Donald Brydon's review of the quality and effectiveness of audit; and
- Sir Tony Redmond's review of local authority financial reporting and external audit.

In total the four reviews set out more than 170 recommendations which are now at various stages of consideration by Government with the clear implication that a series of significant reforms could follow. Indeed, in some cases where new legislation is not required, significant change is already underway. A particular case in point concerns the FRC, where the Kingman Review has inspired an urgent drive to deliver rapid, measurable improvements in audit quality. This has already created a major pressure for firms and an imperative to ensure full compliance with regulatory requirements and expectations in every audit they undertake.

By the time firms were conducting 2018/19 local audits, the measures which they were putting in place were clearly visible in response to a more focused regulator that was determined to achieve change. In order to deliver the necessary improvements in audit quality, firms were requiring their audit teams to undertake additional work to gain higher levels of assurance. However, additional work requires more time, posing a threat to firms' ability to complete all of their audits by the target date for publication of audited accounts (then 31 July) - a threat accentuated by growing recruitment and retention challenges, the complexity of local government financial statements, and increasing levels of technical challenges as bodies explored innovative ways of developing new or enhanced income streams to help fund services for local people.

This risk to the delivery of timely audit opinions first emerged in April 2019 when one of PSAA's contracted firms flagged the possible delayed completion of approximately 20 audits. Less than four months later, all firms were reporting similar difficulties, resulting in more than 200 delayed audit opinions.

2019/20 audits have presented even greater challenges. With Covid-19 in the mix both finance and audit teams have found themselves in uncharted waters. Even with the benefit of an extended timetable targeting publication of audited accounts by 30 November, more than 260 opinions remained outstanding. The timeliness problem is extremely troubling. It creates disruption and reputational damage for affected parties. There are no easy solutions, and so it is vital that co-ordinated action is taken across the system by all involved in the accounts and audit process to address the current position and achieve sustainable improvement without compromising audit quality. PSAA is fully committed to do all it can to contribute to achieving that goal.

Delayed opinions are not the only consequence of the regulatory drive to improve audit quality. Additional audit work must also be paid for. As a result, many more fee variation claims have been received than in prior years and audit costs have increased.

None of these problems are unique to local government audit. Similar challenges have played out throughout other sectors where, for example, increased fees and disappointing responses to tender invitations have been experienced during the past two years.

All of this paints a picture of an audit industry under enormous pressure, and of a local audit system which is experiencing its share of the strain and instability as impacts cascade down to the frontline of individual audits. We highlight some of the initiatives which we have taken to try to manage through this troubled post-2018 audit era in this prospectus.

We look forward to the challenge of getting beyond managing serial problems within a fragile system and working with other local audit stakeholders to help design and implement a system which is more stable, more resilient, and more sustainable.

Responding to the post-2018 pressures

MHCLG's¹ Spring statement proposes changes to the current arrangements. At the time of writing, a formal consultation on the proposals in the Spring statement is underway and is due to close on 22 September 2021. The significant work to reform audit in the wake of the four independent reviews is underway. Further wide-ranging change is almost certain to occur during the next few years, and is very likely to have an impact during the appointing period that will commence in April 2023. Organisations attempting to procure audit services of an appropriate quality during this period are likely to experience markedly greater challenges than pre-2018.

Local government audit will not be immune from these difficulties. However, we do believe that PSAA's national scheme will be the best option to enable local bodies to secure audit services in a very challenging market. Firms are more likely to make positive decisions to bid for larger, long term contracts, offering secure income streams, than they are to invest in bidding for a multitude of individual opportunities.

We believe that the national scheme already offers a range of benefits for its members:

- transparent and independent auditor appointment via a third party;
- the best opportunity to secure the appointment of a qualified, registered auditor;
- appointment, if possible, of the same auditors to bodies involved in significant collaboration/joint working initiatives, if the parties believe that it will enhance efficiency and value for money;
- on-going management of any independence issues which may arise;
- access to a dedicated team with significant experience of working within the context of the relevant regulations to appoint auditors, managing contracts with audit firms, and setting and determining audit fees;
- a value for money offer based on minimising PSAA costs and distribution of any surpluses to scheme members;
- collective savings for the sector through undertaking one major procurement as opposed to a multiplicity of smaller procurements;
- a sector-led collaborative scheme supported by an established advisory panel of sector representatives to help inform the design and operation of the scheme;

¹ Immediately prior to the publication of this document it was announced that MHCLG has been renamed to Department for Levelling Up, Housing and Communities (DLUHC). The document refers to the department as MHCLG.

- avoiding the necessity for local bodies to establish an auditor panel and undertake an auditor procurement, enabling time and resources to be deployed on other pressing priorities;
- providing regular updates to Section 151 officers on a range of local audit related matters and our work, to inform and support effective auditor-audited body relationships; and
- concerted efforts to develop a more sustainable local audit market.

The national scheme from 2023/24 will build on the current scheme having listened to the feedback from scheme members, suppliers and other stakeholders and learning from the collective post-2018 experience.

Since 2018 we have taken a number of initiatives to improve the operation of the scheme for the benefit of all parties including:

- commissioning an independent review undertaken by Cardiff Business School of the design of the scheme and implementation of our appointing person role to help shape our thinking about future arrangements;
- commissioning an independent review by consultancy firm Touchstone Renard of the sustainability of the local government audit market, which identified a number of distinctive challenges in the current local audit market. We published the report to inform debate and support ongoing work to strengthen the system and help to deliver long term sustainability;
- proactively and constructively engaging with the various independent reviews, including the significant Redmond Review into Local Authority Financial Reporting and External Audit;
- working with MHCLG to identify ways to address concerns about fees by developing a new approach to fee variations which would seek wherever possible to determine additional fees at a national level where changes in audit work apply to all or most opted-in bodies;
- establishing the Local Audit Quality Forum, which has to date held five well attended events on relevant topics, to strengthen engagement with Audit Committee Chairs and Chief Finance Officers;
- using our advisory panel and attending meetings of the various Treasurers' Societies and S151 officer meetings to share updates on our work, discuss audit-related developments, and listen to feedback;
- maintaining contact with those registered audit firms that are not currently contracted with us, to build relationships and understand their thinking on working within the local audit market;
- undertaking research to enable a better understanding of the outcomes of electors' objections and statements of reasons issued since our establishment in April 2015; and
- sharing our experiences with and learning from other organisations that commission local audit services such as Audit Scotland, the NAO, and Crown Commercial Services.

As a member of the newly formed Local Audit Liaison Committee (established by MHCLG as outlined in its Spring statement), we are working closely with a range of local audit stakeholders including MHCLG, FRC, NAO, ICAEW, CIPFA and the LGA to help identify and develop further initiatives to strengthen local audit. In many cases desirable improvements are not within PSAA's sole gift and, accordingly, it is essential that this work is undertaken collaboratively with a common aim to ensure that local bodies continue to be served by an audit market which is able to meet the sector's needs and which is attractive to a range of well-equipped suppliers.

One of PSAA's most important obligations is to make an appropriate auditor appointment to each and every opted-in body. Prior to making appointments for the second appointing period, commencing on 1 April 2023, we plan to undertake a major procurement enabling suppliers to enter into new long term contracts with PSAA.

In the event that the procurement fails to attract sufficient capacity to enable auditor appointments to every opted-in body or realistic market prices, we have fallback options to extend one or more existing contracts for 2023/24 and also 2024/25.

We are very conscious of the value represented by these contract extension options, particularly given the current challenging market conditions. However, rather than simply extending existing contracts for two years (with significant uncertainty attaching to the likely success of a further procurement to take effect from 1 April 2025), we believe that it is preferable, if possible, to enter into new long term contracts with suppliers at realistic market prices to coincide with the commencement of the next appointing period.

MHCLG has recently undertaken a consultation proposing amendments to the Appointing Person Regulations. We have set the length of the next compulsory appointing period to cover the audits of the five consecutive financial years commencing 1 April 2023.

PSAA is well placed to lead the national scheme

As outlined earlier, the past few years have posed unprecedented challenges for the UK audit market. Alongside other stakeholders PSAA has learned a great deal as we have tried to address the difficulties and problems arising and mitigate risks. It has been a steep learning curve but nevertheless one which places us in a strong position to continue to lead the national scheme going forward. MHCLG's Spring statement confirmed Government's confidence in us to continue as appointing person, citing our strong technical expertise and the proactive work we have done to help to identify improvements that can be made to the process.

The company is staffed by a team with significant experience of working within the context of the regulations to appoint auditors, managing contracts with audit firms, and setting and determining audit fees. All of these roles are undertaken with a detailed, ongoing, and up-to-date understanding of the distinctive context and challenges facing

both the sector and a highly regulated service and profession which is subject to dynamic pressures for change. Where appropriate we have worked with MHCLG to change our regulations where they are preventing efficiency.

We believe that the national collective, sector-led scheme stands out as the best option for all eligible bodies - especially in the current challenging market conditions. It offers excellent value for money and assures the independence of the auditor appointment.

Membership of the scheme will save time and resources for local bodies - time and resources which can be deployed to address other pressing priorities. Bodies can avoid the necessity to establish an auditor panel (required by the Local Audit & Accountability Act, 2014) and the need to manage their own auditor procurement. Assuming a high level of participation, the scheme can make a significant contribution to supporting market sustainability and encouraging realistic prices in a challenging market.

The scope of a local audit is fixed. It is determined by the Code of Audit Practice (currently published by the NAO²), the format of the financial statements (specified by CIPFA/LASAAC) and the application of auditing standards regulated by the FRC. These factors apply to all local audits irrespective of whether an eligible body decides to opt into PSAA's national scheme or chooses to make its own separate arrangements.

