

NORTH YORKSHIRE COUNCIL

EXECUTIVE

24 January 2023

TREASURY MANAGEMENT AND CAPITAL STRATEGY

Report of the Corporate Director – Resources

1.0 PURPOSE OF THE REPORT

- 1.1 To recommend to the Council an Annual Treasury Management Strategy Statement for the financial year 2023/24 which incorporates:
- a) a Treasury Management Strategy;
 - b) Capital Prudential and Treasury Indicators; including a Minimum Revenue Provision Policy Statement;
 - c) a Borrowing Strategy;
 - d) an Annual Investment Strategy;
- 1.2 To recommend to the Council a Capital Strategy for the financial year 2023/24; and
- 1.3 To recommend to the Council the proposed Debt Recovery Policy.

2.0 INTRODUCTION AND CONTEXT

- 2.1 2023/24 is the first year for establishing an Annual Treasury Management Strategy Statement and Capital Strategy for the new North Yorkshire Council (NYC). Both the Treasury Management Strategy and Capital Strategy for NYC have been produced by bringing together the strategies of the eight predecessor councils, supported by Treasury Management advisers, Link. While a collaborative approach has been taken in developing the Treasury Management and Capital Strategies for NYC, they are broadly in line with the strategies for North Yorkshire County Council from the previous year due to the relative size of investment and borrowing portfolios.

3.0 THE REPORT

- 3.1 Treasury management is defined as ‘the management of the local authority’s investments and cash flows, its banking, money market and capital market transactions, the effective control of the risks associated with those activities and the pursuit of optimum performance consistent with those risks’.
- 3.2 The Council operates a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure this cash flow is adequately planned, with surplus monies being invested in low risk counterparties, with the main aims of providing sufficient liquidity and security, with the achievement of the best possible investment returns ranking as less important.
- 3.3 The second main function of the treasury management service is to arrange the funding of the Council’s capital programme, which will support the provision of Council services. The capital programme provides a guide to the borrowing need of the Council, and there needs to be longer term cash flow planning to ensure capital spending requirements can be met. The management of longer term cash may involve arranging long or short term loans, utilising longer term cash flow surpluses and, occasionally, debt restructuring to meet Council risk or cost objectives.
- 3.4 The Council adopts the latest CIPFA Code of Practice on Treasury Management (the Code) which is regarded as best practice in ensuring adequate monitoring of the Council’s capital expenditure plans and its Prudential Indicators.
- 3.5 This report provides a summary of the following for 2023/24:

3.5.1 Treasury Management Strategy (See Annex 1 – Section 1)

The Treasury Management Strategy sets out the requirements for the overall Treasury, Borrowing, Investment and Capital Policies. The strategic approach is set out in the following:

3.5.2 Capital Prudential Indicators (See Annex 1 – Section 2)

The Capital Prudential Indicators set out the capital expenditure plan and associated indicators, capital financing requirement (£612.1m in 2023/24) and the monitoring of core funds and investment balances. The Minimum Revenue Provision (MRP) Policy Statement is also included.

The Prudential Indicators have been revised and updated in line with the latest CIPFA Code of Practice. The Estimated Ratio of Capital Financing Costs is no longer a required indicator and as a result has been removed along with the local indicator. Indicators for 21/22 and 22/23 have been derived from an aggregation of the predecessor councils, and are included for comparison purposes

3.5.3 Borrowing Strategy (See Annex 1 – Section 3)

The Treasury Management function ensures that the Council’s cash is managed to safeguard the delivery of the Capital Expenditures plans set out in **Appendix A**. The Borrowing Strategy covers the current and projected position as well as the Treasury Prudential Indicators. The key Treasury Management Indicators the Council are required to approve are:

- The Authorised Limit for External Debt (the legal limit beyond which external debt is prohibited), £652.1m in 2023/24; and
- The Operational Boundary for External Debt (the limit beyond which external debt is not normally expected to exceed), £632.1m in 2023/24.

3.5.4 Annual Investment Strategy (See Annex 1 – Section 4)

The Annual Investment Strategy details the Council's Investment Policy and approach to the investment of funds. The strategy is broadly in line with the North Yorkshire County Council policy which was unchanged from the previous year.

3.5.5 Treasury Management Strategy Statement Appendices (See Appendices A – F)

Appendix A	The Capital Prudential and Treasury Indicators 2023/24 – 2025/26
Appendix B	Treasury Management Practice (TMP1) – Credit and Counterparty Risk Management
Appendix C	Approved Lending List
Appendix D	Approved Countries for Investment
Appendix E	Treasury Management Scheme of Delegation
Appendix F	The Treasury Management Role of the Section 151 Officer

The appendices cover the requirements of the various laws, codes and guidance that cover the Treasury Management activity, including the Local Government Act 2003, the CIPFA Prudential Code, Communities and Local Government (CLG) MRP Guidance, the CIPFA Treasury Management Code and Communities and Local Government Investment Guidance.

3.5.6 Capital Strategy (See Annex 2)

The Capital Strategy sets out the context of which Capital Expenditure and Investment decisions are made, and gives due consideration to both risk and reward and the impact on the achievement of policy outcomes. The Capital Strategy also includes the current position on the Council's non-treasury alternative investments.

3.5.7 Debt Recovery Policy (See Annex 3)

As part of management of the Council's cashflow, the Debt Recovery Policy sets out the guiding principles which apply to debt collection and recovery. These principles will ensure that the new Council recovers debt, efficiently and effectively, thus ensuring the maximisation of revenue streams for the benefit of residents, businesses and visitors to North Yorkshire. The policy covers the following types of corporate debt, which includes a mixture of statutory and non-statutory charges and enables prioritisation of debt across the organisation:

- Council Tax
- National non-domestic rates (business rates)
- Housing benefit overpayments
- Housing rents
- Sundry debts (including Health and Adult Social Care charges and commercial and domestic fees and charges)

4.0 RECOMMENDATIONS

That Members recommend to the Council: -

- 4.1 The Treasury Management Strategy Statement Annex 1, consisting of the Annual Treasury Management Strategy (**Section 1**), Capital Prudential Indicators (**Section 2**), Borrowing Strategy (**Section 3**) and Annual Investment Strategy 2023/24 (**Section 4**), including in particular;
- i. an authorised limit for external debt of £652.1m in 2023/24;
 - ii. an operational boundary for external debt of £631.1m in 2023/24;
 - iii. the Prudential and Treasury Indicators based on the Council's current and indicative spending plans for 2023/24 to 2025/26;
 - iv. a limit of £60m of the total cash sums available for investment (both in house and externally managed) to be invested in Non-Specified Investments over 365 days;
 - v. a Minimum Revenue Provision (MRP) policy for debt repayment to be charged to Revenue in 2023/24;
 - vi. the Corporate Director – Strategic Resources to report to the Council if and when necessary during the year on any changes to this Strategy arising from the use of operational leasing, PFI or other innovative methods of funding not previously approved by the Council;
- 4.2 The Capital Strategy as attached as **Annex 2**;
- 4.3 The Debt Recovery Policy set out at **Annex 3**;
- 4.4 That the Audit Committee be invited to review **Annex 1, 2 and 3** and submit any proposals to the Executive for consideration at the earliest opportunity.

SECTION 1 - TREASURY MANAGEMENT STRATEGY 2023/24

1.1 Introduction and Context

The Council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low risk counterparties or instruments commensurate with the Council's low risk appetite, providing adequate liquidity initially before considering investment return.

The second main function of the treasury management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer-term cash flow planning, to ensure that the Council can meet its capital spending obligations. This management of longer-term cash may involve arranging long or short-term loans, or using longer-term cash flow surpluses. On occasion, when it is prudent and economic, any debt previously drawn may be restructured to meet Council risk or cost objectives.

The contribution the treasury management function makes to the authority is critical, as the balance of debt and investment operations ensure liquidity or the ability to meet spending commitments as they fall due, either on day-to-day revenue or for larger capital projects. The treasury operations will see a balance of the interest costs of debt and the investment income arising from cash deposits affecting the available budget. Since cash balances generally result from reserves and balances, it is paramount to ensure adequate security of the sums invested, as a loss of principal will in effect result in a loss to the General Fund Balance.

Whilst any commercial initiatives or loans to third parties will impact on the treasury function, these activities are generally classed as non-treasury activities, (arising usually from capital expenditure), and are separate from the day to day treasury management activities. CIPFA defines treasury management as:

“The management of the local authority's borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”

1.2 Reporting Requirements

Reporting arrangements in place relating to Treasury Management activities are highlighted below:

1.2.1 Capital Strategy

The CIPFA 2017 Prudential and Treasury Management Codes require all local authorities to prepare a capital strategy report which will provide the following:

- a high-level long-term overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services;
- an overview of how the associated risk is managed; and
- the implications for future financial sustainability.

The aim of this capital strategy is to ensure that all elected members on the full council fully understand the overall long-term policy objectives and resulting capital strategy requirements, governance procedures and risk appetite.

The Council's Capital Strategy includes the requirements of the 2021 Treasury Management Code and Prudential code: -

1. the approach to investments for service or commercial purposes (non-treasury investments), including defining the authority's objectives, risk appetite and risk management in respect of these investments, and processes ensuring effective due diligence;
2. an assessment of affordability, prudence and proportionality in respect of the authority's overall financial capacity (i.e. whether plausible losses could be absorbed in budgets or reserves without unmanageable detriment to local services);
3. details of financial and other risks of undertaking investments for service or commercial purposes and how these are managed;
4. limits on total investments for service purposes and for commercial purposes respectively (consistent with any limits required by other statutory guidance on investments);
5. requirements for independent and expert advice and scrutiny arrangements (while business cases may provide some of this material, the information contained in them will need to be periodically re-evaluated to inform the authority's overall strategy);
6. State compliance with paragraph 51 of the Prudential Code in relation to investments for commercial purposes, in particular the requirement that an authority must not borrow to invest primarily for financial return.

This Capital Strategy [**Annex 2**] is reported separately from the Treasury Management Strategy Statement; non-treasury investments will be reported through the former. This ensures the

separation of the core treasury function under security, liquidity and yield principles, and the policy, service and commercial investments usually arising from expenditure on an asset.

Where the Council has borrowed to fund any non-treasury investment, there is to be an explanation of why borrowing was required and why the DLUHC Investment Guidance and CIPFA Prudential Code have not been adhered to.

If any non-treasury investment sustains a loss during the final accounts and audit process, the strategy and revenue implications will be reported through the same procedure as the capital strategy.

To demonstrate the proportionality between the treasury operations and the non-treasury operation, high-level comparators are shown throughout this report.

1.2.2 Treasury Management Reporting

Quarterly reporting to members is now required under the 2021 Treasury Management Code, however it is not necessary to take these reports to full Council. The full Council is currently required to receive and approve, as a minimum, three main treasury reports each year, which incorporate a variety of policies, estimates and actuals.

- a) **Prudential and Treasury Indicators and Treasury Strategy** (this report) –The first, and most important report is forward looking and covers:
 - the capital plans, (including prudential indicators);
 - a minimum revenue provision (MRP) policy, (how residual capital expenditure is charged to revenue over time);
 - the treasury management strategy, (how the investments borrowings are to be organised), including treasury indicators; and
 - an investment strategy, (the parameters on how investments are to be managed).
- b) **A mid-year treasury management report** – This is primarily a progress report and will update members on the capital position, amending prudential indicators as necessary, and whether any policies require revision. In addition, to comply with the 2021 revision of the CIPFA Treasury Code, the Executive will receive quarterly update reports including the Treasury Management Indicators and Prudential Indicators as part of the authority's general revenue and capital monitoring.
- c) **An annual treasury report** – This is a backward looking review document and provides details of a selection of actual prudential and treasury indicators and actual treasury operations compared to the estimates within the strategy.

1.2.3 Scrutiny

Treasury Management reports are required to be adequately scrutinised before being recommended to the Council. The scrutiny role is undertaken by the Audit Committee.

1.3 Treasury Management Strategy 2023/24

The Treasury Management strategy for 2023/24 covers two main areas:

a. Capital issues

- the capital expenditure plans and the associated prudential indicators; and
- the Minimum Revenue Provision (MRP) policy.

b. Treasury management issues

- the current treasury position;
- treasury indicators which limit the treasury risk and activities of the Council;
- prospects for interest rates;
- the borrowing strategy;
- policy on borrowing in advance of need;
- debt rescheduling;
- the investment strategy;
- creditworthiness policy; and
- the policy on use of external service providers.

These elements cover the requirements of the Local Government Act 2003, Department for Levelling Up, Housing and Communities (DLUHC) Investment Guidance, DLUHC MRP Guidance, the CIPFA Prudential Code and the CIPFA Treasury Management Code.

1.4 Training

The CIPFA Treasury Management Code requires the Section 151 Officer to ensure that members with responsibility for treasury management receive adequate training in treasury management. This especially applies to members responsible for scrutiny.

The revised TM Code introduces strengthened requirements for skills and training, and for investments which are not for specifically treasury management purposes i.e. non-treasury investments, where further detail is contained in the Capital Strategy.

The scale and nature of training requirements will depend on the size and complexity of the Council's treasury management needs. The Council will need to assess whether treasury management staff and members have the required knowledge and skills to undertake the roles and if those skills have been maintained and are up to date.

As a minimum, the Council will carry out the following to monitor and review knowledge and skills:

- record attendance at training and ensure action is taken where poor attendance is identified;
- prepare tailored learning plans for treasury management officers and board/council members;

- require treasury management officers and board/council members to undertake self-assessment against the required competencies set out in Treasury Management Practice (TMP) 10; and
- have regular communication with officers and board/council members, encouraging them to highlight training needs on an ongoing basis.

Member training has been provided by Treasury Management Consultants, Link Group (Link) and further training will be provided as required. The training needs of treasury management officers are periodically reviewed. A formal record of the training received by officers central to the Treasury function will be maintained and similarly, a formal record of the treasury management/capital finance training received by members

The Council maintains a “Knowledge and skills policy” within its Treasury Management Practices (TMPs). Specifically, TMP 10 includes the details of the competencies required for the core roles, a knowledge and skills schedule and details of how the council will monitor and review these skills and knowledge. This policy aims to ensure the effective acquisition and retention of treasury management skills for those responsible for the management, delivery, governance, decision-making and compliance with legislative requirements

1.5 Treasury Management Consultants

The Council uses Link Group, as its external treasury management advisors.

The Council recognises that responsibility for treasury management decisions remains with the organisation and will ensure that undue reliance is not placed upon the services of our external service providers. All decisions will be undertaken with regards to all available information, including, but not solely, our treasury advisers.

It also recognises that there is value in employing external providers of treasury management services to acquire access to specialist skills and resources. The Council will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review.

SECTION 2 - CAPITAL PRUDENTIAL INDICATORS 2022/23 – 2024/25

The Council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

2.1 Capital Expenditure and Financing

This prudential indicator is a summary of the Council's capital expenditure plans, both those agreed previously, and those forming part of this budget cycle. The table below summarises the above capital expenditure plans and how these plans are being financed by capital or revenue resources. Any shortfall of resources results in a funding borrowing need.

Capital expenditure	2021/22 Actual £k	2022/23 Estimate £k	2023/24 Estimate £k	2024/25 Estimate £k	2025/26 Estimate £k
Non-HRA	305,521	316,299	96,075	56,858	39,933
HRA	16,763	35,308	17,649	14,505	8,744
Total	322,284	351,607	113,724	71,363	48,677

The capital expenditure plans exclude 'other long-term liabilities' such as PFI and leasing arrangements that already include their own borrowing facility. The Council's Capital Plans do not include any plans on "projects for yield" schemes and there is no intention to purchase commercial assets primarily for yield.

The table below summarises the above capital expenditure plans and how these plans are being financed by capital or revenue resources. A shortfall that results in a funding borrowing need - net financing need for the year - is indicated in years 2021/22 to 2023/24. Years 2024/25 and 2025/26 indicates that the capital plans have allocated financing that may not be required because as the net financing need is negative. This is due to reprofiling which will need to be realigned in future updates.

Financing of capital expenditure	2021/22 Actual £k	2022/23 Estimate £k	2023/24 Estimate £k	2024/25 Estimate £k	2025/26 Estimate £k
Capital receipts	(23,121)	(16,463)	(7,224)	(14,913)	(22,432)
Capital grants	(153,874)	(194,637)	(71,342)	(48,457)	(22,130)
Capital reserves	(7,801)	0	0	0	0
Revenue	(39,323)	(73,437)	(32,536)	(19,244)	(17,015)
Net financing need for the year	98,165	67,070	2,622	(11,251)	(12,900)

2.2 The Council's borrowing need - the Capital Financing Requirement (CFR)

The second prudential indicator is the Council's CFR. The CFR is the total historic outstanding capital expenditure which has not yet been financed from either revenue or capital resources. It is a measure of the Council's indebtedness and so underlying borrowing need. Any capital expenditure above, which has not been financed through a revenue or capital resource, will increase the CFR.

The CFR does not increase indefinitely, as the Minimum Revenue Provision (MRP) is a statutory annual revenue charge which broadly reduces the indebtedness in line with each asset's life and charges the economic consumption of capital assets as they are used.

The CFR includes any other long-term liabilities (e.g., PFI schemes, finance leases). Whilst these increase the CFR, and therefore the Council's borrowing requirement, these types of schemes include a borrowing facility by the PFI or lease provider and so the Council is not required to separately borrow for these schemes. The Council currently has PFI and lease schemes within the CFR

The Council is asked to approve the CFR projections below:

	2021/22 Actual £k	2022/23 Estimate £k	2023/24 Estimate £k	2024/25 Estimate £k	2025/26 Estimate £k
Capital Financing Requirement					
Non-HRA	616,663	664,963	644,790	612,648	579,511
HRA	109,088	109,088	109,088	109,088	109,088
Total CFR	725,751	774,051	753,878	721,736	688,599
Movement in CFR		48,300	(20,173)	(32,142)	(33,137)

Movement in CFR represented by					
Net financing need for the year		67,070	2,622	(11,251)	(12,900)
Less MRP/VRP and other financing movements		(18,770)	(22,795)	(20,891)	(20,237)
Movement in CFR		48,300	(20,173)	(32,142)	(33,137)

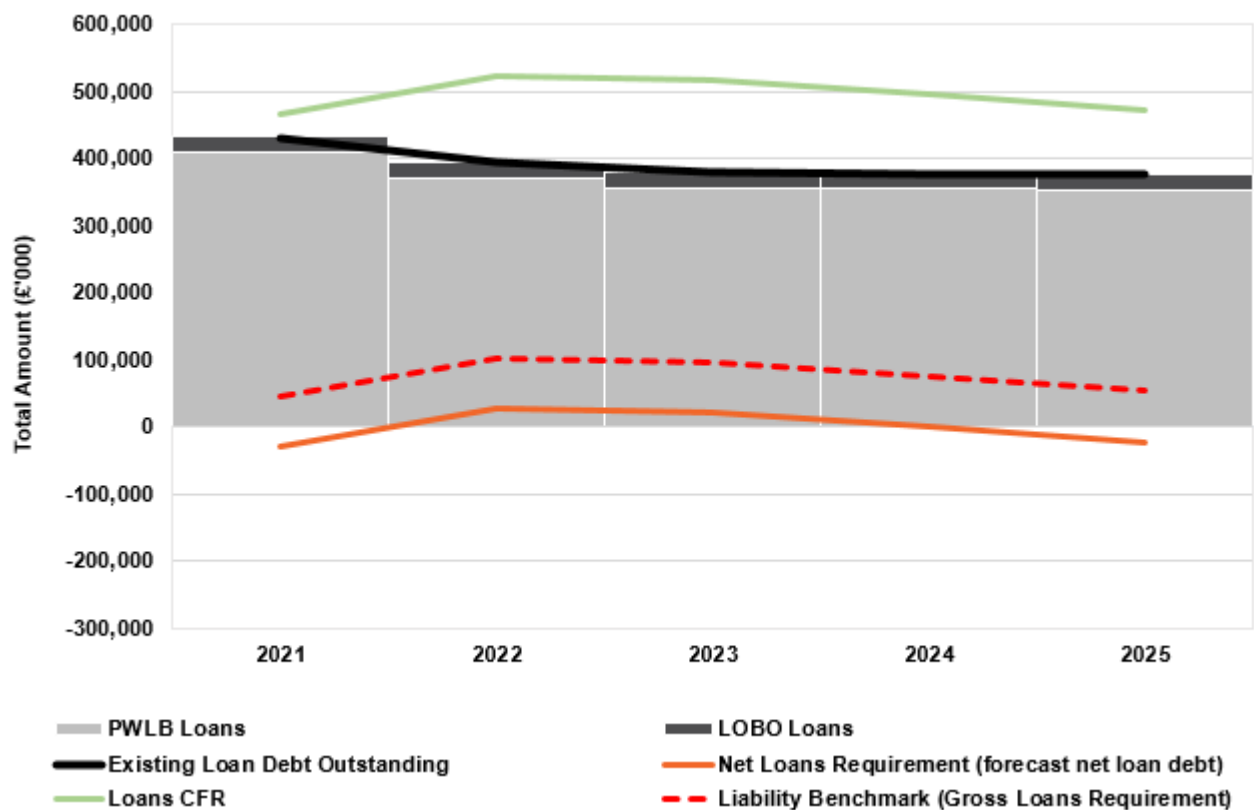
2.3 The Liability Benchmark

A third and new prudential indicator for 2023/24 is the Liability Benchmark (LB). The Council is required to estimate and measure the LB for the forthcoming financial year and the following two financial years, as a minimum, where this Council has provided the full debt maturity profile out to 50+ years as recommended by CIPFA.

There are four components to the LB: -

1. **Existing loan debt outstanding:** the Authority's existing loans that are still outstanding in future years.

2. **Loans CFR:** this is calculated in accordance with the loans CFR definition in the Prudential Code and projected into the future based on approved prudential borrowing and planned MRP. With only approved prudential borrowing being included in the calculation, the Loans CFR will peak after four years where the other inputs are projected forward for 50 years+.
3. **Net loans requirement:** this will show the Council's gross loan debt less treasury management investments at the last financial year-end, projected into the future and based on its approved prudential borrowing, planned MRP and any other major cash flows forecast.
4. **Liability benchmark (or gross loans requirement):** this equals net loans requirement plus short-term liquidity allowance. The short-term liquidity allowance is an adequate (but not excessive) allowance for a level of excess cash to be invested short-term to provide access to liquidity if needed due to short-term cash flow variations, for example.



The Liability benchmark is low due to the high level of investments in comparison to the actual borrowing position, indicating that there is no future borrowing requirement.

2.4 Core funds and expected investment balances

The application of resources (capital receipts, reserves etc.) to either finance capital expenditure or other budget decisions to support the revenue budget will have an ongoing impact on investments unless resources are supplemented each year from new sources

(asset sales etc.). Detailed below are estimates of the year-end balances for each resource and anticipated day-to-day cash flow balances.

Year End Resources	2021/22 Actual £k	2022/23 Estimate £k	2023/24 Estimate £k	2024/25 Estimate £k	2025/26 Estimate £k
Fund balances / reserves	539,842	424,716	386,389	356,852	356,852
Capital receipts	3,560	16,463	7,226	14,913	22,432
Provisions	15,700	20,000	20,000	20,000	2,000
Other	0	0	0	0	0
Total core funds	559,102	461,179	413,615	391,765	381,284
Working capital*	245,903	245,000	245,000	245,000	245,000
Under/over borrowing	(181,631)	(248,910)	(234,412)	(208,069)	(190,835)
Expected investments**	623,374	457,269	424,203	428,696	435,449

*Working capital balances shown are estimated year-end; these may be higher mid-year

**In addition to the core funds balance detailed in the table there are additional resources from 'other bodies funds' which are not used to finance either capital expenditure or revenue budget decisions and have therefore been excluded. However, the cash received from the 'other bodies funds' is invested, is illustrated in paragraph 3.1 Current treasury position and is also included in the annual investment strategy limits

2.5 Minimum Revenue Provision (MRP) policy statement

Under Regulation 27 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, where the Council has financed capital expenditure by borrowing it is required to make a provision each year through a revenue charge, known as Minimum Revenue provision (MRP). The Council is also allowed to undertake additional voluntary payments, the Voluntary Revenue provision (VRP), if required.

The Council is required to calculate a prudent provision of MRP which ensures that the outstanding debt liability is repaid over a period that is reasonably commensurate with that over which the capital expenditure provides benefits. The MRP Guidance gives four ready-made options for calculating MRP, however the Authority can use any other reasonable basis that it can justify as prudent

The MRP policy statement requires Full Council approval in advance of each financial year. The Council is recommended to approve the following MRP Statement:

- a) For capital expenditure incurred before 1 April 2008 (known as supported borrowing), MRP will be based on 4% of the CFR at that date;
- b) From 1 April 2008 for all unsupported borrowing not covered by points c-f, the MRP policy will be;

Asset life method (option 3 of the statutory guidance) – MRP will be based on the estimated life of the assets using equal instalments of principal. In accordance with the regulations this option must also be applied for any expenditure capitalised under a Capitalisation Direction.

The asset life method provides for a reduction in the borrowing need over the asset's life.

