


URGENT BUSINESS AND SUPPLEMENTARY INFORMATION
Council
20 July 2020

Agenda Item Number	Page	Title	Officer Responsible	Reason Not Included with Original Agenda
12.	Pages 3 - 20	Overview and Scrutiny Committee Annual Report 2019/2020	Democratic and Elections Officer	Report being considered at Overview & Scrutiny Committee meeting of 14 July 2020
13.	Pages 21 - 32	Amendments to the Officer Scheme of Delegation	Monitoring Officer (Interim)	Report being reviewed and finalised at time of agenda publication

If you need any further information about the meeting please contact Natasha Clark, Democratic and Elections democracy@cherwellandsouthnorthants.gov.uk, 01295 221589

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Cherwell District Council

Council

20 July 2020

Overview and Scrutiny Annual Report 2019/20

Report of Monitoring Officer (Interim)

This report is public

Purpose of report

This report presents the Overview and Scrutiny Annual Report for 2019/20.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the contents of the Overview and Scrutiny Annual Report 2019/20.

2.0 Introduction

- 2.1 The Overview and Scrutiny Annual Report 2019/20 is attached at Appendix 1.
- 2.2 The Annual Report contains information relating to the work of the Overview and Scrutiny Committee during 2019/20.

3.0 Report Details

- 3.1 The Overview and Scrutiny Committee has a constitutional obligation “to produce a unified annual report for the whole scrutiny process” and present it to Council.
- 3.2 The Annual Report 2019/20 was approved by the Overview and Scrutiny Committee on 14 July 2020.

4.0 Conclusion and Reasons for Recommendations

- 4.1 Council is invited to note the content of the Overview and Scrutiny Annual Report 2019/20.

5.0 Consultation

Consultee Name:
Overview and Scrutiny Committee

Consultee Response:
Approved

6.0 Alternative Options and Reasons for Rejection

6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not to accept the report. This is rejected, as the report meets the Constitutional requirement.

7.0 Implications

Financial and Resource Implications

7.1 There are no financial implications arising directly from this report.

Comments checked by:

Dominic Oakeshott – Assistant Director – Finance (Interim), telephone, 01295 227943, dominic.oakeshott@cherwell-dc.gov.uk

Legal Implications

7.2 The Overview and Scrutiny Committee has a constitutional obligation “to produce a unified annual report for the whole scrutiny process” and present it to Council.

Comments checked by:

Chris Mace, Solicitor, 01295 221808, Christopher.mace@cherwell-dc.gov.uk

8.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

Detailed in the Annual Report

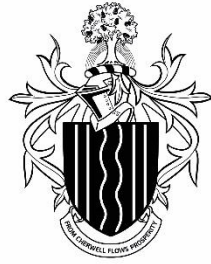
Lead Councillor

None

Document Information

Appendix No	Title
Appendix 1	Overview and Scrutiny Annual Report 2019/20
Background Papers	
None	
Report Author	Emma Faulkner, Democratic and Elections Officer
Contact Information	Tel: 01295 221953 Email: emma.faulkner@cherwell-dc.gov.uk

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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Overview and Scrutiny Annual Report 2019/20

July 2020

Foreword

This annual report for overview and scrutiny at Cherwell District Council outlines the work of the Overview and Scrutiny Committee in 2019/20.

The scope and number of topics examined by the Overview & Scrutiny Committee this year is truly astounding. Whether 5G capability, the Oxfordshire Growth Deal or our effectiveness at maintaining a clean and green Cherwell, members of the committee have approached each meeting with curiosity and fairness - and I thank them for their pertinent and considered questions.

I would also like to extend my gratitude to members of the wider council for their input in my review of the committee's effectiveness. Feedback has been collated and I look forward to using it to inform our work programme over the next 12 months.

Councillor Lucinda Wing
Chairman, Overview and Scrutiny Committee
2019/20

Overview & Scrutiny Committee

Membership

Councillor Lucinda Wing (Ch)	Councillor Tom Wallis (V-Ch)
Councillor Mike Bishop	Councillor Phil Chapman
Councillor Shaida Hussain	Councillor Chris Heath
Councillor Tony Mepham	Councillor Ian Middleton
Councillor Perran Moon	Councillor Les Sibley
Councillor Douglas Webb – from December 2019	Councillor Bryn Williams
Councillor Sandra Rhodes – May to December 2019	

Substitutes

Councillor Andrew Beere
Councillor Nathan Bignell

Guests in attendance

Lead members:

Councillor Barry Wood – Leader of the Council
Councillor Dan Sames – Lead Member for Clean and Green
Councillor Andrew McHugh – Lead Member for Health and Wellbeing
Councillor Ian Corkin – Lead Member for Customers and Transformation

External guests:

Eric Owens, Assistant Director Growth and Place, Oxfordshire County Council
Craig Bower, Digital Programme Manager, Oxfordshire County Council
Bev Hindle, Oxfordshire Growth Board