The scope of public audit is wider than for private sector organisations. For example, for 2020/21 onwards it involves providing a new commentary on the body's arrangements for securing value for money, as well as dealing with electors' enquiries and objections, and in some circumstances issuing public interest reports.

Auditors must be independent of the bodies they audit to enable them to carry out their work with objectivity and credibility, and to do so in a way that commands public confidence. We will continue to make every effort to ensure that auditors meet the relevant independence criteria at the point at which they are appointed, and to address any identified threats to independence which arise from time to time. We will also monitor any significant proposals for auditors to carry out consultancy or other non-audit work with the aim of ensuring that these do not undermine independence and public confidence.

The scheme will also endeavour to appoint the same auditor to bodies involved in formal collaboration/joint working initiatives, if the parties consider that a common auditor will enhance efficiency and value for money.

² MHCLG's Spring statement proposes that overarching responsibility for the Code will in due course transfer to the system leader, namely ARGA, the new regulator being established to replace the FRC.

PSAA's commitments

PSAA will contract with appropriately qualified suppliers

In accordance with the 2014 Act, audit firms must be registered with one of the chartered accountancy institutes - currently the Institute of Chartered Accountants in England and Wales (ICAEW) - acting in the capacity of a Recognised Supervisory Body (RSB). The quality of their work will then be subject to inspection by either or potentially both the RSB and the FRC. Currently there are fewer than ten firms registered to carry out local audit work.

We will take a close interest in the results of RSB and FRC inspections and the subsequent plans that firms develop to address any areas in which inspectors highlight the need for improvement. We will also focus on the rigour and effectiveness of firms' own internal quality assurance arrangements, recognising that these represent some of the earliest and most important safety nets for identifying and remedying any problems arising. To help inform our scrutiny of both external inspections and internal quality assurance processes, we will invite regular feedback from both audit committee chairs and chief finance officers of audited bodies.

PSAA will support market sustainability

We are very conscious that our next procurement will take place at a very difficult time given all of the fragility and uncertainties within the external audit market.

Throughout our work we will be alert to new and relevant developments that may emerge from the Government's response to the Kingman, CMA and Brydon Reviews, as well as its response to the issues relating specifically to local audit highlighted by the Redmond Review. We will adjust or tailor our approach as necessary to maximise the achievement of our procurement objectives.

A top priority must be to encourage market sustainability. Firms will be able to bid for a variety of differently sized contracts so that they can match their available resources and risk appetite to the contract for which they bid. They will be required to meet appropriate quality standards and to reflect realistic market prices in their tenders, informed by the scale fees and the supporting information provided about each audit. Where regulatory changes are in train which affect the amount of audit work which suppliers must undertake, firms will be informed as to which developments should be priced into their bids. Other regulatory changes will be addressed through the fee variation process, where appropriate in the form of national variations.

PSAA will offer value for money

Audit fees must ultimately be met by individual audited bodies. The prices submitted by bidders through the procurement will be the key determinant of the value of audit fees paid by opted-in bodies.

We believe that the most likely way to secure competitive arrangements in a suppliers' market is to work collectively together as a sector.

We will seek to encourage realistic fee levels and to benefit from the economies of scale associated with procuring on behalf of a significant number of bodies. We will also continue to seek to minimise our own costs (which represent approximately 4% of overall scheme costs). We are a not-for-profit company and any surplus funds will be returned to scheme members. For example, in 2019 we returned a total £3.5million to relevant bodies and, more recently, we announced a further distribution of £5.6m in August 2021.

We will continue to pool scheme costs and charge fees to opted-in bodies in accordance with our published fee scale as amended from time to time following consultations with scheme members and other interested parties. Pooling is a key tenet of the national collective scheme.

Additional fees (fee variations) are part of the statutory framework. They only occur if auditors are required to do substantially more work than anticipated, for example, if local circumstances or the Code of Audit Practice change or the regulator (the FRC) increases its requirement on auditors.

Audit developments since 2018 have focused considerable attention on audit fees. The drive to improve audit quality has created significant fee pressures as auditors have needed to extend their work to ensure compliance with increased regulatory requirements. Changes in audit scope and technical standards, such as the requirement in the new Code of Audit Practice 2020 for the auditor to provide a VFM arrangements commentary, have also had an impact. Fees are rising in response to the volume of additional audit work now required.

The outcome is awaited of MHCLG's recent consultation on changes to the regulations, designed to provide the appointing person with greater flexibility to allow a fee scale to be set during the audit year (rather than before it starts). If implemented, these changes will enable approved recurring fee variations to be baked into the scale fee at an earlier date so the scale fees are more accurate and the volume of fee variations is reduced.

It is important to emphasise that by opting into the national scheme you have the reassurance that we review and robustly assess each fee variation proposal in line with statutory requirements. We draw on our technical knowledge and extensive experience in order to assess each submission, comparing with similar submissions in respect of other bodies/auditors before reaching a decision.

Procurement Strategy

Our [procurement strategy](#) sets out the detail and scope of the procurement to deliver contracts from which the auditor appointments will be made for eligible bodies that decide to accept the invitation to opt into PSAA's scheme.

Our primary aim is to secure the delivery of an audit service of the required quality for every opted-in body at a realistic market price and to support the drive towards a long term competitive and more sustainable market for local public audit services.

We expect to initiate a new procurement for audit services in February 2022 and, subject to a satisfactory outcome, to award contracts in August 2022. Subject to consultations with opted-in bodies and audit firms, we plan to make auditor appointments by 31 December 2022 (as required by the regulations).

Response to consultation feedback

PSAA consulted with eligible bodies and other stakeholders on our draft prospectus for the national scheme for local auditor arrangements from April 2023, and with the audit services market on important features of its procurement strategy. The insight provided from both these important consultations has helped to shape the arrangements that PSAA will implement from 2023/24. Key areas are highlighted below.

Evolution of the Local Audit Framework

The consultation responses highlight the need for system-wide change. In many areas it is not within PSAA's remit to effect the significant change required.

The newly formed Local Audit Liaison Committee (as outlined in MHCLG's Spring statement), has enabled PSAA to highlight the need for a range of actions to tackle the identified issues that are essential to support a more stable, more resilient, and more sustainable local audit system. Sometimes the actions can be taken by individual organisations, but more frequently responsibility lies collectively across the system. The Liaison Committee and its members are now taking actions forward, including:

- All stakeholders to communicate the importance of audit timeliness as a consistent message to audit firms;
- PSAA to work with the FRC to develop the approach to quality evaluation of tenders;
- MHCLG and other stakeholders to understand the extent of potential increased audit costs for all eligible bodies and to consider how these might be met;
- All stakeholders to consider ways in which to attract new entrants (firms and Key Audit Partners) into the market;
- Central government departments to provide clarity on the direction of local audit policy to inform firms' consideration ahead of next procurement;
- The NAO and FRC to work together to consider how they can provide clarity about the future direction of the Code of Audit Practice to firms ahead of the next procurement; and
- MHCLG, CIPFA and the LGA to consider how to support finance departments with accounting and audit requirements.

In the vast majority of the areas consulted on which were within PSAA's remit, responses were supportive of our proposals for the national scheme from 2023/24 which is very encouraging. Areas where we have revisited and evolved our approach are highlighted below.

Minimum Audit Fees

Audit fees are rising in all sectors in response to increased regulatory requirements for audit quality and changes in audit scope and technical standards. Striving to ensure realistic fee levels is a vital prerequisite to achieving a more sustainable and stable local audit market.

Where individual audits currently attract scale fees that do not cover the basic costs of the audit work needed for a Code-compliant audit, we propose to implement a minimum fee level at the start of the next appointing period, for the audit of the 2023/24 accounts. Our independent research indicates a minimum fee level of £31,000 should apply, based on the 2020/21 scope of audit work, to any opted-in body (a police and crime commissioner and a chief constable constitute one body for this purpose).

We cannot anticipate scale fees for the next appointing period at this stage, because they will depend on the prices achieved in the procurement and any changes in audit requirements. Where any price increase means that the scale fee for a body does not reach the floor set by the minimum fee, the fee for that body would increase to reach the minimum level. It is likely, given current expectations, that the introduction of a minimum fee specifically would lead to an increase in fees for a relatively small number of local bodies. PSAA consults each year on the fee scale and will consult in 2023 on the 2023/24 fee scale.

Introducing a minimum fee is a one-off exercise designed to improve the accuracy of the fee scale for the next appointing period. Fee variations would continue to apply where the local circumstances of an audited body require additional audit work that was not expected at the time the fee scale was set.

Standardised fee variations

Current local audit regulations allow PSAA to approve fee variation requests only at individual bodies, for additional audit requirements that become apparent during the course of an audit year. MHCLG has announced the intention to amend the regulations, following a consultation, to provide more flexibility. This would include the ability for PSAA to approve standardised fee variations to apply to all or groupings of bodies where it may be possible to determine additional fees for some new requirements nationally rather than for each opted-in body individually. Where it is possible to do this, it would have the effect of reducing the need for local fee variations.

Approach to social value in the evaluation of tenders

We plan to retain our original proposal of a 5% weighting but to broaden the criteria by asking bidders to describe the additional social value they will deliver from the contract, which could include the creation of audit apprenticeships and meaningful training opportunities. Bidders will also be asked to describe how their delivery of social value will be measured and evidenced.

Contract Management

The quality of the audit services received by opted-in bodies is very important to both the bodies themselves and to PSAA. Our intention is therefore to focus a significant majority of the quality assessment of tender submissions on resourcing, capacity and capability (including sector knowledge) and on client relationship management and communication. Correspondingly, we intend to apply a lesser weighting to those criteria that are regularly assessed by the regulator. We will seek the views of the regulator in developing the detail of our approach.