- c) For capital expenditure on loans to third parties where the principal element of the loan is being repaid in annual instalments, the capital receipts arising from the principal loan repayments will be used to reduce the CFR instead of MRP. Where no principal repayment is made each year (and the loan can be classified as service expenditure) the Council will not make MRP unless an actual or expected credit loss is recognised on any capital loan and then the MRP charge in the year will not be less than the loss amount. Where a shortfall is expected the S151 Officer will make an individual assessment on a prudent level of MRP to be made.
- d) For capital expenditure on investment / development properties, under the current Government proposed amendments, where loan repayments are received in year those capital receipts will be used to reduce the CFR in that year. However, where no capital receipt is received, or where no future capital receipts are anticipated, a prudent level of MRP will be charged based on the asset life method using equal instalments of principal
- e) For PFI schemes or finance leases, MRP will be charged at an amount equal to the principal element of the annual repayment.
- f) There is no requirement to make MRP for the HRA but there is a requirement for a charge for depreciation to be made. VRP can also be made to reduce outstanding debt in a shorter period.

MRP Overpayments - Under the MRP Guidance any charges made in excess of the statutory (MRP are known as VRP. VRP can, be reclaimed in later years if deemed necessary or prudent. For these sums to be reclaimed in future, this policy must disclose the cumulative overpayment made each year. Up until the 31.3.22 the total VRP overpayments were £42.2m, including £27.2m relating to the HRA.

SECTION 3 - BORROWING

The capital expenditure plans set out in **Section 2** provide details of the service activity of the Council. The treasury management function ensures that the Council's cash is organised in accordance with the relevant professional codes, so that sufficient cash is available to meet this service activity and the Council's capital strategy. This will involve both the organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities. The strategy covers the relevant treasury / prudential indicators, the current and projected debt positions and the annual investment strategy.

3.1 Current portfolio position

The overall treasury management portfolio as at 31 March 2022 and for the position as at 31 December 2022 are shown below for both borrowing and investments.

TREASURY PORTFOLIO				
	actual	actual	current	current
	31.3.22	31.3.22	31.12.22	31.12.22
Treasury investments	£m	%	£m	%
banks	530	81	395	66
building societies	36	5	21	3
local authorities	65	10	99	16
money market funds	7	1	32	5
other	2	0	43	7
Total managed in house	640	98	590	98
Total managed externally – property funds	16	2	11	2
Total Treasury Investments	656	100	601	100
Less other bodies funds	-50		-24	
Total treasury investments excluding other bodies funds	606		577	
Treasury external borrowing	£m	%	£m	%
PWLB	371	94	369	94
LOBOs	24	6	24	6
Total external borrowing	395		393	
Net treasury investments / (borrowing)	211		184	

The Council's current forward projections for borrowing are summarised below. The table shows the actual external debt, against the underlying capital borrowing need, (the Capital Financing Requirement - CFR), highlighting any over or under borrowing.

Forward projections for borrowing	2021/22 Actual £k	2022/23 Estimate £k	2023/24 Estimate £k	2024/25 Estimate £k	2025/26 Estimate £k
External Debt					
Debt at 1 April	431,957	394,689	379,300	377,713	376,084
Expected change in Debt	(37,268)	(15,389)	(1,588)	(1,628)	(11,670)
Other long-term liabilities (OLTL)	153,393	149,431	145,841	141,754	137,582
Expected change in OLTL	(3,962)	(3,590)	(4,087)	(4,172)	(4,232)
Actual gross debt at 31 March	544,120	525,141	519,466	513,667	497,764
The CFR	725,751	774,051	753,878	721,736	688,599
Under / (over) borrowing	181,631	248,910	234,412	208,069	190,835

Within the range of prudential indicators there are several key indicators to ensure that the Council operates its activities within well-defined limits. One of these is that the Council needs to ensure that its gross debt does not, except in the short term, exceed the total of the CFR in the preceding year plus the estimates of any additional CFR for 2023/24 and the following two financial years. This allows some flexibility for limited early borrowing for future years, but ensures that borrowing is not undertaken for revenue or speculative purposes.

The Corporate Director – Resources reports that the Council complied with this prudential indicator in the current year and does not envisage difficulties for the future. This view considers current commitments, existing plans, and the proposals in this budget report.

3.2 Treasury Indicators: limits to borrowing activity

The operational boundary. This is the limit beyond which external debt is not normally expected to exceed. In most cases, this would be a similar figure to the CFR, but may be lower or higher depending on the levels of actual debt and the ability to fund under-borrowing by other cash resources.

Operational boundary	2022/23 Estimate £k	2023/24 Estimate £k	2024/25 Estimate £k	2025/26 Estimate £k
Debt	457,688	445,300	422,713	397,084
Other long-term liabilities	190,841	186,754	182,582	178,350
Total	648,529	632,054	605,295	575,434

The authorised limit for external debt. This is a key prudential indicator and represents a control on the maximum level of borrowing. This represents a legal limit beyond which external debt is prohibited, and this limit needs to be set or revised by the Full Council. It reflects the level of external debt which, while not desired, could be afforded in the short term, but is not sustainable in the longer term.

This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all councils' plans, or those of a specific council, although this power has not yet been exercised.

The Council is asked to approve the following authorised limit:

Authorised limit	2022/23 Estimate £k	2023/24 Estimate £k	2024/25 Estimate £k	2025/26 Estimate £k
Debt	477,688	465,300	442,713	417,084
Other long-term liabilities	190,841	186,754	182,582	178,350
Total	668,529	652,054	625,295	595,434

3.3 Prospects for interest rates

Link Group are the Councils treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. The following table shows their view on future interest rates. Link provided the following forecasts on 19 December. These are forecasts for PWLB certainty rates.

Link Group Interest Rate View	19.12.22												
	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25	Jun-25	Sep-25	Dec-25
BANK RATE	3.50	4.25	4.50	4.50	4.50	4.00	3.75	3.50	3.25	3.00	2.75	2.50	2.50
3 month ave eamings	3.60	4.30	4.50	4.50	4.50	4.00	3.80	3.30	3.00	3.00	2.80	2.50	2.50
6 month ave eamings	4.20	4.50	4.60	4.50	4.20	4.10	3.90	3.40	3.10	3.00	2.90	2.60	2.60
12 month ave earnings	4.70	4.70	4.70	4.50	4.30	4.20	4.00	3.50	3.20	3.10	3.00	2.70	2.70
5 yr PWLB	4.20	4.20	4.20	4.10	4.00	3.90	3.80	3.60	3.50	3.40	3.30	3.20	3.10
10 yr PWLB	4.30	4.40	4.40	4.30	4.10	4.00	3.90	3.80	3.60	3.50	3.40	3.30	3.30
25 yr PWLB	4.60	4.60	4.60	4.50	4.40	4.20	4.10	4.00	3.90	3.70	3.60	3.50	3.50
50 yr PWLB	4.30	4.30	4.30	4.20	4.10	3.90	3.80	3.70	3.60	3.50	3.30	3.20	3.20

The Link forecast for interest rates, updated on 19 December, reflects a view that the Monetary Policy Committee (MPC) are keen to address inflation through rate increases. Bank Rate is at 3.5% currently but is expected to reach a peak of 4.5% in the first six months of 2023. Link anticipate the Bank of England will then loosen monetary policy once the most significant inflationary pressures subside.

The CPI measure of inflation is expected to have peaked at 11.1% in Q4 2022 (currently 10.7%). Despite the cost-of-living pressures, the Bank will continue to monitor wage inflation given a very tight labour market.

The plan to sell £10bn of gilts back into the market each quarter (Quantitative Tightening) has started and will focus on the short, medium and longer end of the curve in equal measure.

In the upcoming months, Link forecasts will be guided not only by economic data releases and clarifications from the MPC over its monetary policies and the Government over its fiscal policies, but the on-going conflict between Russia and Ukraine and the heightened tensions between China/Taiwan/US (which also have the potential to have a wider and negative economic impact).

Public Works Loan Board (PWLB) Rates

- The yield curve movements have become less volatile of late and PWLB 5 to 50 years Certainty Rates are, generally, in the range of 4.10% to 4.80%.
- We view the markets as having built in, already, nearly all the effects on gilt yields of the likely increases in Bank Rate and the elevated inflation outlook.

The balance of risks to the UK economy

- The overall balance of risks to economic growth in the UK is to the downside.

Downside risks to current forecasts for UK gilt yields and PWLB rates include

- Labour and supply shortages prove more enduring and disruptive and depress economic activity (accepting that in the near-term this is also an upside risk to inflation and, thus, rising gilt yields).
- The Bank of England acts too quickly, or too far, over the next year to raise Bank Rate and causes UK economic growth, and increases in inflation, to be weaker than we currently anticipate.
- UK / EU trade arrangements – if there was a major impact on trade flows and financial services due to complications or lack of co-operation in sorting out significant remaining issues.
- Geopolitical risks, for example in Ukraine/Russia, China/Taiwan/US, Iran, North Korea and Middle Eastern countries, which could lead to increasing safe-haven flows.

Upside risks to current forecasts for UK gilt yields and PWLB rates

- The Bank of England is too slow in its pace and strength of increases in Bank Rate and, therefore, allows inflationary pressures to build up too strongly and for a longer period within the UK economy, which then necessitates Bank Rate staying higher for longer than we currently project or even necessitates a further series of increases in Bank Rate.
- The Government acts too quickly to cut taxes and/or increases expenditure in light of the cost-of-living squeeze.
- The pound weakens because of a lack of confidence in the UK Government's fiscal policies, resulting in investors pricing in a risk premium for holding UK sovereign debt.
- Longer term US treasury yields rise strongly and push gilt yields up higher than currently forecast.
- Projected gilt issuance could be too much for the markets to comfortably digest without higher yields.

Borrowing advice: Links long-term (beyond 10 years) forecast for Bank Rate stands at 2.5%. As all PWLB certainty rates are currently above this level, borrowing strategies will need to be reviewed in that context. Better value can generally be obtained at the shorter end of the curve and short-dated fixed Local Authority to Local Authority monies should be considered. Temporary borrowing rates are likely, however, to remain near Bank Rate and may also prove attractive whilst the market waits for inflation, and therein gilt yields, to drop back later in 2023.

Investment Rates

Link’s suggested budgeted earnings rates for investments up to about three months’ duration in each financial year are as follows:

Average earnings in each year	
2022/23 (remainder)	4.00%
2023/24	4.40%
2024/25	3.30%
2025/26	2.60%
2026/27	2.50%
Years 6 to 10	2.80%
Years 10+	2.80%

As there are so many variables at this time, caution must be exercised in respect of all interest rate forecasts. Link continue to monitor events and will update forecasts as and when appropriate.

3.4 Borrowing strategy

The Council is currently maintaining an under-borrowed position. This means that the capital borrowing need, the CFR, has not been fully funded with loan debt as cash supporting the Council’s reserves, balances and cash flow has been used as a temporary measure. This strategy is prudent as medium and longer dated borrowing rates are expected to fall from their current levels once prevailing inflation concerns are addressed by tighter near-term monetary policy (Bank Rate increases over the remainder of 2022 and the first half of 2023).

Against this background and the risks within the economic forecast, caution will be adopted with the 2023/24 treasury operations. The Corporate Director – Strategic Resources will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances:

- *if it was felt that there was a significant risk of a sharp FALL in borrowing rates, then borrowing will be postponed.*

- *if it was felt that there was a significant risk of a much sharper RISE in borrowing rates than that currently forecast, fixed rate funding will be drawn whilst interest rates are lower than they are projected to be in the next few years.*

Any decisions will be reported to the appropriate decision-making body at the next available opportunity.

In order to align with the revised 2021 Treasury Management Code, the Council will consider the need for further borrowing against short term investments, the cash flow forecast and the liquidity requirements of the Council. Where the investment portfolio can sufficiently provide an appropriate level of liquidity without exposing the Council to undue liquidity risk then a policy of avoiding/delaying new borrowing will be deployed.

This will run down cash balances and avoid the 'cost of carry' – any borrowing undertaken that results in a temporary increase in investments will usually incur a revenue loss between borrowing costs and investment returns. However, liquidity forecasts need to be carefully reviewed to avoid incurring higher borrowing costs in the future when the Council may not be able to avoid new borrowing to finance capital expenditure and/or the refinancing of maturing debt.

To comply with the revised Treasury Management Code, liquidity risk management is considered where 'This organisation will not borrow earlier than required to meet cash flow needs unless there is a clear business case for doing so and will only do so for the current capital programme, to fund future debt maturities, or to ensure an adequate level of short-term investments to provide liquidity for the organisation'

Any decisions will be reported to the Executive and Audit Committee at the next available opportunity.

3.5 Policy on borrowing in advance of need

The Council will not borrow more than or in advance of its needs purely to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates and will be considered carefully to ensure that value for money can be demonstrated, there is a clear business case for doing so and that the Authority can ensure the security of such funds.

Risks associated with any borrowing in advance activity will be subject to prior appraisal and subsequent reporting through the mid-year or annual reporting mechanism.

3.6 Debt rescheduling

Rescheduling of current borrowing in the debt portfolio is unlikely to occur as there is still a very large difference between premature redemption rates and new borrowing rates.

However, given the current forecasts for the future interest rates this will be kept under review and if rescheduling is done, it will be reported to the Executive and Audit Committee as part of the quarterly Treasury Management Reports following its action.

3.7 New financial institutions as a source of borrowing and / or types of borrowing

Currently the PWLB Certainty Rate is set at gilts + 80 basis points. However, consideration may still need to be given to sourcing funding from the following sources for the following reasons:

- Local authorities - primarily shorter dated maturities out to 3 years are generally still cheaper than the Certainty Rate.
- Financial institutions - primarily insurance companies and pension funds but also some banks, out of forward dates where the objective is to avoid a “cost of carry” or to achieve refinancing certainty in the short term.

Any consideration of alternative sources of funding, other than those highlighted above, will only be undertaken in conjunction with treasury advisors, Link.

SECTION 4 - ANNUAL INVESTMENT STRATEGY

4.1 Investment policy – management of risk

The Department of Levelling Up, Housing and Communities (DLUHC) and CIPFA have extended the meaning of ‘investments’ to include both financial and non-financial investments. This report deals solely with financial investments, (as managed by the treasury management team). Non-financial investments, essentially the purchase of income yielding assets, are covered in the Capital Strategy, (**ANNEX 2**).

The Council’s investment policy has regard to the following: -

- DLUHC’s Guidance on Local Government Investments (“the Guidance”);
- CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes 2021 (“the Code”); and
- CIPFA Treasury Management Guidance Notes 2021.

The Council’s investment priorities will be security first, portfolio liquidity second and then yield, (return). The Council will aim to achieve the optimum return (yield) on its investments commensurate with proper levels of security and liquidity and within the Council’s risk appetite.

In the current economic climate, it is considered appropriate to maintain a degree of liquidity to cover cash flow needs but to also consider “laddering” investments for periods up to 12 months with high credit rated financial institutions, whilst investment rates remain elevated, as well as wider range fund options.

The above guidance from the DLUHC and CIPFA place a high priority on the management of risk. The Council has adopted a prudent approach to managing risk and defines its risk appetite by the following means: -

- a) Minimum acceptable **credit criteria** are applied in order to generate a list of highly creditworthy counterparties. This also enables diversification and thus avoidance of concentration risk. The key ratings used to monitor counterparties are the short term and long-term ratings.
- b) **Other information:** ratings will not be the sole determinant of the quality of an institution; it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment will also take account of information that reflects the opinion of the markets. To achieve this consideration, the Council will engage with its advisors to maintain a monitor on market pricing such as “**credit default swaps**” and overlay that information on top of the credit ratings.
- c) **Other information sources** used will include the financial press, share price and other such information pertaining to the financial sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.
- d) The Council has defined the list of types of investment instruments that the treasury management team are authorised to use.

- **Specified investments** are those with a high level of credit quality and subject to a maturity limit of one year or have less than a year left to run to maturity if originally, they were classified as being non-specified investments solely due to the maturity period exceeding one year.
 - **Non-specified investments** are those with less high credit quality, may be for periods in more than one year, and/or are more complex instruments which require greater consideration by members and officers before being authorised for use. Once an investment is classed as non-specified, it remains non-specified all the way through to maturity i.e. an 18 month deposit would still be non-specified even if it has only 11 months left until maturity.
- e) **Non-specified investments limit.** The Council has determined that it will limit the maximum total exposure to non-specified investments as being 20% of the total investment portfolio.
 - f) **Lending limits**, (amounts and maturity), for each counterparty will be set through applying the matrix table in **(paragraph 4.2)**.
 - g) **Transaction limits** are set for each type of investment in through applying the matrix table in **paragraph 4.2**.
 - h) The Council will set a limit for the amount of its investments which are invested for **longer than 365 days (paragraph 4.4)**,
 - i) Investments will only be placed with counterparties from countries with a specified minimum **sovereign rating, (paragraph 4.3)**
 - j) The Council has engaged **external consultants**, to provide expert advice on how to optimise an appropriate balance of security, liquidity and yield, given the risk appetite of the Council in the context of the expected level of cash balances and need for liquidity throughout the year.
 - k) All investments will be denominated in **sterling**.
 - l) The change in accounting standards under IFRS 9, has resulted in this authority considering the implications of investment instruments which could result in an adverse movement in the value of the amount invested and resultant charges at the end of the year to the General Fund. In November 2018, the Ministry of Housing Communities and Local Government (now DLUHC), concluded a consultation by announcing statutory override to delay implementation of IFRS 9 for five years to 31 March 2023 to allow English local authorities time to adjust their portfolio of all pooled investment instruments. DLUHC launched an 8-week consultation on the future of the IFRS 9 statutory override from 11 August to 7 October 2022 with the aim of this consultation being to collect the views of authorities and other stakeholders, and to collect additional information needed to understand the financial risks associated with both continuing the statutory override or allowing reversion to the Code of practice on local authority accounting. The department has now considered the responses to the consultation and Ministers have decided to extend the existing IFRS 9 statutory accounting override for a further 2 years until 31 March 2025.

However, the Council will also pursue **value for money** in treasury management and will monitor the yield from investment income against appropriate benchmarks for investment performance. Regular monitoring of investment performance will be carried out during the year.

Changes in risk management policy from last year

The above criteria are for the new unitary North Yorkshire Council. The risk management policy is broadly in line with the North Yorkshire County Council policy which was unchanged from the previous year.

4.2 Creditworthiness policy

The Council applies the creditworthiness service provided by the Link Group. This service employs a sophisticated modelling approach utilising credit ratings from the three main credit rating agencies - Fitch, Moody's and Standard & Poor's. The credit ratings of counterparties are supplemented with the following overlays:

- “watches” and “outlooks” from credit rating agencies;
- CDS spreads that may give early warning of likely changes in credit ratings; and
- sovereign ratings to select counterparties from only the most creditworthy countries.

This modelling approach combines credit ratings, and any assigned Watches and Outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads. The end product of this is a series of colour coded bands which indicate the relative creditworthiness of counterparties. These colour codes are used by the Council to determine the suggested duration for investments.

The Link Group creditworthiness service uses a wider array of information other than just primary ratings. Furthermore, by using a risk weighted scoring system, it does not give undue preference to just one agency's ratings.

Typically, the minimum credit ratings criteria the Council use will be a short term rating (Fitch or equivalents) of F1 and a long term rating of A-. There may be occasions when the counterparty ratings from one rating agency are marginally lower than these ratings but may still be used. In these instances, consideration will be given to the whole range of ratings available, or other topical market information, to support their use.

All credit ratings will be monitored daily. The Council is alerted to changes to ratings of all three agencies through its use of the Link Group creditworthiness service.

If a downgrade results in the counterparty / investment scheme no longer meeting the Council's minimum criteria, its further use as a new investment will be withdrawn immediately.

In addition to the use of credit ratings the Council will be advised of information in movements in Credit Default Swap (CDS) spreads against the iTraxx European Financials benchmark and other market data on a daily basis via its Passport website, provided exclusively to it by Link Group. Extreme market movements may result in downgrade of an institution or removal from the Council's lending list.

Sole reliance will not be placed on the use of this external service. In addition, the Council will also use market data and market information, as well as information on any external support for banks to help support its decision making process.

Creditworthiness

Significant levels of downgrades to Short- and Long-Term credit ratings have not materialised since the pandemic in March 2020. In the main, where they did change, any alterations were limited to Outlooks.. However, more recently the UK sovereign debt rating has been placed on Negative Outlook by the three major rating agencies in the wake of recent government policy. Although markets have calmed more recently, the outcome of the rating agency reviews is unknown at present, but it is possible the UK sovereign debt rating will be downgraded. Accordingly, when setting minimum sovereign debt ratings, this Authority will not set a minimum rating for the UK.

CDS prices

Although bank CDS prices, (these are market indicators of credit risk), spiked upwards in the last 6 months, they have returned to more average levels since then. However, sentiment can easily shift, so it will remain important to undertake continual monitoring of all aspects of risk and return in the current circumstances. Link monitor CDS prices as part of their creditworthiness service to local authorities and the Council has access to this information.

Environmental, social and governance (ESG)

This is a developing area, and for the purpose of the Council's treasury investments the Council's ESG policies and the environmental and climate change policy, will have a trickle-down effect into Treasury Management activity. Investments will still comply with SLY, Security, Liquidity, Yield requirements in the first instance. Treasury Management Practice 1 – Risk Management – has been expanded to include a high-level reference to ESG aspects of Treasury Management where creditworthiness and counterparty policies are in place to mitigate investment risk where the ESG risks are also incorporated.

4.3 Other Limits

Due care will be taken to consider the exposure of the Council's total investment portfolio to non-specified investments, countries, groups and sectors.

- a) Non-specified treasury management investment limit. The Council has determined that it will limit the maximum total exposure of treasury management investments to non-specified treasury management investments as being £60m, being approximately 10% of the total treasury management investment portfolio.
- b) Country limit. The Council has determined that, for counterparties outside the UK, it will only use approved counterparties from countries with a minimum sovereign credit rating of AA- from Fitch or equivalent. The list of countries that qualify using this credit criteria as at the date of this report are shown in Appendix D. This list will be added to, or deducted from, by officers should ratings change in accordance with this policy.
- c) **Countries / Groups / Sector limits.** In addition
 - Limits in place will apply to a group of companies/institutions
 - Sector limits will be monitored regularly for appropriateness

4.4 Investment strategy

In-house funds. Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months). Greater returns are usually obtainable by investing for longer periods. The current shape of the yield curve suggests that is the case at present, but there is the prospect of Bank Rate peaking in the first half of 2023 and possibly reducing as early as the latter part of 2023 so an agile investment strategy would be appropriate to optimise returns.

Accordingly, where cash sums can be identified that could be invested for longer periods, the value to be obtained from longer-term investments will be carefully assessed.

Investment returns expectations. The current interest rate forecast assumes interest rates will continue to raise until June 2023, with the first fall expected March 2024.

The suggested budgeted investment earnings rates for returns on investments placed for periods up to about three months during each financial year are as follows:

Average earnings in each year	
2022/23 (remainder)	4.00%
2023/24	4.40%
2024/25	3.30%
2025/26	2.60%
2026/27	2.50%
Years 6 to 10	2.80%
Years 10+	2.80%

As there are so many variables at this time, caution must be exercised in respect of all interest rate forecasts.

For its cash flow generated balances (cash required for liquidity purposes), the Council will seek to utilise its instant access and notice accounts, money market funds and short-dated deposits, (overnight to 100 days) to benefit from the compounding of interest.

Change of investment strategy - Although the Council's investment strategy is new, the approach is consistent with the prior year investment strategies of the previous individual councils weighted towards the largest investment portfolios.

Investment treasury indicator and limit - total principal funds invested for greater than 365 days. These limits are set with regard to the Council's liquidity requirements and to reduce the need for early sale of an investment and are based on the availability of funds after each year-end.

The Council is asked to approve the following treasury indicator and limit:

Upper limit for principal sums invested for longer than 365 days			
	2022/23	2023/24	2024/25
	£m	£m	£m
Principal sums invested for longer than 365 days	60	60	60
Current investments as at 31.03.222 in excess of 1 year maturing in each year	0	0	0

Investment performance / risk benchmarking

This Council will use investment benchmarks to assess the investment portfolio performance for internally and externally managed funds.

Internal investment portfolio - The SONIA (Sterling Overnight Index Average) rate will be used to compare the yield on the internal investments portfolio. The measure is used to demonstrate the performance of the organisation. SONIA is the rate published each day by the Bank of England and reflects overnight rates paid on eligible sterling denominated deposit transactions conducted the previous day. The backward looking average 7 day compound rate will be used over a quarter for comparison with the actual portfolio.

It is important to understand that the benchmark has changed from previous years as the 7-day LIBID rate is no longer published by the Bank of England. This benchmark is an active benchmark as it reflects the movement of the market. Using the backward-looking SONIA rates data reflects the environment in which investments are made.

This benchmark is a simple guide to maximum risk, so could be breached from time to time, depending on movements in interest rates and counterparty criteria. The purpose of the benchmark is that officers will monitor the current and trend position and amend the operational strategy to manage risk as conditions change. Any breach of the benchmark will be reported, with supporting reasons in the quarterly monitoring reports.

Yield - the Council has adopted to measure the internal investment portfolio yield compared to the industry benchmark rates

- **Average Investment return against the backward looking 7-day SONIA compound rate**

External investment portfolio - The performance of externally managed funds will be benchmarked against an appropriate published index depending on the fund type as described in section below.

