



Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Tuesday, 12 July 2022

**Committee:
Cabinet**

Date: Wednesday, 20 July 2022

Time: 10.30 am

Venue: Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

You are requested to attend the above meeting. The Agenda is attached

There will be some access to the meeting room for members of the press and public, but this will be limited for health and safety reasons. If you wish to attend the meeting please email democracy@shropshire.gov.uk to check that a seat will be available for you.

Members of the public will be able to access the live stream of the meeting by clicking on this link:
<https://www.shropshire.gov.uk/Cabinet20July2022>

Tim Collard Assistant Director – Legal and Governance

Members of Cabinet

Lezley Picton (Leader)

Gwilym Butler

Dean Carroll

Rob Gittins

Kirstie Hurst-Knight

Simon Jones

Cecilia Motley

Ian Nellins

Ed Potter

Your Committee Officer is:

Amanda Holyoak

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AGENDA

1 Apologies for Absence

2 Disclosable Interests

Members are reminded that they must declare their disclosable pecuniary interests and other registrable or non-registrable interests in any matter being considered at the meeting as set out in Appendix B of the Members' Code of Conduct and consider if they should leave the room prior to the item being considered. Further advice can be sought from the Monitoring Officer in advance of the meeting.

3 Minutes

To confirm the minutes of the meeting held on 6th July 2022, to follow.

4 Public Question Time

To receive any questions from members of the public, notice of which has been given in accordance with Procedure Rule 14. Deadline for notification is not later than 5.00 pm on Thursday 14th July 2022.

5 Member Question Time

To receive any questions from Members of the Council. Deadline for notification is not later than 5.00 pm on Thursday 14th July 2022.

6 Scrutiny Items

7 Housing Supervisory Board - CDL Shareholder Update (Pages 1 - 8)

Lead Member – Councillor Rob Gittins – Portfolio Holder Digital, Data & Insight and Built Housing

Report of Mark Barrow, Executive Director of Place, attached

8 Recommendation for Broseley Neighbourhood Development Plan to proceed to referendum

Lead Member – Councillor Ed Potter – Deputy Leader and Portfolio Holder for Economic Growth, Regeneration and Planning

Report of Mark Barrow, Executive Director of Place, to follow

9 Draft Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements (Pages 9 - 60)

Lead Member – Councillor Ed Potter – Deputy Leader and Portfolio Holder for Economic Growth, Regeneration and Planning

Report of Mark Barrow, Executive Director of Place, attached

10 Oswestry Business Improvement District (BID) Renewal (Pages 61 - 88)

Lead Member – Councillor Ed Potter – Deputy Leader and Portfolio Holder for Economic Growth, Regeneration and Planning

Report of Mark Barrow, Executive Director of Place, attached

11 Financial Strategy 22/23

Lead Member – Councillor Gwilym Butler – Portfolio Holder for Finance and Corporate Resources

Report of James Walton, Executive Director of Resources, to follow

12 Council Tax Energy Rebate - Discretionary Scheme Approval (Pages 89 - 94)

Lead Member – Councillor Gwilym Butler – Portfolio Holder for Finance and Corporate Resources

Report of James Walton, Executive Director of Resources, attached

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<u>Committee and Date</u>
Cabinet
20 July 2022

<u>Item</u>
<u>Public</u>

Cornovii Developments Limited: Shareholder Update

Responsible Officer

e-mail: Jane.trethewey@shropshire.gov.uk Tel: 01743 254917

1 Synopsis

This report updates on the activities of the Housing Supervisory Board and the operations of Cornovii Developments Limited (CDL) in accordance with the Housing Supervisory Board's Terms of Reference. The report presents detail of the activity of the Company since it entered delivery stage.

2 Executive Summary

- 2.1 This report provides Cabinet with an update on the activities of the Housing Supervisory Board (HSB) and the operations of Cornovii Developments Limited. The Housing Supervisory Board's Terms of Reference requires that there will be regular reporting to the Council on the activities of the HSB and operations of the Company, in accordance with its responsibilities.
- 2.2 The Council has reserved certain functions to itself, as shareholder of CDL, in the articles of association and the shareholder agreement, delegating some of these functions to the Housing Supervisory Board. This report sets out how the Housing Supervisory Board is exercising these functions in accordance with its Terms of Reference and the Shareholder Agreement.
- 2.3 To date CDL has developed 33 new homes at its development, The Frith and has a further 58 homes under construction at its Ellesmere and Ifton schemes. Over the next twelve months the company anticipates that it will be on site at a further three schemes, which will bring forward 192 new homes
- 2.4 In March 2022 the Housing Supervisory Board approved CDL's 10-year Business Plan. The Plan aims to deliver of 728 new homes, 590 market sale and 138 affordable homes. According to CDL's Business

Plan the company anticipates that during the plan period it will return to the Shareholder £33m, made up of dividend, capital receipt, interest payments and traded services. This estimate is based on the development of the sites currently identified in the Business Plan, some of which are subject to acquisition by CDL. It should also be noted that dividends comprise the profit distribution made by a company to its shareholder, their amount is therefore determined by actual profits achieved and any amount approved for distribution.

- 2.5 Through engagement with the Senior Management Team at Cornovii Developments and its Board of Directors, the Housing Supervisory Board continues to perform its responsibilities to monitor the performance of the Company in delivering its Business Plan in order to ensure compliance with the Council's corporate objectives and progress in meeting unmet housing need.

3 Recommendations

- 3.1 To receive the report and raise any issues as appropriate on the activities of the Housing Supervisory Board and the operations of Cornovii Developments Limited in accordance with the Housing Supervisory Boards Terms of Reference.

REPORT

4 Risk Assessment and Opportunities Appraisal

- 4.1 The Housing Supervisory Board monitors the progress and performance of CDL, at a minimum of quarterly intervals, through monitoring reports presented by CDL to Housing Supervisory Board. The Managing Director of CDL attends all Housing Supervisory Board meetings to give account of the Company's activities and its progress in meeting unmet housing need. At the request of the Housing Supervisory Board, the Chair of the CDL Board will also attend meetings.
- 4.2 The performance of the Company in delivering against its approved Business Plan is also monitored by the CDL's Board of Directors and is the subject of a comprehensive risk register which is reviewed by the CDL Board on a quarterly basis. Sensitivity analysis is undertaken by CDL on its Business Plan to understand the level of risk in relation to build cost and income, the two major cost categories in the plan, most exposed to wider economic forces. This process is repeated regularly with outcomes reported to the Housing Supervisory Board.

- 4.3 Further to the monitoring of the Company by its Board and the Housing Supervisory Board, the CDL Monitoring Board, made up of officers from departments across the Council, meets on a quarterly basis to review the activity of CDL, supported with further oversight by the Homes and Communities Team. A Risk Register, which covers risk to the Council in its role as Company Shareholder, is monitored by the CDL Monitoring Board and the Assistant Director of Homes and Communities and the Client and Commissioning Manager.

5 Financial Implications

- 5.1 There are no specific financial implications that relate to the decision contained within this report.

6 Climate Change Appraisal

- 6.1 CDL understands the importance of its role in helping the Council reach its net zero targets. The Company's 2022 Business Plan encompasses 15 carbon zero homes, which will operate using air source heat pumps, not only reducing carbon footprint but also addressing energy usage, having a positive impact on future residents' energy bills. Within the 2022 Business Plan CDL has set out its intention to be at least 31% more energy efficient when compared to current UK building regulations standards. The approaches CDL will take to become more energy efficient and to mitigate against climate change are set out below. These intentions will be monitored by the HSB through the analysis of quarterly reports received from the Company.
- 6.2 *Energy and fuel consumption.* In order to facilitate carbon reduction and energy efficiency, the projects delivered by CDL will capitalise on sustainable design solutions, use processes and material that are not detrimental to the environment and ensure that post construction operations are environmentally friendly. Carbon savings from design measures will be quantified wherever possible. All homes at the Company's Frith, Ifton and Ellesmere developments will have an EPC rating of A. Carbon savings from these properties are anticipated to fall within the predicted energy assessment and will be confirmed at completion of the homes. It is estimated that the homes at these developments will produce 0.34 tonnes of carbon per year, which, when considered against a typical EPC rated property which produces 3.2 tonnes of carbon per year, represents a saving of 2.86 tonnes of carbon per year.
- 6.3 *Renewable Energy Generation.* There are a range of opportunities for the generation and storage of renewable energy from building mounted solar panels and battery energy storage, which are to be incorporated into the design of homes where possible. Solar panels are being fitted to the homes at The Frith, Ifton and Ellesmere. The

installation of the solar panels will not allow the homes to be 100% self-sufficient and there will still be a need to rely on feed from the grid.

- 6.4 *Carbon offsetting or mitigation.* Designs of schemes within the CDL programme will incorporate tree planting and landscaping to support carbon capture and storage, biodiversity, natural flood management and urban cooling. It is the intention of CDL to deliver a biodiversity net gain across the development programme. Neither the homes at the Frith nor Ellesmere Wharf benefit from any additional off-setting measures over and above the landscaping measures approved at planning. The Ifton site will however benefit from the planting of additional trees.
- 6.5 *Climate Change Adaptation.* It is anticipated that CDL homes will be designed in a way which is sympathetic to the climate using materials and construction methodologies that reduce the emission of carbon into the atmosphere and ensure homes are protected from overheating. The flood risk assessments for the Frith, Ellesmere and Ifton demonstrated that there is no risk of a 1 in 100 + 30-year flood event, which was also demonstrated by the Engineer's drainage calculations. Rainwater goods have been sized by the Architects to capacities required by Building Regulations. The homes at the Frith and Ellesmere schemes are generally situated on NE/SW axis, with principal rooms situated on that axis, to prevent extreme heating and extreme cooling. Ifton plots 1-17 are situated on a NW/SE axis, with principal rooms situated on that axis. All other plots are on a NE/SW axis, with all principal rooms position to limit solar gain and heat loss.

7 Background

- 7.1 CDL was incorporated in 2019 by Shropshire Council to meet unmet housing need across the County and to provide income to support the Council to become more financially self-sufficient. Since its establishment CDL has successfully developed a pipeline of sites for delivery of homes and is currently on site with three schemes, recently completing homes at its first scheme, The Frith, where all homes have now been sold or reserved.
- 7.2 The Council has delegated certain Shareholder functions to the Housing Supervisory Board. The Housing Supervisory Board, which meets quarterly is responsible for approving all Shareholder Consent matters, as set out in the Shareholder Agreement, to include approving the Company Business Plan and appointing, removing or dismissing any director. CDL is obligated under the terms of the Shareholder Agreement to report to the Housing Supervisory Board at quarterly intervals on the operations and performance of the Company, its progress in meeting unmet

housing need and on the objectives contained within the Business Plan. The Company is also required to report to the Housing Supervisory Board any matters which may adversely impact on performance, internal audit reports of the Company and borrowing reports for all lending of the Company.

- 7.3 The 2022 Business Plan was presented to and approved by the Housing Supervisory Board at its March 2022 meeting. This Business Plan demonstrated the growth and ambition of the Company as it moves to a period of direct delivery, which during the Plan period will see the development of 728 new homes, 590 market sale and 138 affordable homes.
- 7.4 In 2020/21 private developers working across 16 sites delivered affordable housing averaging 11% on each site. In 2021/22 private developers working across 10 sites delivered affordable housing averaging 12.5% on each site. The Housing Strategy 2020-25 anticipates the delivery of 300 affordable homes from private developers through planning gain (excluding CDL). CDL's aim to deliver 138 affordable homes represents 19% of its overall delivery across the programme.
- 7.5 Benchmarking of CDL delivery of affordable homes against delivery by other private developers operating within Shropshire will take place throughout the life of the business plan. Benchmarking against delivery by other Local Authority Housing Companies is problematic as each has a different set of objectives and have been set up to address issues specific to their local area, for example, some are building only private rented homes, some are building just affordable homes, whilst others operate with a clear aim of providing only financial return.

8 Housing Supervisory Board Activities

- 8.1 In accordance with its Terms of Reference the HSB is required to report to the Council on the activities of the HSB and operation of the Company in accordance with its responsibilities. This section of the report sets out each of these responsibilities and reports on the activities undertaken in connection with each responsibility.
- 8.2 The giving of consent for the Shareholder Consent Matters set out in Schedule 1 of the Shareholder Agreement
- 8.2.1 From time to time the Housing Supervisory Board is requested, by CDL, to approve Shareholder Consent Matters as stated within the Shareholder Agreement. Such Consent Matters, to date, have included, approval of the Company Business Plan, the latest of which was approved in March 2022. CDL's Business Plan sets out the Company's programme to deliver 728 new homes over the 10-year plan period. The Company has delivered 33 homes at its

development, The Frith, of which 12 are affordable homes, purchased by the Council into the Housing Revenue Account. A further 58 homes are under construction at the Company's Ifton Heath and Ellesmere sites, which will deliver 35 and 23 new homes respectively. In April 2022 CDL achieved planning for 135 new homes, to include 15 Carbon Zero homes, at London Road. Starts on site, to include London Road, are expected at a further three schemes within the next 12 months, which will bring forward another 192 (inclusive of London Road).

8.2.2 Further consent matters have included approvals for the appointment of directors to the CDL Board.

8.3 *Monitoring the operations and performance of the Company through the receipt and analysis of quarterly reports prepared and presented by officer of the Company*

8.3.1 The Housing Supervisory Board receives quarterly monitoring reports from CDL to show progress against the objectives of the Business Plan. The reports feature data on process to completions in accordance with the approved business plan; sales forecast; homes by tenure type and bedroom size; completions; borrowing reports; financial position against the business plan and risk and opportunities. These reports are presented by the Managing Directors of CDL. The reports received demonstrate that progress against the Business Plan remains satisfactory.

8.4 *Ensuring compliance with the Council's corporate objectives as set out in the Council's corporate plan*

8.4.1 The HSB ensures compliance with the Council's objectives through the scrutiny of monitoring reports presented at its quarterly meetings. Notably the HSB ensured compliance with its climate change objectives by asking CDL to reconsider its original specifications for its Ellesmere scheme and including within the design solar panels.

8.5 *Receiving internal audit reports from directors and officers of the Company*

8.5.1 To date no internal audit reports have been presented to the HSB from the Company.

8.6 *Receiving quarterly reports on the Company's progress in meeting unmet housing need in the Council's administrative area, including information on land disposals, developments appraisals, housing numbers and types*

8.6.1 Quarterly reports on the Company's progress in meeting unmet housing need are presented to the HSB at each meeting. CDL's

Business Plan aims to deliver 138 affordable homes across 9 sites during the 10-year plan period, progress in meeting this target is being monitored by the HSB. All of the sites identified within the business plan are currently within Shropshire Council's ownership and are unused and or derelict. Subject to approval to dispose of these sites to CDL, the Company will develop these sites bringing forward much needed housing whilst contributing to the local economy.

8.7 *Receiving quarterly borrowing reports for secured and unsecured lending of the Company*

8.7.1 The CDL Business Plan is financed by loan facilities (in addition to the Council's equity investment) provided by Shropshire Council on commercial terms. The performance of the company against the terms of the loan are monitored by Shropshire Council's Finance Department, with quarterly meetings scheduled.

8.7.2 All requests for loan drawdowns are approved by the Executive Director of Resources and subject to a viable Development Appraisal, approved first by CDL's Board of Directors. The Housing Supervisory Board receives quarterly borrowing reports for all lending of the Company. The current drawdowns are in line with expectations and in accordance with this stage of the Business Plan.

8.7.3 Negotiations and approvals are proceeding on the collapse of the two existing loans, £14m and £35m into a single revolving facility for the full £49m. It is expected that the approvals for the restatement of the loan agreement will be concluded by late Summer. This restatement will allow more financial capacity (due to the terms of the loans) to deliver the approved business plan.

8.7.4 CDL anticipates that during the life of the current 10-year Business Plan, it will return to the Shareholder £33m made up of dividend, capital receipts and traded services. The Company expects that each project is anticipated to exceed the Shareholder return margin, with a total programme return of 14%. The Council has not undertaken to independently assess the income the Company is likely to return to it as Shareholder. CDL's anticipated return to the Council is based upon the successful delivery of all sites identified within the Business Plan, it should be noted that negotiations for the purchase of these sites by CDL have not yet been concluded.

9 **Additional Information**

9.1 A feature of the CDL Board and Housing Supervisory Board Forward Plan is a joint Away Day. The purpose of the Away Day is to review the progress of the Company in meeting unmet housing need and in delivering the objectives of the Business Plan. Furthermore, the Away Day seeks to ensure that there is continued alignment

between the strategic direction of the Company and the Council.
The Housing Supervisory Board members are also invited to attend an annual tour of the CDL sites.

10 Conclusions

- 10.1 Cabinet is asked to receive the CDL Shareholder update and to note the performance of the Company in achieving the objectives of its business plan and in meeting the strategic housing needs of Shropshire Council.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)

Cllr Robert Gittins Portfolio Holder Digital, Data & Insight and Built Housing

Local Member

Appendices

[Please list the titles of Appendices]



Committee and Date

Cabinet

20 July 2022

Item

Public

Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements

Responsible Officer Mark Barrow, Executive Director of Place

e-mail: mark.barrow@shropshire.gov.uk Tel: 01743 258916

1. Synopsis

- 1.1 A proposal to implement a policy that will set out the Council's approach to the enforcement and determination of financial (civil) penalties in circumstances where persons engaged in letting agency work and property management business fail to comply with legislative requirements.

2. Executive Summary

- 2.1. The Council, in its capacity as the local weights and measures authority, has a statutory responsibility to regulate specific aspects of the letting agency and property management market by ensuring that tenants are only charged permitted fees, that where appropriate letting agents are members of a redress scheme and a client money protection scheme and that letting agents' fees and charges are transparent/publicised appropriately.
- 2.2. The Tenants Fees Act 2019 ('the 2019 Act') was introduced to make renting fairer and more affordable for tenants by reducing the costs at the outset of a tenancy by introducing a ban on certain fees payable by the tenant and also creating a 'permitted payment' regime.
- 2.3. The 2019 Act also amended other legislation referred to as 'relevant letting agency legislation' requiring, where necessary, membership of client money protection schemes and redress schemes as well as provisions concerning the publication of information about such membership together with information about relevant fees.

- 2.4. Where evidence of infringements under the 2019 Act or 'relevant letting agency legislation' is identified, the Council may, in certain circumstances, consider issuing a financial penalty for a civil breach or, as an alternative to prosecution, in respect of a criminal offence. The level of the financial penalty varies depending on the actual infringement; however, it can be as much as £30,000 in certain circumstances.
- 2.5. Where the Council wishes to utilise financial penalties for breaches for any of these infringements, statutory guidance accompanying the legislative controls clearly states that the Council is expected to develop, document and publish a policy, which sets out how it will determine the appropriate level of any financial penalty.
- 2.6. A draft policy was brought before Cabinet on the 6 April 2022 in order to seek approval to undertake a public consultation. This consultation took place for a period of 6 weeks between 9 May 2022 and 20 June 2022 with direct notification provided to key stakeholders. No comments have been received in response to the consultation and, as a result, no changes are proposed to the original draft of the policy.
- 2.7. In line with statutory guidance, a draft policy setting out the Council's approach to enforcement and the determination of any financial penalty has been produced and is set out at Appendix A.