Officers:

Graeme Kane, Chief Operating Officer (left in March 2020)
Ed Potter, Assistant Director: Environmental Services
Adele Taylor, Interim Executive Director: Finance and Governance & Section 151 Officer
Hedd Vaughan Evans, Assistant Director Performance and Transformation (left in December 2019)
Chris Hipkiss, Property and Investment Consultant
Louise Tustian, Acting Assistant Director Performance and Transformation (from December 2019)
Paul Almond, Street Scene and Landscape Manager
Trevor Dixon, Environmental Protection and Licensing Manager
Jim Guest, Environmental Protection Officer
Nicola Riley, Assistant Director: Communities

Richard Webb, Assistant Director: Regulatory Services and Community Safety
 Simon Furlong, Corporate Director – Communities
 Robert Jolly, Assistant Director Growth and Economy
 Gillian Douglas, Assistant Director Housing and Social Care Commissioning
 Kevin Larnar, Healthy Communities Manager
 Steven Newman, Senior Economic Growth Officer
 Natasha Clark, Governance and Elections Manager
 Emma Faulkner, Democratic and Elections Officer
 Lesley Farrell, Democratic and Elections Officer

Scrutiny Topics 2019/20 – Links to Corporate Priorities	
Scrutiny at Cherwell and Work Programme Planning	Covers all priorities
Car Parking Task and Finish Group	Covers all priorities
Monthly Performance, Risk and Finance Monitoring Report	Covers all priorities
Show and Tell – Wellbeing Directorate	Thriving Communities & Wellbeing
Banbury Public Spaces Protection Order	Covers all priorities
Waste and Recycling	Clean, Green and Safe
Grass Verges and Green Spaces	Clean, Green and Safe
Air Quality Update	Clean, Green, and Safe
Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities	Covers all priorities
Castle Quay Update	District of Opportunity and Growth
Oxfordshire Growth Board	District of Opportunity and Growth
Veterans, Armed Forces Covenant and Remembrance	Thriving Communities and Wellbeing
Oxfordshire Safeguarding Children Board/Oxfordshire Adult Board Section 11 Review and Endorsement	Thriving Communities and Wellbeing
Public Art	Thriving Communities and Wellbeing
Business Plan 2020/2021	Covers all priorities
Digital Connectivity in Cherwell	Thriving Communities and Wellbeing District of Opportunity and Growth
Housing Strategy Progress report	Covers all priorities

Scrutiny at Cherwell

At the first meeting of the committee in the 2019/2020 municipal year, Members reviewed the items on the work programme and discussed possible additional subjects for inclusion on the work programme for the year.

Following the introduction of the topic list in the previous municipal year, this approach was continued. Topics suggested by members are added to a list, which is submitted to each meeting along with the work programme. The annexe to this

report gives a brief description of the subjects raised, and how each one was addressed.

Car Parking Task and Finish Group

The year started well with a report from the Assistant Director Environmental Services detailing the outcome of the Overview and Scrutiny Car Parking Task and Finish Group.

The Task and Finish group had been set up during the 2018/19 municipal year. The group had held four meetings with officers to discuss the current car parking provision, and future proposals, with a view to producing a new Car Parking Strategy.

The group had reviewed performance data relating to the Council's car parking management contract with Apcoa, who ran the council owned car parks. Consultation took place with Banbury BID, Bicester Vision and Kidlington Parish Council to gather feedback and suggestions relating to current car parking provision.

The group also discussed arrangements regarding decriminalisation of parking across the district and agreed to pursue decriminalisation alongside Oxfordshire County Council.

As a result of the work of the Car Parking Task and Finish Group, a draft Car Parking Strategy and Car Parking Action Plan was recommended to Executive for consideration in September 2019. Executive approved the Strategy for consultation, which took place at the beginning of 2020. Officers are reviewing consultation responses and it is anticipated the Strategy will be submitted to Executive for adoption in June 2020.

Performance Monitoring

Each quarter the Overview and Scrutiny Committee reviewed the Council's performance as measured through the Performance Management Framework.

In July 2019 the Assistant Director; Performance and Transformation and the Assistant Director Finance and Governance gave a presentation which summarised the Council's Performance, Risk and Finance monitoring position at the end of the municipal year 2018-2019.

The Committee had suggested that the green waste target should be a percentage recycled and not amount collected, as this was not under the Council's control and would vary each year. The comments were raised with the Assistant Director Environmental Services.

The end of year report considered by the Committee in July 2020 (delayed due to the Covid-19 pandemic) was very positive, with just one indicator reporting as red for the year.

‘Show and Tell’ – Wellbeing Directorate

The purpose of the ‘Show and Tell’ items is to enable the Committee to get a deeper understanding and awareness of a directorate or service area, to enable consideration as to whether any aspect should be added to the topic list for possible scrutiny review.