4.6 External Fund Managers

The Council has £16.3m externally managed investments on a pooled basis across the following funds:-

- Blackrock UK Property Fund

- Threadneedle Property Unit Trust
- Fidelity UK Real Estate Fund
- Federated Hermes Property Unit Trust

The Council's external fund manager(s) will comply with the Annual Investment Strategy. The Council fully appreciates the importance of monitoring the activity and performance of its appointed external fund manager and to aid this assessment, the Council is provided with a suite of regular reports.

In addition to formal reports, the Council also meets with representatives of the fund manager. These meetings allow for additional scrutiny of the manager's activity, discussions on the outlook for the fund(s) as well as the wider markets.

4.7 End of year investment report

At the end of the financial year, the Council will report on its investment activity as part of its Annual Treasury Report.

5 APPENDICES

- A. Prudential and treasury indicators
- B. Treasury management practice 1 – credit and counterparty risk management
- C. Approved Lending List
- D. Approved sources of long and short term borrowing
- E. Approved countries for investments
- F. Treasury management scheme of delegation
- G. The treasury management role of the section 151 officer

THE CAPITAL PRUDENTIAL AND TREASURY INDICATORS 2023/24 – 2025/26

The Council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

Capital expenditure

This indicator shows a breakdown of planned capital expenditure by service. If there were any capital expenditure plans defined as projects for yield (would be a capital investment made wholly or mainly to generate financial return) these would be shown in a separate line.

Capital expenditure	2021/22 Actual	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate	2025/26 Estimate
Children and Young People's Service	24,523	49,683	16,625	5,100	16,238
Health and Adult Services	1,778	5,144	1,115	115	8,111
Resources	40,174	66,669	16,680	9,278	10,089
Community Development	111,109	71,050	9,066	1,235	2,975
Environment	113,322	123,254	52,524	40,725	2,265
Local Engagement	14,615	499	65	405	255
Non-HRA	305,521	316,299	96,075	56,858	39,933
HRA	16,763	35,308	17,649	14,505	8,744
Total	322,284	351,607	113,724	71,363	48,677

Affordability prudential indicators

The previous sections cover the overall capital and control of borrowing prudential indicators, but within this framework prudential indicators are also required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Council's overall finances. The Council is asked to approve the following indicators:

a. Ratio of financing costs to net revenue stream

This indicator identifies the trend in the cost of capital, (borrowing and other long-term obligation costs net of investment income), against the net revenue stream.

%	2021/22 Actual	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate	2025/26 Estimate
Non-HRA	9.5	4.6	5.0	4.5	4.2
HRA	63.6	22.7	20.5	21.1	20.6

b. HRA debt ratios

	2021/22 Actual	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate	2025/26 Estimate
HRA debt £m	101.8	100.7	99.5	98.4	97.1
HRA revenues £m	38.6	38.3	40.8	41.4	42.7
Ratio of debt to revenues %	2.6	2.6	2.4	2.4	2.3

	2021/22 Actual	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate	2025/26 Estimate
HRA debt £m	101.8	100.7	99.5	98.4	97.1
Number of HRA dwellings	8,350	8,332	8,312	8,284	8,256
Debt per dwelling £k	12.2	12.1	12.0	11.9	11.8

Maturity structure of borrowing

Maturity structure of borrowing. These gross limits are set to reduce the Council's exposure to large sums falling due for refinancing and are required for upper and lower limits.

The Council is asked to approve the following treasury indicators and limits:

Maturity structure of borrowing 2022/23		
	Lower	Upper
Under 12 months	0%	15%
12 months to 2 years	0%	15%
2 years to 5 years	0%	15%
5 years to 10 years	0%	25%
10 years to 20 years	0%	25%
20 years to 30 years	0%	45%
30 years to 40 years	0%	45%
40 years and above	0%	45%

TREASURY MANAGEMENT PRACTICE (TMP1) – CREDIT AND COUNTERPARTY RISK MANAGEMENT

This appendix should be used in conjunction with sections 4.2 Creditworthiness policy and 4.3 Other limits.

SPECIFIED INVESTMENTS: All such investments will be sterling denominated, with **maturities up to a maximum of 1 year**, meeting the minimum 'high' quality criteria where applicable. (Non-specified investments which would be specified investments apart from originally being for a period longer than 12 months, will be classified as being specified once the remaining period to maturity falls to under twelve months.)

NON-SPECIFIED INVESTMENTS: These are any investments which do not meet the specified investment criteria. A maximum of 20% will be held in aggregate in non-specified investment.

A variety of investment instruments will be used, subject to the credit quality of the institution, and depending on the type of investment made, it will fall into one of the above categories.

The criteria, time limits and monetary limits applying to institutions or investment vehicles are:

SPECIFIED INVESTMENTS:

(All such investments will be sterling denominated, with **maturities up to a maximum of 1 year**, meeting the minimum 'high' rating criteria where applicable)

	Minimum 'High' Credit Criteria	Use
Debt Management Agency Deposit Facility	--	In-house
Term deposits – local authorities	--	In-house
Term deposits – banks and building societies **	Colour Band Green	In-house

Term deposits with nationalised banks and banks and building societies

	Minimum Credit Criteria	Use
UK part nationalised banks	Colour Band Blue	In-house

Other specified investments

	Minimum 'High' Credit Criteria	Use
UK Government Gilts	UK sovereign rating	In-house buy and hold and Fund Managers
Bonds issued by multilateral development banks	AA or Government backed	In-house buy and hold and Fund Managers
Bonds issued by a financial institution which is explicitly guaranteed by the UK Government e.g., National Rail	AA or Government backed	In-house buy and hold and Fund Managers
Treasury Bills	UK sovereign rating	In house and Fund Managers

Collective Investment Schemes structured as Open-Ended Investment Companies (OEICs): -

	Minimum 'High' Credit Criteria	Use
1a. Money Market Funds (CNAV)	Funds must be AAA rated (MMF rating)	In-house and Fund Managers
1b. Money Market Funds (LVNAV)	Funds must be AAA rated (MMF rating)	In-house and Fund Managers
1c. Money Market Funds (VNAV)	Funds must be AAA rated (MMF rating)	In-house and Fund Managers

Accounting treatment of investments - The accounting treatment may differ from the underlying cash transactions arising from investment decisions made by this Council. To ensure that the Council is protected from any adverse revenue impact, which may arise from these differences, we will review the accounting implications of new transactions before they are undertaken.

NON-SPECIFIED INVESTMENTS: A maximum of £60m will be held in aggregate in non-specified investment

	Minimum Credit Criteria	Use	Maximum investments	Maximum maturity period
Term deposits – local authorities with maturities greater than 1 year	--	In-house	£60m	5 yrs
Term deposits – banks and building societies with maturities greater than 1 year	Colour band Purple	In-house	£60m	5 yrs
Certificates of deposit issued by banks and building societies with maturities greater than 1 year	Colour band Purple	In-house	£60m	5 yrs
Certificates of deposit issued by banks and building societies with maturities greater than 1 year	Short-term F1, Long-term A- (Fitch or equivalent)	Fund Managers	£60m	5 yrs
Collateralised deposits	UK sovereign rating	In-house	£60m	5 yrs
UK Government Gilts with maturities greater than 1 year	UK sovereign rating	In-house and Fund Managers	£60m	5 yrs
Bonds issued by multilateral development banks with maturities greater than 1 year	AA or Government backed	In-house and Fund Managers	£60m	5 yrs
Collective Investment Schemes structured as Open-Ended Investment Companies (OEICs)				
Property Funds	Organisations assessed as having “high credit quality”	In-house after consultation with Treasury Management Advisor	£60m	10 yrs

APPENDIX C

APPROVED LENDING LIST 2023/24

Maximum sum invested at any time (The overall total exposure figure covers both Specified and Non-Specified investments)

	Country	Specified Investments		Non-Specified	
		Total Exposure £m	Time Limit *	Total Exposure £m	Time Limit *
UK "Nationalised" banks / UK banks with UK Central Government involvement					
Royal Bank of Scotland PLC (RFB)	GBR	90.0	365 days	-	-
National Westminster Bank PLC (RFB)	GBR				
UK "Clearing Banks", other UK based banks and Building Societies					
Santander UK PLC (includes Cater Allen)	GBR	80.0	6 months	-	-
Barclays Bank PLC (NRFB)	GBR	90.0	6 months	-	-
Barclays Bank UK PLC (RFB)	GBR				
Bank of Scotland PLC (RFB)	GBR	80.0	6 months	-	-
Lloyds Bank PLC (RFB)	GBR				
Lloyds Bank Corporate Markets PLC (NRFB)	GBR				
Goldman Sachs International Bank	GBR	80.0	6 months	-	-
Sumitomo Mitsui	GBR	80.0	6 months	-	-
Standard Chartered Bank	GBR	80.0	6 months	-	-
Handelsbanken	GBR	80.0	365 days	-	-
Nationwide Building Society	GBR	40.0	6 months	-	-
Leeds Building Society	GBR	40.0	100 Day	-	-
Coventry Building Society	GBR	40.0	6 months	-	-
High Quality Foreign Banks					
National Australia Bank	AUS	40.0	365 days	-	-
Credit Industriel et Commercial	FRA	40.0	365 days	-	-
Landesbank Hessen-Thuringen Girozentrale (Helaba)	GER	40.0	365 days	-	-
DBS (Singapore)	SING	40.0	365 days	-	-
Bayerische Landesbank	GER	40.0	6 months	-	-
National Bank of Canada	CAN	40.0	6 months	-	-
Local Authorities					
County / Unitary / Metropolitan / District Councils		30.0	365 days	5.0	5 years
Police / Fire Authorities		30.0	365 days	5.0	5 years
National Park Authorities		30.0	365 days	5.0	5 years
Other Deposit Takers					
Money Market Funds		40.0	n/a - liquid	-	-
Property Funds		5.0	not listed	5.0	10 years
UK Debt Management Account		150.0	365 days	-	-

APPROVED SOURCES OF LONG TERM AND SHORT TERM BORROWING

The approved sources and types of funding are shown below.

On Balance Sheet	Fixed	Variable
PWLB	●	●
Municipal bond agency	●	●
Local authorities	●	●
Banks	●	●
Pension Funds	●	●
Insurance companies	●	●
UK Infrastructure Bank	●	●
Market (long-term)	●	●
Market (temporary)	●	●
Market (LOBOs)	●	●
Stock issues	●	●
Local temporary	●	●
Local Bonds	●	
Local authority bills	●	●
Overdraft		●
Negotiable Bonds	●	●
Internal (capital receipts & revenue balances)	●	●
Commercial Paper	●	
Medium Term Notes	●	
Finance leases	●	●

APPROVED COUNTRIES FOR INVESTMENTS

This list is based on those countries which have sovereign ratings of AA- or higher, (we show the lowest rating from Fitch, Moody's and S&P) and also, (except - at the time of writing - for Hong Kong, Norway and Luxembourg), have banks operating in sterling markets which have credit ratings of green or above in the Link credit worthiness service.

Based on lowest available rating

AAA

- Australia
- Denmark
- Germany
- Luxembourg
- Netherlands
- Norway
- Singapore
- Sweden
- Switzerland

AA+

- Canada
- Finland
- U.S.A.

AA

- Abu Dhabi (UAE)
- France

AA-

- Belgium
- Hong Kong
- Qatar
- **U.K.**

TREASURY MANAGEMENT SCHEME OF DELEGATION

(i) Council

- receiving and reviewing reports on treasury management policies, practices and activities.
- approval of annual strategy.

(ii) Executive

- approval of/amendments to the organisation's adopted clauses, treasury management policy statement and treasury management practices.
- budget consideration and approval.
- approval of the division of responsibilities.
- receiving and reviewing regular monitoring reports and acting on recommendations.
- approving the selection of external service providers and agreeing terms of appointment.

(iii) Audit Committee

- reviewing the treasury management policy and procedures and making recommendations to the responsible body.

THE TREASURY MANAGEMENT ROLE OF THE SECTION 151 OFFICER

The Council delegates responsibility for the implementation and regular monitoring of its Treasury Management policies and practices to the Executive, and for the execution and administration of Treasury Management decisions to the Corporate Director - Resources, who will act in accordance with the Council's TMPs, as well as CIPFA's Standard of Professional Practice on Treasury Management. In addition, the Council delegates responsibility for the execution and administration of Treasury Management decisions to the Corporate Director - Resources, including any borrowing and debt rescheduling.

The S151 (responsible) officer

- recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance.
- submitting regular treasury management policy reports.
- submitting budgets and budgets variations.
- receiving and reviewing management information reports.
- reviewing the performance of the treasury management function.
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function.
- ensuring the adequacy of internal audit and liaising with external audit.
- recommending the appointment of external service providers.
- preparation of a capital strategy to include capital expenditure, capital financing, non-financial investments and treasury management, with a long-term timeframe
- ensuring that the capital strategy is prudent, sustainable, affordable and prudent in the long term and provides value for money
- ensuring that due diligence has been carried out on all treasury and non-financial investments and is in accordance with the risk appetite of the authority
- ensure that the authority has appropriate legal powers to undertake expenditure on non-financial assets and their financing
- ensuring the proportionality of all investments so that the authority does not undertake a level of investing which exposes the authority to an excessive level of risk compared to its financial resources
- ensuring that an adequate governance process is in place for the approval, monitoring and ongoing risk management of all non-financial investments and long-term liabilities
- provision to members of a schedule of all non-treasury investments including material investments in subsidiaries, joint ventures, loans and financial guarantees
- ensuring that members are adequately informed and understand the risk exposures taken on by an authority
- ensuring that the authority has adequate expertise, either in house or externally provided, to carry out the above

- creation of Treasury Management Practices which specifically deal with how non treasury investments will be carried out and managed, to include the following: -
 - *Risk management (TMP1 and schedules), including investment and risk management criteria for any material non-treasury investment portfolios.*
 - *Performance measurement and management (TMP2 and schedules), including methodology and criteria for assessing the performance and success of non-treasury investments.*
 - *Decision making, governance and organisation (TMP5 and schedules), including a statement of the governance requirements for decision making in relation to non-treasury investments; and arrangements to ensure that appropriate professional due diligence is carried out to support decision making.*
 - *Reporting and management information (TMP6 and schedules), including where and how often monitoring reports are taken.*
 - *Training and qualifications (TMP10 and schedules), including how the relevant knowledge and skills in relation to non-treasury investments will be arranged.*

CAPITAL STRATEGY

1.0 INTRODUCTION

- 1.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) in 2021 revised the Prudential Code and Treasury Management Code which require local authorities to produce a Capital Strategy to demonstrate that capital expenditure and investment decisions contribute to the delivery of North Yorkshire Council's plans and provisions of services whilst taking account of stewardship, value for money, prudence, sustainability, proportionality and affordability. This requirement was first introduced in 2018/19.
- 1.2 The purpose of the Capital Strategy is to set out how the Council proposes to deploy its capital resources effectively to achieve its corporate and service objectives. The Capital Strategy takes into account other relevant Council strategies and, policies as well as the views of partners and interested parties with whom the Council is involved. The resources which are forecast to be available to fund capital investment and the effect of that investment on the Council's revenue budget are also considered. The Capital Strategy will serve as a useful point of reference when determining or reviewing the Council's Capital Five Year Spending Plan (known as the Capital Plan).
- 1.3 **Re-organisation** - As background, under Government proposals, the North Yorkshire (Structural Changes) Order 2022 was laid before Parliament in January 2022. The Order sets out plans for the reorganisation of local government in the County of North Yorkshire where all services will be provided from 1 April 2023 by a single unitary council, North Yorkshire Council. The Council will replace North Yorkshire County Council (NYCC) and the seven District / Borough councils – Craven, Hambleton, Harrogate, Richmondshire, Ryedale, Scarborough and Selby – which will be abolished. The Capital Strategy for the new unitary council will come into effect as from 1 April 2023 for the financial year 2023/24.
- 1.4 **Scope and Reporting** - The Council has chosen to report the Capital Strategy separately from the Treasury Management Strategy Statement (TMSS). The Council will report treasury investments through the TMSS only and non-treasury investments will be reported through the Capital Strategy. This allows the core treasury investment reporting to focus on security, liquidity and yield principles, and the non-treasury investments, both service and commercial, to concentrate on capital expenditure in relation to assets.
- 1.5 **Our Vision** - We want to build on North Yorkshire's natural capital, strong local economy and resilient communities, to improve the way local services are delivered and support a good quality of life for all.

The Council is committed to seeking a better, fairer future for everyone, keeping services local and going even further. With more locally based staff and more local access points to Council services the community is provided with a bigger say in how these are delivered.

Along with savings and efficiencies, the new NYC provides an opportunity to apply our considerable combined asset base to facilitate local economic growth and regeneration and drive improved outcomes for residents, businesses and visitors to our area.

2.0 KEY AMBITIONS, OBJECTIVES AND PRIORITIES

2.1 The Council's ambitions, objectives and priorities are shown within the Council Plan the cornerstone of our policy framework. It provides the basis for all that we do and sets out the principles, priorities and ambitions for the Council and drives the many other plans and strategies including the Capital Strategy that supports informed decision making including establishing the need for capital investment and the required outcomes from that investment.

2.2 The Capital Strategy is key to support long term investment decision enabling the delivery of the Council's Ambition. It is a key strategy document and forms part of the Council's revenue, capital, balance sheet and reserves planning. It provides:

- A long-term view of capital expenditure plans and any financial risks to which the Council is exposed;
- Ensuring due regard to the long-term financing, affordability implications, potential risks and the implications for future financial sustainability.
- A clear overview of the Council's asset management planning arrangements, prioritisation process and monitoring.

3.0 EXTERNAL FACTORS AND PARTNER INFLUENCES

3.1 The Council's capital investment plans are influenced by a number of external parties and factors: central government and its agencies, legislation requirements for capital works, partner organisations, businesses, developers and by the needs and views of other interested parties, particularly those of the residents

3.2 **Government policy and funding** – The Government's focus on 'levelling up' the UK and the proposed devolution deals aim to unlock greater funding for York and North Yorkshire to lead on delivering outcomes

3.3 **Legislation and guidance** - In 2004, local authorities were provided with the flexibility to make their own capital investment decisions. Legislation, guidance and professional codes of practice were introduced to support decision making and ensure investment and borrowing is prudent, sustainable and affordable. The Council has complied with these principles since their introduction and subsequent updates. The Prudential Code and Treasury Management Code were revised in December 2021 primarily in response to concerns regarding commercial investment undertaken solely for financial yield.

- Updated and additional prudential indicators, monitoring, reporting as well as creation of Investment Management Practices for Service and Commercial investments.
- Confirmation of approach to 'Proportionality' and risk to service delivery where borrowing is undertaken primarily to generate a financial return.
- Setting out an approach for the inclusion of Environmental, Social and Governance issues in developing capital investment.
- Reviewing existing commercial or service investments to divest where appropriate.

- A Council must not borrow to invest primarily for financial return applies with immediate effect, with the loss of borrowing ability from the PWLB being an immediate consequence.

3.4 Local stakeholders - The Council works with a wide range of partners from the public, private, voluntary and community sectors, including a new combined authority from April 2024, all of which have an influence over its spending priorities. Relationships with partners, including those concerning capital matters, will be governed by the Council's Local Code of Corporate Governance and the Partnership Governance guidance.

Wherever possible the Council will seek to work in partnership with others to deliver its capital investment programme in order to provide facilities which meet its own and partners' needs. When working with the private sector, the objective will be to maximise the benefits to the Council and the community from any projects, both in terms of outputs and in relation to obtaining funding for the project.

The Council has a key role in the Local Enterprise Partnership's (LEP).

The Council is also joint shareholders in Yorwaste (waste management company) and partners in the public private partnership of the Allerton Park Waste Recovery Plant

4.0 INTERNAL STRATEGIC INFLUENCES

4.1 The Council's capital investment plans are influenced by a number of factors: the corporate ambitions within the Council Plan, existing commitments on revenue and funding resources, other Council policies, strategies and plans that comply with financial regulations and legislation.

4.2 **Council priorities** - The Council Plan has five corporate ambitions which will guide the development of the Capital Five Year Spending Plan. Capital investment expenditure including non-treasury investment projects are in line with these overall objectives as well as individual service aims. The Council's ambitions for North Yorkshire are:

Place and Environment

- A clean, environmentally sustainable and attractive place to live, work and visit
- A well connected and planned place with good transport links and digital connectivity
- Communities are supported and work together to improve their local area
- Good quality, affordable and sustainable housing that meets the needs of our communities

Economy

- Economically sustainable growth that enables people and places to prosper
- Culture, heritage, arts and sustainable tourism all play their part in the economic growth of the county
- New and existing businesses can thrive and grow
- North Yorkshire has a high profile, is influential nationally and receives its fair share of resources

Health and Wellbeing

- People are supported to have a good quality of life and enjoy active and healthy lifestyles
- Reduced variations in health through tackling the root causes of inequality
- In times of hardship, support is provided to those that need it most
- People can access good public health services and social care across our different communities

People

- People are free from harm and feel safe and protected
- People can achieve their full potential through lifelong education and learning
- Vulnerable people are supported by strengthening families or other appropriate networks
- People have control and choice in relation to their independence and social care support

Organisation

- Good quality, value for money services that are customer focused and accessible to all
- A well-led and managed, financially sustainable and forward- thinking council
- A diverse and inclusive council, where employees are supported and valued
- A carbon neutral council

4.3 Other Council strategies and plans driving investment - Capital Schemes must comply with other Council policies, strategies and, as well as contract procedure rules, financial regulations and with legislation, such as the Disability Discrimination Act. Important linking documents will include:

- Council's Constitution including Contract and Financial Procedure Rules
- Council Plan
- Medium Term Financial Strategy
- Capital Plan
- Treasury Management Strategy Statement
- Individual Service Plans

5.0 CAPITAL INVESTMENT PLAN AND PLANNING PROCESS

5.1 Capital expenditure plans - The Council's strategies and plans support the need for capital investment to enable required outcomes. The Council has a responsibility to apply an affordable, prudent and sustainable approach to that investment, as set out in the Prudential Code and therefore uses the prioritisation and planning process to manage this as described above. A summary of the Council's capital expenditure plans, both those agreed previously, and those forming part of the budget are integral to the capital strategy.

Capital expenditure £m	2021/22 Estimate	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate	2025/26 Estimate
Children and Young People's Service	24,523	49,683	16,625	5,100	16,238
Health and Adult Services	1,778	5,144	1,115	115	8,111
Resources	40,174	66,669	16,680	9,278	10,089
Community Development	111,109	71,050	9,066	1,235	2,975
Environment	113,322	123,254	52,524	40,725	2,265
Local Engagement	14,615	499	65	405	255
Non-HRA	305,521	316,299	96,075	56,858	39,933
HRA	16,763	35,308	17,649	14,505	8,744
Total	322,284	351,607	113,724	71,363	48,677

5.2 **Capital expenditure in non-treasury investments** can be for a service or a commercial purpose. To meet service or Council obligations capital investment could be in the form of loans or equity provided to external bodies, Council subsidiaries or joint ventures. In order to retain access to borrowing from the PWLB the Council is required to certify the capitals plans do not include expenditure on new non-treasury commercial investments primarily for financial return. However, where the capital spending decision is primarily related to the function of the Council and any financial returns are incidental then access is retained.

The Council will annually evaluate whether any of the commercial investments should be sold to release funds to finance new capital expenditure or refinance maturing debt. The Council's Capital Plans do not include any estimates to purchase any treasury commercial assets primarily for yield.

The Council continues to review potential commercial investments but will now consider any potential investment opportunities alongside the implications for PWLB borrowing going forward.

All alternative investment activities are subject to approval in accordance with the Council's governance framework for decision making and given the technical nature of potential alternative investments and strong linkages to the Council's Treasury Management function, appropriate governance and decision-making arrangements are in place. The Commercial Investment Board has been established to ensure robust due diligence in order to make recommendations for implementation.

The Council recognises that achieving its capital ambitions will require consideration of alternative delivery structures and of all forms of funding including additional borrowing. Financial austerity has had a significant impact on affordability, however capital investment funded by borrowing will be undertaken in priority areas to meet capital ambitions if required, subject to at all times clearly understanding how the affordability of such expenditure can be managed over the longer term supported by a robust capital planning process, due diligence, business cases, risk management and monitoring.

5.3 **Available Resources** – The Council has several funding streams available to support capital investment. The funding of the five-year capital investment programme is detailed in the Capital spending plan which highlights unallocated funding that might become available.

