

Council Meeting

**Wednesday, 24th
July, 2019**

HASTINGS BOROUGH COUNCIL

Dear Councillor

You are hereby summoned to attend a meeting of the Hastings Borough Council to be held at the Council Chamber, Muriel Matters House, Breeds Place, Hastings, East Sussex, TN34 3UY, on Wednesday, 24th July, 2019 at 6.00 pm at which meeting the business specified below is proposed to be transacted.

Yours sincerely,

Chief Legal Officer

Muriel Matters House
Breeds Place
Hastings

16 July 2019

AGENDA

1. Apologies for Absence
2. To approve as a correct record the minutes of the last meeting held on 15 May 2019
3. Declarations of Interest
4. Announcements from the Mayor and Leader
5. Questions (if any) from:
 - a) Members of the public under Rule 11
 - b) Councillors under Rule 12
6. Motion (Rule 14)

Councillor Batsford to propose:

“Over the last four years, Hastings has seen a huge rise in the

numbers of households threatened with homelessness through the increased use of 'No-Fault Section 21 Notices' of the 1988 Housing Act, which allows landlords to carry out 'no fault' evictions.

Over 27% of all accepted homelessness applications in Hastings now result from 'No-Fault Section 21 Notices' evictions.

This widespread use of 'No-Fault Section 21 Notices' results in insecurity for private tenants and disruption to family life, as well as affecting job security, educational performance in children, and mental health, with families continuously under the threat of potential eviction proceedings.

In Hastings, which has the largest proportion of private rented housing in the south east, it also creates instability in local communities, with transient populations who are never able to settle.

There is not only a personal cost for Hastings but a financial one as well. Temporary accommodation for those who are accepted as homeless now costs the council over £1m.

Abolishing 'No-Fault Section 21 Notices' would provide increased security for tenants, as well as reducing the homelessness burden on local authorities, particularly if coupled with the government's proposals to extend the minimum period for shorthold tenancies from six months to three years.

This Council:

1. Calls for the end of the use of 'No-Fault Section 21 Notices' evictions.
2. Instructs the Leader of Hastings Council to write on behalf of the council to the Secretary of State for Housing, Communities and Local Government, asking him to repeal 'No-Fault Section 21 Notices' of the Housing Act 1988 and to speedily implement their proposals for three year fixed term tenancies."

7. Motion (Rule 14)

Councillor Chowney to propose:

"Since 2002 people seeking asylum have only been able to apply for the right to work after they have been waiting for a decision on their asylum claim for over a year. Even then they can only be employed into one of the narrow, highly-skilled professions included on the Government's Shortage Occupation List.

People seeking asylum are left to live on as little as £5.39 per day,

struggling to support themselves and their families, and left vulnerable to destitution, isolation, and exploitation.

The potential economic gain for the UK economy of allowing people seeking asylum to work is estimated to be £42.4million via increased taxable income and reduced payments of accommodation / subsistence support.

71% of people polled agreed with the statement: *“when people come to the UK seeking asylum it is important they integrate, learn English and get to know people. It would help integration if asylum-seekers were allowed to work if their claim takes more than six months to process”*.

In Hastings, there are up to 120 people seeking asylum in receipt of Section 95 support.

We believe that:

- (i) people seeking asylum want to be able to work so that they can use their skills and make the most of their potential, integrate into their communities, and provide for themselves and their families;
- (ii) restrictions on the right to work can lead to extremely poor mental health outcomes, and a waste of potentially invaluable talents and skills both for the economy of Hastings, Rye, East Sussex and the UK;
- (iii) allowing people seeking asylum the right to work would therefore lead to positive outcomes for those seeking asylum in Hastings and for the local and national economy.

This council:

- (i) Agree to join the Lift the Ban Coalition, which is campaigning to restore the right to work for everyone waiting for more than 6 months for a decision on their asylum claim.
- (ii) Call on East Sussex County Council to also join the Lift the Ban Coalition as above.
- (iii) Call on the UK Government to give people seeking asylum the right to work unconstrained by the shortage occupation list after they have waited six months for a decision on their initial asylum claim or further submission.”

8. Motion (Rule 14)

Councillor Rankin to propose:

“HBC will consider the carbon reducing impact of planting trees on council land and where appropriate plant trees or managed hay meadows to increase carbon sequestration as set out in The Royal Society Greenhouse Gas Removal report of October 2018. We call on ESCC to implement this policy on a wider scale.”

9. Motion (Rule 14)

Councillor Barnett to propose:

“Recent evidence shows that poverty in Hastings has worsened significantly in the last few years. More adults live in poverty, more children live in poverty, and those that do so are likely to die even sooner, at all age groups. Especially shocking is that infant mortality has increased for the first time in 60 years, so poorer parents are now more likely to see their new baby die before that baby is one year old.

For those in poverty, the early roll out of Universal Credit has led to further disadvantage, with many denied previous benefits or forced to abandon training and higher education. The recent United Nations report concludes that austerity policies have clearly contributed to this growth in poverty and deprivation.

Demand for temporary accommodation has increased dramatically as housing becomes increasingly unaffordable.

The Child Poverty rate for Hastings is now 38%, by far the highest in the South East.

Many children are not attending school regularly, and are increasingly obese by the age of 11.

The increasing attractiveness of Hastings as a place to move to, with a buoyant creative economy, cuts little ice with those who see their standard of living falling further and further behind the better off.

Rather, they see many support services failing to provide adequate support, with schools, GP's and other health services, voluntary sector groups and the local authorities all struggling with increased demand and reduced budgets.

This council is determined to address poverty in whatever ways are possible, and agrees to:

- Press government for an end to short term funding through competitive grants (ie Homelessness provision) and other initiatives, such as Hastings Opportunity Area, and a return to adequate long-term support based on local needs.

- Ask the Overview and Scrutiny Committee to consider the impact of the anti-poverty strategy 2016-21 and for it to undertake to monitor key indicators of poverty on a regular basis.
- Call for a community conference to consider how best to tackle poverty in the next anti-poverty strategy, and to consider making this strategy a longer term (10 year) one to encourage partners to plan joint action more strategically.
- The council is already committed to fund and support voluntary sector advice and support agencies (HARC, CAB and Credit Union) for 2020/21, but we'll do all we can to protect funding to commission effective advice and support services in future years.
- Sign up to become affiliated to the Child Poverty Action Group.
- Support and encourage others to support the day of action on child poverty in Hastings on August 1st, led by Unite the Community and other local voluntary organisations.”

10. Membership of Committees

To give effect to any request received from a political group for a change in their representation on committee(s).

11. Reports of Committees

- a) To resolve that the public be excluded from the meeting during the discussion of any items considered while the public were excluded by the relevant committee because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in the respective paragraphs of Schedule 12A to the Local Government Act 1972 referred to in the minutes of the relevant committee.
- b) To receive and consider the recommendations and any decisions of the following committees.

Notes:

1. The Mayor will call over the minutes and members will rise and indicate those items which they wish to have discussed.
2. No discussion shall take place at this stage upon part II minutes covered by the resolution 11a) above. Any such discussion shall be deferred to item 12 on the agenda.

Minute No.	Subject	Cabinet Member / Chair
CABINET – 8 JULY 2019		
182. (C)	Constitution Change July 2019	Rogers
183. (C)	Sex Establishments Policy Review	Fitzgerald
184.	Lower Tier Residential Development	Batsford
185.	Proposed Variation of the Anti Social Behaviour Public Spaces Protection Order	Fitzgerald
186.	Development of Income Generation, Regeneration and Energy Initiatives	Chowney
187.	Final Accounts 2018/19	Chowney
188.	Corporate Plan retrospective report on performance during 2018/19 and proposed Performance Indicator targets for 2019/20	Forward
190.	Cabinet Appointments to Committees, Working Groups and Partnerships	Chowney
191. (C)	Annual Treasury Management Outturn Report 2018/19	Chowney

12. To consider the recommendations and decisions of committees (if any) which the Council has resolved should be discussed after the exclusion of the public from the meeting.

Appendix - Cabinet Agenda 8 July 2019

Note: Nothing contained in this agenda or in the attached reports and minutes of committees constitutes an offer or acceptance of an offer or an undertaking or contract by the Borough Council

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Agenda Item 2 Public Document Pack

FULL COUNCIL

15 MAY 2019

Present: The Right Worshipful the Mayor Nigel Sinden (Chair), Councillors Bacon (Vice-Chair), Barnett, Batsford, Battley, S Beaney, Berelson, Bishop, Charman, Chowney, Cox, Davies, Evans, Fitzgerald, Forward, Levane, O'Callaghan, Roberts, Rogers, Sabetian, Scott, Sinden, Turner, Webb, Louise, Lee, Patmore, K Beaney, Beaver, Edwards, Foster, Marlow-Eastwood and Rankin.

60. APOLOGIES FOR ABSENCE

None received.

61. ELECTION OF MAYOR

Councillor Sinden announced he was seeking re-election as Mayor of the Borough of Hastings and withdrew from the meeting.

The Deputy Mayor, Councillor Bacon, presided over the election of the Mayor for the new municipal year.

Councillor Rogers proposed that Councillor Sinden be re-elected Mayor of the Borough of Hastings for the new municipal year, seconded by Councillor O'Callaghan.

No further nominations were received.

RESOLVED (unanimously) that Councillor Nigel Sinden is re-elected as Mayor of the Borough of Hastings for the new municipal year.

Councillor Sinden made the declaration prescribed by Section 83 of the Local Government Act 1972.

The Mayor gave an acceptance speech reflecting on his first year as Mayor of the Borough of Hastings and setting out his priorities for the new municipal year. The Mayor hoped to build on the charitable work he and the Deputy Mayor have undertaken over the past year and looked forward to attending more civic events both in the Borough and further afield.

The Mayor thanked all those in attendance.

62. ELECTION OF DEPUTY MAYOR

Councillor Bacon stood for re-election as Deputy Mayor of the Borough of Hastings and withdrew from the meeting.

Councillor Chowney proposed that Councillor Bacon be re-elected as Deputy Mayor of the Borough of Hastings, seconded by Councillor Batsford.

No further nominations were received.

FULL COUNCIL

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RESOLVED (by majority) that Councillor James Bacon is re-elected Deputy Mayor of the Borough of Hastings for the current municipal year.

Councillor Bacon made the declaration prescribed by Section 83 of the Local Government Act 1972.

63. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE FULL COUNCIL MEETING HELD ON 24 APRIL 2019

RESOLVED that the minutes of the Full Council meeting held on 24 April 2019 be signed by the Mayor as a correct record of the proceedings.

64. ELECTION OF LEADER OF THE COUNCIL

Councillor Chowney stood for re-election as Leader of the Council on a three year term.

Councillor Turner proposed Councillor Chowney be re-elected as Leader of the Council on a three year term, seconded by Councillor Levane.

RESOLVED (by majority) that Councillor Peter Chowney is re-elected Leader of the Council on a three year term.

65. TO RECEIVE THE LEADER'S REPORT ON THE APPOINTMENT OF THE DEPUTY LEADER OF THE COUNCIL

Councillor Chowney announced that Councillor Forward has been appointed as Deputy Leader of the Council and Regeneration, Culture and Tourism Portfolio Holder.

66. TO RECEIVE THE LEADER'S REPORT ON THE NUMBER OF MEMBERS TO BE APPOINTED TO CABINET, THE NAMES OF THOSE MEMBERS AND THE ALLOCATION OF CABINET PORTFOLIOS

Councillor Chowney reported that:

(1) membership of the Council's Cabinet be **9** Councillors

(2) the seats on Cabinet be allocated **7** to the Labour group (to include the Chair of the Charity Committee) and **2** to the Conservative group and members be appointed in accordance with the nomination of the groups as shown in appendix A to the minutes.

(3) allocation of responsibilities for Cabinet portfolios is as follows:

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<u>Cabinet Lead Member</u>	<u>Portfolio</u>
Councillor Chowney	Leader of the Council and Finance and Property Portfolio Holder
Councillor Forward	Deputy Leader of the Council and Regeneration, Culture and Tourism Portfolio Holder
Councillor Fitzgerald	Environment, Community Safety and Equalities Portfolio Holder
Councillor Rogers	Transformation, Governance and People Portfolio Holder
Councillor Batsford	Housing, Leisure and Community Engagement Portfolio Holder
Councillor Beaney	Charity Committee Chair
Councillor Evans	Climate Change, Biodiversity and Sustainable Development

67. TO AGREE THE APPOINTMENT OF THE OVERVIEW AND SCRUTINY COMMITTEE AND ITS TERMS OF REFERENCE

Councillor Chowney proposed the following terms of reference for Overview and Scrutiny.

RESOLVED that Overview and Scrutiny Committee be appointed with the following key areas of responsibility:

Overview and Scrutiny Committee
<ul style="list-style-type: none">• Strategy Targets• Reviewing progress on the implementation of Cabinet decisions• Policy development work with Portfolio Holders, officers and partners• Service reviews• Collection of Council Tax and other charges

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- **Payment of benefits**
- **Management of resources**
- **Public sector efficiency programmes**

68. TO APPOINT COMMITTEES OF THE COUNCIL, DETERMINE THE REPRESENTATION OF POLITICAL GROUPS ON THOSE COMMITTEES, TO APPOINT MEMBERS TO THOSE COMMITTEES AND TO APPOINT CHAIRS AND VICE CHAIRS (AS INDICATED) FOR THE MUNICIPAL YEAR 2019/20 (LIST TO BE CIRCULATED SEPARATELY)

Councillor Chowney proposed a motion regarding the appointment of committees as set out in the resolution below.

RESOLVED that the council adopts the following arrangements for the membership of committees:

(1) that membership of the Council's committees be as follows:

	<u>Councillors</u>	<u>Non-Councillors</u>
Overview and Scrutiny Committee	11	-
Audit Committee	5	-
Standards Committee	5	2
Licensing Committee	15	-
Employment Committee	4	-
Employment Appeals Committee	4	-
Planning Committee	10	-
Environment and Safety Committee	5	-

- (2) following a review of the political balance on the Council, that the seats on the committees of the Council be allocated to political groups and members be appointed to those committees in accordance with the nominations of the political groups as shown in appendix A; and
- (3) the Chairs and Vice – Chairs of the committees be appointed as shown in appendix A

The meeting adjourned at 6.35pm and reconvened at 6.55pm.

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69. THE YEAR'S PROGRAMME

In accordance with rule 1.1 (xii) of the constitution the Leader of the Council proposed the programme for the ensuing municipal year, which was seconded by Councillor Forward.

RESOLVED (by 22 votes for, 8 against with 1 abstention) that the council agrees the programme for the ensuing municipal year as proposed by the Leader of the Council.

70. COUNCIL MEETINGS 2019/20

RESOLVED that the meetings of the council be held on the following dates:

6.00pm on 24 July 2019
6.00pm on 23 October 2019
6.00pm on 18 December 2019
6.00pm on 12 February 2020
6.00pm on 19 February 2020 (Budget Meeting)
6.00pm on 22 April 2020
6.00pm on 13 May 2020 (Annual Meeting)

(The Mayor declared the meeting closed at 8.10pm)

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HASTINGS BOROUGH COUNCIL APPOINTMENTS TO COMMITTEES – AS OF COUNCIL ON MAY 2019						
POLITICAL BALANCE RULES APPLY TO COMMITTEES						
			NOMINATIONS FOR 2019/20		NOTES	
COMMITTEE	SEATS TO BE FILLED	ALLOCATION TO POLITICAL GROUPS		LABOUR GROUP	CONSERVATIVE GROUP	
		LAB	CON			
Cabinet	Up to 10 (Leader to decide)	7	2	<ul style="list-style-type: none"> • 1. Peter Chowney (Chair) • 2. Kim Forward (Vice Chair) • 3. Colin Fitzgerald • 4. Judy Rogers • 5. Andy Batsford • 6. Sue Beaney • 7. Maya Evans 	<ul style="list-style-type: none"> • 1. Rob Lee • 2. Andy Patmore 	1 member from the majority group to be a non-portfolio holder and to Chair the Charity Committee.
Audit Committee	5	4	1	<ul style="list-style-type: none"> • 1. Leah Levane (Vice Chair) • 2. Peter Chowney • 3. Antonia Berelson • 4. Tania Charman 	<ul style="list-style-type: none"> • 1. John Rankin (Chair) 	The Leader of the Council, who shall not be the Chair, is a member ex officio. With the exception of the above, members of this Committee may not be members of Cabinet. The Chair may not be in the same political group as the Leader of the Council.
Standards Committee	5 (+ 2 independents)	4	1	<ul style="list-style-type: none"> • 1. Paul Barnett (Chair) • 2. Margi O’Callaghan (Vice Chair) • 3. Alan Roberts • 4. Heather Bishop 	<ul style="list-style-type: none"> • 1. Mike Edwards 	No more than 1 Cabinet member who is not to be the Leader. Members may not appoint substitutes.

