

# Public Document Pack



## AUDIT AND SCRUTINY COMMITTEE THURSDAY, 14 FEBRUARY 2019

A MEETING of the AUDIT AND SCRUTINY COMMITTEE will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS on THURSDAY, 14 FEBRUARY 2019 at 10.00 am

*As previously agreed, there will be a meeting of Members of the Committee at 9.30 a.m. prior to the main meeting. The primary focus of the Informal Session will be to refresh the Committee on their role to scrutinise Treasury Management activity.*

J. J. WILKINSON,  
Clerk to the Council,

7 February 2019

<b>BUSINESS</b>		
1.	<b>Apologies for Absence.</b>	
2.	<b>Order of Business.</b>	
3.	<b>Declarations of Interest.</b>	
4.	<b>Minute.</b> (Pages 5 - 10)  Minute of the Audit and Scrutiny Committee held on 27 November 2018 to be approved and signed by the Chairman. (Copy attached).	5 mins
5.	<b>Minute</b> (Pages 11 - 14)  Minute of Special Audit & Scrutiny Committee held on 21 November 2018 to be approved and signed by the Chairman. (Copy attached).	5 mins
<b>AUDIT BUSINESS</b>		
6.	<b>Action Tracker</b> (Pages 15 - 18)  To note progress made on the Action Tracker. (Copy attached).	10 mins
7.	<b>Treasury Management Strategy 2019/20</b> (Pages 19 - 66)  Consider report by Chief Financial Officer on the Council's draft report and Treasury Management Strategy 2019/20 for review and scrutiny prior to presentation for Council approval. (Copy attached).	30 mins

8.	<p><b>Local Government in Scotland - Financial Overview 2017/18</b> (Pages 67 - 128)</p> <p>Consider report by the Accounts Commission published in November 2018 which provides an outline of the overall financial health of local government and the significant challenges for local government finance that pervade. Supplements including 'Scrutiny Tool for Councillors', 'Local Government Pension Scheme 2017/18'. (Copies attached).</p>	15 mins
9.	<p><b>Risk Management in Services</b></p> <p>Presentation by Service Director Regulatory Services on the strategic risks facing the Service and the internal controls and governance in place to manage / mitigate those risks to demonstrate how risk management is embedded within Services. (Verbal presentation).</p>	30 mins
10.	<p><b>Internal Audit Work to December 2018</b> (Pages 129 - 142)</p> <p>Consider a report by Chief Officer Audit &amp; Risk on findings from recent work carried out by Internal Audit, including the recommended audit actions agreed by Management to improve internal controls and governance arrangements, and Internal Audit work currently in progress. (Copy attached).</p>	15 mins
11.	<b>Any Other Audit Items Previously Circulated.</b>	
12.	<b>Any Other Audit Items which the Chairman Decides are Urgent.</b>	
<b>SCRUTINY BUSINESS</b>		
13.	<p><b>Scrutiny Work Programme</b> (Pages 143 - 144)</p> <p>To consider draft Scrutiny Work Programme. (Copy attached).</p>	10 mins
14.	<p><b>Councillors Role in Staff Matters</b> (Pages 145 - 292)</p> <p>Presentation by the Executive Director HR giving an update on the role, guidance and training given to Councillors and Officers on Staff Disciplinary Appeals and Employment Tribunals and the monitoring of these decisions. (Background documents attached).</p>	15 mins
15.	<p><b>Europ Car Contract</b></p> <p>Presentation by the Chief Financial Officer on the Europ Car Contract. (Verbal Presentation).</p>	15 mins
16.	<b>Any Other Scrutiny Items Previously Circulated.</b>	
17.	<b>Any Other Scrutiny Items which the Chairman Decides are Urgent.</b>	

## **NOTES**

- 1. Timings given above are only indicative and not intended to inhibit Members' discussions.**
- 2. Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

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**Membership of Committee:-** Councillors S. Bell (Chairman), H. Anderson, K. Chapman, J. A. Fullarton, S. Hamilton (Vice-Chairman), N. Richards, H. Scott, E. Thornton-Nicol and S. Scott

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Please direct any enquiries to Judith Turnbull 01835 826556  
Email: [judith.turnbull@scotborders.gov.uk](mailto:judith.turnbull@scotborders.gov.uk)

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**SCOTTISH BORDERS COUNCIL  
AUDIT AND SCRUTINY COMMITTEE**

MINUTE of Meeting of the AUDIT AND SCRUTINY COMMITTEE held in Council Chamber, Council Headquarters, Newtown St Boswells on Tuesday, 27 November 2018 at 10.15 am

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Present:- Councillors S. Bell (Chairman), H. Anderson, J. A. Fullarton, S. Hamilton (Vice-Chairman), N. Richards, H. Scott and E. Thornton-Nicol, Ms H. Barnett and Mr M. Middlemiss

Apologies:- Councillors K. Chapman and S. Scott  
In Attendance:- Chief Officer Audit & Risk, Chief Financial Officer, Chief Officer Human Resources (item 3), Clerk to the Council, Trainee Democratic Services Officer.

1. **MINUTE**  
There had been circulated copies of the Special Audit and Scrutiny Committee Minute of 1 November 2018.

**DECISION**  
**APPROVED for signature by the Chairman.**

**AUDIT BUSINESS**

2. **ACTION TRACKER**  
With reference to paragraph 4 of the Minute of 24 September 2018, there had been circulated copies of the Action Tracker for the Audit and Scrutiny Committee. The Chief Officer Audit & Risk, Ms Stacey, reported that three actions were now complete and tracking of actions for both audit and scrutiny would continue to be carried out. With regard to a number of issues affecting the safety of buildings, the Service Director Assets & Infrastructure Mr Joyce was in attendance to give an update. Mr Joyce advised that work had proactively been carried out with housing, property teams and partners to compile the information with regard to the safety of a range of buildings, cemetery headstones beyond making them safe. A report would be prepared for the next Audit business meeting on 14 January 2019 which would update what the Estates section had done. The Chair raised concerns on the health and safety implications in relation to schools, following on from the Liberton School wall collapse and also Grenfell Tower cladding fire, and Mr Robertson also made reference to the monitoring of potentially dangerous buildings within town centres, giving as an example the recent case in Exchange Square, Jedburgh, and also bridges monitoring and bridge safety. These points were noted and would be included in the report.

**DECISION**  
**NOTED:-**

- (a) **the Action Tracker; and**
- (b) **a report be presented to the Audit & Scrutiny Committee on 14 January 2019 on the work of the Estates and Roads teams in monitoring the safety of buildings, structures and bridges in the Scottish Borders.**

### 3. **RISK MANAGEMENT IN SERVICES**

The Chairman welcomed the Council's Service Director Human Resources, Mrs Clair Hepburn, who gave a presentation on the strategic risks facing the HR and Communications service and the internal controls and governance in place to manage / mitigate those risks to demonstrate how risk management was embedded within the services. Mrs Hepburn began by explaining that risk registers were developed through Financial, People and Business Planning processes and were owned and managed by Service Managers within each service. The Risk Registers were regularly reviewed by the Service Director and Management Teams and when necessary, risks were escalated to Corporate Management Team (CMT). The key factors and major changes of risk management included: financial pressures; customer demand, legislation; Government policies; the implementation of Business World; maintaining a positive employee relations climate; and the changing service delivery models. The management of the risks involved: effective project/programme and change management; risk workshops; training; regular monitoring of corporate and operational risks; and key performance measures monitored on a regular basis. An example on the Communications Risk Register was given and the work involved in being more interactive with staff and the public through various communication channels. In response to a question regarding false news on social media, Mrs Hepburn responded that all social media activity was monitored 7 days a week and managed accordingly, and she further advised that employees were adhering to the working time directive. A people-based risk example on the Corporate Risk Register was given along with the key factors in place to manage/mitigate the risk such as people planning, training and development, flexible working practices, etc. In terms of Staffing Appeals and Elected Member training, Mrs Hepburn explained that Elected Members underwent face to face training prior to sitting on a Staffing Appeal Committee, with a briefing prior to any meeting on legal aspects. Concern was raised on staff absence and how this was monitored. Mrs Hepburn explained that absence was tracked across the organisation through a comprehensive process that included trigger reports sent to line managers to manage absence and if required reporting through the robust occupational health service. The Chair asked if Business World had affected the service and Mrs Hepburn explained that the implementation process had been challenging to join up Finance and HR systems, moving payroll to the new system and joining up other technology to Business World e.g. recruitment, but it would be fully implemented by March 2019. It was also reported that there had been a series of leadership training for different levels of line managers to embed principles of acting fairly and being consistent, but if staff were concerned with their management there were formal and informal processes to follow through. The Chairman thanked Mrs Hepburn for her presentation.

#### **DECISION**

**NOTED the presentation**

### 4. **INTERNAL AUDIT WORK TO OCTOBER 2018**

With reference to paragraph 10 of the Minute of 24 September 2018, there had been circulated copies of a report by the Chief Officer Audit & Risk which provided details of the recent work carried out by Internal Audit and the recommended audit actions agreed by Management to improve internal controls and governance arrangements. The work Internal Audit had carried out during the period 28 July to 26 October 2018 was detailed in the report. During the period, a total of four Final Internal Audit reports had been issued. There was one recommendation relating to one of the reports which had been accepted by Management for implementation. An Executive Summary of the final Internal Audit reports issued, including audit objective, findings, good practice, recommendations (where appropriate) and the Chief Officer Audit and Risk's independent and objective opinion on the adequacy of the control environment and governance arrangements within each audit area, was included in Appendix 1 to the report. The SBC Internal Audit function conformed to the professional standards as set out in Public Sector Internal Audit Standards (PSIAS) (2017) including the production of this report to communicate the results of the reviews. Ms Stacey highlighted specific areas in the Appendix to the report

which included Selkirk Conservation Area Regeneration Scheme (CARs) which was being managed well and run in accordance with the requirements of the grant funding offer. The EU Funded Programmes for LEADER and the European Maritime and Fisheries Fund was a high risk area if the Council does not comply with the terms of the SLAs. In response to a question on the FORTH FLAG (Fisheries Local Action Group), an autonomous body which included Fife, Tyne and Esk, and Scottish Borders, Ms Stacey advised that roles and responsibilities for the FORTH FLAG and Marine Scotland had been defined and documented. In respect of the audit on Passenger Transport there was further discussion around the provision and management of escort services to achieve value for money and to meet the Council's obligations and policies. It was reported that the provision of the number of vehicles going to the same places was being optimised through collaboration between passenger transport and children and young families sections. It was noted that due to the lack of facilities and specialist resources available locally, some services were provided out-with the Scottish Borders area. Clarifications were sought on the ICT security arrangements in place and the improvements completed and planned.

#### **DECISION**

##### **(a) NOTED:-**

- (i) the final assurance reports issued in the period from 28 July to 26 October 2018 associated with the delivery of the approved Internal Audit Annual Plan 2018/19;**
- (ii) the Internal Audit consultancy and other work undertaken in this period;**  
**and**

##### **(b) AGREED to acknowledge the assurance provided on internal controls and governance arrangements in place for the areas covered by this Internal Audit work**

#### **5. PROGRESS WITH IMPLEMENTATION OF INTERNAL AUDIT RECOMMENDATIONS**

With reference to paragraph 8 of the Minute of 26 June 2018, there had been circulated copies of a report by the Chief Officer Audit & Risk providing an update to the Committee on the status of the implementation by Management of audit recommendations previously agreed in Internal Audit reports during 2018/19 and previous years. The current status, as at 12 November 2018, was highlighted under section 4 of the report. The information relating to Internal Audit recommendations which had not yet been fully implemented was detailed in Appendix 1 to the report. Some concern was raised regarding two outstanding recommendations relating to Roads Management to which Ms Stacey explained that there was good engagement with David Girdler, the Chief Officer for Roads. Mr Robertson, Chief Financial Officer, answered queries in relation to the banking reconciliation work in Business World. Ms Stacey gave an explanation on the actions including the reasons on any amendments to their due date and answered Members' questions relating to both Appendices. Ms Stacey also raised concern with consistency of action owners updating the Pentana performance system, where officers updated progress until the Internal Audit actions were complete, and advised that help and support would be given by working with various Service Directors regularly reviewing their outstanding Internal Audit actions. Mr Robertson and Mr Joyce would give an update to CMT. A further recommendation would be added: agreed to request Service Directors working proactively with the Internal Audit team to improve and keep up to date the Internal Audit actions in the Pentana performance system for monitoring and reporting purposes.

#### **DECISION**

##### **AGREED to:-**

- (a) acknowledge the progress made by Management in implementing Internal Audit recommendations;**

- (b) consider whether any further action was required;
- (c) accept the proposed extensions to due dates by Management for those actions that were currently Overdue; and
- (d) request Service Directors working proactively with the Internal Audit team to improve and keep up to date the Internal Audit actions in the Pentana performance system for monitoring and reporting purposes.

6. **INTERNAL AUDIT MID-TERM PERFORMANCE REPORT 2018/19**

With reference to paragraph 8 of the Minute of 19 March 2018, there had been circulated copies of a report by the Chief Officer Audit & Risk to inform Committee of the progress Internal Audit had made during the first 6 months of the year to 30 September 2018, towards completing the Internal Audit Annual Plan 2018/19. The report also summarised the statutory obligations for Internal Audit and the requirements of the Public Sector Internal Audit Standards. The Objectives of Internal Audit were set out in its Charter: "As part of Scottish Borders Council's system of corporate governance, Internal Audit's purpose was to support the Council in its activities designed to achieve its declared objectives". Internal Audit provided assurance to Management and the Audit and Scrutiny Committee on the effectiveness of internal controls and governance within the Council. The Internal Audit Annual Plan 2018/19 was approved on 19 March 2018 which set out the audit coverage for the year and utilised available internal audit staff resources to enable Chief Officer Audit & Risk to provide the annual internal audit opinion. Appendix 1 to the report gave details of the half-yearly progress with the delivery of programme of work. Good progress had been made during the period, despite staff absence, and was currently on target to complete its Annual Plan 2018/19 subject to full staff attendance in the second half of the year. The report also summarised the statutory obligations and the requirements of the Public Sector Internal Audit Standards (PSIAS) which the SBC Internal Audit function conformed. Ms Stacey reported that the timing of some of the audit work was flexed over a period of time and discussions had been held with relevant Managers e.g. the work involved around Business World. In terms of the completion of the plan and the delivery of the remaining pieces of work, it was reported that resources were currently in place and there was no change proposed to the audit plan that would require approval at this time by this Committee.

**DECISION**

**AGREED to approve the progress Internal Audit had made towards completing the Internal Audit Annual Plan 2018/19, and confirmed that the Committee was satisfied with the Performance of the Internal Audit service.**

7. **TREASURY MANAGEMENT MID-YEAR REPORT 2018/19**

With reference to paragraph 5 of the Minute of Scottish Borders Council dated 20 February 2018, there had been circulated copies of a report by the Chief Financial Officer on the Council's mid-year report of Treasury Management activities for 2018/19, in line with the requirements of CIPFA Code of Practice, including Prudential and Treasury Management Indicators and to seek comments prior to consideration for approval by Council. The report was required as part of the Council's treasury management control regime. It provided a mid-year report on the Council's treasury activity during the six month period to 30 September 2018 and demonstrated that Treasury activity in the first six months of 2018/19 had been undertaken in full compliance with the approved Treasury Strategy and Policy for the year. The analysis of the performance against the targets set in relation to Prudential and Treasury Management Indicators was appended to the report and proposed revised estimates of the indicators in light of the 2017/18 out-turn and experience in 2018/19 to date for Council approval. The final version of the report would be submitted to Council on 20 December 2018. Mr Robertson advised that, under the Economic Update, there would be a continued review of the interest rates as set out in the table in Section 2.3 of the Appendix to the report and gave an explanation on the capital

expenditure compared to the original estimates used in the Treasury Management Strategy Report for 2018/19 and the authorised limit and operational boundaries would not be exceeded in terms of borrowing. It was noted that Mr Robertson would provide an update to the recent Executive Committee report to reflect the information on interest rate projections and borrowing and to note that these projections vary in terms of interest rate specifications but this was being monitored.

#### **DECISION**

##### **AGREED to:-**

- (a) note that treasury management activity in the six months to 30 September 2018 was carried out in compliance with the approved Treasury Management Strategy and Policy; and**
- (b) recommend the presentation of the Treasury Management Mid-Year Report 2018/19, as contained in Appendix 1, to Council for approval of the revised indicators.**

#### **MEMBER**

Councillor H. Scott left the meeting.

### **SCRUTINY BUSINESS**

#### **8. MINUTE**

An amended copy of the Minute of the Special Meeting held on 5 November 2018 was circulated, to include the changes proposed by the DSSB team.

##### **DECISION:**

**APPROVED the amended Minute of 5 November 2018**

#### **9. BROADBAND REVIEW**

There had been circulated copies of a draft report on the review of the Digital Scotland Superfast Broadband (DSSB) programme. The Chief Officer Economic Development, Mr McGrath, talked through Sections 4 and 5 of the report to highlight the main points to respond to each of the scope points that were set by Executive Committee on 21 August 2018. Members discussed the report and Mr McGrath answered a number of questions. The Committee welcomed the report and the recommendations were unanimously agreed. It was also agreed that an additional recommendation be included in the final report, asking that the Council write to the Scottish Government stressing the importance of the Scottish Borders getting a disproportionate share of the 'Gainshare' uplift in Broadband connections, as this was supposed to add to the 'coverage' from the core funding. It was agreed that a report on the outcome of the review be presented to Executive Committee on 4 December 2018.

##### **DECISION:**

##### **AGREED to:-**

- (a) include an additional recommendation in the DSSB review report; and**
- (b) present a report on the outcome of the review to the Executive Committee on 4 December 2018**

*The meeting concluded at 12.45 pm*

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**SCOTTISH BORDERS COUNCIL  
AUDIT AND SCRUTINY COMMITTEE**

MINUTE of Special Meeting of the AUDIT AND SCRUTINY COMMITTEE held in Council Chambers, Council Headquarters, Newtown St Boswells on Wednesday, 21 November 2018 at 10.30 am

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Present:- Councillors S. Bell (Chairman), H. Anderson, J. A. Fullarton, N. Richards, H. Scott and S. Scott

Apologies:- Councillors K. Chapman, S. Hamilton and E. Thornton-Nicol

Also Present:- Councillor M. Rowley

In Attendance:- Chief Officer Economic Development, Clerk to the Council, Trainee Democratic Services

1. **CHAIRMAN**

The Chairman welcomed everyone to the meeting and advised Members that Hayley Barnett had been appointed as the external member to the Audit and Scrutiny Committee and would attend the next meeting on 27 November 2018. He also advised that an item on the Broadband review would be included on that agenda.

**DECISION**

**NOTED the appointment of Hayley Barnett to the Audit & Scrutiny Committee (Audit business only).**

2. **MINUTE**

There had been circulated copies of the Special Audit and Scrutiny Committee Minute of 5 November 2018.

**DECISION**

**APPROVED for signature by the Chairman.**

3. **REVIEW OF BROADBAND IMPROVEMENTS IN THE SCOTTISH BORDERS**

3.1 Mr Bryan McGrath, Chief Officer Economic Development, gave a presentation on Broadband Improvements and Scottish Borders Council's role and involvement in the Digital Scotland Superfast Broadband Programme (DSSB), which aimed to set out the Council's perspective in respect of Broadband and the strategic context. Mr McGrath spoke of the importance of digital connectivity for the economy of rural areas and the sense that rural areas were being left behind in this regard. In 2012, Scottish Borders and Dumfries & Galloway Councils were already working closely together through the South of Scotland Alliance and had agreed to make major capital allocations to support the South of Scotland Local Broadband Plan, aiming for at least 85% coverage. Mr McGrath referred to the Step Change 2015 Programme and that the Council had allocated £8.4m in its Capital Programme to help extend coverage to deliver improved superfast broadband across the Scottish Borders. It was important to note that the indicative 93.8% target was to have been met by the end of December 2017 and the figure reported as at 30 September 2018 was 93.7%. The programme monitoring was postcode based and did not target specific premises; this meant that coverage varied across the Scottish Borders and even for premises within the same postcode area. Mr McGrath explained that

'Exchange Only', 'Long Lines' and 'Copper Rearrangement' led to technical issues especially in rural areas. Mr McGrath then advised that a single point of contact for each Council was maintained for the DSSB programme, in particular for roads consents and planning applications, to allow for a quick and smooth process. Communication and publicity through press coverage, special events, broadband bus and appearances at local events was also a key element to ensure awareness of what was available and to encourage people to take up the new services. The Committee noted that customer frustration and uncertainty about Broadband was a common issue, with businesses and households uncertain when they might be able to access new services, but also uncertain about what level of improvement the new service would bring to them. However, the Local Authorities were hampered in terms of what information could be shared because of commercial confidentiality. Mr McGrath then gave details of Gainshare which was an important element of the contract. The contract was based on a take-up rate target of 20% for people upgrading to superfast broadband services with the most recent figure for Scottish Borders showing 44.2% take up. It was noted that the new R100 programme aimed to deliver superfast connectivity to 100% of premises by 2021.

- 3.2 Mr McGrath answered various questions raised by Members on the presentation, explaining that DSSB 'coverage' meant connected to the new infrastructure, but that did not necessarily mean improvement in service if premises were more than 1.2km away from the cabinet. While 'coverage' was 93.7%, speeds had not increased to the same level. With regard to split between the use of Gainshare and the Council's £8.4m to increase the infrastructure, this information had been requested from the DSSB team. The Chairman further advised that officers would draft a report on the Review for consideration at the next meeting of the Committee on 27 November 2018, with the report structured on the scope set out by the Executive Committee.

#### **DECISION**

**AGREED that officers would include the following points in the draft report in terms of the scope of the Review:**

- (a) the assessment of the final coverage delivered by Contract 1 of the DSSB Programme and the associated Gainshare project – the spirit of the contract had been delivered although there had been a lack of clarity on the what was meant by coverage;**
- (b) the quality of that coverage and any variations between premises in towns, villages and the countryside – postcode coverage; technical issues once the actual work started; exchange only lines; and long lines from cabinet to premises;**
- (c) how appropriate and effective the communication processes used during the roll-out were, and whether appropriate information sharing and openness was evident to all stakeholders throughout the programme – inhibited by the commercial confidentiality; the scale and complexity of the problems; the need for simple messages to the public to sign up to superfast broadband; and raised aspirations;**
- (d) did the Programme deliver appropriate value for money in relation to the Council's £8.4M investment – possibly, depended on % in Scottish Borders against that in other areas;**
- (e) how successful the take up of superfast broadband has been across the Scottish Borders – the numbers in the Scottish Borders compared to that nationally and how the numbers were spread across the Borders; and**
- (f) identify appropriate lessons for future programmes, such as the new R100 Programme – transparency and openness especially on difficulties or**

**challenges encountered; a break in the contract if there was a significant change in technology; and any website should contain information on each premises within a postcode area.**

*The meeting concluded at 12.10 pm*

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**SCOTTISH BORDERS COUNCIL**

**ACTION SHEET MASTER COPY**

**AUDIT and SCRUTINY COMMITTEE 2018/19**

Notes:-

1. Paragraphs Marked with a \* require full Council approval before action can be taken
2. Items for which no actions are required are not included

TITLE	DECISION REQUIRING ACTION	DIRECTORATE/ SECTION	RESPONSIBLE OFFICER	STATUS
<b>25 June 2018</b>				
National Performance Reports by Audit Scotland	<b>(b) AGREED the proposed schedule for presentation of the National Performance Reports by Audit Scotland.</b>	Finance          Assets & Infrastructure	Chief Financial Officer          Service Director Assets and Infrastructure	Complete - "2016/17 audit of Dundee City Council: Report of a significant fraud" March 2018 was presented to A&SC 24 September 2018.          "2016/17 audit of City of Edinburgh Council: Report on Edinburgh Schools" April 2018 to be included in "Property Assurance" report for presentation 14 January 2019.
<b>23 August 2018</b>				
Welfare Benefits Service Changes Petition	<b>AGREED:</b> <b>(a) that the service provision for welfare benefits claimants continue to be monitored on a regular basis, including seeking the views of clients on the service being provided;</b> <b>(b) that consultation, including with service users, be carried out prior to any future changes to service provision;</b> <b>(c) that communications be developed on how the service worked and could be accessed to try to address some of the misconceptions around claiming for benefits;</b> <b>(d) work with Border Care Service to agree on the criteria for key performance indicators; and</b> <b>(e) review the requests within the petition and provide a briefing note to the Audit and Scrutiny Committee and the petitioner on what could be put in place.</b>	Customer & Communities	Service Director Customer & Communities	(a) New tools developed to achieve this. (b) Complete (c) Communication plan - complete (d) re-scheduled meeting to take place on 29 November 2018 (e) will be finalised after the meeting with Borders Care Voice.

TITLE	DECISION REQUIRING ACTION	DIRECTORATE/ SECTION	RESPONSIBLE OFFICER	STATUS
Delivery of the IT Strategy and Plan within Scottish Borders	<b>(b) AGREED that Members would check the private report on the ICT Review which had been considered by Council in March 2016 and send any questions to the Chief Financial Officer and Service Director Customer and Communities in advance of another meeting of Audit and Scrutiny to consider the delivery of the Council's IT Strategy and Plan.</b>	n/a	Members	Added to Scrutiny Work Programme for presentation to 18 April 2019
<b>1 November 2018</b>				
Cove Car Park Petition	<b>AGREED to refer the issues raised by the Cove Car Park petition to the Service Director Assets &amp; Infrastructure to carry out the following work:</b> <b>(a) Introduce the new TRO proposing a restriction on vehicle size to under 3.5 tonnes and a time limit for parking of 48 hours;</b> <b>(b) include the Cove road in the proposed review of speed limits due to start in Summer 2019, with the aim of reducing the speed limit on the road to 30mph;</b> <b>(c) ensure the signage "Unsuitable for HGV/buses" and "No Through Road" be erected as soon as possible;</b> <b>(d) review the current layout of the car parking spaces to ascertain if further spaces could be made, including a turning area for large vehicles e.g. the refuse lorry;</b> <b>(e) consider erecting a "Slow pedestrians" sign;</b> <b>(f) seek clarification on the ownership of the car park; and</b> <b>(g) consider options for permitted parking for residents, liaising with Mr Payne and Cove residents on the way forward.</b>	Asset and Infrastructure	Service Director Asset & Infrastructure	
Broadband Review	<b>(b) that a special meeting of Audit and Scrutiny Committee to consider the Broadband Review would be held on Monday 5 November at 1pm in Committee Room 2 with a presentation by Scottish Government Digital Scotland Superfast Broadband (DSSB) team.</b>	Democratic Services	Clerk to the Council	Complete – Meeting held on 5 November 2018.
<b>5 November 2018</b>				
Digital Scotland Superfast Broadband (DSSB)	<b>(a) that a special meeting of the Audit and Scrutiny Committee to further consider the Broadband Review would be held on Wednesday 21 November; and</b> <b>(b) that the DSSB would provide further data if possible on the number of properties not connected and the number of properties not passed the level of &gt;2Mbps.</b>	Executive Director	Chief Officer Economic Development	Complete – Meeting held on 21 November 2018.

TITLE	DECISION REQUIRING ACTION	DIRECTORATE/ SECTION	RESPONSIBLE OFFICER	STATUS
<b>21 November 2018</b>				
Review of Broadband improvements in the Scottish Borders	<p><b>AGREED that officers would include the following points in the draft report in terms of the scope of the Review:</b></p> <p>(a) the assessment of the final coverage delivered by Contract 1 of the DSSB Programme and the associated Gainshare project – the spirit of the contract had been delivered although there had been a lack of clarity on the what was meant by coverage;</p> <p>(b) the quality of that coverage and any variations between premises in towns, villages and the countryside – postcode coverage; technical issues once the actual work started; exchange only lines; and long lines from cabinet to premises;</p> <p>(c) how appropriate and effective the communication processes used during the roll-out were, and whether appropriate information sharing and openness was evident to all stakeholders throughout the programme – inhibited by the commercial confidentiality; the scale and complexity of the problems; the need for simple messages to the public to sign up to superfast broadband; and raised aspirations;</p> <p>(d) did the Programme deliver appropriate value for money in relation to the Council’s £8.4M investment – possibly, depended on % in Scottish Borders against that in other areas;</p> <p>(e) how successful the take up of superfast broadband has been across the Scottish Borders – the numbers in the Scottish Borders compared to that nationally and how the numbers were spread across the Borders; and</p> <p>(f) identify appropriate lessons for future programmes, such as the new R100 Programme – transparency and openness especially on difficulties or challenges encountered; a break in the contract if there was a significant change in technology; and any website should contain information on each premises within a postcode area.</p>	Executive Director	Chief Officer Economic Development	Complete – review report presented at meeting on 27 November 2018.

TITLE	DECISION REQUIRING ACTION	DIRECTORATE/ SECTION	RESPONSIBLE OFFICER	STATUS
<b>27 November 2018</b>				
Treasury Management Mid-Year Report 2018/19	<b>AGREED</b> <b>b) recommend the presentation of the Treasury Management Mid-Year Report 2018/19, as contained in Appendix 1, to Council for approval of the revised indicators.</b>	Finance	Chief Financial Officer	Complete – Presented to Council on 29 November 2018
Broadband Review	<b>AGREED that Officers</b> <b>b) include an additional recommendation in the DSSB review report; and</b> <b>c) present a report on the outcome of the review to the Executive Committee on 4 December 2018.</b>	Executive Director	Chief Officer Economic Development	Complete – Presented to Executive Committee on 4 December 2018

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## **TREASURY MANAGEMENT STRATEGY 2019/20**

**Report by Chief Financial Officer**

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### **AUDIT AND SCRUTINY COMMITTEE**

**14 February 2019**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 **This report is to enable the Audit and Scrutiny Committee to undertake their scrutiny role in relation to the Treasury management activities of the Council. It presents the proposed Treasury management Strategy for 2019/20 for consideration prior to Council approval.**
- 1.2 The Treasury Management Strategy is the framework which ensures that the Council operates within prudent, affordable limits in compliance with the CIPFA Code.
- 1.3 The Strategy for 2019/20 to be submitted to Council on 28 February 2019 is included in this report at Appendix 1 and reflects the impact of the Administration's draft Financial Plans for 2019/20 onwards on the prudential and treasury indicators for the Council.

#### **2 STATUS OF REPORT**

- 2.1 Due to delay in the receipt of the grant from Scottish Government there has been a delay in the drafting of the Capital Plan. This has impacted on the drafting of the treasury strategy. The report is currently out for consultation and comments will be reported at the meeting.

#### **3 RECOMMENDATIONS**

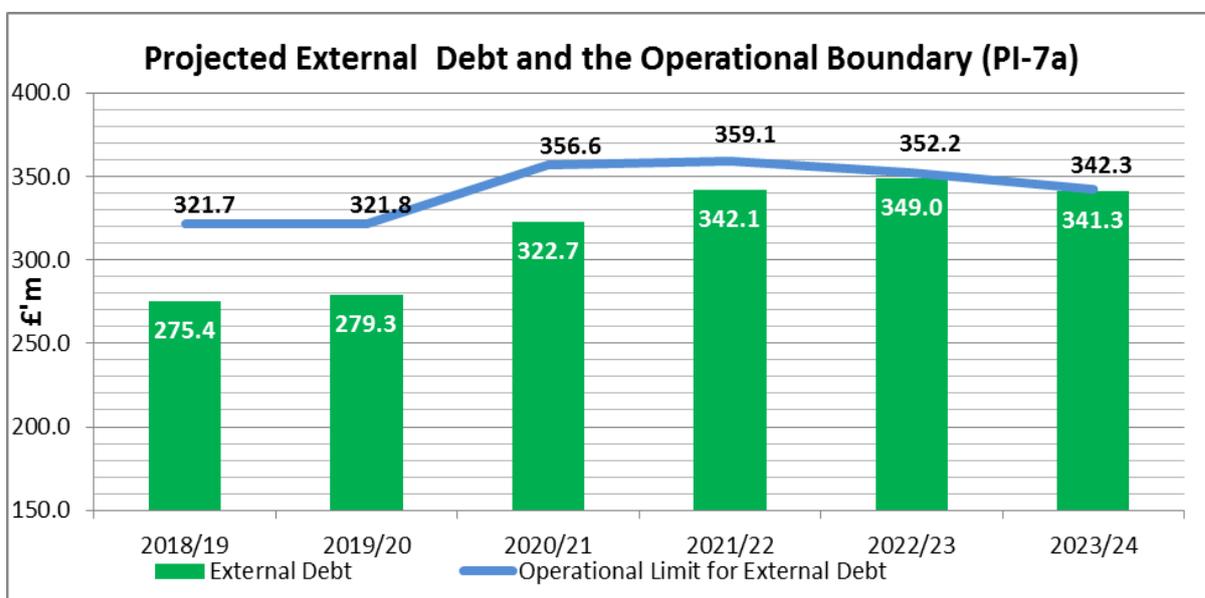
- 3.1 **It is recommended that the Committee considers whether to make any comments or recommendations on the draft Treasury Management Strategy for 2019/20 prior to presentation to the Council for approval.**

## **4 BACKGROUND**

- 4.1 The Audit and Scrutiny Committee is responsible for scrutinising the Treasury Management Strategy in line with recommended practice set out in the CIPFA (Chartered Institute of Public Finance and Accountancy) Code (i.e. Treasury Management in the Public Services: Code of Practice and Cross-sectorial Guidance Notes).

## **5 TREASURY MANAGEMENT STRATEGY 2019/20**

- 5.1 Appendix 1 contains the draft Treasury Management Strategy for 2019/20 for consideration by the Audit and Scrutiny Committee.
- 5.2 This is based on the Administration's current draft Financial Capital Plans for 2019/20 to 2028/29, yet to be published and as such is subject to change as these plans will not be presented to Council for approval until 28 February 2019. The final version of this report which will be reported to Council will include a 20 year loans charges projection based on assumed future capital expenditure.
- 5.3 Appendix 1, Annex A contains a summary of the proposed indicators within the strategy. The significant changes from the 2018/19 strategy are:
- (a) Increase in the Capital Financing Requirement (CFR) for 2020/21 due to the inclusion of the new 2 new primary schools and the forward fund of the Borders Innovation Park. Also impacting on the CFR movement is the anticipated capital borrowing requirements associated with the re-phasing of projects from 2018/19 into 2019/20 and future years as well as movements in the scheduled debt amortisation projections for the year.
  - (b) Increase in the Authorised Limit from 2019/20 onwards is associated with the increase in external borrowing resulting from the capital plan.
- 5.4 The table below shows the "Operational Boundary" against the anticipated levels of external borrowing. The external borrowing levels should not normally exceed the operational boundary limit, defined by the Prudential Framework. The gap between these two elements as seen in the table, consistently shows that the Council maintains an "under-borrowed" position for current and next 5 years. The gap however is reducing year on year due to the ambitious capital program and the profile of the notional loan charges.



## 6 IMPLICATIONS

### 6.1 Financial

There are no additional financial implications in relation to this report its content specifically relating to the financing and investment activities of the Council.

### 6.2 Risk and Mitigations

The key purpose of presenting the Strategy to Audit and Scrutiny Committee scrutiny is to ensure that the members are satisfied with this element of the risk management framework for the treasury management function within the Council. The risks to delivering the Strategy have been identified within the Strategy itself at Appendix 1. Controls and mitigating actions have been implemented, monitored and reviewed in line with the Council's Risk Management Policy. The Strategy provides the parameters and guidance for the investment and borrowing decisions for the Council.

### 6.3 Equalities

It is anticipated that there are no adverse equality implications arising from the proposals in this report.

### 6.4 Acting Sustainably

There are no direct economic, social or environmental issues with this report which would affect the Council's sustainability policy.

### 6.5 Carbon Management

There are no direct issues or consequences arising from this report which would affect the Council's carbon management.

### 6.6 Rural Proofing

There are no direct issues or consequences arising from this report which would affect the Council's rural proofing policy.

### 6.7 Changes to Scheme of Administration or Scheme of Delegation

No changes to the Scheme of Administration or Scheme of Delegation are required as a result of this report.

## 7 CONSULTATION

- 7.1 The Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Service Director HR and the Clerk to the Council are currently being consulted and any comments received will be reported at the meeting.

### Approved by

**David Robertson**  
**Chief Financial Officer**

**Signature .....**

### Author(s)

Name	Designation and Contact Number
Kirsty Robb	Pensions and Investment Manager, 01835 825249
Sara Halliday	Treasury Business Partner, 01835 824000, Ext 5854

### Background Papers:

### Previous Minute Reference:

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. The Capital and Investment Team can also give information on other language translations as well as providing additional copies.

Contact us at Capital & Investments Team, Finance, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA Tel: 01835 825249 Fax 01835 825166. email: <mailto:treasuryteam@scotborders.gov.uk>



## **APPENDIX 1**

# **SCOTTISH BORDERS COUNCIL**

## **TREASURY MANAGEMENT STRATEGY (incorporating the Annual Investment Strategy) 2019/20**

## CONTENTS

<b>Section</b>		<b>Page</b>
1	Purpose and Scope	3
2	Background	5
3	The Capital Prudential Indicators 2018/19 – 2020/21	6
4	Treasury Management Strategy	9
5	Investment Strategy	15
6	Performance Indicators	21
ANNEXES		
Annex A	Summary of Prudential and Treasury Indicators	23
Annex B	Interest Rate Forecast 2018 - 2021	26
Annex C	Economic Background	27
Annex D	Treasury Management Practice – Permitted Investments, Associated Controls and Limits	33
Annex E	Scheme of Delegation	35
Annex F	Credit and Counterparty Risk Management – Permitted Investments, Associated Controls and Limits	36
Annex G	Long Term (30Yr) Loans Charges Analysis	41
Annex H	Credit Ratings, Benchmarking of Security, Liquidity and Yield	42
	Glossary of Terms	44

## 1 Purpose and Scope

1.1 The Council is currently required to receive and approve, as a minimum, three main reports on treasury activity each year, which incorporate a variety of policies, estimated and actual figures.

a) **Treasury Management Strategy 2019/20** (this report).

This report is the most important of the three reports and covers:

- The capital plans of the Council (including prudential indicators);
- A policy for the statutory repayment of debt, (how residual capital expenditure is charged to revenue over time);
- The treasury management strategy (how the investments and borrowings are organised), including treasury indicators, and
- A permitted investment strategy (investment options and limits applied).

b) **Mid Year Treasury Management Report** – This is primarily a progress report and will update members on the capital position, amending prudential indicators as necessary, and whether any policies require revision.

c) **Annual Treasury Report** – This is a backward looking review document and provides details of a selection of actual prudential and treasury indicators and actual treasury operations compared to the estimates within the strategy.

### 1.2 Scrutiny

These reports are required to be adequately scrutinised by committee before being recommended to the Council. This role is undertaken by the **Audit and Scrutiny Committee**.

1.3 The treasury management issues covered by this report are:

#### Capital Issues

- the capital expenditure plans and the associated prudential indicators
- the loan fund repayment policy

#### Treasury management issues

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

1.4 These elements cover the requirements of the Local Government in Scotland Act 2003, the CIFPA Prudential Code (the Prudential Code), the CIPFA Treasury Management Code (the Code) and Scottish Government loans fund repayment regulations and investment regulations.

1.5 The increased Member consideration of treasury management matters and the need to ensure that officers dealing with treasury management are trained and kept up to date requires a suitable training process for Members and officers. This Council will address this important issue by:

**a) Elected Members**

- Working with members of the Audit and Scrutiny Committee to identify their training needs
- Working with Link Asset Services to identify appropriate training provision for elected members

**b) Officers** dealing with treasury management matters will have the option of various levels of training including:

- Treasury courses run by the Council's advisers
- Attendance at CIPFA treasury management training events
- Attendance at the CIPFA Scottish Treasury Management Forum and information exchanged via the Treasury Management Forum network
- On the job training in line with the approved Treasury Management Practices (TMPs).

## **1.6 Treasury Management Consultants**

The Council uses Link Asset Services, Treasury solutions as its external treasury management advisors.

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

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

**1.7** The Treasury Management Strategy covers the treasury management activities for the Council (including any subsidiary organisations), the cash managed by the Council on behalf of the Scottish Borders Council Pension Fund, the Common Good and Trust Funds.

## 2 Background

- 2.1** The Council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low risk counterparties or instruments commensurate with the Council's low risk appetite, providing adequate liquidity initially before considering investment return.
- 2.2** The second main function of the treasury management service is the funding of the Council's capital plans and strategy. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning, to ensure that the Council can meet its capital spending obligations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses. On occasion, when it is prudent and economic, any debt previously drawn may be restructured to meet Council risk or cost objectives.
- 2.3** The Prudential and Treasury Indicators (summarised in **Annex A**) consider the affordability and impact of capital expenditure decisions, and set out the Council's overall capital framework. These Indicators have been developed in line with both the Prudential and Treasury Codes. The treasury service considers the effective funding of these decisions. Together they form part of the process which ensures the Council meets its balanced budget requirement under the Local Government Finance Act 1992. The Treasury Management Strategy therefore forms an integral part of the Council's overall Financial Strategy covering both its revenue and capital budgets.
- 2.4** The contribution the treasury management function makes to the authority is critical, as the balance of debt and investment operations ensure liquidity or the ability to meet spending commitments as they fall due, either on day-to-day revenue or for larger capital projects. The treasury operations will see a balance of the interest costs of debt and the investment income arising from cash deposits affecting the available budget. Since cash balances generally result from reserves and balances, it is paramount to ensure adequate security of the sums invested, as a loss of principal will in effect result in a loss to the General Fund Balance.
- 2.5** CIPFA defines treasury management as:
- “The management of the local authority's borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”
- 2.6** Revised reporting is required for the 2019/20 reporting cycle due to revisions of the the CIPFA Prudential Code and the CIPFA Treasury Management Code. The primary reporting changes include the introduction of a capital strategy, to provide a longer-term focus to the capital plans, and greater reporting requirements surrounding any commercial activity if that is going to be undertaken. The capital strategy is being reported separately.

### 3 The Capital Prudential Indicators 2018/19 – 2023/24

The Council's Financial Strategy sets out financial resource and management parameters within which it will deliver its Corporate Vision and Priorities. The Financial Strategy brings together various elements of financial policy and strategy, including the Treasury Management Strategy, and establishes the financial planning framework for the Council in terms of Revenue Expenditure and Capital Investment. The output from this framework is the Council's Financial Plan, approved annually in February, presenting the financial proposals for delivering its services and objectives.

The Financial Strategy establishes that the Financial Principles underpinning the planning for the Council's future service delivery are to:

- (i) Raise the funds required by the Council to meet approved service levels in the most effective manner;
- (ii) Manage the effective deployment of those funds in line with the Council's corporate objectives and priorities; and
- (iii) Provide stability in resource planning and service delivery as expressed through Corporate and Business Plans and the Revenue and Capital Financial Plan.

In order to adhere to these Principles, the Financial Strategy states that the Council will adopt Financial Objectives to:

***"ensure capital borrowing is within prudential borrowing limits and sustainable in the longer term. In this regard it is important to recognise the capital investment decisions taken now have long term borrowing implications and these have the potential to place a significant burden on future tax payers".***

The draft revenue budget sets loans charges associated with capital borrowing over the next 5 years at £20.3m in 2019/20, rising to £20.5m in 2020/21.

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

#### 3.1 Capital Expenditure (Prudential Indicator PI-1)

This prudential indicator is a summary of the Council's capital expenditure plans, both those agreed previously, and those forming part of this planning cycle. The Capital Financial Plan for 2019/20 – 2028/29 includes the following capital expenditure forecasts for the first five years. 2018/19 projected outturn figures are also shown:

Capital Expenditure (PI-1) £m	Estimate					
	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Assets & Infrastructure	41.2	23.1	35.2	34.2	28.3	16.8
Other Corporate Services	2.8	3.6	1.6	1.0	1.8	1.5
Children & Young People	13.2	6.8	10.3	10.8	9.5	9.0
Culture & Sport	1.7	1.2	1.0	3.0	1.6	0.7
Economic Regeneration	4.3	9.3	5.6	7.2	4.3	4.1
Housing Strategy & Services	0.2	0.5	0.5	0.5	0.5	0.5
Social Care Infrastructure	0.0	3.7	5.7	2.5	0.3	0.3
Emergency & Unplanned Schemes	0.3	0.3	0.3	0.3	0.3	0.3
<b>Total</b>	<b>63.7</b>	<b>48.4</b>	<b>60.1</b>	<b>59.4</b>	<b>46.4</b>	<b>33.2</b>

It should be noted that expenditure associated with the construction of the proposed Jedburgh inter-generational school campus is not included in the above as it is funded as a 'Design, Build, Fund & Maintain (DBFM) model and therefore out-with the Councils capital programme.