The Council policies in relation to financing capital expenditure and investment are covered in this section and are listed in the table below:

External funding	<ul style="list-style-type: none"> • Services should seek to maximise external funding wherever possible to support capital schemes. This can be in the form of grants and contributions from outside bodies including central government. However, services will be expected to underwrite any cost overruns on externally funded schemes. If services bid for external funding for schemes and costs exceed the available funding, then services will be expected to fund any shortfall from existing resources (either revenue or capital). • Prior to submitting bids for grant funding, an assessment of the risk of a contract price increase, associated with market conditions or abnormal building plan demands attached to some grants, must be completed to estimate the likelihood of additional funding being needed • In respect of match funding bids then the relevant service must fully identify the necessary match funding resources from within existing service budgets prior to submitting any bid for funding
Capital receipts	<ul style="list-style-type: none"> • A capital receipt is an amount of money received from the sale of an asset. It cannot be spent on revenue items. • Capital Receipts Group review the Council's property quarterly against the aims and objectives the Council Plan and Asset Management Strategy. • The general policy is that any capital receipts are pooled and used to finance future capital expenditure and investment according to priorities, although they may be used to repay outstanding debt on assets financed from borrowing, as permitted by the regulations.
Revenue and reserve funding	<ul style="list-style-type: none"> • Services may use their revenue budgets to fund capital expenditure. • Directors in conjunction with the Corporate Director - Resources (S151 Officer) will take an overview and decide the most appropriate way of funding capital expenditure
Prudential borrowing	<ul style="list-style-type: none"> • Local authorities can set their own borrowing levels based on their capital need and their ability to pay for the borrowing. The levels will be set by using the indicators and factors set out in the Prudential Code. The borrowing costs are not supported by the

	<p>Government so services need to ensure they can fund the repayment costs. This borrowing may also be referred to as Prudential Borrowing.</p> <ul style="list-style-type: none"> • Capital projects that cannot be funded from any other source can be funded from Prudential Borrowing. The costs of borrowing must be affordable and the borrowing repayment and interest charges on the loan must be included in the Council revenue budget; it must also be factored into the medium-term financial strategy accordingly. • The Corporate Director - Resources (S151 Officer) will make an assessment of the overall prudence, affordability and sustainability of the total borrowing requested. The impact of this borrowing will be reported in the Treasury Management Strategy alongside the Prudential Indicators required by CIPFA's Prudential Code. • The Corporate Director - Resources (S151 Officer) will also determine whether the borrowing should be from internal resources such as reserves or whether to enter into external borrowing
Leasing	<ul style="list-style-type: none"> • The Corporate Director - Resources (S151 Officer) may enter into finance leasing agreements to fund capital expenditure on behalf of services. However, a full option appraisal and comparison of other funding sources must be made and the Corporate Director - Resources (S151 Officer) must be certain that leasing provides the best value for money method of funding the scheme. • Under the Prudential Code finance leasing agreements are counted against the overall borrowing levels when looking at the prudence of the Council's borrowing
Other long term liabilities - PFI	<ul style="list-style-type: none"> • The Corporate Director - Resources (S151 Officer) may enter into PFI agreements on behalf of services. These will be considered following due diligence over the life of the asset, balancing the financial and non-financial benefits against the risks compared to the Council owning and delivering such assets and services itself. The Corporate Director - Resources (S151 Officer) must be certain that the PFI arrangement provides the best value for money method of delivering the scheme • Under the Prudential Code PFI obligations are counted against the overall borrowing levels when looking at the prudence of the Council's borrowing.

5.4 **Borrowing and the CFR** – where resources are unavailable to fund capital expenditure, borrowing will be used. This will increase what is termed the Council's Capital Financing Requirement (CFR) which is the Council's underlying need to borrow. The Council is required to make a prudent provision for the repayment of historic capital expenditure from its revenue budget in line with its agreed Minimum Revenue Provision (MRP) policy.

This reduces the CFR and the prudent provision set aside is used to repay debt. The calculation of the CFR summarised in the diagram below results in the amount the Council will need to borrow:

Movement	Opening CFR
+	Capital expenditure incurred in year
-	Grants, contributions, reserves and receipts used for capital expenditure
-	Prudent Minimum Revenue Provision and Voluntary Provision
=	Closing CFR

The amount of borrowing a Council can take is determined by what the Council can afford, along with ensuring it is prudent and sustainable. In accordance with the Prudential Code, the Council will only make capital investments, which increase the CFR, for a prudent purpose where this directly and primarily relates to the functions of the Council. Affordability and prudence are assessed and controlled by the prudential indicators which are recorded in the TMSS and described below in the Assessing affordability section.

5.5 **Assessing affordability** – the revenue cost implications of Capital investment undertaken historically and the proposed Capital Plan form an integral part of the Council’s revenue budget and Medium-Term Financial Plan. The revenue budget impact of capital schemes for Council Tax and Rent payers include:

- The costs of operating/maintaining new assets
- The capital financing costs of servicing any borrowing required to pay for investment (interest and the Council’s approach to making prudent provision for repayment of capital investment paid for by borrowing – MRP)
- The revenue costs of preparing and delivering projects
- Abortive costs required to be charged to revenue budgets if schemes do not proceed.

Some or all of the costs of investment may be offset by financial and non-financial benefits such as income, cost avoidance and importantly improved outcomes for residents. Where capital investment has been undertaken by borrowing, the Council is required to spread the cost of that investment over future years’ revenue budgets. This is in accordance with its MRP Policy for the prudent repayment of capital expenditure which is approved as part of the budget proposals each year.

5.6 **Revenue implications** - The revenue costs associated with capital schemes need to be identified and included within the revenue budget and the Medium-Term Financial Plan. For example, a housing development project is likely to have revenue budget implications e.g. additional street lighting, waste disposal, schooling provision or other Council services. It is recognised that the Council cannot afford to do everything. However where revenue resources are deemed available to increase the level of Council borrowing capital investment will be considered. The Council’s approach to affordability of its capital financing budgets in the medium term is as follows:

- General Fund – additional investment funded by borrowing over the medium term to be minimised unless approved in line with the prioritisation and evaluation criteria as described above.

- Housing Revenue Account – increasing over the medium term primarily as a result of implementing the Council’s ambition target of new affordable housing. Future rent policy, pressures and a robust approach to ensuring viability of new developments will be key to affordability.
- Strategic and major development projects – On a case-by-case basis subject to approved business cases and due diligence including the long-term capital financing costs.

5.7 **Affordability indicators** - Prudential and treasury indicators to manage capital investments take a longer-term view of affordability, prudence and sustainability and are included in the TMSS at the start of every financial year. Prudential Indicators are used to assess affordability, along with other treasury management specific indicators and are approved within the TMSS and monitored on a quarterly basis in the Quarterly Performance Monitoring and Budget report to Executive and Council. These are listed below:

Financing costs and net revenue stream

This is a prudential indicator for affordability showing the percentage of the Council’s revenue budget that is committed to capital financing costs and is required to be shown for the General Fund and the HRA separately. For the General Fund, the net revenue stream is the amount to be met from non-specific Government grants and Council Tax, whilst for the HRA it is the amount to be met from rent payers and service charges.

Estimates of capital expenditure

This is a prudential indicator for prudence showing the previous year actual and estimates of the total of capital expenditure planned to be incurred during the forthcoming financial year and the following two financial years.

Estimates of capital financing requirement (CFR)

This is a prudential indicator for prudence and shows the previous year actual and the forecast total capital financing requirement at the end of the forthcoming financial year and the following two years. The CFR is the amount of capital spending that has not yet been financed by capital receipts, capital grants or contributions from revenue income. It measures the underlying need to borrow for a capital purpose.

The operational boundary and the authorised limit

These are prudential indicators for prudence and focus setting an affordable limit for external debt. The operational boundary is the affordable debt limit and the authorised limit represents the legislative limit specified in Section 3 of the Local Government Act 2003. This is the set using the operational boundary plus an amount for unforeseen cashflow movement. The operational boundary is the limit for total gross external debt, separately identifying borrowing from other long-term liabilities. These are set for the forthcoming financial year and the following two financial years.

Gross debt to CFR

This is a prudential indicator for prudence and is used to show that external debt (i.e. borrowing for any purpose and other long-term liabilities) should not exceed the CFR (except in the short term) in the previous year plus the estimates of any increase in the CFR at the end of the current and next two financial years. This is to ensure that over the medium-term debt will only be for a capital purpose.

5.8 **Balance Sheet forward planning and the treasury management strategy** - where capital expenditure has been incurred without a resource to pay for it, i.e. when proposed to be paid for by supported or unsupported borrowing, this will increase what is termed the Council's CFR which is the Council's underlying need to borrow. The amount of borrowing required will be considered along with the Council's cashflow position.

The Council is typically cash rich in the short-term as revenue income is received before it is spent, this can include both working capital and reserves held on the balance sheet. The TMSS uses forecast cashflow information from the Reserves Strategy and the Capital Plan to make decisions around the amount, timing and duration of any new external borrowing required by the Council.

In terms of the Reserves Strategy, the Council uses a risk-assessed General Fund Reserve and effectively manages the balances of earmarked reserves over the longer term which is used to support the forward Balance Sheet projection. This projection provides a valuable foundation for the strategic financial planning of capital financing costs for the capital investment plan.

In terms of the Borrowing Strategy, the Council's main objectives when borrowing are to achieve a low but certain cost of finance while retaining flexibility should plans change in future. These objectives are often conflicting, and the Council therefore seeks to strike a balance between financing using the low-cost internal cash resources available in the short term and further long-term fixed rate loans where the future cost is known.

6.0 NON-TREASURY INVESTMENTS

6.1 **Non-treasury overview** - The CIPFA Treasury Management Code recognises that organisations may make investments for policy reasons outside of normal treasury management activity. These are non-treasury investments and include service and commercial investments.

Non-treasury management investment is expenditure made on the purchase of a capital asset and are investments for policy reasons outside normal treasury management activity. It is these non-treasury management investments which are the subject of this Capital Strategy.

Service investments - 'Investments for service purposes' are taken or held primarily and directly for the delivery of public services (including housing, regeneration and local infrastructure) or in support of joint working with others to deliver such services. Characteristics for service investments are:

- Service investments may or may not involve financial returns; however, obtaining those returns will not be the primary purpose of the investment.
- For local authorities, service investments will normally constitute capital expenditure, and it may be appropriate to borrow to finance service investments

An example of a service investment is when the Council lends money to local bodies or its subsidiaries to support local public services and stimulate local economic growth. In light of the wider benefits that can arise the Council is prepared to take more risk than with

treasury investments. The main risk when making service loans is if the borrower is unable to repay the principal lent and/or the interest due.

It is important that the Council limits the financial risk, and assessment will be made of the risk of loss before entering into Service Loans by assessing the counterparty's resilience, the service users' needs that the loan is designed to help and how these needs will evolve over time. During the life of the loan any change in original assumptions will be monitored. The Council will use external advisors where appropriate.

Commercial investments - Investments taken or held primarily for financial return and are not linked to treasury management activity nor are directly part of delivering services. Characteristics for commercial investments are:

- non-financial assets such as commercial property is held primarily for financial return.
- For local authorities, investments of this type will usually constitute capital expenditure.
- 'Commercial' in this context refers to the purpose of the investment. Commercial investments are not taken to meet treasury management cash flow needs, and do not result from treasury risk management activity to prudently manage the risks, costs or income from existing or forecast debt or treasury investments. They are additional investments voluntarily taken primarily in order to generate net financial return or profit.

Details of the governance arrangements including the decision making and performance monitoring of non-treasury investments is covered in section 9 Corporate governance arrangements - Non-treasury investment activities.

The Council's Capital Plan has no expenditure on new non-treasury investments primarily for financial return.

6.2 **Existing non-treasury investments** – Based on prior year capital decisions the Council has a number of non-treasury investments. If there is a material financial interest in the shareholding or income generated during the year then the balances as at 31 March 2022 are shown in the tables below.

Service non-treasury investments:

The Council has investments in third parties and in Council owned companies including loans. These holdings are non-treasury service investments that achieve the Council objectives, these existing holdings are shown below.

a) Company loans - The Council has made several loans in recent years to subsidiaries for the purpose of the delivery of Council services and objectives, the position below will continue to be monitored and reviewed:

Loans portfolio	Balance at 31 March 2022 £m	2021/22 net income generated £k	2021/22 net income budgeted £k	Interest rate %
Yorwaste – Loan 1 (Subsidiary)	3.7	155.1	150.0	4%+base
Yorwaste – Loan 2 (Subsidiary)	2.3	101.0	90.0	4%+base
Brierley Homes (Subsidiary)	12.8	693.6	390.0	6%+base
First North Law (Subsidiary)	0.1	3.8	0	4%+base
NY Highways (Subsidiary)	8.0	311.7	120.0	6.5%+base
Broadacres Housing Association loan	33.6	1,437.9	1,435.5	2.85% - 4.64%
Bracewell Housing Ltd (Subsidiary)	1.5	98.0	45.0	7.5%+base 5.5%+base
Selby and District Housing Trust	2.8	117.8	120.0	4.19%
TOTAL	64.8	2,918.9	2,350.5	

b) Company shares - The Council has the following investments in Council companies held for the purpose of the delivery of Council services and objectives:

Equity portfolio	Shareholding 31 March 2022 at cost £m
Bracewell Housing Limited	-
Yorwaste Limited	3.518
Brierley Homes Limited	-
First North Law Limited	-
Align Property Partners Limited	0.500
NY Highways Limited	0.500
TOTAL	4.518

Commercial non-treasury investments:

Commercial investments are the result of past acquisitions of land and buildings for a commercial purpose rather than for the supply of goods and services or for administrative purposes. They have been classified as commercial investment properties:

Commercial Property portfolio	Fair value at 31 March 2022 £m	Cost less debt repayment (MRP) at 31 March 2022 £m	2021/22 net income generated £k	2021/22 net income budgeted £m	return %
Bank Unit in Stafford Town Centre	0.9	0.9	53.3	50.0	6.05
Harrogate Royal Baths	9.5	9.5	77.2	255.0	1.45
Co-op in Somercotes	1.5	1.5	79.6	76.0	5.32
Shopping centre - Harrogate	0.9	0.9	46.0	37.0	3.07
Secondary industrial land- Harrogate	0.8	0.8	53.0	38.0	6.58
TOTAL	13.6	13.6	309.1	456.0	

The Council retains some existing holdings in non-treasury commercial property assets that are held to provide a financial return rather than deliver a Council service. These investments were taken prior to the revised 2021 Prudential Code and the Governments March 2020 PWLB legislation coming into being.

- 6.3 **Review of existing commercial investments** – The commercial property investment portfolio is reviewed annually against the risks to the budgeted income and the liquidity requirements of the Council.
- 6.4 **Future non-treasury investments** - The Council has the following service investments within the Capital Plan where the primary purpose of these investments is the delivery of the Council's stated service objectives:

Loans portfolio	Balance outstanding at 31 March 2022 £m	Further loans included in Capital Plan £m
NYnet (Subsidiary)	-	10.0
Yorwaste – Loan 1 (Subsidiary)	3.7	0.0
Yorwaste – Loan 2 (Subsidiary)	2.3	1.6
Brierley Homes (Subsidiary)	12.8	2.1
First North Law (Subsidiary)	0.1	0.2
NY Highways (Subsidiary)	8.0	3.0
Broadacres Housing Association loan	33.6	-
Bracewell Housing Ltd (Subsidiary)	1.5	9.5
Selby and District Housing Trust*	2.8	-
TOTAL	64.8	26.3

** Selby and District Housing trust has decided to wind up and plans are in place for Selby District Council (or North Yorkshire Council after 31 March 2023) to acquire the trust's housing stock and for the loans to be repaid.*

7.0 RISK MANAGEMENT AND MONITORING

7.1 Risk management overview - Clear criteria for both investment decisions and the ongoing risk management of the non-treasury investment portfolios is vital not only for the risks of individual investments but also the cumulative impact of all the investments made by the Council and the interaction of individual risks.

Limits on cumulative and individual non-treasury investments – The Commercial Investment Board was set up to monitor and provide due diligence on all North Yorkshire County Council non-treasury investments and it is envisaged that the Board will continue under the new North Yorkshire Council. The Board has delegated authority to approve individual investments up to a limit of £1.5m per investment and up to a total of £10m in any one financial year. Investments in excess of this will be submitted to the Executive for approval.

Following amalgamation of all commercial investments for the new North Yorkshire Council, the Commercial Investment Board will need to review and revise these limits.

7.2 The Governance arrangements in section 9 below detail the process and procedures for investment decision and the following paragraphs on risk assessments, risk appetite and the indicators to monitor risk explain the management of the non-treasury investments.

7.3 Risk assessment - Risk is the threat that an event or action will adversely affect the Council's ability to achieve its objectives and to execute its strategies successfully. Risk management is the process of identifying risks, evaluating their potential consequences and determining the most effective methods of managing them and/or responding to them. It is both a means of minimising the costs and disruption to the organisation caused by undesired events and ensuring that staff understand and appreciate the element of risk in all their activities.

The aim of risk management is to reduce the frequency of adverse risk events occurring (where possible), minimise the severity of their consequences if they do occur, or to consider whether risk can be transferred to other parties.

7.4 Due diligence - The Council recognises that the Capital Investment plans may increase in scale and ambition following the North Yorkshire re-organisation and therefore sophisticated and robust governance and assurance measures are in place to ensure delivery. To support this the Council has developed and continually refines a delivery assurance framework.

For capital investments the appropriate level of due diligence is undertaken with the extent and depth reflecting the level of additional risk being considered. Due diligence will cover a number of areas such as legal, treasury, accounting and technical implications and the process and procedures for this work will include:

- effective scrutiny of proposed capital investments by the relevant committee
- identification of the risk to both the capital invested and the returns
- understanding the extent and nature of any external underwriting of those risks

- the potential impact on the financial sustainability of the Council if those risks come to fruition
- understanding the powers under which the investment is made and changes to relevant laws and regulations factored into any capital bidding and programme monitoring processes
- identification of the assets being held for security against debt and any prior charges on those assets
- further independent and expert advice being sought where necessary

An assessment of risk is therefore built into every capital project and major risks recorded in the Corporate Risk Register to manage and monitor the Council's risk appetite.

7.5 **Risk appetite** - To manage risk effectively, the risks associated with each capital project need to be systematically identified, analysed, influenced and monitored. It is important to identify the appetite for risk by each scheme as well as for the capital programme as a whole.

7.6 **Indicators and limits** - In determining the Council's risk appetite in respect of non-treasury investments, for commercial or service purposes, including financial assets and property investments, indicators and limits can be used to establish the parameters of an acceptable level of risk of which can then be managed and monitored. This can focus on the impact of the downside risk so that the overall sustainability of the Council is considered.

The CIPFA Prudential Code, Treasury Management Code and the statutory investment guidance in England (issued by the former Ministry of Housing, Communities and Local Government) requires indicators and limits to be set, along with risk assessments to be made in order to assist the management and monitoring of non-treasury investments on a regular basis. Non-treasury investment indicator included in this capital strategy is detailed below:

i) **Ratio of net income from non-treasury investments to net revenue stream**

This prudential indicator for affordability shows the extent to which the revenue budget is reliant on budgeted net income from non-treasury commercial and service investments and is an important monitoring tool in the capital strategy. The level of anticipated income is not deemed a risk to the financial sustainability of the Council.

	2021/22 Actual %	2022/23 Estimate %	2023/24 Estimate %	2024/25 Estimate %	2025/26 Estimate %
Net income from service investments to net revenue stream	0.58	0.90	0.87	0.84	0.81
Net income from commercial to net revenue stream	0.06	0.13	0.12	0.12	0.11
Net income from non-treasury investments to net revenue stream	0.64	1.02	0.99	0.95	0.92

8.0 GOVERNANCE

8.1 Consideration, approval and monitoring of the capital plan takes place as part of the Council's strategic planning timetable and is detailed below.

Capital budget setting process – Part of the Capital Strategy importantly notes that consideration is given to the capital budget setting process i.e. the approval of the Capital Plan. The Capital Plan sets out the Council's longer term capital investment plans. These plans support the Council's strategic and service objectives by maximising the assets and infrastructure necessary to support service delivery whilst minimising the impact on the revenue budget.

8.2 The Capital Plan must be approved by Council before the start of the financial year. The Council's Financial Procedure rules empower the Executive to modify the Capital Plan during the year by means of the Capital section of the quarterly performance monitoring reports or, if urgent changes are needed, ad hoc reports at other points in the reporting calendar.

8.3 The Council's Financial Procedure Rules and the Asset Management Planning Framework provide a framework for the preparation and appraisal of schemes proposed for inclusion in the Capital Plan, appropriate authorisations for individual schemes to proceed and facilitate the overall management of the Capital Plan within defined resource parameters.

8.4 The Corporate Director – Resources shall determine the format of the Capital Plan and the timing of reports relating to it. The approved Capital Plan will comprise a number of individual schemes each of which will be quantified in overall project terms or on an annualised basis, as appropriate. Each Director shall prepare a draft Capital Plan for their service, in consultation with the Corporate Director – Strategic Resources, for submission to the Executive. The Capital Plan should identify planned expenditure, and funding, at proposed individual scheme or programme level

8.5 This process is designed to ensure the capital schemes contribute to service delivery and where in some cases a return on the investment is generated, this can be financial and/or non-financial.

8.6 The Corporate Director – Resources is responsible for preparing an overall Capital Plan for consideration by the Executive, and approval by the Council, the funding of which shall be compatible at all times with the Treasury Management Policy Statement of the Council. Individual schemes shall only be included in the Capital Plan following a project appraisal process.

8.7 In Year Opportunities can be put forward for entry into the capital programme in a managed way either when the capital programme is reviewed each quarter and is reported to the Executive and Council or outside of this timetable as a separate Executive report to seek approval at any other meeting in the Executive cycle.

8.8 Other long-term liabilities – The Council's Financial Procedure Rules and the Asset Management Planning Framework provide a framework for the appraisal and approval of schemes including where this is delivered by means of PFI contracts or leasing arrangements. This framework includes the ongoing monitoring and risk management of

long-term liabilities taken to deliver operational services, these include PFI contracts, leasing agreements or arrangements that require financial guarantees, including those given in respect of subsidiaries or joint ventures. PFI contracts and lease obligations are like borrowing as they have an ongoing revenue budget commitment. These will be considered following due diligence over the life of the asset, comparing the financial and non-financial benefits and risks compared to the Council owning and delivering such assets and services itself.

8.9 Where the Council has issued financial guarantees, it will periodically reassess the probability of financial guarantees being called upon and include this in the risk management reporting with mitigating actions as appropriate.

9.0 CORPORATE GOVERNANCE ARRANGEMENTS – NON-TREASURY INVESTMENT ACTIVITIES

9.1 Non-treasury investments can be considered where the primary purpose of the expenditure is for service delivery including projects for economic development / regeneration, but these investments do not always give priority to security and liquidity over yield (like treasury investment do) so appropriate governance is required.

9.2 Given the technical nature of potential non-treasury investments and strong linkages to the Council's Treasury Management function, appropriate governance and decision making arrangements are needed to ensure robust due diligence and scrutiny in order to make recommendations for implementation. As a result, a Commercial Investment Board has been established. All non-treasury investments will be subject to consideration and where necessary recommendations of the Commercial Investment Board.

9.3 The Commercial Investment Board is not a constituted body and therefore does not have formal decision making powers. However, it is the chief means of identifying, reviewing, providing scrutiny and recommending schemes for investment decisions. Formal decisions on investments will be taken within the existing delegations namely through delegated authority to the Corporate Director – Resources and further decisions as made by the Executive.

9.4 The responsibilities of the Board also include:

- to consider appropriate due diligence proportionate to the investment / risk / reward proposed
- terminate investments should concerns be raised - to consider and recommend cases for early termination of alternative investments
- to monitor returns against approved performance targets
- to report performance of alternative investments to the Executive on a quarterly basis; and
- to make recommendations to Executive on any proposed changes to the framework.

Membership of the Board is as follows:

- Lead Member for Finance (Chair)
- Lead Member for Growth
- Corporate Director Resources

- Corporate Director of Community Development
- Assistant Director Resources
- Assistant Director Economic Development, Regeneration, Tourism and Skills

- 9.5 All Executive reports will ensure that the Council has the appropriate legal powers to undertake such non-treasury investments and will also include the 'proportionality of non-treasury investments' so that the Council does not undertake a level of investing which exposes it to an excessive level of risk compared to its financial resources.
- 9.6 Monitoring of all investments will be included in the quarterly capital and treasury management monitoring reports which are received by the Executive.
- 9.7 The Corporate Director – Resources (S151 Officer) - will report explicitly on the affordability and risk associated with the Capital Strategy as detailed below and, where appropriate, will have access to specialist advice to enable conclusions to be reached.

10.0 SKILLS AND TRAINING

- 10.1 **Skills and training** - All capital investment approvals are subject to robust consideration and challenge by members and officers from across the Council with extensive Local Government experience from varying professional backgrounds.
- 10.2 The Council employs professionally qualified and experienced staff in senior positions with responsibility for making capital expenditure, borrowing and investment decisions. The Council requires finance staff to maintain relevant professional qualifications including CIPFA and AAT. All officers attend courses on an ongoing basis to keep abreast of new developments and skills to ensure their Continuous Professional Development. Members are also offered training regularly to ensure they have up to date skills and are able to make capital and treasury decisions.
- 10.3 Where Council staff do not have the specialist knowledge and skills required, use is made of external advisers and consultants that are experts in their field. The Council currently employs Link Group as treasury management advisers. This approach is more cost effective than employing such staff whilst ensuring that the Council has access to knowledge and skills commensurate with its risk appetite.