				NOMINATIONS FOR 2019/20		NOTES
COMMITTEE	SEATS TO BE FILLED	ALLOCATION TO POLITICAL GROUPS		LABOUR GROUP	CONSERVATIVE GROUP	
		LAB	CON			
Overview and Scrutiny Committee	11	8	3	<ul style="list-style-type: none"> 1. Warren Davies (Chair) 2. Leah Levane (Vice Chair) 3. Margi O'Callaghan 4. Mike Turner 5. Paul Barnett 6. Ruby Cox 7. Andrew Battley 8. Tania Charman 	<ul style="list-style-type: none"> 1. John Rankin 2. Karl Beaney 3. Paul Foster 	No Cabinet Member may sit on O & S Committees. Mayor and Deputy Mayor not eligible for membership. Political Balance applies to Chairs and Vice-Chairs of O&S Committee
Employment Appeals Committee	4	3	1	<ul style="list-style-type: none"> 1. Margi O'Callaghan (Chair) 2. Nigel Sinden (Vice Chair) 3. Heather Bishop 	<ul style="list-style-type: none"> 1. Mike Edwards 	
Employment Committee	4	3	1	<ul style="list-style-type: none"> 1. Peter Chowney (Chair) 2. Kim Forward (Vice Chair) 3. Judy Rogers 	<ul style="list-style-type: none"> 1. Mike Edwards 	

				NOMINATIONS FOR 2019/20		NOTES
COMMITTEE	SEATS TO BE FILLED	ALLOCATION TO POLITICAL GROUPS		LABOUR GROUP	CONSERVATIVE GROUP	
		LAB	CON			
Licensing Committee	15	11	4	<ul style="list-style-type: none"> • 1. Dominic Sabetian (Chair) • 2. Antonia Berelson (Vice Chair) • 3. Alan Roberts • 4. Heather Bishop • 5. James Bacon • 6. Leah Levane • 7. Nigel Sinden • 8. Ruby Cox • 9. Trevor Webb • 10. Andrew Battley • 11. Margi O'Callaghan 	<ul style="list-style-type: none"> • 1. Andy Patmore • 2. Karl Beaney • 3. Rob Lee • 4. Mike Edwards 	No Cabinet member with Portfolio. No more than 5 members of Planning Committee. Chair and Vice-Chair not to be elected from members of the Planning Committee.
Planning Committee	10	7	3	<ul style="list-style-type: none"> • 1. Alan Roberts (Chair) • 2. Ruby Cox (Vice Chair) • 3. Heather Bishop • 4. Margi O'Callaghan • 5. Phil Scott • 6. Trevor Webb • 7. Warren Davies 	<ul style="list-style-type: none"> • 1. Mike Edwards • 2. Sorrell Marlow-Eastwood • 3. Matthew Beaver 	No Cabinet member with Portfolio
Environment and safety Committee	5	4	1	<ul style="list-style-type: none"> • 1. Heather Bishop (Chair) • 2. Ruby Cox (Vice Chair) • 3. Alan Roberts • 4. James Bacon 	<ul style="list-style-type: none"> • 1. Sorrell Marlow-Eastwood 	No Cabinet member with Portfolio

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Present: Councillors Chowney (Chair), Forward (Vice-Chair), Batsford, S Beaney, Evans, Rogers, Lee and Patmore.

179. APOLOGIES FOR ABSENCE

Apologies received for Councillor Fitzgerald.

180. DECLARATION OF INTERESTS

None.

181. MINUTES OF LAST MEETING ON 7 MAY 2019

RESOLVED - that the minutes of the Cabinet meeting held on 7th May 2019 be approved as a true record.

RESOLVED - under rule 13.3 of the council's constitution, the recommendations set out in minute numbers 182 and 190 were agreed without being called for discussion.

182. CONSTITUTION CHANGE JULY 2019

The Chief Legal Officer submitted a report to amend the Council's Constitution.

The amendments that the Chief Legal Officer suggested are as a result of a conflict of interest by members of the Standards Committee in considering a standards complaint necessitating changes to Part 2 of the Constitution.

Members of Working Arrangement Group were consulted and are supportive of the change.

Under rule 13.3 the recommendations of the report were agreed without being called for discussion.

RESOLVED:

To recommend that the amendment to the Council's Constitution be adopted by Full Council.

Reasons for the decision:

The Council's Constitution is the basis for the Council's Corporate Governance.

183. SEX ESTABLISHMENTS POLICY REVIEW

The Assistant Director, Environment and Place, submitted a report to provide Cabinet with feedback from a consultation on proposed changes to the council's sex

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establishments policy, and seek Cabinet approval to recommend that Full Council adopts the updated policy.

The Licensing Manager presented the report to the Cabinet.

There is no statutory requirement for the Council to have a specific policy on sex establishments. However, following a relatively high profile application for a sexual entertainment venue 6 years ago, Councillors indicated that adoption of a clear policy would help make the application process more transparent to all concerned, including applicants and objectors.

The existing policy was developed in 2015 and has been reviewed and updated by the Licensing Manager. The policy has stood the test of time and has not been challenged. However, it required updating to reflect the changes to the borough over the past 4 years and take account of the latest legal advice.

The main change from the existing policy has been to propose reducing the numbers of such establishments deemed to be appropriate for the borough down from the existing one sex shop and one sexual entertainment venue to just one sexual entertainment venue.

Councillor Chowney proposed approval of the recommendations of the report, seconded by Councillor Rogers.

RESOLVED (unanimously):

That Cabinet endorse the draft policy attached at appendix 1, and recommend that it is adopted by Full Council.

Reasons for the decision:

From time to time the council's sex establishments' policy should be reviewed and updated. The existing policy was adopted in July 2015 and is now due for a review.

184. LOWER TIER RESIDENTIAL DEVELOPMENT

The Assistant Director, Housing & Built Environment presented a report to advise members of progress being made in bringing forward the Lower Tier site at Bexhill Road for residential development; details of Homes England's Grant Funding Agreement; and to establish a budget to cover the Council's costs in advance of any grant monies due from Homes England.

The site is currently identified for 192 homes, of which 40% would be Affordable Housing. At this stage, the Affordable Housing has been identified as a mix of Shared Ownership and Affordable Rent, which is rent that is up to 80% of open market rental value.

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The Council will be solely responsible for taking forward the initial stages of the development until the site is fully remediated, planning is obtained and the land value has been maximised. The Council will then enter into a JV agreement with a Registered Provider (RP) for the housing development phase. This approach is in part due to the need to provide Homes England with the confidence that the Council, who has no recent track record of residential development, has the necessary expertise to take forward a site of the size and complexity presented by the Lower Tier.

The Council is receiving legal advice on how best to contract with a RP partner and is exploring options for entering into a contract following a Voluntary Transparency Notice (VEAT) being published.

The Assistant Director noted that any flood mitigation measures at the site could improve circumstances for existing residents as well as the proposed development.

Councillors discussed the report and asked questions of the Assistant Director.

Councillor Batsford proposed approval of the recommendations of the report, seconded by Councillor Forward.

RESOLVED (6 for, 2 against):

- 1. That the engagement of Harmony Homes for professional support and project co-ordination prior to planning permission being granted is agreed.**
- 2. That the engagement of Ambiental Technical Solutions for flood remediation modelling and works is agreed.**
- 3. That the use of the Bloom Procurement Framework to engage professional services including architectural services up to the granting of planning permission is agreed.**
- 4. That the Council agree expenditure of up to £6.9million capital (this expenditure to be funded by Homes England) and £90,000 revenue (interest) to fund development costs associated with the delivery of the Lower Tier residential development.**
- 5. That a further report be produced for Cabinet and Council agreeing a revised Capital Programme for 2019/20 and beyond. This to include the potential development funding for the Lower Tier site.**

Reasons for the decision:

The Council intends to develop circa 190 new homes on part of the former recreation ground at Bexhill Road. Extensive remediation work is required to bring the site up to a marketable value, and the scheme would not be viable without external funding.

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Through the Homes England Local Authority Accelerated Construction (LAAC) fund, the Council has secured up to £6.9m to bring the scheme forward. This funding must be drawn down by the end of March 2021.

The resulting homes will make a significant contribution to meeting local housing need across a range of tenures and will include for 40% affordable housing. In addition, an opportunity exists to purchase properties through the Council's Housing Company for private letting, creating an ongoing income stream for the Council.

The terms of the funding agreement with Homes England require that claims against the grant funding up to the value of £6.9m are paid quarterly in arrears. Therefore, it will be necessary that payments are made in advance of receiving grant funding.

The funding of the development following the initial grant funding will need to be separately agreed as part of the Council's revised Capital Programme due to be considered in September 2019.

185. PROPOSED VARIATION OF THE ANTI SOCIAL BEHAVIOUR PUBLIC SPACES PROTECTION ORDER

The Assistant Director, Environment and Place presented a report to summarise consultation feedback on proposals to update the Anti-social Behaviour Public Spaces Protection Order (ASB PSPO); agree changes to the draft ASB PSPO; and seek approval for the Chief Legal Officer to update and extend the ASB PSPO in accordance with regulations published by the Secretary of State.

The current proposals for varying the ASB PSPO result from an analysis of complaints from residents, businesses and visitors to the town received since the existing ASB PSPO came into force. Plus feedback from council services and local stakeholders.

The proposed changes to the ASB PSPO and details of the consultation process were included in the Assistant Director's report.

Councillors debated the report and noted that the Council required more support from the police on issues such as street drinking. The Assistant Director informed the Cabinet that he and the Director of Operational Services will be meeting Chief Inspector Sarah Godley to discuss the issues raised.

In response to a question it was confirmed that PSPOs cannot be used to tackle rough sleeping or homelessness.

Councillor Rogers proposed approval of the recommendations of the report, seconded by Councillor Chowney.

RESOLVED (unanimously):

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1) Cabinet authorise the Chief Legal Officer to vary the existing ASB PSPO by replacing it with the updated version at appendix 6, and to extend it by 3 years from 9th July 2019, in accordance with regulations published by the Secretary of State.

2) Cabinet authorise the Chief Legal Officer to correct any minor drafting errors that may be identified, and make minor amendments including deletions and insertions that may be necessary to ensure the ASB PSPO is accurate.

Reasons for the decision:

PSPOs are made under the Anti-social Behaviour, Crime and Policing Act 2014, and are valid for up to 3 years. The existing ASB PSPO came into force on 12th June 2017 enabling the council and the police to address serious anti-social behaviour in specified public places. PSPOs can be varied and extended, and changes to patterns of ASB in Hastings since summer 2017 have resulted in the need to review and update the council's ASB PSPO.

186. DEVELOPMENT OF INCOME GENERATION, REGENERATION AND ENERGY INITIATIVES

The Director, Operational Services presented a report to review progress in delivering income generation activity.

Cabinet agreed an initial programme for income generation at its meeting on the 4th July 2016. This followed an analysis of the council's financial position that identified a potential revenue funding gap of £3.5m.

The council adopted an income generation strategy in September 2017 and a commercial property investment strategy which committed the council to making available of the levels of investment for the period 2017/18 – 2020/21.

Details of the Council's investments, asset acquisitions and income were included in the Director's report.

Councillor Chowney proposed amending the wording of recommendation 7 to avoid misunderstanding. This was agreed.

Councillor Chowney proposed approval of the recommendations of the report, seconded by Councillor Batsford.

RESOLVED (unanimously):

1. That cabinet welcome the delivery of a range of actions that are anticipated to generate income or savings for the council circa £1.3m in a full financial year.

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2. That the council should continue to acquire suitable commercial properties if they meet our investment criteria when they should become available within the Hastings Travel to Work Area (TTWA).
3. That a revised and adjusted business plan for the Hastings Housing Company be presented to Cabinet before the council commits to a further programme of investment
4. That the council should consider continuing acquiring housing directly in order to reduce the costs and social impact of extended residence in B&B. The Assistant Director Housing and Built Environment be instructed to bring a separate report and business case to Cabinet if a future programme of acquisition is viable.
5. That the council continues to direct resources to explore energy generation within the borough or elsewhere both to earn income and as part of its commitment to address climate change.
6. That generating sustainable income should be a central theme underpinning the council's major projects and its service provision.
7. That the Capital Programme be reviewed and priorities within the Capital Programme be set in order to support the financing of further investment in commercial property, housing and energy within the council's overall means.

Reasons for the decision:

That despite challenges the council has achieved substantial income and savings with the potential for more in the future.

That it is clear that the council's climate, housing, energy and employment creation priorities should embrace the generation of an increased sustainable income for the council wherever this is possible. Future acquisitions and development should constitute part of our capital programme delivery work of major projects.

Government policy supports investment for regeneration and economic development rather than solely income generation.

The need to address both climate change and economic growth means treating these as being closely related.

187. FINAL ACCOUNTS 2018/19

The Assistant Director, Financial Services and Revenues, submitted a report setting out the draft final accounts position for 2018/19. The financial accounts are subject to change until the external auditors have completed their audit report.

CABINET

8 JULY 2019

The report was presented by the Chief Accountant.

Total direct service expenditure amounted to £11,468,517 in 2018/19 compared to the revised budget estimate of £13,313,580, a variation of £1,845,063. This was offset by a variation in the budgeted use of reserves of £2,090,724. Overall there is an improvement in the General Fund revenue outturn position compared to the revised budget of £66,089 (a budgeted deficit of £747,194 compared to an expected outturn deficit of £681,105).

The Assistant Director thanked the accountants for their work.

Councillor Chowney proposed approval of the recommendations of the report, seconded by Councillor Lee.

RESOLVED (unanimously) that:

- 1. Cabinet review the revenue and capital outturn positions for 2018/19.**
- 2. That the 2018-19 outturn position, along with the revised estimates for 2019/20 be taken into account when preparing the 2020/21 budget.**
- 3. Cabinet review the achievement of Priority Income and Efficiency Review (PIER) savings for 2018/19.**

Reasons for the decision:

Compliance with statutory requirements and good practice. The Council is accountable for the use of public money and continuously seeks to improve Value for Money.

The outturn position informs the budget setting process. Where there are under or overspends the reasons behind these are investigated with a view to reallocating resources to meet priorities.

The 2016/17 Audit Completion Report from the council's external auditors (BDO at the time) recommended that management report on the achievement of PIER savings following their implementation.

The Council's external auditors (now Grant Thornton) commenced auditing the full accounts in early June. The audited Statement of Accounts will be considered by the Audit Committee on 30th July– along with details of the auditor's findings and any material amendments made to the accounts.

- 188. CORPORATE PLAN RETROSPECTIVE REPORT ON PERFORMANCE DURING 2018/19 AND PROPOSED PERFORMANCE INDICATOR TARGETS FOR 2019/20**

CABINET

8 JULY 2019

The Director, Corporate Services and Governance presented a report to advise Cabinet of the year-end performance for 2018/19 and proposed performance indicator targets for 2019/20.

The Council meeting on 11 February 2019 agreed the Corporate Plan for 2019/20 which sets out the council's strategic direction and outlines 7 key work programmes for 2019/20.

The Overview and Scrutiny committee considered the year-end performance for 2018/19 and proposed performance indicator targets for 2019/20 at their meeting on 13 June. Most indicators are proposed to retain the same targets for 2019/20.

The full report to the Overview and Scrutiny committee, and the minutes of their meeting are available [here](#).

Councillor Forward thanked officers and the Overview and Scrutiny Committee for their work.

Councillor Forward proposed approval of the recommendations of the report, seconded by Councillor Rogers.

RESOLVED (unanimously):

- 1. That the comments of the Overview and Scrutiny committee be considered.**
- 2. That the year-end performance for 2018/19 and proposed performance indicator targets for 2019/20 be approved.**
- 3. That Cabinet support intentions for performance arrangements during 2019/20.**

Reasons for the decision:

The council's Corporate Plan is one of the key documents by which the council is held to account for its performance, therefore honest and transparent reporting back of how well we performed against targets in the previous year is essential. Local people and staff also need to be aware of the targets and standards we have set ourselves, and where any of these targets have changed from previous years we need to be clear about the reasons why.

189. CENTRAL ST LEONARDS RENEWAL EXIT REVIEW

This item was deferred to the next cabinet meeting.

190. CABINET APPOINTMENTS TO COMMITTEES, WORKING GROUPS AND PARTNERSHIPS

CABINET

8 JULY 2019

The Chief Legal Officer submitted a report to consider the nominations received and to make appointments to committees, working groups and partnerships etc. and to appoint the Chairs and Vice Chairs to the committees of Cabinet.