We will also review the contract terms used in 2017 ahead of the next procurement of audit services. In particular we will consider the potential to introduce enhanced performance management arrangements aligned to the greater emphasis on quality within the tender evaluation process. Any such revision must ensure continued compliance with the FRC's Ethical Standard which prevents audit fees from being "*calculated on a predetermined basis relating to the outcome or result of a transaction, or other event, or the result of the work performed*".

Information and Communication

Following the success of the webinars held to support the recent consultation, PSAA will be running a series of webinars starting in October 2021. The webinars will provide eligible bodies with the opportunity to hear and ask questions about specific areas of scheme arrangements and PSAA's work, and our progress to prepare for the second appointing period. Details of the [webinar series](#) can be found on our website.

Eligible Principal Bodies in England

The following bodies are eligible to join the proposed national scheme for appointment of auditors to local bodies:

- county councils
- metropolitan borough councils
- London borough councils
- unitary councils
- combined authorities
- passenger transport executives
- police and crime commissioners for a police area
- chief constables for an area
- national park authorities for a national park
- conservation boards
- fire and rescue authorities
- waste authorities
- the Greater London Authority and its functional bodies
- any smaller bodies whose expenditure in any year exceeds £6.5m (e.g. Internal Drainage Boards) or who have chosen to be a full audit authority (Regulation 8 of Local Audit (Smaller Authorities) Regulations 2015).

Board Members

Steve Freer (Chairman)

Keith House

Caroline Gardner CBE

Marta Phillips OBE

Stephen Sellers

PSAA Board members bring a wealth of executive and non-executive experience to the company. Areas of particularly relevant expertise include public governance, management and leadership; local government and contract law; and public audit and financial management.

Further information about PSAA's Board can be found at <https://www.psaa.co.uk/about-us/who-we-are/board-members/>

Senior Executive Team

Tony Crawley, Chief Executive

Sandy Parbhoo, Chief Finance Officer

Andrew Chappell, Senior Quality Manager

Julie Schofield, Senior Manager Business & Procurement

Within the PSAA senior executive team there is extensive and detailed knowledge and experience of public audit, developed through long standing careers either as auditors or in senior finance and business management roles in relevant organisations.

Further information about PSAA's senior team can be found at <https://www.psaa.co.uk/about-us/who-we-are/executive-team/>

Annex - Procurement Options

Our Preferred Option

A 5 year contract with the fallback of the right to extend one or more of the current contracts if there are insufficient or unaffordable bids.

Other Options Considered and Rejected

Option 1

Extending the existing contracts for 2 years and deferring the procurement. We want to secure 5 year contracts if we can because we believe this option is more attractive to the market.

Option 2

A 5 year contract with a commitment not to extend the existing contracts. We need the back stop of the right to extend the existing contracts if there are insufficient bids to allow us to make auditor appointments to all opted in bodies or if any of the bids received propose unacceptable prices.

Option 3

A 5 year contract with pre-determined prices for years 1 and 2 thereby avoiding the need for firms to price in the value of the right to extend the existing contracts. We believe such an arrangement will be unattractive to the market. Firms should be able to offer their own prices for years 1 and 2.

Appointing Period 2023/24 to 2027/28
Form of notice of acceptance of the invitation to opt in

(Please use the details and text below to submit to PSAA your body's formal notice of acceptance of the invitation to opt into the appointing person arrangements from 2023)

Email to: ap2@psaa.co.uk

<p>Subject: Harlow District Council</p> <p>Notice of acceptance of the invitation to become an opted-in authority</p>

This email is notice of the acceptance of your invitation dated 22 September 2021 to become an opted-in authority for the audit years 2023/2024 to 2027/2028 for the purposes of the appointment of our auditor under the provisions of the Local Audit and Accountability Act 2014 and the requirements of the Local Audit (Appointing Person) Regulations 2015.

I confirm that **Harlow District Council** has made the decision to accept your invitation to become an opted-in authority in accordance with the decision making requirements of the Regulations, and that I am authorised to sign this notice of acceptance on behalf of the authority.

Name: **[insert name of signatory]**

Title: **[insert role of signatory]** (authorised officer)

For and on behalf of: **Harlow District Council**

Date: **[insert date completed]**

REPORT TO: FULL COUNCIL

DATE: 9 DECEMBER 2021

TITLE: INTERIM REVIEW OF POLLING DISTRICTS AND PLACES 2021

LEAD OFFICER: BRIAN KEANE, CHIEF EXECUTIVE
(01279) 446000

CONTRIBUTING OFFICERS: SIMON HILL, DIRECTOR OF GOVERNANCE AND CORPORATE SUPPORT (01279) 446099

ALISON HODGSON, ELECTORAL SERVICES
MANAGER (012790 446038

RECOMMENDED that:

- A** The following changes to the Polling Districts and Places will take place with effect from 1 December 2021:
- i) CA – Great Parndon East - Great Parndon Community Association to be designated as the polling place for all elections.
 - ii) DB – Harlow Common West - The Royal British Legion to be designated as the polling place for all elections.
 - iii) EB – Little Parndon and Hare Street South - Harlow Youth Centre to be designated as the polling place for all elections.
 - iv) EC – Little Parndon and Hare Street West - St Thomas More Church Hall to be designated as the polling place for all elections.
- B** A further consultation is to be carried out to create two polling districts and two polling places in the Netteswell ward.

BACKGROUND

1. The Electoral Administration Act 2006 introduced a statutory requirement for councils to conduct a review of polling places every four years but also at any other time if a building becomes unavailable or if any changes are identified following an election.
2. The current buildings used as a polling station in EB – Little Parndon and Hare Street South (Trinity URC) and GA – Netteswell (David Livingstone URC) are no longer available and so alternatives are required to be found and reviewed in accordance with the legislation and guidance.

3. Following the recommendation and encouragement from the Government to not use schools as a polling station in May 2021 this review seeks to confirm those alternative venues that were found and used instead of the schools.
4. The Council began this interim review on 1 October 2021 and gave everyone the opportunity to make a representation until 31 October 2021.
5. A notice of the review was published on the Council's website. A copy was also sent to all local Councillors, relevant polling places, other interested organisations and social media. The responses are attached as Appendix C.
6. The Council is required by law to divide its area into polling districts for the purpose of Parliamentary Elections and to designate polling places for those districts. The current list of polling districts and places is attached as Appendix A to the report.
7. Consideration must be given to the law and the Electoral Commission's Guidance. This means that the Council must:
 - a) Seek to ensure that all electors in the constituency have such reasonable facilities for voting as practicable in the circumstances;
 - b) Seek to ensure that so far as is reasonable and practicable, the polling places they are responsible for are accessible to all electors, including those who are disabled, and when considering the designation of a polling place, must have regard to the accessibility needs of disabled persons;
 - c) The polling place must be within the polling district (and therefore ward) unless special circumstances make it desirable to designate an area wholly or partly outside the district (for example, if no accessible parking can be identified in the district).

ISSUES/PROPOSALS

8. The (Acting) Returning Officer has considered the following factors, in addition to those set out in paragraph 7 above:
 - a) Central or convenient location for the maximum number of electors in the ward;
 - b) Physical accessibility, especially for those with mobility difficulties;
 - c) Guaranteed availability;
 - d) Consistent availability;
 - e) Venue is well known to electors;

- f) Cost;
 - g) Condition of building and facilities; and
 - h) Impartial and ethical use of the building/location.
9. The (Acting) Returning Officer's comments on representations received and any subsequent recommendations are below:
- a) The current David Livingstone URC building is no longer in use, and we are unable to use it therefore an alternative is needed. It is also too small and has insufficient parking and disabled access.
 - b) The YCT building used in May was adequate although may not be able to cope with a large turnout or further social distancing measures.
 - c) Following UK Government advice received in 2021 we are trying not to use schools as a polling station so as not to disrupt the education of the children.
 - d) It is accepted that due to its size the polling district would benefit from two polling places and so a further consultation will be held to create two polling districts and two polling places in Netteswell.
 - e) We would be using the Our Lady of Fatima church hall, not the main Church building. It is in a prominent place, well seen from the road and there are plenty of places for signage.
 - f) The Our Lady of Fatima is a large size hall with good facilities, ample parking and good safe access, with a pedestrian crossing and bus stop on First Avenue close to the church.
 - g) The church hall has sufficient disabled access with a ramped entrance and all level access inside. There is disabled parking right by the entrance.
 - h) Following the voter turnout survey some voters are put off voting because of the parking difficulties and the church can overcome some of these difficulties.
 - i) The new proposal would increase election costs but will make voting more accessible and increase voter turnout.
10. All other polling districts and places received no representations in respect of them and are considered appropriate.

Changes to a Polling Place Before the Next Statutory Review

11. If a polling station becomes unavailable the (Acting) Returning Officer will first consider whether it is feasible to use a different room or area within a designated polling place.
12. If a polling place is or will become unavailable and sufficient time permits, a review will take place and a decision on a replacement polling place will be made by Full Council.
13. However, in an urgent situation where it is not feasible to make alternative arrangements within a designated polling place, such as the building was destroyed by fire or unsafe, the Council's Scheme of Delegation to Officers would apply whereby the Chief Executive, or another designated Officer in their absence, would identify and designate an alternative polling place taking into account paragraphs 5 and 7 above.

IMPLICATIONS

Environment and Planning (Includes Sustainability)

None specific.

Author: Andrew Bramidge, Director of Strategic Growth and Regeneration

Finance (Includes ICT, and Property and Facilities)

There may be some additional costs incurred where buildings other than schools are used. These costs can be met from within existing budgets.

Author: Simon Freeman, Deputy to the Chief Executive and Director of Finance

Housing

None specific.

Author: Andrew Murray, Director of Housing

Community Wellbeing

Appropriate bodies have been consulted over access needs.