North Yorkshire Council Debt Recovery Policy

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1.0 Introduction

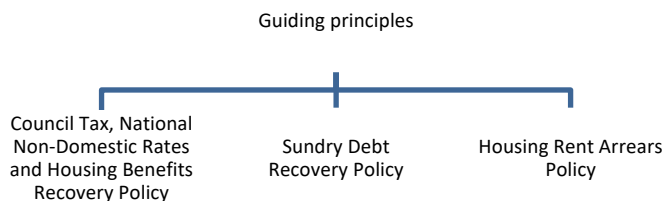
- 1.1 This document sets out the guiding principles which apply to our corporate debt collection and recovery in North Yorkshire Council.
- 1.2 It is important for us to collect money owed to us, as that money is used to fund key public services. The principles set out in this document will ensure that the Council does this consistently, efficiently, and effectively. This ensures the maximisation of revenue streams for the benefit of residents, businesses, and visitors to North Yorkshire.
- 1.3 The types of corporate debt this document is referring to are:
- Council Tax;
 - National non-domestic rates (business rates);
 - Housing benefit overpayments;
 - Housing rents; and
 - Sundry debts (commercial & domestic fees & charges).
- 1.4 Sums due to the Council can be a mixture of statutory and non-statutory charges. Where recovery of debts is required, in the case of Council Tax action may be taken via the Magistrates Court. In the case of Non-Domestic Rates via either the Magistrates Court or County Court and for all other debts action may be taken via the County Court.

2.0 Aims

- 2.1 The aims and aspirations of this document are to:
- Facilitate a coordinated approach to managing certain debts owed to the council
 - Enable teams to recover and collect outstanding monies effectively and efficiently
 - Establish a corporate debt priority order
 - Provide a set of principles which will provide clarity and consistency to our debt recovery policies

3.0 Scope

- 3.1 These guiding principles apply to the Council's corporate debt collection and recovery policies as shown in the below diagram:



- 3.2 This document has been written to provide customers and staff with clear guidance on the recovery principles which the Council will follow when pursuing debts.
- 3.3 There are specific rules, regulations and guidance which govern the recovery and collection of some debts. The Council will collect and recover these debts according to required legislation and regulation.

3.4 Should there be a conflict between regulation and any guiding principle, the regulation should be followed.

4.0 Principles

4.1 The policies should be underpinned by the following key principles:

Minimising debt:

4.2 The Council will aim to reduce the levels of arrears, bad debt provision and write offs. We will take a fair and effective approach, providing consistency in the way customers in debt are dealt with across the council, and support our customers to manage their priority debts. We will strive to take payments in advance where possible to remove the option of debt building.

Proactive approach:

4.3 The Council will ensure customers are made aware of their liabilities, be approachable, encourage customers to contact us at the earliest opportunity enabling officers to take into account customers' circumstances, their ability to pay and attempting to ensure financial hardship is not inflicted by having a realistic attitude to repayments. We will support customers to come to affordable payment agreements appropriate to their circumstances.

Preventative measures:

4.4 The Council will advise on any housing assistance or taxation discounts; reliefs and exemptions customers may be entitled to. We will assist with applications when appropriate and signpost customers to money advice, debt counselling and other support services available through our partners and in the voluntary sector, when additional assistance may be required.

4.5 In addition to the above, the Council will act in a way that is:

Proportionate – acting proportionately allows for a balance to be struck between the loss of income to the Council and the costs of compliance

Consistent – the Council will take a similar approach in similar circumstances to achieve similar ends. The Council will aim to achieve consistency in:

- The advice we give;
- The use of powers; and
- The recovery procedures we use.

Consistency does not mean simple uniformity. The Council recognises that two cases are unlikely to be exactly the same, and therefore, when considering your case, our officers will take account of many variables, such as:

- Your social circumstances;
- Your payment history; and
- Your ability to pay.

Transparent – the Council believes that transparency is important in maintaining public confidence. It means helping you understand what is expected of you, and what you can expect from us. It also means clearly explaining the reasons for taking any recovery action.

When taking action against you we will:

- Clearly state the reasons why we are taking action;

- Clearly state timelines;
- Give a distinction between advice and legal requirements; and
- Ensure our invoices are as clear as possible.

4.6 Additionally, our intention will be to be firm and fair, and our manner will be courteous.

5.0 Debt Priority

5.1 The Council will use the following as a guide to determine which debts are our priority to recover and collect.

5.2 It is not the size of a debt that denotes it as a priority, but the result of the action e.g., rent arrears resulting in loss of home. The Council will prioritise (i.e., apply payments to) debts in the order as shown in the table below:

Domestic	Commercial
1. Rent	1. National Non Domestic Rates
2. Council Tax	
3. Housing Benefit Overpayments	2. Sundry Debts (commercial charges)
4. Sundry Debts (domestic charges)	

6.0 Methods of payment

6.1 The Council's preferred method of payment for most debts is Direct Debit. However, this does not prohibit accepting payment by other methods. Apart from Direct Debit, the Council accepts a variety of payment types as appropriate to the debt type and size. Details of which are available on the Council's website.

7.0 Support and advice

7.1 The Council wants to help you with your debts. Subject to your circumstances we will work with you in the following ways:

Arrangements

- We will make arrangements with you, whether you are an individual or a business, at **any** stage during the collection process. However, we encourage you to make contact with us as soon as you begin experiencing difficulties paying;
- Any arrangement we make with you will be tailored to your individual or the business' circumstances and the need to clear debts in a reasonable period of time having regard to current and future liabilities;
- We will take into account your individual or the business' income and essential expenditure when determining any arrangement. Our aim is to achieve mutually acceptable payment arrangements; and
- If you are unable to settle your debt(s) in full we will endeavour to make payment arrangements. However, this may involve legal action being taken against you where appropriate.

Signposting

- The Council will also make every effort to advise you of your right to apply for benefits assistance, including pro-active take up campaigns as appropriate. We encourage customers to use our online benefit calculator to check if they would be eligible for any support;
- We will also advise individuals and businesses of the range of other discounts, reliefs, and reductions available at the time an account is issued and also in subsequent communications.
- During both face-to-face contact and telephone communications, we will direct customers as to where they can obtain further specialist advice on benefits and debt matters appropriate to their needs. On-line signposting will also be available to the tools available on other agencies websites, such as budget planners and checks for eligibility to other welfare benefits;
- Where appropriate we will work with other agencies to assist customers who are receiving help and liaise with them on a local level to solve issues and answer queries; and
- We will keep up to date with, and where possible, sign up to current best practice.

8.0 Protecting vulnerable customers

8.1 For the purpose of this policy, the key factor in determining whether an individual should be regarded as vulnerable will be that the circumstances which give rise to the concern that they are vulnerable affects their ability to deal with their financial affairs. The Council acknowledges that vulnerability can be permanent, transient, or progressive.

8.2 Where an individual is considered vulnerable, the Council will give consideration to:

- Allowing longer to pay;
- Postponing recovery action;
- Assisting the person to claim benefits, discounts or other entitlements including maximising their income through grants, assistance funds and the like;
- Referring the person to sources of 'free to customer' registered, independent advice;
- Providing information in an accessible format;
- A temporary payment arrangement with a lower repayment than would normally be agreed; or
- Other action as appropriate to avoid the vulnerable person being at a disadvantage as compared to a non-vulnerable person.

8.3 It is important to note that being vulnerable does not mean that the person will not be required to pay the debt owed.

9.0 Credits on accounts

9.1 Where appropriate internal checks against all outstanding debts will be undertaken to ensure no other debt is owed to the Council for any other goods or services provided.

10.0 Equality and reasonable adjustments

10.1 The Council is committed to ensuring that all our services are available to all service users in line with the principles of equality and fairness and that all service users are treated with fairness, dignity, and respect. Our aim is to make our debt recovery policies easy to use and accessible for everyone.

10.2 The Council will take steps to make any reasonable adjustments needed to access the policies, or any requests to provide responses in other formats.

10.3 We are committed to achieving our Public Sector Equality Duty, as set out in the Equality Act 2010, and we recognise that there will be occasions where a reasonable adjustment is needed to adapt normal policies, procedures, or processes to accommodate an individual's needs so that all customers can access services without barriers.

10.3 The Council will take steps to meet the needs of people from protected groups where these are different from the needs of other people. It is not possible to set out all these adjustments in writing; however, we have published information on our activities to demonstrate our compliance with our Public Sector Equality Duty.

10.4 The Council can also offer or help you access support to assist you to understand a decision or response.

11.0 Fraud and Evasion

11.1 Unlawful evasion or fraud to avoid payment is not tolerated and the Council may seek further penalties or sanctions where available by law. This will be considered on a case by case basis.

11.2 The unlawful evasion of payment reduces the financial resources available to us and has a direct impact on all residents, businesses and other organisations that rely on our services. Where evasion of payment is identified, we will take appropriate and proportionate action to recover the debt.

11.3 Where activity impacts upon other public bodies, such as the Department for Work and Pensions, HM Revenues & Customs and other authorities, the Council will work with those organisations to seek legal remedy.

12.0 Write-off and Write on

12.1 The Council recognises that a small proportion of overall debt may not be collectable due to matters beyond its control and accordingly where a debt is assessed to be irrecoverable it will be considered for write-off. However, the Council will seek to minimise the cost of write-offs by taking all appropriate action to recover what is due.

12.2 Furthermore, if a debt is written off but circumstances change such debts will be considered for write-on and pursued to the full extent of the law. An example of when this may occur is if a debtor absconds with no forwarding address but is subsequently traced. A further example would be in insolvency cases where an individual/company goes bankrupt or is made insolvent, partial/full dividend(s) can be received many years later.

12.3 Each case for write-off and write-on will be considered on their individual circumstances.

13.0 Deviation from the Process

13.1 There are times/situations when our standard debt recovery process cannot be followed. In these circumstances alternative debt recovery actions are taken depending on the debt/debtor.

13.2 There is no official approval mechanism for this type of deviation from the standard debt recovery process.

13.3 If a person is in 'Breathing Space' then the Council will follow legislation.

13.4 Deviation from any recovery process should not deviate from legislative regulations.

14.0 Training

14.1 The Council is committed to training staff with the necessary skills to deliver this policy.

14.2 The Council will seek to adopt or incorporate any programme of training that reflects any nationally approved debt recovery pre-action protocol or recognised best practice protocols, particularly in relation to the application of fairness and the recognition of vulnerability and hardship.

15.0 Performance Monitoring

15.1 To ensure that our debt policies are as efficient and effective as they should be it is important that suitable key performance indicators are reported against and monitored.

15.2 Performance indicators should be published annually as a minimum, but more frequent and consistent monitoring is recommended.

16.0 Use of data

16.1 The Council will collect and store personal data for the purposes of the effective billing, collection, and recovery of sums due. Data retained for this purpose will be processed in accordance with the Data Protection Act 2018 and stored securely at all times.

16.2 The Council is fully committed to supporting the use of data matching to identify potential fraud and error. Data will be shared with agents or contractors appointed by the Council for the purposes of the billing, collection, and recovery of sums due where permitted. Data may also be shared within the Council or with external organisations where the law allows and, in particular where it is in the interests of the customer or where it will prevent fraud or the evasion of sums due for payment. Further details including privacy statements can be found on the Council's website.

17.0 Review

17.1 Policies to which these guidelines apply should be monitored and regularly reviewed and updated where necessary to take account of changes in legislation and best practice. Full reviews of the policies should be scheduled for 3 years from their introduction.

Annex A

Council Tax Recovery

Introduction and general overview of the recovery process.

- A.1 Council tax is a tax levied on all chargeable dwellings. The amount levied is dependent on the Council Tax band that the property falls into and the total amount of tax to be raised as determined through the Council's annual budget setting process.
- A.2 The full rate of tax is liable to be paid unless the property, liable person is eligible for a reduction, discount, disregard, relief, or exemption.
- A.3 Council tax is payable in line with a statutory instalment scheme or by agreement with the Council. There is a legal duty placed on the Council and its officers to collect outstanding debts in accordance with the Local Government Finance Act 1992 (as amended) together with secondary legislation primarily, the Council Tax (Administration and Enforcement) Regulations 1992. This legislation, together with relevant litigation (case law) details the enforcement action that can be taken to recover the Council Tax.
- A.4 All liable persons receive a Council Tax demand notice detailing the instalments by which to pay. Where payment is not received as requested, statute requires the Council to issue a reminder and/or final notice. If the taxpayer continues to default, a summons requesting their appearance at a local Magistrates Court, is issued.
- A.5 At that hearing, where the taxpayer offers no valid defence, the magistrates will issue a liability order which enables the Council to take various methods of recovery action to collect the debt. These include attachment to earnings; attachment to Income Support, Job Seekers Allowance, Employment and Support Allowance, Pension Credit or Universal Credit; the use of enforcement agents; attachment of Council Members allowances; bankruptcy; the securing of a charging order through the County Court or, as a last result, committal to prison.
- A.6 Discretion as to the particular recovery remedy to use to collect the tax can be made once a liability order has been obtained. When considering which method of recovery to use to pursue a debt, the Council will take the taxpayer's individual's personal and financial circumstances, where known, into account and apply the most appropriate recovery remedy.

Statutory instalments and payment dates

- A.7 In line with legislation, the Council will enable all taxpayers to pay by statutory instalments. Taxpayers will be offered ten monthly instalments per year as a default although they may opt to pay over a twelve month period if required.
- A.8 Where a taxpayer becomes liable for the tax during any year, the Council will provide a reduced number of instalments in line with the legislative requirements. Where a demand is issued on or after 1st January of any year but before the end of that financial year (31st March), there is no statutory obligation to provide the taxpayer with instalments, although the Council may, at its discretion make alternative arrangements with the taxpayer.
- A.9 Statutory instalments are not available for any debts in respect of previous financial years, although again, the Council will consider any reasonable request from the taxpayer for additional time to pay.

A.10 A minimum of 14 days will be allowed between the issue of the demand notice and the first instalment date. The Council offers a variety of dates for payment. Details can be found on the Council's website.

Reminder Notices and Final Notices

A.11 The legislation covering the recovery of Council Tax requires the Council to issue either a reminder notice and / or a final notice prior to taking action through the Magistrates Courts. If a taxpayer has the right to pay by instalments but does not make payment by the due date, the Council will issue a reminder notice. There is no statutory timescale from the date of the instalment becoming due and when a reminder can be issued.

A.12 The reminder notice will request that the taxpayer pay any missing instalment (together with any instalment falling due within the period of the notice) within seven days of the date of issue of the reminder.

A.13 If the missed instalment(s) is received within the seven days stated, the Council will not take any further action. If it is not paid then the right to pay by instalments is lost and the remaining Council Tax liability (for the full year) becomes due and payable. A further seven days is allowed for the full liability to be paid.

A.14 If payment is not made in accordance with the reminder notice, then a summons may be issued for the taxpayer to appear before the Magistrate's Court to determine whether a liability order should be issued which may allow the Council to take further action.

A.15 If the outstanding instalments are paid within the seven day period, but a further default on instalments occurs later in the year, the Council will issue send a second reminder notice. Again, if the missed instalment(s) is received within seven days of that notice, no further action will be taken. If payment is not paid, then the right to pay by instalments is lost and any remaining Council Tax liability for the year becomes due.

A.16 As with any further default, if payment is not made, then a summons may be issued for the taxpayer to appear before the Magistrate's Court to determine whether a liability order should be issued which will allow the Council to take further action.

A.17 In effect the reminder notice is a fourteen day notice. The first seven days allows for any outstanding instalments to be paid and where the taxpayer fails to comply with that request, the full years liability becomes due and action can be taken to pursue the debt through the Magistrate's Court after a further seven days.

A.18 If a taxpayer defaults for a third time in any year, the right to pay by instalments is lost automatically and a final notice will be issued by the Council.

A.19 A final notice is different to a reminder notice in that it demands any remaining Council Tax liability to be paid and allows just 7 days, after which the Council can pursue the debt through the Magistrate's Court.

A.20 Taxpayers are encouraged to contact the Council at their earlier convenience where it is anticipated that they will default on payment. As mentioned within this policy, the Council is keen to minimise

the level of debt due and maximise the income of taxpayers wherever possible. Details of 'free to customer' registered debt advice are available on the Council's website.

A.21 Reminders and Final Notices can be legally issued by a variety of methods including post and by electronic means. The Council will look to use the most appropriate method given the taxpayer's circumstances and preferences.

The issue of Summonses and Magistrate's Court

A.22 All Council Tax is recovered using the Magistrate's Court. Where taxpayers fail to respond to any reminder notice or final notice or defaults on an arrangement to pay, the Council may apply to the Magistrates' Court for a liability order to be issued.

A.23 Court proceedings are instigated by the issue of a 'complaint' by the Council to the local Magistrate's Court and a request that a summons will be issued to all taxpayers who have failed to pay the amounts due to establish the reasons for the default and answer why a liability order should not be granted to the Council.

A.24 Once the Court has authorised the Council that a summons can be issued, the taxpayer will be required to appear at a liability order hearing at the Magistrates' Court. It is at this stage that the Council will add summons costs to the Council Tax account.

A.25 A summons will always be served at least 14 days before any court hearing date. The summons will state the amount due and the time and place of the court hearing. The summons will normally be served post but can, at the discretion of the Council, be served by other methods.

A.26 A summons may be issued to a single taxpayer or to two or more taxpayers if they are jointly and severally liable for a debt.

A.27 For information, the summons may state:

- The reason for its issue i.e., the non-payment of Council Tax;
- The liable taxpayer(s);
- The address, last known address, or registered office of the taxpayer;
- The address to which the debt refers;
- The amount of Council Tax outstanding together with any costs incurred for the issue of the summons; and
- The date and time of the hearing

A.28 If the amount due, plus costs are paid prior to the date of the hearing, the Council will not proceed to obtain a liability order. If taxpayer(s) are not able to pay in full prior to the hearing the Council will continue to proceed with the application for a liability order.

A.29 Any time after a summons is issued the Council will still consider making an arrangement to pay the amount due on the summons including costs. If an arrangement is made at this stage, a liability order will still be obtained to secure the debt. However, if payments are received as per the arrangement no further action will be taken.

A.30 A summons together with the associated costs will be withdrawn if it can be shown that the summons was issued in error.

Liability order hearings

A.31 A taxpayer has a right to attend a hearing and a right to give evidence as to why a liability order should not be granted. If they do not attend, the hearing will still proceed in their absence. If the Magistrates are satisfied that the council tax is payable and remains unpaid, then they are required to issue a liability order. If a taxpayer wishes to defend an application for a liability order, they must offer a valid defence against it.

A.32 At the hearing an authorised officer of the Council will make an application to the Court for the liability orders listed. The Magistrates will hear the defence of any persons wishing to prevent the issue of the liability order. Valid defences include (but are not limited to) :

- the Council has not demanded the Council Tax in accordance with statute;
- the amount has been paid in full together with any associated costs; or
- is subject to a bankruptcy order or winding up order and the Council Tax debt should be included in the insolvency proceedings.

A.33 It should be noted that it is **not a valid defence** if the taxpayer:

- is unable to pay;
- has recently applied for council tax reduction;
- is disputing the liability (this is a matter for the independent Valuation Tribunal);
- has applied to the Valuation Office Agency against their Council Tax band;
- is disputing whether a discount or exemption should be granted (this is a matter for the independent Valuation Tribunal).

A.34 Obtaining a liability order usually incurs further costs

A.35 A liability order may be made against one or more joint taxpayers in respect of an amount for which they are jointly and severally liable. Recovery procedures for the full sum owed may be applied to one or more than one of the joint taxpayers.

Costs

A.36 Any summons and liability order costs incurred will be added to a taxpayer's account and will be included as part of their debt. Costs reflect both the reasonable administrative cost incurred by the Council and any court fee. Therefore, costs will only be removed from an account in exceptional circumstances including, for example, where a summons or liability order was incorrectly issued.

A.37 Summons and liability order costs are reviewed annually.

Post liability order methods of recovery

A.38 Once a Liability Order has been obtained, the Council may take the following enforcement actions:

- Request for information;
- Attachment of Earnings Order;
- Deduction from prescribed Department for Work and Pensions (DWP) Benefits;
- Attachment of Council Members Allowances;
- Enforcement Agent;

- Charging Orders (including orders for sale);
- Insolvency (Bankruptcy of an individual(s) or Liquidation of a company); or
- Committal to Prison

A.39 The Council can, and will, attempt to contact the customer at all stages of recovery action by any method appropriate including by letter, text, email or by telephone. Where possible payment arrangements will be made with the taxpayer to ensure that the debt is paid and also to establish the circumstances of the individual or business

Information Request Letter

A.40 Once a liability order has been obtained, taxpayers may be sent a letter by the Council requesting details of their employment and income. It will be explained that it is a statutory requirement under section 36 of the Council Tax (Administration and Enforcement) Regulations 1992 for them to complete and return the questionnaire.

A.41 Where issued, this notice can help to determine the next course of action to be taken to recover the sum due. The information that can be statutorily requested is as follows:

- The name and address of their employer;
- The amount earned;
- Amounts deducted for income tax, NI, and superannuation;
- Any payroll or works number;
- Whether any other attachment order(s) is in place;
- Any other sources of income; and
- Whether the person is jointly and severally liable for the debt.

A.42 It is an offence to not provide this information to the Council within 14 days without reasonable excuse or to knowingly provide false information. This could result in a fine of up to £500. If the taxpayer knowingly supply false information, they could be liable for a fine of up to £1,000.

Attachment of earnings

A.43 Where a taxpayer is employed, an Attachment of Earnings Order may be issued. The order once served will remain in force until the balance is clear or the Council withdraws it. The content of the order is prescribed as follows:

- It must be addressed to the taxpayer's employer;
- It must specify the sum outstanding;
- It must include details of the deduction prescribed by regulations

A.44 The amount is deducted in accordance with the tables contained in the regulations which provides percentages to be applied to net earnings after income tax, National Insurance, pension contributions, deductions for advances of salary and any other Council Tax attachment or earnings deductions. Attachable pay includes wages, salary, overtime, holiday pay, other fees, bonus, commission, or Statutory Sick Pay. The regulations allow for two deductions to be made at any time.

A.45 The service of the attachment of earnings order imposes certain duties on the employer and the taxpayer. The employer must:

- Notify the Council of the employment of a person who they know is subject to attachment within 14 days of receipt of the order;
- Notify the Council within 14 days of the employee leaving the employment;

- Notify the taxpayer of the amount of the deductions; and
- Allows the employer to make an administration fee, in addition to the deduction of £1 per deduction.

A.46 The taxpayer is also under a legal duty to:

- Notify the Council within 14 days of a change in their employment and provide details of their new employer including an employee number (if any); and
- Notify the Council of a change in their earnings or deductions;

A.47 Fines may be imposed for non-compliance with the regulations and both the employer and employee may be subject to the following fines:

The employer may be fined for:

- Failure to comply with an order;
- Supply of false information; or
- Failure to give all notifications required.

The employee may be fined for:

- Supply of false information; or
- Failure to supply information.

A.48 When the taxpayer is employed by the Crown, the Chief Officer, of the department in which the taxpayer is employed shall be treated as the employer. Although the pay of those in the armed services is specifically exempted from the definition of earnings, where the taxpayer is employed by the armed forces, they may make a deduction on request of the Council.

A.49 The Council may serve attachment of earnings orders on itself as an employer of a taxpayer and make deductions accordingly

A.50 Where there are taxpayers who are joint and severally liable, the Council may consider applying attachments to either or both taxpayers.

A.51 Once applied, an attachment to earnings will only be withdrawn in **exceptional** circumstances.

Attachment to Members Allowances

A.52 Where the taxpayer is also a member of Council, attempts may be made to secure payment of the Council Tax by attachment to his/her member's allowance. This will be undertaken following consultation with the S151 Officer. The attachment operates by deducting 40% of any members allowance payable.

A.53 Where any Council member is more than two months in arrears with their Council Tax, under S106 of the Local Government Finance Act 1992, they will be required to declare such in any meeting which relates to finance or Council Tax in general. Failure to do so will result in sanctions.

Deduction from prescribed DWP benefits

A.54 Deductions can be made from Universal Credit, Job Seekers Allowance, Pension Credit, Income Support and Employment Support Allowance for any unpaid Council Tax.

- A.55 If a taxpayer is receiving one of these benefits, the Council may ask the Department for Work and Pensions to make regular deductions from the benefit and make payments to the Council. Only one deduction can be applied at any one time and the taxpayer must be entitled to the relevant benefit.
- A.56 The Council will usually take this action where it has details of the taxpayer's benefit and where it is reasonable to do so. Deduction requests will be decided on a case by case basis, considering the total amount of debt and time it will take to clear the debt. If a deduction will not clear the debt in a reasonable time or if it is otherwise considered inappropriate, then the Council will consider another recovery action.
- A.57 Any decision to deduct or the amount of any deduction is a matter for the Department for Work and Pensions and any appeal against a deduction must be made directly to them. The level of deduction is not a matter for the Council to decide.
- A.58 A cancellation of any deduction from benefits will only be made by the Council in **exceptional** circumstances.

Enforcement Agents

- A.59 The Council employs both internal and external enforcement agents. Both will be used as a method of recovery in order to obtain payment of any outstanding Council Tax.
- A.60 The use of enforcement agents is normally considered as a last resort for the collection of arrears. An assessment of each taxpayer's situation, where known, will be undertaken to ascertain whether enforcement agent action is appropriate in each individual case. If at any time it is established that the taxpayer may be considered vulnerable, the Council will look to use using alternative methods of collection.
- A.61 All enforcement agents employed or engaged by the Council are fully trained and are able to:
- Identify and recognise signs of vulnerability in the taxpayer or their dependents so that taxpayers who are at risk of detriment or disadvantage can be offered a fair and good quality service which can be adapted to suit their particular needs and abilities;
 - Ensure that information required by all taxpayers and other service users is available in accessible formats; and
 - Conduct business in language (whether written or spoken) which is plain and easily intelligible and adapted to the needs of customer and other service users.
- A.62 All actions undertaken by any enforcement agent employed or engaged by the Council are covered the Tribunal Courts and Enforcement Act 2007, the Taking Control of Goods Regulations 2013, and the Taking Control of Goods (Fees) Regulations 2014.
- A.63 Enforcement agents must comply with this policy at all times whilst carrying out their duties. All enforcement agents must carry:
- Photo identification (ID) from the enforcement agent company or the Council (as appropriate)
This must be shown to all persons at first contact and on each subsequent visit;
 - Written authorisation to act on behalf of the Council. This must be produced on request.