The schedules showing the nominations received were made available as an appendix to the Chief Legal Officer's report.

Members are appointed until the Borough elections in May 2020.

Under rule 13.3 the recommendations of the report were agreed without being called for discussion.

RESOLVED:

1. To appoint members to committees, working groups, partnerships and representative bodies as set out in Appendix A and B, and;

2. To appoint the Chairs and Vice Chairs of Charity Committee and Museums Committee, as listed in Appendix A

Reasons for the decision:

Members are required to serve on the committees, working groups, partnerships and representative bodies to which Cabinet appoints. Chairs and Vice Chairs are required for the committees that report to Cabinet.

191. ANNUAL TREASURY MANAGEMENT OUTTURN REPORT 2018/19

The Assistant Director, Financial Services and Revenues presented a report to provide the opportunity for the Cabinet and Council to scrutinise the Treasury Management activities and performance of the last financial year.

The cabinet welcomed the report and noted the importance of the Treasury Management Strategy.

Councillor Chowney proposed the recommendation be amended to make clear that cabinet is agreeing to keep the Treasury Management Strategy as is. This was agreed.

Councillor Chowney proposed approval of the recommendations of the report, seconded by Councillor Batsford.

RESOLVED (unanimously):

That cabinet agree the Treasury Management Strategy is not amended.

Reasons for the decision:

CABINET

8 JULY 2019

To ensure that members are fully aware of the activities undertaken in the last financial year, that Codes of Practice have been complied with and that the Council's strategy has been effective in 2018-19.

Under the Code adopted the Full Council are required to consider the report and any recommendations made.

(The Chair declared the meeting closed at 8:42pm)

Report to: Cabinet

Date of Meeting: 8th July 2019

Report Title: Amendments to the Council's Constitution

Report By: Christine Barkshire-Jones
Chief Legal Officer and Monitoring Officer

Purpose of Report

Cabinet is asked to consider the constitutional amendment.

Recommendation(s)

- 1. To recommend that the amendment to the Council's Constitution be adopted by Full Council.**

Reasons for Recommendations

The Council's Constitution is the basis for the Council's Corporate Governance.

Introduction

1. The Council's Constitution is the basis for the Council's Corporate Governance. It needs amending on a regular basis either as a result of discussions at Working Arrangement Group and/or changes in legislative provisions or working practices.
2. Amendments that the Chief Legal Officer is bringing to this meeting are as a result of a conflict of interest by members of the Standards Committee in considering a standards complaint necessitating changes to Part 2 of the Constitution. Members of Working Arrangement Group have been consulted and are supportive of the change.
3. Part 2 - Articles of the Constitution - Article 9 – The Standards Committee delete 9.2. d “Members of the Standards Committee may not appoint substitutes” and replace with "Members of the Standards Committee may on written application to the Monitoring Officer (or Deputy Monitoring Officer) at least three working days prior to the meeting appoint substitutes only if in the opinion of the Monitoring Officer (or Deputy Monitoring Officer) in consultation with the Chair or Vice Chair of the Standards Committee sitting councillors have a conflict of interest in any matter to be considered."
4. This is to allow substitutions onto the Standards Committee in exceptional cases where there is a conflict of interest which will ensure that the meeting is quorate. Substitution will only be approved in circumstances where there is clear evidence on an interest for example, members of the Planning Committee or Licensing Committee hearing a complaint arising from a meeting that they attended. Substitutes will receive training on Standards prior to hearing a complaint.

Timetable of Next Steps

1. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Report to Cabinet		8 th July 2019	Chief Legal Officer
Report to Full Council		24 th July 2019	Chief Legal Officer

Wards Affected

All Wards

Implications

Relevant project tools applied? Yes

Have you checked this report for plain English and readability? Yes

Climate change implications considered? Yes

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	No
Organisational Consequences	Yes
Local People's Views	No
Anti-Poverty	No

Organisational Consequences

The change to the Constitution is to allow substitutions onto the Standards Committee in exceptional cases where there is a conflict of interest which will ensure that the meeting is quorate.

Additional Information

Part 2 of the Constitution shown as tracked changes

Officer to Contact

Christine Barkshire-Jones, Chief Legal Officer and Monitoring Officer
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The Constitution

Part 2 **Articles of the Constitution**

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Article 1 – The Constitution

Power of the Council

- 1.1 The Council will exercise all its powers and duties in accordance with the law and this Constitution.

The Constitution

- 1.2 This Constitution, and all its appendices, is the Constitution of the Hastings Borough Council.

The purpose of the Constitution is to:

- a. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- b. support the active involvement of citizens in the process of local authority decision-making;
- c. help councillors represent their constituents more effectively;
- d. enable decisions to be taken efficiently and effectively;
- e. create a powerful and effective means of holding decision-makers to public account;
- f. ensure that no one will review or scrutinise a decision in which they were directly involved;
- g. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- h. provide a means of improving the delivery of services to the community.

Interpretation and Review of the Constitution

- 1.3 The Council will be guided by the purposes stated above in all its decision making. The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

Article 2 – Members of the Council

Composition and eligibility

2.1

- a. Composition. The Council comprises 32 members, otherwise called councillors. Two councillors are elected by the voters of each ward in accordance with an order made by the Local Government Boundary Commission for England.
- b. Eligibility. Only registered voters of the Borough or those living or working there will be eligible to hold the office of councillor.

Election and terms of councillors

- 2.2 Half of all Hastings councillors will be elected every other year from 2004. The terms of office of councillors is four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

Roles and functions of all councillors

2.3

- a. Key roles. All councillors will:
 - i. collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - ii. represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - iii. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - iv. balance different interests identified within the ward and represent the ward as a whole;
 - v. be involved in decision-making;
 - vi. be available to represent the Council on other bodies; and
 - vii. maintain the highest standards of conduct and ethics.
- b. Rights and duties
 - i. Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
 - ii. Councillors will not make public information which is confidential or exempt or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
 - iii. For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

Conduct

- 2.4 Councillors will at all times observe the Councillors' Code of Conduct and the Protocols set out in Part 5 of this Constitution.

Allowances

- 2.5 Councillors will be entitled to receive allowances in accordance with the Councillors' Allowances Scheme set out in Part 6 of this Constitution.

Article 3 – Citizens and The Council

Citizens' rights

- 3.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:
- a. Voting and petitions. Citizens on the electoral roll for the Borough have the right to vote in elections and to petition a request for a referendum for an elected mayor form of Constitution.
 - b. Information. Citizens have the right to:
 - i. attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - ii. attend meetings of the Cabinet when key decisions are being considered;
 - iii. find out from the forward plan what key decisions will be taken by the Cabinet and when;
 - iv. see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - v. inspect the Council's accounts and make their views known to the external auditor.
 - c. Participation. Citizens have the right to participate in the Council's question time and may contribute to investigations by overview and scrutiny committees if invited to.
 - d. Complaints. Citizens have the right to complain to:
 - i. the Council itself under its complaints procedure;
 - ii. the Ombudsman after using the Council's own complaints procedure;
 - iii. the Monitoring Officer about a breach of the Councillors' Code of Conduct.

Article 4 – The Full Council

Meanings

4.1

- a. Policy Framework. The policy framework means the following plans and strategies:-
 - i. The Corporate Plan;
 - ii. Crime and Disorder Reduction Strategy;
 - iii. Plans and strategies which together comprise the Local Plan
 - iv. Plan and strategies which together comprise the Housing Strategy
 - v. The Pay Policy

Such other plans and strategies as the Council shall, from time to time, determine that shall form part of the policy framework.

- b. Budget. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement and the control of its capital expenditure.

Functions of the Full Council

4.2 Only the Council will exercise the following functions:

- a. adopting and changing the Constitution;
- b. approving and adopting the policy framework and the budget
- c. subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with, the budget;
- d. appointing the Leader of the Council;
- e. agreeing and/or amending the terms of reference for committees of Council, deciding on their composition and making appointments to them;
- f. agreeing the mechanism for appointments to outside bodies;
- g. adopting an allowances scheme under Article 2.5;
- h. changing the name of the Borough, conferring the title of honorary alderman or freedom of the Borough;
- i. confirming the appointment and dismissal of the Head of Paid Service, and the dismissal of the Monitoring Officer and Section 151 officer;
- j. making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or bills;
- k. all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- l. all other matters which, by law, must be reserved to Council.

Council Meetings

4.3 There are four types of Council meeting:

- a. the annual meeting;
- b. ordinary meetings;
- c. special meetings such as that to set the annual budget;
- d. extraordinary meetings.

And they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

Responsibility for functions

4.4 The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

Article 5 – Chairing the Council

Role and function of the Mayor

- 5.1 The mayor will be elected by the Council annually from amongst the councillors. The mayor will have the following responsibilities:
- a. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
 - b. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
 - c. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which councillors who are not on the Cabinet are able to hold it to account;
 - d. to promote the Borough and public involvement in the Council's activities;
 - e. in order to promote the Borough, to attend such civic and ceremonial functions as the Council and he/she determines.

Article 6 – Overview and Scrutiny Committee

Terms of reference

- 6.1 At the Annual Meeting the Council shall appoint such Overview and Scrutiny Committee as it sees fit. It will discharge the functions conferred by Section 21 of the Local Government Act 2000.

General role

- 6.2 Within the terms of reference, overview and scrutiny committee will:
- a. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
 - b. make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions;
 - c. consider any matter affecting the area or its inhabitants; and
 - d. exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.
 - e. exercise such other functions as shall be allocated to it from time to time by statute or subordinate legislation.

Specific functions

- 6.3 Policy development and review

Overview and scrutiny committee may:

- i. assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii. conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii. advise the Cabinet on mechanisms to encourage and enhance community participation in the development of policy options;
- iv. question members of the Cabinet and Chief Officers about their views on issues and proposals affecting the area; and
- v. liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

- b. Scrutiny

Overview and scrutiny committee may:

- i. review and scrutinise the decisions made by and the performance of the Cabinet and council officers both in relation to individual decisions and overtime;
- ii. review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii. question members of the Cabinet and Chief Officers about their decisions and

performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

- iv. make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process;
 - v. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
 - vi. question and gather evidence from any person (with their consent).
- c. Finance

The Cabinet is required to meet reasonable requests for funding from the Overview and Scrutiny Committee. Funding should be used for specific activities in support of the functions outlined in the Terms of Reference under 6.1. If the Cabinet refuses funding then the Overview and Scrutiny Committee can ask the full Council to determine whether or not the funding should be granted.

d. Officers

Officer support for Scrutiny Project Groups and other Officer support for the overview and scrutiny function will be arranged by the Continuous Improvement and Democratic Services Manager.

Proceedings of Overview and Scrutiny Committee

- 6.4 Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Article 7 – The Cabinet

Role

- 7.1 The Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

Form and composition

- 7.2 The Cabinet will consist of the Council Leader (who shall be the Chair of the Cabinet), the Deputy Leader, and at least one, but not more than eight, councillors appointed annually to the Cabinet by the Leader.

The Local Government Act 2000 provides that the political balance rules do not necessarily apply to a cabinet or committees of a cabinet.

Leader and Deputy Leader

- 7.3 The Leader will be a councillor elected to the position of Leader by the Council at the annual meeting or if there is a vacancy in the position of Leader of the Council, the Council shall, at its next meeting, elect a Leader of the Council. The Leader will hold office:
- a. For a term of office which starts on the day of his/her election as Leader, and ends on the day of the post-election annual meeting which follows his/her election as Leader; or until
 - i. he or she resigns from the office; or
 - ii. he or she is no longer a councillor; or
 - iii. he or she is removed from office by resolution of the Council; or
 - iv. he or she is otherwise disqualified by law or by the Court
 - b. The Leader shall appoint one of the members of the Cabinet to be the Council's Deputy Leader at the post-election annual meeting. The Deputy Leader shall hold office until:
 - i. the end of the term of the Leader; or
 - ii. the Leader removes the Deputy Leader from office giving written notice of the removal to the Chief Legal Officer or
 - iii. he or she resigns from office; or
 - iv. he or she is no longer a councillor; or
 - v. he or she is removed from office by resolution of the Council; or
 - vi. he or she is otherwise disqualified by law or by the Court.
 - c. If for any reason there shall be a vacancy in the position of Deputy Leader, the Leader shall appoint another Deputy Leader from among the members of the Cabinet.
 - d. If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place.
 - e. If for any reason the Leader is unable to act or the office of Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant the remaining

members of the Cabinet must either act collectively in the Leader's place or they must arrange for a Cabinet member to act in the place of Leader.

Other Cabinet Members

- 7.4 Other Cabinet members will be councillors who shall hold office until:
- a. they resign from office; or
 - b. they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
 - c. they are no longer councillors; or
 - d. they are removed from office by the Leader, who must give written notice of the removal to the Chief Legal Officer
 - e. they are otherwise disqualified by law.

Proceedings of the Cabinet

- 7.5 Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

Responsibility for functions

- 7.6 The Leader will maintain the list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

Decision Making

- 7.7 Decisions made in Cabinet are made collectively on a vote of a simple majority.

Article 8 – Regulatory and other committees

Regulatory and other committees

8.1 The Council will appoint the committees set out in Part 3 of this Constitution under the heading Responsibility for Council Functions to discharge the functions described.

Composition of the Planning Committee, Environment and Safety Committee and Licensing Committee.

8.2

- a. A member of the Cabinet with portfolio will not be able to serve on the Licensing Committee, Environment and Safety Committee or Planning Committee or any other regulatory committee.
- b. No member of these Committees shall take part in any debate or vote on any matter in relation to which the member has predetermined his/her decision on the matter.
- c. Members whose professional or personal interests might create regular conflict of interest in matters coming before the Planning Committee should not be appointed to the Planning Committee. A member who is about to act in a professional or private capacity in any matter in which the Council has an interest should give notice of such intention to the Monitoring Officer.
- d. The Planning Protocol contained in Part 5 of the Constitution applies to Planning Committee Members.
- e. For all Regulatory Committees, in cases where the Chair or Vice Chair is not available to Chair the meeting (or part of), the Legal Officer will ask for a nomination for Chair for the duration of the meeting (or part of). The nomination must be of a permanent member of that Committee and not a substitute.

Article 9 – The Standards Committee

Standards Committee

9.1 The Council will establish a Standards Committee.

Composition

9.2 Membership.

- a. The Standards Committee will be composed of five members of the Council. At least one independent person will be invited to attend. The Political Balance Rules do not strictly apply to the Standards Committee, but will be applied to the Councillor membership of the Committee. No more than one Councillor member of the Standards Committee may be a member of the Cabinet and that member may not be the Leader of the Council.
- b. The appointment of independent person(s) must be approved by a majority of the members of the Council.
- c. A meeting of the Standards Committee will not be quorate unless at least three members are present for its duration.
- d. Members of the Standards Committee may on written application to the Monitoring Officer (or Deputy Monitoring Officer) at least three working days prior to the meeting appoint substitutes only if in the opinion of the Monitoring Officer (or Deputy Monitoring Officer) in consultation with the Chair or Vice Chair of the Standards Committee sitting councillors have a conflict of interest in any matter to be considered."

Role and function

9.3 The Standards Committee will have the following roles and functions:-

- a. promoting and maintaining high standards of conduct by councillors and co-opted members.
- b. assisting members to observe the Councillors' Code of Conduct.
- c. advising the Council on the adoption or revision of the Councillors' Code of Conduct.
- d. monitoring the operation of the Councillors' Code of Conduct.
- e. granting dispensations to councillors from requirements relating to interests set out in the Councillors' Code of Conduct.
- f. hearing and determining complaints made against councillors in accordance with Council procedure.

Article 10 – Joint Arrangements

Arrangements to promote well being

- 10.1 The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:
- a. enter into arrangements or agreements with any person or body;
 - b. co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
 - c. exercise on behalf of that person or body any functions of that person or body.

Joint arrangements

10.2

- a. The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b. The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c. Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members may, but need not, reflect the political composition of the local authority as a whole.
- d. The Cabinet may appoint members to a joint committee from outside the Cabinet if the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a councillor for a ward which is wholly or partly contained within the area;

The political balance requirements may, but need not, apply to such appointments.
- e. Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

Access to information

10.3

- a. The Access to Information Rules in Part 4 of this Constitution apply.
- b. If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- c. If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

Delegation to and from other local authorities

10.4

- a. The Council may delegate its functions to another local authority.
- b. The Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.
- c. The decision whether or not to accept such a delegation from another local authority shall be reserved to the full Council.