### 3.2 Other Relevant Expenditure

The Council anticipates to have additional expenditure which, for the purposes of the Treasury and Prudential Indicators, will be treated as capital expenditure. This expenditure relates to initiatives where the Council has applied, or is planning to apply, for a Consent to Borrow from the Scottish Government. The key area not included in paragraph 3.1 is borrowing to lend in respect of an affordable house building programme in partnership with the Scottish Futures Trust (Bridge Homes LLP). The estimated amounts are as follows:

Other Relevant Expenditure £m	Estimate					
	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Bridge Homes LLP (Affordable house building programme)	0.4	-	-	-	-	-

### 3.3 Capital Financing Assumptions

The table below summarises the above capital expenditure plans and how these plans are being financed by capital or revenue resources. Any shortfall of resources results in a financing need.

Capital Expenditure £m	Estimate					
	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Capital Expenditure – per plan	63.7	48.4	60.1	59.4	46.4	33.2
Other Relevant Expenditure	0.4	-	-	-	-	-
<b>Total Expenditure</b>	<b>64.1</b>	<b>48.4</b>	<b>60.1</b>	<b>59.4</b>	<b>46.4</b>	<b>33.2</b>
<b>Financed by:</b>						
Capital receipts	1.2	1.8	2.5	0.3	0.4	-
CFCR	1.0	-	-	-	-	-
Developer Contributions	0.2	3.0	0.5	0.1	0.1	0.1
Govt. General Capital Grants	14.4	16.7	15.4	15.4	15.4	15.4
Govt. Specific Capital Grants	9.6	8.1	14.3	15.4	8.3	0.8
Other Grants & Contributions	5.4	1.6	2.2	2.9	0.5	-
Plant & Vehicle / Infrastructure Fund	2.8	2.4	2.0	2.2	2.4	2.4
<b>Net financing need for the year</b>	<b>29.5</b>	<b>14.8</b>	<b>23.2</b>	<b>23.1</b>	<b>19.3</b>	<b>14.5</b>

### 3.4 The Council's Borrowing Need (the Capital Financing Requirement – Prudential Indicator PI-2)

- a) The second prudential indicator is the Council's Capital Financing Requirement (CFR). The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the Council's indebtedness and so its underlying borrowing need. Any capital expenditure identified above, which has not immediately been paid for through a revenue or capital resource, will increase the CFR. The CFR does not increase indefinitely, as prudent annual repayments from revenue need to be made which reflect the useful life of capital assets financed by borrowing.
- b) The CFR includes any other long term liabilities (e.g. PPP schemes, finance leases). Whilst these increase the CFR, and therefore the Council's borrowing requirement, these types of scheme include a borrowing facility by the PPP lease provider and so the Council is not required to separately borrow for these schemes. The Council has £70.4m of liabilities relating to such schemes within the 2018/19 long term liabilities figure. The CFR increases by a further £34.0m in 2020/21 as a result of the Jedburgh campus mentioned above.
- c) The Council is asked to approve the CFR projections below:

Capital Financing Requirement (PI-2) £m	Actual	Estimate					
	17/18	18/19	19/20	20/21	21/22	22/23	23/24
<b>Total CFR (PI-2) *</b>	<b>306.9</b>	<b>324.6</b>	<b>328.0</b>	<b>373.8</b>	<b>384.4</b>	<b>390.2</b>	<b>390.6</b>
<b>Movement in CFR represented by:</b>							
Net financing need for the year (above)		29.5	14.8	23.2	23.1	19.3	14.5
Less scheduled debt amortisation and other financing movements		(11.8)	(11.4)	22.6	(12.5)	(13.9)	(14.1)
<b>Movement in CFR</b>		<b>17.7</b>	<b>3.4</b>	<b>45.8</b>	<b>10.6</b>	<b>5.8</b>	<b>0.4</b>

\* The CFR for this calculation includes capital expenditure to 31 March of each financial year.

The figures for 202/21 include £34m for Jedburgh Campus which is funded via PPP scheme and not capital borrowing requirement.

- d) A key aspect of the regulatory and professional guidance is that elected members are aware of the size and scope of any commercial activity in relation to the authority's overall financial position. The capital expenditure figures shown in 3.1, 3.2 and 3.3, and the details above, demonstrate the scope of this activity and, by approving these figures, consider the scale proportionate to the Authority's remaining activity.

### 3.5 Statutory Repayment of Loans Fund Advances

- a) The Council is required to set out its policy for the statutory repayment of loans fund advances prior to the start of the financial year. The repayment of loans fund advances ensures that the Council makes a prudent provision each year to pay off an element of the accumulated loans fund advances made in previous financial years.
- b) A variety of options are provided to Councils so long as a prudent provision is made each year. The Council is recommended to approve the following policy on the repayment of loans fund advances:-
- For loans fund advances made before 1 April 2016, the policy will be to maintain the practice of previous years and apply the **Statutory Method (option 1)**, with all loans fund advances being repaid in equal instalments of principal/ by the annuity method
- For loans fund advances made after 1 April 2016, the policy for the repayment of loans advances will be the:-
1. **Asset life method** – loans fund advances will be repaid with reference to the life of an asset using either the equal instalment or annuity method (option 3);

The annuity rate applied to the loans fund repayments was based on historic interest rates and is currently 3.97%. However, under regulation 14 (2) of SSI 2016 No 123, the Council has reviewed and re-assessed the historic annuity rate to ensure that it is a prudent application.

## 4 Treasury Management Strategy

The capital expenditure plans set out in Section 3 provide details of the service activity of the Council. The treasury management function ensures that the Council's cash is organised in accordance with the relevant professional Codes, so that sufficient cash is available to meet this service activity and the Council's capital strategy. This will involve both the organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities. The strategy covers the relevant treasury / prudential indicators, the current and projected debt positions and the annual investment strategy.

### 4.1 Current Portfolio Position

- a) The overall treasury management portfolio as at 31 March 2018 and for the position as at 31 December 2018 are shown below for both borrowing and investments.

<b>TREASURY PORTFOLIO</b>				
	actual 31.3.18	actual 31.3.18	current 31.12.18	current 31.12.18
	£000	%	£000	%
<b>Treasury investments</b>				
banks	8,045	74%	14,880	94%
DMADF (H.M.Treasury)	0	0%	0	0%
money market funds	2,780	26%	1,020	6%
third party loans	200	2%	200	1%
<b>Total managed in house</b>	<b>10,825</b>	<b>100%</b>	<b>15,900</b>	<b>100%</b>
<b>Total managed externally</b>	<b>0</b>	<b>0%</b>	<b>0</b>	<b>0%</b>
<b>Total treasury investments</b>	<b>10,825</b>	<b>100%</b>	<b>15,900</b>	<b>100%</b>
<b>Treasury external borrowing</b>				
local authorities	5,000	2%	0	0%
third party loans	631	0%	300	0%
PWLB	152,919	75%	159,631	82%
LOBOs	44,170	22%	34,868	18%
<b>Total external borrowing</b>	<b>202,720</b>	<b>100%</b>	<b>194,799</b>	<b>100%</b>
<b>Net treasury investments / (borrowing)</b>	<b>-191,895</b>	<b>0</b>	<b>-178,899</b>	<b>0</b>

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

as at 31 March £m	Estimate				
	2018/19	2019/20	2020/21	2021/22	2022/23
<b>Borrowing</b>	205.0	212.0	225.0	248.5	259.5
<b>Other Long Term Liabilities</b>	70.4	67.3	97.7	93.6	89.4
<b>Total Gross Borrowing (Prudential Indicator PI-5)</b>	<b>275.4</b>	<b>279.3</b>	<b>322.7</b>	<b>342.1</b>	<b>348.9</b>
<b>CFR – the borrowing need *</b>	<b>324.6</b>	<b>328.0</b>	<b>373.8</b>	<b>384.4</b>	<b>390.2</b>
<b>(Under) / Over Borrowing (Prudential Indicator PI-6)</b>	<b>(49.2)</b>	<b>(48.7)</b>	<b>(51.1)</b>	<b>(42.3)</b>	<b>(41.3)</b>

\* The CFR for this calculation includes the current and two future years projected capital expenditure see 4.1b)

- c) Within the range of prudential indicators there are a number of key indicators to ensure that the Council operates its activities within well-defined limits. One of these (PI-6) is that the Council needs to ensure that its gross debt figure (shown above) does not, except in the short term, exceed the total of the CFR in the preceding year plus the estimates of any additional CFR for 2019/20 and the following two financial years. This allows some flexibility for limited early borrowing for future years, but ensures that borrowing is not undertaken for revenue or speculative purposes.
- d) The Council has complied with this prudential indicator in the current year and no difficulties are currently envisaged for the long term future. This view takes into account current commitments, existing plans, and the proposals in the Financial Plans for 2019/20.

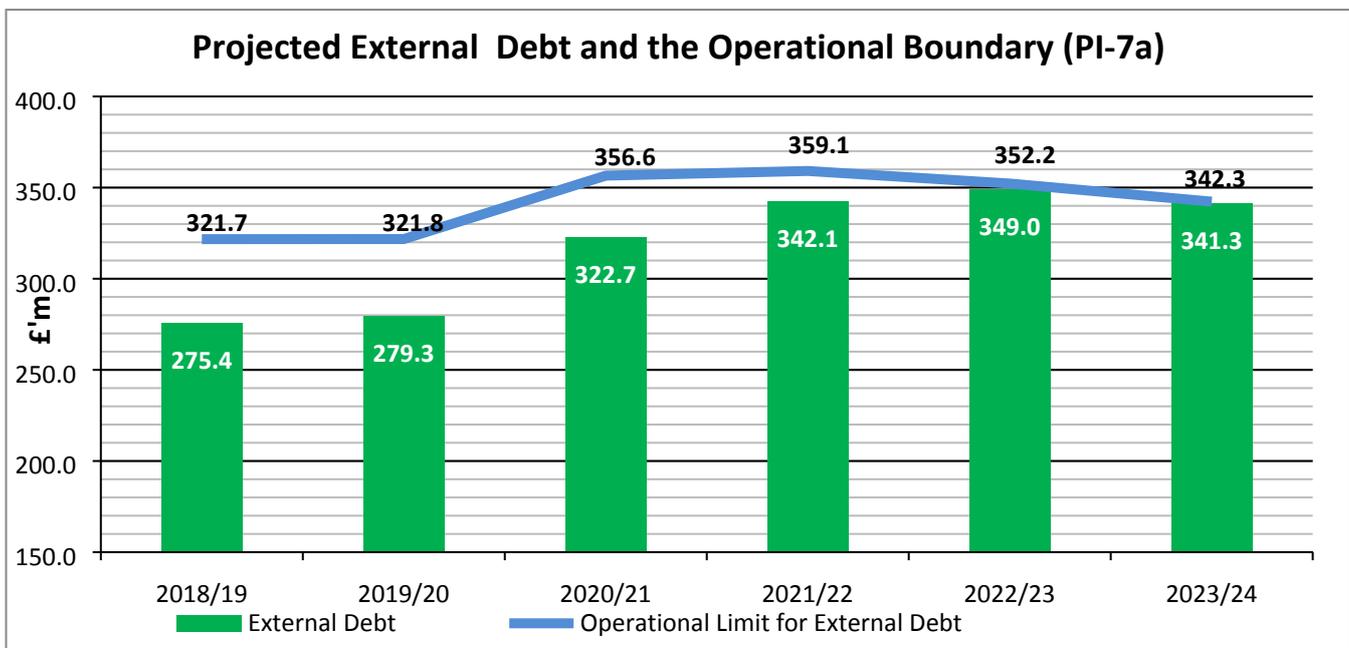
## 4.2 Treasury Indicators: Limits to Borrowing Activity

### The Operational Boundary (Prudential Indicator PI-7)

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

Operational boundary £m	Estimate					
	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
<b>Total Operational Boundary (PI-7a)</b>	<b>321.7</b>	<b>321.8</b>	<b>356.6</b>	<b>359.1</b>	<b>352.2</b>	<b>342.3</b>
Less: Other long term liabilities	(70.4)	(67.2)	(97.7)	(93.6)	(89.4)	(85.3)
<b>Operational Boundary exc. Other Long Term Liabilities (PI-7b)</b>	<b>251.3</b>	<b>254.6</b>	<b>258.9</b>	<b>265.5</b>	<b>262.8</b>	<b>257.0</b>

- b) The following chart shows how the current and projected Operational Borrowing limit compare with the anticipated levels of actual debt.



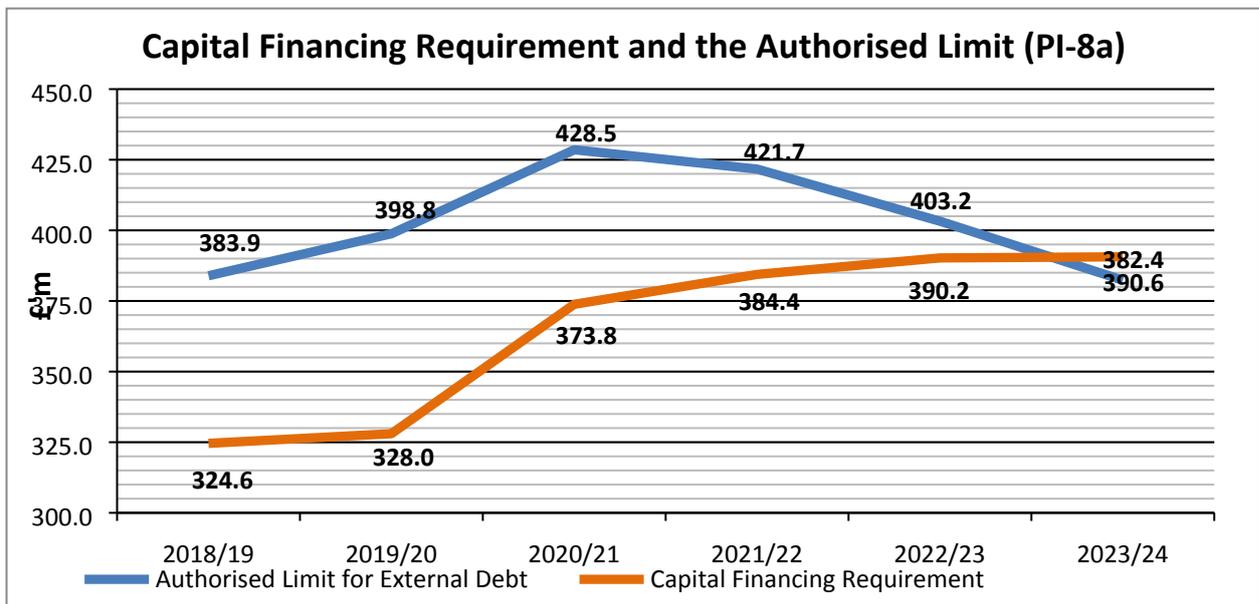
### The Authorised Limit for External Debt (Prudential Indicator PI-8)

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

- d) This is the statutory limit (Affordable Capital Expenditure Limit) determined under section 35(1) of the Local Government in Scotland Act 2003. The Government retains an option to control either the total of all councils' plans, or those of a specific council, although this power has not yet been exercised.
- e) The Council is asked to approve the following authorised limit:

Authorised Limit £m	Estimate					
	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
<b>Total Authorised Limit (PI-8a)</b>	<b>383.9</b>	<b>398.8</b>	<b>428.5</b>	<b>421.7</b>	<b>403.2</b>	<b>382.4</b>
Less: Other long term liabilities	(70.4)	(67.3)	(97.7)	(93.6)	(89.4)	(85.3)
<b>Authorised Limit exc. Other Long-Term Liabilities (PI-8b)</b>	<b>313.5</b>	<b>331.5</b>	<b>330.8</b>	<b>328.1</b>	<b>313.8</b>	<b>297.1</b>

- f) The chart on the below shows how the current and projected Capital Financing Requirement compares the Authorised Limit for External Debt



### 4.3 Prospects for Interest Rates

- a) The Council has appointed Link Asset Services as its treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. The following table gives our central view.

Link Asset Services Interest Rate View													
	Mar-19	Jun-19	Sep-19	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22
Bank Rate View	0.75%	1.00%	1.00%	1.00%	1.25%	1.25%	1.25%	1.50%	1.50%	1.75%	1.75%	1.75%	2.00%
3 Month LIBID	0.90%	1.00%	1.10%	1.20%	1.30%	1.40%	1.50%	1.50%	1.60%	1.70%	1.80%	1.90%	2.00%
6 Month LIBID	1.00%	1.20%	1.30%	1.40%	1.50%	1.60%	1.70%	1.70%	1.80%	1.90%	2.00%	2.10%	2.20%
12 Month LIBID	1.20%	1.30%	1.40%	1.50%	1.60%	1.70%	1.80%	1.90%	2.00%	2.10%	2.20%	2.30%	2.40%
5yr PWLB Rate	2.10%	2.20%	2.20%	2.30%	2.30%	2.40%	2.50%	2.50%	2.60%	2.60%	2.70%	2.80%	2.80%
10yr PWLB Rate	2.50%	2.60%	2.60%	2.70%	2.80%	2.90%	2.90%	3.00%	3.00%	3.10%	3.10%	3.20%	3.20%
25yr PWLB Rate	2.90%	3.00%	3.10%	3.10%	3.20%	3.30%	3.30%	3.40%	3.40%	3.50%	3.50%	3.60%	3.60%
50yr PWLB Rate	2.70%	2.80%	2.90%	2.90%	3.00%	3.10%	3.10%	3.20%	3.20%	3.30%	3.30%	3.40%	3.40%

- b) The flow of generally positive economic statistics after the quarter ended 30 June meant that it came as no surprise that the MPC came to a decision on 2 August to make the first increase in Bank Rate above 0.5% since the financial crash, from 0.5% to 0.75%. Growth became increasingly strong during 2018 until slowing significantly during the last quarter. At their November quarterly Inflation Report meeting, the MPC left Bank Rate unchanged, but expressed some concern at the Chancellor's fiscal stimulus in his Budget, which could increase inflationary pressures. However, it is unlikely that the MPC would increase Bank Rate in February 2019, ahead of the deadline in March for Brexit. On a major assumption that Parliament and the EU agree a Brexit deal in the first quarter of 2019, then the next increase in Bank Rate is forecast to be in May 2019, followed by increases in February and November 2020, before ending up at 2.0% in February 2022.
- c) The overall longer run future trend is for gilt yields, and consequently PWLB rates, to rise, albeit gently. However, over about the last 25 years, we have been through a period of falling bond yields as inflation subsided to, and then stabilised at, much lower levels than before, and supported by central banks implementing substantial quantitative easing purchases of government and other debt after the financial crash of 2008. Quantitative easing, conversely, also caused a rise in equity values as investors searched for higher returns and purchased riskier assets. In 2016, we saw the start of a reversal of this trend with a sharp rise in bond yields after the US Presidential election in November 2016, with yields then rising further as a result of the big increase in the US government deficit aimed at stimulating even stronger economic growth. That policy change also created concerns around a significant rise in inflationary pressures in an economy which was already running at remarkably low levels of unemployment. Unsurprisingly, the Fed has continued on its series of robust responses to combat its perception of rising inflationary pressures by repeatedly increasing the Fed rate to reach 2.25 – 2.50% in December 2018. It has also continued its policy of not fully reinvesting proceeds from bonds that it holds as a result of quantitative easing, when they mature. We therefore saw US 10 year bond Treasury yields rise above 3.2% during October 2018 and also investors causing a sharp fall in equity prices as they sold out of holding riskier assets. However, by early January 2019, US 10 year bond yields had fallen back considerably on fears that the Fed was being too aggressive in raising interest rates and was going to cause a recession. Equity prices have been very volatile on alternating good and bad news during this period.
- d) From time to time, gilt yields, and therefore PWLB rates, can be subject to exceptional levels of volatility due to geo-political, sovereign debt crisis, emerging market developments and sharp changes in investor sentiment. Such volatility could occur at any time during the forecast period.
- e) Economic and interest rate forecasting remains difficult with so many external influences weighing on the UK. The above forecasts, (and MPC decisions), will be liable to further amendment depending on how economic data and developments in financial markets transpire over the next year. Geopolitical developments, especially in the EU, could also have a major impact. Forecasts for average investment earnings beyond the three-year time horizon will be heavily dependent on economic and political developments.
- f) Investment returns are likely to remain low during 2019/20 but to be on a gently rising trend over the next few years;
- Borrowing interest rates have been volatile so far in 2018-19 and while they were on a rising trend during the first half of the year, they have backtracked since then until early January. The policy of avoiding new borrowing by running down spare cash balances has served well over the last few years. However, this needs to be carefully reviewed to avoid incurring higher borrowing costs in the future when authorities may not be able to avoid new borrowing to finance capital expenditure and/or the refinancing of maturing debt.
  - There will remain a cost of carry, (the difference between higher borrowing costs and lower investment returns), to any new long-term borrowing that causes a temporary increase in cash balances as this position will, most likely, incur a revenue cost.
- g) **Annex C** contains a more comprehensive Economic Background narrative from Link Asset Services.

#### 4.4 Borrowing Strategy

- a) The Council is currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement), has not been fully funded with loan debt as cash supporting the Council's reserves, balances and cash flow has been used as a temporary measure. This strategy is prudent as investment returns are low and counterparty risk is still an issue to be considered.
- b) Against this background and the risks within the economic forecast, caution will be adopted with the 2019/20 treasury operations. The Chief Financial Officer will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances:
- if it was felt that there was a significant risk of a sharp FALL in long and short term rates, (e.g. due to a marked increase of risks around relapse into recession or of risks of deflation), then long term borrowings will be postponed, and potential rescheduling from fixed rate funding into short term borrowing will be considered.
  - if it was felt that there was a significant risk of a much sharper RISE in long and short term rates than that currently forecast, perhaps arising from an acceleration in the rate of increase in central rates in the USA and UK, an increase in world economic activity, or a sudden increase in inflation risks, then the portfolio position will be re-appraised. Most likely, fixed rate funding will be drawn whilst interest rates are lower than they are projected to be in the next few years.
- c) Any decisions will be reported to Members at the next available opportunity.

#### 4.5 Policy on borrowing in advance of need

- a) Borrowing in advance of need is defined as any borrowing undertaken by the local authority which will result in the total external debt of the local authority exceeding the capital financing requirement (CFR) of the local authority for the following twelve month period. This twelve month period is on a rolling twelve month basis.
- b) The Council will not borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed.
- c) Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates, and will be considered carefully to ensure that value for money can be demonstrated and that the Council can ensure the security of such funds.
- d) The Chief Financial Officer has the authority to borrow in advance of need under delegated power where, for instance, a sharp rise in interest rates is expected, and so borrowing early at fixed interest rates will be economically beneficial or meet budgetary constraints. The Chief Financial Officer will adopt a cautious approach to any such borrowing and a business case to support the decision making process must consider:
- the benefits of borrowing in advance,
  - the risks created by additional levels of borrowing and investment, and
  - how far in advance it is reasonable to borrow considering the risks identified
- e) Any such advance borrowing should be reported through the mid-year or annual Treasury Management reporting mechanism.

#### 4.6 Debt Rescheduling

- a) As short term borrowing rates will be considerably cheaper than longer term fixed interest rates, there may be potential opportunities to generate savings by switching from long term debt to short term debt. However, these savings will need to be considered in the light of the current treasury position and the size of the cost of debt repayment (premiums incurred).
- b) The reasons for any rescheduling to take place will include:

- the generation of cash savings and / or discounted cash flow savings
  - helping to fulfil the treasury strategy
  - enhance the balance of the portfolio (amend the maturity profile and/or the balance of volatility).
- c) Consideration will also be given to identify if there is any residual potential for making savings by running down investment balances to repay debt prematurely as short term rates on investments are likely to be lower than rates paid on current debt.
- d) All rescheduling will be reported to the **Executive** at the earliest meeting following its action.

## 5 Investment Strategy

### 5.1 Investment Objectives and Policy

- a) The Council's investment policy implements the requirements of the Local Government Investments (Scotland) Regulations 2010, (and accompanying Finance Circular 5/2010), and the CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes 2017, ("the CIPFA TM Code").
- b) The Council's primary investment objectives are as follows, in order of importance:
  - (i) The safeguarding or **security** of the re-payment of principal and interest of investments on a timely basis;
  - (ii) The **liquidity** of its investments;
  - (iii) The **returns on investments** that can be realised.

The Council will therefore aim to achieve the optimum return on its investments corresponding with proper levels of security and liquidity. The risk appetite of this Council is low in order to give priority to security of its investments.

- c) Minimum acceptable credit criteria are applied in order to generate a list of highly creditworthy counterparties. This also enables diversification and thus avoidance of concentration risk. The key ratings used to monitor counterparties are the short term and long-term ratings.
- d) Other information: ratings will not be the sole determinant of the quality of an institution; it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment will also take account of information that reflects the opinion of the markets. To achieve this consideration the Council will engage with its advisors to maintain a monitor on market pricing such as "credit default swaps" and overlay that information on top of the credit ratings.
- e) Other information sources used will include the financial press, share price and other such information pertaining to the banking sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.
- f) This authority has defined the list of types of investment instruments that are permitted investments authorised for use in appendix D. Appendix F expands on the risks involved in each type of investment and the mitigating controls.
- g) All investments will be denominated in **sterling**.
- h) As a result of the change in accounting standards for 2018/19 under **IFRS 9**, this authority will consider the implications of investment instruments which could result in an adverse movement in the value of the amount invested and resultant charges at the end of the year to the General Fund. (This area is currently under review by LASAAC and the Scottish Government. Members will be updated when there is further news.)
- i) This authority will also pursue **value for money** in treasury management and will monitor the yield from investment income against appropriate benchmarks for investment performance, (see paragraph 5.6). Regular monitoring of investment performance will be carried out during the year.

### 5.2 Council Permitted Investments

The proposed criteria for permitted investments are shown in annex D approval.

### 5.3 Creditworthiness Policy

- a) This Council applies the creditworthiness service provided by Link Asset Services. This service employs a sophisticated modelling approach using credit ratings from the three main credit rating

agencies - Fitch, Moody's and Standard and Poor's. The credit ratings of counterparties are supplemented with the following overlays:

- credit watches and credit outlooks from credit rating agencies
  - Credit Default Swaps (CDS) spreads to give early warning of likely changes in credit ratings
  - sovereign ratings to select counterparties from only the most creditworthy countries
- b) This modelling approach combines credit ratings, credit watches and credit outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads for which the end product is a series of colour coded bands which indicate the relative creditworthiness of counterparties. These colour codes are used by the Council to determine the suggested duration for investments. The Council will therefore use counterparties within the following durational bands:

Creditworthiness Colour Banding	Maximum Investment Duration
Yellow	5 years
Dark pink	5 years for Ultra short dated bond funds with a credit score of 1.25
Light pink	5 years for Ultra short dated bond funds with a credit score of 1.5
Purple	2 years
Blue	1 year (only applies to nationalised or semi-nationalised UK Banks)
Orange	1 year
Red	6 months
Green	100 days
No colour	not to be used (ie don't invest)

Y	Pi1	Pi2	P	B	O	R	G	N/C
1	1.25	1.5	2	3	4	5	6	7
Up to 5yrs	Up to 5yrs	Up to 5yrs	Up to 2yrs	Up to 1yr	Up to 1yr	Up to 6mths	Up to 100days	No Colour

- c) The Link Asset Services' creditworthiness service uses a wider array of information than just primary ratings. Furthermore, by using a risk weighted scoring system, it does not give undue preponderance to just one agency's ratings.
- d) Typically the minimum credit ratings criteria the Council use will be a Short Term rating (Fitch or equivalents) of F1 and a Long Term rating of A-. There may be occasions when the counterparty ratings from one rating agency are marginally lower than these ratings but may still be used. In these instances consideration will be given to the whole range of ratings available, or other topical market information, to support their use.
- e) All credit ratings will be monitored on a real time basis. The Council is alerted to changes to ratings of all three agencies through its use of a creditworthiness service provided by Link Asset Services.
- if a downgrade results in the counterparty / investment scheme no longer meeting the Council's minimum criteria, its further use as a new investment will be withdrawn immediately.
  - in addition to the use of credit ratings the Council will be advised of information in movements in credit default swap spreads against the iTraxx benchmark and other market data on a daily basis via its Passport website, provided exclusively to it by Link Asset Services. Extreme market movements may result in downgrade of an institution or removal from the Council's lending list.
- f) Sole reliance will not be placed on the use of this external service. In addition this Council will also use market data and market information, information on sovereign support for banks and the credit ratings of that supporting government.

- g)** The largest UK banks, (those with more than £25bn of retail / Small and Medium-sized Enterprise (SME) deposits), are required, by UK law, to separate core retail banking services from their investment and international banking activities by 1st January 2019. This is known as “ring-fencing”. Whilst smaller banks with less than £25bn in deposits are exempt, they can choose to opt up. Several banks are very close to the threshold already and so may come into scope in the future regardless.
- h)** Ring-fencing is a regulatory initiative created in response to the global financial crisis. It mandates the separation of retail and SME deposits from investment banking, in order to improve the resilience and resolvability of banks by changing their structure. In general, simpler, activities offered from within a ring-fenced bank, (RFB), will be focused on lower risk, day-to-day core transactions, whilst more complex and “riskier” activities are required to be housed in a separate entity, a non-ring-fenced bank, (NRFB). This is intended to ensure that an entity’s core activities are not adversely affected by the acts or omissions of other members of its group.
- i)** While the structure of the banks included within this process may have changed, the fundamentals of credit assessment have not. The Council will continue to assess the new-formed entities in the same way that it does others and those with sufficiently high ratings, (and any other metrics considered), will be considered for investment purposes.

#### 5.4 Country and Sector Considerations

- a)** Due care will be taken to consider the country and sector exposure of the Council’s investments.

##### Country Limits

- b)** If the institution is non-UK, then the country in which it is domiciled must have a minimum Sovereign long term rating of AAA.
- c)** No more than **10%** will be placed with any non-UK country at any time.

##### Institutional Sector Limits

- d)** These institutions must either be UK Local Authorities or UK Incorporated Institutions, UK Banks and Building Societies incorporated in the European Economic Area entitled to accept deposits through a branch in the UK. The Council may also use the UK Government including in the form of gilts and the Debt Management Account Deposit Facility (DMADF).
- e)** Limits will be applied to the overall amount lent out to any one sector at any one time in order to limit sector specific exposure risk, as follows:

<b>UK Building Societies</b>	<b>£25 m</b>
<b>Banks</b>	<b>£35 m</b>
<b>UK Local Authorities</b>	<b>£40 m</b>
<b>UK Government Debt Management Office</b>	<b>£unlimited</b>
<b>UK Gilts and Treasury Bills</b>	<b>£20 m</b>
<b>Institutions covered by Government Guarantee</b>	<b>£10 m</b>
<b>Part Nationalised Banks</b>	<b>£35 m</b>
<b>Money Market Funds (AAA)</b>	<b>£20 m</b>

These limits will be monitored regularly for appropriateness.

##### Group Limits

- g)** Limits will be applied to the overall amount lent out to institutions within the same group at any one time in order to limit group specific exposure risk, as follows, and subject to the parent company appearing on Link Asset Services’ creditworthiness list:

<b>Group of Banks</b>	<b>£10m</b>
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## Council's Own Banker

- h) The Council's own banker (Bank of Scotland – part of Lloyds) will be maintained on the Council's counterparty list in situations where rating changes may mean this is below the above criteria. This is to allow the Council to continue to operate normal current account banking facilities and overnight and short-term investment facilities. However, in the event that the rating does change below the criteria, officers will review the situation carefully and identify any appropriate action required to manage the risk that this change creates for the Council.

## 5.5 Individual Institution Monetary Limits

- a) The monetary limits for institutions on the Council's Counterparty List are as follows:

	Money Limit
UK Building Societies	£5m
Banks	£5m
UK Local Authorities (i)	£40m
UK Government Debt Management Office	Unlimited
UK Gilts & Treasury Bills	£20m
Government Guaranteed Institutions	£2m
AAA rated Money Market Funds	£5m
Council's Own Banker (ii)	£5m

- (i) No individual limit will be applied on lending to a UK local authority, other than it must not exceed the relevant sector limit of £40m.
- (ii) Further to Sections 5.4 and 5.5, in the event that the rating of the Council's own banker falls below the criteria, the time limit on money deposited with the bank will be reduced to an overnight basis.
- b) As mentioned earlier, the treasury function manages the funds of the Council, any subsidiary organisations, the Pension Fund and the Common Good and Trust Funds. When applying the limits set out in the table above, these limits will apply to the cumulative investment with an institution from the Council, the Pension Fund and the Common Good Funds and Trust Funds.

## 5.6 Types of Investments

- a) For institutions on the approved counterparty list, investments will be restricted to safer instruments (such as deposits). Currently this involves the use of money market funds, the DMADF and institutions with higher credit ratings than the minimum permissible rating outlined in the investment strategy, as well as the Council's own bank.
- b) Where appropriate, investments will be made through approved brokers. The current list of approved brokers comprises:
- ICAP Securities Limited
  - Sterling International Brokers Limited
  - Tradition (UK) Limited

## 5.7 Investment Strategy and bank rate projections

### In-house funds

- a) Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months). Greater returns are usually obtainable by investing for longer periods. While most cash balances are required in order to manage the ups and downs of cash flow, where cash sums can be identified that could be invested for longer periods, the value to be obtained from longer term investments will be carefully assessed.
- If it is thought that Bank Rate is likely to rise significantly within the time horizon being considered, then consideration will be given to keeping most investments as being short term or variable.
  - Conversely, if it is thought that Bank Rate is likely to fall within that time period, consideration will be given to locking in higher rates currently obtainable, for longer periods.

### Investment returns expectations

- b) Bank Rate is forecast to stay flat at 0.50% until quarter 4, 2018 and not to rise above 1.25% by quarter 1, 2021. Bank rate forecasts for financial year-ends (March) are:

2018/2019	0.50%
2019/2020	0.75%
2020/2021	1.00%
2021/2022	1.25%

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

2018/2019	0.40%
2019/2020	0.60%
2020/2021	0.90%
2021/2022	1.25%

- d) The overall balance of risks to these forecasts is currently skewed to the upside and are dependent on how strong GDP growth turns out, how quickly inflation pressures rise and how quickly the Brexit negotiations move forward positively.

### Investment Treasury Indicator and Limit (Treasury Indicator TI-5)

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

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

Maximum principal sums invested for longer than 365 days (TI-4)					
£m	2017/18	2018/19	2019/20	2020/21	2021/22
Principal sums invested for longer than 365 days	20%	20%	20%	20%	20%

- f) For positive cash balances and in order to maintain liquidity, the Council will seek to use overnight investment accounts, short term (< 1 month) notice accounts, money market funds and short-dated

deposits (overnight to three months).

## 5.8 Investment Risk Benchmarking

These benchmarks are simple guides to maximum risk, so they may be breached from time to time, depending on movements in interest rates and counterparty criteria. The purpose of the benchmark is that officers will monitor the current and trend position and amend the operational strategy to manage risk as conditions change. Any breach of the benchmarks will be reported, with supporting reasons in the mid-year or Annual Report.

### a) Security

The Council's **maximum** security risk benchmark for the current portfolio, when compared to historic default tables, is:

**0.04% historic risk of default when compared to the whole portfolio.**

### b) Liquidity

In respect of this area the Council seeks to maintain:

- Bank Overdraft: £250,000
- Liquid short term deposits of at least £3,000,000 available with a week's notice.
- Weighted Average Life benchmark is **expected to be 0.5 years** (equivalent to an weighted average life of 6 months), with a **maximum of 1.00 years**

### c) Yield

Local measures of yield benchmarks are:

Investments – **Internal returns above the 7 day LIBID rate**

- d) At the end of the financial year, the Chief Financial Officer will report on its investment activity as part of the Annual Treasury Report.

## 6 Performance Indicators

**6.1** The CIPFA Code requires the Council to set performance indicators to assess the adequacy of the treasury function over the year. These are distinct historic indicators, as opposed to the prudential indicators, which are predominantly forward looking.

### 6.2 Debt Performance Indicators

- (i) Average “Pool Rate” charged by the Loans Fund compared to Scottish Local Authority average Pool Rate.

Target is to be at or below the Scottish Average for 2018/19.

- (ii) Average borrowing rate movement year on year

Target is to maintain or reduce the average borrowing rate for the Council versus 2018/19.

**6.3 Investment Risk Benchmark Indicators** for Security, Liquidity and Yield, as set out in paragraph 5.8.

### 6.4 Loan Charges

- a) Loan Charges for 2018/19 are expected to be at or below the Revenue Budget estimate contained in the Council’s Financial Plans to be approved in March 2019, which are estimated as follows:

£m	2019/20	2020/21	2021/22	2022/23	2023/24
Interest on Borrowing	12.1	11.9	11.4	11.1	10.5
Investment income	(0.2)	(0.2)	(0.1)	(0.1)	(0.1)
Capital Repayments	8.5	9.4	9.9	10.4	11.0
<b>Total Loan Charges *</b>	<b>20.4</b>	<b>21.1</b>	<b>21.2</b>	<b>21.4</b>	<b>21.4</b>

*\*The Loan Charges exclude the capital element of PPP repayments.*

- b) The above budget excludes the revenue impact of funding the cost of the NHT and the lending to RSLs and lending in respect of the Council-led house building programme with the Scottish Futures Trust, as these are assumed to be revenue neutral overall.

**6.5** The indicators, based on actual performance for the year, will be included in the Treasury Management Annual Report for 2019/20.

# ANNEXES

## ANNEX A SUMMARY OF PRUDENTIAL AND TREASURY INDICATORS

Indicator Ref.	Indicator	Page Ref.	2018/19	2019/20	2020/21	2021/22	2022/23
<b>PRUDENTIAL INDICATORS</b>							
<b>Capital Expenditure Indicator</b>							
PI-1	Capital Expenditure Limits (£m)	6	63.7	48.4	60.1	59.4	46.4
PI-2	Capital Financing Requirement (CFR) (£m)	8	324.6	328.0	373.8	384.4	390.2
<b>Affordability Indicator</b>							
PI-3	Ratio of Financing Costs to Net Revenue (inc. PPP repayment costs)	23	9.8%	9.4%	9.7%	10.3%	10.5%
PI-4	Incremental (Saving)/Cost Impact of Capital Investment Decisions on Council Tax	23	£(0.01)	£0.00	£0.00	£0.00	£0.00
<b>External Debt Indicators</b>							
PI-5	Actual Debt (£m)	9	275.4	279.3	322.7	342.1	348.9
PI-7a	Operational Boundary (inc. Other Long Term Liabilities) (£m)	10	321.7	321.8	356.6	359.1	352.2
PI-7b	Operational Boundary (exc. Other Long Term Liabilities) (£m)	10	251.3	254.6	258.9	265.5	262.8
PI-8a	Authorised Limit (inc. Other Long Term Liabilities) (£m)	11	383.9	398.8	428.5	421.7	403.2
PI-8b	Authorised Limit (exc. Other Long Term Liabilities) (£m)	11	313.5	331.5	330.8	328.1	313.8
<b>Indicators of Prudence</b>							
PI-6	(Under)/Over Gross Borrowing against the CFR (£m)	9	(49.2)	(48.7)	(51.1)	(42.3)	(41.3)
<b>TREASURY INDICATORS</b>							
TI-1	Upper Limit to Fixed Interest Rates based on Net Debt (£m)	24	321.7	321.8	356.6	359.1	352.2
TI-2	Upper Limit to Variable Interest Rates based on Net Debt (£m)	24	112.6	112.6	124.8	125.7	123.3
TI-3	Maturity Structure of Fixed Interest Rate Borrowing 2019/20	24	<b>Lower</b>		<b>Upper</b>		
	Under 12 months		0%		20%		
	12 months to 2 years		0%		20%		
	2 years to 5 years		0%		20%		
	5 years to 10 years		0%		20%		
	10 years and above		20%		100%		
TI-4	Maximum Principal Sum invested greater than 365 days	18	20%	20%	20%	20%	20%

Further prudential indicators are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Council's overall finances. The updated indicators are as follows:

### Ratio of financing costs to net revenue stream (Prudential Indicator PI-3)

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.

%	Actual	Estimate				
	17/18	18/19	19/20	20/21	21/22	22/23
<b>Ratio of Financing Costs to Net Revenue Stream (PI-3)</b> <i>(inc. PPP repayment costs)</i>	9.0%	9.8%	9.4%	9.7%	10.3%	10.5%

The estimates of financing costs include current commitments and the proposals in the Financial Plans for 2019/20. The movements in the above ratio from 2019/20 onwards reflect a real-time reduction in overall financial resources available to the Council.

### Incremental impact of capital investment decisions on council tax (Prudential Indicator PI-4)

This indicator identifies the revenue costs associated with the operational three year capital programme detailed in this budget report compared to the Council's existing approved commitments and current plans. The assumptions are based on the budget, but will invariably include some estimates, such as the level of Government support, which are not published over a three year period.

£	Estimate				
	2019/20	2020/21	2021/22	2022/23	2023/24
<b>Incremental (Saving)/Cost Impact of Capital Investment Decisions on the Band D Council Tax (PI-4)</b>	£0.00	£0.00	£0.00	£0.00	£(0.01)

### Treasury Management Limits on Activity

There are three debt related treasury activity limits. The purpose of these are to restrain the activity of the treasury function within certain limits, thereby managing risk and reducing the impact of any adverse movement in interest rates. However, if these are set to be too restrictive, they will impair the opportunities to reduce costs / improve performance. The indicators are:

**(i) Upper limits on fixed interest rate exposure (Treasury Indicator TI-1)**

This identifies a maximum limit for borrowing exposure to fixed interest rates, based on the debt position net of investments.

**(ii) Upper limits on variable interest rate exposure (Treasury Indicator TI-2)**

This identifies a maximum limit for borrowing exposure to variable interest rates based upon the debt position net of investments.

**(iii) Maturity structure of borrowing (Treasury Indicator TI-3)**

These gross limits are set to reduce the Council's exposure to large fixed rate sums falling due for refinancing, and are required for upper and lower limits.

**(iv) The following table highlights the proposed treasury indicators and limits:**

<b>£m</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2022/23</b>	<b>2023/24</b>
<b>Interest rate exposures</b>					
	<b>Upper</b>	<b>Upper</b>	<b>Upper</b>	<b>Upper</b>	<b>Upper</b>
<b>Limits on fixed interest rates based on net debt (TI-1)</b>	321.7	321.8	356.6	359.1	352.2
<b>Limits on variable interest rates based on net debt (TI-2)</b>	112.6	112.6	124.8	125.7	123.3
<b>Maturity Structure of fixed interest rate borrowing 2019/20 (TI-3)</b>					
		<b>Lower</b>		<b>Upper</b>	
Under 12 months		0%		20%	
12 months to 2 years		0%		20%	
2 years to 5 years		0%		20%	
5 years to 10 years		0%		20%	
10 years and above		20%		100%	

## ANNEX B: INTEREST RATE FORECASTS 2019-22

[PWLB rates and forecast shown below have taken into account the 20 basis point certainty rate reduction effective as of the 1st November 2012.]

Link Asset Services Interest Rate View													
	Mar-19	Jun-19	Sep-19	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22
<b>Bank Rate View</b>	0.75%	1.00%	1.00%	1.00%	1.25%	1.25%	1.25%	1.50%	1.50%	1.75%	1.75%	1.75%	2.00%
3 Month LIBID	0.90%	1.00%	1.10%	1.20%	1.30%	1.40%	1.50%	1.50%	1.60%	1.70%	1.80%	1.90%	2.00%
6 Month LIBID	1.00%	1.20%	1.30%	1.40%	1.50%	1.60%	1.70%	1.70%	1.80%	1.90%	2.00%	2.10%	2.20%
12 Month LIBID	1.20%	1.30%	1.40%	1.50%	1.60%	1.70%	1.80%	1.90%	2.00%	2.10%	2.20%	2.30%	2.40%
5yr PWLB Rate	2.10%	2.20%	2.20%	2.30%	2.30%	2.40%	2.50%	2.50%	2.60%	2.60%	2.70%	2.80%	2.80%
10yr PWLB Rate	2.50%	2.60%	2.60%	2.70%	2.80%	2.90%	2.90%	3.00%	3.00%	3.10%	3.10%	3.20%	3.20%
25yr PWLB Rate	2.90%	3.00%	3.10%	3.10%	3.20%	3.30%	3.30%	3.40%	3.40%	3.50%	3.50%	3.60%	3.60%
50yr PWLB Rate	2.70%	2.80%	2.90%	2.90%	3.00%	3.10%	3.10%	3.20%	3.20%	3.30%	3.30%	3.40%	3.40%
<b>Bank Rate</b>													
Link Asset Services	0.75%	1.00%	1.00%	1.00%	1.25%	1.25%	1.25%	1.50%	1.50%	1.75%	1.75%	1.75%	2.00%
Capital Economics	0.75%	1.00%	1.25%	1.50%	1.70%	1.75%	2.00%	2.00%	-	-	-	-	-
<b>5yr PWLB Rate</b>													
Link Asset Services	2.10%	2.20%	2.20%	2.30%	2.30%	2.40%	2.50%	2.50%	2.60%	2.60%	2.70%	2.80%	2.80%
Capital Economics	2.03%	2.15%	2.40%	2.65%	2.70%	2.75%	2.80%	2.85%	-	-	-	-	-
<b>10yr PWLB Rate</b>													
Link Asset Services	2.50%	2.60%	2.60%	2.70%	2.80%	2.90%	2.90%	3.00%	3.00%	3.10%	3.10%	3.20%	3.20%
Capital Economics	2.43%	2.55%	2.80%	3.05%	3.05%	3.05%	3.05%	3.05%	-	-	-	-	-
<b>25yr PWLB Rate</b>													
Link Asset Services	2.90%	3.00%	3.10%	3.10%	3.20%	3.30%	3.30%	3.40%	3.40%	3.50%	3.50%	3.60%	3.60%
Capital Economics	2.96%	3.08%	3.33%	3.58%	3.53%	3.48%	3.43%	3.38%	-	-	-	-	-
<b>50yr PWLB Rate</b>													
Link Asset Services	2.70%	2.80%	2.90%	2.90%	3.00%	3.10%	3.10%	3.20%	3.20%	3.30%	3.30%	3.40%	3.40%
Capital Economics	2.78%	2.90%	3.15%	3.40%	3.40%	3.40%	3.40%	3.40%	-	-	-	-	-

Source: Link Asset Services, January 2019

## ANNEX C Economic Background

**GLOBAL OUTLOOK.** World growth has been doing reasonably well, aided by strong growth in the US. However, US growth is likely to fall back in 2019 and, together with weakening economic activity in China and the eurozone, overall world growth is likely to weaken.