3. Recommendations

- 3.1. That Cabinet approves, with any necessary amendments, the Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements as set out at Appendix A.

REPORT

4. Risk Assessment and Opportunities Appraisal

- 4.1. The preparation and publishing of the Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements ('the Policy') is not in itself a legal requirement; however, the statutory guidance listed below, which has been published by the Ministry of Housing, Communities & Local Government ('MHCLG')¹, makes it clear that the Council must have

¹ **Now the Department for Levelling Up, Housing and Communities (DLHUC)**

due regard to this guidance when considering enforcement action and whether to impose a financial penalty:

- Tenant Fees Act 2019: statutory guidance for enforcement authorities
 - Mandatory Client money protection: enforcement guidance for local authorities
- 4.2. The above statutory guidance recommends certain factors that the Council should take into account when deciding on the level of financial penalty to impose and further requires that the Council develops, documents and publishes a policy on how it will determine the appropriate level of any financial penalty. The Council should also decide each matter on a case-by-case basis, in line with that policy.
- 4.3. The National Trading Standards Estate and Letting Agency Team (NTSELAT) is the Lead Enforcement Authority as arranged by the Secretary of State (Department for Levelling Up, Housing and Communities) under section 24 of the 2019 Act. The NTSELAT is responsible for, amongst other duties, overseeing the enforcement of relevant letting agency legislation in England. It has developed a best practice policy, which it has made available to all Councils.
- 4.4. In order to ensure financial penalties are used fairly and are set at an appropriate level, the Council's Policy follows the provisions and processes set out in the NTSELAT policy. This means that culpability and harm will be considered, together with the following factors, when determining the level of penalty to impose for a breach of any relevant letting agency legislation:
- Severity of the breach
 - Punishment of the landlord or agent
 - Aggravating and mitigating factors
 - Fairness and proportionality
- 4.5. The Policy sets out the process that Council officers will follow to determine the amount of any financial penalty and provides a series of tables to ensure, as far as reasonably practicable, consistency and transparency when determining the actual level of a financial penalty.
- 4.6. Utilising the NTSELAT policy as the basis for the Council's policy means the Council can demonstrate that it has followed best practice and has had due regard to the requirements of the statutory guidance, whilst also ensuring enforcement action is considered and applied in a manner consistent with other councils across England.

- 4.7. The Council could impose financial penalties in relation to infringements of relevant letting agency legislation without a policy in place. However, by choosing to develop, document and publish a policy, this provides a framework for the Council to enable reasonable decisions to be made and to mitigate the reputational and financial risks that may result from any legal challenge.
- 4.8. A failure to adopt a policy may also limit the ability of the Council to protect tenants from unscrupulous letting agents and property management businesses.
- 4.9. There is also a risk that having no policy in place will increase the likelihood of legal challenge to any financial penalty that is imposed and ultimately may lead to decisions to impose penalties being overturned on appeal at a First-tier Tribunal. Whilst the Tribunal is an informal body, it nevertheless has the power to confirm, vary or quash a decision made by the Council, including increasing or reducing the level of any financial penalty imposed by the Council.
- 4.10. In the event that there is a legal challenge against the imposition of a financial penalty, the Policy will increase the likelihood that the Council will be able to successfully defend such a challenge. However, it is impossible to entirely eliminate the legal risks associated with the use of financial penalties; nevertheless, the Policy will assist the Council to mitigate the risks associated with any adverse outcome.
- 4.11. The Policy does not stand alone; it is intended to be read and considered alongside the Council's Better Regulation and Enforcement Policy, which was itself formally agreed by the Council on 25 July 2018. The implementation of the Policy, together with the Council's Better Regulation and Enforcement Policy, will provide a framework that will better enable the Council to ensure the protections available to tenants, who can often be considered vulnerable due to their circumstances, are being met.
- 4.12. Whilst there are 'relevant letting agency requirements' that may result in a civil breach and a financial penalty being imposed based on the balance of probability standard of proof, where financial penalties are being considered as an alternative to prosecution, the Council will still have to be satisfied that if the case were to be prosecuted in the Magistrates' Court, there would be a realistic prospect of conviction, i.e. the standard of proof remains the same as if the decision had been taken to institute legal proceedings. In such cases, the Council needs to demonstrate, beyond reasonable doubt, that the offence has been committed before imposing a financial penalty. For this purpose, officers involved in cases will consult the Crown Prosecution Service Code for Crown Prosecutors

and liaise with Legal Services before any decision is made to impose a financial penalty.

- 4.13. There is a risk that any substantial increase in the number of investigations into infringements of 'relevant letting agency requirements', where financial penalties are an option, is likely to give rise to a corresponding pressure on existing and limited staffing resources, including resources within Legal Services.
- 4.14. Those who face a financial penalty issued by the Council have the right, subject to specific statutory time limits, to make representations to the Council against the intention to impose the penalty and ultimately, they have a right of appeal to a First-Tier Tribunal. If an appeal is lodged, this suspends the penalty process until the appeal is heard.
- 4.15. The Government has made it clear that offenders must not derive any financial benefit from their offending and Tribunals have been briefed on what is expected of them in relation to the use of financial penalties. Whilst the Council's use of these powers remains untried and untested, there is growing evidence that other councils are successfully using the powers where it is appropriate to do so.
- 4.16. Following the decision by Cabinet to approve the consultation in respect of the draft Policy, details of which can be found in the report presented to Cabinet on the 6 April 2022 at Agenda Item 7 ([Agenda for Cabinet on Wednesday, 6th April, 2022, 10.30 am – Shropshire Council](#)), a public consultation was undertaken over a six-week period from 9 May 2022 to 20 June 2022. The consultation was made generally available to all interested parties, including letting agents/property management businesses and tenants, through the Council's Get Involved pages of its website. In addition, direct notification of the consultation was provided to seven key stakeholders including relevant trade bodies and organisations representing tenants' interests.
- 4.17. An Equality, Health and Social Inclusion Impact Assessment (EHSIA) has been prepared and is available at Appendix B.
- 4.18. The EHSIA has indicated that the Policy should have a low to medium positive impact for all communities and groupings within communities, principally by deterring or removing rogue letting agents and property management businesses from the Private Rented Sector in Shropshire. Effective enforcement in relation to private rented accommodation, including the use of financial penalties, is likely to improve the life chances of the population generally and particularly those with Protected Characteristics such as older people, those with disabilities and families with children. It

will also include households in the tenth category, social inclusion, that we think about in Shropshire, in addition to the nine Protected Characteristics set out in the Equality Act 2010. The social inclusion category includes people in rural areas and people or households that we may describe as vulnerable. Examples could be households on low incomes or people for whom there are safeguarding concerns, as well as people in fuel poverty.

- 4.19. As no feedback, either positive or negative, was received as a result of the public consultation, which was organised to further inform the proposed Policy, it has not, at this time, been necessary to make any adjustments to the Policy, including those that relate to equality impacts. Work will, however, continue with all those who may be impacted by the Policy, in particular, those target groupings, e.g., older people and households on low incomes, in order to seek to ensure that the positive impacts are enhanced.
- 4.20. Housing is a key determinant of health and wellbeing, and this Policy should ensure tenants are not subjected to unnecessary financial burdens such as overtly high deposit costs or front-loading rent. This should make it more affordable for tenants to rent or move between rental properties should circumstances change. This could be especially important for low-income vulnerable groups, such as young people, single parent families and people with disabilities, who already face challenges in finding affordable homes and have limited alternative housing available to them.
- 4.21. This Policy also gives tenants a level of agency and redress to positively challenge landlords, should they be subject to fees that are not publicised or are unlawful. Evidence shows that tenants can feel vulnerable to raise issues with landlords for fear of repercussions and this affects their wellbeing significantly. By having the Policy in place, this may support and empower tenants to raise relevant issues. In turn, this will provide security and potentially improved mental health and wellbeing.
- 4.22. The fundamental principles enshrined in the policy are aimed at ensuring the protection of human rights, particularly those that relate to the right to a fair trial, no punishment without law, right to respect for private and family life, prohibition of discrimination and protection of property. As a result, implementation of the Policy is unlikely to be at variance with the Human Rights Act 1998 and is unlikely to result in any adverse human rights implications.

5. Financial Implications

- 5.3. Proceeds of any financial penalty imposed under the Consumer Rights Act 2015 or the Redress Schemes for Lettings Agency Work

and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 can be retained by the Council for the purposes of any of its functions.

- 5.4 The fact that proceeds of financial penalties can be retained by the Council will not result in those services that can use these powers becoming self-financing. There are reputational and financial risks associated with funding the relevant statutory services from financial penalties as the penalties are an enforcement, not income generating, tool and consequently must be used in a reasonable and proportionate manner, in line with the principles of good regulation, to secure compliance and long-standing behaviour change.
- 5.5. Furthermore, non-payment of a financial penalty becomes a civil debt and must be pursued through the Council's debt recovery process, which, in itself, incurs additional costs both in terms of officer time and financial payments.

6. Climate Change Appraisal

- 6.1. It is acknowledged that the Policy is expected to have a 'no effect' outcome on the climate change impacts listed below:
- energy and fuel consumption (buildings and/or travel)
 - renewable energy generation;
 - carbon offsetting or mitigation; and
 - climate change adaptation.
- 6.2 However, indirectly, those letting agents and property management businesses who are failing to comply with the legal requirements that this Policy seeks to address are more likely to be failing to address other legal requirements which can affect the properties they rent out; this could include provisions within the Energy Performance Regulations and the Electrical Safety Standards Regulations. Energy performance of properties and the amount of energy required to heat and keep homes adequately heated have a direct impact on the climate.
- 6.3 Addressing non-compliance through a joined-up enforcement approach with other regulators may address a wider scale of problems beyond those issues that are identified in relation to letting agents and property management businesses. In this way, it may be possible to create a positive climate outcome through forcing those agents/businesses to improve the energy efficiency of their properties or to drive out those from the marketplace who are only concerned with making profits and are not investing in their properties. This would be with the intention that such properties could be taken on by more responsible agents/businesses who are

prepared to undertake the required energy efficiency improvement works.

7. Background

- 7.1. The legal framework underpinning the private rented sector aims to build a fair and robust sector that protects tenants, supports landlords and empowers councils. The Government wants a fair private rental market where services are paid for by the person that contracts them; this is what the 2019 Act helps to achieve.
- 7.2. Shropshire has a wide range of good letting agents and property management businesses who take their legal and social responsibilities seriously. However, there are also a number of rogue, criminal and irresponsible agents and businesses who operate poor practices and/or knowingly flout their legal obligations. These practices and behaviours increase financial detriment and impact on the health and wellbeing of the most vulnerable in our communities, as well as creating an unfair trading environment that undermines the operation of legitimate and law-abiding businesses.
- 7.3. The Council, as the Local Weights and Measures Authority, has a statutory duty to enforce specified provisions under the Tenant Fees Act 2019, which was introduced to restrict the charges and fees that landlords and estate agents may impose on tenants by introducing a 'permitted payment' only regime.
- 7.4. In addition to the 2019 Act, other legislative controls referred to as 'relevant lettings agency legislation' also exist, which provides powers to the Council to protect tenants. These are listed in paragraphs 7.5 to 7.7 below.
- 7.5. Under the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019, letting agents and property managers who hold client money must belong to a government approved Client Money Protection scheme ('CMP scheme') and comply with transparency requirements concerning the displaying and providing of copies of their membership certificates.
- 7.6. Under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014, a person who engages in lettings agency or property management work must be a member of an approved 'redress scheme'. A redress scheme is a scheme which provides for complaints against members of the scheme to be investigated and determined by an independent person.

7.7. Under the Consumer Rights Act 2015, letting agents must publish:

- a list of relevant fees they charge landlords and tenants; and
- together with the list of fees, details of both the CMP scheme and the redress scheme they belong to.

8. Additional Information

8.1. Trading Standards Officers, based in the Business and Consumer Protection Service, are already authorised to enforce the 2019 Act and 'relevant letting agency legislation'.

8.2. The 2019 Act and 'relevant letting agency legislation' is considered alongside other legislation that gives the Council the power to protect tenants and tackle poor practice by landlords and letting agents. This includes the Housing Act 2004; the Enterprise and Regulatory Reform Act 2013; the Consumer Rights Act 2015 and the Housing and Planning Act 2016.

8.3. The 2019 Act applies to Assured Shorthold Tenancies, student accommodation and to lodgers or tenants in houses of multiple occupation (HMO). In addition, the 2019 Act applies to housing associations and local authorities, i.e., including the Council, where they are letting an assured shorthold tenancy in the private rented sector.

8.4. The 2019 Act does not apply to long leases or shared ownership leases where the tenant's total share is 100%; specific definitions apply in relation to these types of leases.

8.5. The Council, as the local housing authority, together with Shropshire Towns and Rural Housing (STaRH), who act on the Council's behalf, are not 'relevant persons' under the 2019 Act. They can continue to make payments in connection with a tenancy when acting on behalf of a tenant or guaranteeing their rent.

8.6. Certain charities, usually a registered Homeshare organisation, that help facilitate home sharing arrangements in the private rented sector, which have a social benefit, are also excluded from the requirements of the 2019 Act.

9. Conclusions

9.1. In order to ensure that the Council can utilise financial penalties as an effective enforcement tool and to promote compliance with the Tenant Fees Act 2019 and the 'relevant letting agency legislation', it is best practice and in line with statutory guidance for the Council to

develop and publish a policy determining how it will administer financial penalties for breaches of relevant letting agency requirements.

- 9.2. A draft policy for the enforcement and determination of financial penalties for breaches of relevant letting agency requirements has now been produced and is presented for formal approval.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

[Shropshire Council's Better Regulation and Enforcement Policy \(approved by Council, July 2018\)](#)

Statutory guidance published by the Ministry of Housing, Communities and Local Government (now Department for Levelling Up, Housing and Communities):

[Tenant Fees Act 2019: Statutory Guidance for enforcement authorities \(first published May 2019\)](#)

[Mandatory Client money protection for property agents: enforcement guidance for local authorities \(first published May 2019\)](#)

Cabinet Member (Portfolio Holder):

Cllr Ed Potter, Portfolio Holder for Economic Growth, Regeneration & Planning

Local Member

The report has county wide application.

Appendices

Appendix A - Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements

Appendix B - Equality, Health and Social Inclusion Impact Assessment

Shropshire Council

Policy for the enforcement and determination of financial penalties for breaches of relevant letting agency requirements

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1.0 Introduction

- 1.1 Shropshire Council ('the Council') is committed to ensuring that any person operating as a letting agent or who is involved in property management complies with the legal requirements imposed upon them to ensure both an equitable and level marketplace and that the protections afforded to individuals are adhered to.
- 1.2 The Council has the power to authorise officers to act against non-compliant businesses in order to protect consumers and we recognise that often individuals seeking accommodation can be in a vulnerable position.
- 1.3 The legal framework governing letting agents and those involved in property management provides the Council with the opportunity to issue financial penalties (civil penalties) as an alternative to undertaking criminal prosecutions for breaches and requires the Council to publish a policy on how it will determine the level of any penalty.
- 1.3 The Council has developed this policy on determining the level of financial penalties and the appropriateness of prosecution (as an alternative to imposing financial penalties) under the relevant letting agency legislation.

Under this policy, "relevant letting agency legislation" means:

1. The Tenant Fees Act 2019,
2. An order under Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013¹; and
3. Regulations under Sections 133 – 135 of the Housing and Planning Act 2016²;
4. Chapter 3 of Part 3 of the Consumer Rights Act 2015 as it applies in relation to dwelling houses in England.

2.0 Sanctions available under the relevant letting agency legislation

- 2.1 The Tenant Fees Act 2019 ('TFA 2019') provides that enforcement authorities may impose financial penalties of up to £30,000 depending on the breach as follows:
- a. In respect of a first breach of s1 & s2, or a breach of Schedule 2 of the TFA 2019, a financial penalty not exceeding £5,000.
 - b. Under s12 of the TFA 2019 a second or subsequent breach of S.1 or S.2 within 5 years of the previous breach provides for a financial penalty not exceeding £30,000.00 and there is alternative power to prosecute in the Magistrates Court where an unlimited fine may be imposed.
- 2.2 In respect of a failure by any person engaged in Letting Agency or Property Management work who fails to hold membership of a Redress Scheme as required by Article 3 of The Redress Schemes for Lettings Agency Work and Property Management Work (requirement to belong to a Scheme etc.) England) Order 2014

¹ Pertaining to The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

² Pertaining to The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019

(in respect of Lettings Agency work) or Article 5 (in respect of property management work) to a financial penalty not exceeding £5,000. (Note that it is not sufficient to simply register for redress – the correct category of membership must be obtained depending on the work carried out.)

- 2.3 In respect of the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019:
- a. a failure by a property agent, who holds client money, to belong to an approved or designated Client Money Protection (“CMP”) Scheme as required by Regulation 3, a financial penalty not exceeding £30,000 or
 - b. a failure to display a certificate of membership; or publish a copy of that certificate on the relevant website (where one exists); or produce a copy of the certificate free of charge to any person reasonably requiring it as required; or notify any client in writing within 14 days of a change in the details of a underwriter to the CMP scheme or that the membership of the CMP scheme has been revoked, as required by Regulation 4, a financial penalty not exceeding £5,000.
- 2.4 In respect of a failure of Letting Agents to publicise their fees including information pertaining to their membership of a redress and/or CMP scheme as required by Section 83 of the Consumer Rights Act 2015, a financial penalty not exceeding £5,000.
- 2.5 In determining what is the most appropriate and effective sanction in any case (with action ranging from advice or written warnings through to more formal actions including prosecution or financial penalties), the Council will have due regard to the [Shropshire Council Better Regulation and Enforcement Policy](#) in addition to this policy.

3.0 Statutory Guidance

- 3.1 The Ministry of Housing, Communities & Local Government (“MHCLG”) has published guidance for enforcement authorities in respect of the Tenant Fees Act 2019 - [“Tenant Fees Act 2019: Statutory Guidance for enforcement authorities”](#) and in respect of Client Money Protection Requirements – [“Mandatory Client money protection for property agents – enforcement guidance for local authorities”](#)
- 3.2 This is statutory guidance to which the Council must have regard to when considering imposing a financial penalty. This statutory guidance recommends certain factors that the Council should take into account when deciding on the level of financial penalty to impose and further recommends that the Council develops and documents its own policy on determining the appropriate level of financial penalty in a particular case.
- 3.3 The Council has utilised the approach taken by the Lead Enforcement Authority (LEA) for relevant letting agency legislation on how it will determine financial penalties. By utilising this mechanism in line with the LEA, the Council will ensure a consistent and fair approach.