Author: Jane Greer, Director of Communities and Environment

Governance (Includes HR)

As contained in the report

Author: Simon Hill, Director of Governance and Corporate Support

Appendices

Appendix A – Current List of Polling Districts

Appendix B – (Acting) Returning Officer's Representation

Appendix C – Responses Received

Background Papers

None.

Glossary of terms/abbreviations used

None.

Appendix A

Harlow Electoral Areas and Polling Stations

Parliamentary	County Division	District Ward	Polling District	Polling Station	Address			Postcode
Harlow	Harlow South East	Bush Fair	AA Bush Fair East	New Life Christian Fellowship	Purford Green		Harlow	CM18 6HP
Harlow	Harlow South East		AB Bush Fair West	St Stephens Church	The Rectory	Tawney Road	Harlow	CM18 6QR
Harlow	Harlow South East	Church Langley	BA Church Langley East	Church Langley Community Centre	Church Langley Way		Harlow	CM17 9TG
Harlow	Harlow South East		BB Church Langley West	Church Langley Community Centre	Church Langley Way		Harlow	CM17 9TG
			only at Parliamentary Elections/Referendums		Henry Moore Primary School	Kiln Lane		Harlow
Harlow	Harlow West	Great Parndon	CA Great Parndon East	Jerounds Community Junior School	Pyenest Road		Harlow	CM19 4PH
Harlow	Harlow West		CB Great Parndon West	Katherines Common Room	Katherines Hatch	Brookside	Harlow	CM19 5NJ
Harlow	Harlow South East	Harlow Common	DA Harlow Common East	Potter Street Baptist Church	Church Lane	Potter Street	Harlow	CM17 9AW
Harlow	Harlow West		DB Harlow Common West	Pear Tree Mead Primary School	Pear Tree Mead		Harlow	CM18 7BY
Harlow	Harlow West	Little Parndon & Hare Street	EA Little Parndon & Hare Street East	Pemberley Academy	Hodings Road		Harlow	CM20 1NW
Harlow	Harlow West		EB Little Parndon & Hare Street South	Trinity U.R. Church	Hare Street		Harlow	CM19 4AY
Harlow	Harlow West		EC Little Parndon & Hare Street West	Little Parndon School	Park Mead		Harlow	CM20 1PU
Harlow	Harlow North	Mark Hall	FA Mark Hall North	Harlow Museum	Muskham Road		Harlow	CM20 2LF
Harlow	Harlow North		FB Mark Hall South	Harefield Church	Burgoyne Hatch		Harlow	CM18 3EH
Harlow	Harlow North	Netteswell	GA Netteswell	David Livingstone URC	Church Hall	Maddox Road	Harlow	CM20 3RL
		only at Parliamentary Elections / Referendums		Freshwaters Primary Academy	Freshwater		Harlow	CM20 3QA
Harlow	Harlow North	Old Harlow	HA Old Harlow East	St Mary's Church Centre	Churchgate Street			CM17 0JR
Harlow	Harlow North		HB Old Harlow West	The ABC Centre	Garden Terrace Road		Harlow	CM17 0AT
Harlow	Harlow North		HC Old Harlow South	Newhall Primary Academy	Roundhouse Way		Harlow	CM17 9SF
Harlow	Harlow West	Staple Tye	JA Staple Tye East	Griffin Suite	Latton Bush Centre	Southern Way	Harlow	CM18 7BL
Harlow	Harlow West		JB Staple Tye West	Longwood Primary School	Paringdon Road		Harlow	CM18 7RQ
Harlow	Harlow West	Sumners & Kingsmoor	KA Sumners & Kingsmoor East	Kingsmoor Christian Centre	Parndon Wood Road		Harlow	CM19 4SE
Harlow	Harlow West		KB Sumners & Kingsmoor West	Xperience Centre	Broadley Road		Harlow	CM19 5RD
Harlow	Harlow West	Toddbrook	LA Toddbrook North	Harlow Playhouse	Playhouse Square		Harlow	CM20 1LS
Harlow	Harlow West		LB Toddbrook East	St Mark's West Essex Catholic School	Tripton Road		Harlow	CM18 6AA
Harlow	Harlow West		LC Toddbrook West	Salvation Army Centre	Tending Road		Harlow	CM18 6RN

Appendix B

(Acting) Returning Officer's Representation

Current Polling District	Current Polling Place	(Acting) Returning Officer's Proposed Polling Place	Reasons for change
CA – Great Parndon East	Jerounds Primary School	Great Parndon Community Association	Use of the school will disrupt the education of the pupils. GPCA is a large building with good parking and access. It is also in a good location and well-known to electors. It was temporarily used last year and was deemed to be a suitable polling place.
DB – Harlow Common West	Pear Tree Mead Primary School	The Royal British Legion	Use of the school will disrupt the education of the pupils. The RBL is of a good size with good parking and access. It is also in a good location and well-known to electors. It was temporarily used last year and was deemed to be a suitable polling place.
EB – Little Parndon & Hare Street South	Trinity URC	Harlow Youth Centre	The church is no longer able to accommodate us. The Harlow Youth Centre is in the same location and has a good size room for the polling station. It was temporarily used last year and was deemed to be a suitable polling place.
EC – Little Parndon & Hare Street West	Little Parndon School	St Thomas More Church	Use of the school will disrupt the education of the pupils. The Church is of a good size with good parking and access. It is also in a good location. It was temporarily used last year and was deemed to be a suitable polling place.
GA – Netteswell	David Livingstone URC for local elections Freshwaters Primary Academy for Parliamentary Elections	Our Lady of Fatima Church Hall	The church is no longer able to accommodate us. Also, the room is extremely small and struggles to accommodate the large electorate in the polling district. The school have previously petitioned for us not to use their building as it will disrupt the education of the pupils plus the access and parking is not suitable. The Church has a good size hall with good parking and access, it is also on a bus route. It is a prominent building with links to the community.

122

Brian Keane
 (Acting) Returning Officer
 Dated: October 2021

Appendix C – All Comments Received

From: [REDACTED]
Sent: 28 October 2021 15:30
To: Registration
Subject: Polling station review: Netteswell

To whom it may concern,

First of all, I apologise if this is an inappropriate address to send this email to - I was directed here via [Your Harlow](#).

As a resident of Netteswell, I would like to express my view that Our Lady Of Fatima Church Hall is not an ideal venue for a polling station, being on the eastern edge of the ward. In fact, it is as close to my mother's home in Mark Hall ward as it is to mine. Please consider a more central location, so that it might be easier for all residents of the ward to walk to the polling station.

Yours faithfully,

Nicholas Thorpe

Hi Brian

I write to you as returning officer in regards to the change of polling station.

It is just not right for the polling station in Netteswell to be moved from the middle of the ward to such a remote location as Lady Fatima church.

It would be very inconvenient for many residents. It has no easy pedestrian access, crossing First Avenue is a monumental task at the best of times.

It is an imposing and for some intimidation building to be a polling station.

Generally speaking the David Livingston location while small should be retained as the polling station everyone has grown used to over the years. If the Council is serious in trying to improve turn out at elections such a radical departure of the traditional siting of a polling station would be very confusing.

I hope you will revise this decision.

Best wishes

Mike

From: Colleen Morrison
Sent: 29 October 2021 17:16
To: Registration
Subject: The proposal to designate Our Lady of Fatima church hall as the sole polling station for Netteswell

Electoral Services

Latton Bush Centre

Southern Way,

Harlow

CM18 7BL

29 OCTOBER 2021

Dear colleague

I am writing to you regarding:

the proposal to designate Our Lady of Fatima church hall as the sole polling station for Netteswell

I am objecting to this proposal for the following reasons.

1. Distance.

Our lady of Fatima's church hall is a return walk of over three miles for Green Hills residents and over 2 miles for residents of other wards. This is an unreasonable distance to require citizens to walk in order to vote.

2. Detrimental impact on voter turnout.

Research indicates that such distances have a detrimental impact on voter turnout during elections.

Transactions of the Institute of British Geographers.

Scott Orford, Colin Rallings, Michael Thrasher and Galina Borisjuk set out their research into the effect of polling station placement on turnout in Brent, West London.

They found "that by several measures, polling stations on average further away from the voter had

lower turnout, in particular, in respect of European and local elections, which in UK have

substantially lower turnout than parliamentary elections."

Also:

"Minor changes in distance from voters' homes to polling place can change the turnout of voters, which may change the outcome of a close election. Distance to the polling place is an issue if not every voter has access to vehicle transportation."

{Tom Jacobs; Miller-McCune (August 19, 2010). "[How Polling Places Can Affect Your Vote](#)". Archived from [the original](#) on July 5, 2013. Retrieved February 20, 2013}

3. Detrimental impact on voter turnout of cost of travel on buses.

A return journey by bus for two persons would cost a low income couple £8. This is an unreasonable sum to have to pay in order to exercise the democratic right to vote. Low income couples who struggle to pay for gas, electricity and food will be forced to choose between eating, heating and voting.

4. Detrimental impact of cost of travel.

Research has shown this to be a further factor which impacts detrimentally on voter turnout.

According to the research on distance to the polling location by Haspel and Knotts, "To illustrate the range of the effect of distance, we plot our predicted probabilities at the lower and upper bounds of our continuous vehicle available variable. When no one owns a car (vehicle available = 0), the likelihood of voting drops from .664 at a distance of .01 miles to .418 at the median distance of .69 miles. When automobiles are universally available (vehicle available = 1), voters are much less sensitive to changes in distance: the likelihood of voting drops from .444 to .392 over the same distance range". Voters ultimately value the convenience of polling locations. If a poll is accessible to the citizen they will make an effort, if the citizen has to travel a long distance then voter turnout decreases dramatically".