**Inflation** has been weak during 2018 but, at long last, unemployment falling to remarkably low levels in the US and UK has led to an acceleration of wage inflation. The US Fed has therefore increased rates nine times and the Bank of England twice. However, the ECB is unlikely to start raising rates until late in 2019 at the earliest.

### **KEY RISKS - central bank monetary policy measures**

Looking back on nearly ten years since the financial crash of 2008 when liquidity suddenly dried up in financial markets, it can be assessed that central banks' monetary policy measures to counter the sharp world recession were successful. The key monetary policy measures they used were a combination of lowering central interest rates and flooding financial markets with liquidity, particularly through unconventional means such as quantitative easing (QE), where central banks bought large amounts of central government debt and smaller sums of other debt.

**The key issue now** is that period of stimulating economic recovery and warding off the threat of deflation, is coming towards its close. A new period is well advanced in the US, and started more recently in the UK, of reversing those measures i.e. by raising central rates and, (for the US), reducing central banks' holdings of government and other debt. These measures are now required in order to stop the trend of a reduction in spare capacity in the economy and of unemployment falling to such low levels, that the re-emergence of inflation is viewed as a major risk. It is, therefore, crucial that central banks get their timing right and do not cause shocks to market expectations that could destabilise financial markets. In particular, a key risk is that because QE-driven purchases of bonds drove up the price of government debt, and therefore caused a sharp drop in income yields, this also encouraged investors into a search for yield and into investing in riskier assets such as equities. Consequently, prices in both bond and equity markets rose to historically high valuation levels simultaneously. This meant that both asset categories were exposed to the risk of a sharp downward correction and we did, indeed, see a sharp fall in equity values in the last quarter of 2018. It is important, therefore, that central banks only gradually unwind their holdings of bonds in order to prevent destabilising the financial markets. It is also likely that the timeframe for central banks unwinding their holdings of QE debt purchases will be over several years. They need to balance their timing to neither squash economic recovery, by taking too rapid and too strong action, or, conversely, let inflation run away by taking action that was too slow and/or too weak. **The potential for central banks to get this timing and strength of action wrong are now key risks.** At the time of writing, (early January 2019), financial markets are very concerned that the Fed is being too aggressive with its policy for raising interest rates and is likely to cause a recession in the US economy.

The world economy also needs to adjust to a sharp change in **liquidity creation** over the last five years where the US has moved from boosting liquidity by QE purchases, to reducing its holdings of debt (currently about \$50bn per month). In addition, the European Central Bank ended its QE purchases in December 2018.

**UK.** The flow of positive economic statistics since the end of the first quarter of 2018 has shown that pessimism was overdone about the poor growth in quarter 1 when adverse weather caused a temporary downward blip. Quarter 1 at 0.1% growth in GDP was followed by a return to 0.4% in quarter 2 and by a strong performance in quarter 3 of +0.6%. However, growth in quarter 4 is expected to weaken significantly.

At their November quarterly Inflation Report meeting, the MPC repeated their well-worn phrase that future Bank Rate increases would be gradual and would rise to a much lower equilibrium rate, (where monetary policy is neither expansionary or contractionary), than before the crash; indeed they gave a figure for this of around 2.5% in ten years' time, but declined to give a medium term

forecast. However, with so much uncertainty around Brexit, they warned that the next move could be up or down, even if there was a disorderly Brexit. While it would be expected that Bank Rate could be cut if there was a significant fall in GDP growth as a result of a disorderly Brexit, so as to provide a stimulus to growth, they warned they could also raise Bank Rate in the same scenario if there was a boost to inflation from a devaluation of sterling, increases in import prices and more expensive goods produced in the UK replacing cheaper goods previously imported, and so on. In addition, the Chancellor could potentially provide fiscal stimulus to support economic growth, though at the cost of increasing the budget deficit above currently projected levels.

It is unlikely that the MPC would increase Bank Rate in February 2019, ahead of the deadline in March for Brexit. Getting parliamentary approval for a Brexit agreement on both sides of the Channel will take well into spring 2019. However, in view of the hawkish stance of the MPC at their November meeting, the next increase in Bank Rate is now forecast to be in May 2019, (on the assumption that a Brexit deal is agreed by both the UK and the EU). The following increases are then forecast to be in February and November 2020 before ending up at 2.0% in February 2022.

**Inflation.** The Consumer Price Index (CPI) measure of inflation has been falling from a peak of 3.1% in November 2017 to 2.1% in December 2018. In the November Bank of England quarterly Inflation Report, inflation was forecast to still be marginally above its 2% inflation target two years ahead, (at about 2.1%), given a scenario of minimal increases in Bank Rate.

As for the **labour market** figures in October, unemployment at 4.1% was marginally above a 43 year low of 4% on the Independent Labour Organisation measure. A combination of job vacancies hitting an all-time high, together with negligible growth in total employment numbers, indicates that employers are now having major difficulties filling job vacancies with suitable staff. It was therefore unsurprising that wage inflation picked up to 3.3%, (3 month average regular pay, excluding bonuses). This meant that in real terms, (i.e. wage rates less CPI inflation), earnings are currently growing by about 1.2%, the highest level since 2009. This 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. This tends to confirm that the MPC was right to start on a cautious increase in Bank Rate in August as it views wage inflation in excess of 3% as increasing inflationary pressures within the UK economy.

In the **political arena**, the Brexit deal put forward by the Conservative minority government was defeated on 15 January. It is unclear at the time of writing, how this situation will move forward. However, our central position is that Prime Minister May's government will endure, despite various setbacks, along the route to reaching an orderly Brexit though the risks are increasing that it may not be possible to get full agreement by the UK and EU before 29 March 2019, in which case this withdrawal date is likely to be pushed back to a new date. If, however, the UK faces a general election in the next 12 months, this could result in a potential loosening of monetary and fiscal policy and therefore medium to longer dated gilt yields could rise on the expectation of a weak pound and concerns around inflation picking up.

**USA.** President Trump's massive easing of fiscal policy is fuelling a (temporary) boost in consumption which has generated an upturn in the rate of strong growth which rose from 2.2% (annualised rate) in quarter 1 to 4.2% in quarter 2 and 3.5%, (3.0% y/y), in quarter 3, but also an upturn in inflationary pressures. The strong growth in employment numbers and the reduction in the unemployment rate to 3.9%, near to a recent 49 year low, has fed through to an upturn in wage inflation which hit 3.2% in November. However, CPI inflation overall fell to 2.2% in November and looks to be on a falling trend to drop below the Fed's target of 2% during 2019. The Fed has continued on its series of increases in interest rates with another 0.25% increase in December to between 2.25% and 2.50%, this being the fifth increase in 2018 and the ninth in this cycle. However, they did also reduce their forecast for further increases from three to two. This latest increase compounded investor fears that the Fed is over doing the speed and level of increases in rates and that it is going to cause a US recession as a result. There is also much evidence in previous monetary policy cycles of the Fed's series of increases doing exactly that. Consequently, we have seen stock markets around the world falling under the weight of fears around the Fed's actions, the trade war between the US and China and an expectation that world growth will slow.

The tariff war between the US and China has been generating a lot of heat during 2018, but it is not expected that the current level of actual action would have much in the way of a significant effect on US or world growth. However, there is a risk of escalation if an agreement is not reached soon between the US and China.

**Eurozone.** Growth was 0.4% in quarters 1 and 2 but fell back to 0.2% in quarter 3, though this was probably just a temporary dip. In particular, data from Germany has been mixed and it could be negatively impacted by US tariffs on a significant part of its manufacturing exports e.g. cars. For that reason, although growth is still expected to be in the region of nearly 2% for 2018, the horizon is less clear than it seemed just a short while ago. Having halved its quantitative easing purchases of debt in October 2018 to €15bn per month, the European Central Bank ended all further purchases in December 2018. The ECB is forecasting inflation to be a little below its 2% top limit through the next three years so it may find it difficult to warrant a start on raising rates by the end of 2019 if the growth rate of the EU economy is on a weakening trend.

**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. Progress has been made in reducing the rate of credit creation, particularly from the shadow banking sector, which is feeding through into lower economic growth. There are concerns that official economic statistics are inflating the published rate of growth.

**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. It is likely that loose monetary policy will endure for some years yet to try to stimulate growth and modest inflation.

**Emerging countries.** Argentina and Turkey are currently experiencing major headwinds and are facing challenges in external financing requirements well in excess of their reserves of foreign exchange. However, these countries are small in terms of the overall world economy, (around 1% each), so the fallout from the expected recessions in these countries will be minimal.

### INTEREST RATE FORECASTS

The interest rate forecasts provided by Link Asset Services in paragraph 3.2 are **predicated on an assumption of an agreement being reached on Brexit between the UK and the EU.** On this basis, while GDP growth is likely to be subdued in 2019 due to all the uncertainties around Brexit depressing consumer and business confidence, an agreement is likely to lead to a boost to the rate of growth in 2020 which could, in turn, increase inflationary pressures in the economy and so cause the Bank of England to resume a series of gentle increases in Bank Rate. Just how fast, and how far, those increases will occur and rise to, will be data dependent. The forecasts in this report assume a modest recovery in the rate and timing of stronger growth and in the corresponding response by the Bank in raising rates.

- In the event of an **orderly non-agreement exit**, it is likely that the Bank of England would take action to cut Bank Rate from 0.75% in order to help economic growth deal with the adverse effects of this situation. This is also likely to cause short to medium term gilt yields to fall.
- If there was a **disorderly Brexit**, then any cut in Bank Rate would be likely to last for a longer period and also depress short and medium gilt yields correspondingly. It is also possible that the government could act to protect economic growth by implementing fiscal stimulus.

However, there would appear to be a majority consensus in the Commons against any form of non-agreement exit so the chance of this occurring has now substantially diminished.

### The balance of risks to the UK

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

- The balance of risks to increases in Bank Rate and shorter term PWLB rates, are probably also even and are broadly dependent on how strong GDP growth turns out, how slowly inflation pressures subside, and how quickly the Brexit negotiations move forward positively.

One risk that is both an upside and downside risk, is that all central banks are now working in very different economic conditions than before the 2008 financial crash as there has been a major increase in consumer and other debt due to the exceptionally low levels of borrowing rates that have prevailed for ten years since 2008. This means that the neutral rate of interest in an economy, (i.e. the rate that is neither expansionary nor deflationary), is difficult to determine definitively in this new environment, although central banks have made statements that they expect it to be much lower than before 2008. Central banks could therefore either over or under do increases in central interest rates.

#### **Downside risks to current forecasts for UK gilt yields and PWLB rates currently include:**

- **Brexit** – if it were to cause significant economic disruption and a major downturn in the rate of growth.
- **Bank of England monetary policy** takes action too quickly, or too far, over the next three years to raise Bank Rate and causes UK economic growth, and increases in inflation, to be weaker than we currently anticipate.
- A resurgence of the **eurozone sovereign debt crisis**, possibly in **Italy**, due to its high level of government debt, low rate of economic growth and vulnerable banking system, and due to the election in March of a government which has made a lot of anti-austerity noise. The EU rejected the initial proposed Italian budget and demanded cuts in government spending which the Italian government initially refused. However, a fudge was subsequently agreed, but only by *delaying* the planned increases in expenditure to a later year. This can have therefore only been kicked down the road to a later time. The rating agencies have started on downgrading Italian debt to one notch above junk level. If Italian debt were to fall below investment grade, many investors would be unable to hold it. Unsurprisingly, investors are becoming increasingly concerned by the words and actions of the Italian government and consequently, Italian bond yields have risen – at a time when the government faces having to refinance large amounts of debt maturing in 2019.
- Weak capitalisation of some **European banks**. Italian banks are particularly vulnerable; one factor is that they hold a high level of Italian government debt - debt which is falling in value. This is therefore undermining their capital ratios and raises the question of whether they will need to raise fresh capital to plug the gap.
- **German minority government**. In the German general election of September 2017, Angela Merkel's CDU party was left in a vulnerable minority position dependent on the fractious support of the SPD party, as a result of the rise in popularity of the anti-immigration AfD party. Then in October 2018, the results of the Bavarian and Hesse state elections radically undermined the SPD party and showed a sharp fall in support for the CDU. As a result, the SPD is reviewing whether it can continue to support a coalition that is so damaging to its electoral popularity. After the result of the Hesse state election, Angela Merkel announced that she would not stand for re-election as CDU party leader at her party's convention in December 2018, (a new party leader has now been elected). However, this makes little practical difference as she is still expected to aim to continue for now as the Chancellor. However, there are five more state elections coming up in 2019 and EU parliamentary elections in May/June; these could result in a further loss of electoral support for both the CDU and SPD which could also undermine her leadership.
- **Other minority eurozone governments**. Spain, Portugal, Ireland, the Netherlands and Belgium all have vulnerable minority governments dependent on coalitions which could prove fragile. Sweden is also struggling to form a government due to the anti-immigration party holding the balance of power, and which no other party is willing to form a coalition with. The Belgian coalition collapsed in December 2018 but a minority caretaker government has been appointed until the May EU wide general elections.
- **Austria, the Czech Republic and Hungary** now form a strongly anti-immigration bloc within the EU while **Italy**, in 2018, also elected a strongly anti-immigration government. Elections to the EU parliament are due in May/June 2019.

- Further increases in interest rates in the US could spark a **sudden flight of investment funds** from more risky assets e.g. shares, into bonds yielding a much improved yield. Throughout the last quarter of 2018, we saw sharp falls in equity markets interspersed with occasional partial rallies. Emerging countries which have borrowed heavily in dollar denominated debt, could be particularly exposed to this risk of an investor flight to safe havens e.g. UK gilts.
- There are concerns around the level of **US corporate debt** which has swollen massively during the period of low borrowing rates in order to finance mergers and acquisitions. This has resulted in the debt of many large corporations being downgraded to a BBB credit rating, close to junk status. Indeed, 48% of total investment grade corporate debt is now rated at BBB. If such corporations fail to generate profits and cash flow to reduce their debt levels as expected, this could tip their debt into junk ratings which will increase their cost of financing and further negatively impact profits and cash flow.
- **Geopolitical risks**, especially North Korea, but also in Europe and the Middle East, which could lead to increasing safe haven flows.

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

- **Brexit** – if both sides were to agree by 29 March a compromise that quickly removed all threats of economic and political disruption and so led to an early boost to UK economic growth.
- **The Fed causing a sudden shock in financial markets** through misjudging the pace and strength of increases in its Fed Funds Rate and in the pace and strength of reversal of QE, which then leads to a fundamental reassessment by investors of the relative risks of holding bonds, as opposed to equities. This could lead to a major flight from bonds to equities and a sharp increase in bond yields in the US, which could then spill over into impacting bond yields around the world.
- The **Bank of England is too slow** in its pace and strength of increases in Bank Rate and, therefore, allows inflation pressures to build up too strongly within the UK economy, which then necessitates a later rapid series of increases in Bank Rate faster than we currently expect.
- **UK inflation**, whether domestically generated or imported, returning to sustained significantly higher levels causing an increase in the inflation premium inherent to gilt yields.

#### **Brexit timetable and process**

- March 2017: UK government notified the European Council of its intention to leave under the Treaty on European Union Article 50 on 29 March 2019.
- 25.11.18 EU27 leaders endorsed the withdrawal agreement
- Dec 2018 vote in the UK Parliament on the agreement was postponed
- 21.12.18 – 8.1.19 UK parliamentary recess
- 15.1.19 Brexit deal defeated in the Commons vote by a large margin
- By 29.3.19 second vote (?) in UK parliament
- By 29.3.19 if the UK Parliament approves a deal, then ratification by the EU Parliament requires a simple majority
- By 29.3.19 if the UK and EU parliaments agree the deal, the EU Council needs to approve the deal; 20 countries representing 65% of the EU population must agree
- 29.3.19 Either the UK leaves the EU, or asks the EU for agreement to an extension of the Article 50 period if the UK Parliament has been unable to agree on a Brexit deal.
- 29.3.19: if an agreement is reached with the EU on the terms of Brexit, then this will be followed by a proposed **transitional period ending around December 2020.**

- UK continues as a full EU member until March 2019 with access to the single market and tariff free trade between the EU and UK. Different sectors of the UK economy may leave the single market and tariff free trade at different times during the transitional period.
- The UK and EU would attempt to negotiate, among other agreements, a bi-lateral trade agreement over that period.
- The UK would aim for a negotiated agreed withdrawal from the EU, although the UK could also exit without any such agreements in the event of a breakdown of negotiations.
- If the UK exits without an agreed deal with the EU, World Trade Organisation rules and tariffs could apply to trade between the UK and EU - but this is not certain.
- On full exit from the EU: the UK parliament would repeal the 1972 European Communities Act.

## Annex D

# TREASURY MANAGEMENT PRACTICE: PERMITTED INVESTMENTS, ASSOCIATED CONTROLS AND LIMITS

This Council approves the following forms of investment instrument for use as permitted investments

### Treasury risks

All the investment instruments are subject to the following risks: -

1. **Credit and counter-party risk:** this is the risk of failure by a counterparty (bank or building society) to meet its contractual obligations to the organisation particularly as a result of the counterparty's diminished creditworthiness, and the resulting detrimental effect on the organisation's capital or current (revenue) resources. There are no counterparties where this risk is zero although AAA rated organisations have the highest, relative, level of creditworthiness.
2. **Liquidity risk:** this is the risk that cash will not be available when it is needed. While it could be said that all counterparties are subject to at least a very small level of liquidity risk as credit risk can never be zero, in this document, liquidity risk has been treated as whether or not instant access to cash can be obtained from each form of investment instrument. However, it has to be pointed out that while some forms of investment e.g. gilts, CDs, corporate bonds can usually be sold immediately if the need arises, there are two caveats: - a. cash may not be available until a settlement date up to three days after the sale b. there is an implied assumption that markets will not freeze up and so the instrument in question will find a ready buyer.
3. **Market risk:** this is the risk that, through adverse market fluctuations in the value of the principal sums an organisation borrows and invests, its stated treasury management policies and objectives are compromised, against which effects it has failed to protect itself adequately. However, some cash rich local authorities may positively want exposure to market risk e.g. those investing in investment instruments with a view to obtaining a long term increase in value.
4. **Interest rate risk:** this is the risk that fluctuations in the levels of interest rates create an unexpected or unbudgeted burden on the organisation's finances, against which the organisation has failed to protect itself adequately. This authority has set limits for its fixed and variable rate exposure in its Treasury Indicators in this report. All types of investment instrument have interest rate risk except for the following forms of instrument which are at variable rate of interest
5. **Legal and regulatory risk:** this is the risk that the organisation itself, or an organisation with which it is dealing in its treasury management activities, fails to act in accordance with its legal powers or regulatory requirements, and that the organisation suffers losses accordingly.

### Controls on treasury risks

1. **Credit and counter-party risk:** this authority has set minimum credit criteria to determine which counterparties and countries are of sufficiently high creditworthiness to be considered for investment purposes. See paragraphs 5.3 and 5.4.
2. **Liquidity risk:** this authority has a cash flow forecasting model to enable it to determine how long investments can be made for and how much can be invested.
3. **Market risk:** this authority does not purchase investment instruments which are subject to market risk in terms of fluctuation in their value.
4. **Interest rate risk:** this authority manages this risk by having a view of the future course of interest rates and then formulating a treasury management strategy accordingly which aims to maximise investment earnings consistent with control of risk or alternatively, seeks to minimise expenditure on interest costs on borrowing.

5. **Legal and regulatory risk:** this authority will not undertake any form of investing until it has ensured that it has all necessary powers and also complied with all regulations. All types of investment instruments

### **Unlimited investments**

Regulation 24 states that an investment can be shown as being 'unlimited' in terms of the maximum amount or percentage of the total portfolio that can be put into that type of investment. However, it also requires that an explanation must be given for using that category. The authority has given the following types of investment an unlimited category: -

1. **Debt Management Agency Deposit Facility.** This is considered to be the lowest risk form of investment available to local authorities as it is operated by the Debt Management Office which is part of H.M. Treasury i.e. the UK Government's sovereign rating stands behind the DMADF. It is also a deposit account and avoids the complications of buying and holding Government issued treasury bills or gilts.

## **Annex E**

### **SCHEME OF DELEGATION**

#### **(i) Full board/council**

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

#### **(ii) Boards/committees/council/responsible body**

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

#### **(iii) Body/person(s) with responsibility for scrutiny**

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

### **THE TREASURY MANAGEMENT ROLE OF THE SECTION 95 OFFICER**

#### **The S95 (responsible) officer**

- Take and/or authorise all operational decisions regarding the Council's investments and borrowing, in accordance with approved Treasury Management Policy and Strategy.
- Responsible for execution and administration of treasury management decisions in accordance with the Council's Treasury Management policy statement and Treasury Management Practice, and if (s)he is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
- In terms of Treasury Management, from time to time, formulate suitable criteria for assessing and monitoring the credit risk of investment counterparties and construct a lending list defining appropriate limits.
- Borrow, in advance of need, where, for instance, a sharp rise in interest rates is expected, and so borrowing early at fixed interest rates will be economically beneficial or meet budgetary constraints. Adopt a cautious approach to any such borrowing, and a business case to support the decision-making process must consider:
  - the benefits of borrowing in advance,
  - the investment risks created by the existence of investments at the same time as additional borrowing being outstanding; and
  - how far in advance it is reasonable to borrow, considering the risks identified. Any such advance borrowing shall be reported through the mid-year or annual Treasury Management reporting mechanism.
- Take the most appropriate form of borrowing depending on the prevailing interest rates at the time, taking into account the risks shown in the forecast contained in the Treasury Management Strategy.
- Maintain a counterparty list consistent with the Investment Counterparty Selection Criteria and revise the criteria and submit them to Committee for approval as necessary, and in addition, set out the types of investment to be made (Permitted Investments).

## Annex F

### Credit and Counterparty Risk Management

#### Permitted Investments, Associated Controls and Limits for Scottish Borders Council, Common Good and Trust Funds and In-house Managed Pension Fund

Type of Investment	Treasury Risks	Mitigating Controls	Council Limits	Common Good & Trust Fund Limits	Pension Fund In-House Limits
<b>Cash type instruments</b>					
a. Deposits with the Debt Management Account Facility (UK Government) <b>(Very low risk)</b>	This is a deposit with the UK Government and as such counterparty and liquidity risk is very low, and there is no risk to value. Deposits can be between overnight and 6 months.	Little mitigating controls required. As this is a UK Government investment the monetary limit is unlimited to allow for a safe haven for investments	£unlimited, maximum 6 months.	£unlimited, maximum 6 months.	£unlimited, maximum 6 months.
b. Deposits with other local authorities or public bodies <b>(Very low risk)</b>	These are considered quasi UK Government debt and as such counterparty risk is very low, and there is no risk to value. Liquidity may present a problem as deposits can only be broken with the agreement of the counterparty, and penalties can apply.  Deposits with other non-local authority bodies will be restricted to the overall credit rating criteria.	Little mitigating controls required for local authority deposits, as this is a quasi UK Government investment.  Non- local authority deposits will follow the approved credit rating criteria.	£40m, maximum 1 year.	£5m, maximum 1 year.	£40m, maximum 1 year.
c. Money Market Funds (MMFs) <b>(Very low risk)</b>	Pooled cash investment vehicle which provides very low counterparty, liquidity and market risk. These will primarily be used as liquidity instruments.	Funds will only be used where the MMFs has a "AAA" rated status from either Fitch, Moody's or Standard and Poor's.	£5m per fund/£20m overall	£5m per fund/£20m overall	£5m per fund/£20m overall

Type of Investment	Treasury Risks	Mitigating Controls	Council Limits	Common Good & Trust Fund Limits	Pension Fund In-House Limits
d. Ultra short dated bond funds <b>(low risk)</b>	Pooled cash investment vehicle which provides very low counterparty, liquidity and market risk. These will primarily be used as liquidity instruments.	Funds will only be used where they have a “AAA” rated status from either Fitch, Moody’s or Standard and Poor’s.	N/A	N/A	N/A
e. Call account deposit accounts with financial institutions (banks and building societies) <b>(Low risk depending on credit rating)</b>	These tend to be low risk investments, but will exhibit higher risks than categories (a), (b) and (c) above. Whilst there is no risk to value with these types of investments, liquidity is high and investments can be returned at short notice.	The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody’s and Standard and Poor’s. Day to day investment dealing with this criteria will be further strengthened by use of additional market intelligence.	As shown in the counterparty section criteria above.	As shown in the counterparty section criteria above.	As shown in the counterparty section criteria above.
f. Term deposits with financial institutions (banks and building societies) <b>(Low to medium risk depending on period &amp; credit rating)</b>	These tend to be low risk investments, but will exhibit higher risks than categories (a), (b) and (c) above. Whilst there is no risk to value with these types of investments, liquidity is low and term deposits can only be broken with the agreement of the counterparty, and penalties may apply.	The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody’s and Standard and Poor’s. Day to day investment dealing with this criteria will be further strengthened by use of additional market intelligence.	As shown in the counterparty section criteria above.	As shown in the counterparty section criteria above.	As shown in the counterparty section criteria above.

Type of Investment	Treasury Risks	Mitigating Controls	Council Limits	Common Good & Trust Fund Limits	Pension Fund In-House Limits
g. Government Gilts and Treasury Bills ( <b>Very low risk</b> )	These are marketable securities issued by the UK Government and as such counterparty and liquidity risk is very low, although there is potential risk to value arising from an adverse movement in interest rates (no loss if these are held to maturity).	Little counterparty mitigating controls are required, as this is a UK Government investment. The potential for capital loss will be reduced by limiting the maximum monetary and time exposures.	£20m, maximum 1 year.	£5m, maximum 1 year	£20m, maximum 1 year.

Type of Investment	Treasury Risks	Mitigating Controls	Council Limits	Common Good & Trust Fund Limits	Pension Fund In-House Limits
<b>Other types of investments</b>					
a. Investment properties	These are non-service properties which are being held pending disposal or for a longer term rental income stream. These are highly illiquid assets with high risk to value (the potential for property prices to fall or for rental voids).	In larger investment portfolios some small allocation of property based investment may counterbalance/compliment the wider cash portfolio.  Property holding will be re-valued regularly and reported annually with gross and net rental streams.	£30m	£25m	N/A
b. Loans to third parties, including soft loans	These are service investments either at market rates of interest or below market rates (soft loans). These types of investments may exhibit credit risk and are likely to be highly illiquid.	Each third party loan requires Member approval and each application is supported by the service rational behind the loan and the likelihood of partial or full default.	£25m	£1m	N/A
c. Loans to a local authority company	These are service investments either at market rates of interest or below market rates (soft loans). These types of investments may exhibit credit risk and are likely to be highly illiquid.	Each loan to a local authority company requires Member approval and each application is supported by the service rational behind the loan and the likelihood of partial or full default.	£25M	N/A	N/A
d. National Housing Trust ( <b>Very Low Risk due to Scottish Government Underwriting</b> )	These are loans to a Special Purpose Vehicle to allow it to purchase new homes under the NHT umbrella. These loans represent either 65% or 70% of the purchase price, the remainder being funded by the developer. The loan is redeemed after a 5 to 10 year period when the properties	Loan redemption arises when the homes are sold. Interest payments are made to the Council by the SPV from rental payments in the intervening period. Both the loan amount and associated interest payments are underwritten by Scottish Government.	£8m	N/A	N/A

	are sold.				
e. Shareholdings in a local authority company	These are service investments which may exhibit market risk and are likely to be highly illiquid.	Each equity investment in a local authority company requires Member approval and each application will be supported by the service rational behind the investment and the likelihood of loss.	£1m	N/A	N/A
f. Investment in the Subordinated Debt of projects delivered via the 'HubCo' model ( <b>Very Low Risk</b> )	These are investments that are exposed to the success or failure of individual projects and are highly illiquid.	The Council and Scottish Government (via the SFT) are participants in and party to the governance and controls within the project structure. As such they are well placed to influence and ensure the successful completion of the project's term. These projects are based on robust business cases with a cashflow from public sector organisations (i.e. low credit risk)	£600,000	N/A	N/A

### The Monitoring of Investment Counterparties

The status of counterparties will be monitored regularly. The Council receives credit rating and market information from Link Asset Services, including when ratings change, and counterparties are checked promptly. On occasion ratings may be downgraded when an investment has already been made. The criteria used are such that a minor downgrading should not affect the full receipt of the principal and interest. Any counterparty failing to meet the criteria will be removed from the list immediately by the Chief Financial Officer, and if required new counterparties which meet the criteria will be added to the list.

### Use of External Fund Managers

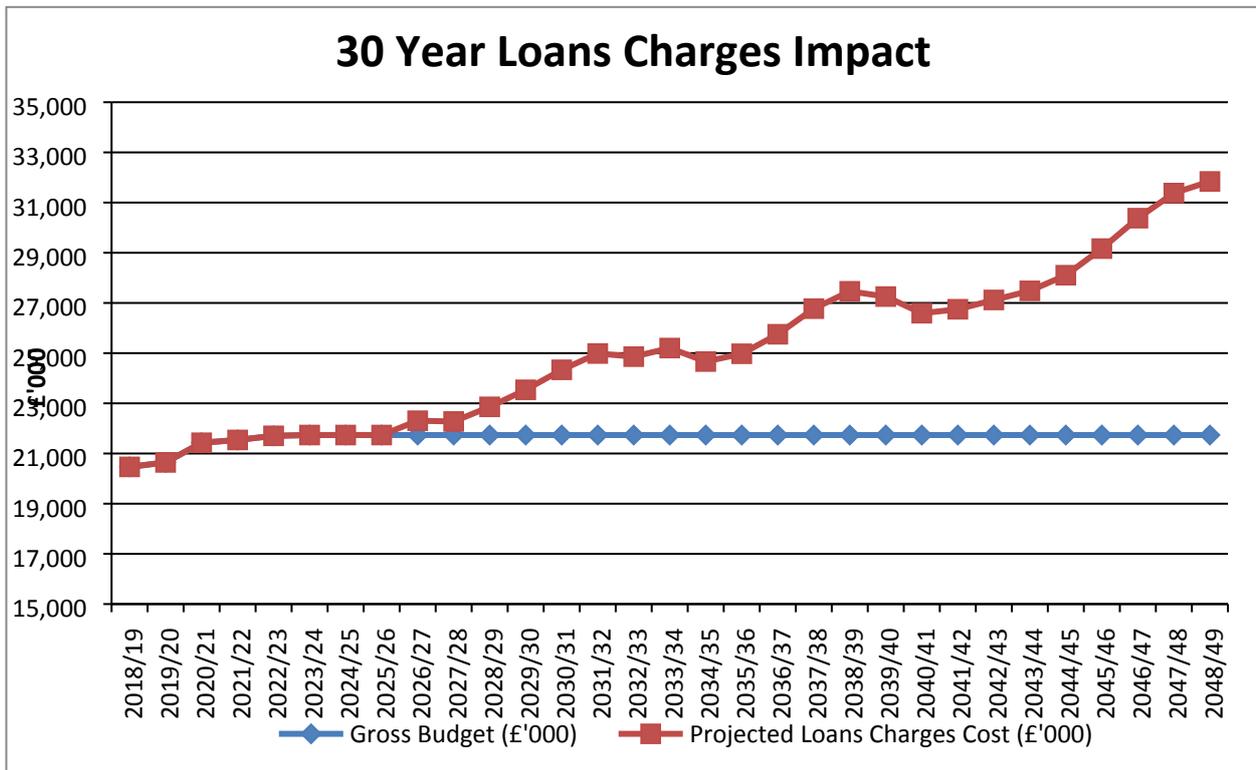
It is the Council's policy to use external fund managers to manage the investment portfolios of the Scottish Borders Council Pension Fund and the pooled investment fund of the Common Good and Trust Funds. This Annex reflects the approved policies around the Common Good and Trust Fund Investment Strategy but specifically excludes, as allowed by regulations, the work undertaken by External Fund Managers in relation to the Scottish Borders Council Pension Fund.

## ANNEX G

### Long Term (30 Yr) Loans Charges Analysis

Current capital and revenue plans have been extrapolated over a 30 year period in order to assess the impact on the revenue Loans Charges budget. In line with assumptions made when assessing external debt and associated limits as described in paragraph 4.5 of the covering report, long term capital planning will cause a pressure on the loans charges budget from financial year 2026/27, as detailed in the chart below. Movements in notional loans charges associated with internal borrowing also impact on these figures.

It should be noted that from 2028-29, the first year outwith the current 10 year Capital Plan, a 5 year average capital expenditure and borrowing requirement has been assumed.



## ANNEX H

### Credit Ratings

#### Long and Short Term Credit Ratings

Audit Commission Grading#	Fitch		Moody's		Standard and Poor's	
	Long Term	Short Term	Long Term	Short Term	Long Term	Short Term
Extremely strong grade	AAA	F1+	Aaa	P-1	AAA	A-1+
Very strong grade	AA+	F1+	Aa1	P-1	AA+	A-1+
	AA	F1+	Aa2	P-1	AA	A-1+
	AA-	F1+	Aa3	P-1	AA-	A-1+
Strong grade But susceptible to adverse conditions	A+	F1+ / F1	A1	P-1	A+	A-1+ / A-1
	A	F1	A2	P-1 / P-2	A	A-1
	A-	F1	A3	P-1 / P-2	A	A-1 / A-2
Adequate Grade	BBB+	F2	Baa1	P-2	BBB+	A-2
	BBB	F2 / F3	Baa2	P-2 / P-3	BBB	A-2 / A-3
	BBB-	F3	Baa3	P-3	BBB-	A-2
Speculative Grade	BB+	B	Ba1	NP *	BB+	B-1
	BB	B	Ba2	NP	BB	B-2
	BB-	B	Ba3	NP	BB-	B-3
Very Speculative Grade	B+	B	Ba1	NP	B+	-
	B	B	Ba2	NP	B	-
	B-	B	Ba3	NP	B-	-
Vulnerable Grade	CCC	C	Caa1	NP	CCC+	C
	CCC	C	Caa2	NP	CCC	C
	CCC	C	Caa3	NP	CCC-	C
	CC	C	-	NP	CC	C
	C	C	Ca	NP	C	C
Defaulting Grade	D	D	C	NP	D	D

# for the purpose of standardisation based on Standard and Poor's credit rating definitions.

\* NP – Not Prime

Source: Audit Commission adaptation of information from Fitch, Moody's and Standard & Poor's

### Viability, Financial Strength and Support Ratings

Continuing regulatory changes in the banking sector designed to see greater stability, lower risk and the removal of expectations of Government financial support should an institution fail. This withdrawal of implied sovereign support is anticipated to have an effect on ratings applied to institutions. This will result in the key rating agency information used to monitor counterparties will be the Short Term and Long Term ratings only. Viability, Financial Strength and Support Ratings previously applied will effectively become redundant. This change does not reflect deterioration in the credit environment but rather a change of method in response to regulatory changes

As a result of these rating agency changes, the credit element of creditworthiness methodology applied by Link Asset Services will focus solely on the Short and Long Term ratings of an institution. Rating Watch and Outlook information will continue to be assessed where it relates to these categories. This is the same process for Standard & Poor's that has always taken, but a change to the use of Fitch and Moody's ratings. Furthermore, Credit Default Swap prices will continue to be used as an overlay to ratings in our new methodology.

## Benchmarking and Monitoring Security, Liquidity and Yield

The consideration and approval of security and liquidity benchmarks are also part of Member reporting. These benchmarks are targets and so may be breached from time to time. Any breach will be reported, with supporting reasons, in the annual treasury report.

### Yield

These benchmarks are currently widely used to assess investment performance. Local measures of yield benchmarks are:

- Investments – **Internal returns above the 7 day LIBID rate**

Security and liquidity benchmarks are already intrinsic to the approved treasury strategy through the counterparty selection criteria and some of the prudential indicators. Benchmarks for the cash type investments are below. In the other investment categories, appropriate benchmarks will be used where available.

### Liquidity

This is defined as an organisation “having adequate, though not excessive, cash resources, borrowing arrangements, overdrafts or standby facilities to enable it at all times to have the level of funds available to it which are necessary for the achievement of its business/service objectives” (CIPFA Treasury Management Code of Practice). In respect of liquidity, the Council seeks to maintain:

- Bank overdraft - £250,000
- Liquid short term deposits of at least £3,000,000 available with a week’s notice.

The availability of liquidity in the portfolio can be benchmarked by the monitoring of the Weighted Average Life (WAL) of the portfolio – shorter WAL would generally embody less risk. In this respect, the proposed benchmark to be used is:

- **WAL benchmark is expected to be 0.5 years, with a maximum of 1.00 years.**

### Security of the investments

In the context of benchmarking, assessing security is a much more subjective area to assess. Security is currently evidenced by the application of minimum credit quality criteria to investment counterparties, primarily through the use of the Creditworthiness service provided by Capita Asset Services. Whilst this approach embodies security considerations, benchmarking levels of risk is more problematic. One method to benchmark security risk is to assess the historic level of default against the minimum criteria used in the Council’s investment strategy.

The Council’s maximum security risk benchmark for the whole portfolio, when compared to these historic default tables, is:

- **0.04% historic risk of default when compared to the whole portfolio.**

These benchmarks are embodied in the criteria for selecting cash investment counterparties and these will be monitored and reported to Members in the Annual Treasury Management Report. As this data is collated, trends and analysis will be collected and reported.

## GLOSSARY OF TERMS

<b>CIPFA</b>	Chartered Institute of Public Finance and Accountancy
<b>CIPFA Code</b>	Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes
<b>CFR</b>	Capital Financing Requirement is the estimated level of borrowing or financing needed to fund capital expenditure.
<b>Consent to Borrow</b>	Para 1 (1) of Schedule 3 of the Local Government (Scotland) Act 1975 (the 1975 Act) effectively restricts local authorities to borrowing only for capital expenditure. Under the legislation Scottish Ministers may provide consent for local authorities to borrow for expenditure not covered by this paragraph, where they are satisfied that the expenditure should be met by borrowing.
<b>Gilts</b>	A gilt is a UK Government liability in sterling, issued by HM Treasury and listed on the London Stock Exchange. The term “gilt” or “gilt-edged security” is a reference to the primary characteristic of gilts as an investment: their security. This is a reflection of the fact that the British Government has never failed to make interest or principal payments on gilts as they fall due.
<b>LIBID</b>	London Interbank Bid Rate The rate at which banks bid on Eurocurrency Deposits, being the rate at which a bank is willing to borrow from other banks.
<b>MPC</b>	Monetary Policy Committee
<b>NHT</b>	National Housing Trust initiative undertaken in partnership with the Scottish Futures Trust.
<b>Other Long Term Liabilities</b>	Balance sheet items such as Public Private Partnership (PPP), and leasing arrangements which already include borrowing instruments.
<b>PPP</b>	Public-Private Partnership.
<b>Prudential Indicators</b>	The Prudential Code sets out a basket of indicators (the Prudential Indicators) that must be prepared and used in order to demonstrate that local authorities have fulfilled the objectives of the Prudential Code.
<b>QE</b>	Quantitative Easing
<b>Treasury Indicators</b>	These consist of a number of Treasury Management Indicators that local authorities are expected to ‘have regard’ to, to demonstrate compliance with the Treasury Management Code of Practice.

You can get this document on tape, in Braille, large print and various computer formats by contacting the address below.

Pensions & Investments Team, Finance, Scottish Borders Council, Council HQ, Newtown St Boswells

01835 824000, [t&cteam@scotborders.gov.uk](mailto:t&cteam@scotborders.gov.uk)

Local government in Scotland

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# Financial overview 2017/18



ACCOUNTS COMMISSION 

Prepared by Audit Scotland  
November 2018

# The Accounts Commission

The Accounts Commission is the public spending watchdog for local government. We hold councils in Scotland to account and help them improve. We operate impartially and independently of councils and of the Scottish Government, and we meet and report in public.

We expect councils to achieve the highest standards of governance and financial stewardship, and value for money in how they use their resources and provide their services.

Our work includes:

- securing and acting upon the external audit of Scotland's councils and various joint boards and committees
- assessing the performance of councils in relation to Best Value and community planning
- carrying out national performance audits to help councils improve their services
- requiring councils to publish information to help the public assess their performance.

You can find out more about the work of the Accounts Commission on our website: [www.audit-scotland.gov.uk/about-us/accounts-commission](http://www.audit-scotland.gov.uk/about-us/accounts-commission) 

Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. We help the Auditor General for Scotland and the Accounts Commission check that organisations spending public money use it properly, efficiently and effectively.

# Contents



Key facts	4
Chair's introduction	5
Summary	7
Part 1. Councils' budgets and spending in 2017/18	9
Part 2. Councils' financial position	18
Part 3. Integration Joint Boards' overview 2017/18	27
Part 4. Councils' financial outlook	31
Endnotes	37

## Links

 PDF download

 Web link

 Information box

## Exhibit data

When viewing this report online, you can access background data by clicking on the graph icon. The data file will open in a new window.

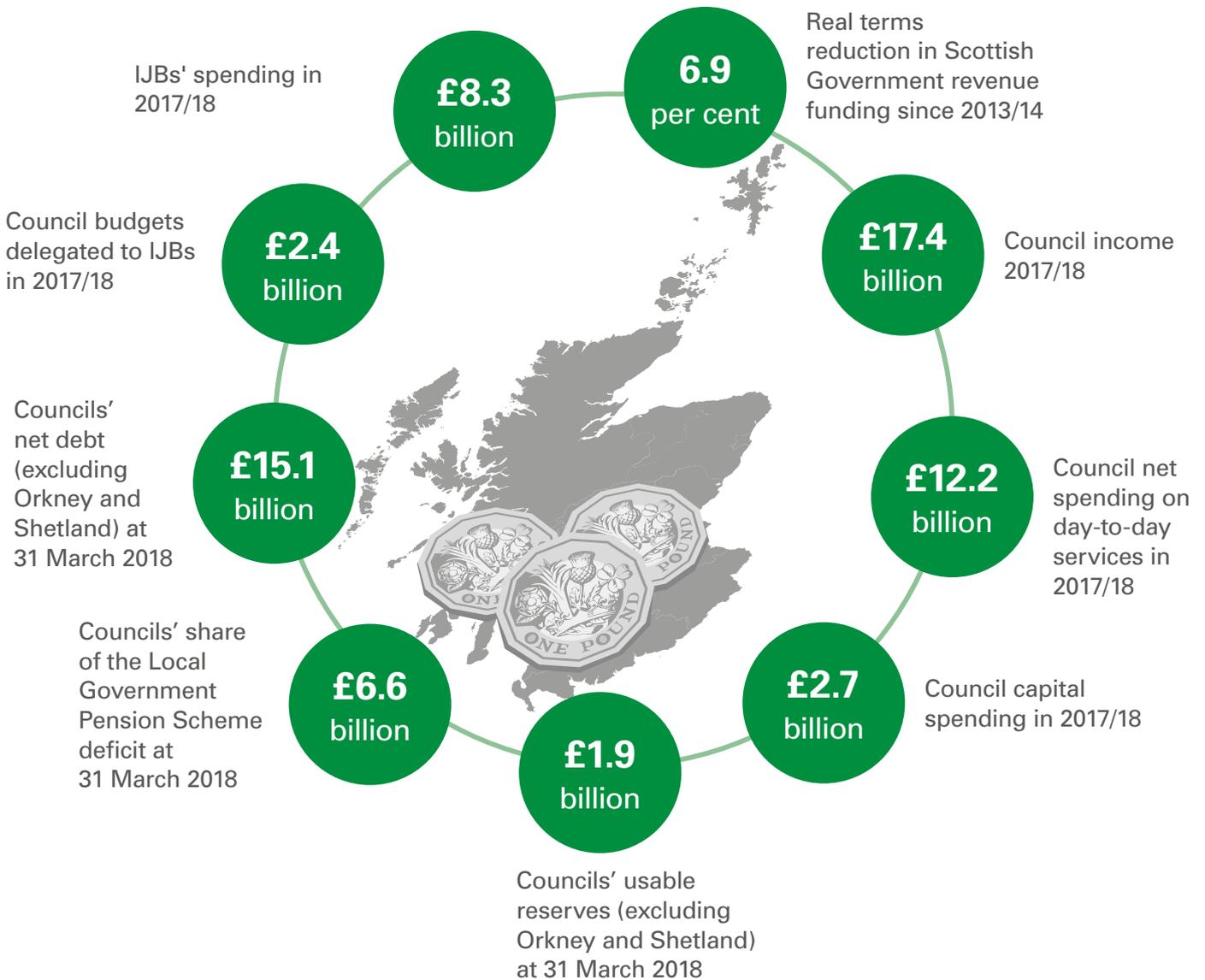


These question mark icons appear throughout this report and represent questions for councillors.