The Assistant Director Wellbeing attended the meeting of the Committee on 3 September and gave a presentation which provided an overview of the Wellbeing team and the activities covered. This included an update on the Cherwell Lottery which had been launched in July 2019.

The Assistant Director Wellbeing also gave an overview of Intergenerational practice and projects delivered by Cherwell District Council. The Committee congratulated the team on the work undertaken on this project.

Banbury Public Spaces Protection Order.

The Banbury Public Spaces Protection Order had been put in place in December 2016 for a period of three years and was due for review. It could either be renewed or allowed to expire.

The Committee considered and supported the proposed Banbury Public Spaces Protection Order and the amendments which removed rough sleeping from the order, recommending its agreement by Executive.

Waste and Recycling.

The Assistant Director Environmental Services attended the October meeting of the Committee and gave a presentation on Waste and Recycling explaining how waste was sorted, collected and distributed to the relevant disposal centres.

A visit was subsequently arranged to the Casepak Materials Recovery Facility in Leicester, to enable Members to see how the materials were dealt with once they had been collected by the Council’s recycling fleet.

The subjects of fuel economy and electric vehicles were raised by the committee and the Assistant Director Environmental Services explained that small electric vehicles were already in use, but the larger collection vehicles were not widely available. Environmental Services kept up-to-date with developing technology.

Grass Verges and Green Spaces

At the request of the Committee, the Street Scene and Landscape Services Manager gave a presentation on the Council’s delivery of landscape services and maintenance of grass verges and green spaces within Cherwell District.

Air Quality Update

The Environmental Protection and Licensing Manager provided updates on the air quality monitoring carried out across the District in 2018 and presented the 2019 Air Quality Action Plan for Banbury Bicester and Kidlington.

The Environmental Protection Officer informed the Committee that the Department for Environment, Food and Rural Affairs had recently announced that applications could be submitted in the latest round of funding under the Air Quality Grant Scheme. Local authorities were encouraged to bid for funding from central government for local projects to improve air quality. The Committee was advised that scoping was underway for a Countywide campaign and meetings were taking place with other Oxfordshire Councils and the Bicester Delivery team. There had been an opportunity for Councillors to participate and details were circulated to Committee Members.

Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

The Minister for Housing Communities and Local Government had published revised Scrutiny Guidance in May 2019. Cherwell District Council already had in place many of the areas of good practice but there were opportunities for further enhancing the role of Scrutiny within the organisation, including the drafting of an Executive Scrutiny Protocol. The draft protocol is due to be presented to the Committee in the new Municipal Year.

Oxfordshire Growth Board

At the request of the Committee, Bev Hindle, Director of the Oxfordshire Growth Board was welcomed to the meeting in December 2019, and explained the purpose and role of the Growth Board as well as the work that was being done alongside the Oxfordshire Local Enterprise Partnership.

Veterans, Armed Forces Covenant and Remembrance

The Healthy Communities Manager gave details of current and planned support relating to veterans, the Armed Forces Covenant and remembrance events.

The Healthy Communities Manager had advised the Committee that the council would be actively promoting various policies and schemes that supported veterans, including the guaranteed interview. Any veteran that applied for a job advertised with the Council and met the essential criteria would be guaranteed an interview.

Oxfordshire Safeguarding Children Board/Oxfordshire Safeguarding Adult Board Section 11 Review and Endorsement

The Section 11 Audit for Oxfordshire Safeguarding Boards is reviewed each year by the Committee prior to its submission. The Assistant Director Wellbeing gave an overview of the self-assessment and the accompanying action plan. One aspect of the action plan related to the requirement for Members to complete the online

Safeguarding training and the Committee agreed that it was important all Members completed the training. The Committee endorsed the Section 11 Audit for the Oxfordshire Safeguarding Boards.

Public Art

The Assistant Director Wellbeing provided an overview of the Council's role in relation to public art, explaining that public art was recognised as important to developing the cultural identity of Cherwell and offered an opportunity to engage with local communities. The Committee was shown examples of public art across the district.

Business Plan 2020/21

The Acting Assistant Director Performance and Transformation gave a presentation on the draft Business Plan for 2020/21, which outlined four strategic priorities and four themes that would form the basis of departmental service plans for the coming year.

Once approved by Full Council, the Business Plan forms the basis of the performance framework. The Overview and Scrutiny Committee will monitor progress against the priorities and themes through the quarterly reports in the new Municipal Year.

Digital Connectivity in Cherwell

Following a pause in Committee meetings due to the coronavirus pandemic, in July 2020 the Committee received an informative presentation from Craig Bower, Digital Programme Manager at Oxfordshire County Council, regarding digital connectivity across the district and the wider county.

The presentation gave the latest picture on the level of connectivity, and commitments from central Government to provide funding for superfast connections (defined as a connection faster than 30MBS) to the remaining 2% of households in the district.