{Haspel, Moshe; Knotts, Gibbs (May 2005). "Location, Location, Location: Precinct Placement and the Costs of Voting". 67 (2). United States of America: Southern Political Science Association: 560-573

5. Detrimental impact on Harlow's need to improve low voter turnout.

Our council should be trying to improve our existing low voter turnout, we should not be exacerbating this with detrimental proposals like this one.

The cost of voting influences whether or not a person will vote. Research shows that the more expensive voting gets, the less likely a person is to vote.

Distance to the polling location is one of the main reasons cost can become an issue for voters.

{Haspel, Moshe; Knotts, Gibbs (May 2005). "Location, Location, Location: Precinct Placement and the Costs of Voting". 67 (2). United States of America: Southern Political Science Association: 560-573

6. Inaccessibility and non-compliance with 2010 Equality Act.

Residents with disabilities have the right to vote in person.

Service providers like Harlow Council have the statutory duty – and the moral imperative - to make reasonable adjustments to our decision making and policies to ensure that such persons are not placed at a disadvantage in relation to those who do not have disabilities in respect of exercising this right.

Persons with disabilities will struggle to walk the return journeys of two to three miles set out above and this will have a further detrimental impact on Harlow's voter turnout.

7. The postal voting system does not overcome the above objections.

For a number of reasons, a large proportion of voters still wish to vote in person. I am one of them.

This proposal must not deny this right to those with disabilities, to those with low incomes, to those who cannot afford the cost of the return bus journey to Our Lady of Fatima, or to those who do not have a car, by selecting a polling place which will deter many voters from bothering to vote.

8. Our Lady of Fatima's lack of centrality in Netteswell.

Sole polling stations should be central to wards to encourage voters to turn out and vote. Our Lady of Fatima is not central to Netteswell, it is on the outskirts of the ward and too far away from too many Netteswell neighbourhoods to be an acceptable voting place.

9. Polling place is on a dangerous junction.

It is one which will become more dangerous once Junction 7a of the M11 motorway is open.

8. Polling place is accessed via crossing the busy road of First/Mandella Avenue.

Only four neighbourhoods in Netteswell are on the same side of the road as the polling place.

9. Our Lady of Fatima is too obscure and unknown.

Polling places should be well known to ward residents to enable them to find them and to avoid deterring residents from voting because they don't know the polling place.

Too many Netteswell residents have never heard of Our Lady of Fatima and have no idea where it is.

This will have a further detrimental impact on Netteswell's and Harlow's already low voter turnout.

"If a voter changes precincts due to redistricting then the chances of their continuing to vote in future elections decreases.

The confusion that redistricting causes will deter the voter from looking into the new precinct where he or she should now vote.

In addition, the informational costs associated with alerting voters of their new polling location will also affect the voter turnout because it is highly unlikely that funds will be available to allocate to ensure that every voter knows where to vote. Redistricting can be beneficial in order to provide a convenient location, but careful consideration should be taken before such a decision is made."

(Haspel, Moshe; Knotts, Gibbs (May 2005). "Location, Location, Location: Precinct Placement and the Costs of Voting". 67 (2). United States of America: Southern Political Science Association: 560–573)

10. The above risk skewing the ward's political balance.

All of the above factors and their detrimental impact on voter turnout could have the combined effect of skewing Netteswell's political balance.

11. Two polling places are required for Netteswell.

The size of Netteswell's population is such that the ward needs two polling places in order to make just provision for all residents, to ensure compliance with The Equality Act 2010, and to avoid the detrimental impacts on voter Harlow's already low turnout referred to above.

Polling places should not be in locations that require most voters to have cars to access them.

12. This polling place represents a poor level of service provision to Netteswell.

Netteswell's residents pay their rent, or council tax, or both, they deserve the same service quality as the rest of Harlow.

13. This proposal is not about democracy or service, this is solely about cost cutting.

14. This proposal treats Netteswell's community as second class citizens

It will be a shameful day in Harlow's history if this proposal proceeds and is ratified.

I ask you to please reject this proposal and to replace it with a more central polling place.

Kind regards,

Clr Colleen Morrison

Councillor for Netteswell ward.

This email has been scanned by BullGuard antivirus protection.
For more info visit www.bullguard.com

Nominations for Appointment to Committees, Sub Committees, Panels and Substitutes 2021/22

Audit & Standards Committee (8)	Hearing Sub Committee (6)
Eddie Johnson (c)	Eddie Johnson (c)
Colleen Morrison (vc)	Colleen Morrison (vc)
Simon Carter	Simon Carter
Jean Clark	Jean Clark
Jodi Dunne	Jodi Dunne
James Leppard	Chris Vince
Matthew Saggars	Mike Danvers (sub)
Chris Vince	James Leppard (sub)
Mike Danvers (sub)	Matthew Saggars (sub)
Andrew Johnson (sub)	
Shona Johnson (sub)	
Ash Malik (sub)	
Gareth Williams (sub)	
Scrutiny Committee (8)	Call In Sub Committee
Tony Edwards (c)	The membership of the Call In Sub Committee is to be the same as the Scrutiny Committee
David Carter (vc)	
Nick Churchill	
Tony Durcan	
Eugenie Harvey	
Shona Johnson	
Nicky Purse	
Gareth Williams	
Mike Garnett (sub)	
James Leppard (sub)	
Sue Livings (sub)	
Colleen Morrison (sub)	
Chris Vince (sub)	
Nancy Watson (sub)	
Licensing Committee (10)	Licensing Sub Committee & Regulatory Sub Committee
Nick Churchill (c)	Licensing Committee & Regulatory Sub Committee members form a pool from which individual Licensing Sub Committees & Regulatory Sub Committees of 3 members are drawn
Clive Souter (vc)	
David Carter	
Joel Charles	
Jodi Dunne	
Maggie Hulcoop	
Andrew Johnson	
John Steer	
Nancy Watson	
Gareth Williams	

Development Management Committee (8)	
Mike Garnett (c)	
Sue Livings (vc)	
Jean Clark	
Mike Danvers	
Bob Davis	
James Leppard	
Nicky Purse	
John Steer	
Simon Carter (sub)	
Maggie Hulcoop (sub)	
Andrew Johnson (sub)	
Shona Johnson (sub)	
Clive Souter (sub)	
Appointments Panel (3)	Civic Awards Panel (4)
Russell Perrin (c)	Clive Souter (c)
Joel Charles (vc)	Maggie Hulcoop (vc)
Chris Vince	Eugenie Harvey
Tony Edwards (sub)	Shona Johnson
	Tony Edwards (sub)
Chief Executive's Appraisal Panel (3)	
Russell Perrin (c)	
Joel Charles (vc)	
Chris Vince	
Tony Edwards (sub)	

Council Representatives on Outside Bodies 2021/22

Outside Body	Appointments
Active Harlow Partnership	Alastair Gunn
Age Concern	Bob Davis
Citizens Advice Bureau	John Strachan
District Councils' Network	Russell Perrin Joel Charles (Substitute)
East of England Local Government Association	Russell Perrin Joel Charles (Substitute)
Epping Forest Community Transport	Alastair Gunn
Essex County Council's Essex Health Overview and Scrutiny Committee	David Carter
Essex Police and Crime Panel	Mike Garnett
Fawbert & Barnard Educational Foundation	Sue Livings (12/3/21) Joel Charles (25/5/21) Tom Newens (29/5/21) <i>(Three year terms of office)</i>
Great Parndon Community Association Board	Tony Edwards
Harlow Art Trust	Sue Livings
Harlow Arts Council	James Leppard
Harlow Homelessness Prevention Partnership	Maggie Hulcoop
Harlow Occupational Health Service	Tony Edwards
Harlow Recreation Trust Fund – Advisory Panel	<i>Appointed when vacancies arise</i>
Harlow-Stansted Gateway Transportation Board	Michael Hardware
Local Government Association General Assembly	Russell Perrin Joel Charles (Substitute)
Local Government Association District Council's Network Assembly	Russell Perrin Joel Charles (Substitute)

PATROL Adjudication Joint Committee	Gareth Williams
Playhouse Trust	Sue Livings
Safer Harlow Partnership	Gareth Williams Ash Malik
Shopmobility Management Committee	Maggie Hulcoop
St Johns Arts & Recreation Association	Sue Livings
Stansted Airport Community Trust Fund	David Carter
Stansted Airport Consultative Committee	Michael Hardware
Town Centre Partnership	Dan Swords Nicola Purse (Substitute)
Veolia Partnership Board	Alastair Gunn Gareth Williams (Substitute)
Waste Member Partnership Board and IAA Member Working Group	Alastair Gunn Gareth Williams (Substitute)
Welfare Panel	David Carter Simon Carter Nick Churchill Tony Edwards Eugenie Harvey Maggie Hulcoop Sue Livings Mark Wilkinson
Young Concern Trust	Sue Livings
Health & Wellbeing board	Mike Garnett (Chair)

MINUTES OF THE CABINET HELD ON

14 October 2021

7.30 - 9.35 pm

PRESENT

Committee Members

Councillor Joel Charles, Deputy Leader and Portfolio Holder for Community Resilience

Councillor Simon Carter, Portfolio Holder for Housing

Councillor Alastair Gunn, Portfolio Holder for Environment

Councillor Michael Hardware, Portfolio Holder for Strategic Growth

Councillor Russell Perrin, Portfolio Holder for Finance and Governance

Councillor Dan Swords, Portfolio Holder for Regeneration

Additional Attendees

Councillor James Leppard

Councillor Nicky Purse

Councillor Matthew Siggers

Other Councillors

Councillor David Carter

Councillor Mike Danvers

Councillor Tony Durcan

Councillor Tony Edwards

Councillor Michael Garnett

Councillor Ash Malik

Councillor Chris Vince

Councillor Nancy Watson

Councillor Mark Wilkinson

Officers

Brian Keane, Chief Executive

Andrew Bramidge, Director of

Strategic Growth and Regeneration

Simon Freeman, Deputy to the Chief

Executive and Director of Finance

Julie Galvin, Legal Services Manager

Jane Greer, Director of Communities and Environment

Adam Rees, Senior Governance

Support Officer

52. APOLOGIES FOR ABSENCE

None.