4.0 Determining the level of the financial penalty

- 4.1 In accordance with the provisions of the TFA & CMP statutory guidance, the following factors should be considered by the Council when determining the level of penalty to impose for a breach of relevant letting agency legislation:
- a. Severity of the breach
 - b. Punishment of the landlord or agent
 - c. Aggravating and mitigating factors
 - d. Fairness and proportionality
- 4.2 Each of these factors are explained in more detail in the statutory guidance which should be referred to for each penalty considered. For ease, the same considerations will be applied in cases of redress membership and breaches of S.83 Consumer Rights Act 2015.
- 4.3 Although the Council has wide discretion in determining the appropriate level of financial penalty in any particular case, regard has been given to the statutory guidance when making this policy.
- 4.4 The appendices which follow provide the processes for assessment and levels of financial penalty that the Council will look to impose. It follows the model developed by the LEA, which is considered to be a fair, relevant and reasonable model to follow as the documents upon which it was based were widely consulted on with various stakeholders.
- 4.5 Appendix 1 of this policy contains the process that the Council will use in order to determine the level of financial penalty under the above-mentioned legislation in so far as they relate to letting agents. It provides the considerations for determining the culpability and harm category which will be used alongside other factors to increase and/or decrease the scale of any financial penalty. All stages subsequent to the issue of a Notice of Intent are subject to statutory time limits and the suspension of the process should an appeal be made to the First Tier Tribunal.
- 4.6 Appendices 2 and 3 of this policy provides clarity over who will be considered 'vulnerable' for the purposes of this policy and the types of other offences/convictions that are relevant when considering/determining a financial penalty.
- 4.7 Appendices 4-9 of this policy provide the starting points, minimum and maximum financial penalties for each harm category and level of culpability for each type of breach:
- Appendix 4 - First breach in respect of a Prohibited Payment
 - Appendix 5 - Second & subsequent breach in respect of a Prohibited Payment
 - Appendix 6 - Breach of Publication of Fees requirements
 - Appendix 7 - Breach in respect of membership of a Redress Scheme
 - Appendix 8 - Breach in respect of membership of a Client Money Protection Scheme

- Appendix 9 - Breach of transparency requirements of membership of a Client Money Protection Scheme

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Appendix 1 – The Council’s process for determining the level of penalty to set

STEP ONE – Determining the category

The Council will determine the ‘breach category’ using only the culpability and category of harm factors below. Where a breach does not fall squarely into a category, individual factors may require a degree of weighting to make an overall assessment. Other discretionary factors may also be applied in order to reflect consistency and may consider decisions in other UK jurisdictions where they contain some relevant and persuasive content.

Culpability

Very high: Where the Landlord or Agent intentionally breached, or flagrantly disregarded, the law or has/had a high public profile³ and knew their actions were unlawful

High: Actual foresight of, or wilful blindness to, risk of a breach but risk nevertheless taken

Medium: Breach committed through act or omission which a person exercising reasonable care would not commit

Low: Breach committed with little fault, for example, because:

- significant efforts were made to address the risk although they were inadequate on the relevant occasion
- there was no warning/circumstance indicating a risk
- failings were minor and occurred as an isolated incident

Harm

The following factors relate to both actual harm and risk of harm. Dealing with a risk of harm involves consideration of both the likelihood of harm occurring and the extent of it if it does.

Category 1 – High Likelihood of Harm

- Serious adverse effect(s) on individual(s) and/or having a widespread impact due to the nature and/or scale of the Landlord’s or Agent’s business
- High risk of an adverse effect on individual(s) – including where persons are vulnerable⁴

Category 2 – Medium Likelihood of Harm

- Adverse effect on individual(s) (not amounting to Category 1)
- Medium risk of an adverse effect on individual(s) or low risk of serious adverse effect.
- Tenants and/or legitimate landlords or agents substantially undermined by the conduct.
- The Council’s work as a regulator is inhibited
- Tenant or prospective tenant misled

Category 3- Low Likelihood of Harm

- Low risk of an adverse effect on actual or prospective tenants.

³ Which may include any significant role in a trade or business representative organisation

⁴ A wide definition of vulnerability will be used. See Appendix 2 for a non-exhaustive list.

- Public misled but little or no risk of actual adverse effect on individual(s)

We will define harm widely and victims may suffer financial loss, damage to health or psychological distress (especially vulnerable cases). There are graduations of harm within all of these categories.

The nature of harm will depend on personal characteristics and circumstances of the victim and the assessment of harm will be an effective and important way of taking into consideration the impact of a particular breach on the victim.

In some cases no actual harm may have resulted and the Council will be concerned with assessing the severity of the misconduct; it will consider the likelihood of harm occurring and the gravity of the harm that could have resulted.

Community harm

Some breaches cause harm to the community at large (instead of or as well as to an individual victim) and may include economic loss, harm to public health, or interference with the administration of justice.

STEP TWO - Starting point and category range

Having determined the category that the breach falls into, the Council will refer to the following starting points to reach an appropriate level of financial penalty within the category range. The Council will then consider further adjustment within the category range for aggravating and mitigating features.

Obtaining financial information

The statutory guidance advises that the Council can use its powers to, as far as possible, make an assessment of a Landlord or Agent's assets and any income (not just rental or fee income) they receive when determining an appropriate penalty. The Council will use such lawful means as are at its disposal to identify where assets might be found.

In setting a financial penalty, the Council may conclude that the Landlord or Agent is able to pay any financial penalty imposed unless the Council has obtained, or the Landlord or Agent has supplied, any financial information to the contrary. The subject of a Final Notice, or a Notice of Intent where the subject does not challenge it, will be expected to disclose to the Council such data relevant to his/her financial position to facilitate an assessment of what that person can reasonably afford to pay. Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the person's means from evidence it has received, or obtained through its own enquiries, and from all the circumstances of the case which may include the inference that the person can pay any financial penalty.

Starting points and ranges

The tables in Appendices 4-9 below give the starting points, minimum and maximum financial penalties for each harm category and level of culpability for each type of breach:

- Appendix 4 First breach in respect of a Prohibited Payment
- Appendix 5 Second & subsequent breach in respect of a Prohibited Payment
- Appendix 6 Breach of Publication of Fees requirements
- Appendix 7 Breach in respect of membership of a Redress Scheme

- Appendix 8 Breach in respect of membership of a Client Money Protection Scheme
- Appendix 9 Breach of transparency requirements of membership of a Client Money Protection Scheme (Regulation 4).

Context

Below is a list of some, but not all factual elements that provide the context of the breach and factors relating to the Landlord or Agent. The Council will identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point. In particular, relevant recent convictions⁵ are likely to result in a substantial upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range, which will not exceed the statutory maximum permitted in any case.

Factors increasing seriousness

Aggravating factors:

- Previous breaches of the TFA 2019 or relevant letting agency legislation
- Previous convictions, having regard to:
 - the nature of the offence to which the conviction relates and its relevance to the current breach; and,
 - the time that has elapsed since the conviction.

Other aggravating factors may include:

- Motivated by financial gain
- Deliberate concealment of illegal nature of activity
- Established evidence of wider / community impact
- Obstruction of the investigation
- Record of poor compliance
- Refusal of advice or training or to become a member of an Accreditation scheme

Factors reducing seriousness or reflecting personal mitigation

- No previous or no relevant/recent breaches
- No previous convictions or no relevant/recent convictions
- Steps voluntarily taken to remedy problem
- High level of co-operation with the investigation, beyond that which will always be expected
- Good record of relationship with tenants
- Self-reporting, co-operation and acceptance of responsibility
- Good character and/or exemplary conduct
- Mental disorder or learning disability, where linked to the commission of the breach
- Serious medical conditions requiring urgent, intensive or long-term treatment and supported by medical evidence

STEP THREE - General principles to consider in setting a penalty

The Council will finalise the appropriate level of penalty so that it reflects the seriousness of the offence and the Council must take into account the financial circumstances of the

⁵ See Appendix 3 for a list of relevant convictions

Landlord or Agent if representations are made by the Landlord or Agent following the issue of a Notice of Intent.

The level of financial penalty should reflect the extent to which the conduct fell below the required standard. The financial penalty should meet, in a fair and proportionate way, the objectives of punishment, deterrence and the removal of gain derived through the commission of the breach; it should not be cheaper to breach than to take the appropriate precautions and a fundamental principle involved is that there should be no financial gain to the perpetrator from the commission of the breaches.

If issuing a financial penalty for more than one breach, or where the offender has already been issued with a financial penalty, the Council will consider whether the total penalties are just and proportionate to the offending behaviour and will have regard to the factors in STEP EIGHT below.

STEP FOUR- Issue Notice of Intent

In respect of prohibited payments, publication of fees, etc., and client money protection membership and transparency requirements, the Council will issue a Notice of Intent before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the breach. In respect of redress membership, the notice of intent must be served within 6 months of the date on which the enforcement authority is first satisfied of the failure to comply with Article 3 or Article 5. If the breach is ongoing the 6-month deadline continues until the breach ceases. A Notice of Intent can be served spontaneously.

While there are slight variations in the statutory requirements according to which breach is being addressed, a Notice of Intent will contain the amount of the proposed penalty, the reason for imposing the penalty and information about the right to make representations concerning the penalty. In respect of the TFA 2019, the date of service is also required on the Notice of Intent.

STEP FIVE – Consideration of representations and review of financial penalty where appropriate

The Council should review the penalty and, if necessary, adjust the initial amount reached at STEP FOUR, and represented in the Notice of Intent, to ensure that it fulfils the general principles set out below.

Any quantifiable economic benefit(s) derived from the breach, including through avoided costs or operating savings, should normally be added to the total financial penalty arrived at in step two, providing it doesn't increase the penalty over the prescribed maximum. Where this is not readily available, the Council may draw on information available from enforcing authorities and others about the general costs of operating within the law. Whether the penalty will have the effect of putting the offender out of business will be relevant but in some serious cases this might be an acceptable outcome.

STEP SIX – Reductions

The Council will consider any factors which indicate that a reduction in the penalty is appropriate and in so doing will have regard to the following factors relating to the wider impacts of the financial penalty on innocent third parties; such as (but not limited to):

- The impact of the financial penalty on the Landlord or Agent's ability to comply with the law or make restitution where appropriate
- The impact of the financial penalty on employment of staff, service users, customers and the local economy.

The following factors will be considered in setting the level of reduction. When deciding on any reduction in a financial penalty, consideration will be given to:

- The stage in the investigation or thereafter when the offender accepted liability
- The circumstances in which they admitted liability
- The degree of co-operation with the investigation

The maximum level of reduction in a penalty for an admission of liability will be one-third. In some circumstances there will be a reduced or no level of discount. This may occur, for example, where the evidence of the breach is overwhelming or there is a pattern of breaching conduct.

Any reduction should not result in a penalty which is less than the amount of gain from the commission of the breach itself.

STEP SEVEN - Additional actions

In all cases the Council must consider whether to take additional action. These may include further enforcement action itself or reference to other organisations where appropriate.

STEP EIGHT – Totality of breaching conduct

Where more than one financial penalty has been considered, the Council should consider the following guidance from the Sentencing Council's definitive guideline on 'Offences Taken into Consideration and Totality', which appears to the Council to be an appropriate reference and guide.

As the total financial penalty is inevitably cumulative the Council should determine the financial penalty for each individual breach based on the seriousness of the breach and taking into account the circumstances of the case including the financial circumstances of the Landlord or Agent so far as they are known, or appear, to the Council.

The Council should add up the financial penalties for each offence and consider if they are just and proportionate. If the aggregate total is not just and proportionate the Council should consider how to reach a just and proportionate total financial penalty. There are a number of ways in which this can be achieved.

For example:

Where a Landlord or Agent is to be penalised for two or more breaches or where there are multiple breaches of a repetitive kind, especially when committed against the same person, it will often be appropriate to impose for the most serious breach a

financial penalty, which reflects the totality of the conduct where this can be achieved within the maximum penalty for that breach. No separate penalty should be imposed for the other breaches. Where a Landlord or Agent is to be penalised for two or more breaches that arose out of different incidents, it will often be appropriate to impose separate financial penalties for each breach. The Council should add up the financial penalties for each breach and consider if they are just and proportionate. If the aggregate amount is not just and proportionate the Council should consider whether all of the financial penalties can be proportionately reduced. Separate financial penalties should then be imposed.

Where separate financial penalties are imposed, the Council must take care to ensure that there is no double-counting.

STEP NINE – Recording the decision

The officer making a decision about a financial penalty will record their decision giving reasons for coming to the amount of financial penalty that will be imposed.

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Appendix 2 – Non exhaustive list of vulnerable people

- Young adults and children
- Persons vulnerable by virtue of age
- Persons vulnerable by virtue of disability or sensory impairment
- People on a low income
- Persons with a drug or alcohol addiction
- Victims of domestic abuse
- Children in care or otherwise vulnerable by virtue of age
- People with complex health conditions
- People exploited where English is not their first language
- Victims of Trafficking or sexual exploitation
- Refugees
- Asylum seekers
- People at risk of harassment or eviction
- People at risk of homelessness.

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Appendix 3 – Non exhaustive list of relevant offences / breaches

Housing law or landlord and tenant related

Offences under:

- The Public Health Acts of 1936 and 1961
- The Building Act 1984
- The Environmental Protection Act 1990
- The Town and Country Planning Act 1990
- The Prevention of Damage by Pests Act 1949
- The Protection from Eviction Act 1977
- The Local Government (Miscellaneous Provisions) Acts of 1982 and 1976
- The Housing Grants, Construction and Regeneration Act 1996
- The Local Government and Housing Act 1989
- The Housing Act 2004
- The Consumer Protection from Unfair Trading Regulations 2008

Offences involving fraud

Offences in which the victim has been deprived of money, property or other benefit by misrepresentation/deception on the part of the offender including: -

- Theft
- Burglary
- Fraud
- Benefit fraud (particularly where tenants are in receipt of Housing Benefit)
- Conspiracy to defraud
- Obtaining money or property by deception
- People trafficking
- Being struck off as a company director

Offences involving violence

A conviction for the offence of:

- Murder
- Manslaughter
- Arson
- Malicious wounding or grievous bodily harm
- Grievous bodily harm with intent
- Actual bodily harm
- Grievous bodily harm
- Robbery
- Criminal damage where the intent was to intimidate or was racially aggravated
- Common assault
- Common assault which is racially aggravated
- Assault occasioning actual bodily harm
- Possession of an offensive weapon
- Possession of a firearm

Offences involving drugs

- Consideration should be given to the nature of the offence and what bearing it could have on the Landlord or Agents business activities. The nature, quantity, purity and class of drugs should be taken into account. In addition where an offence of possession with intent to supply is involved regard should be had to the role and importance of, the subject in the supply chain

Offences involving sexual offences

- An offence contained in schedule 3 of the Sexual Offences Act 2003.

Unlawful discrimination

- Unlawful discrimination can include findings of an Industrial Tribunal on unlawful employment practice such as discrimination under the Disability Discrimination Act. Consideration should be given to the nature of the unlawful discrimination and what bearing it could have on the management of a licensable property.

Other offences

- Modern Slavery / Human Trafficking Offences involving the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control of another person, for the purpose of exploitation.

Appendix 4 – Financial Penalty in the case of a first breach in respect of Prohibited Payments

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply, the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

Appendix 5 – Financial Penalty in the case of a second or subsequent breach in respect of Prohibited Payments within 5 years of a previous breach

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £30000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	3500	2000	8000
Harm Category 2	6500	4000	10000
Harm Category 1	8500	4500	15000
Medium culpability			
Harm category 3	6500	4750	17000
Harm Category 2	10500	5000	20000
Harm Category 1	12500	5500	22000
High culpability			
Harm category 3	10500	5500	20000
Harm Category 2	15000	6250	24000
Harm Category 1	18000	7000	26000
Very high culpability			
Harm category 3	15000	7000	24000
Harm Category 2	17500	7250	28000
Harm Category 1	20000	7500	30000

Appendix 6 – Financial Penalty in the case of a breach in respect of Publication of Fees

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

Appendix 7 – Financial Penalty in the case of a breach in respect of Membership of a Redress Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

Appendix 8 – Financial Penalty in the case of a breach in respect of a failure to obtain membership of a Client Money Protection Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £30000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	3500	2000	8000
Harm Category 2	6500	4000	10000
Harm Category 1	8500	4500	15000
Medium culpability			
Harm category 3	6500	4750	17000
Harm Category 2	10500	5000	20000
Harm Category 1	12500	5500	22000
High culpability			
Harm category 3	10500	5500	20000
Harm Category 2	15000	6250	24000
Harm Category 1	18000	7000	26000
Very high culpability			
Harm category 3	15000	7000	24000
Harm Category 2	17500	7250	28000
Harm Category 1	20000	7500	30000

Appendix 9 – Financial Penalty in respect of a breach of transparency requirements of membership of a Client Money Protection Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

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Shropshire Council
Equality, Social Inclusion and Health Impact Assessment (ESHIA)
Initial Screening Record 2021-2022

A. Summary Sheet on Accountability and Actions

Name of proposed service change
Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements

Name of lead officer carrying out the screening
Grant Tunnadine Trading Standards and Parking Enforcement Team Manager

Decision, review, and monitoring

Decision	Yes	No
Initial (part one) ESHIA Only?	x	
Proceed to Full ESHIA or HIA (part two) Report?		x

If completion of an initial or Part One assessment is an appropriate and proportionate action at this stage, please use the boxes above. If a Full or Part Two report is required, please move on to full report stage once you have completed this initial screening assessment as a record of the considerations which you have given to this matter.

Actions to mitigate negative impact or enhance positive impact of the service change in terms of equality, social inclusion, and health considerations
<p>The service change is a proposal to introduce a new Council policy to enforce legal provisions that would govern the trading behaviour of persons engaged in letting agency work and property management business within the Private Rented Sector Housing (PRSH) market.</p> <p>Introducing the policy would allow the Council to effectively enforce and issue civil (financial) penalties in circumstances where tenants/prospective tenants are charged fees other than permitted fees, where letting agents are not members of a redress scheme and/or a client money protection scheme and where letting agents' fees and charges are not transparent/publicised appropriately.</p> <p>The introduction of such a policy is anticipated to bring a positive impact across all Protected Characteristic groupings, as all are individuals who could potentially seek to rent a property, within the community, principally by the removal of and deterring of rogue landlords/letting agents/property management businesses from operating within Shropshire.</p>

The introduction of such a policy provides the Council with the necessary tools to undertake effective enforcement against those landlords/letting agents/property management businesses who persistently or deliberately choose to ignore the legal requirements which afford protections to potentially vulnerable individuals and households.

We take particular regard in Shropshire of people and groupings who may be considered to be vulnerable by virtue of their individual or household circumstances, through a tenth category of Social Inclusion. This category includes people in rural areas and people or households that we may describe as vulnerable. Examples could be households on low incomes or people for whom there are safeguarding concerns, as well as people in fuel poverty, people in rural areas, and veterans and serving members of the armed forces and their families.

The draft policy, at Appendix 2, helpfully includes a non-exhaustive list of the people and households that we may regard as vulnerable, for whom the likely equality impact is anticipated to be low to medium positive.

Without the policy, the Council's power to take action would, in effect, be significantly reduced and adversely impacted to such an extent that the legislation would be ineffective within the Council's area. All prospective tenants would be vulnerable to non-permitted fees, being unaware of charges for services and the protections afforded from membership of client money protection and redress schemes. Without having such a policy, it would clearly have a negative impact for the community.

Any adverse impacts of the policy on landlords/letting agents/property management businesses who may themselves have protected characteristics is mitigated against by virtue of the fact that the Council's approach, and methods to determine penalties is set out in the policy, and this will apply to all landlords/letting agents/property management businesses. In addition, any enforcement action will be taken in line with the principles set out in the Council's Better Regulation and Enforcement Policy which is documented and available on the Council's website. However, any person operating in the private rented sector market has a duty to comply with the law and it is only those acting unlawfully that will be targeted by this policy.