### Audit team

The core team consisted of: Carol Calder, Kathrine Sibbald, Ashleigh Madjitey, Ruth Azzam and David Docherty, with support from other colleagues and under the direction of Brian Howarth.

# Key facts



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# Chair's introduction

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Welcome to the Accounts Commission's 2018 financial overview report for local government.

This report reflects a similar situation to last year as councils face an increasingly complex range of challenges and continuing pressure on finances. Challenges include increasing demand across many of the wide range of services councils deliver to local communities. Demand has to be met against tightening budgets in many service areas along with uncertainty stemming from external factors such as EU withdrawal.

One of the most significant issues for councils continues to be funding. In 2017/18, funding from the Scottish Government, councils' main source of funding, again reduced in real terms. The reduction was largely offset by increases in council tax and councils' fee income, with most councils applying the maximum three per cent increase to council tax. In total, the net effect of Scottish Government and council action was a reduction in funding of only 0.1 per cent in real terms although the impact on individual councils varied. In general, increased spending in education and social work was offset by reductions in other services. I would also note that the relationship of funding of individual councils to areas of deprivation remains unclear.

The forecast trend is for further reductions in funding from the Scottish Government in the medium term. Pressure therefore remains on councils to make further savings and find ways to meet service demand more efficiently and effectively. This will require difficult decisions and innovative thinking by councillors and senior management working together.

It is important that these decisions are taken in a planned and coordinated way. It is positive progress that almost all councils now have medium-term financial planning in place and some have made progress with long-term financial projections. I would encourage all councils to build on medium-term plans and develop suitable long-term financial planning. This supports consistency in financial decisions with corporate priorities and outcome aims, as well as supporting transformation initiatives. Councillors also need to be clear about the potential impact of planned savings or changes to fees and charges on the local community and economy as well as on achieving corporate objectives.

Last year, we highlighted the risk for some councils plans to use significant amounts of their reserves to manage funding gaps. I am pleased that this year, although overall reserves have continued to reduce, no council is using its reserves at a level that risks their financial sustainability in the next two to three years. We will continue to have an interest in how councils set their reserves policy and utilise reserves as funding pressures continue in the coming years.

The Commission recognises that one of the other most significant challenges for councils are financial issues associated with the Integration Joint Boards (IJBs). The majority of IJBs have underlying financial sustainability issues and without year-end support from the NHS and council partners, 20 out of the 30 IJBs would have reported deficits. In November 2018, we published a report on progress with [Health and social care integration](#) . This highlighted areas for improvement, including financial management and financial planning. The Commission will continue to keep a focus on IJBs and consider how best to monitor their progress in future.

Finally, we welcome that the audits of annual accounts from all 32 councils were signed off with no qualifications. This is testament to the hard work of council staff, especially those within the finance function, and of our auditors. We also note that again there has been some progress with the quality of reporting on financial matters. However, we encourage councils to continue to improve the transparency and clarity of financial information provided to councillors and the public.

I hope you find this overview useful and would welcome any feedback you may have.

**Graham Sharp**

Chair of Accounts Commission

# Summary



## Key messages

- 1** Councils depend on Scottish Government funding for a significant part of their income. Scottish Government revenue funding to councils reduced in 2017/18, in cash terms by 0.6 per cent (£0.06 billion) and in real terms, by 2.3 per cent (£0.22 billion). Council tax increases and increased fees and charges were used by councils to increase overall budgets by £0.3 billion (cash terms).
- 2** In 2017/18, councils managed funding gaps of four per cent in their net expenditure budgets of £12 billion, mainly through savings and planned use of reserves. Councils are under pressure to find different ways to fund and deliver services. In 2017/18, 24 councils increased council tax, whereas in 2018/19, all councils increased council tax.
- 3** Overall increases in spending in Education and Social Work were offset by reductions in other services.
- 4** Eighteen councils ended 2017/18 with lower levels of usable reserves than they had at the start of the year. Total usable reserves fell by £18 million, a relatively small amount.
- 5** Funding to the Integration Joint Boards (IJBs) increased in 2017/18 by three per cent in cash terms (1.4 per cent in real terms), including additional funding from the NHS. The majority of IJBs have underlying financial sustainability issues, with 20 incurring deficits or dependent on additional ('deficit') funding from their partners.
- 6** The financial outlook is for reductions in Scottish Government revenue funding to councils. This will mean continued and increasing financial pressures on council services, especially those that are not protected.
- 7** The impact of EU withdrawal is not yet clear, but councils need to identify the risks and develop contingency plans to manage these risks.

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**councils managed funding gaps of four per cent in their net expenditure budgets of £12 billion, mainly through savings and planned use of reserves**

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## About this report

- 1.** This report provides a high-level independent analysis of the financial performance of councils during 2017/18 and their financial position at the end of that year. It also looks ahead and comments on the financial outlook for councils. It is one of two overview reports that the Accounts Commission publishes each year. The second report comments on the wider challenges and performance of councils. It will be published at the end of the financial year, in March 2019.
- 2.** Our primary sources of information for the financial overview are councils' 2017/18 audited accounts, including management commentaries and the 2017/18 external annual audit reports for each council. We have supplemented this with data submitted by councils to the Scottish Government through local finance returns (LFRs) and Provisional Outturn and Budget Estimates (POBE). LFRs present spending information on a different basis from the spending information that councils record in their annual accounts. We do not audit data contained in the LFRs.
- 3.** We refer to 'real-terms' changes in this report. This means we are showing financial information from past and future years at 2017/18 prices (and 2018/19 prices where 2018/19 comparisons are made), adjusted for inflation so that they are comparable. We also refer to figures in 'cash terms'. This means we are showing the actual cash or money paid or received.
- 4.** Throughout the report, we identify examples of questions that councillors may wish to consider, to help with understanding their council's financial position and to scrutinise financial performance. The Accounts Commission encourages councillors to use an appropriate level of scepticism in scrutiny and ensure they receive sufficient information to answer their questions fully. The example questions are also available on our website in [Supplement 1: Scrutiny tool for councillors](#) .
- 5.** Accompanying this report, and to facilitate insight and comparisons across the sector, we have provided additional financial information on our [website](#) . The information is based on councils' audited accounts. We hope this will be useful for senior council finance officers, their staff and other interested stakeholders. We will also publish a separate supplement on the Local Government Pensions Scheme (LGPS) in December 2018.
- 6.** Orkney and Shetland have been excluded from some exhibits that show usable reserves and debt. This is because their values would make it difficult to see the relative positions of other councils. Most councils hold usable reserves of between seven and 36 per cent of their annual revenue, whereas Shetland's reserves were 260 per cent of its annual revenue and Orkney's 329 per cent of its annual revenue. These large reserves relate to oil, gas and harbour-related activities. Both Orkney and Shetland also have significant investments rather than borrowing, unlike other councils.

# Part 1

## Councils' budgets and spending in 2017/18



### Key messages

- 1** Councils depend on Scottish Government funding for a significant part of their income. Scottish Government revenue funding to councils reduced by 2.3 per cent (£0.2 billion) in real terms in 2017/18, but council tax, grants to services and fees and charges increased, and overall budgets grew by £0.3 billion in cash terms.
- 2** Between 2013/14 and 2017/18, funding from the Scottish Government to local government decreased at a faster rate, 6.92 per cent, than the Scottish Government revenue budget at 1.65 per cent.
- 3** Distribution of funding from the Scottish Government is based mainly on population but could be more transparent to ensure clarity about how funding distribution reflects factors that drive demand and costs in councils.
- 4** In 2017/18, councils managed funding gaps of four per cent in their net expenditure budgets of £12 billion, mainly through savings and planned use of reserves. Their outturn at the year-end was better than budgeted.
- 5** Overall increases in spending in Education and Social Work were offset by reductions in other services

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**Scottish Government revenue funding to councils reduced by 2.3 per cent (£0.2 billion) in real terms in 2017/18**

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### Council funding

#### **The main source of councils' funding is the Scottish Government**

**7.** Scottish councils get their annual funding and income from a range of sources ([Exhibit 1, page 10](#)). In 2017/18, these totalled £17.4 billion. The main source of funding is the Scottish Government, contributing 55 per cent. In 2017/18, the Scottish Government provided £9.65 billion (compared to £9.71 billion in 2016/17). Within this total, a relatively small element (two per cent, £211 million) is for specific policy areas, such as the Pupil Equity Fund, previously known as the Attainment Scotland Fund. This has increased from £91 million (one per cent) in 2016/17.

#### **Although Scottish Government funding reduced, increases in council tax and charges increased the total amount available to councils to meet expenditure**

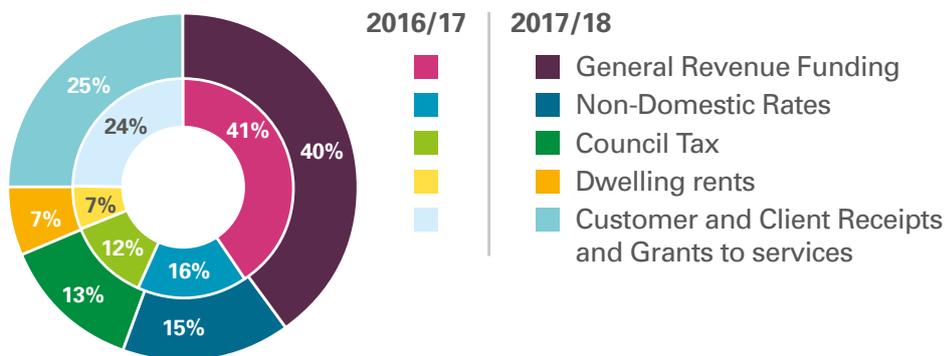
**8.** Total income and funding of £17.4 billion is an increase from £17.1 billion in 2016/17. Reductions in Scottish Government funding of £57 million have been

more than countered by increases in charges and grants to services, dwelling rents and council tax totalling £328 million. In total, this means that total income and funding is £271 million more in 2017/18 than 2016/17. Across Scotland in 2017/18, 13 per cent of income, £2.3 billion, was generated through council tax and 25 per cent, £4.3 billion, through fees, charges and grants credited to services.

## Exhibit 1

### Sources of council revenue income, 2017/18

Total funding and income to councils in 2017/18 was £17.4 billion.



Source: Finance Circulars and Audited Financial Statements



### An element of Scottish Government 2017/18 funding was agreed late, limiting councils' ability to properly plan and agree their budgets

9. Provisional funding allocations for 2017/18 were issued to councils on 15 December 2016 and further increases were agreed and communicated to councils in a letter from the Finance Minister, on 2 February. The financial circular of 9 March 2017 confirmed these changes. The amount to be distributed to councils as revenue funding increased by £182 million (1.9 per cent). Councils agree their budgets at meetings during February and March. One council noted in its budget papers that 'In the last few days, (the Finance Minister) announced ...change(s) on 2nd February, the day before the administration's budget proposals were due to be signed off'. Another council noted that a 'very late and material revision was made to the revenue grant settlement... present(ing) challenges in terms of configuring a balanced budget at short notice and ensuring value for money spending proposals'. Receiving significant changes at a late stage in the budgeting process limits the time available to councils to plan, discuss and agree budgets.

### Scottish Government Revenue funding fell by 2.3 per cent in real terms in 2017/18

10. Exhibit 2 (page 11) shows that in 2017/18 the **total revenue funding** <sup>(i)</sup> from the Scottish Government reduced by 0.6 per cent in cash and 2.3 per cent in real terms. Including additional funding of £34.5 million and health and social care funding via the NHS, Scottish Government funding was reduced by 0.8 per cent in real terms in 2017/18, compared to the previous year.



#### Total revenue funding:

This consists of general resource grants, specific revenue grants (together known as revenue grants), and Non-Domestic Rates income (NDR).

Total revenue funding does not include the additional £34.5 million added at Stage 1 of the Budget Bill to be paid in 2017/18 in respect of 2018/19. It also does not include health and social care funding paid to local government via the NHS.

## Exhibit 2

### Changes in Scottish Government funding in 2017/18

Scottish Government Revenue funding fell by 2.3 per cent in real terms in 2017/18.

	2016/17 £m	2017/18 £m	Cash %	Real %
Revenue Grant	6,939	6,985	0.7 ▲	-1.0 ▼
NDR	2,769	2,666	-3.7 ▼	-5.3 ▼
<b>Total revenue funding</b>	<b>9,708</b>	<b>9,651</b>	<b>-0.6 ▼</b>	<b>-2.3 ▼</b>
Further funding		35 <sup>1</sup>		
Health & social care funding via NHS	250	357		
	<b>9,958</b>	<b>10,043</b>	<b>+0.9 ▲</b>	<b>-0.8 ▼</b>

Note: £34.5 million was added at Stage 1 of the Budget Bill to be paid in 2017/18 and 2018/19. Accounting standards meant that this was correctly treated as 2017/18 income by councils.

Source: Finance Circulars 1/2017 and 4/2018

**11.** In 2017/18, the Scottish Government paid an additional £107 million to NHS boards to assist with health and social care. This was used mostly to offset new living wage and sleepover costs of care workers in local government.

### Local government funding has reduced at a faster rate than other areas of the Scottish public sector

**12.** In May 2018, the Scottish Parliament Information Centre (SPICe) reported that between 2013/14 and 2017/18, funding from the Scottish Government to local government decreased at a faster rate than the Scottish Government revenue budget; 7.1 per cent and 1.8 per cent respectively. Using a similar approach, but with up-to-date inflators, the reductions have been 6.92 per cent and 1.65 per cent ([Exhibit 3, page 12](#)). This demonstrates a significantly higher impact on total local government funding compared to the total Scottish Government revenue budget. In cash terms, the funding from the Scottish Government to local government has fallen by 1.18 per cent while the Scottish Government revenue budget has grown by 4.41 per cent.

### Distribution of funding from the Scottish Government could be clearer about how it reflects factors that drive costs in councils

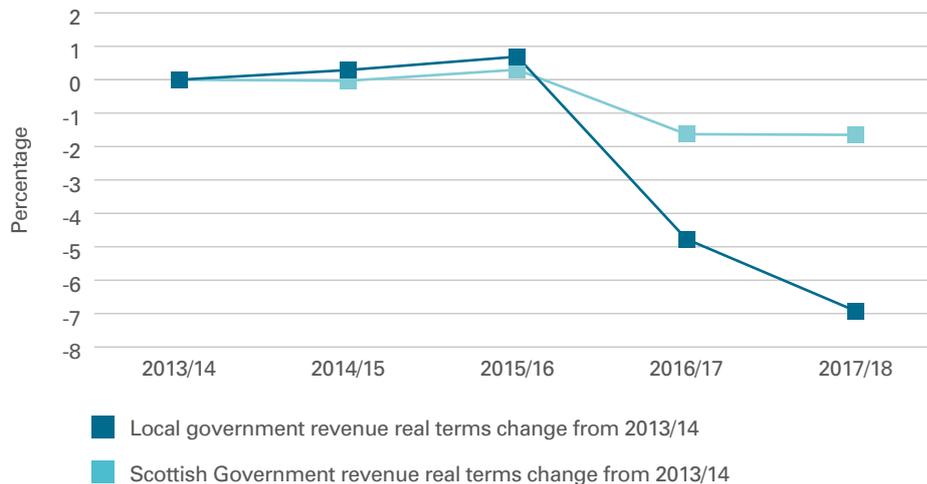
**13.** As we reported last year, the Scottish Government and COSLA's mechanism for distributing funding to councils is the main determinant of a councils' overall funding. Grant-aided Expenditure, or GAE, is a needs-based methodology, used to allocate the Scottish Government's pre-determined spending review totals among councils. It is made up of 89 indicators such as 'services for people with disabilities' and 'road maintenance'. These indicators are weighted to reflect factors that impact on the demand for and cost of delivering services, for example, 'the size of the 16 to 64 year-old population' and 'length of roads to maintain'.

**14.** The weighting factors determine the proportion of GAE funding that goes to each council. It is important to note that GAE is purely a methodology to redistribute spending review totals: councils are not obligated to spend the specific amounts on each area identified in the methodology.

### Exhibit 3

#### Real terms change in revenue funding for Scottish Government and councils since 2013/14

Scottish Government revenue budget has fallen by 1.65 per cent between 2013/14 and 2017/18, while revenue funding to councils has fallen by 6.92 per cent over the same period.



Note: Local government funding shown is General Revenue Grant funding, other ring-fenced funding, and NDR.

Source: Audit Scotland; and SPICe



**15.** Since 2008/09, the total amount of GAE has remained at £7.9 billion and the weighting allocated to each GAE indicator has stayed the same. Each year the councils' relative proportion of funding has been recalculated using the 89 indicators, which means that the amount each council receives may change as its 'population', 'number of teachers', or value of other indicators change. However, the methodology used, and relative importance of each indicator used in arriving at the overall distribution of GAE has not changed in ten years.

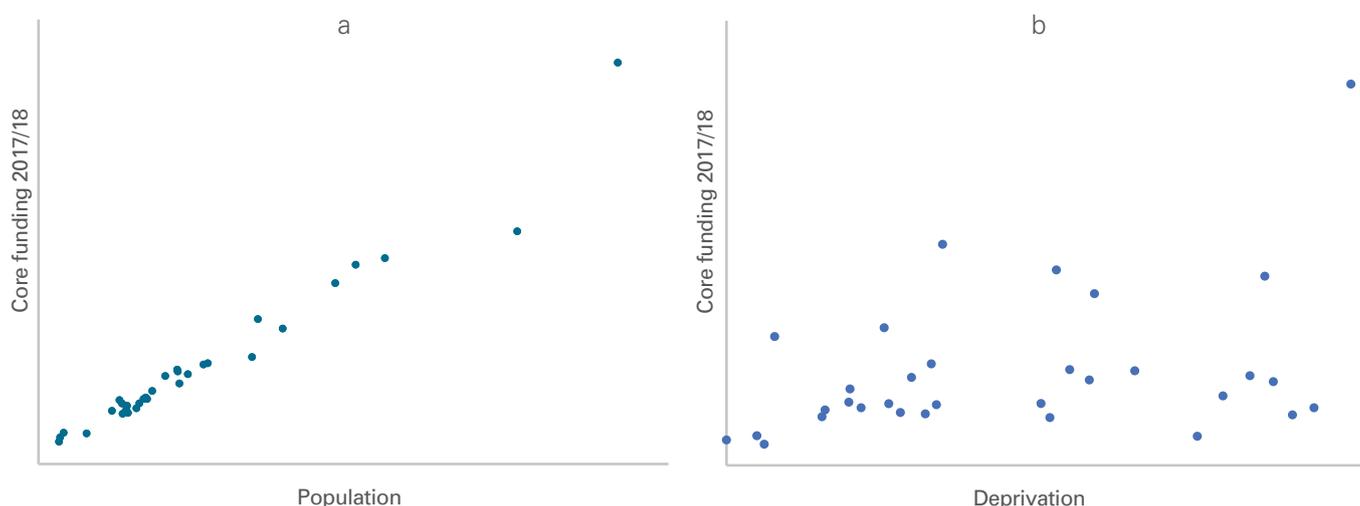
**16.** The majority of GAE is allocated according to population-based factors. Other factors are far less significant influences on total funding. For example, those which might be considered to link to deprivation, for example 'the number of current income deprived', are linked to a much smaller proportion of funding than population-based weighting factors.

**17.** This is demonstrated when we consider the relationship between how much funding a council receives and its population size and deprivation levels. The former is a very strong determinant of overall funding and the latter is only a moderate to weak factor ([Exhibit 4, page 13](#)). Given Scotland's demographic changes and the Scottish Government's commitment to tackling social and economic inequality, there is a risk that the GAE weightings no longer sufficiently represent need.

## Exhibit 4

### Scottish Government core funding compared to council population size and deprivation levels

The majority of core funding is allocated to councils according to population-based factors. A much smaller proportion of factors linked to deprivation influences funding levels.



Note: Deprivation has been calculated using the percentage of datazones in the council which are in the 30 per cent most deprived datazones in Scotland. Based on the Scottish index of multiple deprivation (SIMD).

Source: Scottish Government finance circulars; National Records for Scotland 2017 population estimates; and Scottish Index of Multiple Deprivation.



**18.** Scottish Government funding provided to councils on top of the GAE funding allocation, £3.7 billion in 2017/18, is either distributed using the same proportions as the GAE funding or through a separate methodology agreed by the Scottish Government and COSLA. The Scottish Government advises that in 2017/18, £0.2 billion was distributed using the GAE methodology and £3.5 billion through individual separate methodologies. The basis of the calculations for the separate methodologies are not publicly available and should be more transparent.

**19.** The £3.7 billion funding includes former ring-fenced grants, new policy commitments (since 2008/09), additional funding from the government spending reviews, special island needs allowance and loan charges. This funding, alongside the GAE, makes up the 'total estimated expenditure' which is then adjusted to take account of expected council tax and non-domestic rates income and specific ring-fenced grants such as the Pupil Equity Fund.

**20.** The Scottish Government and COSLA have two groups that consider the funding distribution allocations on a regular basis, the settlement and distribution group (SDG) which is supported by the data issues working group (DIWG). These groups work on understanding the strategic issues behind the distribution of funding and updating the data behind the indicators. Both groups include membership from Scottish Government, COSLA and several Directors of Finance. We recognise that a review of funding distribution is difficult in times of reducing budgets, as there will inevitably be some councils that end up with smaller allocations of funding, putting further strain on already tight budgets. But we continue to believe that it is important that the Scottish Government and COSLA assure themselves that the funding formula remains fit for purpose.

**Council tax changes raised a further £189 million in 2017/18**

21. Council tax is another important source of income for councils. In 2017/18, £2.3 billion, 13 per cent of council funding came from council tax, which is set by individual councils. Councils raised a further £189 million in 2017/18 through council tax, compared to 2016/17.

22. In 2017/18, the Scottish Government’s council tax freeze was lifted but with a maximum increase of three per cent. Twenty-four councils chose to increase council tax, with twenty-one increasing rates by the maximum three per cent ([Exhibit 5](#)). This raised an estimated £49 million.

23. The national changes in 2017/18, also included increases to the council tax bands E to H and removal of second-home discounts. These changes raised the remaining £140 million and benefited councils with a relatively higher proportion of higher banded properties.

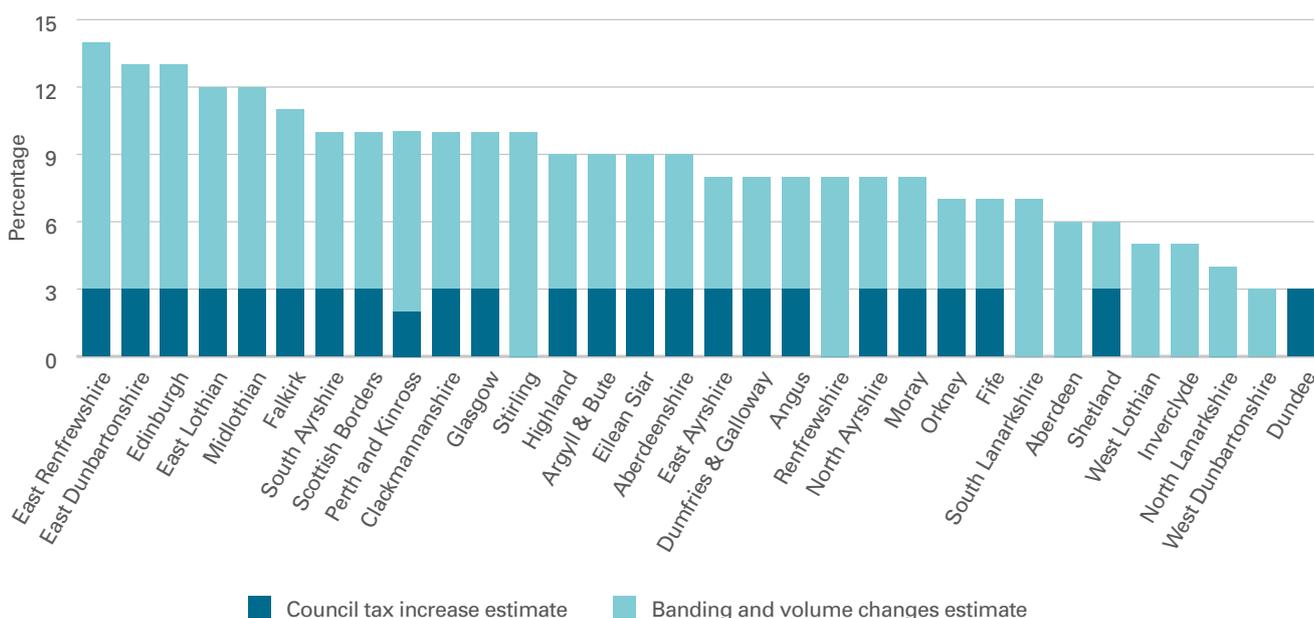
**A significant element of income comes from fees, charges, house rent and grants taken directly to services**

24. In 2017/18, 32 per cent (£5.4 billion) of councils’ income was generated from fees, charges, rents and grants taken to services. The majority of this sum comes from two sources including house rents and grants from government and other bodies, such as the Department of Work and Pensions, which are credited to services. A smaller proportion of this money is raised from a wide range of charges for services including parking charges, music tuition in schools and fees for road closure consent. These are not easily distinguishable in the audited financial statements.

**Exhibit 5**

**Increase in council tax income by council, 2017/18**

Council tax changes raised a further £189 million in 2017/18.



Source: Audited financial statements 2017/18



### There is significant variation between councils in charges for services

**25.** There is wide variation in what councils charge for and the level of charge made for services. In 2017/18 and 2018/19, there is variation in how councils are making increases to their income from fees and charges. Some councils are making incremental increases across the range of charges and fees they use. Some councils are making significant increases to groups of fees and charges, such as those related to commercial waste, harbour management or to burial and cremation. Some councils are introducing new fees and charges, these include, for example, charges for garden waste collection, use of residential centres, car parking charges, public toilets, and for pest control.

**26.** An analysis of a sample of 16 types of charges, from data provided by local audit teams in each council, indicates that from 2016/17 to 2018/19, 11 increased by more than the rate of inflation. Inflation over the two-year period has been calculated at 4.7 per cent. The service charges which showed the highest increases were:

- purchase of grave (lair), where of the 22 councils that had provided information on fees, the average increase was 20 per cent
- adult burial (interment), where 23 councils reported an average increase of 12 per cent
- junior swimming access, where 11 councils reported an average increase of 11 per cent.

## Councils' budgets 2017/18

### Councils identified some consistent pressures in setting their 2017/18 budgets

**27.** Councils' 2017/18 budget papers identified some common themes in the pressures that councils were identifying. These include:

- Staff costs – as the single most significant expenditure for councils, changes to staff-related costs can generate significant pressure on budgets. Specific pressures included:
  - Pay inflation was a consistent pressure across councils. The Highland Council identified pay and pensions pressures of £4.2 million (0.7 per cent of its budget).
  - The introduction of the living wage and sleepover arrangements: this affected adult care services particularly. Renfrewshire Council's budget identified this pressure as £2.0 million (0.5 per cent of its budget)
- Other costs – inflationary pressures. Renfrewshire Council identified the ending of commissioned contracts and the renegotiation of new national care home contracts in adult care services as a budget pressure of £1.2 million (0.3 per cent of its budget).
- Financing costs – when a council borrows or invests in assets it can incur additional financing costs that become a new annual budget pressure. The Highland Council budgeted for additional pressures of £4.3 million (0.7 per cent of its budget) (including additional loans charges and unitary charges).



**Does your council have a charging policy?**

**Is it in line with corporate plans and objectives?**

**When was this last reviewed?**

**Do you receive sufficient information about the potential impact on the service and wider community when making decisions about changing fees and charges?**

**What information do you need to be able to explain increases in fees and charges to your constituents?**



**How do you engage with the budget-setting process and ensure you have the opportunity to influence the development and content of a strategic budget?**

- Apprenticeship levy – this is a new levy on bodies of 0.5 per cent of pay bills above £3 million. The Highland Council identified this as a pressure of £1.2 million (0.2 per cent of its budget), East Ayrshire as £0.8 million (0.2 per cent of its budget) and Dundee City Council £1.0 million (0.3 per cent of its budget). Budgets tended not to assume receipt of funding or grants from the Scottish Government or Scottish Apprenticeship Advisory Board in respect of the levy.
- Demand costs – increasing demand for services was noted as a cost pressure. This was most distinct in adult care services. Renfrewshire Council identified this as £1.2 million (0.3 per cent of its budget). East Ayrshire Council agreed to fund demand pressures in adult social care of £2.0 million (0.6 per cent of its budget).

### **Budgeted net expenditure of £12.4 billion included 'funding gaps' of four per cent**

**28.** Councils' 2017/18 budgets identified total final net expenditure budgets of £12.4 billion. This is after fees, charges and grants are credited to services as budgeted income. These total net expenditure budgets were not fully met by remaining income from core Scottish Government funding, including NDR, and council tax. The shortfall or 'funding gap' was £0.5 billion (four per cent).

### **Funding gaps were managed by planned savings and temporary use of reserves**

**29.** Councils identified funding gaps of up to six per cent of total revenue, but still managed to present balanced budgets through:

- planned budget savings of £0.4 billion (three per cent of revenue funding). These included management and staff reductions and restructuring, service redesign and procurement
- planned use of £0.1 billion of unearmarked reserves.

### **Some councils reverted to a temporary planned use of reserves due to the uncertainty presented by the local government elections in May 2017**

**30.** The local government elections in May 2017 had a bearing on some councils' approach to budget-setting. With outgoing administrations and the possibility of changed incoming administrations, officers did not feel able to agree transformational savings plans with outgoing administrations or have confidence that these could be sustained with new incoming administrations. This meant that reserves were used as a short-term contingency to manage funding gaps in 2017/18 until wider transformational plans could be agreed with new administrations. This demonstrates why medium and long-term financial planning is important.

### **Councils' outturn against their 2017/18 budget was more favourable than planned**

**31.** 2017/18 net expenditure was £12.2 billion compared to the final budget of £12.4 billion. Common themes for this improved position were savings on staff costs and loan charges.

**32.** As we noted above the planned use of reserves was £105 million. The actual use of revenue reserves was much lower at £38 million and those that planned to use unearmarked General Fund reserves to balance the budget did not need to use reserves in line with their plan.




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**How does annual budget-setting link to medium and long-term financial planning in your council?**

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**Does your council have a savings plan?**

**What are the options to close future funding gaps?**

**How well are you kept informed about progress in delivering those savings?**

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### Overall increases in spending in education and social work were offset by reductions in other services

**33.** Scottish Government provisional outturn data identified expenditure grew by 1.1 per cent in cash terms, compared to 2016/17. In real terms it fell by 0.6 per cent. There were significant differences in expenditure between services:

- Education expenditure increased by 3.2 per cent (1.5 per cent in real terms). This reflects several national priorities including raising attainment.
- Social Work expenditure increased by 2.4 per cent (0.7 per cent in real terms). This included funding the living wage and demand pressures.
- Other 'non-protected' services fell by 2.6 per cent (4.3 per cent in real terms). This includes environmental services, culture and related services, planning and development services, and roads and transport.




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**Which service areas are under the most pressure to make savings?**

**What impact will savings have on the delivery of services and outcomes for service users, the wider community and the local economy?**

**What are the potential risks?**

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# Part 2

## Councils' financial position



### Key messages

- 1** Eighteen councils drew on their usable reserves in 2017/18, overall by a relatively small amount.
- 2** Some councils have relatively higher levels of debt for their size.
- 3** Local policies vary on whether cash and investments are held to support reserves. This could increase the need for further future borrowing.
- 4** Capital expenditure in 2017/18 decreased by five per cent in real terms. Housing and education were the main areas of investment. Despite this the number of social houses provided by councils continues to fall.
- 5** Some councils have had significant increases in their debt positions.
- 6** There were delays with the valuation of pensions liabilities in councils across Scotland in 2017/18, but the net pension liability has reduced substantially in 2017/18.
- 7** Management commentaries in councils' accounts should do more to explain financial outturn against budget.

in 2017/18, councils drew on their usable reserves by £18 million, a relatively small element of usable reserves

### Councils' financial position

#### In 2017/18, councils drew on their usable reserves by £18 million, a relatively small element of usable reserves

**34.** In last year's overview report we noted that more councils were drawing on their usable reserves. This trend continued in 2017/18, with 18 councils ending 2017/18 with lower levels of usable reserves than they had at the start of the year. In 2016/17, 20 councils were in this position.

**35.** Some councils added to their usable reserves including South Lanarkshire (increased by £15 million, 15 per cent), Stirling (increased by £6 million, 22 per cent) and Dundee (increased by £7 million, 35 per cent), due to significant in-year surpluses relative to the usable reserve balance. One council had a significant reduction in usable reserves: Aberdeen City reduced its usable reserve by £21 million (25 per cent), through a combination of a General Fund deficit and using part of its capital reserve.



**What is the council's reserve policy?**

**What have reserves been used for in recent years?**

**Supporting services and bridging the funding gap or transforming services?**

**36.** It is important that councillors are aware how usable reserves are being used each year, especially where the cumulative scale of this is potentially significant to financial sustainability. Northamptonshire County Council, in its 2017/18 financial statements, identifies that 'financial pressures ....have led to a position where the council has had to utilise almost all of its General Fund (£12 million) and earmarked reserves (£5.5 million) in order to deliver a balanced year-end outturn for 2017-18.' Our analysis based on 2018/19 budgets and levels of General Fund reserves indicates there are no short-term concerns in Scottish councils.

### The overall total General Fund position is consistent with 2016/17 at £1.15 billion

**37.** Usable reserves held by councils totalled £2.4 billion. This includes General Fund balances and other statutory reserves. Within this total the General Fund balance remains relatively unchanged from 2016/17 at £1.15 billion. The nature and value of usable reserves are shown in [Exhibit 6](#).



**What are the different types of usable reserves your council holds?**

**Do you know what these can be spent on?**

**Is it clear that the reserves are needed for the purposes they are assigned?**

**Are the reserves sufficient for those purposes?**

**Could the reserves be better used for something else?**

## Exhibit 6

### The relative size and nature of council's usable reserves

In 2017/18, usable reserves held by councils totalled £2.4 billion.



**There is significant variation in the relative size and the nature of reserves held**

**38.** Councils adopt different strategies for creating and managing their reserves, with some councils operating significant capital funds with associated investment plans. This provides a significant variation in the nature and extent of funds held ([Exhibit 7](#)). Councillors should scrutinise the nature, extent and timing of plans for using specific and committed funds to ensure that these remain valid, appropriate and reasonable.

**Some councils have relatively higher debt than others**

**39.** Councils' **net debt**  varies by between 45 per cent of annual revenue in Shetland to 203 per cent in West Dunbartonshire ([Exhibit 8, page 21](#)). Higher levels of debt lead to higher annual costs of servicing this debt and councils need to ensure this is affordable. West Dunbartonshire has total debt of £535 million offset by cash assets of £22 million. This is a net external debt of £513 million compared to annual revenue of £253 million (from council tax, NDR, revenue support grant and dwelling rents).



**Gross debt/net debt:**

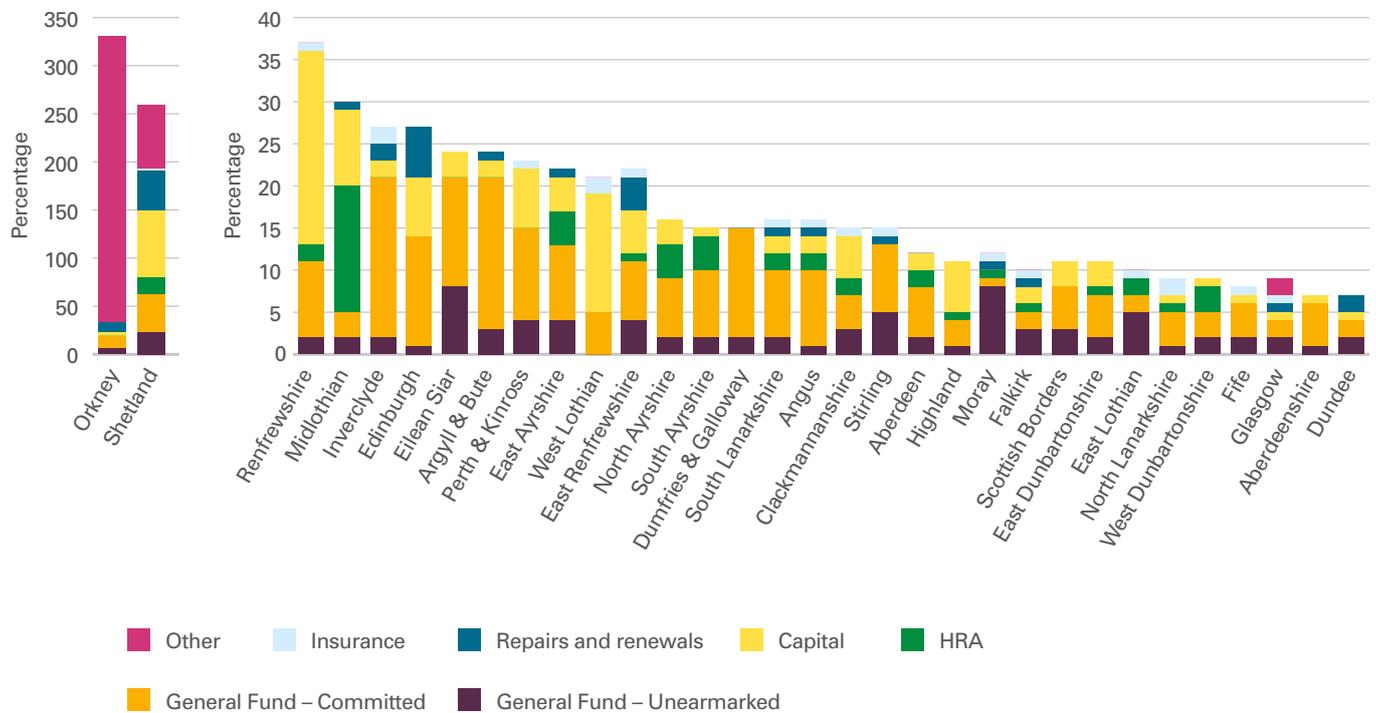
Gross debt is the total outstanding borrowing and the liabilities associated with PFI/PPP/NPDO and HuB schemes.<sup>1</sup> This includes both long and short-term balances.

Net debt is 'gross debt' less any cash or investments, which form part of the council's overall approach to treasury management.

**Exhibit 7**

**Usable reserves as a percentage of council annual revenue**

There is significant variation in the relative size and the nature of reserves held.



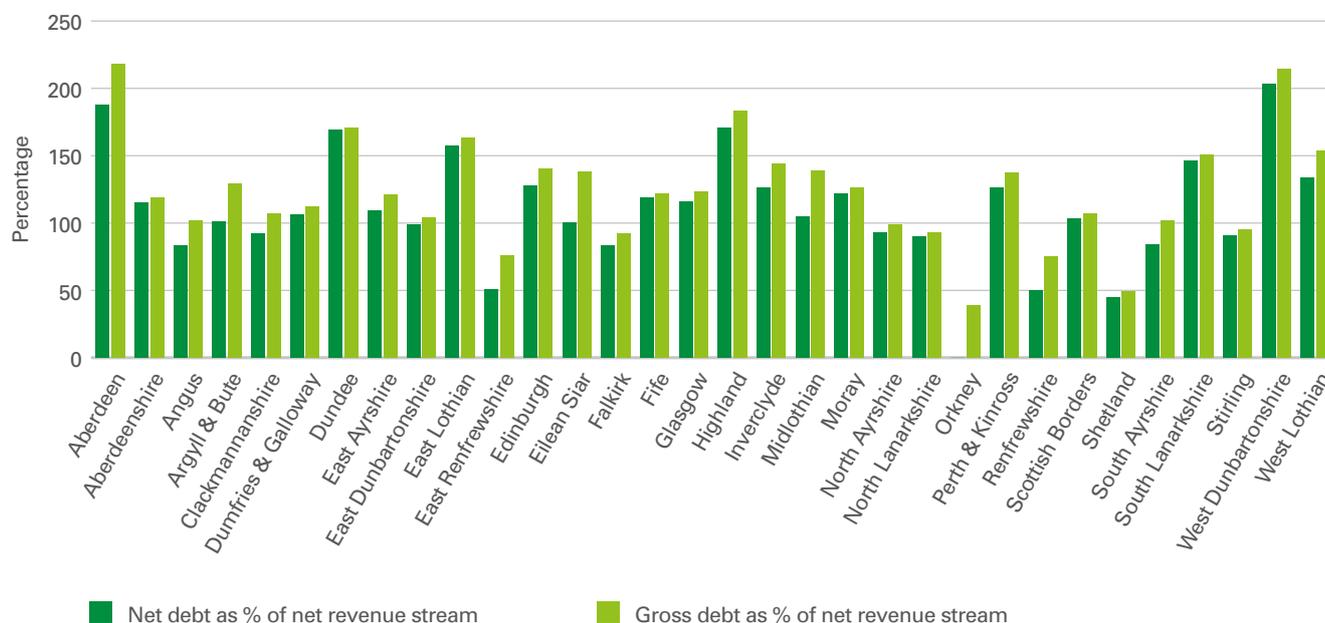
Source: Audited financial statements 2017/18 (Orkney and Shetland have reserves which are above 250 per cent of their annual revenue)



## Exhibit 8

### Council gross and net external debt compared to its annual revenue

Councils' net borrowing varies between 45 per cent of annual revenue in Shetland to 203 per cent in West Dunbartonshire.



Note: NRS is the net revenue stream, ie the net spending used for day-to-day delivery of council operations.

Source: Audited financial statements 2017/18 (Orkney is excluded as it has net investments)



### Councils don't always have cash to support reserves and might need to borrow further

**40.** Thirteen councils have significant cash or investments that can be used to support the reserves position ([Exhibit 9, page 22](#)): spending reserves would reduce the cash or investments held. However, other councils have chosen in the past to use their cash or investments to fund capital spending rather than take on further borrowing. This means that some councils would need to borrow further over the longer term to provide the cash to spend on commitments identified in their reserves. This borrowing would increase their 'underlying' debt position from the position shown in [Exhibit 9](#).

**41.** Councillors should be aware of the current borrowing position and the potential need for future borrowing when agreeing authorised borrowing limits as part of the [prudential code](#) .

### Capital spending in real terms reduced by five per cent in 2017/18

**42.** In real terms, capital expenditure decreased by £138 million (five per cent) between 2016/17 and 2017/18 to £2,698 million. [Exhibit 10 \(page 22\)](#), illustrates the level of capital expenditure across the main services areas. The majority of investment is in schools' estate, new social housing and major refurbishment of social housing.