Contracting out

10.5 The Council and the Cabinet may contract out their respective functions to another body or organisation :-

Where

- a. such functions
 - i. may be exercised by an officer; and
 - ii. are subject to an order under Section 70 Deregulation and Contracting Out Act 1994; or
- b. under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles provided there is no delegation of the Council's discretionary decision-making.

Article 11 – Officers

Management Structure

11.1

- a. General. The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. Appointment of staff cannot be the responsibility of the Cabinet. Appointment of staff below the level of Corporate Director must be the responsibility of the Head of Paid Service or his/her nominee.
- b. Chief Officers. The Council (by a committee or sub-committee) will engage persons for such posts, as it may from time to time decide, who will be designated Directors, collectively described as “Chief Officers” in this Constitution.
- c. The Council will designate the following posts as:-
 - i. One of the Directors – Head of Paid Service
 - ii. Chief Legal Officer – Monitoring Officer
 - iii. One of the Assistant Directors – Chief Finance Officer

Such posts will have the functions described in Article 11.2 - 11.4 below.

- d. Structure. The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution. Changes made to this Structure do not constitute amendments to this Constitution.

Functions of the Head of Paid Service

11.2

- a. Discharge of functions by the Council. The Head of Paid Service will, from time to time, report to full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- b. Restrictions on functions. The Head of Paid Service may not be the Monitoring Officer but, if a qualified accountant, may hold the post of Chief Finance Officer.

Functions of the Monitoring Officer

11.3

- a. Maintaining the Constitution. The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by councillors, staff and the public.
- b. Ensuring lawfulness and fairness of decision making. After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the Cabinet in relation to Cabinet functions, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c. Supporting the Standards Committee. The Monitoring Officer will contribute to the

promotion and maintenance of high standards of conduct through provision of support to the Standards Committee

- d. Conducting investigations. The Monitoring Officer will arrange for investigations into complaints alleging breach of the Code of Conduct in accordance with procedures adopted by the Council.
- e. Proper Officer for access to information. The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- f. The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- g. Providing advice. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- h. Restrictions on posts. The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

Functions of the Chief Finance Officer

11.4

- a. Ensuring lawfulness and financial prudence of decision making. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Cabinet in relation to a Cabinet function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- b. Administration of financial affairs. The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- c. Contributing to corporate management. The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d. Providing advice. The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- e. Give financial information. The Chief Finance Officer may provide financial information to the media, members of the public and the community.

Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

- 11.5 The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in the opinion of these officers sufficient to allow their duties to be performed.

Conduct

- 11.6 Officers will comply with the Officer's Code of Conduct and the Protocol on Officer/Councillor Relations set out in Part 5 of this Constitution.

Employment

- 11.7 The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

Article 12 – Decision Making

Responsibility for decision making

- 12.1 The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Parts 3 and 8 of this Constitution.

Principles of decision making

- 12.2 All decisions of the Council will be made in accordance with the following principles:
- a. proportionality (i.e. the action must be proportionate to the desired outcome);
 - b. due consultation and the taking of professional advice from officers;
 - c. respect for human rights (see below for further details);
 - d. a presumption in favour of openness;
 - e. clarity of aims and desired outcomes;
 - f. and explanation of options considered and reasons for decisions taken.

Types of decision

12.3

- a. Decisions reserved to full Council.

Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

- b. Key decisions

- i. A key decision means a Cabinet decision which is likely to involve expenditure or savings in excess of £250,000 or which is likely to have a significant effect on communities living or working in an area comprising two or more wards.
- ii. A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

Decision making by the full Council

- 12.4 Subject to Article 12.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

Decision making by the Cabinet

- 12.5 Subject to Article 12.8, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

Decision making by overview and scrutiny committee

- 12.6 Overview and scrutiny committee will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

Decision making by other committees

- 12.7 Subject to Article 12.8, other committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

Decision making by Council bodies acting as tribunals

- 12.8 The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Decision making by ward councillors

- 12.9 The Council and Cabinet are able to delegate authority to individual ward councillors to make decisions in relation to matters affecting their ward. Where delegation has been given, the ward councillor is required to produce a record of decisions, which are accessible by the public for six years. The ward councillor is required to act in accordance with a protocol agreed by the Council or Cabinet when exercising the power.

Call-over

- 12.10 The Council, Cabinet and committees may operate a call-over process to determine which matters on the agenda are to be discussed and those that are to be agreed without discussion. The Chair may undertake the call-over and all matters which are not called are the subject of a motion from the Chair to agree all matters not called.

Article 13 – Finance, Contracts and Legal Matters

Financial management

- 13.1 The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 9 of this Constitution.

Contracts

- 13.2 Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 9 of this Constitution.

Legal proceedings

- 13.3 The Chief Legal Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Chief Legal Officer considers that such action is necessary to protect the Council's interests.

Authentication of documents

- 13.4 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Legal Officer or other person authorised by the Chief Legal Officer unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Common Seal of the Council

- 13.5 The Common Seal of the Council will be kept in a safe place in the custody of the Chief Legal Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Chief Legal Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Legal Officer or some other person authorised in that regard by the Chief Legal Officer.

Common Seal of Hastings Housing Company

- 13.6 The Common Seal of the Hastings Housing Company will be kept in a safe place in the custody of the Chief Legal Officer. A decision of the Hastings Housing Company, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Chief Legal Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Legal Officer or some other person authorised in that regard by the Chief Legal Officer.

Article 14 – Review and Revision of the Constitution

Duty to monitor and review the constitution

- 14.1 The Council’s Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for monitoring and review of constitution by Monitoring Officer

- 14.2 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:
- a. observe meetings of different parts of the councillor and officer structure;
 - b. undertake an audit trail of a sample of decisions;
 - c. record and analyse issues raised with him/her by councillors, officers, the public and other relevant stakeholders; and
 - d. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

Changes to the Constitution

- 14.3 Changes to the Constitution will be approved by the Full Council. However, minor changes, not affecting the substance of the Constitution, such as correction of typographical errors or changes in job titles or the management structure, may be made by the Directors with the approval of the Monitoring Officer and in consultation with the Leader of the Council and the Chair of Working Arrangements Group.

Article 15 – Suspension, Interpretation and Publication of the Constitution

Suspension of the Constitution

15.1

- a. Limit to suspension. The Articles of this Constitution may not be suspended.
- b. Procedure to suspend Standing Orders. The procedure to suspend Standing Orders is set out in Part 4 of this Constitution. The extent and duration of suspensions will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

Interpretation

15.2 The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

Publication

15.3

- a. The Monitoring Officer will make available a copy of this Constitution to each councillor of the authority upon delivery to him/her of that individual's declaration of acceptance of the office on the councillor first being elected to the Council
- b. The Monitoring Officer will ensure that copies are available for inspection at council offices, and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- c. The Monitoring Officer will ensure that the summary of the Constitution is made readily available within the area and is updated as necessary. The Constitution can be found on the Council's Website at www.hastings.gov.uk.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive arrangements:

1. Article 6 (Overview and Scrutiny committee) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 10 (Joint Arrangements);
4. Article 12 (Decision Making) and the Access to Information Procedure Rules;
5. Part 3 (Responsibility for Functions).

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Report to: Cabinet

Date of Meeting: 8th July 2019

Report Title: Sex Establishments Policy Review

Report By: Mike Hepworth, Assistant Director, Environment & Place

Purpose of Report

To provide Cabinet with feedback from a consultation on proposed changes to the council's sex establishments policy, and seek Cabinet approval to recommend that Full Council adopts the updated policy.

Recommendation(s)

- 1. That Cabinet endorse the draft policy attached at appendix 1, and recommend that it is adopted by Full Council.**

Reasons for Recommendations

From time to time the council's sex establishments' policy should be reviewed and updated. The existing policy was adopted in July 2015 and is now due for a review.

Background

1. Sex establishments have been licensed by local authorities for many years as a result of adopting Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982. Hastings Borough Council adopted these provisions on the 24th November 1982.
2. At that time sex establishments were defined as either sex shops or sex cinemas and Hastings historically has had up to two such premises (both shops).
3. In November 2005 district and borough councils implemented the responsibilities of the new Licensing Act 2003, and due to an anomaly of that Act there was a rise in applications under that legislation for lap dancing clubs. They were being authorised under the regulated entertainment part of the 2003 Act. Hastings was no different, one such establishment in the Borough that had previously existed with a Public Entertainment Licence developed into a full time lap dancing club (Club XS in Prospect Place).
4. Central government decided that the increase in premises such as lap dancing clubs should be better controlled by an amendment to the 1982 Act. They defined a new category of sex establishment to be known as Sexual Entertainment Venues (SEVs) by an amendment under Sec 27 of the Policing and Crime Act 2009.
5. This amendment needed to be adopted by local authorities if they wished to licence such establishments. They could opt out, but to do so required extensive public consultation. Hastings Borough Council decided to adopt the amendment and did so on the 6th December 2010.
6. At that time the Council had an opportunity to make a resolution setting the appropriate number of sexual entertainment venues in the borough as zero. The Council did not do so, and as a result the one such establishment in Hastings (Club XS) applied and obtained the appropriate SEV licence; and continues to hold that licence now.
7. There is no statutory requirement for the Council to have a specific policy on sex establishments. However, following a relatively high profile application for a sexual entertainment venue 6 years ago, Councillors indicated that adoption of a clear policy would help make the application process more transparent to all concerned, including applicants and objectors, and the Committee Members authorised to determine such applications on behalf of the council.
8. It should be noted that irrespective of whether or not the council adopts a licensed sex establishment policy, and irrespective of the details of such a policy, the council must accept and determine properly made applications, and consider each on its own merits.
9. It is also important to note that the legislation allows operators of entertainment premises already licensed under the general liquor and regulated entertainment provisions of the Licensing Act 2003, to hold up to 11 adult type entertainments a year, without the need for a sex establishment licence. Over the years we have

had several such premises in Hastings, and we are unable to apply licence conditions to such events. Whereas with a full sex establishment licence we can apply a range of reasonable conditions to control the activity and safeguard those involved.

The Existing Sex Establishment Policy for Hastings

10. The existing policy was developed in 2015 with reference to policies already adopted by other licensing authorities, the relevant statutory Home Office guidance, a comprehensive consultation with a range of local stakeholders, and following advice from the Council's Chief Legal Officer.
11. In considering our approach to setting a policy on the appropriate number of SEVs for Hastings, and the most appropriate locations for them, we decided that only predominantly industrial or commercial areas of the borough are suitable locations for such premises. These locations are referred to within the policy and the associated maps are attached in appendices 2 to 8 of the draft policy. The policy allows for 1 sex shop and 1 sexual entertainment venue.
12. We also considered the statutory Home Office guidance in 2015 which indicated that the setting of a zero policy across the entire borough could attract legal challenge from potential applicants, and could be considered a restrictive practice against a legitimate business use. The guidance hasn't changed in this respect. Although the demand for sex establishments and the way people source the type of goods they sell has changed.
13. During the development of the existing policy in 2015 there were significant changes to the way that people access the sort of sex articles sold by licensed sex shops, and the sort of films that can be shown by licensed sex cinemas. Due to advances in internet shopping and digital streaming services, it was questionable whether the old operating model for sex shops and sex cinemas was economically viable. Since then on-line shopping has become even more popular, and this is probably why the council has never received any interest in a sex cinema, and why the last sex shop in the borough closed in about 2015.

Reviewing the Existing Policy

14. This policy has now been in place for 4 years and so the Licensing Manager has reviewed and updated it. His assessment is that the existing policy has stood the test of time and has not been challenged. However, it needed updating to reflect the changes to the Borough over the past 4 years and take account of the latest legal advice.
15. There have been 2 cases that are relevant to this policy review. They related to one licensing authority that tried to set a zero limit across their whole area for sex establishments, and the Court ruled against this in an appeal. The other one related to a licensing authority that tried to set a zero limit for sexual entertainment venues, despite there already being a licensed SEV in their area. This meant that on an annual basis when the SEV had to apply to renew their licence, it was subject to objections on the basis that it was contrary to the local policy. The SEV had operated for years with no issues and argued that it was operating legitimately

in compliance with the appropriate legislation, and therefore the local policy was inappropriate. The Court ruled in their favour.

16. The main change from the existing policy has been to propose reducing the numbers of such establishments deemed to be appropriate for the borough down from the existing one sex shop and one SEV to just one SEV. As mentioned above the only sex shop in the Borough ceased trading over 4 years ago, probably due to the rise in internet sales for such products, and it is unlikely that this proposed policy change will be challenged.

Consultation

17. The proposed updated policy has been subject to a full consultation, including the statutory consultees (which include the police, fire service and operator of the existing licensed premise); in addition the consultation was placed on the Council website and circulated to all councillors. As a result of this, two telephone responses and two e mail responses were received and a précis is outlined below.
18. The existing licensed operator telephoned the licensing department to confirm that he had received and read the draft proposed new policy; he indicated his agreement with the amendments. The police licensing team also made telephone contact. They agreed with the policy change proposals, commenting that the existing SEV was well run and caused no issues.
19. The two e mail responses were both from Councillors. One agreed with the proposed changes, the second commented on her concerns for siting such establishments in her ward in an area that may be developed into homes.
20. In addition, legal advice on the review was obtained from James Button, Solicitor who is nationally recognised as a legal expert in licensing matters. The council subscribes to his advice service. He has indicated that the approach taken in the consultation is legally compliant. We asked for specific guidance on changing the policy on SEVs to nil, and he commented that making a borough wide "nil" policy would be too wide and likely to result in legal challenge and has given stated case evidence to support his advice.

Changes to draft policy following the consultation

21. As explained above the risk of challenge in relation to setting a zero policy for sex establishments (sex shops and cinemas) rather than SEVs is now thought to be very low. If we do receive an application for a sex establishment it will need to be considered on its merits, and the Committee will need to decide whether to refuse it on the basis of the new zero limit on sex establishments and/or other elements of the policy, or to approve it.
22. On balance having considered all the consultation responses, no further changes are needed to the proposals that were consulted on. But in future should the existing preferred areas for siting such establishments change in nature, the policy could be amended to reflect the situation. The amended draft updated policy is attached at Appendix A.

Policy Implications

23. The licensing of sex establishments is an emotive subject. Sex shops and SEVs such as lap dancing clubs are morally and socially offensive to some people. For example, people with strong religious and/or cultural beliefs, and some strongly held social beliefs. When the policy was developed initially several strong views were received, on this occasion no such comments have been received.
24. From an equalities and community cohesion perspective, some people argue that SEVs such as lap dancing clubs are demeaning to women, and promote gender inequality because they may employ more female than male dancers. Some argue that this is a form of exploitation of women, and potentially of young vulnerable women, portraying them as sex objects, which could lead to men being more likely to abuse women.
25. Similarly from an anti-poverty policy perspective, it might be argued that vulnerable people with poor job prospects may be attracted to the sort of work available at SEVs, and therefore be more likely to be exploited as a result.
26. In 2015 we considered these views and perspectives with the assistance of a critical friend, and carried out an equalities screening exercise to assess the potential for the policy to result in discrimination, harassment or victimisation related to the statutory protected characteristics. We concluded that this was unlikely to be the case. As there are no changes proposed relating to this, there is no need to carry out another equalities screening exercise.
27. It should also be noted that sex shops and SEVs are lawful business interests in England, and the Home Office statutory guidance on sexual entertainment venues refers to case law that states that licensing authorities should not consider objections to SEVs based on moral grounds/values.
28. There are also references to case law associated with successful appeals against decisions to refuse applications made by Tunbridge Wells and Cheltenham Borough Councils, in relation to whether or not the entire town or local authority area can be deemed to be the relevant locality, when considering setting a limit on the appropriate number of sex establishments for that locality. This is an important consideration from a corporate risk management perspective, as case law suggests that setting zero as the appropriate number of SEVs for the whole borough could be subject to potentially successful legal challenges from aggrieved applicants. But as mentioned in paragraphs 16 and 21 this appears to be a low risk.
29. In considering the crime and fear of crime policy implications, we noted the fact that the Police have not objected to the sex establishment policy proposals, and that they have not identified any crime and disorder problems associated with the existing sex establishment.
30. We also considered the fact that the Council has not received material complaints about the operation of the existing sex establishment, which was borne out by the telephone conversation with the police during the consultation.

31. The consultation process primarily focussed on seeking feedback from the statutory consultees. It also gave local people the opportunity to submit their views, but none were received.
32. Overall we believe that the proposed update to the sex establishments policy for Hastings still balances the rights of all interested parties, and that if the updated policy is adopted it will continue to be of great help to all concerned, whether applicants, the general public, or Councillors.