The public consultation undertaken by the Council has provided an opportunity for all to comment on the proposals, including members of the public, households likely to be affected now and in the future, and landlords/letting agents/property management businesses and their trade bodies who are most likely to be impacted by the policy.

Where action is required, the Council will seek to maximise publicity from any successful interventions to further advise and deter other rogues and to raise awareness with current tenants (who may already unwittingly themselves be victims) as well as prospective tenants.

Actions to review and monitor the impact of the service change in terms of equality, social inclusion, and health considerations

The intention is that the impact of imposing or anticipating that civil penalties could be imposed will provide the required deterrent and in itself achieve a greater level of compliance without actually needing to act under the policy (the deterrent effect) and that this can be monitored through the level of compliance seen during inspections (physical visits/online website assessments) and through the numbers of complaints received by the Council.

Enforcement is always considered as a last resort action, to be taken against those who persistently choose not to comply with legal requirements. In line with the Council's Enforcement and Better Regulation Policy, we will always look to work with landlords/letting agents/property management businesses who wish to operate within the law, providing the necessary advice and guidance in order to assist them to improve compliance and this approach will continue under the new policy. We anticipate that including the option to impose penalties of up to £30,000 (for certain offences) will demonstrate to both tenants and landlords/letting agents/property management businesses that the Council shares the Government's desire to support good landlords/letting agents/property management businesses, who are committed to working within the legal framework and that the Council will crack down severely on the small percentage of unscrupulous landlords/letting agents/property management businesses who repeatedly flout the law and seek profit from their non-compliance.

With the introduction of this policy there is an expectation that enquiries and complaints from tenants/prospective tenants will be received and that the service will be in a position to monitor these levels over time.

No comments, either positive or negative, have been received in response to the consultation that was organised to further inform the proposed policy. As a result, no adjustments are considered necessary at this time, including with regard to equality impacts. We will, however, continue to work with all those who may be impacted by the policy and in particular those target groupings e.g. older people and households on low incomes, in order to seek to ensure that the positive impacts are enhanced.

Customer feedback will also continue be collected through a variety of existing mechanisms, including complaints/compliments and there will be ongoing engagement with relevant portfolio holders and with Shropshire Council Elected Members as local community leaders for their locality.

The Trading Standards Team will be participating in a regional project (across 14 other local authorities), which is being funded nationally and which will be aimed at assessing the level of compliance with this legislation and undertaking enforcement action where required. Participation in this project will also provide very useful data covering all 14 authorities within the West Midlands region, which we can use to determine the level of compliance found in Shropshire compared with the region as a whole. This will be useful information to provide benchmark

data and to provide a guide/steer to inform the need for future work including inspections and enforcement activities.

Associated ESHIAs

An Equality and Social Inclusion Impact Assessment (ESIA) was completed when the Private Rented Sector Housing Enforcement Policy was approved in 2019, and a more recent ESHIA was undertaken between March and May 2022 as part of the process to update the Private Rented Sector Housing Enforcement Policy. This policy focuses on housing standards, the health and safety of tenants and the energy efficiency of rented accommodation.

The proposed Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements is separate from the Private Rented Sector Housing Enforcement Policy, and it focuses on preventing economic detriment for tenants that can occur as a result of unfair, unscrupulous and fraudulent practices undertaken by certain letting agents and property management businesses.

Nevertheless, both policies are aimed at ensuring the Council can use the powers, including civil/financial penalties, available to it in law to more effectively control the private rented sector market as a whole.

Actions to mitigate negative impact, enhance positive impact, and review and monitor overall impacts in terms of any other considerations. This includes climate change considerations

Climate change

On face value there is no direct impact on climate change; However, indirectly, those letting agents and property management businesses who are failing to comply with the legal requirements that this Policy seeks to address are more likely to be failing to address other legal requirements which can affect the properties they rent out; this could include provisions within the Energy Performance Regulations and the Electrical Safety Standards Regulations. Energy performance of properties and the amount of energy required to heat and keep homes adequately heated have a direct impact on the climate.

Addressing non-compliance through a joined-up enforcement approach with other regulators may address a wider scale of problems beyond those issues that are identified in relation to letting agents and property management businesses. In this way, it may be possible to create a positive climate outcome through forcing those agents/businesses to improve the energy efficiency of their properties or to drive out those from the marketplace who are only concerned with making profits and are not investing in their properties. This would be with the intention that such properties could be taken on by more responsible agents/businesses who are prepared to undertake the required energy efficiency improvement works.

Health and wellbeing

It is reasonable to conclude that tenants who are subjected to illegal fees (especially where they are unable to afford them) or where their money/deposits are not protected or who are not able to address problems with their lettings agent or property management business due to their being no redress scheme will have their health and wellbeing, in particular their mental health, adversely affected. This is compounded at this time with the additional financial pressures caused with the rising living costs.

The introduction of civil penalties of up to £30,000 for the most serious offences demonstrates the commitment the Council shares with the Government to support good lettings agents and property management businesses who comply with legal requirements and to crack down on the small number of unscrupulous lettings agents and property management businesses who flout the law, seek to profit from their non-compliance and put individuals (who are often considered vulnerable due to their circumstances) at greater risk.

Housing is a key determinant of health and wellbeing, and this policy should ensure tenants are not subjected to unnecessary financial burdens such as overtly high deposit costs or front-loading rent. This should make it more affordable for tenants to rent or move between rental properties should circumstances change. This could be especially important for low-income vulnerable groups, such as young people, single parent families, people with disabilities, who already face challenges in finding affordable homes and have limited alternative housing available to them.

This policy also gives tenants a level of agency and redress to positively challenge landlords/letting agents/property management businesses, should they be subject to fees that are not publicised or unlawful. Evidence shows that tenants can feel vulnerable when raising issues with landlords/letting agents/property management businesses for fear of repercussions and this affects their wellbeing significantly. By having a policy and law in place, this may support and empower tenants to raise relevant issues. In turn, this will provide security and potentially improved mental health and wellbeing.

Shelter (2022) Legal: Renting

https://england.shelter.org.uk/professional_resources/legal/costs_of_renting/tenant_fees_and_other_costs/fees_a_landlord_or_agent_can_lawfully_charge

Harris, J., & McKee, K. (2021). Health and wellbeing in the UK private rented sector: enhancing capabilities-Part 2: Findings from tenant interviews.

We are committed to working with lettings agents and property management businesses to ensure tenants are not subjected to these unnecessary financial burdens.

Economic and societal/wider community

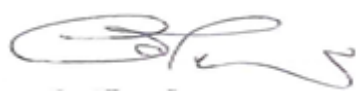
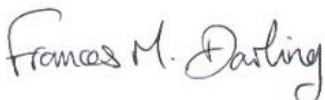
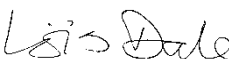
This policy will potentially have a small but direct impact on an individual's economic circumstances, the local economy and the local community especially in the current climate of rising energy costs and with the general costs of living increasing.

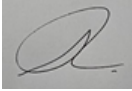
Having a market operating on a level playing field, which is fair and equitable for all will undoubtedly prove beneficial to the local community. Lettings agents and property management businesses who fail to adhere to legislative requirements create an unfair trading environment that undermines the operation of legitimate businesses and, if unchallenged, would result in a lowering of standards. There is additional reputational harm and damage to the Council if we are seen to exhibit an apparent inability or unwillingness to carry out a proactive enforcement approach.

Confident consumers will support the economy and this policy is intended to avoid unexpected and unreasonable costs from being charged, whilst also providing the protection enshrined in law to be available to all to enable them to rent property confident in the knowledge that monies provided and retained as deposits are adequately protected and that they are empowered to resolve matters effectively.

Penalties that may be issued to the small number of landlords/letting agents/property management businesses for breaching requirements will be available for the Council to reinvest in the service provision in this particular field, thereby further reinforcing community, consumer and business confidence that the Council can and will tackle the issues that arise, in ways that are proactive and proportionate.

Scrutiny at Part One screening stage


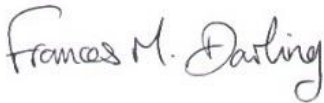
People involved	Signatures	Date
<i>Lead officer carrying out the screening</i> Grant Tunadine Trading Standards and Parking Enforcement Team Manager		13 June 2022
<i>Any internal service area support*</i> Frances Darling Head of Business and Consumer Protection		21 June 2022
<i>Any external support**</i> Mrs Lois Dale Rurality and Equalities Specialist		17 th June 2022
Amanda Cheeseman		20 June 2022

Public Health Development Officer		
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**This refers to other officers within the service area*

***This refers to support external to the service but within the Council, e.g., the Rurality and Equalities Specialist, the Feedback and Insight Team, performance data specialists, Climate Change specialists, and Public Health colleagues*

Sign off at Part One screening stage

Name	Signatures	Date
<i>Lead officer's name</i> Grant Tunadine Trading Standards and Parking Enforcement Team Manager		22/06/2022
<i>Accountable officer's name</i> Frances Darling Head of Business and Consumer Protection		22 June 2022

**This may either be the Head of Service or the lead officer*

B. Detailed Screening Assessment

Aims of the service change and description
<p>This is a proposal to implement a policy that will set out the Council's approach to the enforcement and determination of financial (civil) penalties in circumstances where persons engaged in letting agency work and property management business fail to comply with legislative requirements.</p> <p>The Council has a statutory responsibility to regulate specific aspects of the letting agency and property management market through ensuring that tenants are only charged permitted fees, that where appropriate letting agents are members of a redress scheme and a client money protection scheme and that letting agents' fees and charges are transparent/publicised appropriately.</p> <p>The Tenants Fees Act 2019 ('the 2019 Act') was introduced to make renting fairer and more affordable for tenants by reducing the costs at the outset of a tenancy by introducing a ban on certain fees payable by the tenant and also creating a 'permitted payment' regime.</p> <p>The 2019 Act also amended other legislation referred to as 'relevant letting agency legislation' requiring, where necessary, membership of client money protection schemes and redress schemes as well as provisions concerning the publication of</p>

information about such membership together with the information about relevant fees.

Where evidence of infringements under the 2019 Act or 'relevant letting agency legislation' is identified, the Council may, in certain circumstances, consider issuing a financial penalty for a civil breach or, as an alternative to prosecution, in respect of a criminal offence. The level of the financial penalty varies depending on the actual infringement; however, it can be as much as £30,000 in certain circumstances.

Where the Council wishes to utilise financial penalties for breaches for any of these infringements, statutory guidance accompanying the legislative controls clearly states that the Council is expected to develop, document and publish a policy, which sets out how it will determine the appropriate level of any financial penalty. It is in line with this statutory guidance that the draft policy setting out the Council's approach to enforcement and determination of any financial penalty has been produced.

The National Trading Standards Estate and Letting Agency Team (NTSELAT) is the Lead Enforcement Authority as arranged by the Secretary of State (Department for Levelling Up, Housing and Communities) under section 24 of the 2019 Act and, amongst other duties, is responsible for overseeing the enforcement of relevant letting agency legislation in England.

In order to ensure financial penalties are used fairly and are set at an appropriate level, the Council's policy follows the provisions and processes set out in the NTSELAT policy. This means that culpability and harm will be considered, together with the following factors, when determining the level of penalty to impose for a breach of any relevant letting agency legislation:

- Severity of the breach
- Punishment of the landlord or agent
- Aggravating and mitigating factors
- Fairness and proportionality

The policy sets out the process that Council officers will follow to determine the amount of any financial penalty and provides a series of tables to ensure, as far as reasonably practicable, consistency and transparency when determining the actual level of a financial penalty.

Utilising the NTSELAT policy as the basis for the Council's policy means the Council can demonstrate that it has followed best practice and has had due regard to the requirements of the statutory guidance, whilst also ensuring enforcement action is considered and applied in a manner consistent with other councils across England.

The policy does not stand alone; it is intended to be read and considered alongside the Council's Better Regulation and Enforcement Policy, which was itself formally agreed by the Council on 25 July 2018. The implementation of the policy, together with the Council's Better Regulation and Enforcement Policy, will

provide a framework that will better enable the Council to ensure the protections available to tenants, who can often be considered vulnerable due to their circumstances, are being met.

Intended audiences and target groups for the service change

A wider list of intended audiences is listed below; however, primarily, the intended audiences for this service change are landlords, letting agents and property management businesses, together with those individuals seeking to rent a property. With many such contractual/rental situations there can be an imbalance in the positions of the parties with those seeking to find somewhere to live often in a position that can make them vulnerable to exploitation. The balance of power can often appear to be in the favour of the landlord/letting agent/property management business. The legislation upon which the policy is based is intended to afford protections to address any imbalance in power.

- Households/individuals already living in private sector rented housing
- Households/individuals who may wish to live in private sector rented housing
- Local landlords/letting agents/property management businesses
- National Residential Landlords Association
- Communities in Shropshire
- Shropshire Council elected members as community leaders
- Shropshire MPs
- Partner agencies and organisations

Evidence used for screening of the service change

The Council's Better Regulation and Enforcement Policy provides guidance to officers, businesses, residents and the general public on the range of options that are available to achieve compliance with all legislation enforced by Shropshire Council.

Specific national legislation introduced by the Government:

- Tenant Fees Act 2019
- Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019
- Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014
- Consumer Rights Act 2015 (as amended)

Specific statutory guidance:

- Tenant Fees Act 2019: statutory guidance for enforcement authorities
- Mandatory Client money protection for property agents: enforcement guidance for local authorities

The Policy is required to enable the Council to enforce the above legislation and sets out how the Council will determine the amount of any civil penalty when there is evidence of non-compliance under the above legislation.

This ESHIA is a screening one carried out at the end of a period of consultation. Ahead of the findings, it was anticipated that they may be similar to those obtained with regard to the consultation carried out in respect of the Private Sector Housing Enforcement Policy.

Specific consultation and engagement with intended audiences and target groups for the service change

The Cabinet approved a public consultation in respect of the draft policy, details of which can be found in the report presented to Cabinet on the 6 April 2022 at Agenda Item 7 ([Agenda for Cabinet on Wednesday, 6th April, 2022, 10.30 am — Shropshire Council](#)). The consultation was undertaken over a six-week period from 9 May 2022 to 20 June 2022. The consultation was made generally available to all interested parties, including letting agents/property management businesses and tenants, through the Council's Get Involved pages of its website. In addition, direct notification of the consultation was provided to the following key stakeholders:

- UK Association of Letting Agents
- Propertymark
- National Residential Landlords Association
- National Residential Landlords Association Shropshire Branch
- British Landlord Association
- Shropshire Housing Alliance
- CAB Shropshire

No comments, either positive or negative, have been received in response to the consultation that was organised to further inform the proposed policy. As a result, no adjustments are considered necessary at this time, including with regard to equality impacts. We will, however, continue to work with all those who may be impacted by the policy and in particular those target groupings e.g. older people and households on low incomes, in order to seek to ensure that the positive impacts are enhanced.

Customer feedback will also continue be collected through a variety of existing mechanisms, including complaints/compliments and there will be ongoing engagement with relevant portfolio holders and with Shropshire Council Elected Members as local community leaders for their locality.

As the Trading Standards Team is participating in a regional project (across 14 other West Midlands local authorities), we will be sharing the results of our consultation with these authorities in order to see if the responses are the same or

different across the region and to what extent this has any wider impacts that we need to consider further.

Initial equality impact assessment by grouping (Initial health impact assessment is included below)

Please rate the impact that you perceive the service change is likely to have on a group, through stating this in the relevant column.

Please state if it is anticipated to be neutral (no impact) and add any extra notes that you think might be helpful for readers.

Protected Characteristic groupings and other groupings in Shropshire	High negative impact <i>Part Two ESIIA required</i>	High positive impact <i>Part One ESIIA required</i>	Medium positive or negative impact <i>Part One ESIIA required</i>	Low positive, negative, or neutral impact (please specify) <i>Part One ESIIA required</i>
<u>Age</u> (please include children, young people, young people leaving care, people of working age, older people. Some people may belong to more than one group e.g., a child or young person for whom there are safeguarding concerns e.g., an older person with disability)				Low positive
<u>Disability</u> (please include mental health conditions and syndromes; hidden disabilities including autism and Crohn's disease; physical and sensory disabilities or impairments; learning disabilities; Multiple Sclerosis; cancer; and HIV)				Low positive
<u>Gender re-assignment</u> (please include associated aspects: safety, caring responsibility, potential for bullying and harassment)				Low positive
<u>Marriage and Civil Partnership</u> (please include associated aspects: caring responsibility, potential for bullying and harassment)				Low positive
<u>Pregnancy and Maternity</u> (please include associated aspects: safety, caring responsibility, potential for bullying and harassment)				Low positive
<u>Race</u> (please include ethnicity, nationality, culture, language, Gypsy, Traveller)				Low positive
<u>Religion and belief</u>				Low positive

(please include Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Nonconformists; Rastafarianism; Shinto, Sikhism, Taoism, Zoroastrianism, and any others)				
Sex (this can also be viewed as relating to gender. Please include associated aspects: safety, caring responsibility, potential for bullying and harassment)				Low positive
Sexual Orientation (please include associated aspects: safety; caring responsibility; potential for bullying and harassment)				Low positive
Other: Social Inclusion (please include families and friends with caring responsibilities; households in poverty; people for whom there are safeguarding concerns; people you consider to be vulnerable; people with health inequalities; refugees and asylum seekers; rural communities; veterans and serving members of the armed forces and their families)			Potential for medium positive	

Initial health and wellbeing impact assessment by category

Please rate the impact that you perceive the service change is likely to have with regard to health and wellbeing, through stating this in the relevant column.

Please state if it is anticipated to be neutral (no impact) and add any extra notes that you think might be helpful for readers.

Health and wellbeing: individuals and communities in Shropshire	High negative impact <i>Part Two HIA required</i>	High positive impact	Medium positive or negative impact	Low positive negative or neutral impact (please specify)
Will the proposal have a direct impact on an individual's health, mental health and wellbeing? For example, would it cause ill health, affecting social inclusion, independence and participation? .			Medium positive	
Will the proposal indirectly impact an individual's ability to				Low positive

<p>improve their own health and wellbeing?</p> <p>For example, will it affect their ability to be physically active, choose healthy food, reduce drinking and smoking?</p> <p>.</p>				
<p>Will the policy have a <i>direct impact</i> on the community - social, economic and environmental living conditions that would impact health?</p> <p>For example, would it affect housing, transport, child development, education, employment opportunities, availability of green space or climate change mitigation?</p> <p>.</p>				<p>Low positive</p>
<p>Will there be a likely change in <i>demand</i> for or access to health and social care services?</p> <p>For example: Primary Care, Hospital Care, Community Services, Mental Health, Local Authority services including Social Services?</p> <p>.</p>				<p>Neutral</p>

Identification of likely impact of the service change in terms of other considerations including climate change and economic or societal impacts

This service change, whilst generally minor in nature would overall present a low positive impact for communities, local businesses and any person looking to rent a property. The impacts are intended to assist local authorities to raise standards and target the small number of agents/businesses who flout the law. By utilising the provisions, the Council is able to ensure the highest standards are maintained with individuals afforded the protections they are entitled to and that businesses operate on a level playing field.