**What is the council's current debt position?**

**Do you have clear information about the potential need for future borrowing when agreeing authorised borrowing limits?**

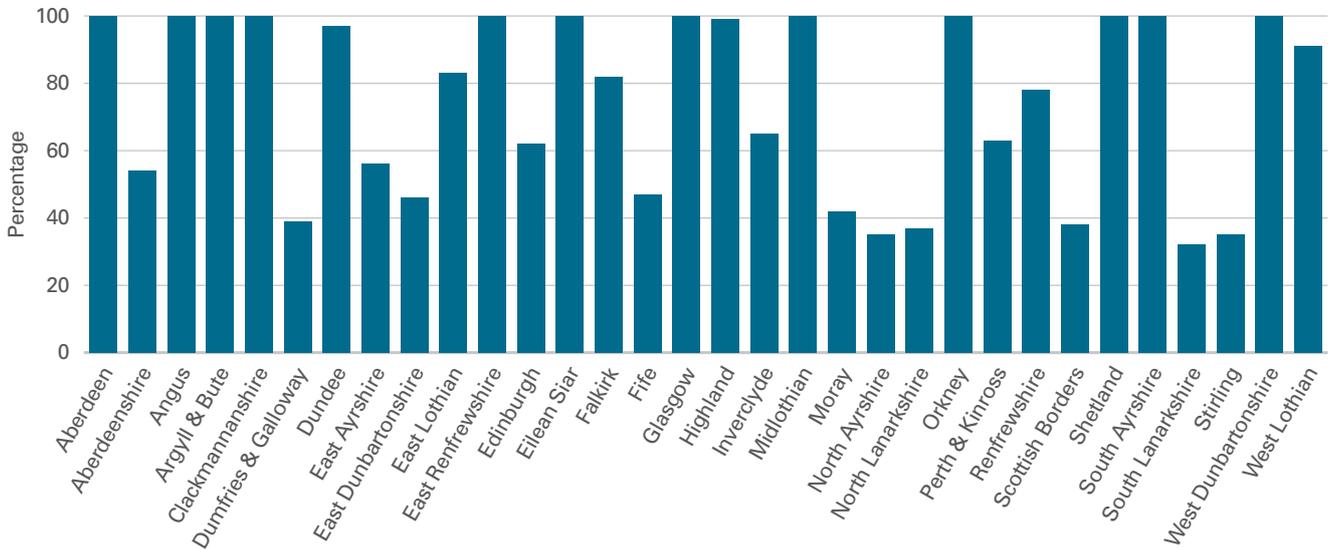
**What share of the council's budget is taken up with interest payments and debt repayment?**

**What proportion of the council's debt is linked to inflation or at fixed rates? What does this mean for longer-term affordability?**

### Exhibit 9

#### Extent that usable reserves are represented by cash or investments

Thirteen councils have significant cash or investments that can be used to support the reserves position.



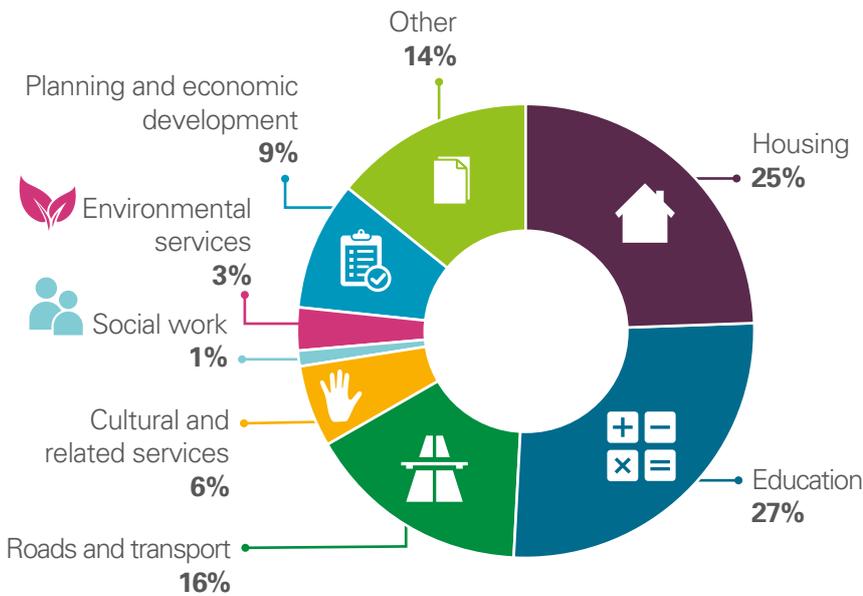
Source: Audited financial statements 2017/18 (100 per cent shown as max. amount, some councils exceed 100 per cent)



### Exhibit 10

#### Capital expenditure by service area, 2017/18

The majority of investment is in schools' estate, new social housing and major refurbishment of social housing.



Source: Scottish Government POBE provisional outturn by service

### **Despite investment in social housing overall, numbers of council houses continue to fall**

**43.** Across Scotland, social housing is provided by a mix of housing associations and by councils. In 24 areas, councils continue to be significant housing providers. The number of council houses in Scotland continued to fall slightly in 2017/18, down a further 334 houses (0.1 per cent of stock), although the rate of decrease has slowed. The right-to-buy council housing ended in Scotland on 31 July 2016, but applications submitted by that date are still being processed during 2017/18, with 1,640 sales in the first three quarters of 2017/18. Sales and other contributing factors, such as demolitions, continue to offset the number of new houses being completed by councils (with housing stock). This net movement varied between councils: 16 councils saw a decrease in house numbers and ten increased in 2017/18 (six councils no longer have housing stock following stock transfer).

### **Government grants and amounts from revenue continue to be the main sources of funding for capital expenditure**

**44.** Sources of capital expenditure funding included ([Exhibit 11, page 24](#)):

- £1 billion of government grants (£138 million or 16 per cent higher than in 2016/17)
- £0.6 billion of internal charges to services (loans fund principal repayments) (£0.7 billion in 2016/17)
- £0.6 billion increase in the underlying need to borrow<sup>2</sup> (£0.7 billion in 2016/17) with £0.3 billion of this resulting in an increase in external borrowing.

### **Some councils had significant increases in their net debt position**

**45.** Councils' net debt increased in 2017/18 by £0.6 billion to £15.1 billion. Twenty councils increased their net debt by a total of £0.8 billion, with another 11 councils reducing their net debt by £0.2 billion.

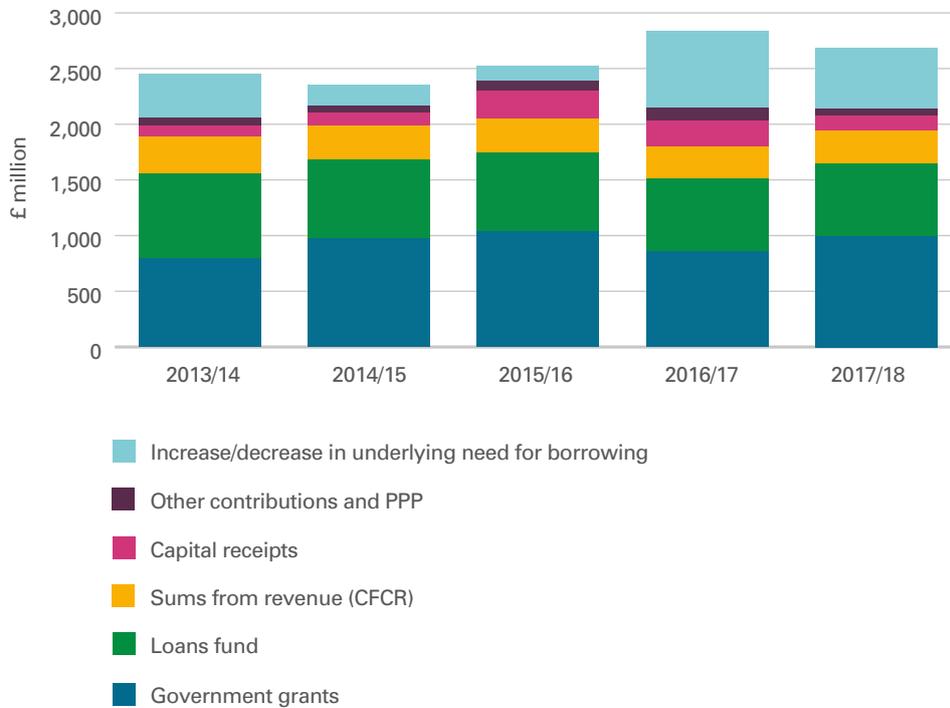
**46.** The councils with notable increases included:

- Argyll and Bute Council – a £58 million increase (31 per cent) due to increase in primary school finance leases and increased long-term borrowing.
- Aberdeen City Council – with the largest increase in net debt of £211 million (28 per cent) represented by a reduction in investments and an increase in finance leases, associated with Marischal Square and the ongoing capital investment and use of reserves to support delivery of the transition to its 'Target Operating Model'.
- Perth and Kinross Council – increased debt by £75 million (21 per cent) represented by an increase in long-term borrowing for capital expenditure.

## Exhibit 11

### Sources of funding for capital expenditure, 2013/14 to 2017/18 (real terms)

Government grants and amounts from revenue continue to be the main sources of funding for capital expenditure.



Source: Audited financial statements, sources of capital financing in real terms 2017/18 prices



## Other key elements in the audited financial statements

### There were delays with the valuation of pensions liabilities in councils across Scotland in 2017/18

**47.** Councils account for their share of the Local Government Pension Funds (LGPS) in accordance with International Accounting Standard 19 - Employee Benefits (IAS19). This relies on valuations of pension fund assets and liabilities by the scheme’s actuary. Actuarial reports across Scotland used estimated data for the final part of the year. Asset returns estimated by the actuary for the final part of the year were significantly lower than actual returns, as a result of significant changes in markets. This resulted in pension fund assets reported in the council’s balance sheet being understated in the unaudited accounts. This issue was corrected in the majority of audited accounts across Scotland.

**48.** In updating the IAS19 report, an actuary also identified an omission in the original calculation of liabilities in three councils resulting in an increase to the council’s net pension liability.

**49.** This issue affected councils and a significant number of subsidiary bodies that are also members of the LGPS.

### The net pension liability has reduced substantially in 2017/18 compared to 2016/17

**50.** In 2017/18, councils' total net pension liabilities in the Scottish Local Government Pension Scheme (LGPS) reduced by 43 per cent from £11.5 billion in 2016/17 to £6.6 billion in 2017/18. All councils reduced their liability, except for Aberdeen City Council. This significant improvement was due to:

- an increase in pension fund assets of £1.1 billion, an increase of four per cent
- a reduction in scheme liabilities of £3.8 billion due to reductions in life expectancy, lower than assumed salary increases and increases in the discount factor used to value future benefits, based on bond rates.

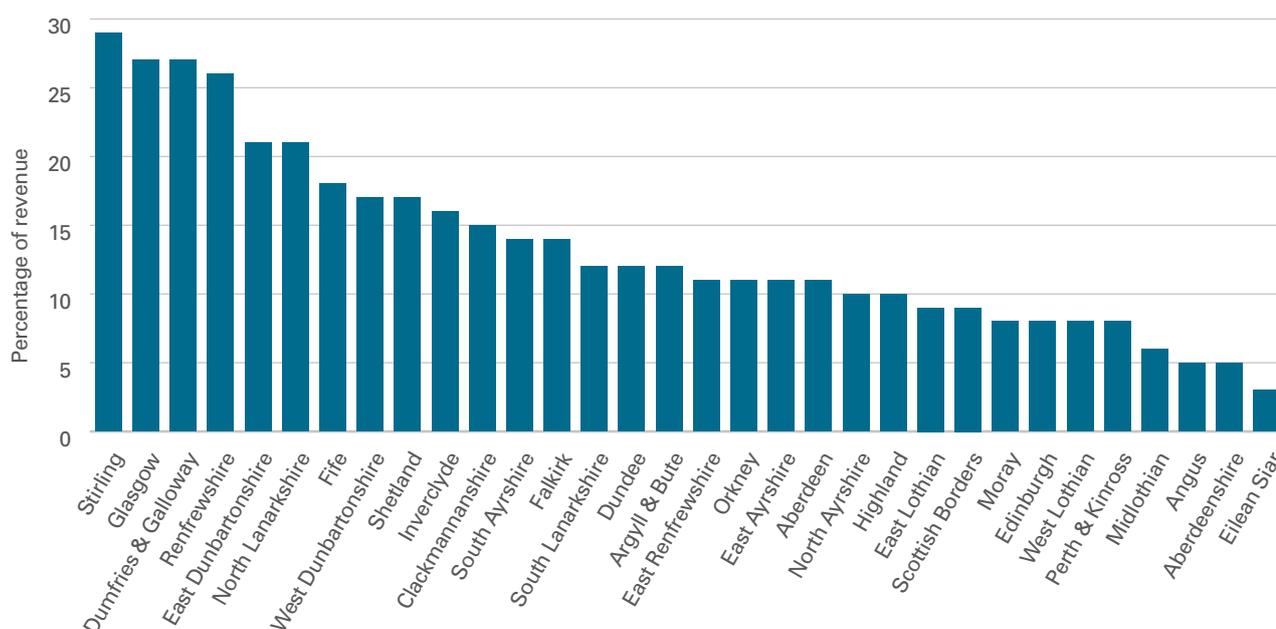
### Unfunded LGPS liabilities vary significantly across councils

**51.** Unfunded liabilities are amounts that are not met by the Local Government Pension Schemes, but by individual employers. These can occur when an employer approves an early retirement, without actuarial reduction or with enhanced pension. [Exhibit 12](#) shows that value of these unfunded benefits as a percentage of the annual revenues of each council. These ongoing commitments can represent annual payments of one to two per cent of revenue.

## Exhibit 12

### The total liability for LGPS unfunded liabilities as a percentage of annual council revenue

The amounts councils are committed to pay to pension funds for historic early retirements over the medium to long-term varies significantly.



Source: Audited financial statements 2017/18 and IAS19 valuation reports by actuaries



### **Glasgow City Council reports additional financial pressures that may arise from further equal pay claims**

**52.** In our *Equal Pay in Scottish councils*  report, we identified that all employers have a legal responsibility to ensure that women and men receive equal pay for equal work. In 1999, Scottish councils and trade unions reached the Single Status Agreement to harmonise local government pay and employment terms and conditions and eliminate pay inequality. Implementing the Single Status Agreement was a complex process that required all councils to undertake a large-scale job evaluation exercise. Councils underestimated the risks in this process and legal challenges continue to identify further issues.

**53.** Glasgow City Council has identified a new contingent liability<sup>3</sup> disclosure in 2017/18 for equal pay claims, which it is unable to estimate. This is based on a May 2017 ruling by the Court of Session on pay protection claims, affecting around 8,000 claimants and an August 2017 ruling on the council's Job Evaluation Scheme. This will take time to resolve and the potential scale is likely to be significant and impact on the council's financial planning.

## **Financial management, governance and transparency**

### **Management commentaries could do more to explain council outturns in the accounts**

**54.** Auditors' reviews of accounts are increasingly concerned with the transparency and clarity of the narrative contained within the management commentary that accompanies the financial statements. There are a few key aspects to an assessment of whether financial reporting is transparent in the narrative:

- Is the outturn against budget position for the year clearly shown with the reasons for significant variances obvious?
- Is the outturn reported in the narrative reconciled to the movement in General Fund contained in the financial statements and major differences explained?
- Some councils do not specifically report on progress against agreed savings in their accounts. Therefore, it is difficult to demonstrate if planned savings were achieved. Councils that did report this said they achieved 105 per cent of their planned savings.

**55.** We identified Comhairle Nan Eilean Siar's management commentary as an example of good practice. Financial performance in 2017/18 was clearly identified in the management commentary. This included the income, expenditure and surplus/deficit positions for significant elements of the council's budget that was consistent with overall movements on the General Fund.

**56.** There were improvements in this area in 2017/18. However, there are still circumstances where these basic expectations of transparency are not met and the financial outturn in the management commentary does not help the reader understand clearly how the council has performed against budget and how this is reconciled to the accounts.



**Do budget monitoring reports clearly explain financial performance against plans and any changes to plans, including the reasons for change?**

**Does the management commentary clearly explain the council's financial performance and the changes to plans and reasons for those changes?**

**What additional training would you like to receive to develop your knowledge and skills for financial scrutiny?**

# Part 3

## Integration Joint Boards' overview 2017/18



### Key messages

- 1** Funding to the IJBs increased in 2017/18 by three per cent in cash terms. Most of this additional funding came from the NHS and includes additional Scottish Government funding to the NHS for IJBs of £107 million.
- 2** The majority of IJBs have underlying financial sustainability issues, with 11 out of 30 incurring deficits in 2017/18. A further eight would have incurred deficits without additional ('deficit') funding from their partners.
- 3** Reserve positions vary enormously between IJBs.
- 4** Medium-term financial planning is not used by most IJBs and further improvements to financial management should be introduced.

**57.** Funding to the IJBs increased in 2017/18 by three per cent in cash terms. Including additional Scottish Government funding to the NHS for IJBs of £107 million. IJBs were established as a result of the Public Bodies (Joint Working) (Scotland) Act 2014 (the Act). They are partnerships between NHS boards and councils and are responsible for the delivery of adult health and social care, and in some council areas, for other services, such as children's services. We reported on progress in November 2018 in our report, [Health and social care integration – update on progress](#) .

**58.** In 2017/18, IJBs were responsible for directing £8.3 billion of health and social care resources, money that was previously separately managed by councils and NHS boards. In total, 29 per cent or £2.4 billion of IJB funding was allocated from councils, and £5.9 billion or 71 per cent from the NHS ([Exhibit 13, page 28](#)).

**59.** The total resources available to IJBs has increased by three per cent, in cash terms, from £8.1 billion in 2016/17. The majority of this £240 million was allocated from the NHS:

- £107 million was provided by Scottish Government to the NHS to direct towards social care services delivered by councils.
- In some cases, NHS boards directed additional funding to address overspends in prescribing.

the majority of IJBs have underlying financial sustainability issues



**What is the IJB's financial position? Is it financially sustainable?**

**What are the levels of reserve held by the IJB?**

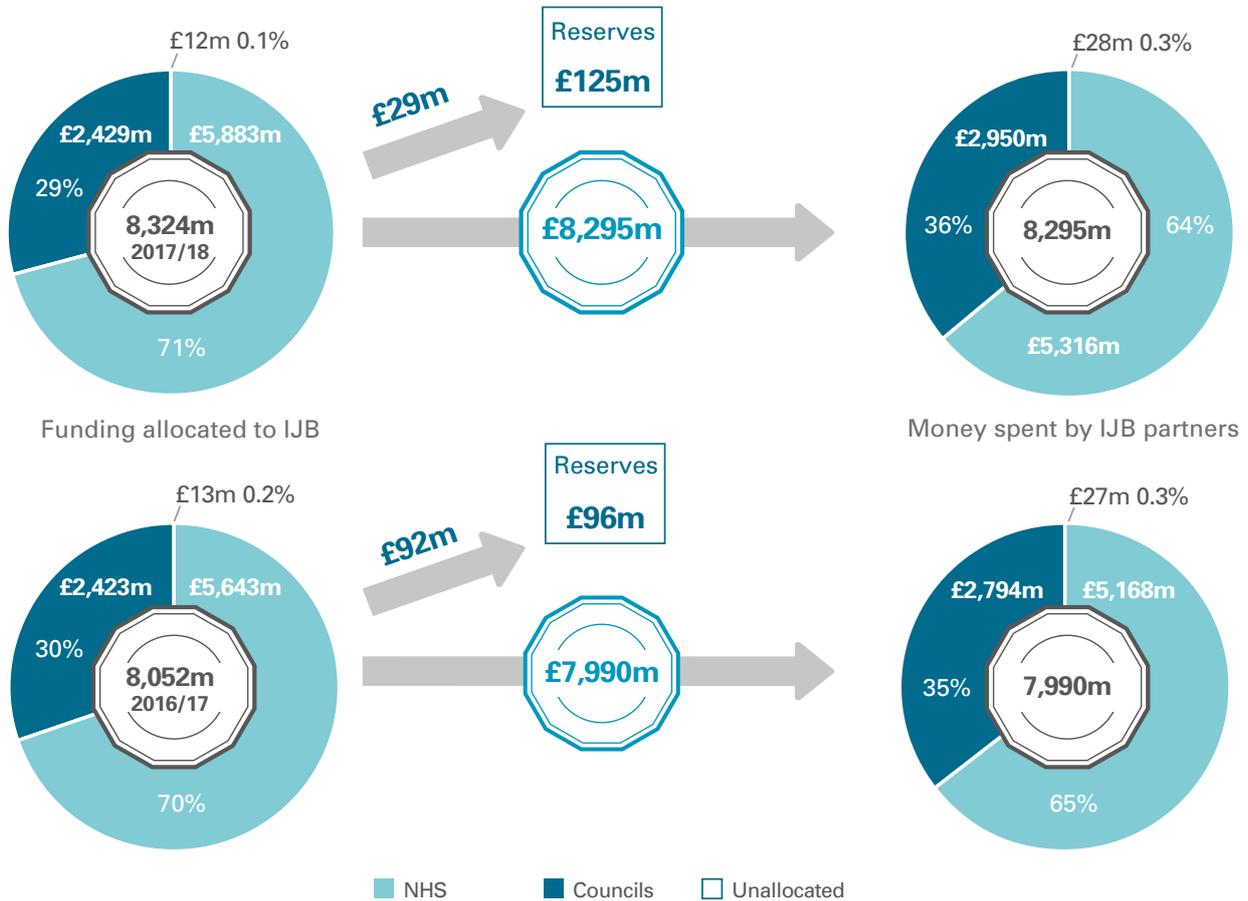
**Are these in line with the IJB's reserve policy?**

**What does the IJB's financial position mean for the council and for the delivery of services?**

### Exhibit 13

#### Income and expenditure of Integration Joint Boards in 2016/17 and 2017/18

IJBs spent £8.3 billion on delivering health and social care services in 2017/18, 3.8 per cent (£305 million) more than in 2016/17. Of this 36 per cent was spent by councils and 64 per cent by the NHS.



Note: Some aspects of funding and expenditure is not attributed to either NHS or councils in a few audits. This represents about £15m and £12m of income in 2016/17 and 2017/18 respectively and around £28m of expenditure in both years.

Source: IJB audited accounts

**60.** IJBs spent £8.3 billion on delivering health and social care services in 2017/18, 3.8 per cent (£305 million) more than in 2016/17. Of this, 36 per cent was spent by councils and 64 per cent by the NHS.

**61.** The aim of the reform is to meet the challenges of Scotland’s ageing population by shifting resources to community-based and preventative care at home, or in a homely setting. Therefore, it would be reasonable to expect the difference between what the NHS allocates to IJBs and what it receives for acute services to increase. In 2017/18, the difference was 6.6 percentage points compared to 5.1 percentage points in 2016/17, but this does not necessarily represent any operational shift in how services are provided.

### **The majority of IJBs have underlying financial sustainability issues and without year-end support from partners, 20 out of 30 would have reported deficits**

**62.** Fourteen IJBs had a surplus in 2017/18 compared to 23 in 2016/17. Those with a surplus added a further £42 million to their reserves (£95 million in 2016/17). This does not properly identify the underlying position, as 19 IJBs had additional funding from their partners, which improved their outturn position by £51 million. Without additional funding, a further eight IJBs would have reported a loss in 2017/18, rather than the 11 that did. Eight of the IJBs drew on reserves from previous years to meet in-year deficits.

**63.** Auditors report that prescribing costs and adult social care costs appear to be the main reasons for overspends. Auditors noted that in NHS Greater Glasgow and Clyde a 'risk-share' agreement on prescribing pressures with the health board has ended in 2017/18 and this will present IJBs in that area with greater financial risk in 2018/19.

### **Reserve positions vary enormously**

**64.** The total of reserves held by IJBs has grown from £96 million in 2016/17 to £125 million over 2017/18, and now represents 1.5 per cent of total income (compared to 1.2 per cent in 2016/17).

**65.** IJBs hold reserves for two main purposes that assist strategic financial management and risk management:

- to earmark, or build up, funds which are to be used for specific purposes in the future
- to provide a contingency fund to cushion the impact of unexpected events or emergencies.

**66.** Forty per cent of the total reserves are held by two IJBs: £31 million in Glasgow and £18 million in North Lanarkshire. Comhairle nan Eilean Siar has the highest reserve relative to its income at ten per cent ([Exhibit 14, page 30](#)). North Ayrshire is unusual in having a negative reserve of £5.8 million.

**67.** The auditor for North Ayrshire IJB highlighted concerns that 'in the medium term, the IJB is faced with an extremely challenging financial position'. In line with many other IJBs, it has not achieved short-term financial balance, but it has not been deficit funded by its partners.

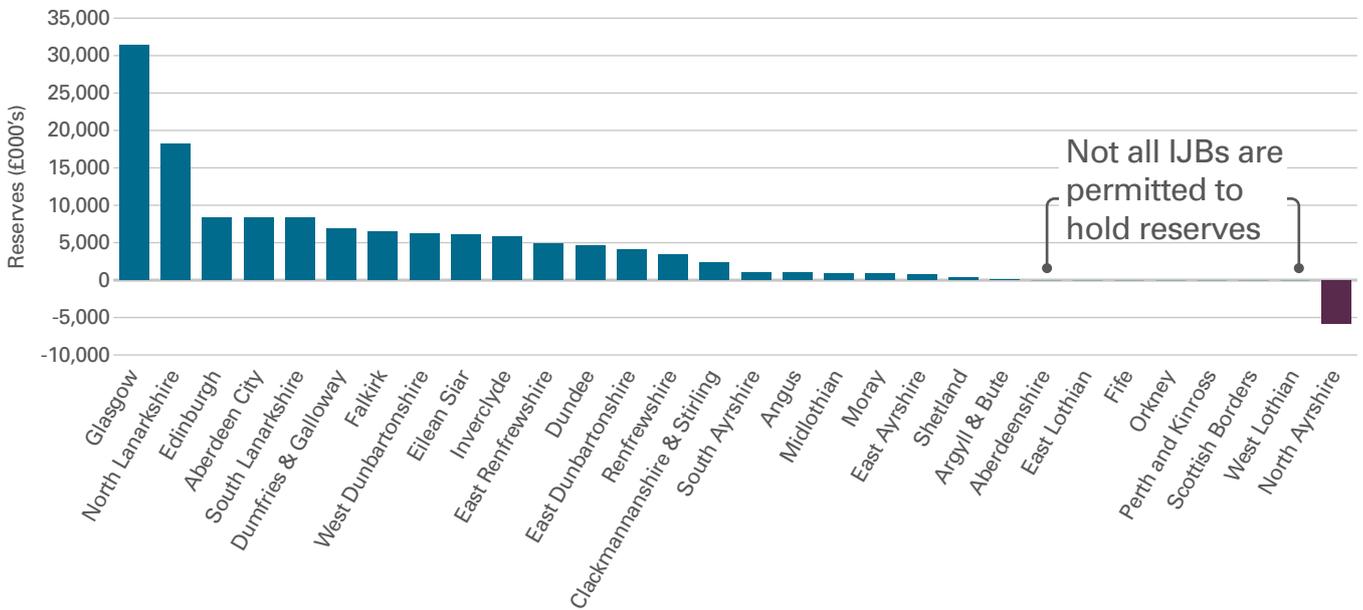
### **Funding gaps in 2018/19 are significant in IJBs and many do not have balanced budgets**

**68.** Most auditors identified significant financial pressures in 2018/19 in their 2017/18 annual audit reports. The estimated funding gap for IJBs in 2018/19 was £248 million (three per cent of total income). Which is greater than identified in councils. Twelve of the IJBs still do not have balanced budgets for 2018/19 and a further four plan to incur deficits which will be met by accumulated reserves. We reported in November 2018, that these financial pressures make it difficult for IJBs to improve services.

## Exhibit 14

### Integration Joint Board reserves

Forty per cent of the total reserves are held by Glasgow and North Lanarkshire. North Ayrshire is unusual in having a negative reserve of £5.8 million.



Source: Audited financial statements 2017/18



### IJB financial planning and financial management should be further improved

**69.** Only a third of IJBs have a medium-term financial plan, typically covering three years, and there is no evidence of longer term-financial planning.

**70.** Auditor’s identified issues with financial management in the IJBs including:

- a lack of agreement or a late agreement of budgets
- poor financial monitoring due to delays and inaccuracies during the year
- instances where the projected outturns forecasts during the last quarter of 2017/18 were very different from those actually achieved.

**71.** As we reported in our [Health and social care report](#) these are fundamental issue which will limit the ability of Integration Authorities to improve the health and social care system.

# Part 4

## Councils' financial outlook



### Key messages

- 1** In 2018/19, Scottish Government revenue funding to local government increased by 0.2 per cent after two years of real-terms reductions.
- 2** The Scottish Government published a five-year financial strategy in May 2018, but multi-year budgets are not yet being developed. The financial strategy identifies greater future uncertainty and likely further reductions of nine per cent in real terms over the next five years in 'other non-protected' council funding.
- 3** Many councils are in the early stages of delivering transformational change.
- 4** Medium-term financial planning has been adopted by almost all councils, but less than half have significant long-term plans over five years.
- 5** Councils expect to manage smaller funding gaps in 2018/19 of £0.3 billion (two per cent), with all 32 councils raising council tax rates by three per cent in 2018/19. There are no councils where the budgeted use of reserves is a critical issue over the next three years.
- 6** The impact of EU withdrawal is not yet clear, but councils need to identify the risks and develop contingency plans to manage these risks, as far as possible.

**councils expect to manage smaller funding gaps in 2018/19 of £0.3 billion (two per cent)**

### Council future funding

#### Scottish Government revenue funding to local government increased by 0.2 per cent

**72.** The Local Government Settlement in 2018/19 increased by 1.7 per cent (cash terms) from 2017/18 to £9.8 billion. This was a real-terms increase of 0.2 per cent ([Exhibit 15, page 32](#)).

#### An increase in the 2018/19 settlement was late and the early payment of £35 million in 2017/18 reduced transparency in the funding available between the two years

**73.** On 31 January 2018, the Scottish Government announced an additional £160 million of general revenue grant funding for local authorities as part of the 2018/19 budget-setting process. Although welcomed by councils, this

## Exhibit 15

### Scottish Government funding to councils in real and cash terms

Scottish Government total revenue funding to councils increased in 2018/19 after two years of reduction.



Source: Audit Scotland; and Scottish Government financial circulars 2014/15 to 2018/19

announcement was late in the budget planning process (refer to [paragraph 9](#), for comments on late funding allocations). Of the additional £160 million, £35 million was reallocated from projected 2017/18 underspends within the Scottish Government and was paid to councils on 28 March 2018. For accounting purposes, following consultation with auditors, this was treated as 2017/18 income by councils. By paying 2018/19 funding allocations to local authorities in the previous financial year, this reduced transparency in the effective funding for each year to councils and increased the reserves carried by councils at 31 March 2018.

### The Scottish Government published a five-year financial strategy in May 2018

**74.** Funding settlements to councils continue to be provided on an annual basis. This makes it challenging for councils to plan and budget effectively for the medium term, given such a significant proportion of their income comes from Scottish Government funding. On 30 June 2017, the Budget Process Review Group<sup>4</sup> published its final report and this included a recommendation that the Scottish Government should develop a medium-term financial strategy. [The Scottish Government’s five-year financial strategy](#)  was published in May 2018.

### Multi-year budgets are not yet being developed by the Scottish Government.

**75.** The five-year financial strategy identifies that 'in recent years the Scottish Government has delivered a series of annual budgets, an approach which will continue for the 2019-20 budget process', but also identifies 'an expectation that the next UK Spending Review (in 2019) will ... provide the Scottish Government with the opportunity to develop a multi-year approach to the development of its budgets'.

**76.** The five-year financial strategy notes that 'as the Scottish Government moves away from being funded primarily through the block grant to a combination of devolved taxes and the block grant, the number of variables which will affect its longer-term funding outlook will increase'. Three key determinants are identified:

- changes in UK Government spending
- UK Government fiscal policy
- Scottish tax revenue relative to the rest of the UK.

**77.** The analysis suggests that, by 2022/23, the Scottish Budget could be around £37.6 billion, but scenario modelling indicates that the potential range for this could be between £35.5 billion and £39.7 billion, reflecting potential growth in the Scottish Budget between 2017/18 and 2022/23 of between £4.2 billion and £8.4 billion (in cash terms). The range of this variability amounts to around  $\pm$ six per cent of the overall budget.

**78.** The key resource budget commitments of the Scottish Government's social contract are Health, Police, Early Learning and Childcare, Attainment, Higher Education and Social Security. The financial strategy identifies greater future uncertainty and likely further reductions of nine per cent in real terms over the next five years in 'other non-protected' funding.

**79.** Two of these areas directly increase future local government funding settlements: early learning and childcare and attainment. Early learning and childcare commitments by the Scottish Government include further (recurring) uplifts in funding to councils of £210 million in 2019/20, £201 million in 2020/21 and £59 million in 2021/22. The Scottish Government has assumed a commitment to allocate additional specific revenue grants of £180 million in each of the three years 2018/19 to 2020/21 through the Pupil Equity Fund. However, other expenditure areas (non-protected areas), which are managed by councils, are not identified as a 'key resource budget commitment'.

**80.** The [SPICe briefing paper](#)  in June 2018, identified that 'The Scottish Government's Budget priority choices inevitably mean that other non-protected areas of spend must take up more of the slack from any future spending reductions. Under the range of scenarios provided by the Scottish Government, "other expenditure" will fall by between one and 16 per cent in real terms over the period to 2022/23, with the bulk of reductions occurring in 2019/20 and 2020/21... under the central scenario, other expenditure will fall in real terms by £1 billion (nine per cent). The largest element by far of "other expenditure" is the non-early learning and childcare part of Local Government.'

## Financial pressures and planning

### Councils continue to recognise significant financial challenges in the medium term

**81.** Most councils have identified financial challenges over the next few years including:

- decreasing revenue support grant and capital grant
- EU withdrawal and the risk of inflationary effects
- pay award pressures
- demand pressures, particularly the expected population growth in some council areas and the reduction in the relative proportion of working age to non-working age
- legislative changes which are not funded
- the economic performance of Scotland compared to the rest of the UK.

### Many councils are in the early stages of delivering transformational change

**82.** Over half of councils began a new or refreshed transformation or change programme in the past year and one-third within the past three years. A few councils have yet to establish a programme. Because much of the transformation work is relatively recent it is too early to assess the effectiveness of the approaches taken.

**83.** The majority of work within transformational or change programmes is focused on service review and improvement work. Cross-organisational themes tend to focus on delivering, for example, staff and management restructures, office and property rationalisations, improvements in HR, payroll and finance systems. Some activity will have been more visible to the public such as digital approaches to customer services, increases in fees and charges, and redesign of waste management services. With funding expected to reduce further in the medium term, councils will need to consider more significant redesigns of how they operate and deliver services.

**84.** Transformation or change is challenging, and councils have highlighted a few common issues that have contributed to this including the effort and focus over recent years on establishing and progressing the health and social care arrangements with the NHS. Another factor is the long lead time and delays associated with ICT projects. With service and management redesign, the capacity of staff and management has been impacted. Over a third of councils have established training programmes to support transformation and change and over a third of councils have, or have recently agreed, to establish dedicated teams to support their programme.

**85.** The Accounts Commission recognises that with the financial pressures, councillors need to make difficult decisions. This requires effective political leadership and communications. It is essential that all councillors, not just the administration, work effectively with officers and other stakeholders to identify and deliver necessary savings. It is important that councils engage effectively with their communities about plans for savings and service redesign. We published a report [\*Roles and working relationships in councils – are you still getting it right?\*](#) , to support councillors in their role.



What is your council's financial position?

What particular challenges does the council face?

What new financial pressures are there for 2018/19 and 2019/20 and how much will these cost?



Does your council have a transformation plan?

Does it set out the aims and objectives and how and when these will be achieved?

Are projects within the transformation programme achieving their aims in terms of service quality, performance and cost?

How effectively are you engaged and informed about the council's transformation programme and kept informed about progress?

Are detailed options appraisals or business cases set out for changes to services planned within transformation activity?

### Medium-term financial planning has been adopted by almost all councils, but less than half have significant long-term plans over five years

**86.** In previous reports we have emphasised the importance of medium and long-term planning to effective financial management. Councils have made good progress: 30 councils now have a medium-term financial plan. Councils' long-term financial planning is not as well developed. Sixteen councils do not yet demonstrate any long-term financial planning, some councils have elements of long-term financial plans evident such as long-term forecasting. Five councils have long-term financial plans that cover ten years or more. Only five of the plans that exceed five years appear to have considered the financial impact of population/demographic/demand changes over the longer term.

**87.** In the *Best Value Assurance Report on Fife Council*  this year, we identified that the ten-year long-term financial model, based on demand forecasts, is an example of good practice among Scottish councils.

**88.** Around a third of councils use scenario planning within their medium or long-term financial planning. It is important that councils continue to consider potential funding scenarios and the implications for and options for services in the medium and longer term. Transformational change plans are likely to cover a number of years and should be consistent with financial planning. Financial plans should also consider the impact of demand changes over the longer term.

## Councils' budgets 2018/19

### Councils expect to manage smaller funding gaps in 2018/19 of £0.3 billion (two per cent)

**89.** Councils' 2018/19 budgets identified total net expenditure budgets of £12.2 billion. These were not fully met by the remaining income from core Scottish Government and council tax. The shortfall or 'funding gap' was £0.3 billion (two per cent). The extent of funding gaps and savings plans is less in 2018/19 than 2017/18 and councils did not plan to use unearmarked reserves to support revenue budgets as they did in 2017/18.

**90.** All 32 councils raised council tax rates by three per cent in 2018/19, providing budgeted income of £2.5 billion.

**91.** In the 2018/19 budgets, all 32 councils increased council tax by the maximum three per cent, making the highest Band D rate, in Glasgow, at £1,286 and the lowest, in Eilean Siar, at £1,086.

### Funding gaps are to be managed by planned savings, temporary use of reserves and additional fees and charges.

**92.** Councils presented balanced budgets with proposals to bridge the expected funding gap through:

- planned budget savings of £75 million (0.6 per cent of revenue funding)
- planned use of around £71 million of unearmarked reserves (0.9 per cent of net expenditure)
- increased fees and charges
- council tax increases.



Does the transformation programme of work aim to make positive change to improve outcomes for communities?

Is it about seeking opportunities to do things differently to maintain or improve performance or is the focus only on make savings?



Does your council have a long-term financial strategy (ten years or more) that reflects the anticipated changes in demographics and demands on services?

Do medium and long-term financial plans include a range of potential funding and financial scenarios?

### **Funding gaps vary between councils, there are no councils where the budgeted use of reserves would deplete them within three years**

**93.** The number of councils budgeting to use unearmarked reserves in 2018/19 has reduced from 23 (in 2017/18) to 18. Last year we reported that three councils would run out of General Fund reserves within two to three years if they continued to use them at the levels planned in 2017/18. We are pleased to note that there are no councils in this position in 2018/19, with councils generally reducing their planned reliance on unearmarked General Fund reserves.

### **Withdrawal from the EU**

**94.** The UK will leave the European Union (EU) on 29 March 2019. If the UK Government and EU agree the terms of the UK's withdrawal before this date, there will be a transition period to the end of 2020. Preparations for EU withdrawal across councils vary. Approaches commonly include monitoring and inclusion in risk registers as well as briefings and report to councillors. Some councils also reflect the risk in corporate and financial plans. Several councils have established working groups to focus on this issue.

**95.** If the UK Government and EU fail to agree arrangements for the UK's exit from the EU, there will be no transition period and organisations will need to respond immediately. There is an urgent need for all councils to identify the associated risks. It is critical they have contingency plans in place to allow them to manage these risks and respond rapidly in the event of the UK leaving the EU with no transition period.

**96.** The Scottish Government and COSLA are working with NHS boards, councils and other public bodies to draw together information on their workforces. This will be used to assess the potential impact of EU withdrawal on the delivery of services.

**97.** Audit Scotland produced a paper [\*Withdrawal from the European Union, Key audit issues for the Scottish public sector\*](#) , October 2018. We will consider further the implication of EU withdrawal for Scottish local government in our overview report *Local government in Scotland: Challenges and performance*, in March 2019. We have included questions from this key issues paper in [\*Supplement 1: Scrutiny tool for councillors\*](#)  accompanying this report.



**What is the likely use of unearmarked reserves for 2018/19?**

**How does the remaining unearmarked reserve compare to forecast funding gaps?**

**What are the plans for using different reserve funds in 2019/20 and beyond?**

**Are these plans appropriate and reasonable?**



**What planning and measures has your council undertaken in preparation for EU withdrawal?**

**What are the risks and potential impacts of EU withdrawal for the functions of your council and for the wider communities of your council area, in terms of workforce, regulation and funding?**

---

# Endnotes



- 1 PFI/PPP/NPD/HuB - PFI is an approach financing public infrastructure where the private partner finances, designs, builds, and operates the infrastructure asset. PPPs, on the other hand, may refer to a wider range of public-private collaboration, and include several business structures and partnership arrangements such as joint ventures, concessions, outsourcing, and PFI. PFI and PPP generally involve a long-term contractual agreement between the public and private sectors with financing and risk sharing by the private partner. Scotland's Non-Profit Distributing (NPD) model is a type of PPP agreement. It differs from the PFI model in that that private sector returns are capped and any excess profit goes back to the public sector. NPDs also promote enhanced governance and transparency through the appointment of a public interest director to the project company.
- 2 An increase in the underlying need to borrow could be funded by a council over the short/medium term from working capital including reduced cash and investments. It may not result in external borrowing in year. In fact, many councils chose not to borrow as they did not consider current borrowing rates to be favourable.
- 3 Contingent Liability – a possible obligation that arises from past events and will be confirmed only by the occurrence or nonoccurrence of one-or more uncertain future events not wholly within the control of the council.
- 4 The remit of the group was 'to carry out a fundamental review of the Scottish Parliament's budget process following the devolution of further powers in the Scotland Act 2012 and Scotland Act 2016'.

# Local government in Scotland

## Financial overview

### 2017/18

This report is available in PDF and RTF formats, along with a podcast summary at:

[www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk) 

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# Local government financial overview 2017/18

Scrutiny tool for councillors

ACCOUNTS COMMISSION 



This scrutiny tool captures some potential questions for councillors and relates to our report [Local government in Scotland: Financial overview 2017/18](#) . It is designed to provide councillors with examples of questions they may wish to consider to help them better understand their council's financial position and to scrutinise financial performance.

Page 105

## How well informed am I?

### Questions for councillors to consider

### What do I know?

### Do I need to ask further questions?

#### Financial planning and budget

1. Does your council have a long-term financial strategy (ten years or more) that reflects the anticipated changes in demographics and demands on services?
2. Do medium and long-term financial plans include a range of potential funding and financial scenarios?
3. What is your council's financial position? What particular challenges does the council face?
4. What new financial pressures are there for 2018/19 and 2019/20 and how much will these cost?

Cont.

## How well informed am I?

### Questions for councillors to consider

### What do I know?

### Do I need to ask further questions?

5. How do you engage with the budget setting process and ensure you have the opportunity to influence the development and content of a strategic budget?

6. How does annual budget setting link to medium and long-term financial planning in your council?

### Savings and transformation plans

7. Does your council have a savings plan? What are the options to close future funding gaps? How well are you kept informed about progress in delivering those savings?

Page 106

8. Which service areas are under the most pressure to make savings? What impact will savings have on the delivery of services and outcomes for service users, the wider community and the local economy? What are the potential risks?

9. Does your council have a transformation plan? Does it clearly set out the aims and objectives and how and when these will be achieved?

10. Does the transformation programme of work aim to make positive change to improve outcomes for communities? Is it about seeking opportunities to do things differently to maintain or improve performance or is the focus only on making savings?

11. Are projects within the transformation programme achieving their aims in terms of service quality, performance and cost?

12. How effectively are you engaged and informed about the council's transformation programme and kept informed about progress?

13. Are detailed options appraisals or business cases set out for changes to services planned within transformation activity?

## How well informed am I?

## Questions for councillors to consider

## What do I know?

## Do I need to ask further questions?

**Reserves**

14. What is the council's reserves policy?
- 
15. What have reserves been used for in recent years? Supporting services and bridging the funding gap or transforming services?
- 
16. What are the different types of usable reserves your council holds? Do you know what these can be spent on?
- 
17. What is the likely use of unearmarked reserves for 2018/19? How does the remaining unearmarked reserve compare to forecast funding gaps?
- 
18. What are the plans for using the different reserve funds in 2019/20 and beyond? Are these plans appropriate and reasonable?
- 
19. Is it clear that the reserves are needed for the purposes they are assigned? Are the reserves sufficient for those purposes? Could the reserves be better used for something else?

**Levels of debt and affordability**

20. What is the council's current debt position? Do you have clear information about the potential need for future borrowing when agreeing authorised borrowing limits?
- 
21. What share of the council's budget is taken up with interest payments and debt repayment?
- 
22. What proportion of the council's debt is linked to inflation or at fixed rates? What does this mean for longer-term affordability?

## How well informed am I?

### Budget outturn reports and management commentaries

23. Do budget monitoring reports clearly explain financial performance against plans and any changes to plans, including the reasons for change?
24. Does the management commentary clearly explain the council's financial performance and the changes to plans and reasons for those changes?

### Financial scrutiny

25. What additional training would you like to receive to develop your knowledge and skills for financial scrutiny?

### Charging for services

26. Does your council have a charging policy? Is this in line with corporate plans and objectives? When was this last reviewed?
27. Do you receive sufficient information about the potential impact on the service and the wider community when making decisions about changing fees and charges?
28. What information do you need to be able to explain increases in fees and charges to your constituents?