Enforcement Stages and fees

A.64 The legislation sets down various stages which must be adhered to and through which any enforcement action will be taken. These are summarised below:

Stage 1: Compliance Stage - Fee: £75

A.65 When an enforcement agent receives an instruction from the Council, the case will enter the compliance stage. During this stage the agent will attempt to contact the taxpayer by any method other than by visit. A £75 fee is payable for each liability order.

A.66 Prior to making any visit the agent will issue a Notice of Enforcement. The service of the Notice of Enforcement, which gives a minimum period of 7 days prior to any actual visit, places the case into the enforcement stage.

Stage 2: Enforcement Stage - Fee: £235.00 (plus 7.5% of the value of the debt that exceeds £1,500)

A.67 If during the compliance stage, full payment or a payment arrangement is not made or if a previous payment arrangement is broken, the case will progress to the 'enforcement stage'. As a consequence, an individual enforcement agent will make a personal visit to the taxpayer's property. The purpose of the visit would be to 'take control' of goods. The enforcement fee of £235 becomes payable when the agent attends your property. It will not be charged before a visit takes place.

A.68 If the enforcement agent is enforcing more than one Liability Order only charge one enforcement stage fee will be made.

Stage 3: Sale Stage - Fee: £110.00 (plus 7.5% of the value of the debt that exceeds £1,500.00).

A.69 This fee can be charged when an agent actually attends the taxpayer's property and make **preparations** for the sale of goods. If goods are actually removed, additional disbursements may be charged. The most significant disbursement being storage fees.

Enforcement Agent Code of Conduct

A.70 The Council will require all enforcement agents to abide by an agreed code of conduct and adopt best practice. The enforcement agent must introduce themselves to taxpayer and state that they are acting on behalf of the Council.

Further recovery actions

A.71 Where the actions above have been unsuccessful in recovering all of the debt owed or when they are considered inappropriate, the Council may consider further recovery actions. These include:

- charging orders;
- bankruptcy or liquidation in the case of a limited company; or
- committal to prison (for individuals).

A.72 These actions may have serious consequences for the taxpayer. They will therefore always be considered on a case by case basis, taking individual circumstances into account.

A.73 Other legal actions outside of this procedure may also be considered where appropriate.

Factors to take into consideration

A.74 When making a decision to proceed with a further recovery action, the Council will always investigate the circumstances of the taxpayer and then consider the:

- implications for overall payment levels if people come to believe that council tax debts will not be collected;
- impact of non-payment on Council income and the need to deliver services to the community;
- equality between those who do pay and those who don't;
- why other recovery methods are not appropriate;
- whether action is likely to be effective;
- the potential debt that may be recovered by the action and whether the likely costs of the action are proportionate to it;
- whether the taxpayer's failure to pay may result from a vulnerability and, if so, what action is appropriate as a result;
- potential effect of the action on any known dependants, especially children;
- need to prevent homelessness and whether the action may cause it; and
- any other circumstances which may warrant protection from the consequences of the action.

A.75 An investigation into a taxpayer's circumstances may include:

- an attempt to contact the taxpayer in person, including a home visit if necessary;
- data about the taxpayer shared by other areas of the Council including but not limited to Council Tax Reduction and Electoral Registration
- data about the taxpayer shared by other public bodies as permitted by data protection.

A.76 The Council will maintain a written record of the above together with:

- details of attempts to contact the taxpayer;
- the information gathered, consideration of whether the action is proportionate to the likely debt to be recovered and the reasons for proceeding with the action.

Bankruptcy (or Liquidation if the taxpayer is a Ltd Company)

A.77 Where the taxpayer is an individual the Council can apply to the County Court or High Court for them to be made bankrupt if they have liability orders totalling more than £5,000.00. For liquidation the debt must be at least £750.

A.78 Before taking this action, the Council will therefore make reasonable attempts to investigate the taxpayer's personal and financial circumstances to determine whether bankruptcy (or liquidation) action is appropriate.

A.79 The Council is more likely to pursue this action where:

- (a) the taxpayer has previously broken agreed payment arrangements; or
- (b) from the information the Council holds they appear to likely have sufficient realisable assets to pay the debt and likely costs;
- (a) the likely costs are proportionate to the debt to be recovered;
- (b) the taxpayer and members of their household are not vulnerable; and
- (c) all other enforcement remedies have been exhausted.

A.80 While the Council considers potential vulnerability at all stages of recovery particular regard to these will be made when considering bankruptcy action.

- A.81 Once a decision is made to make a taxpayer bankrupt or wind up the taxpayer in the case of a limited company, the account will be referred to the Council's legal provider for action.
- A.82 A statutory demand will first be served on the taxpayer setting out the debt outstanding, and the options available to them to prevent further action, the time scales in which they need to respond and direct contact details of officers dealing with the case. A guide to the potential bankruptcy or liquidation costs is included with the statutory demand. No additional costs are incurred at this stage, and the Council may still agree a payment arrangement with the taxpayer at this stage.
- A.83 Where the taxpayer has not responded to the statutory demand within 21 days or where the Council is unable to agree arrangements that will discharge the debt, the Council will consider whether a petition for the taxpayer to be made bankrupt (winding up for a limited company) should be made to a court.
- A.84 Where a bankruptcy or winding up order is made; the Official Receiver will act as the initial Trustee in Bankruptcy or Liquidator. The matter will then be passed to a final Trustee in Bankruptcy or Liquidator if the taxpayer has assets that might be sold to settle a debt.

Charging orders

- A.85 Under the regulations, the Council may apply to the County Court or High Court for a charge to be put on a property owned by the taxpayer where a council tax debt of more than £1,000.00 is owed.
- A.86 Where a decision is made to proceed with an application for a charging order, the account will be referred to the legal provider. After referral, the legal provider will attempt to contact the taxpayer again to try and settle the matter without the need for legal proceedings. They will then commence legal proceedings if no agreement is reached.
- A.87 The costs associated with this will be added to the amount of the order.
- A.88 In certain circumstances, the Council may also apply to the court for an order for sale, which may result in the property being sold and the amount subject to the charging order, including costs, being paid from the proceeds of sale.

Committal proceedings

- A.89 If enforcement agents have been unable to find any or sufficient goods to pay the debt or have been unable to gain entry to the taxpayer's premises, the Council can apply to the Magistrates' Court to have the taxpayer committed to prison for a maximum of three months. Committal proceedings are usually a recovery action of last resort when all other actions have either failed or are not appropriate.
- A.90 The Council is more likely to take committal action against a taxpayer when:
- enforcement agents have not been able to recover all of the debt;
 - the taxpayer has previously broken agreed payment arrangements;
 - the taxpayer has failed to provide employment or benefit details;
 - the taxpayer is not considered vulnerable;
 - it appears that the failure to pay may be the result of wilful refusal or culpable neglect; and
 - no other recovery action is appropriate.

A.91 Where the Taxpayer fails to respond or where an agreement is not reached, the Council will then apply for a summons for the taxpayer to appear at a hearing before the Magistrate's court.

A.92 At the hearing the Magistrates will conduct a means enquiry to determine whether the failure to pay the council tax concerned was due to 'wilful refusal' or 'culpable neglect'. The Magistrates may make the following decisions:

Commit to prison:

- The Magistrates can decide to send the taxpayer to prison for up to three months where wilful refusal or culpable neglect is proven;

Fix a term of imprisonment and postpone on conditions:

- The taxpayer in this case is normally ordered to pay an arrangement as determined by the Magistrates. If payments are made as ordered then no further action is taken. If payments are missed, then the prison sentence will come into force and the taxpayer can be sent to prison for up to three months.

Adjourn:

- A hearing may be postponed to a later date if, for example, more information or evidence is needed before a decision can be made.

Dismiss (take no action):

- The Magistrates may decide that no further action is appropriate.

Remit some or all of the debt:

- The Magistrates may remit (write off) part or all of the Council Tax owed where there is an inability to pay determined as part of the means inquiry.

A.93 Where the taxpayer does not attend the committal hearing as required, the Council will ask for a warrant of arrest with bail to be issued for a further hearing at the Magistrate's court. A warrant of arrest without bail may be applied for in some circumstances, for example where a taxpayer has previously not complied with a warrant with bail.

A.94 It should be noted that if a term of imprisonment is served, the Council Tax remains outstanding but the recovery remedies for it will have been exhausted. A part payment will also reduce the term of imprisonment by the ratio of payment to the total amount of the debt.

A.95 The costs of any committal proceedings will be added to the existing Council Tax debt.

Annex B

Non Domestic Rating

Introduction and general overview of the recovery process.

- B.1 Non-domestic rates are a tax levied on hereditaments (business assessments). The amount charged is dependent on the rateable value of the property and the nationally determined non-domestic rating multiplier.
- B.2 Rates are payable for both occupied and unoccupied hereditaments and the full rate of tax is payable unless the hereditament, rateable occupier or owner is eligible for a reduction, relief, or exemption.
- B.3 Non Domestic Rates are payable in line with a statutory instalment scheme or by agreement with the Council. There is a legal duty placed on the Council and its officers to collect outstanding debts in accordance with the Local Government Finance Act 1988 (as amended) together with secondary legislation primarily, the Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989. This legislation, together with relevant litigation (case law) details the enforcement action that can be taken to recover the Non Domestic Rate.
- B.4 All ratepayers receive a demand notice detailing the instalments by which to pay. Where payment is not received as requested, statute requires the Council to issue a reminder (second notice) and/or final notice. If the ratepayer continues to default, a summons requesting their appearance at a local Magistrates Court, is issued.
- B.5 At that hearing, where the ratepayer offers no valid defence, the magistrates will issue a liability order which enables the Council to take various methods of recovery action to collect the debt. These include the use of enforcement agents; bankruptcy or liquidation for a limited company; or, in the case of an individual, committal to prison.
- B.6 Non Domestic Rates can be recovered through the County Court provided no action has been taken through the Magistrates Court (by a liability order being obtained). The Council may consider using the County Court process where it is of the opinion that the action would be more appropriate. The process through the Magistrates Court has no effect on the credit rating of the ratepayer, obtaining a County Court judgement will have a detrimental effect on the ratepayer's ability to obtain credit.

Statutory instalments and payment dates

- B.7 In line with legislation, the Council will enable all ratepayers to pay by statutory instalments. Taxpayers will be offered 10 monthly instalments per year as a default although they may opt to pay over a twelve month period if required.
- B.8 Where a ratepayer becomes liable for the rate during any year, the Council will provide a reduced number of instalments in line with the legislative requirements. Where a demand is issued on or after 1st January of any year but before the end of that financial year (31st March), there is no statutory obligation to provide the ratepayer with instalments, although the Council may, at its discretion make alternative arrangements with the ratepayer.
- B.9 Statutory instalments are not available for any debts in respect of previous financial years, although again, the Council will consider any reasonable request from the ratepayer for additional time to pay.

B.10 A minimum of 14 days will be allowed between the issue of the demand notice and the first instalment date. The Council offers a variety of payment dates, details of which can be found on the Council's website.

Reminder Notices (Second Notices) and Final Notices

B.11 The legislation covering the recovery of Non-Domestic Rates requires the Council to issue either a reminder notice (second notice) and / or a final notice prior to taking action through the Magistrates Courts. If a ratepayer has the right to pay by instalments but does not make payment by the due date, the Council will issue a reminder notice. There is no statutory timescale from the date of the instalment becoming due and when a reminder can be issued. The reminder notice will request that the ratepayer pay any missing instalment (together with any instalment falling due within the period of the notice) within seven days of the date of issue of the reminder.

B.12 If the missed instalment (s) is received within the seven days stated, the Council will not take any further action. If it is not paid then the right to pay by instalments is lost and the remaining Non-Domestic Rates liability (for the full year) becomes due and payable. A further seven days is allowed for the full liability to be paid.

B.13 If payment is not made in accordance with the reminder notice, then a summons will be issued for the ratepayer to appear before the Magistrate's Court to determine whether a liability order should be issued which will allow the Council to take further action. If the outstanding instalments are paid within the seven day period, but a further default on instalments occurs later in the year, then the right to pay by instalments is lost and any remaining Non-Domestic Rates liability for the year becomes due.

B.14 As with any further default, if payment is not made, then a summons may be issued for the ratepayer to appear before the Magistrate's Court to determine whether a liability order should be issued which will allow the Council to take further action.

B.15 In effect the reminder notice is a fourteen day notice. The first seven days allows for any outstanding instalments to be paid and where the ratepayer fails to comply with that request, the full years liability becomes due and action can be taken to pursue the debt through the Magistrate's Court after a further seven days.

B.16 A final notice is different to a reminder notice in that it demands any remaining Non-Domestic Rates liability to be paid and allows just 7 days, after which the Council can pursue the debt through the Magistrate's Court.

B.17 Ratepayers should contact the Council as soon as possible where it is anticipated that they will default on payment. As mentioned within this policy, the Council is keen to minimise the level of debt due and maximise the income of ratepayers wherever possible. Details of 'free to customer' registered debt advice are available on the Council's website.

B.18 Reminders and Final Notices can be legally issued by a variety of methods including post and by electronic means. The Council will look to use the most appropriate method given the ratepayer's circumstances and preferences.

The issue of Summonses and Magistrate's Court

- B.19 Non-Domestic Rates is usually recovered using the Magistrate's Court although the Council reserves the right to take action through the County Court where it feels the action is more appropriate.
- B.20 Where ratepayers fail to respond to any reminder notice or final notice or defaults on an arrangement to pay, the Council may apply to the Magistrates' Court for a liability order to be issued.
- B.21 Court proceedings are instigated by the issue of a 'complaint' by the Council to the local Magistrate's Court and a request that a summons will be issued to all ratepayers who have failed to pay the amounts due to establish the reasons for the default and answer why a liability order should not be granted to the Council. Once the Court has authorised the Council that a summons can be issued, the ratepayer will be required to appear at a liability order hearing at the Magistrates' Court. It is at this stage that the Council will add costs to the Non-Domestic Rates account.
- B.22 A summons will always be served at least 14 days before any court hearing date. The summons will state the amount due and the time and place of the court hearing. The summons will normally be served post but can, at the discretion of the Council be served by other methods.
- B.23 A summons may be issued to a single ratepayer or to two or more ratepayers if they are jointly and severally liable for a debt.
- B.24 For information, the summons will state:
- The reason for its issue i.e., the non-payment of Non-Domestic Rates;
 - The liable ratepayer(s);
 - The address, last known address, or registered office of the ratepayer;
 - The address to which the debt refers;
 - The amount of Non-Domestic Rates outstanding together with any costs incurred for the issue of the summons; and
 - The date and time of the hearing
- B.25 If the amount due, plus costs are paid prior to the date of the hearing, the Council will not proceed to obtain a liability order. If ratepayer(s) are not able to pay in full prior to the hearing the Council will continue to proceed with the application for a liability order.
- B.26 Any time after a summons is issued the Council will still consider making an arrangement to pay the amount due on the summons including costs. If an arrangement is made at this stage, a liability order will still be obtained to secure the debt. However, if payments are received as per the arrangement no further action will be taken.
- B.27 A summons together with the associated costs will be withdrawn if it can be shown that the summons was issued in error.

Liability order hearings

- B.28 A ratepayer has a right to attend a hearing and a right to give evidence as to why a liability order should not be granted. If they do not attend, the hearing will still proceed in their absence. If the Magistrates are satisfied that the Non-Domestic Rates is payable and remains unpaid, then they are required to issue a liability order. If a ratepayer wishes to defend an application for a liability order, they must offer a valid defence against it.

B.29 At the hearing an authorised officer of the Council will make an application to the Court for the liability orders listed. The Magistrates will hear the defence of any persons wishing to prevent the issue of the liability order. Valid defences include (but are not limited to) :

- the Council has not demanded the Non-Domestic Rates in accordance with statute;
- they are not the liable person;
- the amount has been paid in full together with any associated costs; or
- is subject to a bankruptcy order or winding up order and the Non-Domestic Rates debt should be included in the insolvency proceedings.

B.30 It should be noted that it is **not a valid defence** if the taxpayer:

- is unable to pay; or
- has applied to the Valuation Office Agency against their Rateable Value;

B.31 Obtaining a liability order usually incurs a further costs.

B.32 A liability order may be made against one or more joint ratepayers in respect of an amount for which they are jointly and severally liable. Recovery procedures for the full sum owed may be applied to one or more than one of the joint ratepayers.

Costs

B.33 Any summons and liability order costs incurred will be added to a ratepayer's account and will be included as part of their debt. Costs reflect both the reasonable administrative cost incurred by the Council and any court fee. Therefore, costs will only be removed from an account in exceptional circumstances including, for example, where a summons or liability order was incorrectly issued.

B.34 Summons and liability order costs are reviewed annually.

Post liability order methods of recovery

B.35 Once a Liability Order has been obtained, the Council may take the following enforcement actions:

- the use of Enforcement Agents;
- Insolvency (Bankruptcy of an individual(s) or Liquidation of a company); or
- Committal to Prison

B.36 The Council can, and will, attempt to contact the ratepayer at all stages of recovery action by any method appropriate including by letter, text, email or by telephone. Where possible payment arrangements will be made with the ratepayer to ensure that the debt is paid and also to establish the circumstances of the individual or business

Enforcement Agents

B.37 The Council employs both internal and external enforcement agents. Both will be used as a method of recovery in order to obtain payment of any outstanding Non-Domestic Rates.

B.38 The use of enforcement agents is normally considered as a last resort for the collection of arrears. An assessment of each ratepayer's situation, where known, will be undertaken to ascertain whether enforcement agent action is appropriate in each individual case. If at any time it is established that

the ratepayer may be considered vulnerable, the Council will look to use using alternative methods of collection.

- B.39 All enforcement agents employed or engaged by the Council are fully trained and are able to:
- Identify and recognise signs of vulnerability in the ratepayer or their dependents so that taxpayers who are at risk of detriment or disadvantage can be offered a fair and good quality service which can be adapted to suit their particular needs and abilities;
 - Ensure that information required by all ratepayers and other service users is available in accessible formats; and
 - Conduct business in language (whether written or spoken) which is plain and easily intelligible and adapted to the needs of customer and other service users.
- B.40 All actions undertaken by any enforcement agent employed or engaged by the Council are covered the Tribunal Courts and Enforcement Act 2007, the Taking Control of Goods Regulations 2013, and the Taking Control of Goods (Fees) Regulations 2014.
- B.41 Enforcement agents must comply with this policy at all times whilst carrying out their duties. All enforcement agents must carry:
- Photo identification (ID) from the enforcement agent company or the Council (as appropriate)
This must be shown to all persons at first contact and on each subsequent visit;
 - Written authorisation to act on behalf of the Council. This must be produced on request.

Enforcement Stages and fees

B.42 The legislation sets down various stages which must be adhered to and through which any enforcement action will be taken. These are summarised below:

Stage 1: Compliance Stage - Fee: £75

- B.43 When an enforcement agent receives an instruction from the Council, the case will enter the compliance stage. During this stage the agent will attempt to contact the ratepayer by any method other than by visit. A £75 fee is payable for each liability order.
- B.44 Prior to making any visit the agent will issue a Notice of Enforcement. The service of the Notice of Enforcement, which gives a minimum period of 7 days prior to any actual visit, places the case into the enforcement stage.

Stage 2: Enforcement Stage - Fee: £235.00 (plus 7.5% of the value of the debt that exceeds £1,500)

- B.45 If during the compliance stage, full payment or a payment arrangement is not made or if a previous payment arrangement is broken, the case will progress to the 'enforcement stage'. As a consequence, an individual enforcement agent will make a personal visit to the ratepayer's property. The purpose of the visit would be to 'take control' of goods. The enforcement fee of £235 becomes payable when the agent attends your property. It will not be charged before a visit takes place.
- B.46 If the enforcement agent is enforcing more than one Liability Order only charge one enforcement stage fee will be made.

Stage 3: Sale Stage - Fee: £110.00 (plus 7.5% of the value of the debt that exceeds £1,500.00).

B.47 This fee can be charged when an agent actually attends the ratepayer's property and make **preparations** for the sale of goods. If goods are actually removed, additional disbursements may be charged. The most significant disbursement being storage fees.

Enforcement Agent Code of Conduct

B.48 The Council will require all enforcement agents to abide by an agreed code of conduct and adopt best practice. The enforcement agent must introduce themselves to ratepayer and state that they are acting on behalf of the Council.

Further recovery actions

B.49 Where the actions above have been unsuccessful in recovering all of the debt owed or when they are considered inappropriate, the Council may consider further recovery actions. These include:

- bankruptcy or liquidation in the case of a limited company; or
- committal to prison (for individuals).

B.50 These actions may have serious consequences for the ratepayer. They will therefore always be considered on a case by case basis, taking individual circumstances into account. Other legal actions outside of this procedure may also be considered where appropriate.

Factors to take into consideration

B.51 When making a decision to proceed with a further recovery action, the Council will always attempt to investigate the circumstances of the ratepayer and then consider the:

- implications for overall payment levels if people come to believe that Non-Domestic Rate debts will not be collected;
- impact of non-payment on Council income and the need to deliver services to the community;
- equality between those who do pay and those who don't;
- why other recovery methods are not appropriate;
- whether action is likely to be effective;
- the potential debt that may be recovered by the action and whether the likely costs of the action are proportionate to it;
- whether the ratepayer's failure to pay may result from a vulnerability and, if so, what action is appropriate as a result;
- potential effect of the action on any known dependants, especially children;
- need to prevent homelessness and whether the action may cause it; and
- any other circumstances which may warrant protection from the consequences of the action.

B.52 An investigation into a ratepayer's circumstances may include:

- an attempt to contact the ratepayer in person, including a home visit if necessary;
- data about the ratepayer shared by other areas of the Council including but not limited to Council Tax; and
- data about the ratepayer shared by other public bodies as permitted by data protection.

B.53 The Council will maintain a record of the above together with:

- details of attempts to contact the ratepayer; and
- the information gathered, consideration of whether the action is proportionate to the likely debt

to be recovered and the reasons for proceeding with the action.

Bankruptcy (or Liquidation if the ratepayer is a Ltd Company)

- B.54 Where the ratepayer is an individual the Council can apply to the County Court or High Court for them to be made bankrupt if they have liability orders totalling more than £5,000.00. For liquidation the debt must be at least £750.
- B.55 Before taking this action, the Council will therefore make reasonable attempts to investigate the ratepayer's personal and financial circumstances to determine whether bankruptcy (or liquidation in the case of a limited company) action is appropriate.
- B.56 While the Council considers potential vulnerability at all stages of recovery, particular regard to these will be made when considering bankruptcy action.
- B.57 Once a decision is made to make a ratepayer bankrupt or wind up the ratepayer in the case of a limited company, the account will be referred to the Council's legal provider for action.
- B.58 A statutory demand will first be served on the ratepayer setting out the debt outstanding, and the options available to them to prevent further action, the time scales in which they need to respond and direct contact details of officers dealing with the case. A guide to the potential bankruptcy or liquidation costs is included with the statutory demand. No additional costs are incurred at this stage, and the Council may still agree a payment arrangement with the taxpayer at this stage.
- B.59 Where the ratepayer has not responded to the statutory demand within 21 days or where the Council is unable to agree arrangements that will discharge the debt, the Council will consider whether a petition for the taxpayer to be made bankrupt (winding up for a limited company) should be made to a court.
- B.60 Where a bankruptcy or winding up order is made; the Official Receiver will act as the initial Trustee in Bankruptcy or Liquidator. The matter will then be passed to a final Trustee in Bankruptcy or Liquidator if the ratepayer has assets that might be sold to settle a debt.

Committal proceedings

- B.61 If enforcement agents have been unable to find any or sufficient goods to pay the debt or have been unable to gain entry to the ratepayer's premises, the Council can apply to the Magistrates' Court to have the ratepayer committed to prison for a maximum of three months. Committal proceedings are usually a recovery action of last resort when all other actions have either failed or are not appropriate.
- B.62 The Council is more likely to take committal action against a ratepayer when:
- enforcement agents have not been able to recover all of the debt;
 - the ratepayer has previously broken agreed payment arrangements;
 - the ratepayer is not considered vulnerable;
 - it appears that the failure to pay may be the result of wilful refusal or culpable neglect; and
 - no other recovery action is appropriate.
- B.63 Where the ratepayer fails to respond or where an agreement is not reached, the Council will then apply for a summons for the ratepayer to appear at a hearing before the Magistrate's court.

B.64 At the hearing the Magistrates will conduct a means enquiry to determine whether the failure to pay the Non-Domestic Rates concerned was due to 'wilful refusal' or 'culpable neglect'. The Magistrates may make the following decisions:

Commit to prison:

- The Magistrates can decide to send the ratepayer to prison for up to three months where wilful refusal or culpable neglect is proven;

Fix a term of imprisonment and postpone on conditions:

- The ratepayer in this case is normally ordered to pay an arrangement as determined by the Magistrates. If payments are made as ordered then no further action is taken. If payments are missed, then the prison sentence will come into force and the ratepayer can be sent to prison for up to three months.