Timetable of Next Steps

33. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Report draft updated policy to Cabinet	Cabinet endorse updated draft policy and recommend that Full Council adopts it.	8 th July 2019	Assistant Director Environment and Place
Report draft updated policy to Full Council	Full Council adopts updated policy	24 th July 2019	Portfolio Holder for for Environment, Community Safety and Equalities

Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St.Helens, Tressell, West St. Leonards, Wishing Tree.

Implications

Relevant project tools applied? Yes

Have you checked this report for plain English and readability? Yes

Climate change implications considered? Yes. None were identified.

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	Yes

Risk Management	Yes
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People’s Views	Yes
Anti-Poverty	Yes

Additional Information

Appendix A – Draft Sex Establishment Policy

Officer to Contact

Bob Brown
bbrown@hastings.gov.uk
01424 783249



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Draft

Statement of Policy in respect of Sex Establishments

Under the Local Government
(Miscellaneous Provisions) Act 1982
as amended by
Policing and Crime Act 2009

Licensing Section
Muriel Matters House
Breeds Place
Hastings
East Sussex TN34 3UY

1. This policy:

- Sets out the council's approach for the benefit of operators
- Guides and reassures the public and other public authorities
- Ensures transparency
- Ensures consistency
- Guides and focuses the Environment & Safety Committee when making determinations under this legislation.

Introduction

2. The Hastings Sex Establishments Policy sets out Hastings Borough Council's approach to the regulation of sex establishments and the procedure relating to applications for sex establishment licensing. The limit on the number of sex establishments in the borough are indicated in brackets below:

3. This Policy applies to:

- sexual entertainment venues (1)
- sex shops (None)
- sex cinemas (None)

as set out in the Local Government (Miscellaneous Provisions) Act 1982. The 1982 Act was adopted by the Council on 24th November 1982 and the amendment by the 2009 Policing and Crime Act was adopted on 6th December 2010.

4. The Council does not take any moral stand in adopting this policy. The Council recognises that Parliament has made it lawful to operate Sex Establishments, and that such businesses are a legitimate part of the retail and leisure industries. It is this Council's role as the Licensing Authority to administer the licensing regime in accordance with the law.

5. This Policy may be reviewed from time to time as the Council thinks fit and in line with any significant changes to legislation.

Consultation on this Policy

6. The Council is mindful of the possible concerns of the local community and that there may be conflict between the wishes of applicants for licenses and those who object to such applications. This Policy will therefore guide the Council when considering applications for sex establishment licenses in balancing the needs of residents, communities, commercial interests, patrons and employees. The Council has consulted with stakeholders on the formulation of its policy on sex establishments.

7. Consultation on a first draft of this Policy took place between 12th September 2014 and 2nd January 2015 with a range of partners. On this occasion the following were formally invited to engage in the consultation process:

All Members

Sussex Police

East Sussex Fire and Rescue

Love Hastings (BID)

Hastings Borough Council's Planning Policy Department

Existing sex establishments in the borough (1 in total)

8. An online consultation is also available via Hastings Borough Council's website, this was publicised on our website.

9. The consultation has asked respondents to consider an initial proposal of:

- 1 sex entertainment venue
- Nil sex shops
- Nil sex cinema

10. The Council recognises that Sex Establishment Licensing is controversial and stimulates very emotive arguments. However, the Council does not have the right to, and will not, have regard to the morality of sex establishments. Its approval or disapproval of sex establishments is not a matter that can be considered. Consequently, objections on the grounds that sex establishments should not be allowed on moral grounds will not be considered regarding sex establishment applications and will be rejected.

11. Definitions

“the Act” refers to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009

“the Council” means Hastings Borough Council

“the Policy” refers to the Sex Establishments Policy for Hastings Borough Council

“relevant locality” means the locality in which the premises, vehicle, vessel or stall are situated. For the purposes of this policy, each ward has been determined to be a locality. In individual cases, if it is necessary to decide the precise boundaries of the locality, this will be done on the facts of the individual case

“character of the relevant locality” means the character or characteristics of the locality in which the premises, vehicle, vessel or stall are situated. In determining the character of the area, the Council will consider the primary use premises in the locality are put to, any additional uses of premises in that locality, and any purposes that may require persons to use that locality, for example transport hubs

“the premises” means the premises, vehicle, vessel or stall that are the subject of the sex establishment licence or of the application for a sex establishment licence

“sex establishment” refers namely to ‘sex cinemas’, ‘sex shops’ and ‘sexual entertainment venues’ (defined below)

“sex cinema” means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures related to, or intended to stimulate or encourage, sexual activity, acts of force or restraint associated with sexual activity, or concerned primarily with the portrayal of or primarily deal with, or relate to, genital organs or excretory or urinary functions, but does not include a dwelling house to which the public is not admitted

“sex shop” means any premises, vehicle, vessel or stall used for a business consisting to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

(a) sex articles; or

(b) other things intended for use in connection with, or for the purpose of stimulating or encouraging—

i. sexual activity; or

ii. acts of force or restraint which are associated with sexual activity.

“sex articles” include written or visual material such as sex magazines or books, or visual or audio recordings concerned with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage, sexual activity or acts of force and restraint associated with sexual activity, or which are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions

“sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer

“relevant entertainment” means any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means). An audience can consist of just one person (e.g. where the entertainment takes place in private booths). For the purposes of this Policy this includes lap dancing, pole dancing, table dancing, strip shows, peep shows, live sex shows **“display of nudity”** means, in the

case of a woman, exposure of her nipples, pubic area, genitals or anus; and in the case of a man, exposure of his pubic area, genitals or anus

“the organiser” means any person involved in the organisation or management of relevant entertainment

“significant degree” in the context of sex shops, shall be considered by the Council on a case by case basis. In considering significant degree, the Council will consider, amongst other things:

- the amount of shelf space devoted to relevant articles
- the annual turnover in relation to relevant articles and other things
- the way the business is marketed and advertised and
- the primary intention of the majority of customers in visiting the shop

“permitted hours” are the hours of activity and operation that have been authorised by the Council under the sex establishment licence

Famously Hastings

12. Hastings has a diverse resident population of approximately 92,000. This number increases significantly in the summer months with an influx of tourists, visitors and foreign students. The town also has a student population since the University of Brighton opened its Hastings campus in 2003.
13. The town has a rich architectural heritage which spans St. Leonards and the Old Town, is home to the largest beach-launched fishing fleet in Europe and the remains of the first castle in England to be built by William the Conqueror. The new Jerwood Art Gallery houses a collection of 20th and 21st century British Art and is sited in the old town area.,
14. Throughout the year, Hastings also has one of the busiest and liveliest events programmes in the county including the Jack in the Green May Day celebrations, Pirate Day, Old Town Carnival Week, the Seafood and Wine Festival, Coastal Currents Arts Festival and the International Piano Concerto competition. These events draw further visitors to the town.
15. Economic regeneration initiatives have distinctly improved the look and feel of the town in many areas. With an increased emphasis on the evening economy, a number of new restaurants, cafes, markets and outdoor events have developed.
16. Hastings is a borough of diversity and contrasts, with some of the most deprived wards sitting alongside more affluent areas of the town. The Council has a strong commitment to working with partners to narrow the gap between the most deprived communities and the rest of the town.

Section 17, Crime and Disorder Act 1998

17. Section 17 of the Crime and Disorder Act 1998, as amended by the Police and Justice Act 2006, requires responsible authorities to consider crime and disorder (including anti-social behaviour and other behaviour adversely affecting the local environment); and the misuse of drugs, alcohol and other substances in the exercise of all their duties, activities and decision-making. This means that in

all policies, strategies and service delivery there is a need to consider the likely impact on crime and disorder.

Equality Act 2010

18. Under the Equality Act 2010, people are not allowed to discriminate, harass or victimise anyone because of the following 'protected characteristics':

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief
- Sex
- Sexual orientation

19. The Equality Act includes a Public Sector Equality Duty. This says we must show 'due regard' to:

- eliminating discrimination, harassment and victimisation
- advancing equality of opportunity
- fostering good relations between people who share a protected characteristic
- fostering good relations between people who have a protected characteristic and those who don't

Principles to be applied when considering applications

20. Specific mandatory grounds for refusing an application are laid out in the Act, namely:

- I. that the applicant is aged under 18
- II. that the applicant is for the time being disqualified from holding a sex establishment licence
- III. that the applicant is not a body corporate, and is not resident or has not been resident in a European Economic Area state for six months immediately preceding the date of the application
- IV. that the applicant is a body corporate which is not incorporated in a European Economic Area state
- V. that the applicant has in the period preceding the 12 months of the date of the application been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

21. In each of the circumstances above, the Council is required to refuse the application.

22. The Act also specifies discretionary grounds on which an application may be refused, namely:
- I. the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason
 - II. if the licence were to be granted, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself
 - III. the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality
 - IV. the grant would be inappropriate, having regard to the:
 - character of the relevant locality;
 - use to which any premises in the vicinity are put;
 - layout, character or condition of the premises,
 - vehicle, vessel or stall in respect of which the application is made.
23. In each of the circumstances above, the Council may refuse the application.

Limit on Appropriate Number of Sex Establishments

24. The numbers limit set for each category of Sex Establishment is listed at paragraph 3. This number has been set taking into account the proximity of all areas of the borough to the premises types described at paragraph 13. Maps together with a key showing the location of these premises types are annexed to this Policy at Appendix A.
25. Each application will be considered on its merits. The Council wishes to ensure existing premises are well run and this is only possible by judging applications on their merits and not by granting a blanket exemption.
26. In addition, the character of a locality may change with time, making the existing location of a sex establishment inappropriate.

Character of Locality and Use to which Nearby Premises Are Put.

27. The Council has discretion to refuse applications where the grant would be inappropriate having regard to the character of the relevant locality and the use to which any premises in the vicinity are put. In general, the Council will treat the ward in which the premises is situated as the relevant locality, although a different view may be taken following representations in individual cases, e.g. where the premises is close to a ward boundary. As for "vicinity", this will be determined in the circumstances of each case, although as a general guideline a radius of 250 metres will be taken. In exercising its discretion on these grounds, the Council will take into account the following:

- schools or other facilities frequented by children such as playgrounds and playgroups
- cultural facilities such as museums, theatres and cinemas
- facilities frequented primarily by women such as well woman clinics
- places of worship
- public leisure facilities such as leisure centres, parks and open spaces
- community buildings such as community centres, libraries and drop in centres
- places used by vulnerable persons such as hostels and other adult social care facilities
- residential premises
- hospitals and other medical facilities
- other sex establishments

Suitability of Applicant – All Applications

28. New applicants will be required to obtain a Disclosure and Barring (DBS) check (previously CRB), renewable every three years and may be required to attend for an interview with Council officers to enable a decision to be reached on their suitability to hold a sex establishment licence. Details of applicants' private addresses and other sensitive information will not be published in public Committee documents.
29. Applicants will be expected to demonstrate that they have a good understanding of the conditions applicable to any licence granted to them through management competencies, presence and enforcement of rules internally.
30. Applicants for sexual entertainment will be expected to demonstrate that they will act in the best interest and welfare of their performers. Relevant consideration will be given to policies, facilities, protection for performers and physical and psychological welfare.
31. Applicants will be expected to demonstrate that they have a transparent charging system so users of the premises are completely clear as to the charges applicable for services and products inside the premises.

Other Considerations

32. In all cases, other factors the Council will consider when determining applications are:
- proximity to sensitive premises
 - the nature of any logo for the sex establishment
 - the nature of any external images or advertisements at the sex establishment
 - whether advertising inside the sex establishment can be viewed from outside
 - whether the name of the sex establishment clearly indicates the nature of the activities that take place there

- whether the times the sex establishment is open, coincide with the times relevant nearby premises are used
- queuing arrangements for persons wishing to gain admission to the sex establishment
- whether planning consent exists for the proposed use
- whether there are any planned developments in the area that may render the locality unsuitable for a sex establishment
- any comments received from persons about the grant of the licence whether the applicant has had any enforcement action taken against them by the Police, the Council or other bodies such as Her Majesty's Inspectorate of Revenue and Customs
- whether the applicant is able to comply with the standard conditions applicable to all sex establishments and any special conditions the Council may consider appropriate to apply to that particular sex establishment licence
- accessibility to the premises for disabled persons

Existing Premises

33. For the purposes of this section, existing premises are premises already licensed as sex establishments as described in paragraph 13 of this policy. For existing premises, the Council will also consider whether there have been relevant complaints about the premises, whether the licence holder has complied with the conditions of their sex establishment licence and any licence granted to them under the Liquor Licensing Act 2003, and the general management history of the premises. This would include such factors as whether noise nuisance has been caused, whether there have been problems with dispersing customers from the premises, whether there has been touting for business outside the sex establishment and the way in which staff working at the premises are managed. In determining whether a complaint is "relevant", the Council will consider:

- how recently the complaint was made
- whether the complaint was justified, for example whether it was vexatious
- whether the complaint related to a complaint that had already been made and was still undergoing investigation
- the licence holder's willingness to resolve the complaint
- whether the complaint was substantiated
- whether the complaint was resolved
- whether the management of the premises has changed since the complaint was made

34. The Council may take other factors not listed into account when considering applications for sex establishment licences. No policy can anticipate every possible scenario, and other criteria may be used in judging whether the premises should be granted a licence depending on the individual circumstances.

Planning

35. All applicants should consider whether they meet relevant planning requirements before proceeding with an application for a sex establishment licence. Persons seeking a sex establishment licence are advised to contact the Planning Service for guidance on 01424 451066 or by visiting our website www.hastings.gov.uk

Advertisement of Applications

36. The Local Government (Miscellaneous Provisions) Act 1982 provides for statutory consultation to be carried out by the applicant for a licence, including a newspaper advertisement and the placing of notice of the application at the premises.
37. For newspaper advertisements, the advertisement must be placed in the:
- Hastings Observer (Johnsons Press)
38. The notice of application to be displayed at the premises must be at least A4 size and contain as a minimum the following information:
- the applicant's name and address
 - the date of the application
 - the category of licence being applied for, e.g. sex shop, sexual entertainment venue, sex cinema
 - the proposed hours during which the premises will be used as a sex establishment
 - the application type, e.g. grant, renewal, transfer, variation
 - the date of the application
 - the last date for receipt of objections
39. The notice must be printed on a white background in black type, using a minimum font size of 12pt Arial . It must be displayed in a position where it can be clearly seen by passers-by in the street at all times and must remain displayed until the last date for receipt of objections has passed.
40. Additionally, the Council will carry out extra statutory consultation on applications by:
- displaying details of the application on its website
 - informing the local ward councillors for the premises and the ward councillors of adjoining wards, whether those wards are
 - in Hastings or an adjoining borough
 - consulting with neighbouring Councils where the premises
 - are located close to a borough boundary.

41. Commenting on Applications

42. Comments on an application for a sex establishment licence must be made to the Council within 28 days of the date of the application.
43. Comments may be provided in written form or electronically. Comments may not be made on moral grounds and must relate to one or more of the grounds set out in the Local Government (Miscellaneous Provisions) Act 1982 as described in the section entitled "Principles to be Applied When Considering Applications".
44. Those making comments on applications should state whether they consent to any of their details being disclosed to the applicant, and, if so, what details they consent to sharing, such as street name only. Details shall not be provided to the applicant for the licence of any person or organisation without consent.

Standard Conditions

45. The Council has passed regulations adopting certain standard conditions that will act as default conditions to be applied to sex establishment licences in its district. The conditions shall apply in all cases unless the Licensing Panel specifically excludes them or substitutes them with different conditions. These conditions may change from time to time and therefore applicants are advised to contact the Council to ensure they are familiar with the conditions in force at the time.
46. Where it is reasonable and necessary to do so, the Licensing Panel may impose additional conditions on a sex establishment licence or alter or omit some of the standard conditions from the sex establishment licence.

Hearings.

47. All applications (grant, renewal, transfer or variation) that have attracted objections for sex establishment licences shall be considered by a Environment and Safety Committee. The Council shall determine applications for sex establishment licences in accordance with its Hearings Procedure for Sex Establishment Licences.
48. Licensing Panel decisions may not always be announced at the end of the hearing. In such cases, the Panel's decision and the reasons for it will be notified to the parties within 7 days of the date of the hearing.
49. Where the Licensing Panel refuses to grant an application, they shall provide their reasons for doing so in writing to the applicant within 7 days of the date of the hearing.

50. Those who have made comments on an application shall be invited to attend any hearing and state their case to the Environment and Safety Committee but will only be permitted to speak on matters relevant to their written representation to the Council.

Duration of Licence

51. A sex establishment licence shall normally be granted for a period of one year, but may be issued for a shorter term if the Council deems it appropriate in the circumstances.

Appeals

52. There are no rights of appeal for persons who have objected to the grant of a sex establishment licence nor for other statutory authorities.