When considered in conjunction with the Council’s Private Rented Sector Housing Enforcement Policy it will provide a broader level of protection and a greater opportunity of tackling those choosing not to comply with significant and effective sanctions.

The fundamental principles enshrined in the policy are aimed at ensuring the protection of human rights, particularly those that relate to the right to a fair trial, no punishment without law, right to respect for private and family life, prohibition of discrimination and protection of property. As a result, implementation of the Policy is unlikely to be at variance with the Human Rights Act 1998 and is unlikely to result in any adverse human rights implications.

Guidance Notes

1. Legal Context

It is a legal requirement for local authorities to assess the equality and human rights impact of changes proposed or made to services. It is up to us as an authority to decide what form our equality impact assessment may take. By way of illustration, some local authorities focus more overtly upon human rights; some include safeguarding. It is about what is considered to be needed in a local authority's area, in line with local factors such as demography and strategic objectives as well as with the national legislative imperatives.

Carrying out these impact assessments helps us as a public authority to ensure that, as far as possible, we are taking actions to meet the general equality duty placed on us by the Equality Act 2010, and to thus demonstrate that the three equality aims are integral to our decision making processes.

These are: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations.

These screening assessments for any proposed service change go to Cabinet as part of the committee report, or occasionally direct to Full Council, unless they are ones to do with Licensing, in which case they go to Strategic Licensing Committee.

Service areas would ordinarily carry out a screening assessment, or Part One equality impact assessment. This enables energies to be focussed on review and monitoring and ongoing evidence collection about the positive or negative impacts of a service change upon groupings in the community, and for any adjustments to be considered and made accordingly.

These screening assessments are recommended to be undertaken at timely points in the development and implementation of the proposed service change.

For example, an ESHIA would be a recommended course of action before a consultation. This would draw upon the evidence available at that time, and identify the target audiences, and assess at that initial stage what the likely impact of the service change could be across the Protected Characteristic groupings and our tenth category of Social Inclusion. This ESHIA would set out intended actions to engage with the groupings, particularly those who are historically less likely to engage in public consultation eg young people, as otherwise we would not know their specific needs.

A second ESHIA would then be carried out after the consultation, to say what the feedback was, to set out changes proposed as a result of the feedback, and to say where responses were low and what the plans are to engage with groupings who did not really respond. This ESHIA would also draw more upon actions to review impacts in order to mitigate the negative and accentuate the positive. Examples of this approach include the Great Outdoors Strategy, and the Economic Growth Strategy 2017-2021

Meeting our Public Sector Equality Duty through carrying out these ESHIAs is very much about using them as an opportunity to demonstrate ongoing engagement across groupings and to thus visibly show we are taking what is called due regard of the needs of people in protected characteristic groupings

If the screening indicates that there are likely to be significant negative impacts for groupings within the community, the service area would need to carry out a full report, or Part Two assessment. This will enable more evidence to be collected that will help the service area to reach an informed opinion.

In practice, Part Two or Full Screening Assessments have only been recommended twice since 2014, as the ongoing mitigation of negative equality impacts should serve to keep them below the threshold for triggering a Full Screening Assessment. The expectation is that Full Screening Assessments in regard to Health Impacts may occasionally need to be undertaken, but this would be very much the exception rather than the rule.

2. Council Wide and Service Area Policy and Practice on Equality, Social Inclusion and Health

This involves taking an equality and social inclusion approach in planning changes to services, policies, or procedures, including those that may be required by Government.

The decisions that you make when you are planning a service change need to be recorded, to demonstrate that you have thought about the possible equality impacts on communities and to show openness and transparency in your decision-making processes.

This is where Equality, Social Inclusion and Health Impact Assessments (ESHIA) come in. Where you carry out an ESHIA in your service area, this provides an opportunity to show:

- What evidence you have drawn upon to help you to recommend a strategy or policy or a course of action to Cabinet.
- What target groups and audiences you have worked with to date.
- What actions you will take in order to mitigate any likely negative impact upon a group or groupings, and enhance any positive effects for a group or groupings; and
- What actions you are planning to review the impact of your planned service change.

The formal template is there not only to help the service area but also to act as a stand-alone for a member of the public to read. The approach helps to identify whether or not any new or significant changes to services, including policies, procedures, functions, or projects, may have an adverse impact on a particular group of people, and whether the human rights of individuals may be affected.

This assessment encompasses consideration of social inclusion. This is so that we are thinking as carefully and completely as possible about all Shropshire groups and communities, including people in rural areas and people or households that we may describe as vulnerable.

Examples could be households on low incomes or people for whom there are safeguarding concerns, as well as people in what are described as the nine 'protected characteristics' of groups of people in our population, e.g., Age. Another specific vulnerable grouping is veterans and serving members of the Armed Forces, who face particular challenges with regard to access to Health, to Education, and to Housing.

We demonstrate equal treatment to people who are in these groups and to people who are not, through having what is termed 'due regard' to their needs and views when developing and implementing policy and strategy and when commissioning, procuring, arranging, or delivering services.

When you are not carrying out an ESHIA, you still need to demonstrate and record that you have considered equality in your decision-making processes. It is up to you what format you choose.–You could use a checklist, an explanatory note, or a document setting out our expectations of standards of behaviour, for contractors to read and sign. It may well not be something that is in the public domain like an ESHIA, but you should still be ready for it to be made available.

Both the approaches sit with a manager, and the manager has to make the call, and record the decision made on behalf of the Council. Help and guidance is also available via the Commissioning Support Team, either for data, or for policy advice from the Rurality and Equalities Specialist. Here are some examples to get you thinking.

Carry out an ESHIA:

- If you are building or reconfiguring a building.
- If you are planning to reduce or remove a service.
- If you are consulting on a policy or a strategy.
- If you are bringing in a change to a process or procedure that involves other stakeholders and the wider community as well as particular groupings

For example, there may be a planned change to a leisure facility. This gives you the chance to look at things like flexible changing room provision, which will maximise positive impacts for everyone. A specific grouping that would benefit would be people undergoing gender reassignment

Carry out an equality and social inclusion approach:

- If you are setting out how you expect a contractor to behave with regard to equality, where you are commissioning a service or product from them.
- If you are setting out the standards of behaviour that we expect from people who work with vulnerable groupings, such as taxi drivers that we license.
- If you are planning consultation and engagement activity, where we need to collect equality data in ways that will be proportionate and non-intrusive as well as meaningful for the purposes of the consultation itself.
- If you are looking at services provided by others that help the community, where we need to demonstrate a community leadership approach

For example, you may be involved in commissioning a production to tour schools or appear at a local venue, whether a community hall or somewhere like Theatre Severn. The production company should be made aware of our equality policies and our expectation that they will seek to avoid promotion of potentially negative stereotypes. Specific groupings that could be affected include: Disability, Race, Religion and Belief, and Sexual Orientation. There is positive impact to be gained from positive portrayals and use of appropriate and respectful language in regard to these groupings in particular.

3. Council wide and service area policy and practice on health and wellbeing

This is a relatively new area to record within our overall assessments of impacts, for individual and for communities, and as such we are asking service area leads to consider health and wellbeing impacts, much as they have been doing during 2020-2021, and to look at these in the context of direct and indirect impacts for individuals and for communities. A better understanding across the Council of these impacts will also better enable the Public Health colleagues to prioritise activities to reduce health inequalities in ways that are evidence based and that link effectively with equality impact considerations and climate change mitigation.

Health in All Policies – Health Impact Assessment

Health in All Policies is an upstream approach for health and wellbeing promotion and prevention, and to reduce health inequalities. The Health Impact Assessment (HIA) is the supporting mechanism

- Health Impact Assessment (HIA) is the technical name for a common-sense idea. It is a process that considers the wider effects of local policies, strategies and initiatives and how they, in turn, may affect people's health and wellbeing.
- Health Impact Assessment is a means of assessing both the positive and negative health impacts of a policy. It is also a means of developing good evidence-based policy and strategy using a structured process to review the impact.

- A Health Impact Assessment seeks to determine how to maximise health benefits and reduce health inequalities. It identifies any unintended health consequences. These consequences may support policy and strategy or may lead to suggestions for improvements.
- An agreed framework will set out a clear pathway through which a policy or strategy can be assessed and impacts with outcomes identified. It also sets out the support mechanisms for maximising health benefits.

The embedding of a Health in All Policies approach will support Shropshire Council through evidence-based practice and a whole systems approach, in achieving our corporate and partnership strategic priorities. This will assist the Council and partners in promoting, enabling and sustaining the health and wellbeing of individuals and communities whilst reducing health inequalities.

Individuals

Will the proposal have a *direct impact* on health, mental health and wellbeing?

For example, would it cause ill health, affecting social inclusion, independence and participation?

Will the proposal directly affect an individual's ability to improve their own health and wellbeing?

This could include the following: their ability to be physically active e.g., being able to use a cycle route; to access food more easily; to change lifestyle in ways that are of positive impact for their health.

An example of this could be that you may be involved in proposals for the establishment of safer walking and cycling routes (e.g., green highways), and changes to public transport that could encourage people away from car usage. and increase the number of journeys that they make on public transport, by foot or on bicycle or scooter. This could improve lives.

Will the proposal *indirectly impact* an individual's ability to improve their own health and wellbeing?

This could include the following: their ability to access local facilities e.g., to access food more easily, or to access a means of mobility to local services and amenities? (e.g. change to bus route)

Similarly to the above, an example of this could be that you may be involved in proposals for the establishment of safer walking and cycling routes (e.g. pedestrianisation of town centres), and changes to public transport that could encourage people away from car usage, and increase the number of journeys that they make on public transport, by foot or on bicycle or scooter. This could improve their health and well being.

Communities

Will the proposal directly or indirectly affect the physical health, mental health, and wellbeing of the wider community?

A *direct impact* could include either the causing of ill health, affecting social inclusion, independence and participation, or the promotion of better health.

An example of this could be that safer walking and cycling routes could help the wider community, as more people across groupings may be encouraged to walk more, and as there will be reductions in emission leading to better air quality.

An *indirect impact* could mean that a service change could indirectly affect living and working conditions and therefore the health and well being of the wider community.

An example of this could be: an increase in the availability of warm homes would improve the quality of the housing offer in Shropshire and reduce the costs for households of having a warm home in Shropshire. Often a health promoting approach also supports our agenda to reduce the level of Carbon Dioxide emissions and to reduce the impact of climate change.

Please record whether at this stage you consider the proposed service change to have a direct or an indirect impact upon communities.

Demand

Will there be a change in demand for or access to health, local authority and social care services?

For example: Primary Care, Hospital Care, Community Services, Mental Health and Social Services?

An example of this could be: a new housing development in an area would affect demand for primary care and local authority facilities and services in that location and surrounding areas. If the housing development does not factor in consideration of availability of green space and safety within the public realm, further down the line there could be an increased demand upon health and social care services as a result of the lack of opportunities for physical recreation, and reluctance of some groupings to venture outside if they do not perceive it to be safe.

For further information on the use of ESHIAs: please contact your head of service or contact Mrs Lois Dale, Rurality and Equalities Specialist and Council policy support on equality, via telephone 01743 258528, or email lois.dale@shropshire.gov.uk.

For further guidance on public health policy considerations: please contact Amanda Cheeseman Development Officer in Public Health, via telephone 01743 253164 or email amanda.cheeseman@shropshire.gov.uk



<u>Committee and Date</u>
Cabinet
20 th July 2022

<u>Item</u>
Public

Oswestry Business Improvement District (BID) Renewal

Responsible Officer: Matt Potts, Business Growth and Inward Investment Manager

email: matt.potts@shropshire.gov.uk Tel: 01743 257881

1 Synopsis

- 1.1 Cabinet Report outlines the background and outcomes of the first four years of Oswestry BID following its initial successful ballot and the benefits and impacts to Shropshire Council of supporting the renewal process for the period from 2023-2028.

2. Executive Summary

- 2.1 Business Improvement Districts (BIDs) are business led partnerships which are created through a ballot process to deliver additional services to local businesses. A BID is a defined area in which a levy is charged on all business rate payers in addition to their business rates bill. The levy collected is then used to develop projects to benefit businesses and improve the trading environment.
- 2.2 Oswestry BID is an independent, not-for-profit company, dedicated to delivering projects, programmes and services that improve the trading environment for businesses in Oswestry Town Centre and surrounding industrial estates. The Oswestry BID was elected in 2018 and operates in an area covering approx. 800 businesses, with 320 mandated to contribute to the BID Levy, alongside 40 volunteer members who contribute c£4,620 above the BID levy collection. Over the first term to date, projects delivered via Oswestry BID has seen an investment of c£1.27m to date via its BID Levy collection into projects across the BID area. The Oswestry BID is nearing the end of its first 5 year term and as such is up for renewal. The intention is that a ballot of all businesses mandated to pay the levy within the defined BID area will take place from 6th October to 3rd November 2022 where businesses will be asked to vote for or against a second term of the BID.

- 2.3 The purpose of this report is to update Cabinet on the progress of the Oswestry BID renewal process, to seek sign-off on the drafted BID Business Plan and to delegate authority for the Council's voting rights.
- 2.4 As per the mandatory notice period of 126 days before the ballot date, the Board of Oswestry BID has notified Shropshire Council (as the billing authority) and the Secretary of State of their intention to seek a renewal ballot.
- 2.5 There are a number of Council properties within the BID area which will be subject to the levy and Shropshire Council receives one vote for each of these premises. Given the importance and impact of the BID company and its activities within the BID area, as detailed in the proposed Business Plan, it is recommended that Shropshire Council vote yes for the renewal of the BID.

3 Recommendations

- 3.1 That Cabinet notes that Oswestry BID has served notice of their intention to seek a renewal ballot to the Secretary of State and Shropshire Council.
- 3.2 That Cabinet endorses the draft Oswestry BID 2023-2028 business plan and renewal proposal (attached as Appendix 1).
- 3.3 That Cabinet approves a vote in support of Oswestry BID's continuation in respect of the Council's voting rights for the Council owned premises in the renewal ballot and delegates authority to exercise this vote to the Assistant Director Commercial Services.

REPORT

4 Risk Assessment and Opportunities Appraisal

- 4.1 The most significant risk faced is if Oswestry BID is not successful in their renewal. Oswestry would lose investment in the region of £1.64 million from 2023 onwards.
- 4.2 Without Oswestry BID there would be a significant loss of momentum and activity in the Town Centre. During its first 5 year term, the BID has achieved a great deal against its key project themes, together with a number of major marketing campaigns, significant cost savings for businesses, and the support of strategic development work across Oswestry through their role in Future Oswestry Group, alongside Shropshire Council and Oswestry Town Council.

- 4.3 Oswestry continues to face increasing competition from nearby towns and cities, retail parks and the internet. Oswestry BID has made significant achievements in its first term but for the town to remain competitive it needs to continue to deliver projects which attract more people to the town, improves the experience for visitors and supports the business community on key strategic and operational matters.
- 4.4 The following alternative options have been considered but are not recommended:
- To vote against the BID renewal: not recommended due to the significant positive impact the BID has had to the business community and the partnership.
 - To abstain for the vote: not recommended due to the significant impact the BID has had to the business community and the desire for Shropshire Council to be seen as positively leading the way for businesses to vote yes.
- 4.5 At a local level, Shropshire Council, Oswestry Town Council (OTC) and Oswestry BID have been leading an ongoing programme of community and stakeholder engagement under the Future Oswestry project. The Future Oswestry Group (FOG) (<https://shropshire.gov.uk/future-oswestry-project/future-oswestry-group-meeting-minutes/>) enables collaborative approaches to neighbourhood and economic planning, for example reviewing Oswestry's neighbourhood plan, supporting delivery of the High Street Heritage Action Zone programme, master planning and in the design of public engagement approaches. Representatives included elected councillors (town and county), business representatives and recently appointed community representatives.
- 4.6 The Council sets out to demonstrate equal treatment to people in Protected Characteristic groupings or at risk of social exclusion, and to people who are not, through having 'due regard' to their needs and views when developing projects such as Levelling Up Fund bids to Government and in working with Oswestry BID on this and related endeavours. The anticipated positive equality impacts of intended outcomes minimise the legal, financial and reputational risks that could apply were there deemed to be non-compliance with the Public Sector Equality Duty set out in the Equality Act 2010, either by ourselves or by contractors acting on our behalf. Additionally, the Council also includes consideration of health and wellbeing impacts within overall equality impact screening assessments and within ongoing engagement activity.

- 4.7 There is clear complementarity between this Oswestry BID Renewal proposal and the Council's own strategic approaches, within which equality, social inclusion and health impact assessments (ESHIA) are integral to efforts to ensure that the likely impacts of policy decisions upon and within our diverse communities are considered as fully as possible. This is in order that negative impacts may be minimised, and positive impacts maximised, and that these may be monitored and reviewed, recognising the need for ongoing engagement with our communities and our service users. ESHIA are carried out as screening assessment at stocktake moments. The constituent members of Oswestry BID will be involved in any such ESHIA undertaken for projects in Oswestry, including in relation to the Levelling Up Fund work, as a target audience in stakeholder engagement work.
- 4.8 The likely impact of any work in which Oswestry BID are involved, regarding equality, diversity and social inclusion, is assessed as being principally in economic terms and is likely to be positive across groupings in the community with regard to economic growth opportunities, particularly the Protected Characteristic groupings of Age, Disability and Sex.
- 4.9 Additionally, positive impacts may be anticipated with regard to Social Inclusion for low income households and people living in this part of what is a very large, and sparsely populated rural county, recognising social mobility opportunities. There is potential for further positive impacts, particularly for young people, through the stimulation of economic development and investment which will provide jobs and improved workspace.

5 Financial Implications

- 5.1 Shropshire Council's current annual Oswestry BID Levy contribution is £12,963.14, covering ten properties across the BID area. The contribution towards the levy may alter for 2023, however this will be influenced by several factors. This will include any disposals of existing assets or acquisitions, the calculation of a new ratings list in 2023 and whether Oswestry BID decide to increase or decrease the 1.75% charge against a properties rateable value (further information on charge at point 7.7).
- 5.2 Shropshire Council currently charges Oswestry BID £7,198.66 per annum (before VAT) per annum to collect the BID levy on their behalf. The costs for collection for 2023 have not yet been confirmed. This figure ensures that the Council makes full cost recovery.

6 Climate Change Appraisal

- 6.1 Whilst there may be no direct impacts from this decision, it is important to highlight the significance of climate and carbon considerations for local business. Shropshire Council is working with the Shropshire Chambers of Commerce and local businesses in the Oswestry area such as Aico and Arla Foods to support their efforts to decarbonise and improve access to renewable energy.
- 6.2 Oswestry BID have also highlighted the increasing pressure on businesses to reduce their carbon footprint, not only to improve the environment, but also to counter rising energy costs. They have acknowledged that this will be a core focus running through the second BID term, should they be successful, running across all activities to help make Oswestry a healthier and more sustainable town.
- 6.3 Oswestry BID will be working with sector experts, partners and stakeholders to understand Oswestry Businesses energy consumption and waste generation. This will allow them to explore opportunities to help Levy Payers reduce their carbon footprint and reduce their energy and waste costs.