Adjourn:

- A hearing may be postponed to a later date if, for example, more information or evidence is needed before a decision can be made.

Dismiss (take no action):

- The Magistrates may decide that no further action is appropriate.

Remit some or all of the debt:

- The Magistrates may remit (write off) part or all of the Non-Domestic Rates owed where there is an inability to pay determined as part of the means inquiry.

B.65 Where the ratepayer does not attend the committal hearing as required, the Council will ask for a warrant of arrest with bail to be issued for a further hearing at the Magistrate's court. A warrant of arrest without bail may be applied for in some circumstances, for example where a ratepayer has previously not complied with a warrant with bail.

B.66 It should be noted that if a term of imprisonment is served, the Non-Domestic Rates remains outstanding but the recovery remedies for it will have been exhausted. A part payment will also reduce the term of imprisonment by the ratio of payment to the total amount of the debt.

B.67 The costs of any committal proceedings will be added to the existing Non-Domestic Rates debt.

Annex C

Housing Benefit Overpayment Recovery

Introduction and background to the recovery of Housing Benefit Overpayments

- C.1 Overpayments of Housing Benefit are established through a change in benefit entitlement. They are described as an amount of benefit that has been awarded but to which there is no entitlement under the regulations. It should be noted that this section of the policy applies to Housing Benefit Overpayments **only**. Any amount of debt recovered through any adjustment of Council Tax Reduction is to be recovered in the same manner as outstanding Council Tax in line with Annex A.
- C.2 The Social Security Administration Act 1992 and the Social Security Contributions and Benefits Act 1992 provide the primary legislation that governs Housing Benefit and the recovery of overpayments. Secondary legislation in the form of statutory instruments provide additional detail, the most relevant being the Housing Benefit Regulations 2006 for working age claimants and the Housing Benefit (Persons who have attained the age for state pension credit) Regulations 2006 for all pension age claimants. These regulations lay down the statutory framework for administering the benefit schemes, including overpayment recovery
- C.3 Accurate and prompt identification of overpayments is important to ensure that the incorrect payment of benefit is discontinued and to maximise the chances of successful recovery. The Council recognises that to ensure there is minimal loss to public funds, firm but fair action must be undertaken in the administration of Housing Benefit overpayments.
- C.4 Proactive action in the recovery of overpayments has a deterrent effect. However, the Council has a responsibility to act in accordance with all relevant legislation and regulations.
- C.5 In all cases due regard will be given to the health and individual circumstances of the claimant to avoid causing unnecessary hardship.

Policy Aims

- C.6 The Council's Housing Benefit Overpayments recovery policy reflects best practice in dealing with the administration and recovery of Housing Benefit overpayments.
- C.7 The Council will:
- (a) take steps to minimise and prevent overpayments from occurring;
 - (b) identify the overpayment promptly;
 - (c) stop the overpayment from continuing;
 - (d) classify the overpayment correctly;
 - (e) determine if the overpayment is recoverable and, if recoverable:
 - (i) determine from whom to recover;
 - (ii) determine the most appropriate method of recovery;
 - (f) notify the claimant and other affected persons of the decision; and
 - (g) implement effective financial control of the recovery process.
- C.8 This policy applies in all cases where an overpayment of benefit has occurred, that is, any amount of Housing Benefit which has been paid but to which there was no entitlement whether on initial decision or on a subsequent revised or superseded decision.
- C.9 In most cases overpayments can arise as a consequence of:
- payments made in advance;
 - late disclosure of a change in circumstances;

- errors made by the claimant when completing an application form or review form;
- claimant error; and
- official errors made by the Council or the Department for Work and Pensions; or
- deliberate fraud.

C.10 Official error overpayments are only recoverable if the claimant or the person from whom recovery of the overpayment is sought could reasonably have known that an overpayment was occurring at the time the overpayment occurred.

Prevention of Overpayments

C.11 The recovery of overpayments are often difficult and time consuming to administer. They can cause difficulties for claimants and their families as they try to manage on limited incomes. They are to be avoided where possible. This will be achieved by:

- telling claimants how to avoid overpayments, with letters, in leaflets and during verbal communications;
- encouraging claimants to maintain contact with us;
- processing information quickly and accurately to minimise overpayments; and
- offsetting any new or underlying entitlement.

Identifying Overpayments

C.12 The Council will endeavour to act on any information received in relation to a claimant's change in circumstances as soon as practicable of having received sufficient information to identify that an overpayment has or will be occurring.

C.13 This action will in the first instance include the suspension of further ongoing payments of incorrect benefit. The Council will endeavour to identify any change in circumstances that would result in an overpayment.

Classification of Overpayments

C.14 The correct classification of overpayments is essential as, depending on the type of overpayment, the Council will receive a percentage of the overpayment back from the government by way of subsidy.

Calculation of Overpayments

C.15 Where an overpayment has occurred, the Council will invite claimants to provide sufficient information for any underlying entitlement to benefit for the overpayment period to be assessed. The full amount of the overpayment will be recovered unless the health or financial circumstances of the person from whom recovery is being sought suggest a lesser amount would be appropriate.

Decisions on Recoverability

- C.17 In all cases where an overpayment has arisen, the Council will consider whether an official error has caused or contributed towards the overpayment.
- C.18 Where the Council has identified an overpayment, which was caused or contributed to by an official error, it will decide whether recovery of the overpayment is appropriate under the guidance issued by the Department for Work and Pensions.

Who should the overpayment be recovered from?

- C.19 Before recovery action begins, consideration will be given as to whom is the most appropriate person to recover the overpayment from. This may in certain cases mean that further information is required from the affected parties.
- C.20 Recovery will then be made from the most appropriate persons who may be:
- the claimant;
 - the person to whom the payment of benefit was made;
 - the person who misrepresented or failed to disclose the material fact; and
 - the partner of the claimant if the partner was living with the claimant at the time of the overpayment and at the time the decision to recover was made.
- C.21 In all cases where the overpayment was the result of proven fraud the overpayment will, in the first instance, be sought to be recovered from the person who misrepresented or failed to disclose a material fact.

Recovery of Overpayments

- C.22 In all cases where recovery of an overpayment is sought, the Council will have regard to its statutory duty to protect the loss from public funds but in doing so will have regard to:
- the length of time the recovery of the overpayment may take;
 - the effect of recovery on the affected person; and
 - the ability of the affected person to repay the debt.
- C.23 The Council may consider the method of recovery of an overpayment at any time for the purpose of effectiveness and efficiency in financial control.
- C.24 Only if it becomes clear after all attempts at recovering the overpayment have become exhausted and there is no hope of recovery, or there are extenuating circumstances, shall the debt be recommended for write-off.
- C.25 Recovery may be suspended if a claimant formally appeals a decision until such time as the appeal has been resolved.

Notification of overpayment

C.26 The Council must notify, in writing, any 'person affected' by a decision it makes under the regulations. This includes not only the claimant, but also any person from whom the Council seeks to recover a recoverable overpayment for example the landlord.

C.27 Every notification must include certain specified information as a statutory duty and the following is a list of what should be included:

- the fact that there is a recoverable overpayment and the reason it is recoverable;
- the reason it occurred;
- the amount;
- how it was calculated;
- the date informed by the claimant;
- the date actioned;
- the period of overpayment
- where recovery is to be made by deduction from future Housing Benefit, the amount of the deduction;
- the person's right to request a written statement giving the Council's reasons for its decision; and
- the right to appeal and time limits involved

Methods of Recovery

C.28 The most appropriate method of recovery for Housing Benefit Overpayments will be considered in all cases, including:

- on-going deductions from further payments of Housing Benefit;
- blameless tenant recovery;
- deductions from other Department for Works and Pensions benefits;
- direct invoicing of the client;
- Direct Earnings Attachments;
- deductions from to the rent account where it is in credit;
- recovery from landlord;
- referral to an external debt collection agency;
- applying to the County Court for a County Court Order (after all avenues of recovery are considered or exhausted). Further recovery actions will then be taken through the Courts, e.g., instructing enforcement agents; or
- where the claimant is deceased, recovering any outstanding amount by contacting their executors or representatives to seek recovery from their estate.

C.29 Each of the recovery remedies available to the Council are examined in detail below.

On-going deductions from further payments of Housing Benefit

C.30 Where there is still entitlement to Housing Benefit, the overpayment can be recovered from any ongoing benefit and this will be the primary recovery remedy for all cases where Housing Benefit continues in payment.

C.31 Government sets the recovery rates for deductions from on-going Housing Benefit and these are revised annually. There are two levels of deduction available and the higher level can only be used

where a customer has been prosecuted and found guilty of fraud / or admitted fraud after being 'Interviewed under Caution' or agreed to pay an Administrative Penalty in respect of the overpayment.

- C.32 In all cases the deduction will be increased by 50% of any earnings disregard. This additional amount will automatically be deducted by the Council.
- C.33 in all cases the amounts are subject to an overall maximum deduction, which does not reduce the balance of benefit payable to less than 50 pence per week.
- C.34 Where the overpayment is to be recovered from ongoing benefit the recovery rate is detailed in the notification letter sent to the customer. The Council will review all arrangements on a regular basis to ensure the payments are being made as agreed.
- C.35 If the customer is still in receipt of Housing Benefit but there is not sufficient in payment to enable a maximum recovery rate to be taken, the Council will recover all but £0.50 per week and invite the customer to pay an additional amount each week.
- C.36 In cases where a fraud has been identified the recovery rate will be increased to the current standard maximum recovery amount where appropriate.
- C.37 If a customer has moved to another Local Authority area and is in receipt of Housing Benefit at their new address, the Council may contact that Authority by telephone or email to request that they make deductions from the ongoing benefit at an appropriate rate and forward the amounts recovered to the Council.
- C.38 It should be noted that recovery from ongoing benefit is counted as recovery from the claimant and not the landlord. Consequently, the landlord is not a person affected and cannot appeal any decision. The claimant must make up the shortfall in the Housing Benefit in order to avoid any rent arrears. If a rent arrears situation develops the landlord should pursue recovery on that basis.
- C.39 The Council may recover a recoverable overpayment from arrears of Housing Benefit. Arrears, in this case means any entitlement which is payable after the Council has revised or superseded a decision and concluded that, for whatever reason, it has underpaid the claimant. Arrears does not include any payment owing due to a delay in processing a new claim or change of address.
- C.40 The full amount of the arrears/underpayment may be used to recover the overpayment. This method is not subject to the maximum recovery rates.
- C.41 If Housing Benefit has been overpaid to a claimant who has a partner and they switch who is claiming the benefit, the overpayment can be recovered by making deductions from the partner's HB, as long as the claimant and partner were a couple both at the time
- the overpayment occurred; and
 - when it is being recovered.

Blameless tenant recovery

- C.42 Under the regulations the Council can recover overpayments of Housing Benefit made to a third party, e.g., landlords/agents, from Housing Benefit paid to that third party. This includes recovering Housing Benefit payments paid direct to a landlord in respect of any of their tenants. This method of recovery is often known as 'direct recovery from landlords' or 'blameless tenant' method.
- C.43 The Council has the ability to use these powers at its discretion and will look to recover using this method where appropriate.
- C.44 Where such action is taken decision notices must take in to account the following:
- When a decision has been made to pay a landlord direct payments of Housing Benefit, on behalf of their tenants, it is a legal requirement to include on decision notices to both the claimant and the landlord at the time direct payments commence that if recovery is made from one tenant's benefit for an overpayment made to another tenant, the rental liabilities of the tenant from whom the recovery has been made will be protected. This person is known as the 'blameless tenant'. Both the landlord and tenant have to be notified in writing;
 - It is a legal requirement for overpayment decision notices sent by the Council to landlords to specify when recovery is to be made from another tenant's benefit; and
 - the Council must also specify which benefits recovery may be made from, and the circumstances in which a tenant's rental liability remains discharged (i.e., blameless tenants) when recovery is made in respect of them.

Direct Earnings Attachment

- C.45 The Council will use the Department for Work and Pensions (DWP) Housing Benefit Debt Service, to establish whether the customer is employed or in receipt of any other benefits.
- C.46 Where it is established that the customer is employed, the Council may instruct the customer's employer to implement a Direct Earnings Attachment (DEA) in accordance with the Social Security (Overpayments and Recovery) Regulations 2013. The level of deduction is determined by the regulations and is linked to the customer's level of earnings. The employer does not have any discretion regarding the level deductions applied to a customer's earnings.
- C.47 The Council will issue a DEA where the customer has:
- Refused to engage with the Council in relation to their overpayment;
 - Refused to agree an acceptable repayment plan; or
 - Has defaulted on a previously agreed repayment plan.
- C.48 The Council will only withdraw a DEA if:
- The document has been served in error (e.g., to the wrong employer); or
 - The customer provides evidence that the DEA would cause severe financial hardship or would put them at risk of losing their home.
- C.49 Where the customer or their employer fails to meet their duties in relation to a DEA, then they may potentially be subject to a fine of up to £1000, as prescribed by Regulation 30 of the Social Security (Overpayments and Recovery) Regulations 2013.

Deductions from other Department for Works and Pensions benefits.

C.50 If the Council receives information which suggests that the customer is entitled to DWP benefits, it will seek to make deductions from prescribed DWP benefits in accordance with Section 75(1) of the Social Security Administration Act 1992 and Regulation 105 of the Housing Benefit Regulations 2006. The Council will may ask the DWP (Debt Management) to recover a Housing Benefit overpayment from the following benefits:

- Income Support (IS);
- Attendance Allowance (AA);
- Bereavement Allowance (BA);
- Jobseeker's Allowance (income based) (JSA(IB));
- Jobseeker's Allowance (contribution based) (JSA (C));
- Disability Living Allowance (DLA);
- Personal Independence Payments (PIP);
- Employment Support Allowance (income-related) (ESA(IR));
- Employment Support Allowance (contributory) (ESA(C));
- Incapacity Benefit (IB);
- Industrial Death Benefit (IDB);
- Industrial Injuries Disablement Benefit (IIDB);
- Carer's Allowance (CA);
- Maternity Allowance (MA);
- State Pension (SP)/Retirement Pension (RP);
- State Pension Credit (SPC);
- Severe Disablement Allowance (SDA);
- Universal Credit (UC);
- Widowed Parents Allowance (WPA);
- War Pensions (WP); and
- War Disablement Pension (WDP).

C.51 The Council **cannot** request deductions from:

- Child Benefit (CHB);
- Guardians Allowance (GA);
- Working Tax Credit (WTC); or
- Child Tax Credit (CTC)

C.52 The prescribed benefit must be in payment and the claimant is receiving sufficient amount of benefits to allow for the deductions to be made. The DWP Debt Management will inform the Council if deductions cannot be made for whatever reason. The Council will be required to reconcile payments received with the DWP.

C.53 The Council may ask DWP Debt Management to recover a Housing Benefit overpayment by deduction from certain DWP benefits which the claimant's partner is in receipt of. These are IS; JSA(IB); SPC; ESA(IR); PIP; and UC. However, the claimant and partner must have been a couple, both when the overpayment occurred and when it is being recovered.

Deductions from to the rent account where it is in credit

- C.54 Even though Housing Benefit is paid directly onto rent accounts in the case of a rent rebate, recovery of any overpayment can only be made from a rent account operated by the Council if it is in credit. No amount of an overpayment can be added to a rent account and recovered as though it is rent.
- C.55 The Department for Work and Pensions guidance suggests that the Council may not use a credit on a rent account to recover overpaid Housing Benefit unless the credit on the rent account was for the same period as the Housing Benefit overpayment.

Recovery from landlord.

- C.56 The Council may only recover any overpayment from a landlord or agent where it is their duty to report any changes of circumstances that they might reasonably be expected to know might affect the claimant's entitlement to benefit and where the Council is of the opinion that it is reasonable to recover the overpayment from them.

Direct invoicing of the claimant or landlord and Civil Proceedings

- C.57 The Council may issue an invoice directly to either the claimant or landlord as appropriate.
- C.58 As mentioned in the general policy details, the Council encourages both claimants and landlords to contact the Council in order to make arrangements where payment of any overpayment cannot be made in full. Arrangements may be made at any time.
- C.59 Failure to contact the Council or make payment in full on the invoice will result in a reminder being issued. Where further default occurs, a 'Letter before Action' will be issued prior to the commencement of any civil proceeding through the County Court or High Court.
- C.60 Legal proceedings will be considered after attempts to achieve recovery by other means have failed and there is good reason to believe the debtor can afford to make repayments.
- C.61 The legislation provides that Housing Benefit overpayments not recovered by deductions from prescribed benefits may be recovered by execution in the County Court in England and Wales, as if under a court order. Housing Benefit overpayment decisions can be registered as a judgment of the court. This allows the Council to use any of the court's enforcement procedures for recovery should the debtor not pay.
- C.62 The Council will use the Form N322A (Fast Track system) and this will be filed in the court for the district in which the person from whom the debt is recoverable resides, i.e., the court covering the debtor. This will incur court costs which will be added to any outstanding debt. The Council may also decide to use the **Money Claim On Line** system.
- C.63 If this is accepted by the Court, it will make a decision to grant an order and they will inform the Council of the decision. Should an order be granted, a copy will be sent to both the Council and the debtor. This order can then be enforced as if it were a County Court judgment as follows:

Order to obtain information

- If the Council holds little or no information about the debtor, they may ask the court for an ‘order to obtain information’ from the debtor (sometimes known as an oral examination). The debtor will be ordered to come to the court to be questioned on oath by a court officer. This is not a method of enforcement, but a way of finding out details of the debtor’s:
 - employment status;
 - employer, wages, or salary (if appropriate);
 - additional income;
 - property owned which may have a saleable value (house, car, caravan etc);
 - bank or building society accounts and their balances; and
 - dependants and outgoings from income
- The above list is not exhaustive.
- The information collected from this order can help the Council decide whether the debtor can pay them, and which method is most likely to be successful. A fee is payable for this action, but the court may add this fee to the money the debtor already owes to the Council.

Third party debt order

- This order is usually made to stop the defendant taking money out of their bank/building society account (the money the Council is owed is then paid from the account). It can also be sent to anyone who owes the debtor money. An application for a third party debt order can be made at any time after the Council has registered the debt at court, but it will not be granted unless the debtor has either:
 - failed to pay the amount of the debt when it was due, or
 - failed to make one or more agreed payments
- The Council cannot apply for a third party debt order against a joint bank account unless both parties are held liable for the debt;
- When the court order is received by the bank/building society, they will freeze the account immediately, so only funds that are in the account on that day will be affected.

Attachment of earnings

- The Council can use the courts to enforce an attachment of earnings. The use of the Direct Earnings Attachment has overridden this to a large degree.

Charging order

- This order prevents the debtor from selling their assets, such as property, investments, or land, without paying what is owed to the Council. The Council will consider this option where recovery is sought from a landlord. An application for a charging order can be made at any time after the Council has registered the debt at court, but the order will not be granted unless the debtor has:
 - failed to pay the amount of the debt when it was due; or
 - failed to make one or more agreed payments.

Compensation Order

- When the Council has decided to prosecute a claimant following fraudulent activity, it may apply to the court for a compensation order. A compensation order is intended to punish the offender whilst providing some degree of financial recompense to the victim. When making the order the court will consider the offender’s circumstances and ability to pay. When an order has been made the offender will be required to pay the money to the court who will then pass it on.

Warrant of Control

- This gives court enforcement agents the authority to take goods from the debtor's home or business. Agents will try to either:
 - collect the money owed to the Council; or
 - take goods to sell at auction and then pass the money on to the Council
- The County Court enforcement agent can only enforce a warrant of execution for debts of £5,000 or less. For any other amount the order will be transferred to the High Court.
- The provisions used by County Court are the same as those for Council Tax or Non Domestic Rates outlined within this policy

Deceased person's personal representative

- C.64 The decision of how far to pursue recovery of an overpayment following the death of a claimant is entirely at the discretion of the Council. The Council will make sure overpayment decision notices are issued to the personal representative, in order to allow for appeal rights, before seeking recovery.
- C.65 If the deceased person had more than £5,000 in their estate at the time of their death, the personal representative must take out a Grant of Probate or Letters of Administration when there is no will and advertise for creditors. The personal representative is then advised not to distribute the estate for at least two months to allow creditors to come forward.
- C.66 The Council will make a search for an estate of the deceased and find out who the personal representative is. The Council will then register as a creditor in the estate to make a claim for the debt.

Use of external Collection agents

- C.67 The Council reserves the right to use any appointed agents to assist in the collection of any overpayment. Where such agents are appointed, they have no specific powers other than to attempt to contact the debtor and make arrangements for repayment of any Housing Benefit overpayment.

Proceeds of Crime

- C.68 'Proceeds of Crime Act' (POCA) refers to the assets, funds and property gained whilst undertaking criminal activity. In appropriate cases, the Council will look to use the powers available under the Proceeds of Crime Act 2002.
- C.69 The Proceeds of Crime Act 2002 proceedings may be commenced where:
- A defendant is convicted of an offence in proceedings brought before the Court or where a defendant's case is committed to the Crown Court for sentence; and
 - The Council asks the court to commence POCA proceedings or the court considers it appropriate to commence POCA proceedings.

Annex D

Housing Rent Collection and Arrears Recovery

Introduction

- D.1 This policy outlines, to Council tenants, leaseholders, and staff, how the Council will collect housing rent and other related charges and our approach to recovering rent arrears and monies owed to the Housing Revenue Account (HRA).
- D.2 North Yorkshire Council takes rent arrears seriously and the Council expect all tenants to pay the rent, which is due every week. This is an important condition of all Tenancy Agreements. Every tenant is responsible for ensuring that his or her rent is paid in full. If they are entitled to Housing Benefit or Universal Credit, they are equally responsible in ensuring payment is made using this method.
- D.3 Rent charges are set annually following Council approval. Tenants will be made aware of any changes for the coming year with a minimum of one month's notice. The annual increase or decrease is set in accordance with central government guidelines. However, changes can occur to the amount a tenant is required to fund themselves dependent upon any welfare benefit (Universal Credit/Housing Benefit) they may be in receipt of at any one time.
- D.4 It is recognised that on occasion tenants may have genuine financial difficulties, which affect their ability to pay the rent due. In these cases, our aim is to adopt a firm but fair approach to arrears recovery offering all tenants, where possible, clear, practical repayments plans. Formal court action, which can ultimately result in the termination of tenancy, will only be taken when all other options have been explored and the Council is left with no other alternative.

Aims of the Policy

- D.5 The Council aim to collect all rent due to us. If this is not possible, the purpose of the Policy is to minimise the level of rent arrears in a sensitive, but effective manner. In accordance with this, Council staff will try and engage with customers to provide assistance and give advice on suitable re-payments.
- D.6 Through this policy The Council will aim to:
- Maximise income to the Housing Revenue Account – this means more money available to spend on social housing in the area;
 - Encourage a payment culture amongst all tenants – everyone has a responsibility to pay their rent;
 - Ensure that all those in arrears are treated equally whilst recognising that each tenant is an individual;
 - Minimise the arrears owed by current tenants;
 - Maximise the take up of Universal Credit, Housing Benefit, and other welfare benefits;
 - Give advice and assistance on Discretionary Housing Payments;
 - Encourage tenants to seek advice from other specialist groups in order to manage their debts; and
 - Adopt a firm but fair approach to tackling rent arrears, taking action, if appropriate at an early stage to encourage co-operation but also to protect the interests of the Council.

Scope of the Policy

- D.7 The policy applies to the collection of all rents and debts owed to the Housing Revenue Account from:
- Council Housing Tenants;
 - Council Garage Tenants ;
 - Former Council Tenants; and
 - Shared Ownership (Leaseholders)
- D.8 This policy has been written to provide customers and officers with clear guidance on the recovery methods to be administered where there are outstanding amounts of rent and/or service charges due.
- D.9 The Council will:
- Bill, collect and recover all debts in an economic, effective, and efficient manner in accordance with legislation and best practice;
 - Treat all individuals fairly and objectively; and
 - Ensure that any action taken will be fair and open, no-one will receive less favourable treatment because of their race, nationality, colour, ethnic or national origin, religious belief, gender, marital status, sexual orientation, age, or disability.

Joint and Several

- D.10 Where the law allows, the Council will ensure that all parties who are jointly and severally liable will be held liable and demands / invoices issued in joint names. The Council will also look to use all recovery remedies that allow the recovery of debt from jointly liable persons.
- D.11 All joint tenants are jointly and severally liable for rent arrears that may accrue. The Council will:
- Address all letters to all the tenants named in the tenancy agreement;
 - Make arrangements and hold interviews with any tenant who appears to be acting on behalf of all parties in the tenancy agreement; and
 - Provide a copy of all legal documents to all parties named in the tenancy agreement.
- D.12 The Council will not pursue victims fleeing a joint tenancy due to domestic violence.
- D.13 In households with single tenancy agreements and where the households are married, cohabiting or have joint custody over children under the age of 16 the Council will encourage the tenant to keep the other interested party within the household informed of any legal action proposed in connection with rent arrears.