53. DECLARATIONS OF INTEREST

Councillor Durcan declared a non-pecuniary interest as a non-executive Director of HTS (Housing and Regeneration) Ltd.

54. MINUTES

RESOLVED that the minutes of the meeting held on 9 September 2021 are agreed as a correct record and signed by the Leader.

55. **MATTERS ARISING**

None.

56. **WRITTEN QUESTIONS FROM THE PUBLIC**

The questions, together with the answers, are appended to the minutes.

57. **WRITTEN QUESTIONS FROM COUNCILLORS**

The question, together with the answer, is appended to the minutes.

58. **PETITIONS**

None.

59. **FORWARD PLAN**

RESOLVED that the Forward Plan is noted.

60. **TIMETABLE FOR LOCAL PLAN REVIEW**

Cabinet considered a report on the timetable for the Local Plan.

Proposed by Councillor Michael Hardware (seconded by Councillor Dan Swords) it was:

RESOLVED that Cabinet:

- A** Endorses the proposed approach and timetable for the production of the Harlow Local Development Plan Review.
- B** Subject to recommendation A, approved the Local Development Scheme (LDS) as set out in Appendix A to this report.
- C** Noted the timetable for the production of the Community Infrastructure Levy (CIL) Charging Schedule.

61. **TOWN CENTRE MASTERPLAN**

Cabinet received a report to approve the draft Masterplan Framework Supplementary Planning Document for consultation.

Proposed by Councillor Michael Hardware (seconded by Councillor Dan Swords) it was:

RESOLVED that Cabinet:

- A** Approved the Draft Masterplan Framework Supplementary Planning Document (as set out at Appendix A to the report), to

enable it to be published for the purposes of consultation under Section 12(b) of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

- B** Delegated authority to the Director of Strategic Growth and Regeneration, to make and approve any minor or inconsequential amendments to the Draft Masterplan Framework Supplementary Planning Document arising from the statutory consultation.

62. **APPROVAL OF AMENDMENTS TO THE ENTERPRISE ZONE LOCAL DEVELOPMENT ORDERS**

Cabinet received a report to approve amendments to the Enterprise Zone's local development orders for consultation.

Proposed by Councillor Michael Hardware (seconded by Councillor Dan Swords) it was:

RESOLVED that:

- A** Cabinet approved the proposed amendments to the London Road North Local Development Order, as set out in Appendix A to the report, and authorises that these now be subject to public consultation.
- B** Subject to recommendation A, authority be delegated to the Director of Strategic Growth and Regeneration, in consultation with the Portfolio Holder for Strategic Growth, to make such minor or inconsequential amendments to the Order as may be required following the consultation process.

63. **ADOPTION OF AFFORDABLE HOUSING SUPPLEMENTARY PLANNING DOCUMENT**

Cabinet received a report to approve the affordable and specialist housing supplementary planning document.

Proposed by Councillor Michael Hardware (seconded by Councillor Simon Carter) it was:

RESOLVED that:

- A** Consultation responses be noted and that the proposed changes to the Affordable and Specialist Housing Supplementary Planning Document 2021 as a consequence of consultation be accepted.

- B** The Affordable and Specialist Housing Supplementary Planning Document 2021 as set out in the Appendix A to this report be approved for formal adoption.

64. **COMMUNITY RESILIENCE STRATEGY**

Cabinet received a report to approve the Community Resilience Strategy for consultation.

Proposed by Councillor Joel Charles (seconded by Councillor Russell Perrin) it was:

RESOLVED that:

- A** The Community Resilience Strategy 2021 – 2023 is approved, subject to consultation, in order to support the wider societal challenges as part of the council’s commitment to leading Harlow’s post Covid-19 recovery and a focus on building the right foundations for sustained improvements to community resilience for the benefit of the town’s residents and businesses.
- B** Cabinet authorises that consultation be undertaken on this draft for a period of six weeks. Minor amendments will be submitted to the Director of Communities and Environment who will, in conjunction with the Deputy Leader and Portfolio Holder for Community Resilience, develop the final version of the strategy following the conclusion of the consultation period.

65. **SPLASH PARK CONTRACT AWARD**

Cabinet received a report to award a contract to deliver a new splash park at Staple Tye.

Proposed by Russell Perrin (seconded by Councillor Dan Swords) it was:

RESOLVED that:

- A** The most advantageous tenders in consideration of price and quality combined, for both options as submitted by Contractor B, be accepted in the sum of £490,580.99 (Option 2) for the delivery of splash park/paddling pool conversion with retained paddling pool element, subject to contract and planning permission being granted.

66. **COMMUNICATIONS FROM COMMITTEES/WORKING GROUPS/PARTIES AND PANELS**

None.

67. **MINUTES OF PANELS/WORKING GROUPS**

None.

68. **MATTERS OF URGENT BUSINESS**

None.

LEADER OF THE COUNCIL

Cabinet – 14 October 2021

Questions from the Public

1 Alan Leverett to Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

Regarding the Town Centre Masterplan can the council for the sake of transparency tell us the cost of the Interim Planning Guidance Report for the Town Centre which was provided by consultants for presentation this evening?

Reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

The Council has invested £93,000 to produce a substantial, detailed master plan for the town centre. It will become an important material consideration in planning terms for projects in the town centre: for applicants when producing proposals, for officers when considering those proposals, and for members when deciding the applications.

This is the first of its kind and will ensure that we attract the right investment into the town centre in keeping with our regeneration plans.

Supplementary question from Alan Leverett:

There has been a struggle to protect green space in the town. What will you do to protect them?

Supplementary reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

The masterplan will bring back green space into the town centre.

2 Alan Leverett to Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

The residential planning applications already approved by the Council in the Town Centre have reduced parking provisions. The proposals in the report suggest that Post Office Road carpark will be lost in the scheme. Does the Council consider this lack of parking the right approach to revitalise the retail business in the town when the competition from out of town retail provides an abundance of free parking?

Reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

At present there are no firm proposals to remove the Post Office Road car park – the masterplan provides a planning framework and not a set of detailed proposals. However, the masterplan does indicate that this site may be suitable for future development.

Cabinet – 14 October 2021

Questions from Councillors

1 Councillor Tony Edwards to Councillor Alastair Gunn (Portfolio Holder for Environment):

Please could you detail your understanding of Harlow Council's and/or HTS responsibilities with respect to the maintenance of the Northgate Roundabout and if the Council/HTS have any responsibility for this roundabout why has it been so badly neglected state for well over year?

Reply from Councillor Alastair Gunn (Portfolio Holder for Environment):

Essex County Council is responsible for maintenance of the Highway including roundabouts. This includes some works to vegetation where that is necessary for highway safety, such as sightlines and direct risks to road. Essex County Council makes an annual payment to Harlow Council for the maintenance of vegetation on Highways land in Harlow for these purposes.

Harlow Council, through HTS, carries out where practicable work on highways land over and above the minimum required standard, mainly in order to improve the appearance of its area.

It has never been practicable to carry out landscape works on the roundabout at the junction of Fourth Avenue and Northgate due to its design as access cannot be obtained safely without closing the road to traffic.

The Council is in discussion with Essex County Council regarding the most appropriate means of resolving this issue. Discussions are currently underway with regard to installing hard surfacing on the roundabout to prevent future maintenance requirements.

Supplementary question from Councillor Tony Edwards:

What is the timescale to resolve this?

Supplementary reply from Councillor Alastair Gunn (Portfolio Holder for Environment):

It is out of our control to resolve this, but I agree that the roundabout is an eyesore in its current state.

**MINUTES OF THE CABINET
HELD ON**

4 November 2021

7.30 - 9.55 pm

PRESENT

Committee Members

Councillor Russell Perrin, Leader of the Council
Councillor Joel Charles, Deputy Leader and Portfolio Holder Community Resilience
Councillor Simon Carter, Portfolio Holder for Housing
Councillor Alastair Gunn, Portfolio Holder for Environment
Councillor Michael Hardware, Portfolio Holder for Strategic Growth
Councillor Dan Swords, Portfolio Holder for Regeneration

Additional Attendees

Councillor James Leppard
Councillor Nicky Purse
Councillor Matthew Siggers

Other Councillors

Councillor David Carter
Councillor Bob Davis
Councillor Tony Durcan
Councillor Tony Edwards
Councillor Michael Garnett
Councillor Eugenie Harvey
Councillor Chris Vince

Officers

Hannah Criddle, Governance Support Officer
Niel Churchill, Communications Manager
Simon Freeman, Deputy to the Chief Executive and Director of Finance
Jane Greer, Director of Communities and Environment
Simon Hill, Director of Governance and Corporate Support
Andrew Murray, Director of Housing

69. **APOLOGIES FOR ABSENCE**

None.

70. **DECLARATIONS OF INTEREST**

Councillor Tony Durcan declared a pecuniary interest as a non-executive Director of HTS (Housing and Regeneration) Ltd.

71. **MINUTES**

RESOLVED that the minutes of the meeting held on 14 October 2021 are agreed as a correct record and signed by the Leader.

72. **MATTERS ARISING**

None.

73. **WRITTEN QUESTIONS FROM THE PUBLIC**

The questions, together with the answers, are appended to the minutes.

74. **WRITTEN QUESTIONS FROM COUNCILLORS**

The questions, together with the answers, are appended to the minutes.

75. **PETITIONS**

None.

76. **FORWARD PLAN**

RESOLVED that the Forward Plan is noted.