7 Background

- 7.1 A Business Improvement District (BID) is a business-led and controlled partnership in a given area such as Oswestry Town Centre and surrounding industrial estates, which delivers an agreed set of services and projects. These are agreed, and formally voted for, by all mandated to pay BID levy businesses in the BID and are additional to what the public agencies provide.
- 7.2 A BID typically lasts for five years with the overall aim being that it improves the trading environment for businesses. BIDs are governed by legislation contained in the Local Government Act 2003 and The Business Improvement Districts (England) Regulations 2004 ("the 2004 Regulations").
- 7.3 BIDs can deliver any projects or services that are agreed by businesses in the BID area. Over the past four years, Oswestry BID has delivered projects and services across four areas:
- Raising Profile - To effectively develop and promote the strengths and characteristics of Oswestry to prospective visitors and business investors.
 - Business Support and Investment - To actively support the growth and development of existing local businesses and support start-ups, young businesses and new investment which complements and builds upon Oswestry's existing strengths.

- A Great Place to Be - To build upon Oswestry's multi-faceted heritage and cultural assets to further develop a welcoming, vibrant & enriching environment where visitors, workers & residents want to be.
 - Accessible and Safe Environment - To facilitate safe, functional and efficient access and navigation for visitors, workers, residents and businesses
- 7.4 A list of wider projects has also been included within the appendices providing additional information on projects either delivered or in delivery through or in partnership with Oswestry BID through its first term. This can be found in Appendix 2.
- 7.5 Oswestry BID is set up as a Company Limited by Guarantee. This is a business controlled, not-for-profit company that is responsible for the delivery of the Oswestry BID Business Plan and is accountable to the BID Board and its levy payers.
- 7.6 Oswestry BID operates in the main business areas of Oswestry as well as incorporating areas targeted for development. The BID area covers the main commercial area of the town and extends to the north along Gobowen Rd at the junction of Whittington Rd. The boundary then runs eastwards along Whittington Rd to the A5 and then northwards to just north of Park Hall Farm. At this point the boundary runs eastwards and then south to include the showground and Whittington Business Park. The boundary then continues south crossing the Whittington Rd, before moving back to the A5, following the A5 down to the junction with the A483. At this point the boundary moves south west along the A483 to a point just past the junction with Maesbury Rd to include businesses in the south west along part of Weston Rd. At this point the boundary then runs north along the railway track to the west of Maesbury Rd before joining Victoria Rd and then running around the west side of the town. A boundary map of the Oswestry BID area can be found in the draft business plan, located in the Appendix 1, page 25.
- 7.7 Those businesses that are located within the Oswestry BID area and whose property has a rateable value of £12,000 (in line with small business rate relief threshold) and above pay 1.75% of their rateable value towards the BID. This is called a BID Levy. The BID Levy is normally paid by the occupiers of a property. The Oswestry BID Levy is collected in April on an annual basis and invoices are issued by Shropshire Council. Properties with a rateable value below the threshold that are located within Oswestry Town Centre and surrounding industrial estates are invited to be a voluntary member of Oswestry BID with 40 businesses contributing an additional c£4,620 funding. This means that the property will receive similar benefits of levy paying members including promotion through the One Oswestry platform.

- 7.8 BIDs can only carry out projects or services in addition to those that public agencies have to provide on a statutory basis and/or choose to deliver on a discretionary basis.
- 7.9 Oswestry BID is governed by a board of directors consisting of 12 elected members that is representative of the sectors in the town including: Engineering (1), Industrial (2), Independent Retail (1), Tourism (1), Professional Services (2), Food and Drink (1), Large Retail (1), Hospitality (2) and Trade Counter (1).
- 7.10 In line with the 2004 Regulations; Regulation 4, Oswestry BID must submit to Shropshire Council a copy of their renewal proposal, their proposed financial business plan, a summary of the consultation taken with the BID levy payers and a summary of the financial management arrangements for the BID. These have been provided as part of the draft business plan at Appendix 1. Officers have reviewed these documents and have ensured that they satisfactorily meet the regulation requirements.
- 7.11 The content of the BID business plan and renewal proposal are determined by Oswestry BID in consultation with their members. Shropshire Council has no right to veto the proposal based on opinions regarding the contents, although may choose to vote against the proposal if it is opposed to the content of the plan.
- 7.12 The Council owns a number of assets located within the proposed BID area and therefore will be invited to vote as part of the ballot, with one vote for each asset that would be subject to the BID levy. It is the recommendation of this report that the Council votes in favour of the BID given the importance of this initiative and the positive impact on the town centre trading environment and delivery of key projects it has demonstrated in the first term. These improvements and impacts will be continued if the BID renewal is successful through the delivery of the activities outlined in the draft business plan at Appendix 1.

8 Additional Information

- 8.1 The work of Oswestry BID aligns well with the Shropshire Plan, specifically across two areas of activity; Healthy Economy and Healthy Environment. To date, Oswestry BID have delivered a wide range of programmes that align with Healthy Economy, including a range of business training, grants and wider support and mentoring, along with promotional work such as their Business Directory and development of the One Oswestry website.
- 8.2 Two of Oswestry BID's priority areas have been delivered under Healthy Environment, have included installation of lighting and wifi

within the town and targeting areas for environmental improvements, such as litter picks, street cleaning and public realm improvements, along with safety improvements including traffic management and signage improvements and security patrols.

- 8.3 Support under these Shropshire Plan priorities, will continue in the proposed new Oswestry BID period, 2023-28 under the revised Oswestry BID priorities of Representing, Supporting, Improving and Promoting, all of which are outlined within the draft business plan at Appendix 1, but will include specific focus on areas such as energy and waste costs, support with refurbishment and repurposing of vacant properties and continued business grant support and training programmes.

9 Conclusions

- 9.1 This report has endeavoured to highlight the positive impacts that have been made by Oswestry BID within its first four years of operation and has aimed to focus on the continued benefits of Oswestry BID remaining in place. As previously outlined, without Oswestry BID there would be a significant loss of momentum and activity in the Town Centre as well as additional investment into the Town through the support of the BID Levy. Whilst there is a cost to Shropshire Council, the outputs delivered over the period of the BID through the investment of the c£1.27m to date in BID Levy, far out way the costs brought to Shropshire Council.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Annual Reviews and the past four years accounts are available at:
www.oneoswestry.co.uk

Cabinet Member (Portfolio Holder)

Cllr Ed Potter - Deputy Leader and Portfolio Holder for Economic Growth, Regeneration and Planning

Local Member

Cllr John Price (Oswestry East)
Cllr Chris Schofield (Oswestry East)
Cllr Duncan Kerr (Oswestry South)
Cllr Mike Isherwood (Oswestry West)

Appendices

1. Oswestry BID 2023-2028 Business Plan and Renewal Proposal DRAFT
2. Oswestry BID Project List



BIDOSWESTRY



BUSINESS PLAN

2023-2028
Second Term

WHAT IS A BID?

A BID (Business Improvement District) is a not-for-profit organisation funded by and working for BID Levy Paying businesses within a defined area of a town or city centre, and/or industrial estate. There are now over 320 BIDs operating in the UK.

The BID is an independent organisation, working for the collective benefit of businesses in the BID Area. BIDs provide additional services to the BID Area and aren't to be confused with Local Authorities who provide Statutory Services.

Governed by legislation to ensure fairness and transparency, a BID is created for a five-year period following a successful Ballot. During the term of the BID all businesses defined within this Business Plan will be required to pay the mandatory BID Levy

irrespective of how or whether they cast a vote in the Ballot.

The current term of the Oswestry BID runs until 31st March 2023.

This Business Plan seeks a second term to run from 1st April 2023 to 31st March 2028.

The Ballot will run from 6th October 2022 to 3rd November 2022 and for BID to continue for a further five years, two tests must be passed:

1. A simple majority of those who vote must vote Yes.
2. Also, the aggregate rateable value of those that vote Yes must be greater than that of those that vote No.

✓ VOTE YES

Page 72

Vote YES to secure £1.4m additional investment into Oswestry over the next five years



FOREWORD

“ I am proud to write the introduction to this Second Term Business Plan for Oswestry BID. Oswestry is a distinctive and progressive borderland market town which, to its credit, has fared better than many towns in recent years but continues to face a range of challenges and issues.

BID has proven itself as an effective catalyst to bring together key stakeholders to help address local issues and develop projects and funding to promote, represent, support, and improve the local business community.

Strong knowledge, skills and networks have been built by the BID Team over the past 5 years. These assets can be capitalised upon with the continued investment we are seeking from businesses in the BID Area for a Second BID Term. We aim to attract and focus investment in the town to create an even better place to live, work, shop, visit and be entertained. The following Business Plan outlines our performance to date and our plans for the next 5 years.

This is a realistic and deliverable business plan which draws on a proven track record. I urge you to look carefully at this proposal and give it your full support by voting YES in the Second BID Term Ballot in October 2022.



Ian Follington
Chair

“ Working together with our levy paying members and establishing strong working relationships with Oswestry Town Council, Shropshire Council, Oswestry Borderland Tourism and other key groups, has helped Oswestry BID deliver on its first term's promises and aspirations.

As we look towards the next 5 year term, we've learned a lot from the journey so far. We shall continue to listen carefully to understand the projects that matter to you and deliver on these - improving and extending them as you request, whilst taking on new projects to support businesses and improve the Oswestry environment for everyone.

To vote YES ensures another £1.4 million of investment being spent directly in Oswestry over the next 5 years, plus many other opportunities to apply for additional funding, as we've managed to do during our first term.

Together we are stronger, and we are YOUR business voice for Oswestry, so let's make the most of the next 5 years, delivering even more for Oswestry to make it the very best it can be.



Adele Nightingale
BID Manager

BID BACKGROUND

Oswestry is a lively historic market town with a population of around 17,000. It is surrounded by beautiful and diverse countryside. Our geography, located in northwest Shropshire on the Welsh borderlands, provides Oswestry with its unique character, history, and heritage.

Oswestry is known for its energetic and creative entrepreneurial spirit, playing host to an impressive range of independent and national businesses in its busy Town Centre, Industrial Estates, and Business Parks. As Shropshire's second largest market town, Oswestry provides key facilities and services to a catchment of over 45,000 people in Shropshire and Wales.

Oswestry Business Improvement District (BID) was voted into existence in 2018 with a vision to make Oswestry an even better place to live, work, visit and be entertained; along with enhancing the business environment to attract investment and growth.

During its first term, BID has initiated and delivered a wide range of projects in the town centre, industrial estates, and business parks, focussed on the main four priorities:

- A. Raising the profile of Oswestry
- B. Providing business support and encouraging investment

- C. Cultivating the town as a great place to be
- D. Developing an accessible and safe environment in which to do business, and enjoy living, working, and visiting the town.

BID has worked well with Oswestry Town Council, Shropshire Council and other local organisations on a range of projects, and is respected by Government, partners and stakeholders at local, regional and national levels. BID is now firmly established as a key partner in the shaping and support of the town's development bringing a powerful business voice, perspective, and experience across a range of issues.

As BID looks towards a second term there is much work to do to build upon the value invested in BID projects to amplify the business benefits enjoyed across the Town Centre and Industrial Areas.

This Business Plan sets out refreshed business priorities and strategies to improve and enhance the business trading environment, while actively promoting our local businesses and the Town creatively and effectively.

This a realistic plan built upon 5 years of experience and relationship development. BID and its partners have been able to deliver a range of positive initiatives for Oswestry as outlined in the following sections.

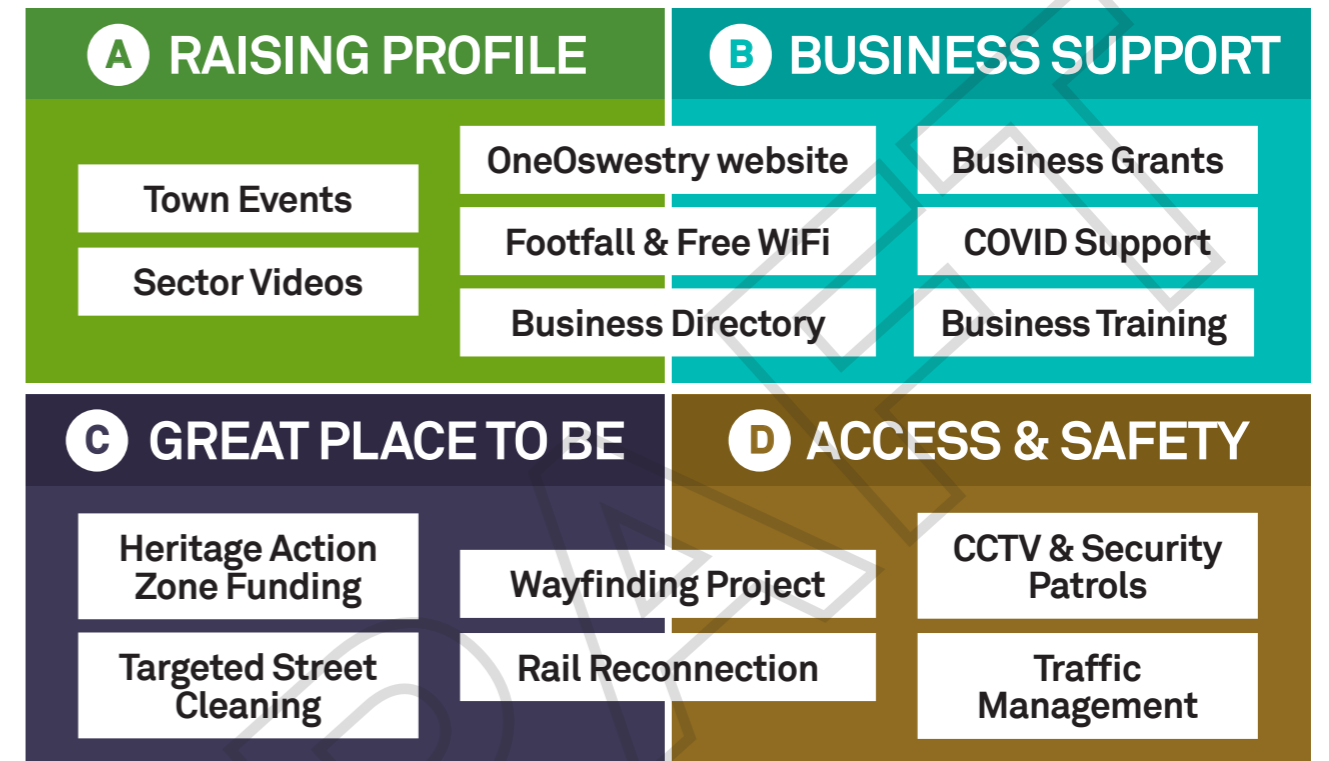


The BID Easter Street Circus on Bailey Head

FIRST TERM OBJECTIVES

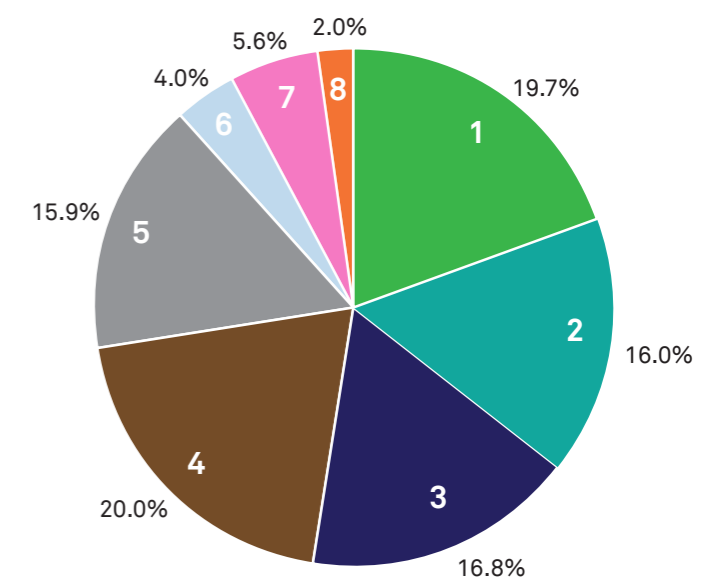
The first term of Oswestry BID has seen the delivery of significant projects across a range of priorities identified in our original Business Plan - a plan that was shaped and developed in consultation with the local business community and stakeholders.

Despite all the challenges that Covid presented, BID has successfully delivered on our key objectives bringing a range of benefits to the local business community and the town as outlined below.



How the BID levy was invested in Oswestry...

	First Term Actual (1) (2)	Percentage Spend
1 Raising Profile	£247,342	19.7%
2 Business Support & Investment	£199,767	16.0%
3 A Great Place to be	£210,294	16.8%
4 Accessible & Safe Environment	£251,029	20.0%
5 Central Management costs, Admin & Office	£199,775	15.9%
6 Levy Collection costs	£49,907	4.0%
7 Contingency	£70,000	5.6%
8 Accrual for Renewal	£25,000	2.0%
Total Expenditure	£1,253,114	100.0%



1. Includes projected spend for Financial Year 2022-2023 (Year 5).
 2. Figures may vary due to Year 5 figures based on projections.

RAISING PROFILE

To actively raise the profile of Oswestry, its businesses and events, locally, regionally and nationally.

To attract and support start-ups, young businesses and new investment to complement and build upon Oswestry's existing strengths.

- 1 Produced a range of videos showcasing Oswestry's business sectors reaching 552,799 viewers and counting.
- 2 Developed the first "Oswestry Find It Buy It" directories for the Industrial Estates and Town Centre.
- 3 Partnered with Oswestry Borderland Tourism (OBT), to produce and distribute 120,000 town maps both nationally and Shropshire-wide. In-town map holders also installed at key visitor points. The partnership between BID and OBT has amplified Oswestry's visitor message regionally and across the UK.
- 4 Enhanced the town's event calendar with the Halloween Dome, The Street Circus, Jubilee Beach and active support for Oswestry Balloon Carnival, Oswestry Food & Drink Festival, Oswestry Community Games and Cae Glas Live.
- 5 Promoted local businesses and events through our OneOswestry website and social media platforms with an all-time social media reach of 2.6 million.



Mark Hooper
Project Lead, Visit Shropshire

“As well as our partnerships with the local authorities and members, there are a number of strategic organisations that we work closely with including Oswestry Business Improvement District, who we share knowledge, access to markets and provide vital networks. Oswestry BID are a key delivery partner for Visit Shropshire as the destination management organisation and provide a valuable link to the businesses and visitor economy of Oswestry.”

CASE STUDY

One of the best ways to raise the town's profile locally, regionally and nationally is through event promotion, and BID has successfully boosted the traditional event calendar by adding a series of new and exciting events such as the Halloween Dome, The Street Circus and Jubilee Beach!

In addition, BID has worked closely with local councils and event organisers, building strong relationships to support and amplify the reach of existing events. This approach has led to the

provision of support and sponsorship for Oswestry Balloon Carnival, Oswestry Food & Drink Festival, Oswestry Community Games and Cae Glas Live.

BID have used all its social media and web platforms to proactively get the message out, whilst using creative videos and photography to capture the experience of these amazing events to build an extensive media library for future promotion.