### Integration joint board

29. What is the IJB's financial position? Is it financially sustainable?
30. What are the levels of reserves held by the IJB? Are these in line with the IJB's reserve policy?
31. What does the IJB's financial position mean for the council and for the delivery of services?

How well informed am I?

Questions for councillors to consider

What do I know?

Do I need to ask further questions?

EU withdrawal

32. What planning and measures has your council undertaken in preparation for EU withdrawal?

33. What are the risks and potential impacts of EU withdrawal for the function of your council and for the communities of your council area, In terms of workforce, regulation and funding?

Page 109



Audit Scotland, 4th Floor, 102 West Port, Edinburgh EH3 9DN
T: 0131 625 1500 E: info@audit-scotland.gov.uk
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Local government in Scotland  
Supplement 2

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# Financial overview

## 2017/18

Scottish Local Government Pension Scheme



ACCOUNTS COMMISSION 

Prepared by Audit Scotland  
December 2018

# The Accounts Commission

The Accounts Commission is the public spending watchdog for local government. We hold councils in Scotland to account and help them improve. We operate impartially and independently of councils and of the Scottish Government, and we meet and report in public.

We expect councils to achieve the highest standards of governance and financial stewardship, and value for money in how they use their resources and provide their services.

Our work includes:

- securing and acting upon the external audit of Scotland's councils and various joint boards and committees
- assessing the performance of councils in relation to Best Value and community planning
- carrying out national performance audits to help councils improve their services
- requiring councils to publish information to help the public assess their performance.

You can find out more about the work of the Accounts Commission on our website: [www.audit-scotland.gov.uk/about-us/accounts-commission](http://www.audit-scotland.gov.uk/about-us/accounts-commission) 

Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. We help the Auditor General for Scotland and the Accounts Commission check that organisations spending public money use it properly, efficiently and effectively.

# Contents

<b>Contents</b> .....	<b>1</b>
<b>Summary</b> .....	<b>2</b>
About this report .....	2
<b>Funding</b> .....	<b>3</b>
Triennial valuations .....	3
Membership and cashflow .....	4
<b>Investment performance and strategy</b> .....	<b>6</b>
Investment returns .....	6
Investment strategies .....	7
Investment costs .....	9
<b>Governance</b> .....	<b>11</b>
Committees and boards .....	11
Collaboration .....	11
Other issues .....	12
<b>Administration</b> .....	<b>14</b>
Changes affecting funds .....	14
<b>Outlook</b> .....	<b>15</b>
SLGPS structural review .....	15

# Summary

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## Key messages

- 1. The triennial funding valuation at 31 March 2017 showed improved funding positions for most funds, with a number showing funding levels of more than 100 per cent.**
  - 2. Employer contribution rates have largely remained the same or gone up, reflecting lower expectations around investment returns going forward.**
  - 3. Membership of the Scottish Local Government Pension Scheme (SLGPS) continues to grow but total benefits and administration costs have exceeded contribution income in the last two years.**
  - 4. Investment returns were positive in 2017/18 although short-term performance was variable across funds.**
  - 5. Pension funds have been reviewing their investment strategies due to factors such as the maturity of the pension fund, the overall funding position and investment advisers' outlook on markets (particularly in connection with EU withdrawal).**
  - 6. Some pension funds have introduced Investment Panels. Lothian, Falkirk and Fife pension funds are collaborating on investment advice.**
  - 7. There have been many changes affecting the administration of schemes including new regulations, staffing pressures and new systems.**
  - 8. The Scottish Scheme Advisory Board is currently consulting on the future structure of the SLGPS.**
- 

## About this report

- 1. This supplement accompanies our Local government in Scotland: Financial overview 2017/18 and provides an overview of the Scottish Local Government Pension Scheme (SLGPS). We have drawn on the annual accounts of the pension funds administered by councils and on the reports of their appointed auditors. There are 11 main funds in Scotland, but also a number of other funds - often "Transport Funds" - administered by councils. Unless otherwise identified, our comments refer to the main 11 funds. The 11 main funds cover 32 local authorities and around 500 other employers.**
- 2. This report identifies some of the major issues that pension funds had to deal with in 2017/18.**

# Funding

## Triennial valuations

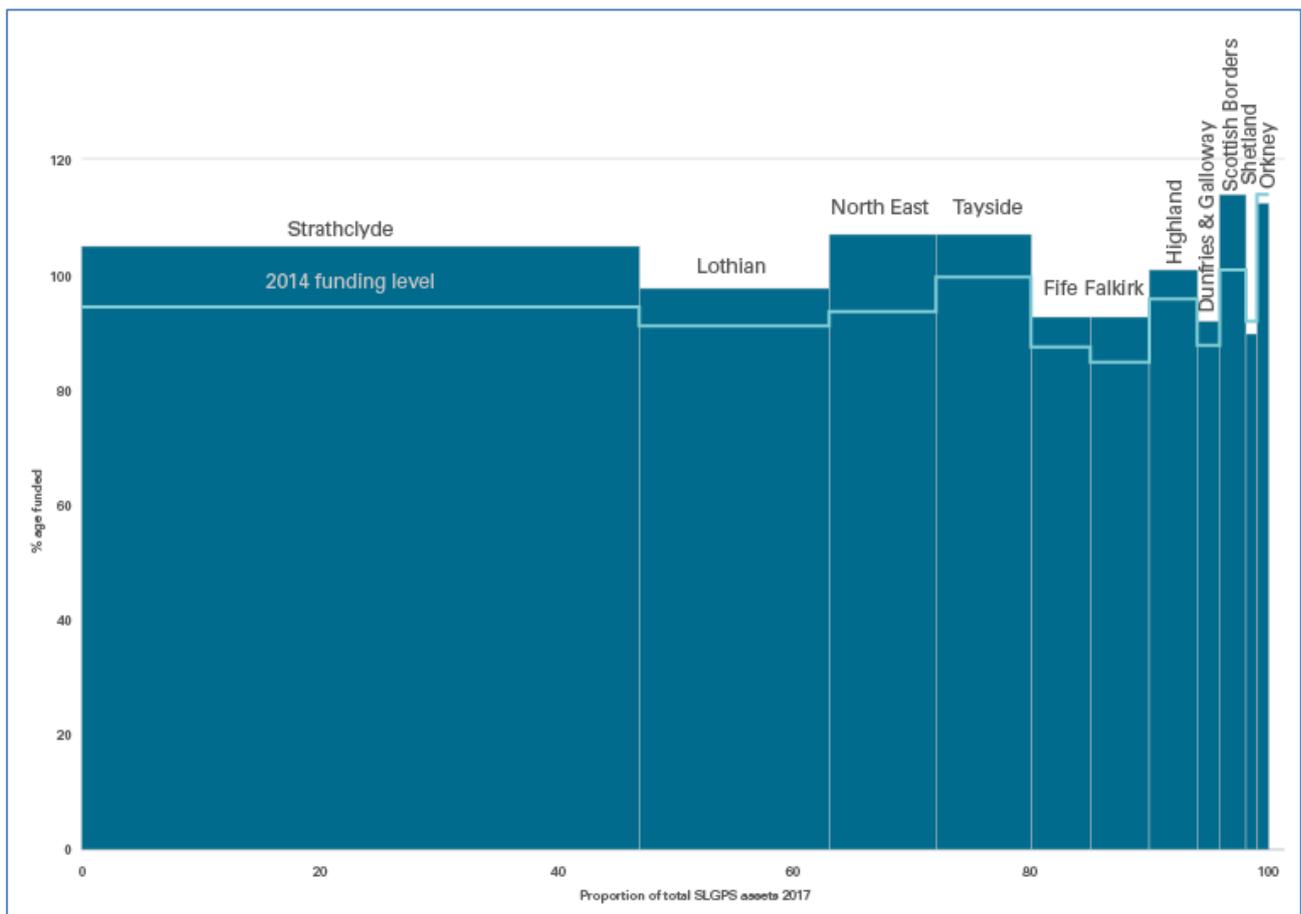
The triennial funding valuation at 31 March 2017 showed improved funding positions for most funds with a number showing funding levels more than 100 per cent.

- The results of the triennial funding valuation, undertaken at 31 March 2017, were reported in 2017/18. In overall terms, SLGPS assets exceeded the liabilities to be met by the scheme. Assets of the main funds had increased to £42 billion while the estimated value of liabilities increased to around £41 billion. However, not all pension funds were fully funded as shown in Exhibit 1.

### Exhibit 1

#### SLGPS funding levels 2014 and 2017

Strathclyde accounts for 47 per cent of SLGPS assets at 31 March 2017 and had a funding level of 105 per cent. In most cases funding levels improved with six funds in excess of 100 per cent.



Source: Pension fund annual reports and accounts

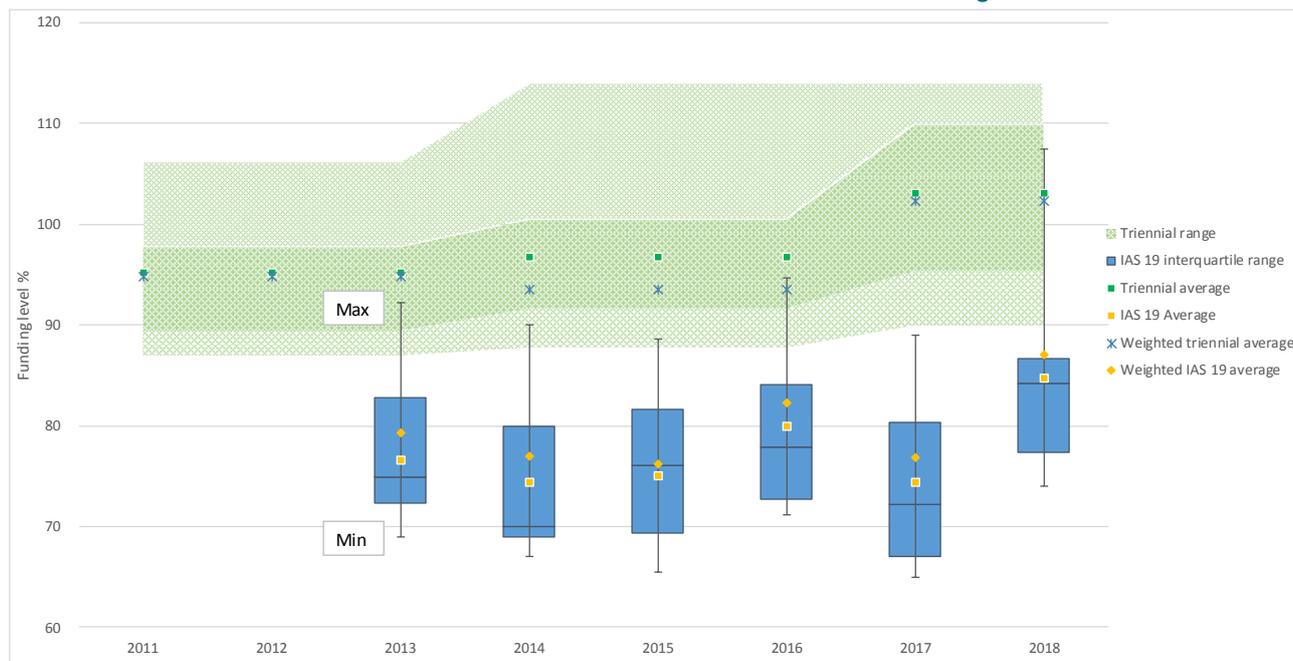
- The 2017 funding positions represented an improvement on 2014 for all funds, except Orkney and Shetland. These improved funding positions arise because of increased asset values.

- Triennial valuations at 31 March 2017 provide one basis for assessing the overall position of funds (funding basis). Actuaries prepare a valuation at 31 March each year, on an accounting basis (IAS19 basis). This approach uses a lower discount rate for long-term liabilities and this tends to produce a more cautious result, as can be seen in [Exhibit 2](#).

## Exhibit 2

### Valuation history of SLGPS funds (triennial and IAS 19)

IAS19 annual valuations tend to be more cautious than the triennial funding valuations.



Source: Pension fund annual reports and accounts 2010/11 to 2017/18

### Employer contributions have tended to stay the same following the triennial valuation

- For most employers, contribution rates have remained the same even where pension funding levels exceed 100 per cent. This reflects lower expectations for investment returns going forward:
  - at Strathclyde, North East Scotland, Tayside, Highland, Shetland, Scottish Borders, Fife, and Dumfries and Galloway pension funds contribution rates have remained stable
  - rates in Lothian and Falkirk pension funds have increased
  - Orkney rates have reduced.

## Membership and cashflow

**Membership of the SLGPS continues to grow but benefits and administration costs have exceeded contribution income in the last two years**

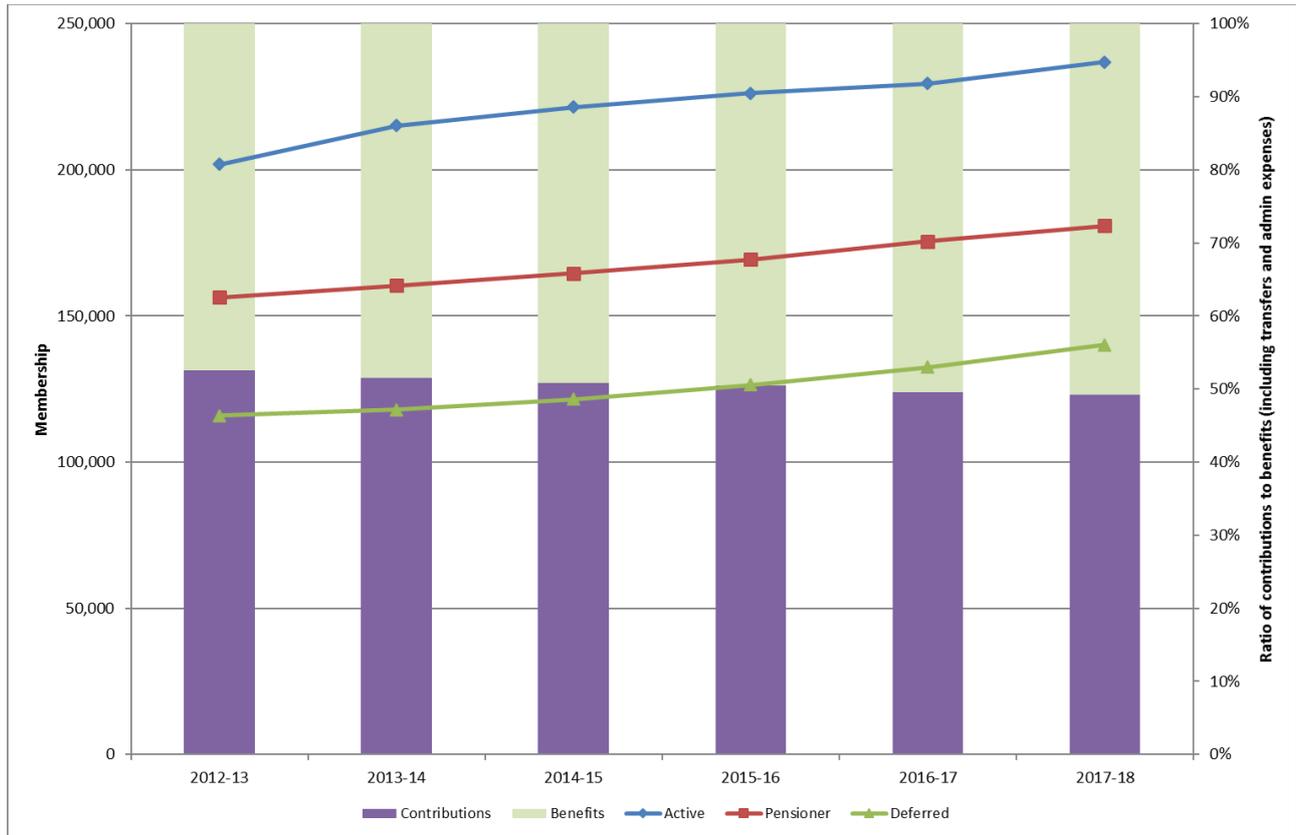
- [Exhibit 3](#) shows that the numbers of both active employee members and pensioner members of the SLGPS have been increasing in recent years. This is largely a result of auto enrolment and employer severance schemes. Active membership increased by 7,300 or three per cent in

2017/18 and pensioner numbers went up by 5,300, also an increase of three per cent. Across the SLGPS, total contribution income is now less than the benefits paid (negative cashflow from dealing with members). Five funds now have negative cashflows. As funds mature, an element of pension payments are being made from investment returns, rather than being met from ongoing contributions from active members. It's important that funds manage the cashflow implications of this.

**Exhibit 3**

**SLGPS membership, contributions and benefits 2013 to 2018**

Membership has been increasing. Costs are greater than contributions received.



Source: Pensions fund annual reports and accounts

- The proportion of active members compared to pensioner members is higher than it was five years ago. Despite there being greater numbers of active members, this has not reversed the trend of negative cashflow from dealing with members. This is plausible as many of these new active members were added through auto enrolment and are lower paid employees with lower contributions relative to pensions in payment.

# Investment performance and strategy

## Investment returns

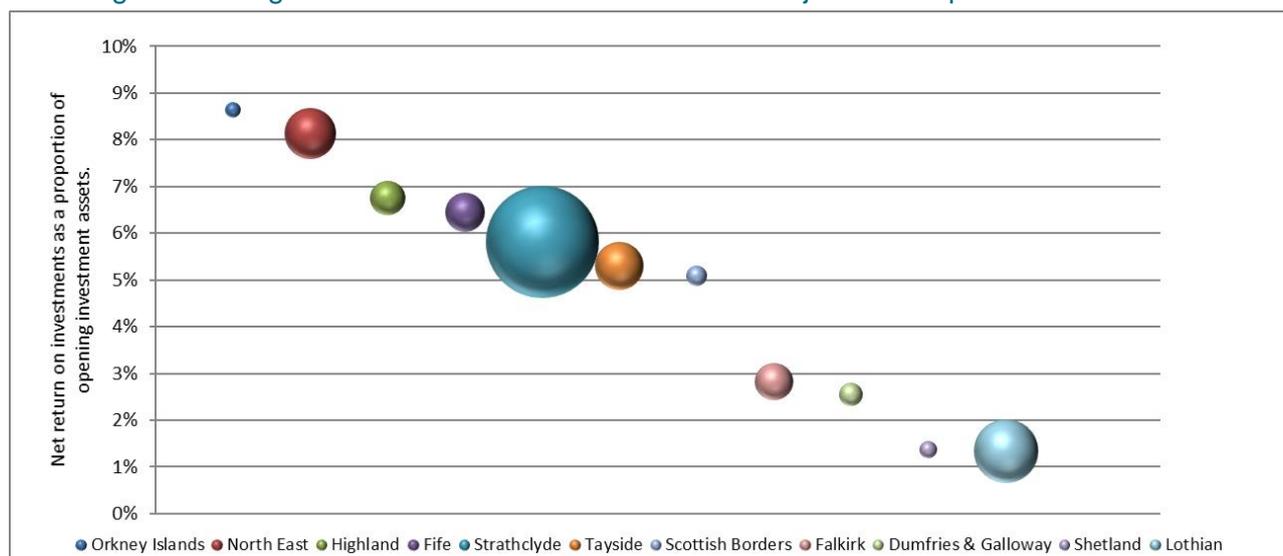
### Annual investment returns were positive in 2017/18 although performance was variable

- Investment returns remained positive in 2017/18 despite increased volatility and decline in the final quarter of the year. The weighted average return on investments was around five per cent, a significant decrease compared to 18 per cent in 2016/17. This reflects the general performance of markets between the two years. The performance and relative size of each pension fund is shown in [Exhibit 4](#).

#### Exhibit 4

#### Annual investment returns and fund size 2017/18

The weighted average investment return for the SLPGS was just over 5 per cent in 2017/18.



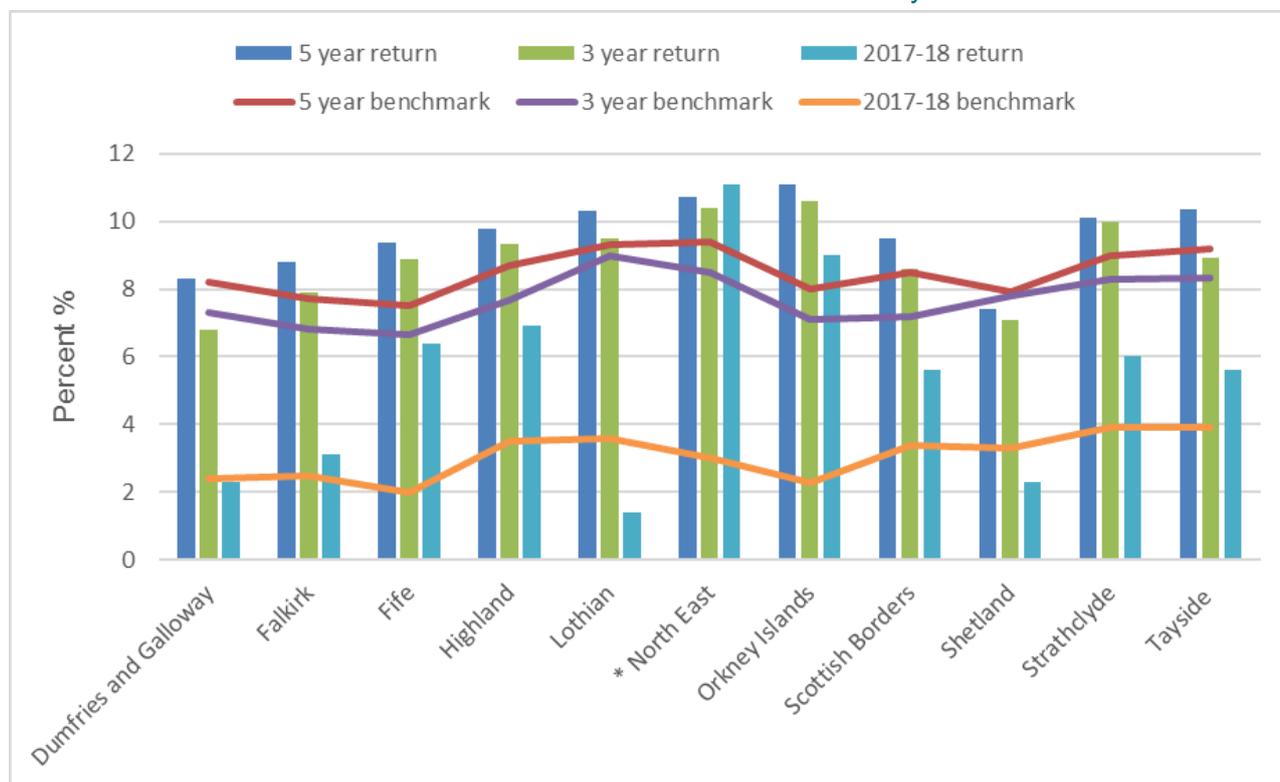
Source: Pension fund annual reports and accounts

- Variability of investment performance between pension funds can reflect differences in the nature of assets which each fund holds, the way in which they are managed and the related risks. Another way of assessing the returns in each fund is to consider how the fund has compared against its benchmarks over 1 year, 3 years and 5 years. The benchmarks are set locally to reflect the nature of each investment mandate and the proportion of different mandates in the portfolio. Performance against each of the 11 funds benchmarks is shown in [Exhibit 5](#).

## Exhibit 5

### Pensions fund performance against their benchmarks 2017/18

Investment returns for most funds were above benchmark over the 5 years to 31 March 2018.



\* North East Scotland pension fund figures are on a gross basis

Source: Pension fund annual reports and accounts

11. Exhibit 5 identifies, for example, that in Lothian pension fund the return on investments in 2017/18 was 1.4 per cent, which was behind the benchmark of 3.6 per cent, however, the performance over the five and ten-year period to 31 March 2018 exceeded the benchmark by an average of 1.1 percentage points.

## Investment strategies

**Investment strategies are set by each fund and indicate the nature and extent of investments the fund should hold**

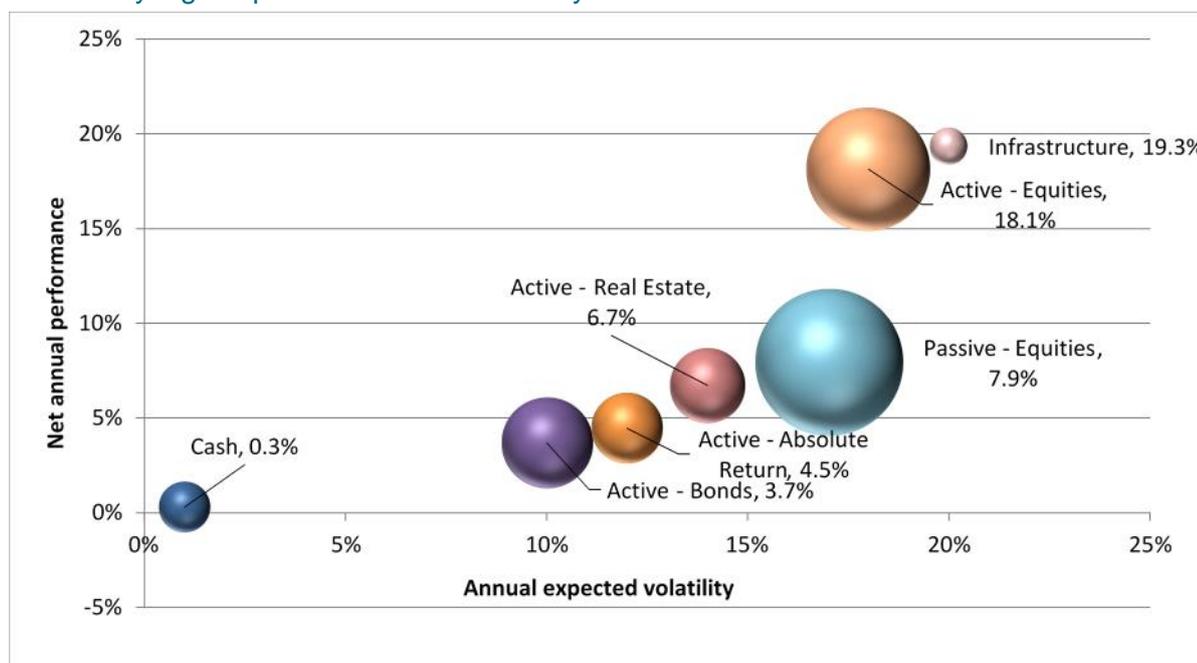
12. Investment strategies are set locally by each of the pension funds, although they have to comply with a common regulatory framework. Pension funds appoint independent professional advisors to help them with their investment strategies. Some funds use external firms for direct investment advice to pensions committees and boards. Some funds have investment panels that employ specialist advisers before recommendations are made to the pensions committee/boards. In 2017/18, Fife Pension Fund joined with Lothian and Falkirk in a collaborative arrangement for investment governance which includes a joint investment strategy panel advising all of these funds.

13. Investment strategies should take account of the current funding and cash-flow position of the fund and reflect the investment outlook to achieve the returns necessary to maintain employer contributions. Seeking higher returns typically exposes pension funds to higher risk.
14. Exhibit 6 demonstrates the different investments and their relative size and returns at Fife pension fund. The fund has 11 investment mandates, managed by nine fund managers. Cash balances form a relatively small working capital balance and achieve very low returns. Infrastructure investments earned high returns but are relatively modest in size. Equities - both active and passive mandates - form the majority of the invested assets. Passive equity investments earned much lower rates of return than active mandates, but they also have lower fees. Investments that earned the higher rates of return were also considered to be the most volatile (riskier).

**Exhibit 6**

**Asset allocations, performance and volatility – Fife Pension Fund as at 31 March 2018**

Passive equities were the largest category of investment delivering relatively high returns but with a relatively high exposure to market volatility.



Source: Fife pension fund annual audit report

**Pension funds have been reviewing their investment strategies**

15. Some funds identified that they have reviewed their investment strategies. This is due to factors such as the maturity of the pension fund, the overall funding position and investment advisers' outlook on markets (particularly in connection with EU withdrawal):
  - One fund identified that "the primary consideration was the impact of the EU withdrawal on movement in investments and risk".

- At Scottish Borders Pension Fund, the auditor noted that the fund is "... to diversify away from equity assets into income generating inflation-linked assets that are more resilient to the volatility of the equities markets. Increasing investment in infrastructure, which is not as tied to global events... management are aware of the currency fluctuation risk and are working with their investment consultant to determine ways to mitigate that risk".
  - Strathclyde Pension Fund noted that it had begun "the implementation of a revised strategic target model... to hold less equity and move to more short-term and long-term enhanced yield assets... such as UK and overseas property. The fund has reduced equity holdings by £2 billion from 68.6 per cent of assets... to 56.7 per cent... to de-risk the investment portfolio at a time where there is some increasing uncertainty in global markets."
16. Funds are also reporting that the actual investment portfolio is not consistent with their investment strategies. Increases in the value of equities has meant that some funds are holding more of their total value in equities ('overweight in equities') compared to their investment strategies:
- Fife Pension Fund auditor reported that 62 per cent of the fund's investments are in equities, that the fund has not rebalanced its mandates since last year, remains overweight in equities (against a target of 55 per cent) and underweight in bonds.
  - The auditor of Falkirk Pension Fund identified that "the future projected strategic allocation of investments, outlined in the fund's statement of investment principles, shows a significant divestment from the current allocation".

## Investment costs

### Investment costs are becoming more transparent

17. In recent years there has been increased interest in the investment costs incurred by the SLGPS, with a drive for more transparency from investment managers about the fees and charges they make. Ensuring that investment management expenses are reasonable can be one way for pension funds to increase returns without increasing risk.
18. However, full transparency is still to be achieved. The auditor at Tayside Pension Fund identifies that "the fund has incurred £1.7 million of investment transaction costs, which it has capitalised as part of the cost of the investments rather than including within investment management expenses."
19. Investment management expenses have increased in 2017/18. The main reason for this increase in expense is the growth in equity values, but there are other reasons:
- Fife Pension Fund reported a high initial cost of the infrastructure mandate, which carries out private equity-type investments. It levied performance fees of £1.7 million and made two new investments with one-off fees of £1.6 million.
  - Scottish Borders Pension Fund auditor noted that "there has been significant... investment management expenses of... £8.2 million. This is largely because of one-off

transaction costs associated with investment in long-lease property, which is seen as a key part of the investment strategy. (Their adviser was)... confident this cost will be recouped through investment performance."

# Governance

## Committees and boards

### Pension committees and pension boards oversee the funds

20. From 1 April 2015 all pension funds were required to introduce local pension boards in line with the Public Service Pensions Act 2013. This is the third year of operation of the Pensions Board. The Pensions Board usually meet concurrently with the Pensions Committee. The remit of the Pensions Board is to support the Pension Committee to comply with regulations and the requirements of the Pensions Regulator. In some councils, the responsibility for pension fund matters is split between committees.
21. Division of pension responsibilities to two committees may restrict the information available to some responsible for governance. In Fife, the oversight of pension fund governance and risk management remain in the remit of Fife Council's Standards and Audit Committee. Weaknesses in pension fund governance and management arrangements are reported to the Standards and Audit Committee, but not routinely to the Superannuation Fund and Pensions Sub-Committee or the Pensions Board. The two committees share the same convenor, so this helps to ensure that key issues are brought to the attention of both.

### Some pension funds have introduced investment panels

22. To assist and advise the pension committee and board on investments strategy and performance, some pension funds have introduced advisory panels. This helps officers call on wider investment knowledge and expertise. It also introduces a governance process which sits between the investment advisor and the committee, reducing the burden on committees and on council officers to consider the detail of investment proposals/decisions. Strathclyde Pension Fund's Investment Advisory Panel (the IAP) comprises "investment officers from the fund, representatives from Hymans Robertson (as the fund's actuary and investment consultant). The panel also includes three independent expert advisors. The IAP supports the Pension Fund Committee and is responsible for developing investment strategy and monitoring investment performance."
23. At Lothian Pension Fund, the pensions committee has delegated responsibility for investment strategy to the executive director of resource who takes advice from an Investment Strategy Panel made up of the chief executive of the fund, chief investment officer and two external independent investment consultants.

## Collaboration

### Lothian, Falkirk and Fife pension funds are collaborating on investment advice

24. Lothian, Falkirk and Fife pension funds have set up a joint working arrangement which includes a joint Investment Strategy Panel. The role of this panel will be to advise the chief

financial officers of each administering authority on the implementation of investment strategy. Over the last year, Lothian collaborated with Falkirk on seven infrastructure investments.

25. The Scottish Borders Pension Fund also noted that it "continues to invest in other assets classes such as long-lease property, private credit and infrastructure, by partnering with Lothian Pension Fund."

## Other issues

### In 2017/18 Tayside undertook a repatriation exercise

26. As noted in the introduction to this report, apart from the main 11 funds, there are a few other funds managed by councils. These include Lothian Buses Pension Fund and Scottish Homes Pension Fund, for example. These funds are distinct from the main funds. They are often closed to new members and, as mature funds, have funding and investment strategies that are very different to the main funds.
27. At Tayside Pension Fund, following legal, actuarial and investment opinion and full employer consultation, the Pensions Sub-committee approved the repatriation of assets and liabilities of the Tayside Transport Fund back to the main fund. This was intended to provide the single employer, Xplore Dundee, with a guaranteed future contribution rate and to provide administrative efficiencies and value for money. The expectation is that repatriation would reduce custodial and actuarial fees, investment and management costs. The repatriation took place on 30 June 2018 and resulted in the transfer of £71 million of transport fund net asset values into the main fund which had a net asset valuation of £3.5 billion at that date.

### Cessations can lead to additional financial pressures

28. Auditors have been reporting that a number of employers have indicated they want to leave, or have left, pension funds in 2017-18. These cessation events can lead to additional contributions from those employers and sometimes decisions on the recoverability of cessation debts. Cessation payments at Lothian Pension Fund were £1.4 million in 2017/18 and it has long-term debtors of £1.5 million associated with cessation.
29. At 31 March 2018, the North East Pension Fund recognised that there were three employers who had exited from the Fund where payment of the termination fee may not be recovered in full.

### There were some reported issues with employer returns

30. Employers are required to submit year-end contribution returns and compliance returns usually by the May after each financial year-end. This is an important control over the accuracy of pension contributions received and recorded in the pensions systems and is of increased importance following the introduction of Career Average Revalued Earnings (CARE) schemes: as the member benefit statement requires actual salary data from all employers.

31. All year-end contribution returns relating to 2017/18 have been received by funds. One auditor identified issues with the lateness of contribution returns, with more auditors identifying issues with employer compliance returns.

# Administration

## Changes affecting funds

### **There have been many changes affecting the administration of schemes**

32. SLGPS pension funds have faced significant administration challenges in recent years. We have identified the effect of auto-enrolment and the increase in membership at [paragraph 7](#), but there have been other changes.
33. Revised Local Government Pension Scheme regulations came into effect on 1 June 2018. The changes to the regulations aim to consolidate amendments since April 2015 and include:
  - LGPS members can elect to take early payment of their pension from age 55, with an actuarial reduction. They will not require consent from their employing body.
  - There is increased flexibility for administering authorities when employers exit the pension scheme. Exit credit can be provided to exiting employers if appropriate.
  - There are changes to additional voluntary contributions following the introduction of freedom and choice in pensions by the UK Government, which permits payment from age 55 as a lump sum.
34. New data regulations (GDPR) covering data protection came into force on 25 May 2018. Auditors reported that pension funds' preparations for this had been completed as planned.
35. In May 2017, several health boards across NHS Scotland were affected by the Wannacry global ransomware attack. In response to this, the Scottish Government launched 'A Cyber Resilience Strategy for Scotland: Public Sector Action Plan, 2017/18'. The action plan outlines various requirements that public bodies should take forward. It includes an action for public bodies to achieve a Cyber Essentials Plus certification by the end of October 2018. There is a need to consider whether the pensions' systems supplier meets Cyber Essentials standards. We recommend the fund encourages its suppliers to adopt the Cyber Essentials standard.
36. The auditor at Fife Pension Fund noted the loss of five experienced staff members from the administration team and issues with reconciliations and recording of non-routine transactions. Borders Council implemented a new financial system, Business World, in April 2017 and undertook a subsequent restructuring of the finance function. The auditor noted that "this has placed a significant burden on key team members at certain times."

# Outlook

## SLGPS structural review

**The Scottish Scheme Advisory Board (SSAB) is currently consulting on the future structure of the SLGPS**

37. In 2017 the SSAB reported to the Scottish Minister on options for the future structure of the SLGPS. The report referred to the potential economies of scale and cost savings available in relation to the administration and investment activity of pension funds, highlighting the likely impact of different options on local governance and oversight. The report included four options for consideration:
- retain the current structure with 11 funds
  - promote cooperation in investing and administration between the 11 funds
  - pool investments between 11 funds
  - merge the 11 funds into one or more funds.
38. Early in 2018 the Scottish Minister requested that the SSAB consult more widely on these options and in June 2018 a consultation was launched, with a decision on the future course of action in 2019.

Local government in Scotland  
Supplement 2  
**Financial overview**  
**2017/18**

**Scottish Local Government Pension Scheme**

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T: 0131 625 1500 E: [info@audit-scotland.gov.uk](mailto:info@audit-scotland.gov.uk)   
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## **INTERNAL AUDIT WORK TO DECEMBER 2018**

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### **Report by Chief Officer Audit and Risk**

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## **AUDIT AND SCRUTINY COMMITTEE**

**14 February 2019**

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### **1 PURPOSE AND SUMMARY**

- 1.1 The purpose of this report is to provide members of the Audit and Scrutiny Committee with details of the recent work carried out by Internal Audit and the recommended audit actions agreed by Management to improve internal controls and governance arrangements.**
- 1.2 The work Internal Audit has carried out in the period from 27 October to 14 December 2018 to deliver the Internal Audit Annual Plan 2018/19 is detailed in this report. During this period a total of 8 Final Internal Audit Reports have been issued with 0 recommendations made. During these reviews Internal Audit informed operational Managers about minor matters to which Management have committed to progress as part of continuous improvement.
- 1.3 An Executive Summary of the final Internal Audit reports issued, including audit objective, findings, good practice, recommendations (where appropriate) and the Chief Officer Audit and Risk's independent and objective opinion on the adequacy of the control environment and governance arrangements within each audit area, is shown in Appendix 1 to this report.
- 1.4 The SBC Internal Audit function conforms to the professional standards as set out in Public Sector Internal Audit Standards (PSIAS) (2017) including the production of this report to communicate the results of the reviews.

### **2 RECOMMENDATIONS**

- 2.1 I recommend that the Audit and Scrutiny Committee:**
- a) Notes the final assurance reports issued in the period from 27 October to 14 December 2018 associated with the delivery of the approved Internal Audit Annual Plan 2018/19;**
  - b) Notes the Internal Audit consultancy and other work undertaken in this period; and**
  - c) Acknowledges the assurance provided on internal controls and governance arrangements in place for the areas covered by this Internal Audit work.**

### 3 PROGRESS REPORT

- 3.1 The Internal Audit Annual Plan 2018/19 was approved by the Audit and Scrutiny Committee on 19 March 2018. As previously stated, it should be considered to be flexible and will be periodically reviewed, and amended as required, to reflect any new arrangement or changing risks and priorities of the Council. Any amendments will be brought to this Committee for approval.
- 3.2 Internal Audit has carried out the following work in the period from 27 October to 14 December 2018, associated with the delivery of the approved Internal Audit Annual Plan 2018/19, to meet its objective of providing an opinion on the efficacy of the Council's risk management, internal control and governance.
- 3.3 The SBC Internal Audit function conforms to the professional standards as set out in Public Sector Internal Audit Standards (PSIAS) (2017) including the production of this report to communicate the results of the reviews.

#### Internal Audit Reports

- 3.4 Internal Audit issued final assurance reports on the following subjects:
- Workforce Planning
  - Licensing
  - Earlston High School
  - Eyemouth High School
  - Kelso High School
  - Melrose Primary School
  - Greenlaw Primary School
  - Eddleston Primary School
- 3.5 An Executive Summary of the final Internal Audit assurance reports issued, including audit objective, findings, good practice and recommendations (where appropriate), and the Chief Officer Audit and Risk's independent and objective opinion on the adequacy of the control environment and governance arrangements within each audit area, is shown in Appendix 1.

The definitions for Internal Audit assurance categories are as follows:

Level	Definition
Comprehensive assurance	Sound risk, control, and governance systems are in place. These should be effective in mitigating risks to the achievement of objectives. Some improvements in a few, relatively minor, areas may be required.
Substantial assurance	Largely satisfactory risk, control, and governance systems are in place. There is, however, some scope for improvement as current arrangements could undermine the achievement of objectives or leave them vulnerable to error or misuse.
Limited assurance	Risk, control, and governance systems have some satisfactory aspects. There are, however, some significant weaknesses likely to undermine the achievement of objectives and leave them vulnerable to an unacceptable risk of error or misuse.
No assurance	The systems for risk, control, and governance are ineffectively designed and operated. Objectives are not being achieved and the risk of serious error or misuse is unacceptable. Significant improvements are required.

## Current Internal Audit Assurance Work in Progress

- 3.6 Internal Audit assurance work in progress to complete the delivery of the Internal Audit Annual Plan 2018/19 consists of the following:

Audit Area	Audit Stage
Adult Social Care Self Directed Support	Drafting the report
Financial Planning	Testing Nearly Completed
Capital Investment	Testing Nearly Completed
Corporate Transformation Programme	Testing Underway
Protective Services	Testing Underway
Winter Service	Audit Assignment issued
Private Sector Landlord Registration	Audit Assignment issued

## Internal Audit Consultancy and Other Work

- 3.7 Internal Audit staff have been involved in the following for the Council to meet its aims and objectives, and its roles and responsibilities in accordance with the approved Internal Audit Charter:
- 3.7.1 Offering advice on internal controls and governance to Managers on request through engagement in a number forums as the Council continues to transform its services.
- 3.7.2 Reviewing outstanding and overdue audit recommendations to ensure their implementation by Management. Liaising with the Corporate Risk Officer on an on-going basis to ensure that risk is considered in every audit and risk reviews take account of improvements arising from audit work.
- 3.7.3 Providing intelligence via data sharing requests from Police Scotland. Liaising with the Corporate Fraud & Compliance Officer on an on-going basis to ensure fraud risk is considered in every audit.

## Recommendations

- 3.8 Recommendations in reports are suggested changes to existing procedures or processes to improve the controls or to introduce controls where none exist. The grading of each recommendation reflects the risk assessment of non-implementation, being the product of the likelihood of the risk materialising and its impact:

**High:** Significant weaknesses in existing controls, leaving the Council or Service open to error, fraud, financial loss or reputational damage, where the risk is sufficiently high to require immediate action within one month of formally raising the issue. Added to the relevant Risk Register and included in the relevant Assurance Statement.

**Medium:** Substantial weaknesses in existing controls, leaving the Council or Service open to medium risk of error, fraud, financial loss or reputational damage requiring reasonably urgent action within three months of formally raising the issue.

**Low:** Moderate weaknesses in existing controls, leaving the Council or Service open to low risk of error, fraud, financial loss or reputational damage requiring action within six months of formally raising the issue to improve efficiency, effectiveness and economy of operations or which otherwise require to be brought to the attention of senior management.

Outwith the report, Internal Audit informs operational managers about other matters as part of continuous improvement.

3.9 The table below summarises the number of Internal Audit recommendations made during 2018/19:

	2018/19 Number of Recs
High	0
Medium	0
Low	0
<b>Sub-total reported this period</b>	<b>0</b>
Previously reported	3
<b>Total</b>	<b>3</b>
Recommendations agreed with action plan	3
Not agreed; risk accepted	0
<b>Total</b>	<b>3</b>

## 4 IMPLICATIONS

### 4.1 Financial

There are no costs attached to any of the recommendations in this report.

### 4.2 Risk and Mitigations

- (a) The Objectives of Internal Audit are set out in its Charter. "As part of Scottish Borders Council's system of corporate governance, Internal Audit's purpose is to support the Council in its activities designed to achieve its declared objectives." Specifically as "a contribution to the Council's corporate management of risk".
- (b) Key components of the audit planning process include a clear understanding of the Council's functions, associated risks, and potential range and breadth of audit areas for inclusion within the plan. During the development of the Internal Audit Annual Plan 2018/19, to capture potential areas of risk and uncertainty more fully, key stakeholders have been consulted and risk registers have been considered.
- (c) If audit recommendations are not implemented, there is a greater risk of financial loss and/or reduced operational efficiency and effectiveness, and Management may not be able to demonstrate improvement in internal control and governance arrangements, and effective management of risks.