Debt Collection and Recovery

- D.14 Demands or invoices will, wherever possible, be issued as soon as practicable and, if possible, on the day of production. The Council will always attempt to use the most appropriate and effective method of debt recovery in order to maximise income.
- D.15 The Council will encourage the most cost-effective payment methods with the emphasis being on electronic means such as Direct Debit where possible.

D.16 Where the potential for a statutory reduction, benefit or discount exists in relation to the debt, efforts will be made to make the tenant aware of such opportunities and they will be assisted and encouraged to apply for these.

D.17 The Council will provide access to contextual information, so customers are clear on their responsibilities. This includes making payment, the required timeframes to make payment, the consequences of not making a payment within the timeframe. Also, what action to take, or advice to seek, if they have a difficulty in making a payment or dispute the amount being requested.

D.18 The Council recognises that efficient recovery action is key in managing its Housing Revenue Account (HRA). The Council therefore aims to:

- Regularly monitor the level and age of all Housing Revenue Account debts;
- Set clear targets for the percentage of rent collected and recovery of HRA debt;
- Have clear written recovery policies and procedures for HRA debt and;
- Regularly review irrecoverable debts for write-off.

D.19 The Council will seek to take all allowable recovery actions for debts and any costs and fees incurred. Only in cases where it would not be in the public interest to pursue debts, costs, or fees, will they be waived or written off.

Arrangements, debt advice and resolution

D.20 Should tenants fall into arrears the Council will support them to come to affordable payment agreements appropriate to their circumstances. The Council will advise on any housing assistance or discounts; reliefs and exemptions customers may be entitled to. The Council will assist with applications when appropriate and signpost customers to money advice, debt counselling and other support services available through our partners and in the voluntary sector, when additional assistance may be required.

D.21 **Debt Relief Orders (DRO)** - The Council will work with tenants and independent financial institutions such as CAB as part of the rent arrears procedure who are considering the use of DRO's. It will be necessary to look at each case individually applying the Council's rent arrears procedure and 16-point court protocol. The Council will not automatically take court action for possession/eviction on DRO cases because of the breach in non-payment of rent account. The Council will work with the tenant and financial institution to ensure the tenant can make future payments despite the DRO in order that future rent arrears do not accrue. However, in cases where there is real concern that the tenant has no intention of adhering in the future to the conditions of tenancy, the Council can pursue court action if this action had already commenced and in cases where no court action had been applied this should be considered only in cases where high level debt has been subject to a DRO and rental debt continues. Whilst it is accepted that any rent arrears included within a DRO are not recoverable by the Council the ability to pursue through the courts for breach of tenancy agreement due to non-payment of rent still exists.

D.22 **Breathing Space** - Breathing Space was introduced on 4 May 2021 and is also known as the debt relief service. If a tenant is approved onto the scheme by an approved organisation all action must cease on all debt included. A flag/alert will be raised on the tenant's rent account identifying which type of Breathing Space has been applied; Standard Breathing space if approved gives 60 days of respite from all debt related action from the date approved or earlier if cancelled by a court or upon death of the tenant and Mental Health Breathing Space allows unlimited respite and will come to

an end 30 days after the tenant health crisis/treatment has ended or 30 days after the debt advisor working to support the tenant advises the Council that they have had no response from the tenant.

- D.23 In accordance with the prevailing legislation relating to this debt respite service the Council will suspend all ongoing actions and ensure that any recovery action already in place, i.e., through additional payments made via rent direct debit is amended to ensure only the rent due from the date of the approved Breathing Space is collected. The Council will actively monitor and take normal recovery action regarding the rent account/support account, with current rent and current other charges still being collectable from the date of the Breathing Space, and only historical debt being put on hold with regard to recovery.
- D.24 The nominated officer will alert the team when Breathing Space is applied and ensure the information is shared across the service to ensure that any other debts included within the Breathing Space are also put on hold, i.e., Rechargeable Repairs, Former Tenant debt. Only on expiry of the Breathing Space will action recommence on historical debt with flags and alerts updated accordingly.
- D.25 Advice and assistance provided to the tenant by the independent specialist debt advisors involved in their Breathing Space may advise on further actions to be taken by the tenant which may include pursuing a Debt Relief Order if appropriate to do so.

Hierarchy of Debt

- D.26 The Council recognises rent as the highest priority debt.
- D.27 Debt is not prioritised based on its size but the result of the action e.g., rent arrears resulting in loss of home. The Council will generally prioritise debts in the order as shown below:
1. Rent;
 2. Council Tax;
 3. Housing Benefit Overpayments;
 4. Sundry Debts.

Vulnerability

- D.28 The Council recognises that certain individuals will require more sympathetic and sensitive treatment and that some customers do not pay their debts for a variety of reasons. This may include poverty or other financial hardship, which the Council will endeavour to balance against our duty to collect.
- D.29 The Council will deliver a service, which aims to meet the needs of each individual, and direct them to other support agencies, identifying vulnerable customers, where feasible, at the earliest possible stage.

Vulnerability does not mean that a person will not be required to pay amounts they are legally obliged to pay.

- D.30 The cause of vulnerability may be temporary or may be permanent in nature and the degree of vulnerability will vary widely. Whilst there are several characteristics which a person may have that others automatically consider them to be vulnerable, each case will be considered on an individual basis, taking into account all relevant factors.

D.31 There is no legal definition of a vulnerable person. Generally, persons considered vulnerable are likely to be those who fall into one or more of the below categories:

- Are elderly;
- Appear to be physically or mentally ill, severely disabled or suffering mental confusion;
- Have young children and severe social deprivation is evident;
- Are heavily pregnant;
- Are in mourning due to recent bereavement (of immediate family);
- Have difficulty communicating e.g., due to profound deafness, blindness, or language difficulties;
- Are in receipt of state benefits and/or on a low income and severe social deprivation is evident;
- Are suffering from long term sickness or serious illness including the terminally ill;
- Those in need of special care, support, or protection due to risk of abuse or neglect, i.e., victims of domestic abuse, refugees, at risk of homelessness and young people; and
- Those from a marginalised groups such as prison leavers and ex armed forces personnel.

Irrecoverable Debts

D.32 Prompt and appropriate action will be taken in all cases to recover all sums overdue to the Council. However, in cases where payments are not forthcoming, and Officers are unable to trace the whereabouts of a Former Tenant, consideration shall be given to writing off the debt in accordance with financial regulations. When a debt has been written off, it will no longer be shown as outstanding in the Council's accounts, however, the debt remains due to the Council in law and if the Tenant is subsequently traced, the debt will be re-instated.

Statute Barred

D.33 Former Tenant Arrears are 'Statute Barred' after 6 years under the Limitation Act 1980. The six-year period will start from the last payment made or the last acknowledgement between the Council and the tenant. If no contact or payments are made within the 6-year period, the outstanding debt should be considered for 'write off' following this period.

Write offs

D.34 North Yorkshire Council will not write debts off without taking appropriate steps to recover them or without approval of the responsible officer. There are some circumstances where this will be appropriate:

- Where it is not economical to pursue the debt
- Tracing action has failed to find the debtor
- The External Debt Recovery Agents deem the debt irrecoverable
- The account is 'Statute Barred' (Debt over 6 years old)
- Debtor is overseas
- Recommended by management
- Bankruptcy. Individual Voluntary arrangement. Liquidation. Debt Relief Order.
- Where one partner has left the tenancy due to domestic violence (the victim will not be pursued)
- Debtor is serving a Custodial Sentence
- Vulnerable / Hardship

- Local Authority error
- Deceased (No funds in the estate)

D.35 Should an account be written off, it is possible to reactivate if the Council subsequently trace the customer, or if the customer approaches the Council e.g., in the case of a future application for rehousing.

D.36 The write off process is undertaken on a regular basis and is considered prudent financial management.

Council Housing Rents and Arrears

Rent Collection – Setup

D.37 All new tenants will be advised of the rent and any other charges at the time of the offer of accommodation. They will be advised of their ability to apply for Housing Benefit and an assessment will be offered if required. If they are claiming Universal Credit, they will be advised of how to submit an application for the Housing cost element to assist with rent payments.

D.38 If there are concerns as to whether the new tenant will be able to afford the rent payments on their new tenancy, a full affordability check will be completed prior to tenancy sign up, to ensure that they can manage their payments.

D.39 Prior to the sign up interview, the new tenant will be advised to bring in all supporting documents required for completion and submission of a housing benefit application, if applicable. At the time of the sign-up the Council will advise the new tenant of the rent, which is payable, complete a Housing Benefit application, if the tenant is deemed to be eligible, and advise the tenant what rent to pay whilst the claim is being processed. The Council should aim to obtain all supporting documents at the time of the interview, if the new tenant has failed to bring the documents to the interview, they must be advised to bring them in within the next 5 days. The application will be sent immediately to the Housing Benefit team to avoid the date of application being affected and subsequent gap in benefit.

D.40 All new tenants should be encouraged to pay the first weeks rent at the time of the sign up.

D.41 All new tenants will have a settling in visit made to their home within the first 4-6 weeks of their tenancy. As well as this visit being used to check the tenant has settled in well and is not encountering any problems, the visit will also be used to check that any claims for benefit have come through and to discuss payment plans to cover any shortfall in payments. The Council will follow up any concerns regarding rent payments with the Housing Management Team and the Housing Benefit Team.

D.42 The Council shall give the following advice to all new tenants as part of the sign up process:

- Provide information about the different payment methods available, promoting payment by Direct Debit.
- Advise tenants to contact the Council should their financial or household circumstances change in the future
- Provide information on the debt advice services offered
- Provide information on the housing support service available and make any immediate referrals deemed necessary at the time of sign up

Rent Collection - Ongoing

- D.43 Rents are due weekly in accordance with the terms detailed in the Tenancy Agreement. Any account will be considered to be in arrears if a payment has not been paid onto the account by the end of each week.
- D.44 Housing benefit payments are made direct to the account with any shortfall being made by the tenant using one of the above methods. The Housing team will work closely with the Housing Benefit team to ensure prompt payment of any benefit entitlement and clarify any issues affecting the payment of benefit to tenants.
- D.45 Universal Credit payments are made either directly to the tenant or directly to the Council where a payment arrangement has been requested. These payments are made on a four weekly basis in arrears.

Recovery Action

- D.46 It is the Policy of North Yorkshire Council to:
- Maximise the recovery of arrears outstanding when a tenant terminates a tenancy;
 - To ensure that the recovery process is cost effective e.g., recover arrears where the cost involved in recovery is less than the amount to be recovered or proportionate to the outstanding amount; and
 - Ensure that bad or unrecoverable debt is written off according to the limits set out in the Financial Procedure Rules.
- D.47 The Rent Arrears Recovery Procedure provides details on the actions that will be taken should accounts fall into arrears. At all times within the process of recovery, it is the Council's intention to help the tenant repay the arrears and avoid the need for possession proceedings. For those tenants who persistently fail to pay their rent arrears actions are at a later stage in the recovery process. The Pre-Court Action Protocol outlines our approach to enforcement action. Prior to any application being made to courts for eviction of a tenant, internal consultation will take place to ensure all other options have been exhausted and this is the only option left available to the Council.

Suppressing Action on Rent Accounts

- D.48 Very occasionally, there may be a situation where there is a requirement for recovery action on a rent account to be suspended, for example, close family bereavement. Each case would be considered individually and, where necessary, recovery action could be suppressed for a period of up to 8 weeks. Following this period, the case would be reviewed by the Council officer with a view to coming to a suitable repayment arrangement. The timescale of this repayment plan would be agreed taking into account the individual circumstances.

Direct Payments

- D.49 The Housing team will liaise with the Department for Work and Pensions regarding direct payment of rent arrears from Universal Credit. Tenants should regularly update their Universal Credit Portal to enable Officers to enquire about claims on their behalf, should their rent accounts fall into arrears.

Council Garage Rents and Arrears

Collection and Arrears

- D.50 Garage rents are to be paid in accordance with the terms of the Garage Tenancy Agreement rents will be due via the payment methods outlined in this policy.
- D.51 Should Garage rent accounts fall into arrears tenants will be offered the opportunity to bring the account up to date.
- D.52 Should rental arrears not be paid and payment not forthcoming then in line with the Tenancy Agreement one weeks' notice shall be given to terminate the garage tenancy.

Multiple Debts

- D.53 To reduce the ability for multiple debts and hardship the Council will, in cases where a tenant has a garage tenancy and has fallen into arrears with their main tenancy and has a debt equivalent to more than four weeks and has not come to an acceptable arrangement or where an arranged agreement has not been adhered to, serve notice to terminate the garage tenancy.
- D.54 If the main tenancy's rent account is brought up to date because of the notice being served the garage tenancy may be continued. However, any tenant who loses the garage tenancy as a result of rent arrears on the main tenancy will not be entitled to apply for another garage until such time that the main tenancy has a clear account and the account has been clear for a period of 3 months.

Former Garage Tenant Arrears

- D.55 Arrears of former garage tenants will be pursued as per this policy's Former Tenant Arrears Policy

Former Tenant Arrears

- D.56 The Council will advise all tenants of their obligation to pay any outstanding rent when a tenancy is terminated. Upon notice of termination, the tenant will be made aware of any rental balance due and a forwarding address will be requested. If the tenant is unable to clear the debt prior to termination, an affordable and realistic repayment plan should be made. The arrangement will be confirmed in writing and the tenant will be advised of how payment can be made.
- D.57 The Council will pursue all recoverable former tenant arrears. If the tenant fails to provide a forwarding address, the Council will use a tracing agent and collecting agent if appropriate.
- D.58 The Council will consider the appropriateness of further recovery action, which may include:
- Money judgement order
 - Attachment of earnings
 - Small claims court
 - Third party debt order
- D.59 All former tenant arrears will be assessed on a case-by-case basis and where there is no financial sense to pursue a debt it will be written off in accordance with the limits set out in the Financial Procedure Rules.

D.60 North Yorkshire Homechoice, the choice based lettings scheme adopted across North Yorkshire allows former tenants of social housing to join the scheme; however, bids for accommodation will not be considered until such time as they have adhered to an agreed repayment plan for an initial 13 week period. There must be no breaks in the plan to allow the bids made by the former tenant to be considered with payments continuing beyond the initial 13 weeks until the debt is ultimately cleared.

Shared Ownership

D.61 When a property is sold on a shared ownership basis, the shared owner is granted a leasehold interest. North Yorkshire Council will be the freeholder of the property. The shared owner pays a percentage share of the freehold value of the property and pays rent on the remainder. As well as paying the rent and service charge, the shared owner may also be repaying a mortgage.

D.62 The lease will prescribe certain conditions for stair casing, which is when the shared owner is given the opportunity to buy an increased share of the property. The Council will transfer the freehold interest to the shared owner once 100% of the shares have been purchased.

D.63 The lease sets out the requirement for shared owners to pay the specified rent, buildings insurance and any service charges. Service charges are payable for the management of blocks of flats and communal grounds and estates.

D.64 The aim of the Shared Ownership Debt Recovery Policy is:

- To manage shared ownership rent arrears in accordance with leasehold legislation and in a consistent manner;
- To promote payment culture in which shared owners pay their rent, service charges and any other charges on time and in accordance with their lease;
- To act in accordance with best practice; and
- To work with the leaseholders to help them sustain their tenancy.

Responsibility for Payment of Specified Rent, Insurance, Service Charges and Ground Rent

D.65 Responsibility for the payment of specified rent, ground rent, insurance and/or service charges rests with the person(s) named in the lease agreement as the shared owner(s).

Charging frequency

D.66 Charges are payable as identified in the lease, in advance on the first of each month - the first payment to be made on the date of the Lease. Generally, payment of the specified rent, building insurance and/or service charge should be made in advance on the first day of each month.

D.67 As the lease requires rent to be paid monthly in advance on the first of the month the first recovery action should be taken immediately an account is identified as being in arrears.

Arrears Process

- D.68 Where shared owners require assistance in making a claim for Housing Benefit or Universal Credit to cover their rent and service charge Council officers will assist the customer with their claim and signpost to the appropriate service of further help is needed.
- D.69 If payment is not being made due to any application for Housing Benefit/universal credit the shared owner is still required to pay their rent and any service charges until Housing Benefit or Universal Credit is confirmed.
- D.70 Universal credit is usually paid direct to the shared owner, although alternative payment arrangements are available for vulnerable customers or where customers have problems paying their rent and any service charge. The Council can request that the part of the Universal Credit that covers rent and service charge is paid direct to us where the shared owner is in two months' rent and service charge arrears or more.
- D.71 Throughout the arrears process and forfeiture process Council officers should ensure that all correspondence clearly states the account is in arrears, provide copies of the rent account showing when the rent was due, the amounts and the dates of any payments made, including Housing Benefit or Universal Credit and the running total of the arrears. A copy of the rent account statement dating from the beginning of the debt will be included with all arrears letters.

Arrears Monitoring

- D.72 Efficient monitoring on the Housing Management System will identify arrears outstanding and will allow for repayment arrangements to be recorded. Follow-up contact will be maintained in timescales, which are proportionate and targeted.

Legal and Regulatory Framework

- D.73 The council will at all times meet legislative and regulatory requirements, including but not limited to, the Ministry of Justice Pre-Action Protocol, the Regulator of Social Housing, and the Data Protection Act 2018.

Complaints

- D.74 The Council will deal with all tenancy related complaints in accordance with the Housing Ombudsman's Code for Complaint Handling.
- D.75 The Council will regularly report on its complaints performance and publish any outcomes and lessons learnt in correspondence with tenants and its annual report.
- D.76 Tenants will regularly be reminded of the complaints procedure and signposted to the various means of complaining, as well as being provided with details of the Housing Ombudsman's Code for Complaint Handling and the Ombudsman's contact details.

Policy Review

D.77 This policy will be subject to regular review and any changes will be agreed with the relevant Cabinet Member. Any significant changes will be consulted on and an impact assessment completed.

Annex E

Sundry Debt Recovery

Introduction

- E.1 The Council charges and collects income from a range of activities. Many of which fall under this policy. Customers range from individual residents to public bodies and private businesses.
- E.2 The value of the invoices from this range of activity vary. Starting from a few pounds to millions of pounds. This can mean the Council is owed a large amount in sundry debt at any one time.
- E.3 It is important that the Council meets its duty to ensure that sundry debts are collected. This benefits our tax payers, residents, and businesses.
- E.4 Failure to effectively manage sundry debt will have budgetary implications across the Council. This could lead to cuts in our services and increases in the fees and charges we request.
- E.5 Our officers will consider this policy alongside respective processes, relevant rules, and guidance. This ensures that consistent, efficient, and effective sundry debt recovery takes place.

Scope

- E.6 Sundry debts are sometimes known as miscellaneous invoices. They are issued for many reasons, and in respect of a wide and varying range of services. A debt is any amount of money owed to us that is not paid by the due date. Some sundry debts are governed by statute, for example, licences. Whilst others are governed by civil debt procedures.

Purpose and objective

- E.7 This policy is to ensure that the Council meets its duty to collect sundry debts effectively and efficiently. We aim to achieve good practice in sundry debt revenue collection. The Council considers that good practice is to:
 - achieve our best possible cash flow
 - calculate the liability to pay correctly
 - use enforcement action that is reasonable, and
 - assist those who are vulnerable to meet their financial obligation to us

Raising invoices

- E.8 The Council takes a commercial approach to all debts. Fees and charges should be paid before or at the time of service provision if applicable. The Council may not supply goods or services to debtors who have been consistent late payers or who have not paid at all. The only exception would be where there is a statutory need to do so. We will check our financial system before offering a service/goods to a debtor. This is to check payment history and to identify any existing debts.
- E.9 By raising an invoice, the service is granting approval to take appropriate recovery action. This includes Court action when necessary.
- E.10 Prompt invoicing is essential to efficient debt collection. The Council aims to raise any invoices as soon as practicable of the goods and/or services being supplied.

E.11 Invoices should not be raised for less than £10 (fees and charges below this level should be paid in advance). Exceptions may apply. The Corporate Director of Resources will periodically consider a review of the minimum invoice amount. For periodic or recurring charges, a direct debit should, wherever practicable, be set up in advance of the service being provided.

E.12 The Service responsible for raising the invoice must ensure that:

- the evidence of the service provided is validated
- the invoice is accurate and contains enough detail for both billing and recovery purposes

E.13 Services must ensure that all invoice information is complete, including:

- Customer's full name(s)
- Customer's full address(es), including postcode(s)
- Customer's contact telephone number(s)
- Customer's email address(es)
- Name of contact officer in cases of query over the service/goods provided
- Date of supply of service/goods
- Purchase order number (where applicable)
- Full description of the service/goods supplied
- Amount due
- VAT amount and rate of VAT
- Total due

E.14 The description on the invoice should be brief. It should contain enough detail that we can recover the invoice and the customer understands what the charge is for and how to pay.

Credit limits

E.15 The Council may ask for a credit check on customers for:

- goods and/or services supplied and costing £5,000 or more
- all commercial leases

E.16 The Council does not ask a credit check on:

- a public sector organisation
- Health & Adult service customers

E.17 Credit will not be given to customers who are consistently late payers or have not paid at all. Exceptions can be made for our Health & Adult Services and Education Services customers at the discretion of our officers.

E.18 Preferential credit limits will not be agreed for any customer.

Sundry debt recovery

E.19 In pursuing the payment of overdue sums, the Council may utilise all the methods available to us in law. The enforcement actions used in each case will be on an escalating basis.

E.20 Repayment will be sought by the most appropriate and proportionate action. This is decided on a case-by-case basis and is dependent on the debt and the debtor.

E.21 Customers with multiple debts may need extra support to find a solution to their debt problems. We encourage you to share information on all debts with Credit Control. This will help us to identify most appropriate resolution for you.

E.22 Unless stated otherwise, our standard terms for payment apply to invoices. Our standard payment terms are 14 days. Invoices and reminders will be issued as follows:

Day 1	Invoice Raised with payment terms of 14 days
Day 17	First Reminder Letter Issued
Day 24	Second Reminder Letter Issued
Day 31	Final Notice Issued
Day 45	Decision made on next course of action

E.23 If an invoice remains unpaid after the issue of the Final Notice, the relevant team will decide how to progress the case. This will generally follow our normal procedures. The next course of action will depend on:

- the level of debt
- the information that we know about the debtor (including their ability to pay)
- the nature of the outstanding charge
- the total debt owed to the authority

E.24 Where necessary, discussions will take place with the service area. An agreement will be reached about how to progress the case.

E.25 The services where the standard terms and recovery cycles vary from the norm are:

- Licensing (Lotteries and Amusement and Premises) – Terms and recovery procedures will be in accordance with prevailing legislation;
- Property Services (commercial rents) – Terms and recovery procedures will be in accordance with the terms of individuals' agreements;
- Contribution or Sponsorship - We do not pursue Invoices for contribution or sponsorship in the normal manner. Standard reminders will not be issued. It is deemed inappropriate to threaten court action for these types of invoices. The charge should still be supported by an agreement signed by a contributor/sponsor. In the event of non-payment, the relevant teams will discuss how to progress the case;
- Retrospective rebates;
- School fixed penalty notices;
- Health and Adult Services where solicitors' undertakings, charges on property, deceased cases etc occur.

E.26 The options available as the next course of action include: -

- (i) Telephoning, emailing, and corresponding with the debtor
- (ii) Referral to an External Collection Agent
- (iii) Progression for recovery through the County Court
- (iv) Bankruptcy and Insolvency
- (v) Arresting of Boats

Should a vessel in the harbour refuse to pay their dues, the vessel can be arrested with the agreement of the Harbour Master, Portfolio Holder for Harbours, and the Accounts

Receivable Section. The Collector of Dues has the power of arrest under the 'Harbours, Docks and Piers Clauses Act 1847' clause 44.

- E.27 If the Council is taking recovery action against you, we may decide it is necessary to end our agreement. This includes stopping providing you the services covered by the agreement.
- E.28 The Council may choose to write-off debts in accordance with the Council's Financial Procedure Rules.
- E.29 During recovery, the Council will act under the rules and advice issued by relevant professional bodies.

Waivers

- E.30 The possibility of waiving a charge must be an explicit feature of a particular charging scheme. A waiver of charges should be seen as an exceptional item to be used carefully.
- E.31 A waiver should only apply if there is some reason why the person receiving the service should continue to do so, and in circumstances in which the charge emerging from the charging scheme may not be fair and reasonable.
- E.32 Specific guidance will normally be appropriate for each charging scheme where this applies. For example, some Adult Social Care schemes.

Charges on Property – Health & Adult Services

- E.33 Sections 34 & 35 of the Care Act 2014 requires Local Authorities to offer Deferred Payment Agreements to allow persons to defer the sale of their main or only home where it is needed to fund social care fees.

Alternative Debt Recovery Action

- E.34 Delays in the debt recovery process can occur. These may result in alternative debt recovery action which can include:
- Ad Hoc Debt Recovery Letters;
 - Awaiting authorisation from Service Area to recommence debt recovery;
 - Awaiting/processing of a Credit Note to reduce the debt;
 - Instalment agreement arranged and subsequently monitored;
 - Deceased Person process instigated;
 - Social Care referral.
- E.35 These interventions can occur at any point along the debt recovery journey. This includes after the point that legal action has started.

Monitoring performance

- E.36 The efficiency of this policy and associated procedures will be monitored through the following Key Performance Indicators (KPIs).
- % in year debt collected;

- % total debt over 90 days old;
- % total debt over 1 year old;
- % total invoices over 1 year old;
- % of total debt on hold with no current action being taken.