Housing Strategy Progress report

In July 2020 the Assistant Director Housing and Social Care Commissioning attended the Committee to give a progress update on the Housing Strategy that had been adopted in February 2019.

The Committee had considered the draft strategy prior to its approval by the Executive, and requested an update after 12 months.

The Assistant Director Housing and Social Care Commissioning explained that the Coronavirus pandemic had had a serious impact on housing demand, and the action plan for 2020-21 had been amended to account for the additional demand.

The Committee congratulated the Assistant Director on the performance of the department, particularly the homelessness team, during the pandemic.

Member Survey

The Chairman of the Committee created a brief survey which was circulated to all Members of the Council, to gauge their feelings about the effectiveness of scrutiny, and to find out if there were any subject areas that could be added to the future work programme.

Democratic and Elections Officers will work through the results of the survey with the Chairman, before a Committee-wide work planning discussion at the September 2020 meeting.

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Topic and suggested by	Action/Status/Outcome
<p>Kidlington and Bicester Town Centre – Progress against master plans</p> <p>Former Councillor Neil Prestidge Councillor Lucinda Wing: Should a strategy to encourage High Street Retailers to town centres be in the Masterplan?</p>	<p>Officers from Planning Policy have agreed to attend a future meeting of the Overview and Scrutiny Committee to discuss this subject in more detail.</p>
<p>Car Parking</p> <p>Councillor Sean Gaul: (Feasibility of free parking in Bicester Town Centre) (Former Councillor Neil Prestidge: Decriminalised parking in Kidlington)</p>	<p>Following the work of the Car Parking Task and Finish Group, a draft Strategy was considered and supported for approval at the May 2019 meeting of the Committee. It was then considered by Executive in September 2019 and approved for consultation. Consultation took place in January and February 2020. The final Strategy will be submitted to Executive in June 2020 for adoption.</p>
<p>Canalside Strategy.</p> <p>Councillor Cassi Perry: If done well, canals can be very successful in drawing people to a town. What is the strategy to include the Oxford Canal as an attraction to Banbury Town</p>	<p>The Banbury Canalside Supplementary Planning Document (SPD) remains on the Executive Work Programme as a future item for consideration. More work is expected to be undertaken preparing the SPD during 2020.</p> <p>The Council has launched communications relating to Lock29, the area around the canal</p>
<p>Oxfordshire Growth Board</p> <p>What arrangements are in place for Scrutiny of the Growth Board?</p> <p>Raised by Councillors Ian</p>	<p>Bev Hindle attended the December 2019 meeting of the Committee, to give an overview of the work of the Growth Board.</p>

Middleton, Mike Bishop, Chris Heath and Phil Chapman	
Outside Bodies e.g. the Local Enterprise Partnership (LEP) and their benefit to the Council Raised by Councillors Andy Beere, Shaida Hussain and Tony Mepham	The query was raised with Paul Feehily, Interim Executive Director for Place and Growth. Paul has advised that with regards to the LEP, the Oxfordshire Leaders' undertake scrutiny through their role as members of the Growth Board. With Outside Bodies more generally, Council representatives on organisations are asked to provide an end of year report, giving information about the work of the body over the year and whether or not they feel it is useful for CDC to have a representative on the group. This information is fed back to senior management and the Leader of the Council, at the end of each year.
Green Infrastructure such as verges, green spaces and the maintenance of them Raised by Councillors Ian Middleton, Mike Bishop, Chris Heath and Phil Chapman Verge cutting raised by Councillors Tom Wallis, Sandra Rhodes and Bryn Williams	Councillor Middleton provided a link to a document from UK Green Building Council that provided the following description of green infrastructure: "Natural or semi-natural networks of green (soil covered or vegetated) and blue (water covered) spaces and corridors that maintain and enhance ecosystem services". The full document can be viewed here - https://www.ukgbc.org/wp-content/uploads/2017/09/Demystifying-Green-Infrastructure-report-FINAL.pdf Ed Potter, Assistant Director for Environmental Services, had attended the March 2019 meeting of the Committee to give an overview of the Landscape Service contract currently in place for CDC. A copy of the presentation was circulated to the Committee for information. A further presentation was given to the Committee in October 2019.
Young and Old – services available to and linking the generations Raised by Councillors Andy Beere, Shaida Hussain and Tony Mepham	Nicola Riley, Assistant Director – Wellbeing has advised that CDC are looking to sign up to the Countywide initiative Generations Working Together. A briefing note was submitted to the September 2019 meeting of the Committee, which outlined activities that had been held and upcoming events.
Planning Policy for the District, including the Growth Deal. Raised by Councillors Ian Middleton, Mike Bishop, Chris	Officers from Planning Policy have agreed to attend a future meeting of the Overview and Scrutiny Committee to discuss this subject in more detail.