BUSINESS SUPPORT

To actively support the growth and development of existing local businesses.

To attract and support start-ups, young businesses and new investment to complement and build upon Oswestry's existing strengths.

- 1 Key partner in bringing £1.8m new investment through heritage action zone fund to enhance shop fronts, heritage alleyways and additional residential units.
- 2 Secured £105,000 in additional funding for Oswestry.
- 3 Over 390 local business members have attended our free programme of training and workshops.
- 4 Accessed and promoted significant Oswestry business support grants for Covid recovery.
- 5 Worked with Cambrian Heritage Railways and partners to secure Government funding of £50,000 to help develop the Strategic Business Case to reconnect Oswestry to the national rail network.
- 6 Provided access to free bespoke Business Mentoring which was well received by participating businesses.
- 7 Successful Night Bus Initiative to boost the night-time economy over the Christmas period and extended through 2022.



Sally Bales-Smith

The George Hotel and Chair, Pubwatch

“The night-time economy has been extremely challenging through and post-Covid. This has only been exacerbated by a reduction in taxis. As well as working to improve the taxi situation, BID's Nightbus initiative with Tanat Valley Coaches has really helped in providing a regular and good value means of getting into town, and home safely. Long may it continue!”

CASE STUDY

The Oswestry Night Bus was a creative response to the scarcity of night-time transport due to a significant decrease in taxi coverage. This issue was having a detrimental effect on Oswestry's night-time hospitality economy, which BID sought to address.

To this end, BID engaged with local bus provider, Tanat Valley Coaches, to design a new service that could be initially piloted to measure demand over the Christmas period. Following the success of the

pilot and feedback from business, it was decided to extend the service from April through to December 2022 - this took the form of a Town Circular and Village Circular route to serve distinct customer profiles.

So far, the Night Bus service is working well, and BID continue to monitor its effectiveness, as well as working with Shropshire Council to try and further improve the taxi situation.



GREAT PLACE TO BE

To build upon Oswestry's multi-faceted heritage and cultural assets to further develop a welcoming, vibrant & enriching environment where visitors, workers & residents want to be.

- 1 Targeted cleaning of town centre and industrial estate area including litter picks, jet washing, sign cleaning, and weed removal, to spruce up the trading environment.
- 2 Install attractive Festoon lighting in key areas of the town centre, to enhance the night-time economy, whilst making a big difference in safety and accessibility.
- 3 To put up colourful bunting throughout the town centre that added to the welcoming atmosphere, and enhance the Queen's Jubilee celebrations, making it a more pleasant place for customers to be and improving the trading environment.
- 4 Provide free town centre WiFi with currently over 1,200 registered users with over 15,000 monthly connections improving dwell times and providing an additional platform for promoting businesses and events.
- 5 Introduced Footfall counters to monitor town visits, planning data collection, and support inward investment.
- 6 BID's business advocacy and lobbying of local authorities to open up space on Festival Square to allow nearby businesses to allow customers to sit and be served.



Lorraine Powell and Paul Nurse
Ye Olde Vaults

“ One of the BID initiatives that has made a significant difference to us is the introduction of festoon lighting through the town. It's made it much safer for customers setting off for home, and improved the night-time atmosphere of the town.”



CASE STUDY

Changes are afoot on Church Street to make it a safer, more attractive place to be for residents, shoppers, and visitors, and improving the high street trading environment.

The project, led and driven by Oswestry BID, emerged from Covid regulations on social distancing, when Church Street was made one-way to allow more space for pedestrians.

During this time, acceptance grew on Church Street being one-way, which led to a new traffic regulation and the introduction of a 20mph speed limit.

BID then started to consider how Church Street might develop towards a 'shared space' concept with wider pavements and pleasant dwelling areas. Thus began a period of consultation with Shropshire Council Highways to consider what was and wasn't possible. Having explored a range of more temporary options such as parklets, it was clear that a more permanent designed approach would serve Oswestry best for the future.

A consultant was commissioned by BID to develop concept designs and BID secured £77,000 from the HAZ fund to pay for the proposed new street furniture, with the BID Board committing up to £100,000 for the pavement extensions. For repairs to existing pavements and resurfacing the carriageway, BID will be pushing Shropshire Council to cover these costs.

So presently, BID are working with Shropshire Council and WSP to review drainage systems, lighting, alternative pavement finishes and, of course, final costs. Oswestry BID are absolutely committed to seeing this project through, as it will have a real positive impact on Church Street and how it is navigated. Once completed the intention is to look at a similar approach on Cross Street.



View towards The Cross
Oswestry BID Church Street Planter Proposal **BIDOSWESTRY**

ACCESS & SAFETY

To facilitate safe, functional and efficient access and navigation for visitors, workers, residents and businesses.

- 1 Championed and coordinated new traffic management the Maes-Y-Clawdd, Mile Oak and Radfords Field industrial estates to improve safety and access for staff & customers.
- 2 Erected signage on industrial estates to ease navigation, improve accessibility, and enhance recognition.
- 3 Established nightly security patrols protecting around 130 industrial estate and town businesses.
- 4 Extended the defibrillator provision and the CCTV and Traffic Monitoring network in both the town centre and the industrial estates.



Ian Jones
Planning Manager, Arla

“It is fantastic to see the addition of the double yellow lines laid down on Maes-Y-Clawdd. This will help provide a far safer environment for all our Arla colleagues entering and exiting the Oswestry site, especially during the darker hours. This a huge step forward!”



6 New Defibrillators



New Signage, Oswestry Industrial Estate

CASE STUDY

New traffic regulations implemented on Maes-Y-Clawdd, Mile Oak and Radfords Field improving access to premises & public safety.

The project came about following consultations with businesses as to the priority issues on the industrial estates.

They highlighted significant site access issues and serious safety concerns from businesses for pedestrians, visitors, and staff, using the Maes-Y-Clawdd stretch, brought about by large vehicles parked on the roadside for long periods. There had been reports of poor visibility, near misses and pedestrians being forced off the path onto the road.

BID set about resolving these issues in cooperation with Shropshire Council, and several options were put to the businesses affected. After a further consultation in Spring 2021, it was decided that the whole length needed to be double yellow lined.

Adele Nightingale, Oswestry BID Manager, was pleased to see the project come to fruition: **“It’s taken several months of consistent advocacy for our business community, but it’s been worth it. The benefits for business, visitors, staff, customers, in terms of safety and easy access will be huge over the coming months and years.”**



New Traffic Regulations on Maes-Y-Clawdd

HOW YOU THINK WE DID

Throughout April 2022, we asked the BID business community for their views on BID's performance so far, and to hear their thoughts on what Second Term priorities should be.

This consultation was posted, and the digital version emailed to each and every business eligible to vote in October's Second Term Ballot.

Feedback was followed up directly by telephone or in person. In addition, the consultation document was made available on our website at oneoswestry.co.uk



BID Consultation Survey



BID Open Meeting

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YOUR PROJECT RATINGS

In the BID Consultation Survey, we asked you to rate how valuable the following BID projects and services had been to your business, and the town, on a scale of 1-5 from 1: Not very valuable to 5: Very valuable.

The table below shows the results of your responses.

A. RAISING PROFILE



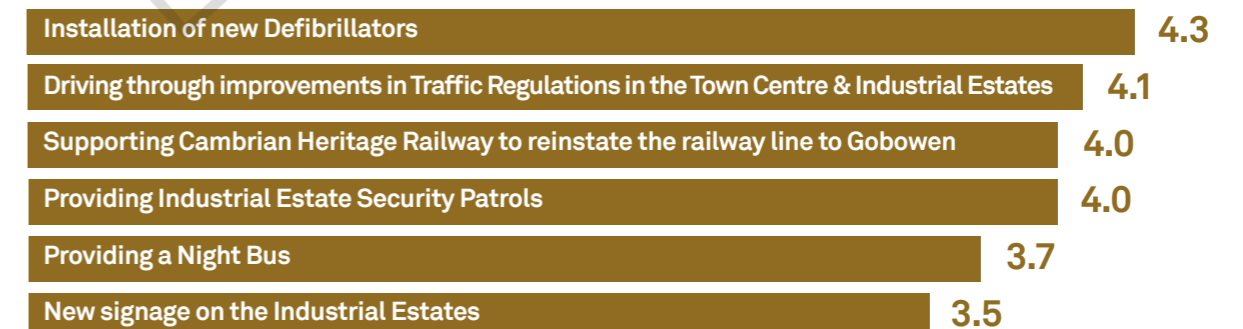
B. BUSINESS SUPPORT & DEVELOPMENT



C. GREAT PLACE TO BE



D. ACCESSIBLE & SAFE ENVIRONMENT



BID'S SECOND TERM

Oswestry BID's Second Term will continue to deliver strongly on its core focus areas on behalf of the BID levy payers and their business interests.

These core objectives are:

A REPRESENTING

B SUPPORTING

C IMPROVING

D PROMOTING

The benefits of a continued BID do not just come from the ability to deliver projects and services from a guaranteed budget but from the collective influence of the businesses in the BID Area.

The country is facing an uncertain period with rising inflation and cost pressures, but it also presents exciting opportunities for Oswestry as the Government works to try and stimulate more economic growth across the nation. There are a number of major Central Government funding programmes coming up in the near future.

BID Second Term would enable us to build upon the success of the £1.8 million secured for the High Street Heritage Action Zone and work with Local Authorities to win further funding to make Oswestry an even better place to live, work, shop, visit and be entertained.

There is increasing pressure on businesses to reduce their carbon footprint, not only to improve the environment, but also to counter rising energy costs. This would be a core focus running through a BID Second Term across all our activities to help make Oswestry a healthier and more sustainable town.

It is vital that Oswestry has a clear, strong voice speaking on behalf of local businesses to help win funding in key areas and has the network and experience to help deliver the projects that grow out of this.

BID Second Term would aim to deliver this whilst maintaining and building on all the successful projects delivered to date as outlined below.

Arren Roberts

Town Clerk, Oswestry Town Council

“The BID Board and BID team have made a tangible difference to Oswestry. They are a progressive partner and key to the delivery of successful events and projects. The distance between Councils and the business community in Oswestry had been growing but BID have ensured that the voice of local businesses is heard and listened to. Strong partnerships will be crucial for the future prosperity of the town and this will be difficult to achieve without BID”



A BID event on Bailey Head

REPRESENTING

Giving businesses a powerful collective voice on key decisions.

BID Projects to be continued, maintained and strengthened:

- 1 Future Oswestry Group** - Speaking up for business in helping to shape and implement the Future Oswestry Plan and its projects.
- 2 UK Shared Prosperity Fund (SPF)** - BID can play a key role in ensuring that Oswestry gets its fair share of the new SPF fund. The investment across England will see £1.58 billion made available to meet a range of potential areas such as regenerating our high street and improving the quality of employment opportunities.
- 3 Key Stakeholder Engagement** - Maintain and enhance relationships with local authorities and other key partners to ensure levy payers' challenges and concerns are clearly understood and addressed.
- 4 Monitor the development of Mile End Innovation Park** - and work with local authorities to ensure Oswestry industrial estate has a strong voice



Rob Wolstenholme
Square One & Gillhams

“We are extremely grateful for the continued support we have received from Oswestry BID. They have worked wonders for the town and we are appreciative of their continued efforts.”

in future developments, as well as keeping businesses aware of potential opportunities.



SUPPORTING

Providing essential business training, grant information and marketing support.

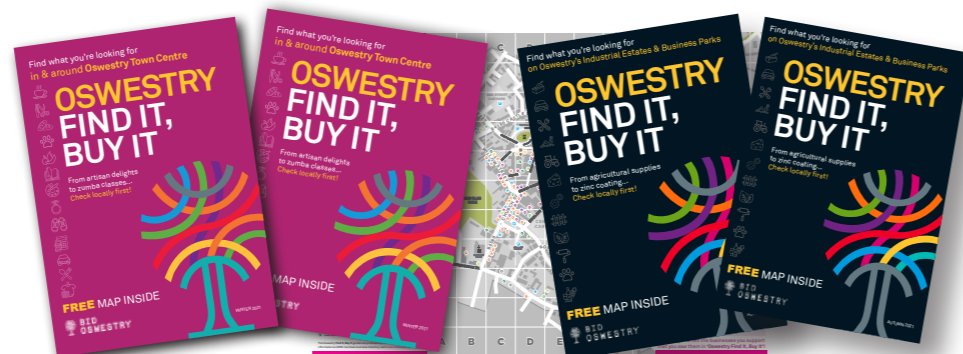
BID Projects to be continued, maintained and strengthened:

- 1 Grant Support**
Continue to assist levy payers to take advantage of relevant grant and funding schemes to support their business.
- 2 Training Programme**
Develop and extend BID's free access to training activities to meet levy payer's needs from First Aid to Social Media expertise and beyond.
- 3 Business Mentoring**
To provide levy payers with access to one-to-one support to further strengthen key marketing skills in retail and hospitality.
- 4 Free WiFi**
Extend the free WiFi audience to promote town events and businesses and to enhance dwell times to improve the footfall to commerce conversion.
- 5 Pubwatch**
The Pubwatch initiative aims to bring about a safer drinking environment with the support of all member licensed premises in Oswestry, the Shropshire Council Licensing team, West Mercia police and Oswestry Town Council's CCTV network.
- 6 Oswestry Find It Buy It**
Develop and distribute the directories for the town centre and industrial estates.



Jane Rees
The Oak Furniture Shop

“It's not often you get the chance to talk about your business in detail to someone who is genuinely interested in how it is performing, and then be given a plan as to how to improve and manage aspects that could do with some attention. Fran did all that for us, courtesy of Oswestry BID and we have certainly seen some benefits from her advice and recommendations.”



IMPROVING

Transforming our trading environment - safer, cleaner, more accessible - a better place in which to do business.

New projects BID will be seeking to positively impact:

- 1 Energy and Waste Costs**
Clarify and understand Oswestry's business energy consumption and waste generation. Look at opportunities for levy payers to reduce their carbon footprint, energy and waste costs.
- 2 Public Realm**
Develop projects to make Oswestry an even better place to live, work, shop, visit and be entertained. Lobbying for improvements in traffic regulations, street designs and wayfinding throughout the BID Area.
- 3 HGV Park**
Work towards the provision of an HGV Park to service HGV drivers coming to, or passing through, Oswestry.
- 4 Crime Reduction**
Work with the Police, partners and stakeholders to reduce criminal and antisocial behaviour in the BID area.

BID Projects to be continued, maintained and strengthened:

- 1 Refurbishing and Repurposing**
Continue to advocate for HSHAZ shopfront refurbishment and re-purposing upper floors and retail properties.
- 2 Nightly Security Patrols**
Strengthen and review our regular nightly security services helping to protect **over 129** of our local businesses to continue to reduce industrial estate crime.
- 3 Public Transport Improvements**
Continue to work with levy payers and local service providers to improve public transport options, including taxis, available to levy payer workers and their customers.
- 4 Wayfinding Signage**
Provide enhanced and additional banner flag signage and wayfinding to improve navigation, safety and accessibility of our industrial estates.
- 5 Targeted Cleaning**
Continue a regular programme to spruce up the trading environment in the town centre and industrial estates.
- 6 Festoon Lighting & Bunting**
Maintain and improve festoon lighting in the town centre to improve safety and support the night-time economy.



Targeted Cleaning

Inspector Claire Greenaway-Evans Safer Neighbourhood Team - North Shropshire & Oswestry West Mercia Police



“I am pleased to advise that the security patrols on the industrial sites in Oswestry have proven to be very effective, a positive reduction in calls has been seen owing to the patrols and I am keen to see the patrols continue.”

PROMOTING

Raising Oswestry's profile to attract more visitors, customers and investors into the town.

BID Projects to be continued, maintained and strengthened:

- 1 Exciting Events Programme**
Bring more events to Oswestry such as The Street Circus, Jubilee Beach, Halloween Dome, and support established town events like The Balloon Carnival, Food & Drink Festival, Community Games, CultureFest and Love Oswestry.
- 2 Refresh, Lift and Amplify Oswestry's Message**
Work with a PR company to put more focus on our levy payer's success stories and showcase their achievements, products and services. Shaping the way Oswestry's narrative is received and written about in leading industry, newspaper and visitor publications.
- 3 Business Tourism Partnership**
Continue to work with Oswestry Borderland Tourism to promote and support the local visitor and tourism sector.
- 4 Video and Photography**
Switch-up BID's approach to business and town promotion by generating provide smaller, powerful clips of local events and businesses to build a resource of digital content for ongoing promotion locally, regionally, and nationally.
- 5 OneOswestry Website & Social Media Promotion**
Maintain and refresh the BID's website and social media promoting all things Oswestry and signposting resources, services and partners.



BID FINANCES

	Year 1	Year 2	Year 3	Year 4	Year 5	Total	%
Levy Income (1)	£286,000	£286,000	£286,000	£286,000	£286,000	£1,430,000	98.3%
Voluntary Membership (2)	£5,000	£5,000	£5,000	£5,000	£5,000	£25,000	1.7%
Total Income	£291,000	£291,000	£291,000	£291,000	£291,000	£1,455,000	100.0%

Projects Expenditure							
A. Representing	£26,000	£25,375	£24,750	£24,125	£23,500	£123,750	8.5%
B. Supporting	£58,200	£57,575	£56,950	£56,325	£55,700	£284,750	19.6%
C. Improving	£65,015	£64,390	£63,765	£63,140	£62,515	£318,825	22.0%
D. Promoting	£80,000	£79,375	£78,750	£78,125	£77,500	£393,750	27.0%
Total Projects	£229,215	£226,715	£224,215	£221,715	£219,215	£1,121,075	

Other Expenditure							
Central Management Costs, Administration and Office	£40,285	£40,285	£40,285	£40,285	£40,285	£201,425	13.8%
Levy Collection	£7,200	£7,200	£7,200	£7,200	£7,200	£36,000	2.5%
Contingency (3)	£14,300	£14,300	£14,300	£14,300	£14,300	£71,500	4.9%
Accrual for Renewal (4)	-	£2,500	£5,000	£7,500	£10,000	£25,000	1.7%
Total Expenditure	£291,000	£291,000	£291,000	£291,000	£291,000	£1,455,000	100.0%

During a Second Term, Oswestry BID would continue its efforts to bring further significant income to the town from UK Government funding and other available grants - an approach which has had such a positive impact in Oswestry.

1. This includes the levy collection only, however further funding will continue to be sought, as per the first term.
2. Figures included for voluntary membership are estimated based on past performance but cannot be guaranteed.
3. Contingency for project overspend and liabilities.
4. Accrual retained from levy revenue to provide costs of the BID for any further term, otherwise they will be spent on additional projects in the final year.

BID GOVERNANCE

The Management and Governance of the BID will continue to be open and transparent and will be accountable to the Levy Payers.

The Oswestry BID operates as a company limited by guarantee and as such has a Board of Directors made up from BID Levy Payers. This Board takes responsibility for the strategic and financial management of the BID and will meet on a regular basis.

The composition of the Board reflects the breakdown of the Levy Payers across the town. Alongside the Board there will be a variety of short life and/ or ongoing working groups that will feed into the Board as and when required.

It is the responsibility of the Board of Directors to ensure good management of the BID. The management team will be a combination of salaried and contracted resources depending on the needs of the business during the term of the BID.