### 4.3 Equalities

It is anticipated there will be no adverse impact due to race, disability, gender, age, sexual orientation or religious/belief arising from the work contained in this report.

### 4.4 Acting Sustainably

There are no direct economic, social or environmental issues in this report.

### 4.5 Carbon Management

No direct carbon emissions impacts arise as a result of this report.

### 4.6 Rural Proofing

This report does not relate to new or amended policy or strategy and as a result rural proofing is not an applicable consideration.

### 5.7 Changes to Scheme of Administration or Scheme of Delegation

No changes are required as a result of this report.

## 5 CONSULTATION

- 5.1 The Executive/Service Directors relevant to the final Internal Audit reports issued have signed off the relevant Executive Summary within Appendix 1.
- 5.2 The Corporate Management Team has been consulted on this report and any comments received have been taken into account.
- 5.3 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Service Director HR, and the Clerk to the Council have been consulted on this report and any comments received have been incorporated into the report.

### Approved by

**Jill Stacey, Chief Officer Audit and Risk** Signature .....

### Author(s)

Name	Designation and Contact Number
Jill Stacey	Chief Officer Audit and Risk Tel 01835 825036
Sue Holmes	Principal Internal Auditor Tel 01835 825556

**Background Papers:** Appropriate Internal Audit files

**Previous Minute Reference:** Audit and Scrutiny Committee 27 November 2018

**Note** – You can get this document on tape, in Braille, large print and various computer formats by using the contact details below. Information on other language translations can also be given as well as provision of additional copies.

Contact us at Internal Audit [intaudit@scotborders.gov.uk](mailto:intaudit@scotborders.gov.uk)

Report	Summary of key findings and recommendations	Recommendations			Status
		H	M	L	
<p>Audit Plan Category: Corporate Governance</p> <p>Subject: Workforce Planning</p> <p>No: 033/007</p> <p>Date issued: 18 December 2018</p> <p>Level of Assurance: Substantial</p>	<p>The purpose of this assurance audit was to review the approach to workforce development in alignment with business and financial planning processes to provide skills, knowledge and competency requirements for service delivery to meet the Council's objectives.</p> <p>The Corporate Management Team has responsibility for the strategic direction and the development of workforce planning as part of their corporate responsibility for Business, Financial and People Planning. The Strategic People Plan 2016-2021 discusses having the right people with the right skills deployed in the right place, and People Planning process is about helping to achieve that match, by analysing current working arrangements, and by identifying future workforce requirements, skills and competencies which are needed to deliver services. Our review shows that People Plans are now more integrated with business and financial planning as outlined in the people plan cycle.</p> <p>The following good practice was found:</p> <ul style="list-style-type: none"> <li>The structure of the People Plan templates allows the process to be applied consistently across services, with HR Business Partners utilising the People Planning Phase 2 template to assist discussions and capture relevant information and develop an action plan where appropriate.</li> </ul> <p>We consider that we are able to provide substantial assurance. Largely satisfactory risk, control, and governance systems are in place. Improvements could be made to the People Planning process through sharing of best practice, lessons learned, resource pooling, actions and initiative, and highlighting cross cutting and corporate issues, etc. across Council Services. This would enhance the alignment of the workforce, business and financial planning processes.</p>	0	0	0	<p>Management have confirmed factual accuracy and accepted the findings of the report, and have confirmed their commitment to progressing the improvements noted in the report.</p>

Report	Summary of key findings and recommendations	Recommendations			Status
		H	M	L	
<p>Audit Plan Category: Internal Controls</p> <p>Subject: Licensing</p> <p>No: 091/004</p> <p>Date issued: 21 December 2018</p> <p>Level of Assurance: Comprehensive</p>	<p>The purpose of this assurance audit was a review of the New Licensing Policy Statement (requirement of law reviewed every 5 years), due to be in place by November 2018, to check that the Council is following best practice through its policies and procedures.</p> <p>The opportunity was taken to combine the audit assurance work with a counter fraud controls assessment on Licensing.</p> <p>A short life working group was established to complete a full review of the existing Licensing Policy Statement, make recommendations to update it, and oversee the public consultation period. Consultation responses were considered and reflected in the final updated Licensing Policy Statement which was approved by the Licensing Board on 26 October 2018 and published on the Council's website on 22 November 2018 in line with statutory requirements. The statutory Annual Functions Report and Annual Financial Report were approved by the Licensing Board in line with legislative requirements.</p> <p>Licensing staff ensure that the Council's processes are compliant with the varied and detailed legislative responsibilities over a wide range of licensed businesses. Our counter fraud controls review and assessment focused on Taxi and Alcohol licenses and there is no evidence to suggest that any fraudulent activity is taking place in order to obtain a license or abuse licensing rules. Validation checks that are currently in place are working well. Some further compliance work such as verification of ID checks and comparing license holders to other Council-held data such as Creditors, Council Tax, Payroll, etc., might provide greater assurance that processes are accurate and secure.</p> <p>Internal Audit considers that the level of assurance we are able to give is comprehensive. Sound risk, control, and governance systems are in place. Some improvements in a few, relatively minor, areas may be required.</p>	0	0	0	Management have confirmed factual accuracy and accepted the findings of the report.

Report	Summary of key findings and recommendations	Recommendations			Status
		H	M	L	
<p>Audit Plan Category: Internal Controls</p> <p>Subject: Earlston High School</p> <p>No: 127/029</p> <p>Date issued: 17 December 2018</p> <p>Level of Assurance: Substantial</p>	<p>The purpose of this assurance audit was to ensure internal financial controls and business administrative procedures are in place to ensure the efficient and effective use of resources in the school establishments.</p> <p>The scope of this audit was to examine and evaluate the key controls in the following areas: Petty Cash Imprests; Inventories; Staffing establishment; Business Continuity Planning; School lets and Income Collection procedures; School Fund; Ordering / Invoice processing procedures; Data Protection / Confidential Waste Management; DSM Budget; Health &amp; Wellbeing.</p> <p>Earlston High School has a current role of 1,053 children and operates from a PPP building; facilities management has been sub-contracted through the SPV to Amey. Devolved School Management (DSM) budget for 2018/19 is ~£4.7m. There is an 88% uptake of ParentPay, which helps to reduce the financial risk within the school.</p> <p>The Head Teacher and Cluster Business Manager are both very experienced members of staff. The school office also has a team of experienced staff who complete the day to day administrative activities for the school. All office staff are fully aware of the need to follow the required SBC policies and procedures. During the course of our visit, we found nothing of major concern regarding the financial procedures, and we were able to share Good Practice from the schools.</p> <p>Internal Audit considers that the level of assurance we are able to give is substantial; largely satisfactory risk, control, and governance systems are in place. There is, however, some scope for minor improvement re the School Fund, and GDPR mandatory training completions. During the audit we have discussed these with relevant Managers to ensure continuous improvement.</p>	0	0	0	Management have accepted the findings of the report and are committed to the implementation of the minor improvements noted in the report, indicating that progress has already been made.

Report	Summary of key findings and recommendations	Recommendations			Status
		H	M	L	
<p>Audit Plan Category: Internal Controls</p> <p>Subject: Eyemouth High School No: 127/030</p> <p>Date issued: 17 December 2018</p> <p>Level of Assurance: Substantial</p>	<p>The purpose of this assurance audit was to ensure internal financial controls and business administrative procedures are in place to ensure the efficient and effective use of resources in the school establishments.</p> <p>The scope of this audit was to examine and evaluate the key controls in the following areas: Petty Cash Imprests; Inventories; Staffing establishment; Business Continuity Planning; School lets and Income Collection procedures; School Fund; Ordering / Invoice processing procedures; Data Protection / Confidential Waste Management; DSM Budget; Health &amp; Wellbeing.</p> <p>Eyemouth High School has a current role of 454 children, and operates from a PPP school building; facilities management has been sub-contracted through the SPV to Amey. The Devolved School Management (DSM) budget for 2018/19 is ~£2.5m. There is an 89% uptake of ParentPay, which helps to reduce the financial risk within the school.</p> <p>The Head Teacher and Cluster Business Manager are both very experienced members of staff. The school office also has a team of experienced staff who complete the day to day administrative activities for the school. All office staff are fully aware of the need to follow the required SBC policies and procedures. During the course of our visit, we found nothing of major concern regarding the financial procedures, and we were able to share Good Practice from other schools.</p> <p>Internal Audit considers that the level of assurance we are able to give is substantial; largely satisfactory risk, control, and governance systems are in place. There is, however, some scope for minor improvements re the School Fund, and GDPR mandatory training completions. During the audit we have discussed these with relevant Managers to ensure continuous improvement.</p>	0	0	0	<p>Management have accepted the findings of the report and have indicated that since the audit teaching staff completed the mandatory GDPR training thus significantly increasing the percentage completion figure, and have made a commitment to implementing the other minor area of improvement.</p>

Report	Summary of key findings and recommendations	Recommendations			Status
		H	M	L	
<p>Audit Plan Category: Internal Controls</p> <p>Subject: Kelso High School</p> <p>No: 127/031</p> <p>Date issued: 17 December 2018</p> <p>Level of Assurance: Substantial</p>	<p>The purpose of this assurance audit was to ensure internal financial controls and business administrative procedures are in place to ensure the efficient and effective use of resources in the school establishments.</p> <p>The scope of this audit was to examine and evaluate the key controls in the following areas: Petty Cash Imprests; Inventories; Staffing establishment; Business Continuity Planning; School lets and Income Collection procedures; School Fund; Ordering / Invoice processing procedures; Data Protection / Confidential Waste Management; DSM Budget; Health &amp; Wellbeing.</p> <p>Kelso High School operates from a new school building, just over one year old, and has a current role of 600 pupils. The Devolved School Management (DSM) budget for 2018/19 is ~£3m. There is a 77% uptake of ParentPay which helps to reduce the financial risk within the school.</p> <p>The Head Teacher and Cluster Business Manager are both very experienced members of staff. The school office also has a team of experienced staff who complete the day to day administrative activities for the school. All office staff are fully aware of the need to follow the required SBC policies and procedures. During the course of our visit, we found nothing of major concern regarding the financial procedures, and we were able to share Good Practice from other schools.</p> <p>Internal Audit considers that the level of assurance we are able to give is substantial; largely satisfactory risk, control, and governance systems are in place. There is, however, some scope for minor improvements re petty cash imprest levels, management of inventories, formal agreement with LIVE Borders relating to school lets, the School Fund, and GDPR mandatory training completions. During the audit we have discussed these with relevant Managers to ensure continuous improvement.</p>	0	0	0	Management have accepted the findings of the report and have made a commitment to progress the minor improvements noted in the report in due course.

Report	Summary of key findings and recommendations	Recommendations			Status
		H	M	L	
<p>Audit Plan Category: Internal Controls</p> <p>Subject: Melrose Primary School</p> <p>No: 128/023</p> <p>Date issued: 17 December 2018</p> <p>Level of Assurance: Substantial</p>	<p>The purpose of this assurance audit was to ensure internal financial controls and business administrative procedures are in place to ensure the efficient and effective use of resources in the school establishments.</p> <p>The scope of this audit was to examine and evaluate the key controls in the following areas: Petty Cash Imprests; Inventories; Staffing establishment; Business Continuity Planning; School lets and Income Collection procedures; School Fund; Ordering / Invoice processing procedures; Data Protection / Confidential Waste Management; DSM Budget; Health &amp; Wellbeing.</p> <p>Melrose Primary School has a current role of 339 children, and is one of the larger primary schools in the region. Within the school building is a Nursery. The Devolved School Management (DSM) budget for 2018/19 is ~£950k. The school ceased operating a Petty Cash imprest in January 2018, as it was no longer required, and there is a 90% uptake of Parentpay, both of which help to reduce the financial risk within the school.</p> <p>The Head Teacher and Administrator are both very experienced members of staff. There is another experienced member of staff within the school office who also carries out administrative activities for the school. Both school office staff are fully aware of the need to follow the required SBC policies and procedures. During the course of our visit, we found nothing of major concern regarding the financial procedures, and we were able to share Good Practice from other schools.</p> <p>Internal Audit considers that the level of assurance we are able to give is substantial; largely satisfactory risk, control, and governance systems are in place. There is, however, some scope for minor improvements re the School Fund, and GDPR mandatory training completions. During the audit we have discussed these with relevant members of staff to ensure continuous improvement.</p>	0	0	0	Management have accepted the findings of the report and are committed to implementing the minor improvements noted in the report, indicating that progress has already been made.

Report	Summary of key findings and recommendations	Recommendations			Status
		H	M	L	
<p>Audit Plan Category: Internal Controls</p> <p>Subject: Greenlaw Primary School</p> <p>No: 128/024</p> <p>Date issued: 17 December 2018</p> <p>Level of Assurance: Substantial</p>	<p>The purpose of this assurance audit was to ensure internal financial controls and business administrative procedures are in place to ensure the efficient and effective use of resources in the school establishments.</p> <p>The scope of this audit was to examine and evaluate the key controls in the following areas: Petty Cash Imprests; Inventories; Staffing establishment; Business Continuity Planning; School lets and Income Collection procedures; School Fund; Ordering / Invoice processing procedures; Data Protection / Confidential Waste Management; DSM Budget; Health &amp; Wellbeing.</p> <p>Greenlaw Primary School has a current role of 65 children, including the Nursery within the school. The Devolved School Management (DSM) budget for 2018/19 is £245k. There is a 96% uptake of Parentpay, which helps to reduce the financial risk within the school.</p> <p>The Head Teacher also has the responsibility for Swinton Primary School. For the purposes of this report all information relates to Greenlaw Primary School only. Both the Head Teacher and the Administrator are very experienced members of staff. The Administrator completes the day-to-day administrative activities for the school. Both members of staff are fully aware of the need to follow the required SBC policies and procedures. During the course of our visit, we found nothing of major concern regarding the financial procedures, and we were able to share Good Practice from other schools.</p> <p>Internal Audit considers that the level of assurance we are able to give is substantial; largely satisfactory risk, control, and governance systems are in place. There is, however, some scope for minor improvements re the Petty Cash Imprest, the School Fund, and GDPR mandatory training completions. During the audit we have discussed these with relevant members of staff to ensure continuous improvement.</p>	0	0	0	<p>Management have accepted the findings of the report, have confirmed that some of the areas of improvement have already been addressed in response to the findings, and have given a commitment that any other outstanding points will be addressed in a timely manner to ensure continuous improvement.</p>

Report	Summary of key findings and recommendations	Recommendations			Status
		H	M	L	
<p>Audit Plan Category: Internal Controls</p> <p>Subject: Eddleston Primary School</p> <p>No: 128/025</p> <p>Date issued: 17 December 2018</p> <p>Level of Assurance: Substantial</p>	<p>The purpose of this assurance audit was to ensure internal financial controls and business administrative procedures are in place to ensure the efficient and effective use of resources in the school establishments.</p> <p>The scope of this audit was to examine and evaluate the key controls in the following areas: Petty Cash Imprests; Inventories; Staffing establishment; Business Continuity Planning; School lets and Income Collection procedures; School Fund; Ordering / Invoice processing procedures; Data Protection / Confidential Waste Management; DSM Budget; Health &amp; Wellbeing.</p> <p>Eddleston Primary is a small rural school with a current role of 46 children. The Devolved School Management (DSM) budget for 2018/19 is £229k. There is a 100% uptake of Parentpay, which helps to reduce the financial risk within the school.</p> <p>The Head Teacher is new to the region, though has vast experience as a Head Teacher from another Local Authority. She is supported by a competent Administrator who completes the day-to-day administrative activities for the school. Both are fully aware of the need to follow the required SBC policies and procedures. We were able to share Good Practice from other schools. During the course of our visit, we found nothing of major concern regarding the financial procedures.</p> <p>Internal Audit considers that the level of assurance we are able to give is substantial; largely satisfactory risk, control, and governance systems are in place. There is, however, some scope for minor improvements re the Petty Cash Imprest, the School Fund, and GDPR mandatory training completions (though the latter is good compared to other schools). During the audit we have discussed these with relevant members of staff to ensure continuous improvement.</p>	0	0	0	Management have accepted the findings of the report and are committed to the implementation of the minor improvements noted in the report.

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### Scrutiny Work Programme 2019

	Review subject	Outcome/Lead Officer	Provisional Meeting Date
1	Councillors Role in staff matters	Presentation giving an update on the role, guidance and training given to Councillors and officers on staff disciplinary appeals and employment tribunals, and the monitoring of these decisions. (Lead Officer(s): Clair Hepburn, Service Director HR, and Iain Davidson, Employee Relations Manager)	14 February 2019 - Confirmed
2	Europcar contract	Presentation on the Europ Car Contract (Lead Officer: David Robertson, Chief Financial Officer)	14 February 2019 – Confirmed
3.	Health and Social Care Integration – Follow up	Agreed to receive an updated report in January 2019. (Minute of 14 May 2018 refers). (Lead Officer: Robert McCulloch Graham, Chief Officer Health and Social Care Integration).	18 April 2019 - Confirmed.
4.	Delivery of the IT Strategy and Plan within Scottish Borders Council – <b>follow up</b>	Delivery of the Council's IT Strategy and Plan (Minute of 23 August 2018 refers). (Lead Officer: David Robertson, Chief Financial Officer)	18 April 2019 – Confirmed
5.	ALEOs and Live Borders	Presentation on the performance monitoring process through the Major Contracts Governance Group (Lead Officer: Philip Barr, Executive Director)	13 May 2019 - Confirmed
7.	Community Access to Schools – <b>follow up</b>	Scoping paper (para 3.6 of Minute of 19 April 2018 refers). (Lead Officer: Martin Joyce, Service Director Assets and Infrastructure.	6 June 2019 - Confirmed
8.	Amey – Trunk Roads Management	Presentation from Amey Scotland on trunk roads management. (Lead Officer(s): Martin Joyce, Service Director Assets & Infrastructure, and David Girdler, Chief Officer – Roads)	6 June 2019 – Confirmed.

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## DISCIPLINARY PROCEDURES FOR MISCONDUCT

### Contents

<b>SUMMARY DISCIPLINARY PROCEDURES FOR MISCONDUCT</b>	<b>1</b>
<b>FULL DISCIPLINARY PROCEDURES FOR MISCONDUCT</b>	
<i>Section 1</i>	
<b>General</b>	
1. Scope of the procedures	3
2. Employer / Employee responsibilities	3
3. Purpose of the procedures	3
4. Principles	4
5. Responsibility for the procedures	4
6. Associated policies and procedures	5
<i>Section 2</i>	
<b>The 3 stages of managing misconduct</b>	
7. The 3 stages of managing misconduct	6
7.1 Stage 1 – Day to day line management	6
7.2 Stage 2 – Fact finding and investigations	6
7.3 Stage 3 – Formal disciplinary hearings	6
<i>Section 3</i>	
<b>Day to day line management</b>	
8. Managing minor misconduct	7
<i>Section 4</i>	
<b>Fact finding and investigations</b>	
9. Purpose of fact finding and investigations	8
10. Principles of fact finding and investigations	8
11. Record keeping and confidentiality	8
12. The role of the line manager in investigations	9
13. Carrying out fact finding and investigations	9
14. Investigation timescales	10
15. Professional misconduct	11
16. Police enquiries, criminal charges or offences	11
17. Grievance cases	11
18. Special paid leave	11
<i>Section 5</i>	

**Formal disciplinary hearings**

19. Equal opportunities	13
20. Misconduct	13
21. Gross misconduct	13
22. Levels of disciplinary action	13
23. Arranging a disciplinary hearing	14
24. Employee representation	15
25. Inability to attend the disciplinary hearing	16
26. Holding the disciplinary hearing	16
• Overview	16
• Participants in the hearing	16
• Introducing the hearing	17
• Presenting the management complaint	17
• Presenting the employee's response	17
• Final questions and clarification	17
• Summing up	18
• Adjournments	18
• Outcome of the disciplinary hearing	18
• Follow-up action	19
27. Mediation	19
28. Dismissal	19
29. Fair dismissal	20
30. Dismissal procedure	20
31. Periods of notice	20
32. Alternatives to dismissal (action short of dismissal)	21

*Section 6*

**Appeals**

33. Right to appeal	22
34. The appeals panel	22
35. Arranging an appeal hearing	22
36. Hearing the appeal	23
37. Council Staffing Appeals Committee	23
38. Decisions of the appeals panel and the Council Staffing Appeals Committee	24

**Appendices**

1. Flowchart for managing misconduct	25
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2. Sample letter template following a counselling and review meeting	27
3. Managers authorised to take disciplinary action and appeals	28
4. Templates for investigations	29
1. Sample letter to attend an investigation meeting	29
2. Note of investigation meeting	30
3. Statement from witness / person under investigation	32
4. Investigation report	34
5. Guidelines on requirements to notify registered bodies	37
1. Guidelines	38
<i>Scottish Social Services Council:</i>	
2. Sample letter to accompany form to SSSC	42
3. Notification form to SSSC	43
4. Sample letter to employee re notification to the SSSC	47
<i>General Teaching Council:</i>	
5. Sample letter to accompany form to GTC	48
6. Notification form to GTC	49
7. Sample letter to employee re notification to the GTC	51
6. Sample letter confirming period of special paid leave	52
7. Examples of misconduct and gross misconduct	54
8. Sample letters for disciplinary hearings	56
1. Invitation to a disciplinary hearing	57
2. Outcome of the disciplinary hearing – no disciplinary action	59
3. Outcome of the disciplinary hearing – 1 <sup>st</sup> or final warning	60
4. Outcome of the disciplinary hearing – normal dismissal	61
5. Outcome of the disciplinary hearing – summary dismissal	63
9. Employee appeal form	65
10. Holding an appeal hearing	67
11. Format for preparing papers for the Council Staffing Appeals Committee.	69
1. Appeal papers: Management template	70
2. Appeal papers: Employee template	72

## SUMMARY DISCIPLINARY PROCEDURES FOR MISCONDUCT

This section is a simplified summary only and not a substitute for the full disciplinary procedures.

### Equal opportunities statement

1. Scottish Borders Council is committed to treating all employees fairly. Managers and staff will not discriminate directly or indirectly on grounds of race, colour, ethnic or national origin, religion or belief, gender, gender reassignment, sexual orientation, marital status, disability, age, or trade union membership and activity.

### Employee representation

2. Employees have a right to be accompanied in formal investigations and at disciplinary hearings and appeals, for advice and support. This will normally be by either a workplace colleague or an accredited trade union representative. The choice of workplace colleague is subject to approval by the commissioning manager but all reasonable requests will be approved. If the employee's nominated trade union representative is unable to attend an investigatory meeting, disciplinary hearing or appeal within a reasonable period, the commissioning manager may, after taking advice from HR, instruct that the interview, hearing or appeal take place with an alternative accredited trade union representative. In cases which may result in dismissal, involvement of the employee's solicitor as a representative may be allowed at the discretion of the manager hearing the case (see para 24).

### Minor misconduct

3. Cases of minor misconduct are normally handled through counselling by line managers initially, rather than through disciplinary action. This can involve setting targets or standards, together with timescales for improvement. Conduct is then monitored regularly for a period. A record will be kept for a period of 6 months from the end of the monitoring period.

### More serious misconduct

4. If minor misconduct does not improve sufficiently, or more serious misconduct occurs, a short fact finding exercise or investigation will take place to establish whether to call a disciplinary hearing. Where appropriate the employee may be required to take special paid leave during this period. In principle, investigations will be completed within 1 working week and, in more complex cases, will not last longer than 6 weeks. However, it is recognised in some more complex cases the investigation may take longer.

### Disciplinary hearings

5. The disciplinary hearing is the opportunity to review the complaint against the employee, establish the facts and for the manager to decide whether or not disciplinary action needs to be taken. Attendance at a disciplinary hearing does not automatically mean that disciplinary action will be taken.
6. Employees will be given at least 2 weeks' notice in writing of their disciplinary hearing and given reasons for their hearing. They can prepare a written statement before the hearing and bring witnesses.
7. At the hearing, the manager will explain what will happen during the hearing and outline the complaint against the employee.

8. The manager will call the investigating officer and witnesses to present evidence and answer questions from both the manager and the employee.
9. The investigating officer will present their findings and the employee will be asked to respond.
10. The investigating officer and the employee can bring in any witnesses, to present evidence and answer questions.
11. The hearing will then adjourn for a short period so that the manager can consider all that has been said and review any documents that have been presented for the hearing.
12. When deciding whether or not to discipline the employee, the manager will consider whether the complaint has been established, the employee's current disciplinary record, general conduct, his/her response to the complaint, any mitigating circumstances and whether it is reasonable to discipline in this case.
13. Wherever possible, the manager will reconvene to advise the employee verbally of his/her decision. It will normally be one of the following:
  - case dismissed
  - disciplinary action
  - Misconduct established but no disciplinary action.
14. There are four levels of disciplinary action which can be taken. These remain 'live' for a period of time and any further misconduct can result in a higher level of disciplinary action being taken at another hearing:
  - Verbal warning - remains live for 6 months
  - Written warning - remains live for 12 months
  - final written warning - remains live for 18 months
  - dismissal
15. Gross misconduct may result in summary dismissal without notice and without pay in lieu of notice. Occasionally, the Council may propose an alternative to dismissal, for example demotion together with a final warning.
16. The result of the disciplinary hearing will be confirmed in writing to the employee, normally within 1 week of the hearing.
17. Employees have the right to appeal against disciplinary action if they believe it is wrong or unjust. Their letter will tell them who they can appeal to and they need to do so in writing within 2 weeks of the date of the letter (a template appeal form is included in the full procedures).

## Appeals

18. Appeals will be heard as soon as practically possible and in principle will be heard within 4 weeks of receiving the employee's appeal form. The employee will be given at least 2 weeks' notice of the hearing.
19. If the disciplinary hearing involved a Director, or resulted in a decision to dismiss, the appeal will be heard by the Council Staffing Appeals Committee, which is a panel of elected members.

20. The outcome will be confirmed in writing and there is no further right to appeal within the Council.

### **Professional misconduct**

21. In cases of professional misconduct, the relevant professional bodies will be notified (eg the General Teaching Council, the Scottish Social Services Council). The Social Services Council also requires the employee to report to them when an allegation is made.

## **SECTION 1: GENERAL**

### **1. SCOPE OF THE PROCEDURES**

- 1.1 These disciplinary procedures apply to all employees of Scottish Borders Council (including those on teaching conditions) with the exception of the Chief Executive.
- 1.2 The procedures exclude Agency staff, freelance or self-employed people and anyone else who is not directly employed by the Council under a contract of employment.

### **2. EMPLOYER / EMPLOYEE RESPONSIBILITIES**

- 2.1 Scottish Borders Council recognises that the effective delivery of services is dependent on acceptable standards of conduct from all its employees. The Council acknowledges its responsibilities as an employer to determine appropriate standards of conduct and to make employees aware of these standards through its managers.
- 2.2 Employees also have a responsibility to familiarise themselves with the rules and procedures relating to their employment and to maintain acceptable standards of conduct.
- 2.3 The main sources of reference regarding conduct are listed below, as updated and re-named from time to time. The list is neither exhaustive nor exclusive:
- Terms and conditions of employment
  - Induction process
  - Departmental/service instructions and procedures
  - Department standards
  - Managers' verbal instructions
  - HR Policies and Procedures
  - Wellbeing and Safety Policies and Procedures
  - Scottish Borders Council Code of Conduct for Employees
  - Professional Codes of Conduct (e.g. General Teaching Council for Scotland Code of Practice on Teacher Competence and Code of Professionalism and Conduct and the Scottish Social Services Council Code of Practice for Social Service Workers)
  - Financial Regulations
  - Scheme of Delegation
  - Policy on the use of e-mail and the internet
  - Data Protection Act Code of Practice.
  - Alcohol and substance abuse

### **3. PURPOSE OF THE PROCEDURES**

- 3.1 Many cases of minor misconduct are best handled informally or in counselling meetings and should not progress to a disciplinary hearing. Formal disciplinary hearings can be both time-consuming and unsettling for managers and employees and so should only be used when normal good practice management does not achieve the required improvement or change in conduct.
- 3.2 These procedures are intended to enable managers to deal with issues of misconduct in a structured and consistent way by:

- resolving cases of minor misconduct without recourse to disciplinary action,
- taking formal disciplinary action if an employee's misconduct gives rise to more serious concern or does not improve sufficiently within a reasonable period.

#### **4. PRINCIPLES**

- Minor issues of misconduct will normally be handled as part of positive day to day line management, without recourse to disciplinary action.
- If disciplinary action is considered necessary, it will be used to correct conduct rather than to punish employees.
- All employees must be treated fairly and with dignity. The Council will not tolerate discrimination under equal opportunities legislation (see para 19).
- Disciplinary hearings will only be held after fact-finding or an investigation has taken place.
- Attending a disciplinary hearing does not mean that disciplinary action will automatically be taken.
- Disciplinary hearing letters will clearly define if the allegations fall within misconduct or gross misconduct.
- At any formal investigatory meeting, disciplinary hearing or appeal, employees have the right to be accompanied (see para 24).
- Disciplinary action must be fair, reasonable and justifiable.
- Before taking any form of disciplinary action, managers will take account of any mitigating circumstances. Each disciplinary case will be treated on its own merits, taking into account individual circumstances.
- Employees have the right to appeal against any disciplinary action taken.
- Details of the disciplinary case will remain confidential to those involved and individuals must not discuss the case outwith the formal process, except with their representative.
- Employees will not be dismissed for a first breach of discipline, except in the case of gross misconduct.

#### **5. RESPONSIBILITY FOR THE PROCEDURES**

- 5.1 The Chief Executive and each Director is responsible for applying these disciplinary procedures within their Department and for ensuring that line managers:
- are fully competent to manage minor misconduct through positive day to day line management without unnecessary recourse to formal disciplinary action
  - understand which level of discipline they are authorised to give
  - have the skills and understanding necessary to manage formal disciplinary cases effectively.
- 5.2 There may be occasions when it is appropriate for investigations and/or disciplinary hearings to be conducted by Officers from another Department and these employees must also be competent in the process.
- 5.3 These disciplinary procedures represent a process that can lead to dismissal and is subject to sometimes complex employment law. The procedures therefore need to be followed carefully and diligently by managers, as the responsibility for carrying out disciplinary action rests solely with the authorised managers. Specialist advice and coaching is available from the Council's HR staff at each stage. Dismissal cannot take place without the involvement of HR.
- 5.4 The Service Director Human Resources has delegated authority from the Council to make minor changes to these procedures in agreement with the relevant trade unions.
- 5.5 The terms of these procedures will be reviewed at the request of either Scottish Borders Council or the trade unions.

## **6. ASSOCIATED POLICIES AND PROCEDURES**

- 6.1 Other policies, procedures and guidelines need to be followed when dealing with other issues, such as:
- Poor performance (which can also be linked to misconduct in some instances)
  - ill health
  - redundancy
  - retirement
  - a statutory duty or restriction which prevents the employment being continued (eg where a driver loses his/her driving licence and is banned from driving).
  - ending fixed-term contracts.
  - Alcohol and substance abuse

HR should be contacted for further advice.

**SECTION 2: THE 3 STAGES OF MANAGING MISCONDUCT****7. THE 3 STAGES OF MANAGING MISCONDUCT**

There are 3 stages in the management of conduct. These are summarised here and in the flowchart at **Appendix 1**. They are explained in more detail in the following sections of the procedures:

**7.1 Stage 1 – Day to day line management**

Often all that is needed to correct misconduct is for a manager to draw the matter to the attention of the employee, explain why it is unacceptable and clarify the standards required. The manager should keep in the employee file a record of the meeting, in case it is needed for future reference, for example if conduct does not improve. The employee files must be securely stored. The record will be kept for a period of 6 months from the date of the meeting or the end of the monitoring period, whichever is the later.

See Section 3 for more details.

This is not disciplinary action but it is an important first stage in managing conduct positively.

**7.2 Stage 2 – Fact finding and investigations**

If a line manager criticises an employee's conduct, s/he needs to have facts or evidence to support the criticism. See Section 4 for more details.

For many matters of misconduct, facts or evidence can be readily established by, for example, reviewing employee records (such as absence, timekeeping etc) or through discussion with the employee and only a brief investigation will be required.

For more serious incidents, a more detailed investigation may be required which can involve witnesses. The purpose of this investigation is to establish initially whether there is a case for the employee to answer at a disciplinary hearing.

If it is apparent that the issue is minor and readily corrected through discussion between the manager and his/her employee, Stage 1 above should be followed. If, however, the investigation indicates that the issue is more serious, Stage 3 below should be followed.

**7.3 Stage 3 – Formal disciplinary hearings**

If the misconduct is sufficiently serious, or if day to day line management has not resulted in satisfactory conduct, a disciplinary hearing is normally held. See Section 5 for more details. This can result in a formal warning being issued to the employee which remains live on his/her personal file for a specified period of time or in dismissal.

Employees have the right to appeal against a disciplinary warning or dismissal if they believe the warning is wrong or unjust (see Section 6).

The disciplinary hearing is formal. If the misconduct continues, further disciplinary hearings can be held which may lead to dismissal in due course.

For cases of gross misconduct, employees may be dismissed at their first hearing.

**SECTION 3: DAY TO DAY LINE MANAGEMENT**

## MANAGING MINOR MISCONDUCT

- 8 The Council supports a proactive, positive style of line management. Minor issues of misconduct should be dealt with by the appropriate manager through counselling and/or training, with an emphasis on improving standards and learning from mistakes, rather than apportioning blame.
- 8.1 Line managers are expected to meet both informally and formally with their employees on an on-going basis. Line managers should take the opportunity to re-affirm standards and expectations, and give employees feedback on how they are getting on. Employees should feel comfortable asking questions, raising work issues and discussing anything that impacts on them.
- 8.2 Any minor issues of misconduct need to be dealt with promptly by the line manager through face to face discussion. An informal approach is often all that is needed to correct unacceptable behaviours.
- 8.3 Where the informal approach does not succeed and conduct is still unacceptable, formal counselling and review meetings need to be called. In these meetings the line manager should explore the reasons for the misconduct, and offer guidance, counselling and/or training as appropriate. This can also involve the setting of targets and timescales for improvement.
- 8.4 These meetings should be recorded and a copy kept by both parties, so that expectations and commitments are clearly understood. It may be necessary at this stage for the line manager to caution the member of staff that disciplinary action may become necessary if there is insufficient improvement or change in behaviour (see **Appendix 2** for template letter).
- 8.5 These meetings are not disciplinary hearings and will not result in a disciplinary warning. As such, they are normally held on a one to one basis and the employee does not have the right to bring an employee representative or to appeal. However, in the event that the line manager is accompanied the employee is also entitled to bring an accredited trade union representative/ workplace colleague (see para 24)..
- 8.6 If the counselling and review meetings lead to the required improvement, the manager should give positive feedback to the employee and encourage him/her to keep up these standards. Support and monitoring should continue as appropriate.
- 8.7 If the counselling and review meetings do not result in acceptable standards of conduct, the line manager should consider progressing to the formal process: an investigation and potentially a formal disciplinary hearing. S/he is required to contact HR before making arrangements for a disciplinary hearing.

## **SECTION 4: FACT FINDING AND INVESTIGATIONS**

### **9. PURPOSE OF FACT FINDING AND INVESTIGATIONS**

9.1 The purpose of fact finding and investigations is to establish sufficient basic facts to enable a management decision to be made on whether:

- the matter relates to conduct (ie behaviour) or a different issue. Refer to the relevant policy if the matter does not concern misconduct
- to dismiss the case
- refer the matter back for counselling (see Section 3)
- to hold a disciplinary hearing.

### **10. PRINCIPLES OF FACT FINDING AND INVESTIGATIONS**

- Be efficient and make the investigation a priority.
- Stay open-minded and objective.
- Do not let personal feelings – yours or other people’s – get in the way.
- Treat the employee with respect at all times.
- Keep it short – only collect sufficient relevant information to establish how to proceed
- Be discrete – retain confidentiality (see para 11) and comply with the Data Protection Act
- Keep written records of relevant meetings, discussions, emails etc.

### **11. RECORD KEEPING AND CONFIDENTIALITY**

11.1 All records and papers concerning the investigation and any disciplinary hearing or appeal must remain confidential\*.

11.2 Confidentiality must also be maintained in verbal discussions so that only those who need to be involved, are involved. Apart from maintaining respect for the individual employee, confidentiality protects the integrity of the process so that, as far as possible, objectivity can be achieved at every stage.

11.3 In addition, some information gathered from or about individuals as part of the investigation might be confidential to those concerned (eg medical details or client information). In these cases, care should be taken to refer to these people in an anonymised way eg Client A, Client B etc. If in doubt, seek further advice.

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\* The records must be kept in accordance with the Data Protection Act, which includes the employee’s right to request access to certain data.

## 12. ROLE OF THE LINE MANAGER IN INVESTIGATIONS

- 12.1 If the matter requires an investigation, the line manager should inform the employee of the complaint, and advise him/her that there will be an investigation and the expected timescales.
- 12.2 In most cases, the line manager will be responsible for organising the investigation and then Chair any disciplinary hearing. The line manager, taking advice from HR, will commission someone to act as an investigating officer, The commissioning manager will chair the disciplinary hearing See **Appendix 3** for a list of managers authorised to take disciplinary hearings.
- 12.3 At all times, the line manager needs to demonstrate fairness. His/her decision on the most appropriate follow-up action (see para 9) must be both reasonable and justifiable. As such there may be circumstances in which alternatives to 12.2 are preferable, for example:
- the line manager could carry out the investigation but refer the potential disciplinary hearing to a colleague or his/her senior manager
  - his/her senior manager could commission a different investigating officer and chair any disciplinary hearing (ie no line manager involvement)
  - his/her senior manager could refer the case to another Officer who undertakes (or commissions) the investigation and chairs any hearing.
- 12.4 In any case if, without pre-judging the case, the misconduct appears to have the potential to result in disciplinary action which is beyond the authority of the line manager, s/he should refer the matter to his/her senior manager.

## 13. CARRYING OUT FACT FINDING AND INVESTIGATIONS

- 13.1 The extent of any fact finding exercise or investigation is determined by the apparent seriousness and complexity of the matter. In all cases, the investigation should be completed promptly. More detailed guidance on investigating complex cases is available on the intranet or from HR.
- 13.2 For a range of minor day to day matters, only a simple fact finding exercise is needed. Example:
- The line manager thinks that an employee is not letting him/her know when s/he is taking odd days of sick leave. The fact finding exercise may involve checking whether the employee is reporting to someone else (eg a secretary or a colleague) and checking the attendance records. If the employee is new, the most appropriate action may be a counselling meeting, where the manager checks the employee's understanding of the procedures for reporting in sick, and the correct procedures are clarified.*
- 13.3 Where the minor misconduct continues (despite the counselling meeting above) or a more serious incident occurs (including gross misconduct), the investigation is likely to be more extensive. Examples:
1. *The line manager has monitored conduct over a 6 month period and met with the employee about his/her lateness. The line manager gathers and reviews records of the employee's timekeeping and reasons for lateness to date before deciding whether to progress to a disciplinary hearing.*

2. *There have been complaints that an employee has been swearing and shouting at colleagues. The investigation is likely to include interviewing and recording meetings with the employee, the affected colleagues and witnesses. As soon as it is clear that a disciplinary hearing is justified, arrangements can be put in place. In some instances, consideration may be given to sending the employee home on full pay (ie special paid leave – see para 18) while the investigation takes place.*
- 13.4 If the commissioning manager decides to use an investigating officer, s/he must provide a clear remit before the investigation starts. If the allegations are unclear at the start, the investigation has the potential to become unfocused and lengthy.
- 13.5 The investigating officer should only compile sufficient information and evidence for a management decision to be reached on whether a disciplinary hearing is necessary. S/he should limit him/herself to collecting relevant information and in no way attempt to draw conclusions about potential disciplinary action or otherwise stray into the business of the disciplinary hearing.
- 13.6 Investigations may need to include interviews with the key people involved and the gathering of written statements and other material. See **Appendix 4** for templates to support an investigation.
- 13.7 The line manager/ commissioning manager will review the information gathered in the investigation and decide on the appropriate action to take (see para 9). This can include one or more of the following options:
- to dismiss the case (no record of the investigation will be kept on the employees file and the report will be destroyed)
  - to deal with the matter through counselling and review
  - to progress to a formal disciplinary hearing
- 13.8 Some incidents may need to be investigated by those who have legal, regulatory or policy responsibilities and have particular obligations to meet, for example Internal Audit or Social Work. In these cases the appropriate investigative processes and requirements may have to take precedence.

#### **14. INVESTIGATION TIMESCALES**

- 14.1 Investigations should be given priority over other work as far as possible, as undue delays can be detrimental to both the employee and the workplace. Investigations should start promptly and be completed as soon as possible.
- 14.2 In relatively simple cases it is expected that an investigation will be concluded within **1 week**. For more complex cases, the investigation may take longer to complete but should not exceed 6 weeks, other than in exceptional circumstances.
- 14.3 There may be occasions when an investigation is delayed due to the intervention of an external agency, such as the Police or the Social Work Department. Advice should be sought in such circumstances from HR and/or Legal Services.

## 15. PROFESSIONAL MISCONDUCT

- 15.1 Where a line manager has concerns about an employee's professional conduct, his/her integrity, or suitability for a position of trust in relation to children, young people or vulnerable adults, the manager must notify HR and consider notifying the appropriate 3<sup>rd</sup> party organisation. Guidance is provided at **Appendix 5**.

## 16. POLICE ENQUIRIES, CRIMINAL CHARGES OR OFFENCES

- 16.1 The Council can carry out an internal investigation (or disciplinary hearing) into a matter which is the subject of a police investigation or which awaits the outcome of a court case. The fact that a police investigation is taking place does not usually mean the postponement of a management investigation and/or subsequent hearing.
- 16.2 No action should be taken, however, which might prejudice or undermine a police enquiry. If there is any suggestion that either the management investigation or the disciplinary hearing should be postponed, this must be discussed with HR in order that appropriate correspondence can be set up with the Police or Procurator Fiscal to enable an audit trail to be established.
- 16.3 If an employee is charged with, or convicted of, a criminal offence which is not related to their employment, this is not in itself reason for disciplinary action. However, after investigation, a formal hearing may be warranted where consideration is given to the seriousness and impact of the offence or allegation in relation to the employee's job and/or contract of employment.

## 17. GRIEVANCE CASES

- 17.1 If the employee raises a formal grievance during the investigation which is related to the case, consideration should be given to either:
- suspending these procedures until the grievance procedure has been completed
  - considering the grievance during the disciplinary process
  - continuing the disciplinary process but with, for example, a different disciplining manager.
- 17.2 This decision should be taken by HR, who may consider other variations which enable the issues to be progressed fairly and reasonably.
- 17.3 If an employee raises a grievance which is not considered wholly genuine or may be vexatious (eg perhaps for the purpose of delaying the progress of these procedures), this may be regarded as misconduct and subject to disciplinary action. See the Grievance Policy and Procedures.

## 18. SPECIAL PAID LEAVE

- 18.1 In some cases of misconduct (for example potential gross misconduct), a period of special paid leave may be necessary. It can only be given by an authorised manager after advice from HR. See **Appendix 3** for authorised managers and **Appendix 6** for a sample letter. This period of special paid leave (or 'suspension') takes place when it is important that the employee is not in the workplace, usually as a matter of urgency.

- 18.2 Special paid leave does not form part of the disciplinary process; it is not disciplinary action and does not imply any pre-judgement of the case. The employee continues to be paid his/her normal pay during this period.
- 18.3 The reasons special paid leave include instances where the employee:
- could adversely influence or interfere with the investigation
  - is considered disruptive, a threat to other employees or to the organisation
  - is apparently unfit for work and so a danger to him/herself and/or others (in which case an occupational health assessment should also be arranged to obtain advice about the individual's health at work)
  - is reasonably believed to be incapable of carrying out their duties because they are under the influence of alcohol or drugs
  - is accused of bullying, harassment or victimisation.
- 18.4 The line manager, or other appropriate manager, will speak directly to the employee and then write within **5 working days** (see **Appendix 6**) to confirm:
- the reasons for the special paid leave
  - its start date and its anticipated end date
  - the name of a 'support person' who the employee can contact for support during the period off work. A support person's role is to keep in contact with the employee and to monitor their welfare in case additional support is required. The support person can also provide responses to questions on issues such as process but they should not discuss the case with the individual.
- 18.5 If the employee is a trade union representative, a discussion will take place with an official employed by the trade union, after obtaining the employee's agreement as to who the matter will be reported to within the union. If the employee gives their agreement, that discussion will take place before any action is taken in respect of the employee.
- 18.6 Periods of special paid leave will be kept under review by the manager, normally at maximum intervals of **2 weeks**.
- 18.7 It is recognised that an extended period of special paid leave can be detrimental and, as such, care must be taken to keep the period of absence from work as short as possible. The manager can end the period at any time, once the reason for the special paid leave no longer applies.
- 18.8 As an alternative to special paid leave, consideration may be given to temporary redeployment to a different role or location if appropriate.
- 18.9 The employee or any witnesses should not discuss the case with anyone else in the workplace other than the 'support person', line manager, their trade union representative, a workplace colleague acting on their behalf in terms of paragraph 24.1 or HR during this period.
- 18.10 The manager should maintain contact with the employee whilst on special paid leave.. Payslips and other information that would normally be issued whilst in the workplace will be forwarded to the employee at their home, or to them at their alternative workplace. The employee should not feel isolated from the workplace during this period.