Heath and Phil Chapman	
<p>Potholes – how to help inform / escalate to Oxfordshire County Council</p> <p>Raised by Councillors Andy Beere, Shaida Hussain and Tony Mepham</p>	<p>The Fix My Street function of the Oxfordshire County Council website allows residents to report cases of potholes, overgrown vegetation and other issues affecting footpaths and roads across the District. The system shows cases that have already been reported, and updates relating to each case are visible for everyone.</p> <p>A direct link to the function appears under the 'Report' heading on the homepage of the OCC website, or it can be accessed directly via the web address https://fixmystreet.oxfordshire.gov.uk/</p>
<p>Mental Health – accessing care (who, what, where, when), support, awareness</p> <p>Raised by Councillors Tom Wallis, Sandra Rhodes and Bryn Williams</p>	<p>As part of the Wellbeing presentation given at the September 2019 meeting of the Committee, mental health services were signposted and reference was made to the Better Mental Health Concordat.</p>
<p>Service delivery and unspent budgets – e.g. occupational health, DFGs – and ensuring officers have relevant support to release bottlenecks.</p> <p>Raised by Councillors Ian Middleton, Mike Bishop, Chris Heath and Phil Chapman</p>	<p>Adele Taylor, Executive Director – Finance and Governance advised that this subject fell under the remit of the Budget Planning Committee.</p>
<p>Telephony Blackspots</p> <p>Raised by Councillors Tom Wallis, Sandra Rhodes and Bryn Williams</p>	<p>The quality of mobile phone signal across the district has been a concern for the Committee for a number of years. It was previously raised in 2017, and research found that there was a group of MPs who had formed the British Infrastructure Group, with the aim of championing better infrastructure across the UK. Research has continued this year, with various online articles and resources being signposted to Members. In January 2020 the Committee decided to change the focus of this topic to telephony and 5G in light of the developing Cherwell Industrial Strategy.</p>
<p>Management companies managing new housing developments – is the use of</p>	<p>Following an increase in the number of management companies being established to look after certain aspects of new housing developments, such as open space, play areas and communal parking areas, the Committee expressed a wish to find out more about the circumstances regarding the decisions to create</p>

Appendix 1

<p>management companies rather than adoption by the Council on the rise, if so what is the cause of this?</p> <p>Raised by Councillor Lucinda Wing</p>	<p>such companies.</p> <p>Information was circulated to the Committee regarding the Council's approved policy on management companies.</p>
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Cherwell District Council

Council

20 July 2020

Amendments to the Officer Scheme of Delegation

Report of Monitoring Officer (interim)

This report is public

Purpose of report

To request specific amendments to the Officer Scheme of Delegation and clarify the extent to which the Monitoring Officer can make changes to the Officer Scheme from time to time pending update to Council.

1.0 Recommendation

The meeting is recommended:

- 1.1 To amend the revised scheme of officer delegations as proposed at Appendix 1 with immediate effect.
- 1.2 To delegate authority to the Monitoring Officer, in consultation with the Chief Executive, to determine any amendments to the Officer Scheme of Delegations that are necessary to address (i) post titles changing (ii) current service responsibilities being revised (iii) new service responsibilities being introduced and/or (iv) new or existing powers being identified for or demanding allocation by the Monitoring Officer, pending update to Council at the first practicable opportunity.

2.0 Introduction

- 2.1 It is necessary to amend the scheme of officer delegations so that new legal powers continue to be aligned with appropriate staff.

3.0 Report Details

- 3.1 Pursuant to section 101 of the Local Government Act 1972 the Council has an adopted scheme of officer delegations to ensure that it is clear that identified senior officers have the power to take decisions that are not reserved to elected members.
- 3.2 The Assistant Directors identified in Appendix 1 have requested that their areas of responsibility as set out in the Officer Scheme of Delegation be updated by the addition of the legal powers set out in Appendix 1.

- 3.3 The implications arising from each specific request is set out in Appendix 1, and the proposals are supported by Lead Members for the areas of responsibility in scope.
- 3.4 Having regard to the nature and scope of the powers being sought for inclusion in the Officer Scheme of Delegation as specified in Appendix 1, the Monitoring Officer considers it appropriate for those powers to be enforced by officers and not by Executive or committee.
- 3.5 Previous reports to Council on changes to the Officer Scheme of Delegation have recommended a standing delegation to the head of the legal service to make changes to the Scheme from time to time pending later update to Council.
- 3.6 The report to Council of 22 July 2019 for instance contained a recommendation that authority be delegated to the Director of Law & Governance, in consultation with the Chief Executive, to make any amendments that are consequential on the current allocation of service responsibilities being revised, new service responsibilities being introduced or post titles changing, which was subsequently approved by Council.
- 3.7 The opportunity is therefore taken to refine that delegation as recommended in this report to more accurately prescribe the parameters in which changes can be made by the Monitoring Officer in consultation with the Chief Executive, in particular that new legal powers that are not accounted for in the existing scheme can be allocated to officers where appropriate, pending update to Council.
- 3.8 This will permit timely, effective and efficient enforcement of current legal powers available to council officers from time to time between Council meetings.
- 3.9 All such decisions made by the Monitoring Officer in consultation will be noted as officer decisions in the council's records, and Council will be updated on the same at the first practicable opportunity.
- 3.10 The role of the Monitoring Officer derives from the Section 5 of the Local Government and Housing Act 1989 (as amended by Schedule 5 paragraph 24 of the Local Government Act 2000) (the **Act**). The Act requires local authorities to appoint a Monitoring Officer. The post of Monitoring Officer is currently held by Steve Jorden, on an interim basis.