In order to deliver value for money within the framework of the aims and objectives of this Business Plan, BID will work closely with key stakeholders such as property owners, developers, Shropshire County Council, Oswestry Town Council and the Police. BID will seek, wherever possible, to influence and shape larger projects to the benefit of its own aims, whilst supporting others to achieve their objectives.

BASELINE STATEMENTS

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In BID working together with local councils where our interests meet, it's important to ensure clarity on the provision of core basic services in the BID Area through the duration of the BID.

To this end, Shropshire Council and Oswestry Town Council endorse the fundamental principle of additionality within the BID by agreeing to maintain, as far as possible, the provision of existing services from the respective Councils to businesses at their current level (subject to budgetary constraints) across the Oswestry BID Area. In line with BID legislation, BID services within the Oswestry BID Area will only be additional to, and not in substitution for, those provided by Shropshire Council, Oswestry Town Council and West Mercia Police.



A set of Baseline Statements is available online at www.oneoswestry.co.uk/wp-content/uploads/2022/06/BID-Baselines.pdf or click the QR code shown.

These statements give the assurance that Oswestry BID will only provide services and benefits additional to those that would have been available without the BID.



THE BID LEVY

The BID Levy Rate for Oswestry is presently set at 1.75% of the rateable value of the hereditament - a hereditament being a rateable business premises. The levy rate would apply to businesses in the Oswestry BID Area with a Threshold Rateable Value of £12,000 or more.

The proposal for Oswestry BID's Second Term is to keep the BID Levy Rate and Threshold Rateable Value at the same level to allow the business benefits of BID to be retained, whilst providing scope for further projects to strengthen and enhance the trading environment for BID's business members.

- 1 The BID Levy Rate will be fixed at 1.75% of Rateable Value of Hereditaments as at 1st April 2023 based on the 2017 Rating List.
- 2 All new Hereditaments entering the Rating List after 1st April 2023 will be levied at 1.75% of the prevailing list at the start of each chargeable year.
- 3 The BID Levy will be charged annually in advance for each chargeable period from April to March, starting on 1st April 2023 utilising the prevailing values on the 2017 Rating List.
- 4 New businesses will be charged from the point of occupation based upon the rateable value at the time they enter the rating list.
- 5 If a business ratepayer occupies the premises for less than one year, the BID Levy paid will be on a daily basis and any appropriate refund will be made.
- 6 A Threshold Rateable Value of £12,000 will be applied, exempting payment from any Hereditament within the defined BID Area falling below this Rateable Value.
- 7 In the case of an empty or untenanted premises, the property owner (the subsequent eligible ratepayer) will be liable for the BID Levy with no void period and will be entitled to vote in the BID Ballot.
- 8 Non-retail charities with no trading income, schools and religious organisations will be exempt from paying the BID Levy. No other exemptions will apply.
- 9 The term of the BID will be five years from 1st April 2023 to 31st March 2028.



BID DIRECTORS & TEAM



Ian Follington, Chair
Deblen Ltd
(Engineering Services)



Patrick Evans
Evans Enterprises
(Industrial)



James Woodward
Cold Move
(Industrial)



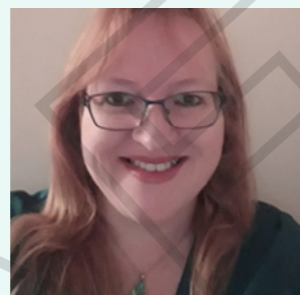
Tim Morris
Booka Bookshop
(Independent Retail)



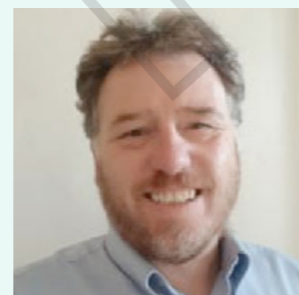
Lee Lucks
Oswestry Borderland
Tourism (Tourism)



Stuart Phillips
Celt Rowland
(Professional Services)



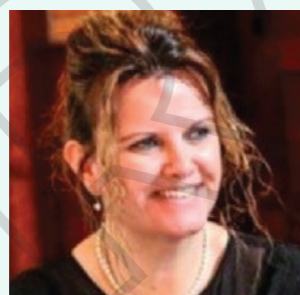
Tania McGee,
Lanyon Bowdler
(Professional Services)



Mark Derham
Bridge Coffee
(Food & Drink)



Duncan Tipton
Wilko
(Large Retail)



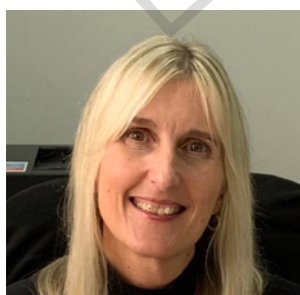
Samantha Cleal
Niche Patisserie
(Hospitality)



Graeme Kirkham
Knock & Snitch
(Hospitality)



Kevin Griffiths
Griffiths Hire Shops
(Trade Counter -
Industrial Estate)



Adele Nightingale
BID Manager



Lindsey Pierce
BID Assistant Manager

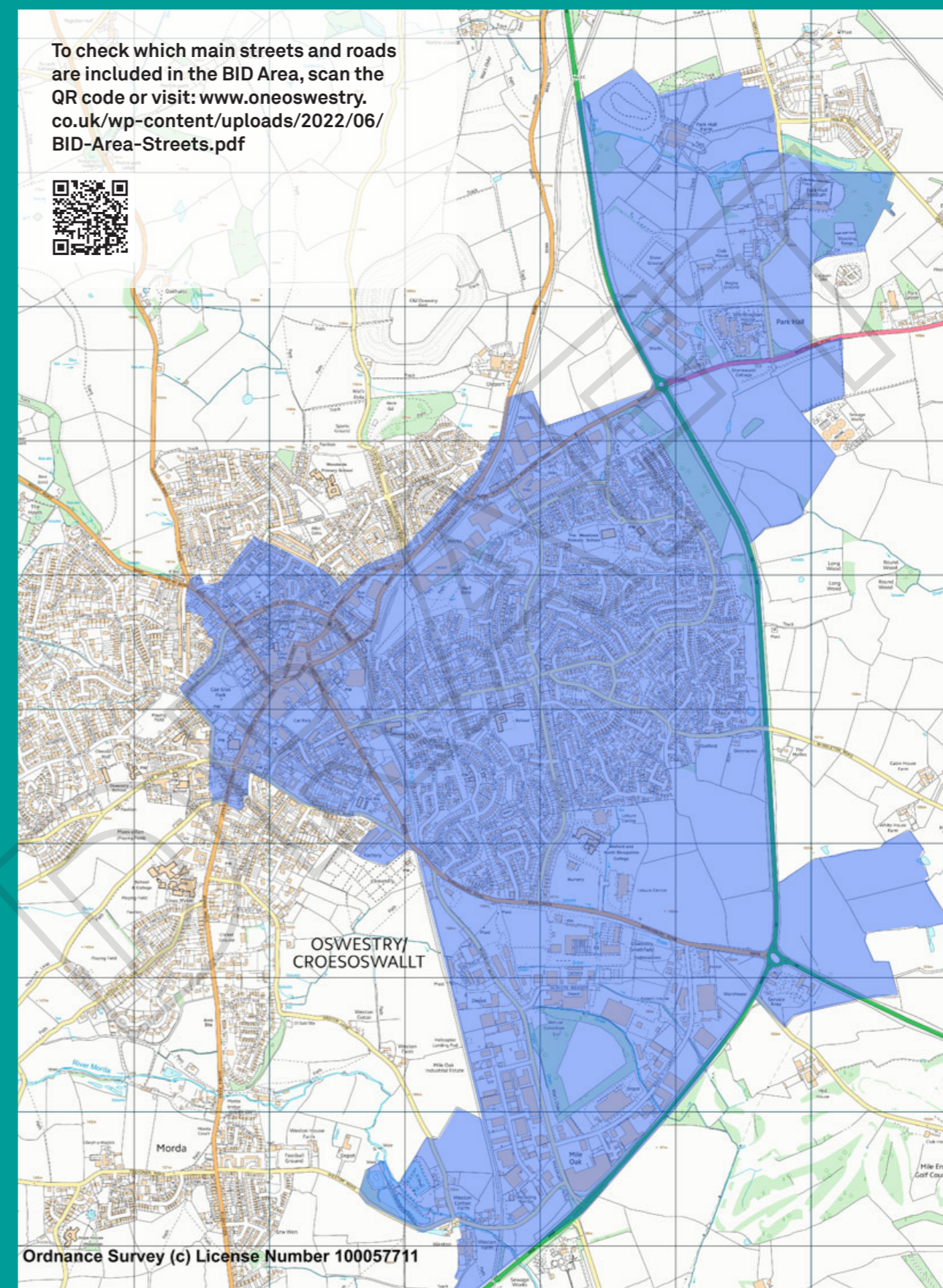


John Waine
Technical & Comms
Support



BID AREA

To check which main streets and roads are included in the BID Area, scan the QR code or visit: www.oneoswestry.co.uk/wp-content/uploads/2022/06/BID-Area-Streets.pdf



KEEPING THE BENEFITS

Vote YES to secure £1.4m additional investment into Oswestry over the next five years.

Oswestry BID operates within a fixed term of five years until March 2023. If the Second Term Ballot

is unsuccessful, then BID will cease to exist on 31st March 2023 and all of BID's projects, services, events, and business benefits will be lost.

If you don't want to lose the business benefits and services that BID provides then **VOTE YES** to a BID Second Term. **EVERY VOTE COUNTS.**

A REPRESENTING

- Co-ordinated business representation to local authorities.
- Co-ordinated representation for businesses on the Future Oswestry Group.
- Representation for business on the High Street Heritage Action Zone Board.
- Business Tourism Partnership with Oswestry Borderland Tourism.

B SUPPORTING

- Support with accessing grants and navigating Local Authority policies and procedures.
- Assistance with improving traffic management and regulation.
- Free WiFi or footfall monitoring data.
- Support for new directories for the town centre and industrial estates.
- Access to the Pubwatch & Shopwatch initiatives, as well as the DISC app.
- Free business training such as Emergency First Aid and Social Media courses.

C IMPROVING

- Ring-fenced BID local investment fund, totalling £1.6m over five years.
- Advocacy for refurbishing shop fronts or re-purposing upper floors above retail properties.
- Nightly security patrols protecting 129 local businesses.
- Targeted cleaning to improve the trading environment on the industrial estates and town centre.
- Support for festoon lighting in the town centre improving safety & attractiveness.

D PROMOTING

- Popular promotional videos reaching over 500,000 people.
- Dedicated OneOswestry website and Shop Local Online.
- @OneOswestry social media promotion for town centre and industrial estate businesses.
- Supporting the Oswestry Balloon Carnival, Oswestry Food Festival, Cae Glas Live, and Oswestry Community Games.
- Bringing exciting new BID Events to town such as the Halloween Dome, Jubilee Beach and the Street Circus.

✓ VOTE YES

Vote YES to secure £1.4m additional investment into Oswestry over the next five years

Ballot opens:
6th October

Ballot closes:
3rd November

A postal Ballot of all defined business ratepayers in the BID Area will take place from 6th October to 3rd November 2022.

The result will be announced on 4th November 2022.

The Second Term BID Ballot will only be successful if the following two tests are satisfied:

1. A simple majority by number of those voting must vote in favour.
2. Those voting in favour must represent the majority of rateable value of those voting.



Oswestry BID
Suite 3, Salop House
13 Salop Road
Oswestry SY11 2NR

Contact us:
info@oswestry4bid.co.uk
01691 700365
oneoswestry.co.uk/bid-oswestry





BIDOSWESTRY

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BID PROJECTS

A selection of projects that BID has initiated, led or partnered on

New Town Map signage & printed maps/dispensers
New double yellow lines for improved safety & access on industrial estates
Popular Promotional Videos reaching over 500,000 viewers
OneOswestry website and Shop Local Online
Oswestry Balloon Carnival - Sponsor & Active Partner
Nightly Security Patrols protecting 129 businesses
Free Business Training attended by over 390 staff
Footfall Town Dashboard System
Free Town WIFI
Free Bespoke Business Mentoring
Facilitated access to Business Grants
Manage the Pubwatch & Shopwatch initiatives
The voice of business on the Future Oswestry Group (FOG)
Tourism Partnership with Oswestry Borderland Tourism
Extended CCTV network in town centre & industrial estates
Advocacy for restoration of town's railway connection
Town-wide Road Sign Audit & sign renewing
New Wayfinding signage on industrial estates
Litter picking and sign cleaning on industrial estates
Covid support for businesses
New Oswestry brand, OneOswestry
Representing business in the Town Masterplanning process
Home-Safe at Christmas initiative with popular Night Bus service
Night Bus Extension in 2022 from April to December
Extended Defibrillator network in town centre & industrial estates
New Find It, Buy It directories for industrial estates & town centre
Provision of colourful seasonal bunting through the town centre
Bright festoon lighting in the town improving safety & attractiveness
New events such as Halloween Dome, Ice Rink, Town Beach & Street Circus
Sprucing up, cleaning and jet washing pavements around the town centre
Active Heritage Action Zone (HAZ) partner driving improvements
Refurbishment of town centre sculptures
Led Welcome Back funding for new Picnic Benches & vinyl wrapping Be-Wise
Advocate for HAZ Shopfront Refurb scheme and Re-purposing Upper Floors
Working with partners on the Church Street Enhancement Project
Developing the Oswestry Cycling & Rickshaw Project
Additional funding of £105,000 secured to be spent on Oswestry
Worked with partners to be awarded £1.8m via High Street HAZ funding
Set up the One Oswestry Cup green initiative
Created several Town Centre Shop Trails & Competitions
Refurbishment of town centre & park benches through Welcome Back Fund

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<u>Committee and Date</u>
Cabinet 20 th July 2022

<u>Item</u>
<u>Public</u>

Council Tax Energy Rebate - Discretionary Scheme Approval

Responsible Officer James Walton
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1. Synopsis

1.1 To consider options for distribution of £0.584m discretionary fund made available by Government to provide additional support for households to supplement the council tax energy rebate scheme.

2. Executive Summary

- 2.1. In February 2022 the Government announced an energy bills rebate to help households with rising energy bills. This included a £150 non-repayable rebate for households in bands A-D, known as the council tax rebate.
- 2.2. The Government also provided an additional discretionary fund, to enable Councils to provide additional support to be targeted towards those most likely to be suffering hardship as a result of the cost of living crisis. This could be for households that did not meet eligibility under the core scheme (e.g. households in bands E-H), or a top up payment to vulnerable residents in band A-D.
- 2.3. Shropshire Council have been allocated £0.584m in council tax rebate discretionary fund. Allocations must be spent by 30 November 2022 and any unspent allocations must be repaid to Government.
- 2.4. The options for consideration are as set out below.
 - A. Extend the core scheme to provide some support for residents bands E-H

- B. Make a targeted payment for council tax support claimants in bands E-H in receipt of council tax support as of 1 April 2022 (i.e. that will not receive the rebate from the core scheme).
- C. Make an additional top up payment of £70 to existing working age council tax support claimants in receipt of council tax support as of 1 April 2022 (and who are continuing to claim council tax support as of 1 August 2022) and utilise any remaining balance for wider applications for support.
- D. Run an application process, against set criteria for support.

3. Recommendations

- 3.1. The recommended approach would be to progress both options B and C as set out in paragraph 2.4 above.

REPORT

4. Risk Assessment and Opportunities Appraisal

- 4.1. There is an opportunity to identify an approach that provides the maximum support to identifiable households needing additional support, that also enables funds to be distributed easily and quickly.
- 4.2. Failure to distribute the money in the time frame will result in funds being returned to Government, and pressure being put on other discretionary welfare fund streams.
- 4.3. There is a reputational risk to the Council if funds fail to be distributed within the available timeframe.

5. Financial Implications

- 5.1. There are no direct financial implications to the Council as the proposal will ensure the discretionary fund is wholly contained within the funding allocation from Central Government.

6. Climate Change Appraisal

- 6.1 There are no direct implications for climate change as a result of this report and full implications and considerations of climate change as a result of any changes to the approved approach will be reviewed at that time.

7. Background

- 7.1. In February 2022 the Government announced a package of support called the energy bills rebate. Part of this support was a £150 non-repayable rebate for households in council tax bands A-D known as the council tax energy rebate.
- 7.2. In addition to the core scheme the Government have provided £144m of discretionary funding to support those that do not meet the eligibility criteria of the main scheme. Shropshire Council have been allocated £0.584m of this fund.
- 7.3. The discretionary fund has to be spent by 30 November 2022. Any unspent funds must be returned to Government.
- 7.4. The options for consideration are detailed below.

A. Extend the core scheme to provide some support for residents bands E-H

- The properties in Council Tax bands E-H are set out in the table below. These figures include empty properties and properties exempt from the main scheme.

Band	Properties
E	17,013
F	9,097
G	4,716
H	344

- To stay within the available funding envelope, the maximum award payable to residents in band E properties would be around £34 per property
- Given the low value of this arbitrary award and associated administration it is not recommended to progress this option.

B. Make a targeted payment for council tax support claimants in bands E-H in receipt of council tax support as of 1 April 2022.

- There are estimated to be 471 council tax support claimants in bands E-H. To offer to extend the additional £150 energy rebate payment to these residents via the discretionary fund would utilise £71,000 of the available funding.
- It is recommended that this option is approved.

C. Make an additional top up payment to existing working age council tax support claimants in receipt of council tax

support as of 1 April 2022 and continuing to be in receipt of council tax support on 1 August 2022.

- There are currently 8,205 pensioners claiming council tax support and 7,162 working age council tax support claimants. Pensioners are due to be paid £100 additional cost of living support from the Household Support Fund within the same timescales i.e., prior to the end of September 2022.
- Given this additional support to pensioners from the Household Support Fund, the discretionary fund could be used to offer a top up payment to working age claimants in receipt of council tax support as of 1 April 2022 and continuing to claim council tax support as of 1 August 2022 based on one of the levels set out below.

Level of Top Up	Estimated Cost	Discretionary Balance
£50	£0.358m	£0.226m
£60	£0.430m	£.0154m
£70	£0.501m	£0.083m

- In addition, bank details already obtained as part of the core scheme administration could be utilised, and where these are not held, targeted application letters could be sent. Any residents that had not responded prior to the 30 November 2022 cut-off date could have the top up credited to their council tax account.
- It is recommended that this option is approved.

D. Run an application process, against set criteria for support

- This option will require substantial additional resources and there would be a danger that the fund would not all be spent before the 30 November 2022 deadline.
- Given the logistics of this approach and associated administration it is not recommended to progress this option.

8. Conclusion

8.1. A combination of option B with option C would provide a targeted approach ensuring all funds can be allocated in a timely and reasonably efficient manner. The combined cost would be estimated as follows.

Band E-H council tax support claimants	£0.071m
£70 top up to all council tax support claimants	<u>£0.501m</u>

Estimated expenditure £0.572m

The recommended approach would leave around £12,000 of available funding held in a contingency to support any other residents in severe financial hardship via an application process. The estimated expenditure as recommended would allow a further 80 awards at £150.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)

Cllr Gwilym Butler

Local Member

All

Appendices

None

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