53. There is a right of appeal for applicants/licence holders in the following circumstances:

- refusal to grant a new sex establishment licence
- refusal to renew an existing sex establishment licence
- refusal to transfer an existing sex establishment licence
- refusal to vary an existing sex establishment licence
- imposition of conditions on a sex establishment licence
- revocation of a sex establishment licence

54. However, an appeal may not be lodged where the Council's decision has been made on the basis that:

I. the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality

II. the grant is inappropriate, having regard:

- i. to the character of the relevant locality
- ii. to the use to which any premises in the vicinity are put
- iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

55. Any appeal to the Magistrates' Court must be made within 21 days from the date on which the person is notified of the decision or became aware of the condition. Where the Licensing Panel have given an oral decisions with reasons at the end of a hearing, the time limit for lodging an appeal will start on that date.

56. Where an appeal is lodged, the sex establishment licence remains in force until such time that the appeal is determined or abandoned. Where an appeal is

lodged against conditions applied to a sex establishment licence, the conditions are deemed not to come into force until the determination or abandonment of the appeal.

57. There is a further and final right of appeal from the Magistrates Court to the Crown Court. This may be brought by the applicant/licence holder or the Council. The Council are not obliged to give effect to any order of the Magistrates Court until the time limit for the bringing of an appeal to the Crown Court has expired and, if such an appeal is brought, until the abandonment or determination of the appeal.

58. If an applicant or other party is aggrieved by a decision made by the Council that cannot be appealed, the only course of remedy is to seek a judicial review of the Council's decision in the High Court. This would have to be on the basis that the Council had made an error of law, had acted perversely, had failed to take a material consideration into account, or had taken immaterial considerations into account when making its decision.

Revocation

59. The Council may revoke a sex establishment licence at any time on any of the grounds for refusing an application, excluding those relating to the character of the premises and locality or the number of sex establishments in a locality.

60. The Council may be prompted to revoke a sex establishment licence by the complaint of a third party, including a ward councillor, or may do so unilaterally on its own behalf.

61. However, the Council will not take steps to revoke a sex establishment licence without giving details of its reasons for considering revocation to the licence holder at least 28 days before holding any hearing to consider the revocation of the licence.

62. The applicant shall in all cases be afforded the opportunity to appear before the Licensing Panel making the decision. Where the Council decides to revoke the sex establishment licence, it shall give the reasons for its decision to the licence holder in writing within 28 days of making its decision.

Burlesque

63. This Policy may apply to some forms of burlesque performances. A decision on whether or not the entertainment provided is relevant entertainment for the purposes of the Act shall depend on the content of the entertainment and not the name it is given. Therefore, any decision as to whether entertainment is relevant entertainment will be made on a case by case basis.

Premises 'Infrequently Used' for Sexual Entertainment

64. Premises providing sexual entertainment on not more than eleven occasions in a twelve month period, greater than one month apart and lasting for not more than 24 hours are exempt from the need to be licensed as sex establishments under the Local Government (Miscellaneous Provisions) Act 1982. These premises shall continue to be regulated under the Licensing Act 2003.
65. Venues licensed under the Local Government (Miscellaneous Provisions) Act 1982 as sex establishments shall be treated as such even where they are used infrequently, unless the licence holder returns their sex establishment licence to the Council together with a request that the sex establishment licence be cancelled. If the sex establishment licence is surrendered for any reason, any future application to license the same premises shall be treated by the Council as a new application.

Further Information

66. Information on sex establishment licensing, including guidance on making an application and making a complaint can be found on the Council's website at www.hastings.gov.uk. Persons wishing to make an application or make a complaint about a sex establishment may also contact the Council on 01424 451042 or visit our website www.hastings.gov.uk.



Draft Sex Establishment Policy



Hastings
Borough Council

Consultation Roads

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**Draft
Sex Establishment
Policy**



Consultation Roads

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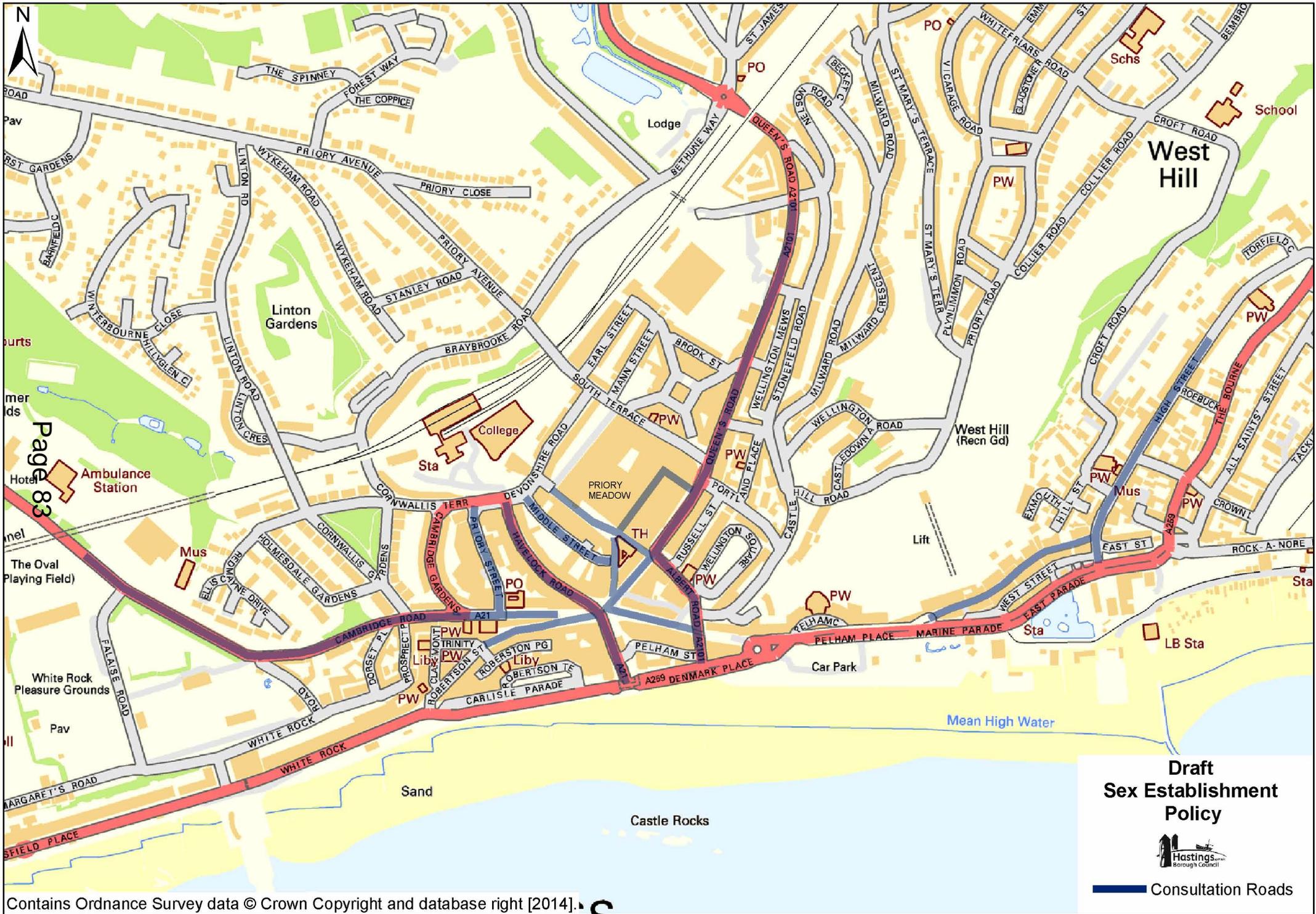


Draft Sex Establishment Policy

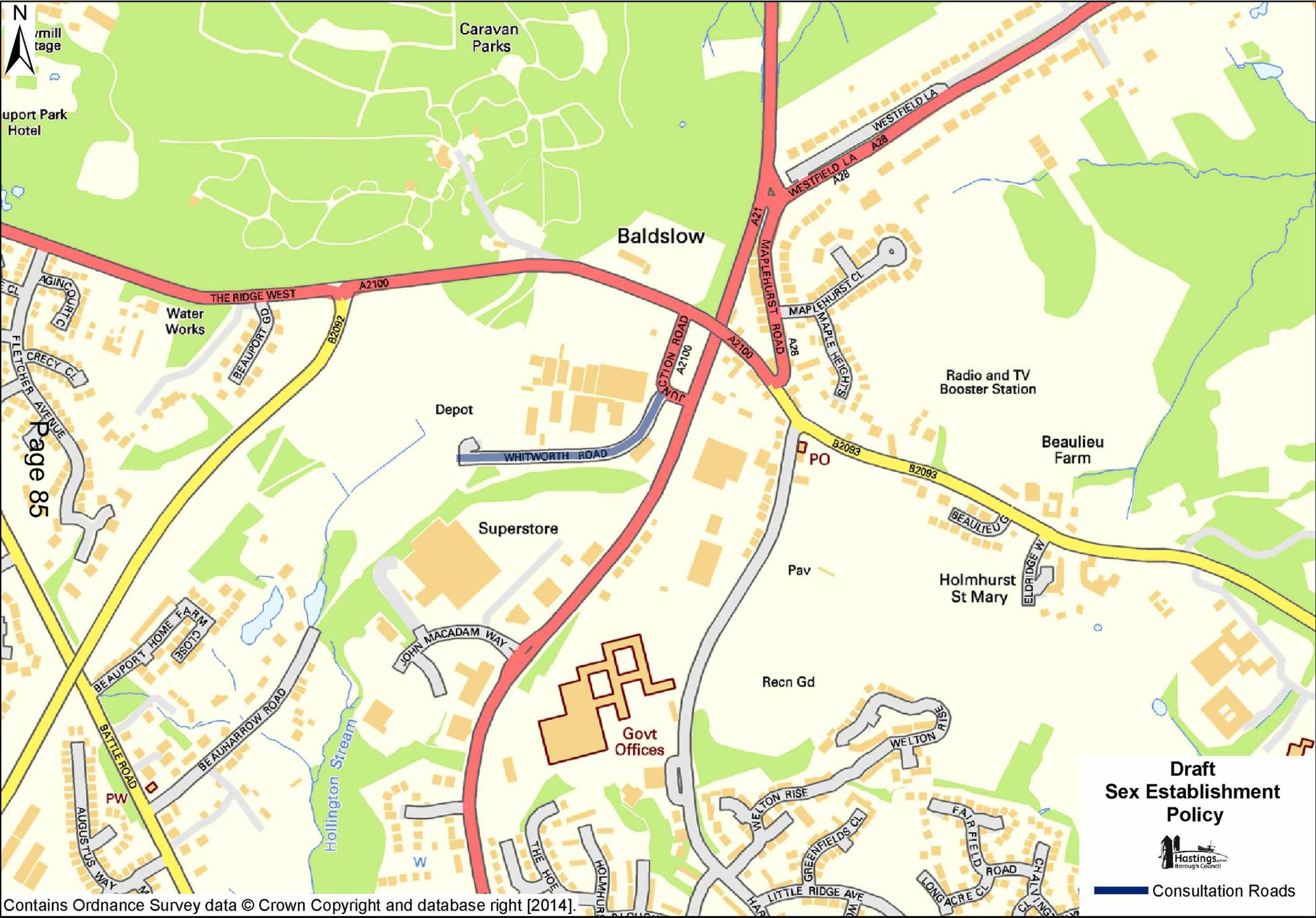


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Support Park Hotel

Caravan Parks

Baldslow

Water Works

Depot

Superstore

Govt Offices

Radio and TV
Booster Station

Beaulieu Farm

Holmhurst
St Mary

Recn Gd

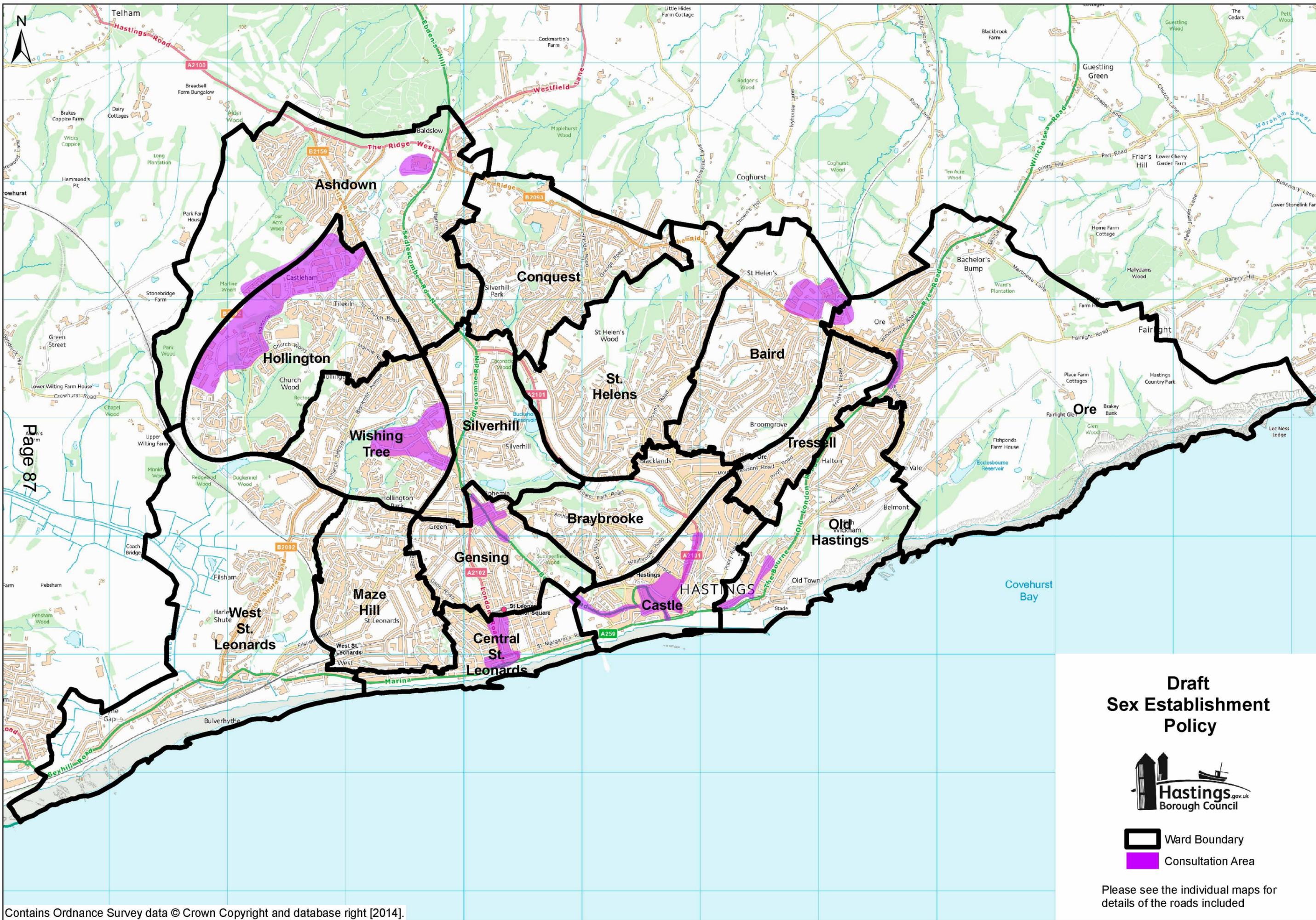
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**Draft
Sex Establishment
Policy**



■ Consultation Roads

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Draft Sex Establishment Policy



-  Ward Boundary
-  Consultation Area

Please see the individual maps for details of the roads included

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Report to: Cabinet

Date of Meeting: 8 July 2019

Report Title: Treasury Management Outturn Report for 2018-19

Report By: Peter Grace (Chief Finance Officer)

Purpose of Report

This report provides the opportunity for the Cabinet and Council to scrutinise the Treasury Management activities and performance of the last financial year.

Recommendation(s)

- 1. To consider the report – no recommendations are being made to amend the current Treasury Management Strategy as a result of this particular review.**

Reasons for Recommendations

To ensure that members are fully aware of the activities undertaken in the last financial year, that Codes of Practice have been complied with and that the Council's strategy has been effective in 2018-19.

Under the Code adopted the Full Council are required to consider the report and any recommendations made.