4.0 Conclusion and Reasons for Recommendations

- 4.1 It is appropriate to amend the scheme of officer delegations to accommodate updates in legal powers and ensure they can be effectively and efficiently enforced by the services requesting the changes.

5.0 Consultation

Chief Executive, Assistant Directors requiring specific amendments in this report and relevant Lead Members.

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To accept the recommendations

Option 2: To reject the recommendations – this is not recommended as it will limit timely, effective and efficient enforcement of legal powers available to council officers.

Option 3: to amend the recommendations – this is not recommended as the exercise of legal powers by appropriate officers are framed by limitations in statute.

7.0 Implications

Financial and Resource Implications

- 7.1 Financial implications specific to the additional delegated powers being sought pursuant to recommendation 1.1 of this report are set out in Appendix 1.

There are no financial implications arising directly from recommendation 1.2 of this report.

Comments checked by:

Dominic Oakeshott, Assistant Director – Finance (Interim), 01295 227943

dominic.oakeshott@cherwell-edc.gov.uk

Legal Implications

- 7.2 Section 101 of the Local Government Act 1972 provides that the Council can delegate specified functions to an officer. As a consequence of updating the scheme of officer delegation as proposed in this report it will also be necessary for each Assistant Director requesting changes to that scheme to revisit their respective sub-delegations to ensure that the new powers they wish to exercise are properly and effectively delegated to all appropriate officers within the relevant service unit as necessary.

Comments checked by:

Richard Hawtin, Team Leader – Non-contentious, 01295 221695

richard.hawtin@cherwell-dc.gov.uk

Risk Implications

- 7.3 Without an accurate scheme of officer delegation there is a risk of individual officers tasking decisions that are not within the lawful powers of the Council.

Risk implications specific to the additional delegated powers being sought pursuant to recommendation 1.1 of this report are set out in Appendix 1.

Comments checked by:

Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786
louise.tustian@cherwell-dc.gov.uk

8.0 Decision Information

Wards Affected

All.

Links to Corporate Plan and Policy Framework

Accessible, value for money Council

Lead Councillor

Councillor Tony Illott, Lead Member for Financial Management and Governance

Document Information

Appendix No	Title
1	Changes Requested to Officer Scheme of Delegation
Background Papers	
None	
Report Author	Steve Jordan Corporate Director – Commercial Development, Assets and Investment and Interim Monitoring Officer
Contact Information	steve.jorden@cherwell-dc.gov.uk

Appendix 1

Changes to the Officer Scheme of Delegation

The following additional powers are requested:

Assistant Director Housing and Social Care Commissioning

- Service and enforcement of community protection notices and fixed penalty notices under the Antisocial Behaviour, Crime and Policing Act 2014 in relation to residential premises

Reason	<p>Community Protection Notices (CPNs) are an additional tool which will help the Housing Standards Team address problems of unacceptable behaviour associated with residential premises.</p> <p>Currently the Housing Standards Team do not have an effective enforcement tool for tackling lower-level unacceptable conduct, such as threatened illegal eviction or harassment. Currently the only formal recourse for such acts is prosecution once an eviction has taken place. Prosecutions for such offences can be difficult to prove evidentially, and often rely heavily on witness testimony. CPNs offer a versatile solution which can be used to prevent such issues from occurring or escalating, for example a Community Protection Warning (which must be served before a CPN can be issued) can be used to effectively set a 'line in the sand' for what is acceptable or unacceptable conduct. If the conduct persists, the breach of a CPN is an offence which is easier for an officer to witness, and can be discharged either by fixed penalty notice or prosecution, and ultimately post-conviction orders can be sought. This gives a wide range of enforcement options which can be used independently, or in parallel with existing powers.</p>
Lead Member Support	<p>Gillian Douglas and Cllr John Donaldson have been consulted and are content with the proposal which they regard as a useful addition to the Housing Standards Team's range of enforcement powers.</p>
Financial Implications	<p>No particular increased risk over and above existing similar enforcement powers.</p> <p>Low risks of non-payment of Fixed Penalty Notices as maximum penalty £100.</p> <p>Comments checked by: Dominic Oakeshott, Assistant Director – Finance (Interim), 01295 227943, dominic.oakeshott@cherwell-dc.gov.uk</p>