77. **ROLLING INFRASTRUCTURE FUND MEMORANDUM OF UNDERSTANDING**

Cabinet received a report on the Rolling Infrastructure Fund Memorandum of Understanding.

Councillor Michael Hardware proposed that the following additional recommendation be included:

“Delegated authority is provided to the Director of Strategic Growth and Regeneration in consultation with the Portfolio Holder for Strategic Growth to agree any minor amendments to the Memorandum of Understanding that arise from the decision making structures of the other four HGGT partners.”

The additional recommendation was agreed.

Proposed by Councillor Michael Hardware (seconded by Councillor Dan Swords) it was:

RESOLVED that Cabinet agreed:

- A** The Memorandum of Understanding relating to The Harlow & Gilston Garden Town Rolling Infrastructure Fund (attached as Appendix A to the report) and agrees its submission to Homes England by the end of November 2021 as required of the Harlow and Gilston Garden Town Authority partners and specifically Hertfordshire County Council (as accountable body for the Housing Investment Grant funding to which the Memorandum of Understanding relates).

- B** To set up and operate the Rolling Infrastructure Fund ‘in principle’ subject to more detailed work and approval of the appropriate governance and operational arrangements for its management.
- C** To govern the Rolling Infrastructure Fund initially in accordance with the approved Memorandum of Understanding as required by Homes England as a condition of the Housing Investment Grant funding and subsequently in accordance with any further governance arrangements that may be effected.
- D** Delegated authority is provided to the Director of Strategic Growth and Regeneration in consultation with the Portfolio Holder for Strategic Growth to agree any minor amendments to the Memorandum of Understanding that arise from the decision making structures of the other four HGGT partners.”

78. **ENVIRONMENTAL ENFORCEMENT DELIVERY**

Cabinet received a report on the delivery of environmental enforcement.

Proposed by Councillor Alastair Gunn (seconded by Councillor Michael Hardware) it was:

RESOLVED that:

- A** The Council tender for environmental enforcement services as set out under Proposals in the report with a service specification to be determined by the Director of Strategic Growth and Regeneration, in consultation with Portfolio Holder for Environment.
- B** The current pilot operation continue with NES as the Council’s contractor until 31 March 2022 to provide service continuity through the procurement process recommended at A above.
- C** The Council engage in communications measures to enhance the effect of enforcement as set out under Proposals in the report.

79. **TREE PLANTING AND BIO-DIVERSITY MANAGEMENT**

Cabinet received a report on the management of tree planting and bio-diversity.

Proposed by Councillor Alastair Gunn (seconded by Councillor Dan Swords) it was:

RESOLVED that:

- A** The tree planting programme for winter 2021/22 as set out in Appendix A to the report is approved with a commitment to develop a medium term (3 – 5 years) tree planting strategy by March 2022 which is then reviewed on an annual basis.
- B** The approach to woodland management as set out in Appendix B to the report is agreed.
- C** The approach to grassland management as set out in Appendix C to the report is agreed including the increase in wildflower planting from four strips in 2021 to a minimum of eight in 2022 with the final locations to be agreed by the Portfolio Holder for Environment.
- D** Cabinet agree to end the use of single use plastics in all of its tree planting and bio-diversity work with effect from the 2022/23 winter programme.

80. **HARLOW AND GILSTON GARDEN TOWN TRANSPORT STRATEGY**

Cabinet received a report on the Harlow and Gilston Garden Town Transport Strategy.

Proposed by Councillor Michael Hardware (seconded by Councillor Dan Swords) it was:

RESOLVED that:

- A** Cabinet consider the Harlow and Gilston Garden Town Transport Strategy, October 2021 (as set out in Appendix A to the report), together with the accompanying appendices including the high level programme (as set out in Appendix B to the report), consultation report (as set out in Appendix C to the report) and equality impact assessment (as set out in Appendix D to the report).
- B** Cabinet approves the Transport Strategy as a material consideration in the planning process for the preparation of masterplans, pre-application advice, assessing planning applications and any other development management purpose for all sites within the Garden Town area, including Harlow District in its entirety.
- C** Cabinet delegate to the Director of Strategic Growth and Regeneration in consultation with the Portfolio Holder for Strategic Growth and the Director of the Harlow and Gilston Garden Town to make any minor text or design amendments to the Transport Strategy prior to publication should there be necessity for clarification or changes proposed by the respective decision makers of East Herts, Harlow and Epping Forest Districts and Essex and Hertfordshire Counties in order to ensure a consistent document.

- D Cabinet endorses the future transport network plan (on pages 34-35 of the Transport Strategy) in so far that it identifies, illustratively, the proposed Sustainable Transport Corridors extending from the Town Centre to the north, east, south and west and confirm support in principle for the delivery of new infrastructure that supports safe and attractive travel by walking, cycling and public transport that will benefit existing neighbourhoods of Harlow and sustainably integrate any proposed new allocations with the town.
- E Cabinet acknowledge that the ambition, mode share objective and principles in the Transport Strategy should help shape existing and future work programmes of the Highway Authorities across the Garden Town, and can provide supporting justification for funding submissions and spending commitments in relation to transport. Content will also be relevant to development, regeneration and other initiatives undertaken by Harlow Council.
- F Although recognising that endorsing the Transport Strategy is not a legally binding act, Cabinet agrees that it will not introduce a congestion charging scheme for Harlow and will continue to work to improve residential parking amenity for existing Harlow residents.

81. **HEALTH AND WELLBEING STRATEGY - POSITIONING STATEMENT**

Cabinet received a report on the Health and Wellbeing Strategy.

Proposed by Councillor Joel Charles (seconded by Councillor Russell Perrin) it was:

RESOLVED that the Cabinet:

- A Approves the Harlow Health and Wellbeing Partnership Board Strategy Positioning Statement (attached at Appendix A to the report) to ensure residents are fully aware of the Council's current position and intentions until such time that relevant data is available to inform development and publication of a new robust, relevant and aspirational Health and Wellbeing Partnership Board Strategy for Harlow.
- B Acknowledge the need to develop a new Health and Wellbeing Partnership Board Strategy for 2022 – 2025 that is driven by the most recent and reliable local health and wellbeing data available.

82. **COMMUNICATIONS FROM COMMITTEES/WORKING GROUPS/PARTIES AND PANELS**

a) **Local Plan - Statement of Community Involvement**

Cabinet received a report on the consultation of the Statement of Community Involvement.

Proposed by Councillor Michael Hardware (seconded by Councillor Russell Perrin) it was:

RESOLVED that the Cabinet:

- A** Approves the Draft Statement of Community Involvement (attached as Appendix A to the report), to enable it to be published for the purposes of consultation.
- B** Delegates authority to the Director of Strategic Growth and Regeneration, in consultation with the Portfolio Holder for Strategic Growth, to make and approve any minor or inconsequential amendments to the Draft Statement of Community Involvement arising from the statutory consultation.

83. **MINUTES OF PANELS/WORKING GROUPS**

None.

84. **MATTERS OF URGENT BUSINESS**

None.

LEADER OF THE COUNCIL

Cabinet – 4 November 2021

Questions from the Public

1 **Jake Shepherd to Councillor Dan Swords (Portfolio Holder for Regeneration):**

Given the role of Carridon Property in presiding over Terminus House and Templefields House, two (of the twelve) Permitted Development Rights (PDR) conversions which have been described by one Carridon resident as "an open prison", why has this Council welcomed Carridon as the official 2021 partner sponsor?

Reply from Councillor Dan Swords (Portfolio Holder for Regeneration):

As I have made clear many times, it was because of the previous administration's failure to act in introducing an Article 4 directive when they should have done so that allowed for office-to-residential conversions to take place in this town. I never heard that administration or anyone in it to apologise for their failure to act, nor did they purchase Terminus House when it was offered to the Council for the grand total of £1. For both of those reasons the issues that are faced are because of the previous administration's failure to act.

We are acting and we have applied to massively strengthen the Article 4 directive so that never again can this be allowed to happen in such a way. I look forward to updating councillors and residents on our progress in tackling the issues left by the previous administration in this area.

Specifically on the Harlow Town Centre Awards I am sure Mr Shepherd would agree that they were a roaring success with over 120 people attending and celebrating all that is great about our town centre.

Not only was it a roaring success, but it came at no expense to the taxpayer as 12 very generous sponsors paid for the fantastic event.

Sponsorship was open to all and Carridon were one of 12 sponsors. Sponsorship is not an endorsement by any of the partnership.

I believe we must deal with the world as it is, and not as we may wish it to be. That's why it is important to actively engage with all building, landowners and businesses to ensure that we deliver and do not hit the road block of no communication. This approach is the best way to deliver one of the primary ambitions for the town centre to be a hub for the community that everyone can share a renewed sense of pride in.

Supplementary Question from Jake Shepherd to Councillor Dan Swords (Portfolio Holder for Regeneration):

Can Councillor Swords see why many will be mystified as to why this Administration would have chosen Caridon as a corporate sponsor for this years Harlow Town Centre Awards?

Supplementary Reply from Councillor Dan Swords (Portfolio Holder for Regeneration):

I think perhaps anyone that was mystified after listening to my answer a few moment ago may no longer be mystified.

2 Jake Shepherd to Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

As the sole Youth Representative of HGGT's Village 1 Master Planning Working Group, I quote the terms of reference for the group: "In the event of a member organisation failing to attend two consecutive meetings the group can agree to inviting a different organisation or individual".

Cllr Michael Hardware, the named single representative on behalf of Harlow District Council, has failed (without offering any apologies to the Chair or via any other members) to attend two consecutive meetings. Will this administration take action to represent Harlow District Council within the collaborative design process, which directly seeks to represent and respond to the views and concerns of local residents?

Reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

Yes, I was invited in May this year by Places for People, the Gilston developer, to join several groups to participate in the delivery of its engagement strategy to support the various planning applications it is progressing.