Introduction

1. This Council is required by regulations issued under the Local Government Act 2003 to produce an annual treasury management review of activities and the actual prudential and treasury indicators for 2018/19. This report meets the requirements of both the CIPFA Code of Practice on Treasury Management, (the Code), and the CIPFA Prudential Code for Capital Finance in Local Authorities, (the Prudential Code).
2. The primary requirements of the Code are as follows:
 - a. Creation and maintenance of a Treasury Management Policy Statement which sets out the policies and objectives of the Council's treasury management activities.
 - b. Creation and maintenance of Treasury Management Practices which set out the manner in which the Council will seek to achieve those policies and objectives.
 - c. Receipt by the Full Council of an annual treasury management strategy report - including the annual investment strategy report for the year ahead, a mid-year review report (as a minimum) and an annual review report of the previous year.
 - d. Delegation by the Council of responsibilities for implementing and monitoring treasury management policies and practices and for the execution and administration of treasury management decisions.
 - e. Delegation by the Council of the role of scrutiny of treasury management strategy and policies to a specific named body which in this Council is the Audit Committee.
3. Treasury management in this context is defined as:

"The management of the organisation's borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks".
4. The regulatory environment places responsibility on members for the review and scrutiny of treasury management policy and activities. This report is, therefore, important in that respect, as it provides details of the outturn position for treasury activities and highlights compliance with the Council's policies previously approved by members.
5. Member training on treasury management issues was last undertaken on 30 January 2019 and training on the medium term financial strategy on 10 September 2018 in order to support members' scrutiny role.

6. This annual Treasury report covers
 - a. capital expenditure and financing 2018-19
 - b. overall borrowing need (the Capital Financing Requirement)
 - c. treasury position as at 31 March 2019;
 - d. performance for 2018-19;
 - e. the strategy for 2018-19;
 - f. the economy and interest rates in 2018-19;
 - g. borrowing rates in 2018-19;
 - h. the borrowing outturn for 2018-19;
 - i. debt rescheduling;
 - j. compliance with treasury limits and Prudential Indicators;
 - k. investment rates in 2018-19;
 - l. investment outturn for 2018-19;

Capital Expenditure and Financing 2018/19

7. The Council undertakes capital expenditure on long-term assets. These activities may either be:
 - Financed immediately through the application of capital or revenue resources (capital receipts, capital grants, revenue contributions etc.), which has no resultant impact on the Council's borrowing need; or
 - If insufficient financing is available, or a decision is taken not to apply resources, the capital expenditure will give rise to a borrowing need.
8. The actual capital expenditure forms one of the required prudential indicators. The table below shows the actual capital expenditure and how this was financed.

Capital Programme Financing 2018/19	Outturn 2018-19	
	£000's	£000's
Expenditure :		24,247
Borrowing		19,396
Grants:		
Disabled Facilities Grant	1,254	
Coastal Communities	219	
Harbour Arm and New Groynes	1,556	
Other Grants and Contributions	<u>18</u>	
		3,047
Reserves		0
Capital Receipts		1,804
Total		24,247

Overall Borrowing Need (Capital Financing Requirement (CFR))

9. The Council's underlying need to borrow for capital expenditure is termed the Capital Financing Requirement (CFR). This figure is a gauge of the Council's debt position. The CFR results from the capital activity of the Council and what resources have been used to pay for the capital spend.
10. Part of the Council's treasury activities is to address the funding requirements for the Council's borrowing need. Depending on the capital expenditure programme, the treasury service organises the Council's cash position to ensure sufficient cash is available to meet the capital plans and cash flow requirements. This may be sourced through borrowing from external bodies (such as the Government, through the Public Works Loan Board [PWLB] or the money markets), or utilising temporary cash resources within the Council.
11. The Council's underlying borrowing need (CFR) is not allowed to rise indefinitely. Statutory controls are in place to ensure that capital assets are broadly charged to revenue over the life of the asset. The Council is required to make an annual revenue charge, called the Minimum Revenue Provision – MRP, to reduce the CFR. This is effectively a repayment of the borrowing need. This differs from the treasury management arrangements which ensure that cash is available to meet capital commitments. External debt can also be borrowed or repaid at any time, but this does not change the CFR.
12. The total CFR can also be reduced by:
 - the application of additional capital financing resources (such as unapplied capital receipts); or
 - charging more than the statutory revenue charge (MRP) each year through a Voluntary Revenue Provision (VRP).
13. The Council's 2018/19 MRP Policy was approved as part of the Treasury Management Strategy Report for 2018/19 by Council in February 2018.
14. The Council's CFR for the year is shown below, and represents a key prudential indicator. It includes leasing schemes on the balance sheet, which increase the Council's borrowing need (albeit no borrowing of cash is actually required).

Table 2 CFR: General Fund	2017/18 Actual £000's	2018/19 Estimate £000's	2018/19 Actual £000's
Opening balance	30,078	41,175	39,493
Add unfinanced capital expenditure	11,160	27,160	19,396
Less repayments (e.g.LAMS)	(1,028)	(0)	(0)
Less MRP	(717)	(1,116)	(795)
Less finance lease arrangements	(0)	(0)	(0)
Closing balance	39,493	67,219	58,094

Note: Finance lease arrangements are excluded

15. Borrowing activity is constrained by prudential indicators for net borrowing and the CFR, and by the authorised limit.
16. The Council's long term borrowing must only be for a capital purpose. This essentially means that the Council is not borrowing to support revenue expenditure. Net borrowing should not therefore, except in the short term, have exceeded the CFR for 2018/19 plus the expected changes to the CFR over 2019/20 and 2020/21 from financing the capital programme. This indicator allows the Council some flexibility to borrow in advance of its immediate capital needs in 2018/19. The table below highlights the Council's gross borrowing position against the CFR, which provides an indication of affordability for the Council. The Council has complied with this prudential indicator.

Table 3 Internal Borrowing Level	2017/18 Actual	2018/19 Estimate	2018/19 Actual
	£000's	£000's	£000's
Capital Financing Requirement	39,493	67,219	58,094
External Borrowing	41,013	65,629	61,069
Net Internal Borrowing	(1,520)	1,590	(2,975)

Treasury Position as at 31 March 2019

17. The Council's debt and investment position at the beginning and the end of the year was as follows:

Table 4	1 April 2018 Principal	Rate	Maturity	31-Mar-19 Principal	Rate
Debt					
PWLB Loan 1	£7,500,000	4.80%	2033	£7,500,000	4.80%
PWLB Loan 2	£2,000,000	0.61% (*Variable)	2019	£0	
PWLB Loan 3	£909,027	3.78%	2044	£909,027	3.78%
PWLB Loan 4	£1,788,235	3.78%	2044	£1,788,235	3.78%
PWLB Loan 5 (Annuity)	£243,901	1.66%	2026	£215,148	1.66%
PWLB Loan 6	£1,000,000	2.92%	2056	£1,000,000	2.92%
PWLB Loan 7	£1,000,000	3.08%	2046	£1,000,000	3.08%
PWLB Loan 8	£1,000,000	3.01%	2036	£1,000,000	3.01%
PWLB Loan 9	£1,000,000	2.30%	2026	£1,000,000	2.30%
PWLB Loan 10	£2,000,000	2.80%	2054	£2,000,000	2.80%
PWLB Loan 11	£1,000,000	2.42%	2028	£1,000,000	2.42%
PWLB Loan 12	£2,000,000	2.53%	2057	£2,000,000	2.53%
PWLB Loan 13	£2,000,000	2.50%	2059	£2,000,000	2.50%
PWLB Loan 14	£2,000,000	2.48%	2060	£2,000,000	2.48%
PWLB Loan 15 (Annuity)	£7,221,917	2.53%	2057	£7,113,729	2.53%
PWLB Loan 16 (Annuity)	£8,350,000	2.72%	2057	£8,232,534	2.72%
PWLB Loan 17			2028	£2,000,000	1.98%
PWLB Loan 18			2058	£4,000,000	2.55%
PWLB Loan 19			2059	£2,500,000	2.56%
PWLB Loan 20			2069	£4,410,000	2.56%
PWLB Loan 21			2059	£9,400,000	2.54%
Total Debt	£41,013,080	3.01%		£61,068,673	2.89%

* Rate at January 2018 (rates change every 3 months)

Table 5	31 March 2018 Principal	31 March 2019 Principal
Investments		
Managed In-House	£29.7m	£25m
Total Investments	£29.7m	£25m

Performance Measurement (2018-19)

18. Table 6 below compares the Estimated Interest Payable and Received and associated fees for the year 2018-19.

Table 6 Interest	2017 -18 Actual Outturn £000's	2018-19 Revised Budget £000's	2018 -19 Actual Outturn £000's
Gross Interest Payable	1,090	1,310	1,323
Gross Interest Received	(305)	(366)	(396)
Fees	9	10	10
Other (e.g. PWLB Discount)	(19)	(0)	(0)
Net Cost	775	954	937

19. The Council's longer term cash balances comprise, primarily, revenue and capital resources, although these will be influenced by cash flow considerations. The Council's core cash resources are detailed below, and were in line with budget expectations.

20.

Table 7 Reserves	31 March 2018	31 March 2019
	£000's	£000's
General Fund Balance	500	500
Earmarked Reserves	10,374	10,905
General Reserve	7,668	7,714
Total	£18,542	£19,119

It should be noted that Earmarked Reserves includes £349,000 (£585,000 at 31 March 2018) of Clinical Commissioning Group monies

The Strategy for 2018-19

21. The expectation for interest rates within the Treasury Management Strategy for 2018/19 anticipated that the historically low Bank Rate would be subject to gradual rises in medium and longer term and as such fixed borrowing rates would increase slowly during 2018/19. Variable, or short-term rates, were expected to be the cheaper form of borrowing over the period. However the continued uncertainty in the aftermath of the 2008 financial crisis and the uncertainty over the terms of Brexit promoted a cautious approach for the year. As a result of increasing borrowing requirements for 18/19 and years ahead the strategy promoted the taking of new borrowing rather than reliance on internal borrowing and the risk that borrowing rates would increase. Investment rates were viewed as providing relatively low returns compared to borrowing rates.
22. During 2018/19 PWLB rates were volatile with short term PWLB rates on a rising trend during the second half of the year.
23. The general aim of the treasury management strategy has been to minimise the costs of borrowing in both the short and longer term. In the short term it can consider avoiding new borrowing and using cash balances to finance new borrowing. However to minimise longer term costs it needs to borrow when rates are a historically low levels. Given also that the Council's ambitions are to generate future income streams, which would involve future borrowing, the opportunities were taken to secure new borrowing in the year. The timing of new borrowing continues to be important to minimise the overall costs to the Council and to lock in returns where the Council has purchased housing, temporary accommodation, solar energy panels and commercial property.

The Economy and Interest Rates

24. UK. After weak economic growth of only 0.2% in quarter one of 2018, growth picked up to 0.4% in quarter 2 and to a particularly strong 0.7% in quarter 3, before cooling off to 0.2% in the final quarter. Given all the uncertainties over Brexit, this weak growth in the final quarter was as to be expected. However, some recovery in the rate of growth is expected going forward. The annual growth in Q4 came in at 1.4% y/y confirming that the UK was the third fastest growing country in the G7 in quarter 4.
25. After the Monetary Policy Committee raised Bank Rate from 0.5% to 0.75% in August 2018, it is little surprise that they have abstained from any further increases since then. We are unlikely to see any further action from the MPC until the uncertainties over Brexit clear. If there were a disorderly exit, it is likely that Bank Rate would be cut to support growth. Nevertheless, the MPC has been having increasing concerns over the trend in wage inflation which peaked at a new post financial crisis high of 3.5%, (excluding bonuses), in the three months to December before falling only marginally to 3.4% in the three months to January. British employers ramped up their hiring at the fastest pace in more than three years in the three months to January as the country's labour market defied the

broader weakness in the overall economy as Brexit approached. The number of people in work surged by 222,000, helping to push down the unemployment rate to 3.9 percent, its lowest rate since 1975. Correspondingly, the total level of vacancies has risen to new highs.

26. As for CPI inflation itself, this has been on a falling trend since peaking at 3.1% in November 2017, reaching a new low of 1.8% in January 2019 before rising marginally to 1.9% in February. However, in the February 2019 Bank of England Inflation Report, the latest forecast for inflation over both the two and three year time horizons remained marginally above the MPC's target of 2%.
27. The rise in wage inflation and fall in CPI inflation is good news for consumers as their spending power is improving in this scenario as the difference between the two figures is now around 1.5%, i.e. a real terms increase. Given the UK economy is very much services sector driven, an increase in household spending power is likely to feed through into providing some support to the overall rate of economic growth in the coming months.
28. Brexit: There is an extension to the 31 October, and with a new prime minister to be elected (at the time of writing) by the conservatives, considerable uncertainty remains. Should a general election occur in 2019, this could result in a potential loosening of monetary policy and therefore medium to longer dated gilt yields could rise on the expectation of a weak pound and concerns around inflation picking up.
29. USA. President Trump's massive easing of fiscal policy in 2018 fuelled a (temporary) boost in consumption in 2018 which generated an upturn in the strong rate of growth; this rose from 2.2%, (annualised rate) in quarter 1 of 2018 to 4.2% in quarter 2, 3.5% in quarter 3 and then back to 2.2% in quarter 4. The annual rate came in at 2.9% for 2018, just below President Trump's aim for 3% growth. The strong growth in employment numbers has fed through to an upturn in wage inflation which hit 3.4% in February, a decade high point. However, CPI inflation overall fell to 1.5% in February, a two and a half year low, and looks to be likely to stay around that number in 2019 i.e. below the Fed's target of 2%. The Fed increased rates another 0.25% in December to between 2.25% and 2.50%, this being the fourth increase in 2018 and the ninth in the upward swing cycle. However, the Fed now appears to be edging towards a change of direction and admitting there may be a need to switch to taking action to cut rates over the next two years. Financial markets are now predicting two cuts of 25 bps by the end of 2020.
30. EUROZONE. The European Central Bank (ECB) provided massive monetary stimulus in 2016 and 2017 to encourage growth in the EZ and that produced strong annual growth in 2017 of 2.3%. However, since then the ECB has been reducing its monetary stimulus measures and growth has been weakening - to 0.4% in quarters 1 and 2 of 2018, and then slowed further to 0.2% in quarters 3 and 4; it is likely to be only 0.1 - 0.2% in quarter 1 of 2019. The annual rate of growth for 2018 was 1.8% but is expected to fall to possibly around half that rate in 2019. The ECB completely ended its programme of quantitative easing purchases of debt in December 2018, which means that the central banks in the US, UK and EU have all ended the phase of post financial crisis expansion of liquidity supporting world financial markets by purchases of debt. However, the

downturn in growth, together with inflation falling well under the upper limit of its target range of 0 to 2%, (but it aims to keep it near to 2%), prompted the ECB to take new measures to stimulate growth. With its refinancing rate already at 0.0% and the deposit rate at -0.4%, it has probably reached the limit of cutting rates. At its March 2019 meeting it said that it expects to leave interest rates at their present levels “at least through the end of 2019”, but that is of little help to boosting growth in the near term. Consequently, it also announced a third round of Targeted longer-term refinancing operations (**TLTROs**), which are one of the ECB’s non-standard monetary policy tools. This provides banks with cheap borrowing every three months from September 2019 until March 2021 which means that, although they will have only a two-year maturity, the Bank is making funds available until 2023, two years later than under its previous policy. As with the last round, the new TLTROs will include an incentive to encourage bank lending, and they will be capped at 30% of a bank’s eligible loans.