Risk Implications	<p>Without CPN provisions, the Housing Standards Team have to rely on existing powers which do not adequately cover the range of conducts encountered, rely on prosecution as the only recourse, or have higher thresholds for action, for example statutory nuisance.</p> <p>These will be managed as part of the services operational risk register and escalated as and when necessary to the leadership risk register.</p> <p>Comments checked by: Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786, louise.tustian@cherwell-dc.gov.uk,</p>
Legal Implications	<p>Monitoring of CPWs and CPNs for compliance by Housing Standards Team.</p> <p>Non-compliance with CPN can be discharged via Fixed Penalty Notice or prosecution in Magistrate’s Court.</p> <p>Post-conviction orders can be requested, including seizure and forfeiture of equipment.</p> <p>Limited provision for works-in-default (but it is expected existing powers would be used in most cases).</p> <p>Comments checked by: Richard Hawtin, Team Leader – Non-contentious, 01295 221695, richard.hawtin@cherwell-dc.gov.uk</p>

**Assistant Director Planning and Economy (now Planning and Development)
Building Control**

- To consider and respond to any applications in respect of structures on ordinary watercourses
- To undertake, or arrange the undertaking of, any works on ordinary watercourses
- To undertake any enforcement action in relation to any matter or thing affecting ordinary watercourses which may give rise to flood risk
- To liaise with and provide any information necessary to any other public authority, statutory body or other entity in respect of flood risk, including the Lead Local Flood Authority (as identified in the Flood and Water Management Act 2010)
- To exercise any power which is relevant to ordinary watercourses contained in either the Land Drainage Act 1991, the Land Drainage Act 1994 and the Public Health Act 1936 as the same may be amended, replaced or superseded from time to time

Reason	The Council has resolved to resume from April 2020 using its powers under the various Land Drainage Acts to ensure that the maintenance of and works to “ordinary watercourses” are done so that flood risk is minimised. These delegations will enable these powers to be used in an efficient and timely manner.
Lead Member Support	Councillor Colin Clarke and Councillor Daniel Sames
Financial Implications	There are no financial implications arising directly from this change. Comments checked by: Dominic Oakeshott, Assistant Director – Finance (Interim), 01295 227943, dominic.oakeshott@cherwell-dc.gov.uk
Risk Implications	Flood risk to our community will be reduced by the effective use of these delegated powers. Comments checked by: Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786, louise.tustian@cherwell-dc.gov.uk ,
Legal Implications	The legal implications arising from this addition to the officer scheme of delegation are covered in the reasons given for the change. Comments checked by: Richard Hawtin, Team Leader, Non-contentious, 01295 221695, richard.hawtin@cherwell-dc.gov.uk

Assistant Director Environmental Health and Licensing (now Assistant Director Regulatory Services and Community Safety)

- To deal with all matters, and exercise the Council’s powers, including enforcement, under legislation relating to pavement licences

Reason	To delegate authority by function rather than reference to specific legislation. This will avoid the need for the scheme of delegation to be amended every time there is a change/amendment to the legislation.
Lead Member Support	Councillor McHugh
Financial Implications	There are no financial implications arising directly from

	<p>this change.</p> <p>Comments checked by: Dominic Oakeshott, Assistant Director – Finance (Interim), 01295 227943, dominic.oakeshott@cherwell-dc.gov.uk</p>
Risk Implications	<p>Officers are currently only authorised to enforce the specific statutory power (section 115 of the Highways Act 1980) and not the wider function around regulation of pavement licences.</p> <p>Comments checked by: Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786, louise.tustian@cherwell-dc.gov.uk,</p>
Legal Implications	<p>The current delegation states ‘To exercise powers to permit third parties to place objects over or on the public highway, under section 115 of the Highways Act 1980’. For information section 115 of the Highways Act 1980 falls in Part VII of the Act and relates to the parking of heavy goods vehicles. Pavement licences come under Part VIIA and sections 115A onwards so the change will additionally rectify this potential anomaly.</p> <p>Comments checked by: Richard Hawtin, Team Leader, Non-contentious, 01295 221695, richard.hawtin@cherwell-dc.gov.uk</p>

Changes to the Officer Scheme of Delegation

The following additional powers are requested:

Assistant Director Housing and Social Care Commissioning

- Service and enforcement of community protection notices and fixed penalty notices under the Antisocial Behaviour, Crime and Policing Act 2014 in relation to residential premises