The master planning processes for all the developments around Harlow are important, especially so the seven villages at Gilston as this is where the majority of the growth for Harlow is going to come. Given the physical proximity of Gilston to Harlow and our shared vision for the Garden Town, they need to reflect our aspirations and be designed to be integrated with Harlow ensuring new residents feel part of this community, and that existing Harlow residents view them as an integral part of the town.

I have been unable to attend the first two meetings I was invited to: one in July and the other in September. I had prior engagements for each. I had no deputy to send in my stead and an officer representative was not allowed. Harlow Council is

currently in discussion with East Hertfordshire District Council about ensuring appropriate representation.

Hopefully we will be able to resolve this with the future meetings to ensure Harlow can participate fully.

Supplementary Question from Jake Shepherd to Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

Can Councillor Hardware understand why it is perhaps embarrassing as the sole representative from Harlow to be the only person from Harlow in attendance at two meetings in this very important process?

Supplementary Reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

Yes I can and there were emails exchanged with the organiser of the meetings because I couldn't attend. Apologies were submitted but there was no way we could get around this rule of not being able to send a deputy or not being able to send an officer. Hopefully we will resolve that in the near future.

Cabinet – 4 November 2021

Questions from Councillors

1 Councillor Chris Vince to Councillor Russell Perrin (Leader of the Council):

Can the administration explain why Harlow's bid for the levelling up fund was unsuccessful and what re-assurances can they give that when the second wave of funding becomes available in Spring of next year Harlow will be successful?

Reply from Councillor Russell Perrin (Leader of the Council):

Harlow Council's bid for Playhouse Quarter and Stone Cross Square was submitted in the first round of the government competition for the Levelling Up Fund.

In June, we secured £23.7 million from the Government to kick start key regeneration projects. We submitted a bid as part of the Levelling Up Fund for further investment to support our regeneration plans.

Our bid was scored very highly by Government officials and we have been invited into the second round of funding expected in the Spring of next year. The Council strongly welcomes this as it gives our new administration more time to ensure our bid fits into our wider regeneration plans.

Supplementary question from Councillor Chris Vince to Councillor Russell Perrin (Leader of the Council):

When was the bid of £23.7 million submitted?

Supplementary reply from Councillor Russell Perrin (Leader of the Council):

I will get an officer to send a reply in writing.

2 Councillor Tony Edwards to Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

Noting the next meeting of the Covid Recovery Working Group has now been scheduled for the 9th of November. Could the Community Resilience Portfolio Holder explain what he understands to be the terms of reference of the Working Group and why the Group has only had one meeting (28th June) since the Conservative administration took office in May of this year.

Reply from Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

At Annual Full Council, the working group meeting dates for the municipal year were agreed formally. It was agreed by Annual Full Council that meetings would only be held on a quarterly basis. The September meeting was postponed because it clashed with another meeting. At the point where we were planning for that meeting to be moved, infection rates in the town had dropped and the governance cycle meant that a meeting was not able to be arranged. It was agreed that the Covid Recovery Working Group would meet early this month. I can confirm that the working group will be on the 9th of November. Members of the working group should receive the agenda shortly.

The Council continues to monitor Covid-19 infection levels in the town carefully and stands ready to work closely with all community leaders to do everything possible to safeguard public health if circumstances change.

The terms of the working group are:-

- (i) To advise the Portfolio Holder on the proposals contained within the developing pandemic action plan including short, medium and long term objectives and measures taking into account the changing landscape.
- (ii) To provide a forum for consultation on measures and strategy within the pandemic action plan.
- (iii) To advise and comment on work with regional health officials to prepare for and mitigate any further outbreak or second wave of infection in Harlow;
- (iv) To identify Council-related impacts that may require additional resources or service delivery methods; and
- (v) To provide a focus for:

Developing greater community resilience

- community action, cohesion, and greater resilience.
- supporting the recovery of BAME communities, clinically vulnerable and other marginalised groups
- engagement with the voluntary sector and faith-based communities

Educating the public about health risks and working to mitigate future outbreaks

- preparation and planning to ensure, with other public sector agencies, that in the face of future outbreaks or emergencies, all residents are

given the best possible health protection and outcomes, particularly those at risk of health inequalities.

- community education on the on-going public health risk and to mitigate future Outbreaks

Advancing the post-COVID local economy

- proposals for new ways of working
- business engagement
- innovative ways of growing the local economy

(v) To harness data and monitor recovery performance to ensure that services delivered post COVID, meet the changing needs of residents and businesses.

Supplementary question from Councillor Tony Edwards to Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

Noting that between 22 July 2020 and 22 March 2021 there were 10 meetings, the importance given to it at that time, and I hear now that it has now been reduced to quarterly meetings and noting that the Covid pandemic is not over yet by a long way, will there be a facility to revisit with the members of that group the frequency of meetings and given the enormity of the agenda that we are going to have to tackle will we have the opportunity of meeting on a more frequent basis to address the issues that are likely to come forward?

Supplementary reply from Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

I am happy to discuss at the next Covid Recovery Working Group on 9 November the frequency of meetings. We obviously need to keep the situation particularly around Covid infections under constant review and the Council does do this. There are two key things I will just add on the back of what Councillor Edwards has said. The Council has already commenced activity around community resilience with its strategy and consultation going forward and you will see on the agenda for later this evening that we have set out our position statement around our Health and Wellbeing Strategy and considerations that we want to take forward. I am very keen and look forward to the thoughts of all Members on that cross party working group. My commitment to that working group is that we will keep the situation under review and will look at the frequency of our engagement to determine what actions need to be taken going forward. I look forward to that discussion coming up early next week.

**MINUTES OF THE AUDIT & STANDARDS COMMITTEE
HELD ON**

24 November 2021

7.30 - 8.43 pm

PRESENT

Committee Members

Councillor Eddie Johnson (Chair)
Councillor Colleen Morrison (Vice-Chair)
Councillor Jean Clark
Councillor Jodi Dunne
Councillor James Leppard
Councillor Matthew Saggars
Councillor Chris Vince
Laura Kirman, Independent Person

Officers

Natalie Hook, Senior Auditor
Simon Freeman, Deputy to the Chief Executive and Director of Finance
Sarah Marsh, Internal Audit Manager
Adam Rees, Senior Governance Support Officer

17. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Councillor Simon Carter.

18. **DECLARATIONS OF INTEREST**

None.

19. **MINUTES**

RESOLVED that the minutes of the meeting held on 16 June 2021 are agreed as a correct record and signed by the Chair.

20. **MATTERS ARISING**

Simon Freeman, Deputy to the Chief Executive and Director of Finance, provided an update on 2018/19 accounts. The Council's external auditor, BDO, had sent the Council further technical queries in July which needed to be resolved. The Council had taken advice from CIPFA and submitted a response to BDO in September.

The Council had eventually managed to meet with BDO on 24 November who had raised further queries and a follow up meeting was scheduled for 8 December.

If the technical issues could not be resolved, his advice to the Committee, would be that the council would follow the advice it had received from CIPFA in finalising the 2018/19 accounts but drew attention to the fact that this may not necessarily lead to a clean audit opinion being issued in respect of those accounts by BDO. It is likely that a special meeting would eventually be convened for the purpose of approving the 2018/19 accounts.

21. **WRITTEN QUESTIONS AND PETITIONS**

None.

22. **NON CONTENTIOUS BUSINESS**

None.

23. **COMMITTEE WORK PLAN**

The Committee received its current work plan.

RESOLVED that the work plan is noted.

24. **AUDITOR APPOINTMENT**

The Committee considered a report which recommended that the Council joins the national procurement process led by Public Sector Audit Appointments Limited (PSAA)

RESOLVED that the Committee recommended to Full Council that:

A The Council participates in the national procurement process led by Public Sector Audit Appointments Limited (PSAA) for the appointment of its external auditors.

B Delegated authority be granted to the Director of Finance, as the Council's statutory officer under Section 151 of the Local Government Act 1972 to formally give notice of the Council's intention to opt in to the PSAA procurement exercise.

25. **REVIEW OF AUDIT AND STANDARDS COMMITTEE EFFECTIVENESS AND TERMS OF REFERENCE**

The Committee received a report on the review of the effectiveness of the Committee and its terms of reference.

RESOLVED that the Committee:

A Agreed no changes are required to its Terms of Reference.

- B Considered the results of the review of effectiveness of the Audit Committee and noted progress against last year's action.

26. **EXTERNAL QUALITY ASSURANCE OF INTERNAL AUDIT AGAINST THE PUBLIC SECTOR INTERNAL AUDIT STANDARDS**

The Committee received a report on the external quality of assurance of Internal Audit against the public sector internal audits standards.

The Committee noted that Internal Audit had met every standard and congratulated the team on their achievement.

RESOLVED that the Committee:

- A Agreed that Internal Audit complies with the requirements of the Public Sector Internal Audit Standards.

- B Noted the actions proposed to enhance the Internal Audit service.

27. **PERIOD 8 INTERNAL AUDIT ACTIVITY REPORT 2021/22**

The Committee received the internal audit activity report.

RESOLVED that the Committee:

- A Reviewed the outcomes of the work of the Internal Audit service for the period July to November 2021 and identifies any issues for further consideration.

- B Approved the revised Internal Audit Charter.

- C Approved the revised Anti-Fraud and Corruption Strategy.

28. **RISK MANAGEMENT PROGRESS REPORT**

The Committee received a report on risk management and the strategic risks register.

RESOLVED that the Committee noted the Strategic Risks, risk scores and variation against risk appetite as at 30 September 2021.

29. **REFERENCES FROM OTHER COMMITTEES**

None.

30. **MATTERS OF URGENT BUSINESS**

None.

CHAIR OF THE COMMITTEE