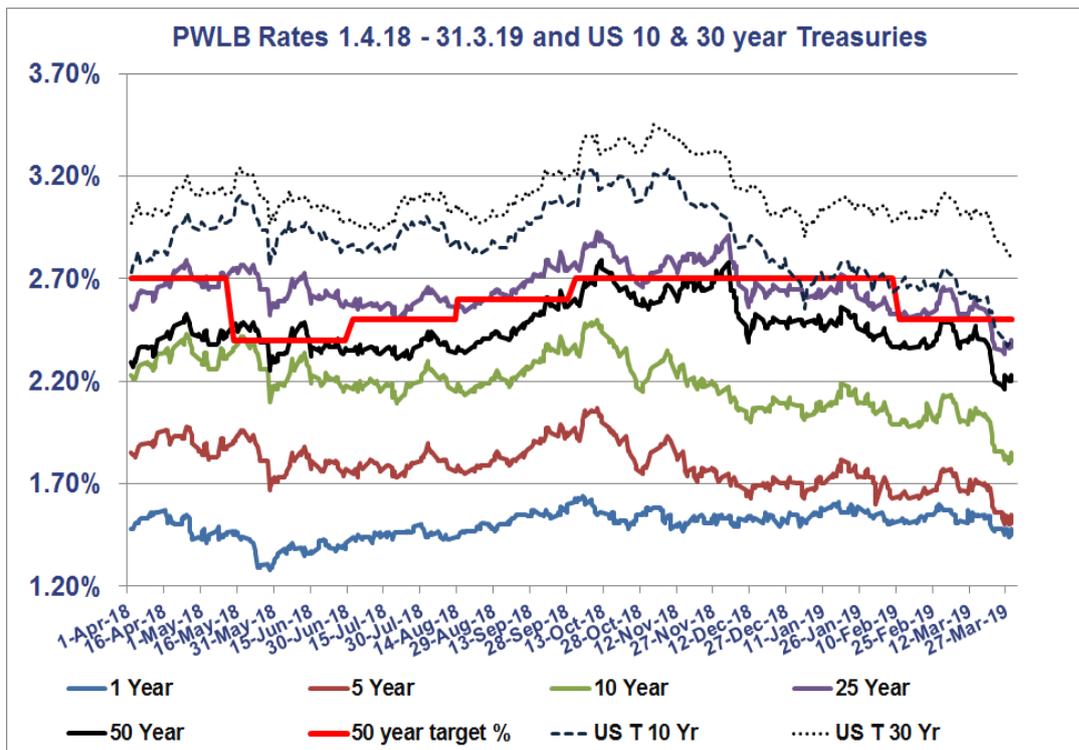
31. CHINA. Economic growth has been weakening over successive years, despite repeated rounds of central bank stimulus; medium term risks are increasing. Major progress still needs to be made to eliminate excess industrial capacity and the stock of unsold property, and to address the level of non-performing loans in the banking and credit systems.
32. JAPAN - has been struggling to stimulate consistent significant GDP growth and to get inflation up to its target of 2%, despite huge monetary and fiscal stimulus. It is also making little progress on fundamental reform of the economy.
33. WORLD GROWTH. Equity markets are currently concerned about the synchronised general weakening of growth in the major economies of the world: they fear there could even be a recession looming up in the US.

Borrowing Rates in 2018-19

34. PWLB borrowing rates - the graphs and table for PWLB maturity rates below show, for a selection of maturity periods, the high and low points in rates, the average rates, spreads and individual rates at the start and the end of the financial year.

Table 9: PWLB rates

Link Asset Services Interest Rate View 12.2.18													
	Mar-18	Jun-18	Sep-18	Dec-18	Mar-19	Jun-19	Sep-19	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21
Bank Rate	0.50%	0.75%	0.75%	1.00%	1.00%	1.00%	1.00%	1.25%	1.25%	1.25%	1.50%	1.50%	1.50%
5yr PWLB Rate	1.90%	2.00%	2.10%	2.10%	2.20%	2.30%	2.30%	2.40%	2.40%	2.50%	2.50%	2.60%	2.60%
10yr PWLB Rate	2.50%	2.50%	2.60%	2.70%	2.70%	2.80%	2.80%	2.90%	3.00%	3.00%	3.10%	3.10%	3.20%
25yr PWLB Rate	2.80%	2.90%	3.00%	3.10%	3.20%	3.20%	3.30%	3.30%	3.40%	3.50%	3.50%	3.60%	3.60%
50yr PWLB Rate	2.60%	2.70%	2.80%	2.90%	3.00%	3.00%	3.10%	3.10%	3.20%	3.30%	3.30%	3.40%	3.40%



35. The table above highlights the fluctuation in borrowing rates throughout the year for different borrowing periods (in years).

Borrowing Outturn for 2018/19

36. Additional long term borrowing of £22.310m was undertaken in 2018/19 along with the repayment of a £2m loan and £254,407 annuity repayments resulting in a total balance outstanding with the PWLB of £61,068,673 as at 31 March 2019.

Borrowing in advance of need

37. The Council has not borrowed more than, or in advance of its needs, purely in order to profit from the investment of the extra sums borrowed.

38. The Council did have a higher level of borrowing than its Capital Financing Requirement (CFR) at the 31 March 2019. The Council had expected to complete the purchase of a major housing company portfolio prior to year end. Borrowing rates had fallen to a point where it was considered optimal to borrow in order to finance the forthcoming capital expenditure. In taking this decision, the Council carefully considered achieving best value, the risk of having to borrow at higher rates at a later date, the carrying cost of the difference between interest paid on such debt and interest received from investing funds which would be surplus until used, and that the Council could ensure the security of such funds placed on temporary investment.

Debt Rescheduling

39. The Council examined the potential for making premature debt repayments in order to reduce borrowing costs as well as reducing counterparty risk by reducing investment balances. No rescheduling was undertaken during the year as the

differential between PWLB new borrowing rates and premature repayment rates made rescheduling unviable. When last reviewed on the 27 September 2017 the early repayment cost of the £7.5m PWLB loan, maturing in 2033, would have amounted to £3,177,343. Given the reduction in rates the redemption premiums payable are likely to have increased.

Compliance with Treasury Limits

40. During the financial year the Council operated within the treasury limits and Prudential Indicators set out in the Council's annual Treasury Strategy Statement. The outturn for the Prudential Indicators is shown in Appendix 1.

Investment Rates in 2018-19

41. Investment rates for 3 months and longer have been on a rising trend during the second half of the year with the increase in Bank Rate
42. The Bank Rate was raised from 0.5% to 0.75% on 2 August 2018 and remained at that level for the rest of the year. However, further increases are expected over the next few years, but some commentators are now predicting a short term fall in early 2020.
43. The funds invested during the year were often available on a temporary basis, and the level of funds available was mainly dependent on the timing of precept payments, receipt of grants and progress on the capital programme.

Investment Strategy

44. The strategy was agreed at the Council meeting in February 2018. The Investment strategy did not change during the year. The revised budget forecast investment returns of £366,000 whilst the actual outturn was £396,000.
45. The overall return on the Property Fund investment (£2m with CCLA) was 5.99% net of fees i.e. Capital growth and dividends. The net dividends received amounted to £85,172 - a very satisfactory 4.26% return.

Investment Outturn for 2018-19

46. Investments held by the Council - the Council maintained an average balance in the year of £30.712m. The average rate of return for the year was 0.81%. The comparable performance indicator is the average 7-day LIBID rate (un-compounded), which was 0.51%.

47. The table below provides a snapshot of the investments/deposits held at 31 March 2019.

Counterparty	Rate/ Return (%)	Start Date	End Date	Principal (£)	Term
NatWest	0.05			1,771	Call
Birmingham City Council	1.05	30/08/2018	28/08/2019	3,000,000	Fixed
DBS Bank Ltd	0.97	04/12/2018	04/04/2019	3,000,000	Fixed
Eastleigh Borough Council	0.91	28/02/2019	31/05/2019	5,000,000	Fixed
London Borough of Harrow	0.75	10/09/2018	10/04/2019	3,000,000	Fixed
Landesbank Berlin	1.14	30/01/2019	30/01/2020	5,000,000	Fixed
Barclays	0.40			2,998,425	Call
Lloyds Gen	0.40			2,570,536	Call
			Total	24,570,732	

48. In addition to the investments the Council has a few loans in place, namely as at 31 March 2019:-

Counterparty	Rate/ Return (%)	Start Date	End Date	Principal (£)	Term
Amicus	3.78	04/09/2014	02/09/2044	1,793,235	Fixed
The Source	2.43	17/12/2015	17/12/2025	19,304	Fixed
Foreshore Trust	1.66	21/03/2016	20/03/2026	215,147	Annuity

49. It should be noted that the Council agreed on 9 April 2018 to lend monies (£134,037.60) to Freedom leisure for investments in the Council's leisure centre. The loan to be for a period of 5 years at 7%. This has not yet been taken up.

Other Issues

50. Markets in Financial Instruments Directive II (MiFID II)

The EU set the date of 3 January 2018 for the introduction of regulations under MIFID II. These regulations govern the relationship that financial institutions conducting lending and borrowing transactions will have with local authorities from that date. This has had little effect on this Authority apart from having to fill in forms sent by each institution dealing with this Authority and for each type of investment instrument we use, apart from for cash deposits with banks.

51. Revised CIPFA Codes

In December 2017, the Chartered Institute of Public Finance and Accountancy, (CIPFA), issued a revised Treasury Management Code and Cross Sectoral Guidance Notes, and a revised Prudential Code.

A particular focus of these revised codes was how to deal with local authority investments which are not treasury type investments e.g. by investing in purchasing property in order to generate income for the Authority at a much higher level than can be attained by treasury investments. One recommendation was that local authorities should produce a new report to members to give a high level summary of the overall capital strategy and to enable members to see how the cash resources of the Authority have been apportioned between treasury and non-treasury investments.

52. A new Capital Strategy was considered and agreed by full council in February 2019. A mid-year treasury management report will provide an overall update on the Strategy and may necessitate some significant revisions given the ambitions of the Council for further economic and regeneration projects.

53. **Minimum Revenue Provision (MRP) guidance**

New government (MHCLG) MRP guidance was issued on 2 February 2018. This has focused particularly on expenditure relating to purchasing non-financial asset investments i.e. commercial property, but has also had impacts on investments – particularly where equity and loans are involved.

Financial Implications

54. The security of the Council’s monies remains the top priority within the strategy. Investment rates available in the market have continued at historically low levels during the last year. There has been significant new borrowing of £22.31m in the year – all at fixed rates and generally for long periods. The annual borrowing costs are more than offset by the income received and the Council has carefully considered the overall levels of borrowing being undertaken against the size of the Council’s budget and unencumbered assets, along with the affordability of the debt commitments as and when income streams reduce.

Timetable of Next Steps

55. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Cabinet		8 July	Peter Grace
Full Council		24 July	Peter Grace
Audit Committee		30 July	Peter Grace

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Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

Implications

Relevant project tools applied? N/A

Have you checked this report for plain English and readability? Yes. This has been done as much as possible considering the complex financial issues involved.

Climate change implications considered? N/A

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	Yes.
These are detailed in paragraph 54 above.	
Human Rights Act	No
Organisational Consequences	No
Local People's Views	No
Anti-Poverty	No

Additional Information

Treasury Management and Annual Investment Strategy 2018/19
 CIPFA - Treasury Management Code of Practice
 CIPFA - The Prudential Code

Appendix 1 – Prudential Indicators

Officer to Contact

Officer Name Peter Grace
 Officer Email Address pgrace@hastings.gov.uk
 Officer Telephone Number 01424 451503

APPENDIX 1 Prudential Indicators

The Council's Capital expenditure plans are the key driver of treasury management activity. The output of the Capital expenditure plans (detailed in the budget) is reflected in the prudential indicators below. The Authorised limit for external borrowing in 2017/18 was changed to £80m at the February Council meeting.

TREASURY MANAGEMENT PRUDENTIAL INDICATORS	2017/18*	2018/19	2019/20	2020/21	2021/22
	£'000	£'000	£'000	£'000	£'000
Authorised Limit for external debt					
Borrowing	£75,000	£85,000	£95,000	£95,000	£95,000
other long term liabilities	£5,000	£5,000	£5,000	£5,000	£5,000
TOTAL	£80,000	£90,000	£100,000	£100,000	£100,000
Operational Boundary for external debt -					
borrowing	£65,000	£75,000	£85,000	£85,000	£85,000
other long term liabilities	£5,000	£5,000	£5,000	£5,000	£5,000
TOTAL	£70,000	£80,000	£90,000	£90,000	£90,000

2017/18* - proposed revision to authorised boundary from £70m to £80m. Operational boundary unaltered.

Interest Rate Exposures	2018/19	2019/20	2020/21
	Upper	Upper	Upper
Limits on fixed interest rates based on net debt	100%	100%	100%
Limits on variable interest rates based on net debt	100%	100%	100%
Limits on fixed interest rates:			
· Debt only	100%	100%	100%
· Investments only	100%	100%	100%
Limits on variable interest rates			
· Debt only	30%	30%	30%
· Investments only	100%	100%	100%
Maturity Structure of fixed interest rate borrowing 2018/19			
		lower	Upper
Under 12 Months		0%	100%
12 months to 2 years		0%	100%
2 years to 5 years		0%	100%
5 years to 10 years		0%	100%
10 years to 20 years		0%	100%
20 years to 30 years		0%	100%
30 years to 40 years		0%	100%
40 years to 50 years		0%	100%
Maturity Structure of variable interest rate borrowing 2018/19			
		lower	Upper
Under 12 Months		0%	30%
12 months to 2 years		0%	30%
2 years to 5 years		0%	30%
5 years to 10 years		0%	30%
10 years to 20 years		0%	10%
20 years to 30 years		0%	10%
30 years to 40 years		0%	10%
40 years to 50 years		0%	10%

Affordability prudential indicator - Ratio of financing costs to net revenue stream

This indicator assesses the affordability of the capital investment plans. It provides an indication of the impact of the capital investment plans on the Council's overall finances. This indicator identifies the trend in the cost of capital (borrowing and other long term obligation costs net of investment income) against the net revenue stream.

Prudential Indicator: Financing Cost to Net Revenue Stream	2017/18 Actual	2018/19 Rev.Est	2018/19 Outturn	2019/20 Estimate	2020/21 Estimate	2021/22 Estimate
Financing Costs	£'000	£'000	£'000	£'000	£'000	£'000
1. Interest Charged to General Fund	925	1,366	1,323	1,950	2,296	2,394
2. Interest Payable under Finance Leases and any other long term liabilities	-	-	-	-	-	-
3. Gains and losses on the repurchase or early settlement of borrowing credited or charged to the amount met from government grants and local taxpayers	-19	-	-	0	0	0
4. Interest and Investment Income	-305	-366	-396	-553	-834	-1,062
5. Amounts payable or receiveable in respect of financial derivatives	-	-	-	-	-	-
6. MRP, VRP	717	795	795	1,184	1,628	1,775
6. Depreciation/Impairment that are charged to the amount to be met from government grants and local taxpayers	-	-	-	-	-	-
Total	1,318	1,795	1,722	2,581	3,090	3,107
Net Revenue Stream						
Amount to be met from government grants and local taxpayers	13,373	13,459	13,697	13,369	13,216	13,578
Ratio						
Financing Cost to Net Revenue Stream	10%	13%	13%	19%	23%	23%

This prudential indicator shows that the ratio of financing costs to the net revenue stream is increasing. This is not unexpected given that the Council has an income generation strategy that has identified an additional £50m of Capital expenditure over the period 2017/18 to 2020/21. The above ratio does not currently take into account the income that will be generated from the Capital investment.

Agenda Item 13

Cabinet Agenda

Monday, 8 July 2019 at 6.00 pm

Muriel Matters House, Breeds Place, Hastings, East Sussex, TN34 3UY

If you are attending Muriel Matters House for this meeting, please enter the building via the Tourist Information Centre entrance. Members of public are advised that they will need to sign in to comply with health and safety legislation and will be escorted up to the Committee Room.

For further information, please contact Coral Harding on 01424 451764 or email charding@hastings.gov.uk

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3.	Minutes of Last Meeting on 7 May 2019	1 - 4
4.	Constitution Change July 2019 <i>(Chris Barkshire-Jones, Chief Legal Officer)</i> <i>(Council Decision)</i>	5 - 36
5.	Sex Establishments Policy Review <i>(Mike Hepworth, Assistant Director, Environment and Place)</i> <i>(Council Decision)</i>	37 - 72
6.	Lower Tier Residential Development <i>(Andrew Palmer, Assistant Director, Housing & Built Environment)</i> <i>(Cabinet Decision)</i>	73 - 86
7.	Proposed Variation of the Anti Social Behaviour Public Spaces Protection Order <i>(Mike Hepworth, Assistant Director, Environment and Place)</i> <i>(Cabinet Decision)</i>	87 - 132
8.	Development of Income Generation, Regeneration and Energy Initiatives	133 - 152

	<i>(Simon Hubbard, Director, Operational Services)</i> <i>(Cabinet Decision)</i>	
9.	Final Accounts 2018/19 <i>(Peter Grace, Assistant Director, Financial Services and Revenues)</i> <i>(Cabinet Decision)</i>	153 - 172
10.	Corporate Plan retrospective report on performance during 2018/19 and proposed Performance Indicator targets for 2019/20 <i>(Jane Hartnell, Director, Corporate Services and Governance)</i> <i>(Cabinet Decision)</i>	173 - 176
11.	Central St Leonards Renewal Exit Review <i>(Andrew Palmer, Assistant Director, Housing & Built Environment)</i> <i>(Cabinet Decision)</i>	177 - 230
12.	Cabinet Appointments to Committees, Working Groups and Partnerships <i>(Chris Barkshire-Jones, Chief Legal Officer)</i> <i>(Cabinet Decision)</i>	231 - 244
13.	Annual Treasury Management Outturn Report 2018/19 <i>(Peter Grace, Assistant Director, Financial Services and Revenues)</i> <i>(Council Decision)</i>	245 - 262
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