Reason	<p>Community Protection Notices (CPNs) are an additional tool which will help the Housing Standards Team address problems of unacceptable behaviour associated with residential premises.</p> <p>Currently the Housing Standards Team do not have an effective enforcement tool for tackling lower-level unacceptable conduct, such as threatened illegal eviction or harassment. Currently the only formal recourse for such acts is prosecution once an eviction has taken place. Prosecutions for such offences can be difficult to prove evidentially, and often rely heavily on witness testimony. CPNs offer a versatile solution which can be used to prevent such issues from occurring or escalating, for example a Community Protection Warning (which must be served before a CPN can be issued) can be used to effectively set a ‘line in the sand’ for what is acceptable or unacceptable conduct. If the conduct persists, the breach of a CPN is an offence which is easier for an officer to witness, and can be discharged either by fixed penalty notice or prosecution, and ultimately post-conviction orders can be sought. This gives a wide range of enforcement options which can be used independently, or in parallel with existing powers.</p>
Lead Member Support	<p>Gillian Douglas and Cllr John Donaldson have been consulted and are content with the proposal which they regard as a useful addition to the Housing Standards Team’s range of enforcement powers.</p>
Financial Implications	<p>No particular increased risk over and above existing similar enforcement powers.</p> <p>Low risks of non-payment of Fixed Penalty Notices as maximum penalty £100.</p> <p>Comments checked by: Dominic Oakeshott, Assistant Director – Finance (Interim), 01295 227943, dominic.oakeshott@cherwell-dc.gov.uk</p>

Risk Implications	<p>Without CPN provisions, the Housing Standards Team have to rely on existing powers which do not adequately cover the range of conducts encountered, rely on prosecution as the only recourse, or have higher thresholds for action, for example statutory nuisance.</p> <p>These will be managed as part of the services operational risk register and escalated as and when necessary to the leadership risk register.</p> <p>Comments checked by: Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786, louise.tustian@cherwell-dc.gov.uk,</p>
Legal Implications	<p>Monitoring of CPWs and CPNs for compliance by Housing Standards Team.</p> <p>Non-compliance with CPN can be discharged via Fixed Penalty Notice or prosecution in Magistrate’s Court.</p> <p>Post-conviction orders can be requested, including seizure and forfeiture of equipment.</p> <p>Limited provision for works-in-default (but it is expected existing powers would be used in most cases).</p> <p>Comments checked by: Richard Hawtin, Team Leader – Non-contentious, 01295 221695, richard.hawtin@cherwell-dc.gov.uk</p>

**Assistant Director Planning and Economy (now Planning and Development)
Building Control**

- To consider and respond to any applications in respect of structures on ordinary watercourses
- To undertake, or arrange the undertaking of, any works on ordinary watercourses
- To undertake any enforcement action in relation to any matter or thing affecting ordinary watercourses which may give rise to flood risk
- To liaise with and provide any information necessary to any other public authority, statutory body or other entity in respect of flood risk, including the Lead Local Flood Authority (as identified in the Flood and Water Management Act 2010)
- To exercise any power which is relevant to ordinary watercourses contained in either the Land Drainage Act 1991, the Land Drainage Act 1994 and the Public Health Act 1936 as the same may be amended, replaced or superseded from time to time

Reason	The Council has resolved to resume from April 2020 using its powers under the various Land Drainage Acts to ensure that the maintenance of and works to “ordinary watercourses” are done so that flood risk is minimised. These delegations will enable these powers to be used in an efficient and timely manner.
Lead Member Support	Councillor Colin Clarke and Councillor Daniel Sames
Financial Implications	There are no financial implications arising directly from this change. Comments checked by: Dominic Oakeshott, Assistant Director – Finance (Interim), 01295 227943, dominic.oakeshott@cherwell-dc.gov.uk
Risk Implications	Flood risk to our community will be reduced by the effective use of these delegated powers. Comments checked by: Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786, louise.tustian@cherwell-dc.gov.uk ,
Legal Implications	The legal implications arising from this addition to the officer scheme of delegation are covered in the reasons given for the change. Comments checked by: Richard Hawtin, Team Leader, Non-contentious, 01295 221695, richard.hawtin@cherwell-dc.gov.uk

Assistant Director Environmental Health and Licensing (now Assistant Director Regulatory Services and Community Safety)

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Lead Member Support	Councillor McHugh
Financial Implications	There are no financial implications arising directly from

	<p>this change.</p> <p>Comments checked by: Dominic Oakeshott, Assistant Director – Finance (Interim), 01295 227943, dominic.oakeshott@cherwell-dc.gov.uk</p>
Risk Implications	<p>Officers are currently only authorised to enforce the specific statutory power (section 115 of the Highways Act 1980) and not the wider function around regulation of pavement licences.</p> <p>Comments checked by: Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786, louise.tustian@cherwell-dc.gov.uk,</p>
Legal Implications	<p>The current delegation states ‘To exercise powers to permit third parties to place objects over or on the public highway, under section 115 of the Highways Act 1980’. For information section 115 of the Highways Act 1980 falls in Part VII of the Act and relates to the parking of heavy goods vehicles. Pavement licences come under Part VIIA and sections 115A onwards so the change will additionally rectify this potential anomaly.</p> <p>Comments checked by: Richard Hawtin, Team Leader, Non-contentious, 01295 221695, richard.hawtin@cherwell-dc.gov.uk</p>