## SECTION 5: FORMAL DISCIPLINARY HEARINGS

### 19. EQUAL OPPORTUNITIES

- 19.1 Disciplinary hearings are held and disciplinary action taken in a fair and consistent manner, recognising that each case is treated on its merits, taking into account individual circumstances. Due regard is given to an employee's current disciplinary record, work record, length of service, their personal and any domestic circumstances etc which may explain an employee's behaviour.
- 19.2 All employees are entitled to be treated fairly. Managers must not discriminate directly or indirectly on grounds of race, colour, ethnic or national origin, religion or belief, gender, gender reassignment, sexual orientation, marital status, disability, age, or trade union membership and activity.
- 19.3 If any employee has difficulty understanding or complying with the arrangements for disciplinary hearings, s/he should contact his/her line manager, a member of HR or a trade union representative at the earliest opportunity for appropriate support.

### 20. MISCONDUCT

- 20.1 Employees cannot be dismissed for a first breach of discipline, except in the case of gross misconduct. Examples of misconduct are at **Appendix 7**.
- 20.2 Where the misconduct is of a minor nature, employees normally participate in counselling and review meetings before being called to a disciplinary hearing. Managers must ensure that the basic facts are established, an appropriate level of investigation is carried out and that advice is obtained from HR, before deciding to progress to a disciplinary hearing.
- 20.3 Having received one disciplinary warning, any further incidents of misconduct during the period that the warning is 'live', may result in a higher level of disciplinary action being taken at the next disciplinary hearing.

### 21. GROSS MISCONDUCT

- 21.1 'Gross misconduct' is behaviour that, in the view of the Council, seriously undermines the contract between the Council and the employee (see examples of gross misconduct at **Appendix 7**).
- 21.2 In such circumstances a disciplinary warning is not normally appropriate because it is no longer reasonable to allow the employee to continue to work. The normal outcome is dismissal without notice (ie 'summary dismissal') unless 'action short of dismissal' (see para 32) is considered to be a feasible alternative by the Council.

### 22. LEVELS OF DISCIPLINARY ACTION

22.1 Disciplinary action is intended to be corrective rather than a punishment. It can start at any level, depending on the following:

- the nature and seriousness of the misconduct
- the employee's overall employment record including any current disciplinary warnings
- any mitigating circumstances
- what is reasonable and justifiable in the circumstances.

22.2 There are four levels of disciplinary action which can be taken:

**Verbal warning  
(6 months)** This is the first stage of disciplinary action and is used for less serious disciplinary offences. This level of warning remains live on an employee's personal file for 6 months.

If conduct does not meet the required standards within this period, a further disciplinary hearing may result in a final warning.

**Written warning  
(12 months)** This is the second stage of disciplinary action. This level of warning remains live on an employee's personal file for 12 months<sup>†</sup>.

This warning can be given after a verbal warning when there is insufficient improvement in conduct during the period in which the verbal warning is in force. If the employee's conduct does not meet the required standards within the live period, the next disciplinary hearing can result in dismissal.

The disciplinary process can also start at the Written warning level. This can happen when one or more incidents take place which are sufficiently serious to require starting at a higher level of warning than the verbal warning. Further misconduct within 12 months can result in a Final Written Warning.

**Final Written Warning  
(18 months)** This is the third stage of disciplinary action. This level of warning remains live on an employee's personal file for 18 months<sup>‡</sup>.

This warning can be given after a verbal or written warning when there is insufficient improvement in conduct during the period in which the prior warning is in force. If the employee's conduct does not meet the required standards within the live period, the next disciplinary hearing can result in dismissal.

The disciplinary process can also start at the Final warning level. This can happen when one or more incidents take place which are sufficiently serious to require starting at a higher level of warning than the verbal or written warning. Further misconduct within 18 months can result in the employee's dismissal.

**Dismissal** Dismissal for misconduct is normally preceded by a lower level of warning.

However, in the case of gross misconduct, dismissal may be regarded as the appropriate course of action without any prior warnings. This is called 'summary dismissal' (see para 28.3). There is no notice given for a summary dismissal.

## 23. ARRANGING A DISCIPLINARY HEARING

23.1 The disciplining manager must contact HR **before** any disciplinary hearing is arranged for advice on the case. This is to ensure that:

- all appropriate steps have been taken
- sufficient investigation has taken place to establish whether to proceed to a disciplinary hearing
- advice is given on the fair application of the disciplinary procedures.

23.2 **Only managers who are authorised to discipline staff can take forward a disciplinary case.** If it is considered that disciplinary action may need to be taken at a level higher than the authority of the line manager, a more senior manager must chair the disciplinary hearing.

23.3 The person who chairs the disciplinary hearing ("the Chair") is responsible for ensuring that all appropriate arrangements are made for the hearing and that all the necessary people are able to attend, including any management witnesses and advisors.

23.4 **The Chair may be accompanied by a member of HR, who provides professional advice. Where appropriate a legal advisor may be required.** The hearing should be recorded, so a note taker may also be present.

23.5 The Chair will give the employee at least **2 weeks'** notice in writing of the hearing (see Appendix 8 – Letter 1). The letter shall include:

- the complaint against the employee
- the date, time and venue of the hearing
- the employee's right to be accompanied (see para 24)
- the employee's right to call witnesses and the timescales for submitting a written response to the case together with any supporting documentary evidence
- the procedure that will be followed during the hearing
- the fact that disciplinary action (or dismissal) may result from the hearing.

23.6 A copy of any management report or investigation report will be sent to the employee in advance of the hearing and, wherever possible, with his/her letter.

23.7 The employee is required to submit any written evidence s/he intends to refer to at the hearing and advise the Chair of the hearing of the names of any witnesses s/he would like to call, at least **4 days** prior to the hearing.

23.8 Where a disciplinary hearing is to be convened for a trade union representative, after obtaining the employee's agreement, the case will be discussed with a senior trade union representative or full-time official prior to the hearing as to who the matter will be reported to within the union.

## 24. EMPLOYEE REPRESENTATION

24.1 Employees have a statutory right to be accompanied to formal disciplinary hearings and appeals by someone who is either:

- a workplace colleague
- an accredited trade union representative who is trained or experienced in being a representative in disciplinary hearings (as certified by the trade union)
- an official employed by a trade union.
- Solicitors will not be accepted as representatives, except in certain hearings that may lead to dismissal where they may be allowed as companions at the discretion of the Council. This will apply mainly when a decision to dismiss will potentially have a wider effect on the employee than the loss of their employment with the Council, for example where it will lead to a referral to the General Teaching Council or Scottish Social Services Council.
- No one else is permitted

The accredited trade union representative/ workplace colleague can address the meeting or hearing to put and sum up the employees case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. They do not, however, have the right to answer questions on the worker's behalf...

24.2 If the employee wishes to be accompanied, s/he needs to make a request to the Chair, giving the name of the person proposed. All reasonable requests will be approved. Exceptions can include a colleague whose attendance might create a conflict of interest.

24.3 No one is obliged to agree to a request by the employee to accompany them. If they do agree, they will be given reasonable time off to familiarise themselves with the case. Further advice is available from HR on the role and responsibilities of the accompanying person.

## **25. INABILITY TO ATTEND THE DISCIPLINARY HEARING**

- 25.1 If the accredited trade union representative/ workplace colleague cannot attend the hearing, in principle it can be re-scheduled once within **2 weeks**.
- 25.2 If an employee is unable to attend the hearing, s/he must contact the Chair of the hearing at the earliest opportunity to explain the reason. If the Chair, in consultation with HR as appropriate, considers the reason to be valid and sufficient, the hearing will be postponed. The hearing should be rearranged as soon as possible taking into account the circumstances for the delay.
- 25.3 It is recognised that employees and witnesses may feel stress at the prospect of attending a disciplinary hearing. However, hearings will not normally be postponed for longer than **2 weeks** as a result of any stress related sick leave. Employees should consider using the Occupational Health counselling service.
- 25.4 If the employee cannot (or does not) attend a re-scheduled hearing, consideration may be given to convening a hearing in his/her absence. The employee will be notified of this and given the opportunity to send their accredited trade union representative/ workplace colleague to attend on their behalf and/or submitting a written statement.

## **26. HOLDING THE DISCIPLINARY HEARING**

### **Overview**

- 26.1 Attending a disciplinary hearing does not mean that disciplinary action will automatically be taken. It is an opportunity to clarify the issues. The line manager/ commissioning manager will Chair the hearing and can ask questions and clarify issues at any stage throughout the hearing.
- 26.2 The employee will be asked to respond to the complaint against him/her and the Chair will reach a decision, based on the balance of evidence (verbal and/or documentary) on whether disciplinary action is necessary and, if so, which level of disciplinary action should be given. Should the Chair need more evidence or advice, the hearing can be adjourned for it to be provided.

### **Participants in the hearing**

- 26.4 In cases of, for example, deteriorating conduct where one to one meetings have been recorded, investigating officers and witnesses may not be necessary.
- 26.5 Hearings normally consist of the employee (with an accredited trade union accredited trade union representative/ workplace colleague if preferred) and the authorised disciplinary manager (with a colleague or advisor, if preferred).
- 26.6 In more serious cases (for example, involving specific incidents of misconduct), the manager may call an investigating officer and witnesses to the hearing to present the case and evidence and help clarify the facts of the case.
- 26.7 Employees who are accompanied need to decide beforehand what their respective roles will be during the hearing. The role of the accompanying person is covered briefly in para 24.1).

### **Introducing the hearing**

- 26.8 The Chair will make the necessary introductions. The approach should be formal and polite, with a view to establishing the facts.
- 26.9 The Chair will explain that the purpose of the hearing is for him/her to consider whether disciplinary action needs to be taken in accordance with the Council's disciplinary procedure. The procedure for the hearing will also be outlined, with the employee asked to confirm s/he understands the procedure.

### **Presenting the management complaint**

- 26.10 The Chair will state clearly the complaint or allegation and ask the employee to respond.
- 26.11 The Chair will then call upon the investigating officer (if used) to present their case and any witnesses, as appropriate. This can include discussing the contents of any records, documents or witness statements.
- 26.12 Occasionally, (for example, in some cases of bullying and harassment) the anonymity of witnesses may need to be maintained. In such cases, witness statements can be anonymised and/or the individuals may not be required to attend a hearing where they could be questioned by the employee. The investigating officer shall explain the reasons for anonymity being maintained at the start of the hearing. The employee (and/or workplace colleague/ accredited trade union representative) shall have the opportunity to challenge the need for anonymity. The Chair shall make a decision on this. If the Chair decides to maintain the anonymity of witnesses, they must consider whether a fair hearing requires that the employee (and/or workplace colleague/ accredited trade union representative) be given an opportunity to put questions to the witnesses by other means, for example by the employee and/or workplace colleague/ accredited trade union representative) submitting written questions to be answered by the witnesses..
- 26.13 The employee (and/or accredited trade union representative/ workplace colleague) will be given the opportunity to ask questions including questions to any investigating officer or witnesses.
- 26.14 The Chair (and colleague/advisor) will have a further opportunity to question any investigating officer or witnesses on issues raised during the employee's questions.

### **Presenting the employee's response**

- 26.15 The employee (and/or accredited trade union representative/ workplace colleague) will be given the opportunity to state his/her response to the complaint or allegation and present evidence. This may include calling witnesses if appropriate and discussing any witness statements and the contents of any other documents.
- 26.16 The Chair (and colleague/advisor) will be given an opportunity to ask questions including questions to any witnesses.
- 26.17 The employee (and/or accredited trade union representative/ workplace colleague) will be given a further opportunity to question any witnesses on issues raised during the management's questions.

### **Final questions and clarification**

- 26.18 The Chair (and colleague/advisor) may use this stage to clarify any issues and to check that what has been said is understood.

26.19 If not already indicated, the employee should be asked whether there are any special circumstances which have not been covered but which may need to be taken into account.

### Summing up

26.20 The investigating officer will sum-up the case, without introducing any new material.

26.21 The employee (and/or accredited trade union representative/ workplace colleague) will sum-up his/her response, without introducing any new material.

### Adjournments

26.22 The employee (and/or accredited trade union representative/ workplace colleague) can request an adjournment during the hearing which, if considered reasonable by the Chair, will normally be allowed.

26.23 At the end of the hearing, the Chair will adjourn to allow full consideration of all the matters raised, before a decision is taken as to whether or not disciplinary action is warranted and if so to what level.

26.24 Occasionally, the Chair may require further fact finding or investigation and, in these or similar circumstances, the disciplinary hearing may need to be reconvened at a later date to enable further information to be provided and a decision to be made. Any additional written information will be copied to all parties. The hearing will be reconvened as soon as possible.

### Outcome of the disciplinary hearing

26.25 The Chair is accountable for the decision, as the disciplining manager. In reaching a decision, the Chair will take into account:

- advice from any advisors
- the employee's disciplinary record
- the employee's general conduct record
- action taken in similar cases in the Council
- the employee's response to the case (including any mitigating circumstances)
- whether it is reasonable to discipline in this case and the appropriate level of discipline.

26.26 The Chair's decision will normally be one of the following:

- case dismissed and any allegations withdrawn
- upheld in part and appropriate action taken
- disciplinary warning
- dismissal (see paras 28 – 32)

26.27 A letter (see **Appendix 8** – Letter 2 or 3) will be sent to the employee to confirm any disciplinary action taken and must be copied to HR for retention on the personal file. If disciplinary action is taken, it must include the following information:

- the offence and why it is unacceptable
- the level of disciplinary action taken and how long it remains live (see para 22.2)
- the required changes in behaviour and how they will be monitored
- details of any supportive action that the Council will take

- the fact that failure to improve or a recurrence of the unacceptable behaviour within the specified timescales can lead to further disciplinary action (including dismissal where appropriate)
- the right of appeal and a named manager to whom the appeal should be sent

26.28 The Chair will normally advise the employee orally of the result of the hearing immediately after the adjournment, indicating any disciplinary action to be taken, the consequences of further misconduct and any conditions which may apply. This will be followed up in writing, within **10 working days except in exceptional circumstances** (see **Appendix 8**).

26.29 In some cases, it might not be possible to give an oral decision immediately after the adjournment. In this event, the decision is given in writing, again within **10 working days** of the hearing **except in exceptional circumstances**. However, if further information is needed before a decision can be reached, the Chair will notify the decision as soon as possible.

26.30 Where misconduct is established but the line manager/ commissioning manager decides that no disciplinary action should be taken, a record of the concerns should be kept by the line manager and the situation monitored. The employee will be advised of this in writing and cautioned of the consequences if his/her conduct does not improve to a satisfactory level.

#### **Follow-up action**

26.31 The outcome of the hearing may require the manager to notify the relevant professional body. **Appendix 5** gives guidance on the requirements to notify registered bodies.

26.32 The line manager must continue to review the employee to check whether the required improvements or change in behaviour take place. There may also be a requirement for the line manager to provide additional coaching or training.

26.33 If the required changes do not take place or a further offence is committed while the warning is still live, a further disciplinary hearing is likely to result in the next level of disciplinary action being taken.

#### **27. MEDIATION**

27.1 The conciliation service, Acas, encourages the use of mediation in certain circumstances, particularly where working relationships might have been damaged during disciplinary action and some support might be needed to re-establish relations between colleagues or between line managers and employees. Managers should refer to HR for advice on mediation services which may be provided internally or externally sourced.

#### **28. DISMISSAL**

28.1 The Council is committed to considering any measures short of dismissal in order to achieve the necessary change in behaviour. The Council recognises, however, that in some cases dismissal is the correct option. This may be as a consequence of progressing from lower levels of disciplinary action or as a result of fundamentally unacceptable incidents or actions by the employee.

28.2 The authority to dismiss, or take 'action short of dismissal' (see para 32) as a form of disciplinary action can be delegated no lower than a manager reporting directly to a

Director level post. Advice must be taken from HR when managers are considering dismissal.

28.3 In some cases, **summary dismissal** is necessary. This occurs in cases of gross misconduct where the seriousness of the case is such that the member of staff can be dismissed without notice or pay in lieu of notice. An investigation is always carried out before a decision to dismiss is reached.

## 29. FAIR DISMISSAL

29.1 In law, there are only a limited number of fair reasons for dismissal:

- conduct (eg behaviour)
- capability (eg skills, aptitudes, or health)
- redundancy
- a statutory duty or restriction which prevents the employment being continued (eg where a driver loses his/her driving licence and is banned from driving)
- some other substantial reason.

29.2 In demonstrating whether a dismissal has been fair, an employer must also show that:

- there was a valid reason for the dismissal
- s/he acted reasonably in regarding that reason as being sufficient to warrant dismissal.

## 30. DISMISSAL PROCEDURE

30.1 An investigation will be carried out before a hearing can be convened, as covered in Section 4, before a dismissal can take place.

30.2 A disciplinary hearing will be arranged, as covered in Section 5 In this case the hearing will be chaired by a manager with the authority to dismiss.

30.3 In the letter inviting the employee to attend, s/he will be advised that the hearing could lead to disciplinary action which may include dismissal (see **Appendix 8** – Letter 1). This does not imply a pre-judgement but does alert the employee to the seriousness of the matter. Employees should be encouraged to be accompanied at this hearing (see 24).

30.4 After the hearing, confirmation of the decision to dismiss will be given in writing (see **Appendix 8** – Letter 4 or 5), including:

- the reason for the dismissal
- the date on which employment ends
- the right to appeal (see Section 6).

## 31. PERIODS OF NOTICE

31.1 Where employees have progressed through the disciplinary warnings to dismissal as a result of, for example, failure to improve or change behaviour, they will receive either their contractual period of notice or pay in lieu of notice, as determined by the Council.

31.2 In cases of gross misconduct, however, which result in summary dismissal (see para 28.3), the employee's contract of employment will end on the date of dismissal. S/he is not entitled to a period of notice and will not be paid in lieu of notice. S/he will be paid their

salary up to the date of dismissal and payment for any leave accrued but not taken as at the date of dismissal.

**32. ALTERNATIVES TO DISMISSAL (ACTION SHORT OF DISMISSAL)**

32.1 In exceptional circumstances, as an alternative to dismissal, and in conjunction with a final written warning, one or more of the following may be proposed:

- demotion
- transfer to another post
- transfer to another location.

32.2 Where an employee agrees to the alternative to dismissal, s/he still has the right to appeal.

32.3 Where an employee does not agree to the alternative to dismissal, there is no alternative but to dismiss. The employee has the right to appeal against dismissal.

## SECTION 6: APPEALS

### 33. RIGHT TO APPEAL

- 33.1 Employees have the right to appeal against any disciplinary action, including dismissal, if they believe that the decision was wrong or unjust. See **Appendix 9** for a template employee appeal form. Managers will continue to treat employees fairly and with respect throughout the process.
- 33.2 The purpose of the appeal hearing is for the employee to present his/her case for objective review. Depending on the grounds for the appeal, the Chair of the Appeals panel will decide (in consultation with HR) whether there should be a review of the level of disciplinary action taken or, alternatively, a re-hearing of the case if, for example, new evidence is identified which could not have been foreseen at an earlier stage.
- 33.3 The appeal may be submitted by either the employee or by his/her accredited trade union representative. Any appeal must be in writing and received by the named manager within **2 weeks** of the date of the letter confirming the disciplinary action. The employee's letter must include full details of why s/he does not agree with the disciplinary decision, together with any evidence to support the case.
- 33.4 If the appeals procedure is not complied with, the employee will lose the right to appeal unless there are exceptional circumstances. Whether such circumstances exist is a decision taken by the Chair of the appeal in consultation with HR.

### 34. THE APPEALS PANEL

- 34.1 The appeal will normally be chaired by the manager of the person who chaired the disciplinary hearing. If the disciplinary hearing was held by someone outwith the employee's management line, the appeal will normally be chaired by a senior manager in the employee's management line. If in doubt, advice should be sought from HR. Appeals against dismissal will be heard by the Staffing Appeals Committee.
- 34.2 The appeal is heard by at least 2 panel members (including the Chair) who will have received training in employment law and the conduct of appeal hearings. The aim is for the appeal hearing to be objective so, wherever possible, appeals are heard by managers who have not previously been involved in the case.
- 34.3 The appeals panel can reduce the level of disciplinary action.

### 35. ARRANGING AN APPEAL HEARING

- 35.1 The Chair of the appeal hearing will arrange to hear the appeal as soon as possible, and other than in exceptional circumstances within **4 weeks** of receiving the employee's written request for appeal.
- 35.2 The Chair will normally give the employee at least **2 weeks'** notice in writing of the hearing, giving details of:
- the date, time and venue of the hearing
  - the employee's right to be accompanied by an accredited trade union representative/ workplace colleague

- the employee's right to call witnesses and the timescales for submitting a written case together with any supporting documentary evidence
- the procedure that will be followed during the hearing.

35.3 The Chair of the disciplinary hearing is responsible for the management case at the appeal hearing. S/he and the employee will each be requested to submit a written statement of their case, including any papers to which they wish to refer, to the Chair of the appeal hearing. These must be received at least 10 working days before the date of the appeal hearing. The Chair of the appeal hearing arranges for each submission to be copied to the other party. If the employee is calling witnesses it is their responsibility to arrange their attendance and names must be submitted to the Clerk to the Council 10 working days before the date of the appeal.

## 36. HEARING THE APPEAL

36.1 The appeals procedure follows similar steps to the disciplinary hearing except that, in an appeals hearing, the employee presents his/her case before the disciplining manager presents his/her response. See **Appendix 10** for more details.

## 37. COUNCIL STAFFING APPEALS COMMITTEE

37.1 If a Director was involved in the disciplinary hearing or the disciplinary hearing resulted in a dismissal the appeal will be heard by Elected Members rather than Officers. The request for an appeal hearing must be sent to the Service Director Human Resources who will arrange with the Clerk to the Council for it to be heard by the appropriate Council Appeals Committee at the earliest opportunity.

37.2 The Council Staffing Appeals Committee will comprise 3 Elected Members who have received training in employment law and the conduct of hearings. The employee will be given a minimum of 2 weeks' notice of the hearing.

37.3 The Clerk to the Council will notify the employee of the Appeals Committee procedure and advise him/her of the right to be accompanied.

37.4 The management representative and the employee (or accredited trade union representative/ workplace colleague) will each be asked to submit a written statement of their case, including any papers to which they wish to refer, to the Clerk to the Council to be received at least 10 working days before the date of the appeal hearing. If the employee is calling witnesses it is their responsibility to arrange their attendance and names must be submitted to the Clerk to the Council 10 working days before the date of the appeal.

37.5 The Clerk to the Council will arrange for the papers, including the statements of case to be sent to the management representative and the employee, as well as to the Committee Members and any advisors at least one week before the appeal hearing.

37.6 **Appendix 11** gives guidance to managers and employees on preparing papers for the Appeals Committee.

37.7 The Appeals Committee can reduce the level of disciplinary action but cannot increase it.

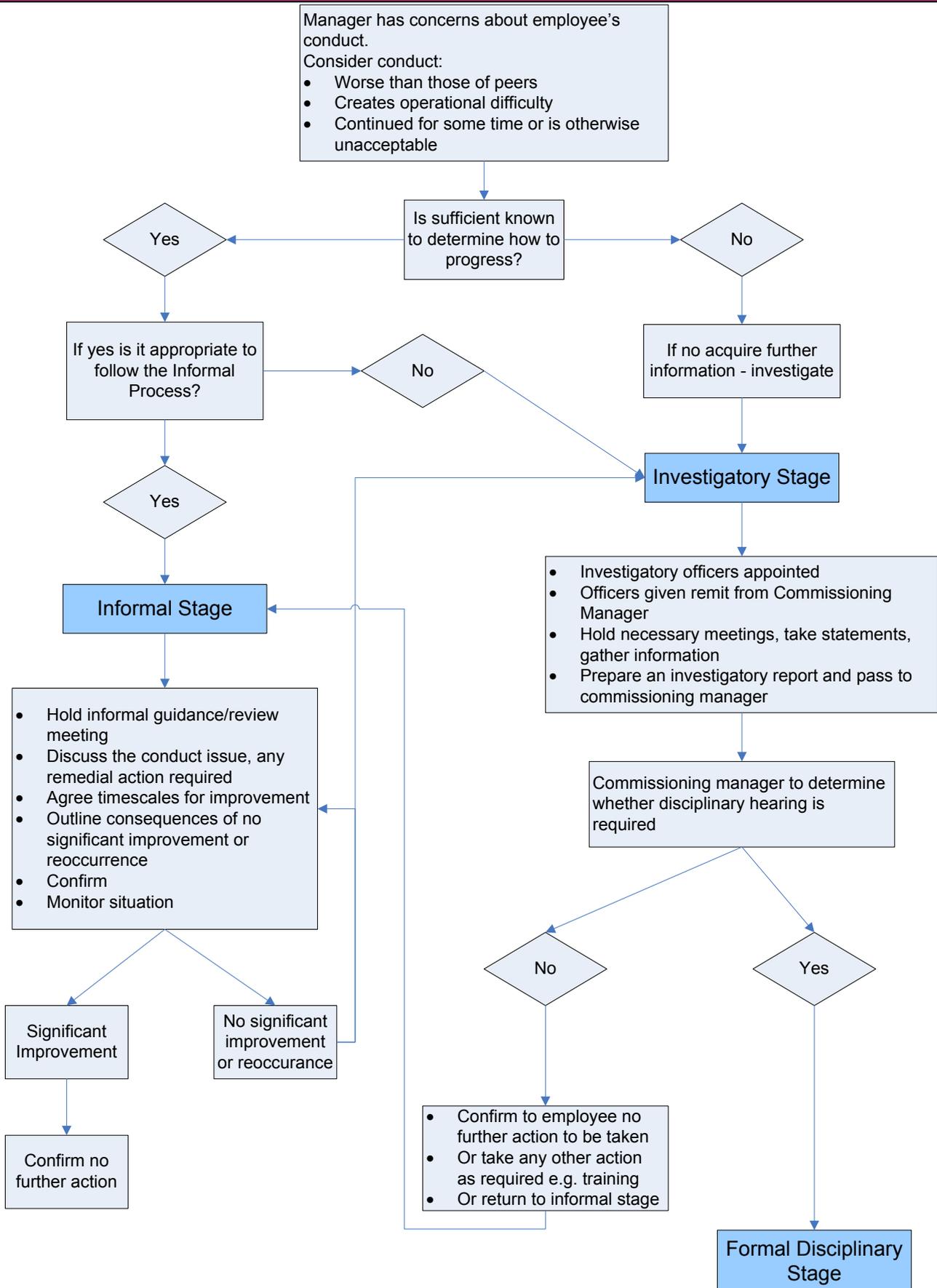
**38. DECISIONS OF THE APPEALS PANEL AND THE COUNCIL STAFFING APPEALS COMMITTEE**

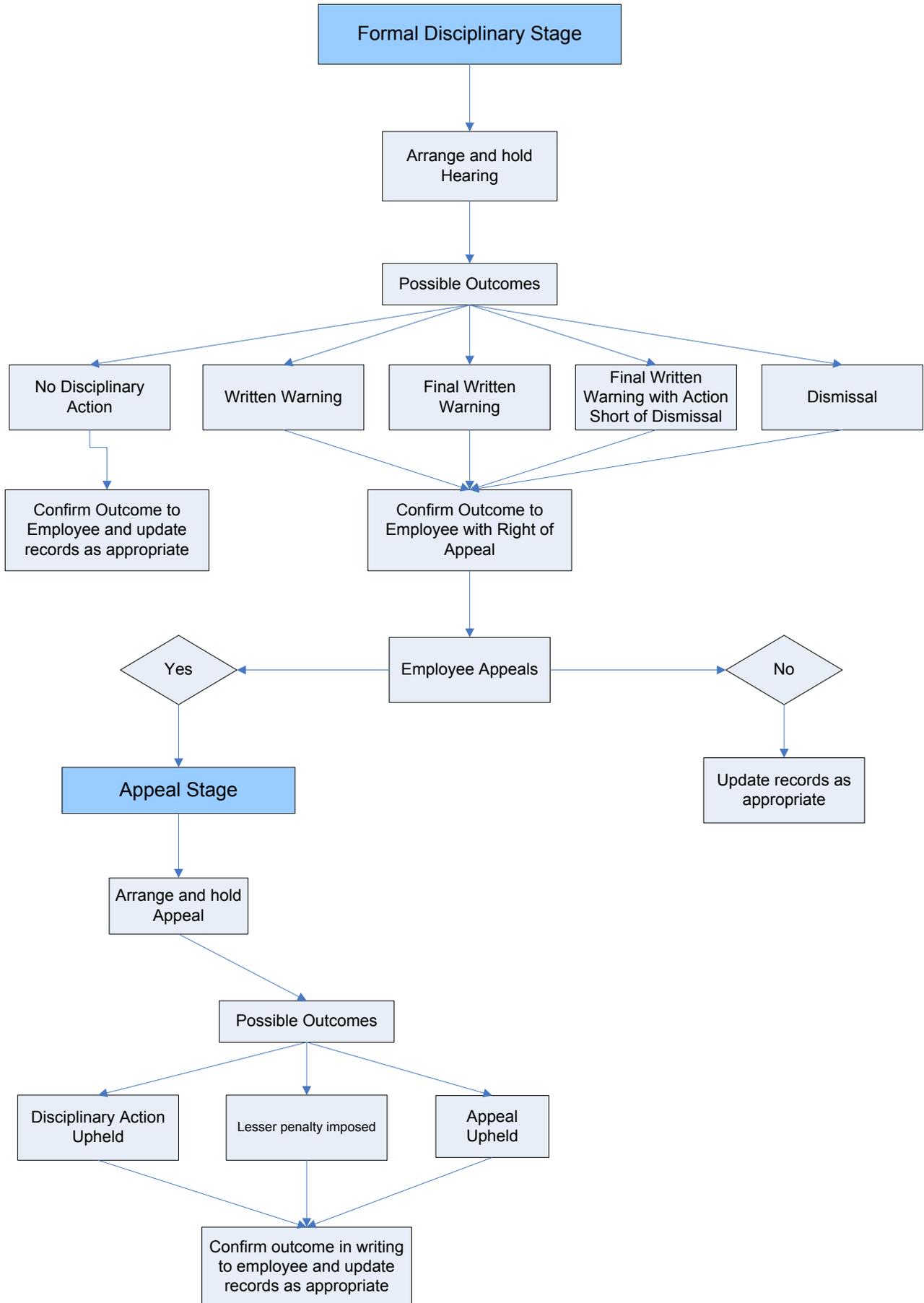
38.1 The decision is normally one of the following:

- the appeal is upheld and the case dismissed, with the record of disciplinary action removed from the employee's personal file
- the level of disciplinary action is reduced (or referred to the Service Director Human Resources for a re-hearing)
- the appeal is upheld in part and the disciplinary action may remain the same, be reduced or dismissed
- the appeal is dismissed and the disciplinary action upheld
- exceptionally, the Panel/ Committee may request further information from the employee and/or the disciplining manager before reaching a decision.

38.2 The decision of the Panel/ Committee is final and will be confirmed to the employee within **2 weeks** of the hearing other than in exceptional circumstances when the decision will be confirmed as soon as possible.. There is no further level of appeal under the disciplinary policy and procedures.

**APPENDIX 1 – FLOWCHART FOR MANAGING MISCONDUCT**





**APPENDIX 2 – SAMPLE LETTER FOLLOWING A COUNSELLING AND REVIEW MEETING**

NOTE: This is a sample letter and should be adapted to suit the circumstances, taking into account the requirements of Section 3 - Managing minor misconduct of the disciplinary procedures.

**Confidential**

EMPLOYEE'S HOME ADDRESS

DATE

Dear

**Confirmation of counselling and review meeting**

Thank you for attending the meeting with me on *(date)*. I write to confirm the key points of our discussion.

*include:*

- *summary of the nature of the misconduct issue*
- *the expected standards of conduct*
- *where the gaps exist*
- *any factors provided by the employee*
- *the action required by the employee including any review dates*
- *any support to be provided by the manager*
- *the likely consequences of not meeting these standards.*

I confirm that such conduct is not acceptable and I caution you that *if your conduct does not meet the necessary standards*, then the formal disciplinary procedure may be followed.

Yours sincerely

**Name****Job title**

**APPENDIX 3 – MANAGERS AUTHORISED TO TAKE DISCIPLINARY ACTION AND APPEALS**

The tables below give guidance on the level of managers who are normally authorised to issue periods of special paid leave, give disciplinary warnings, dismiss and to hear appeals. Directors will confirm the appropriate levels for their Department.

**1. All staff (except teaching staff)**

Action	Normally taken by	Appeal normally heard by
Period of special paid leave	Line manager or more senior manager, with the agreement of the Service Director Human Resources	No right to appeal
Day to day management of conduct	Line manager or supervisor	No right to appeal
Verbal Warning	Line Manager	Senior manager to whom line manager reports
Written Warning	Line manager	
Final Written Warning	Line manager or more senior manager	
Action short of dismissal	Senior manager, Chief Officer or Director	Manager to whom the senior manager, Chief Officer or Director reports.  Where Director has been involved, Council Staffing Appeals Committee.
Dismissal	Senior manager, Chief Officer or Director	Council Staffing Appeals Committee.

**2. Teaching staff**

Action	Normally taken by	Appeal normally heard by
Period of special paid leave	Headteacher (or Depute in their absence) or more senior manager, with the agreement of the Service Director Human Resources.	No right to appeal
Day to day management of conduct	Principal Teacher, Depute Headteacher or Headteacher	No right to appeal
Verbal Warning	Head Teacher	Senior manager to whom line manager reports eg Quality Improvement Officer, Chief Education Officer or Director
Written Warning	Head Teacher	
Final Written Warning	Quality Improvement Officer or Chief Education Officer	
Action short of dismissal	Quality Improvement Officer or Chief Education Officer	Senior manager to whom line manager reports eg Quality Improvement Officer, Chief Education Officer or Director
Dismissal	Quality Improvement Officer, Chief Education Officer or Director	Council Staffing Appeals Committee.

**APPENDIX 4 – TEMPLATES FOR INVESTIGATIONS**

NOTES: These templates are for guidance only and may be varied to suit the circumstances. More detailed guidelines on investigations are available on the intranet or from HR.

**CONTENTS:**

1. Sample letter to attend an investigation meeting
2. Note of investigation meeting
3. Statement from witness / person under investigation
4. Investigation report

**1. SAMPLE LETTER TO ATTEND AN INVESTIGATION MEETING****Confidential**

EMPLOYEE'S HOME ADDRESS

DATE

Dear

**Investigatory meeting**

I would be grateful if you could attend an investigatory meeting

on     *(date)*  
at     *(time)*  
in     *(venue)*

The purpose of the meeting is to investigate a complaint that *(insert details of complaint or allegation)*. (For witnesses, substitute this sentence with: *You are being called as a witness*).

I will be assisted at this meeting by *(name, job title)*. The investigation is being carried out in accordance with the Disciplinary policy and procedures for misconduct (a copy is enclosed). You have the right to be accompanied by an accredited trade union representative or work colleague, although you should understand that this is an investigatory meeting and not a disciplinary hearing. All reasonable requests will be approved.

Please confirm your attendance at this meeting and the name of your accredited trade union representative/ accompanying workplace colleague at your earliest convenience.

Yours sincerely

**Name  
Job title**

Enc.

cc: *(Name of person also to be present at meeting)*

**2. NOTE OF INVESTIGATION MEETING****CONFIDENTIAL****NOTE OF INVESTIGATION MEETING****Date of meeting:**

---

**1. DETAILS OF INTERVIEWEE**

a) Incident under investigation:

b) Name of interviewee:

Job title:

Department:

Date employment started with SBC:

Date employment started in post:

Relationship to person under investigation (*co-worker etc*):

c) Name of interviewee's accredited trade union representative/ workplace colleague, if any:

Job title / Name of trade union:

---

**2. DETAILS OF INVESTIGATING OFFICERS**

a) Name:

b) Name:

Job title:

Job title:

Relationship to  
person under  
investigation:Relationship to  
person under  
investigation:

---

**3. SUMMARY OF INVESTIGATION**Briefly summarise the reason for the investigation (eg the nature of the complaint):

---

---

#### 4. NOTE OF THE MEETING

(Name of investigating officer) opened the meeting by introducing everyone present before giving a brief explanation of the reason for the meeting and the procedure to be followed. The following questions were asked:

**Q1. Details of question:**

**Summarised response:**

**Q2. Details of question:**

**Summarised response:**

*(Continue to list all questions)*

**QX. Do you have anything more to add in respect of this matter?**

**Summarised Response**

---

#### 5. DECLARATION

I understand that the report and statements are confidential to the investigation and any subsequent disciplinary hearing.

I understand that I cannot discuss these proceedings with anyone other than my accredited trade union representative/ accompanying workplace colleague, and I must not attempt to influence anyone involved in this matter. If I breach this or provide untrue or misleading information to the investigation, I may be subject to disciplinary action.

I declare that my contribution to this investigation meeting has been accurate and true. I have been given a copy of my statement to check its accuracy and to make any amendments or comments if I disagree with it. I accept that if I do not sign, or return comments within the given timescale, then the statement may still be used

Interviewee's signature:

Date:

Investigating officer's signature:

Date:

Investigating officer / Note taker's signature:

Date:

**3. STATEMENT FROM WITNESS**

NOTE: If the witness is unavailable for interview, s/he can complete an investigatory statement instead. In some instances, the investigating officer(s) may wish to have both an interview and statement.

**CONFIDENTIAL****INVESTIGATION STATEMENT****1. DETAILS OF WITNESS**

a) Incident under investigation:

b) Name of witness:

Job title:

Department:

Date employment started with SBC:

Date employment started in post:

Relationship to person under investigation (*co-worker etc*):

**2. DETAILS OF INVESTIGATING OFFICERS**

a) Name:

b) Name:

Job title:

Job title:

Relationship to  
person under  
investigation:

Relationship to  
person under  
investigation:

**3. MY STATEMENT****4. DECLARATION**

I declare that:

- I understand that I may be required to clarify points raised during the investigation.
- I understand that the report and statements are confidential to the investigation and any subsequent disciplinary hearing.
- I understand that I cannot discuss these proceedings with anyone other than my representative, and I must not attempt to influence anyone involved in this matter. If I breach this or provide untrue or misleading information to the investigation, I may be subject to disciplinary action.
- This statement is a true and fair account.

Employee's signature:

Date:

---

**4. STATEMENT FROM PERSON UNDER INVESTIGATION**

NOTE: If the person under investigation is unavailable for interview, s/he can complete an investigatory statement instead. In some instances, the investigating officer(s) may wish to have both an interview and statement.

**CONFIDENTIAL****INVESTIGATION STATEMENT**

---

**5. DETAILS OF WITNESS**

a) Incident under investigation:

Job title:

Department:

Date employment started with SBC:

Date employment started in post:

Relationship to person under investigation (*co-worker etc*):

---

**6. DETAILS OF INVESTIGATING OFFICERS**

a) Name:

b) Name:

Job title:

Job title:

Relationship to  
person under  
investigation:

Relationship to  
person under  
investigation:

---

**7. MY STATEMENT****8. DECLARATION**

---

I declare that:

- I understand that I may be required to clarify points raised during the investigation.
- I understand that the report and statements are confidential to the investigation and any subsequent disciplinary hearing.
- I understand that I cannot discuss these proceedings with anyone other than my representative or immediate family members (provided that I ensure they retain confidentiality), and I must not attempt to influence anyone involved in this matter. If I breach this or provide untrue or misleading information to the investigation, I may be subject to disciplinary action.
- This statement is a true and fair account.

Employee's signature:

Date:

---

**5. INVESTIGATION REPORT**

NOTE: The content of this template is an example only and should be varied to suit each case.

**CONFIDENTIAL****INVESTIGATION REPORT**

---

**1. REPORT OVERVIEW**

a) Report to: *(Name of commissioning manager)*

b) Date report completed:

c) Report from the following investigating officer(s):

Name:

Name:

Job title:

Job title:

Relationship to  
person under  
investigation:

Relationship to  
person under  
investigation:

d) Name of person under investigation:

Job title:

Department:

Date employment started with SBC:

Date employment started in post:

---

**2. SUMMARY OF INVESTIGATION REMIT**

Briefly summarise the reason for the investigation (eg the nature of the complaint):

---

**3. THE REPORT****Contents**

1. Introduction
2. Background
3. Investigation
4. Summary

## 5. Appendices

1. Statement / note of meeting with the person under investigation
2. Witness statements / notes of meetings
3. Other relevant documentation – eg emails, correspondence etc.

## 1. INTRODUCTION

*(Names of investigating officers)* were commissioned by *(Name of manager, job title)* to investigate the complaints and report their findings to *(Name, job title)*.

If in the process of the investigation, further complaints or allegations came to light, *(give details of the complaints or allegations)* and, under advice from *(name of commissioning manager)*, they have been included here as they are relevant to the case.

## 2. PROCESS

The investigation commenced on *(date)* and finished on *(date)*.

The people interviewed were:

- |          |            |
|----------|------------|
| 1. Name: | Job title: |
| 2. Name: | Job title: |
| 3. Name: | Job title: |
| 4. Name: | Job title: |

Specialist advice was sought from *HR/Legal Services* (delete as appropriate) on the following:

- 
- 
- 

## 3. INVESTIGATION

Outline the investigation eg briefly recap of what prompted the investigation, who was involved, why the witnesses were selected, why the questions were chosen, evidence that supported or conflicted with other evidence, the nature of other evidence collected (e.g supporting documents) etc

**Allegation number 1:** *(specify the allegation or complaint)*

The investigating officer(s) found that there was evidence to support this allegation because:

- 
- 

The investigating officer(s) found that there was conflicting evidence in respect of this allegation because:

- 
-

The investigating officer(s) found insufficient evidence to support this allegation because:

- 
- 

**Allegation number 2:** *(specify the allegation or complaint)*

The investigating officer(s) found that there was evidence to support this allegation because:

- 
- 

The investigating officer(s) found that there was conflicting evidence in respect of this allegation because:

- 
- 

The investigating officer(s) found insufficient evidence to support this allegation because:

- 
- 

The Investigators found no evidence to support this allegation

**Allegation number 3:** *(specify the allegation or complaint)*

*Continue as above*

4. **SUMMARY** *(The investigating officer must not make recommendations – the manager is responsible for assessing the investigation (eg whether more information is needed at this stage) and deciding whether to proceed to a disciplinary hearing.)*

Investigating officer's signature:

Date:

Investigating officer's signature:

Date:

---

**APPENDIX 5 – GUIDELINES ON REQUIREMENTS TO NOTIFY REGISTERED BODIES****CONTENTS:**

1. Guidelines on requirements to notify registered bodies

**Scottish Social Services Council**

2. Sample letter accompanying form to Scottish Social Services Council 5
3. Notification form to Scottish Social Services Council 7
4. Sample letter to employee re notification to the Scottish Social Services Council 8

**General Teaching Council**

5. Sample letter accompanying form to General Teaching Council 9
6. Notification form to General Teaching Council 11
7. Sample letter to employee re notification to the General Teaching Council 12

## 1. GUIDELINES ON REQUIREMENTS TO NOTIFY REGISTERED BODIES

### 1. Scope of guidelines

These guidelines provide a framework within which line managers should work when dealing with employees who work with children and vulnerable adults. These employees may be registered with certain professional bodies eg Scottish Social Services Council, General Teaching Council, or hold posts which are subject to a Disclosure check or PVG registration with Disclosure Scotland or are involved in service provision which is regulated by the Care Commission. These guidelines are intended to provide general advice in these areas - more detailed advice and support can be provided by HR.

For other professions, for example law, finance and human resource management, the guidelines laid down by the relevant professional institutes and/or governing bodies must be followed in all cases of potential professional misconduct of whatever nature, together with the Council's disciplinary procedures as appropriate. Advice and support can be provided by HR.

An integral part of an employee's profession is maintaining the standard of conduct expected of them. Their relationships with colleagues, clients, pupils, and the general public must be professional, appropriate and justifiable otherwise their suitability to remain in their profession may be brought into question.

Where a line manager has concerns in respect of an employee's conduct, their integrity or their suitability for a position of trust in relation to children, young people or vulnerable people, they must give consideration to whether they need to notify the appropriate organisation. In addition, where employees' conduct or performance give rise to serious concerns line managers will also consider whether disciplinary action is appropriate, in line with the relevant Scottish Borders Council policies, procedures and guidelines.

Please refer to the following guidance in respect of the Scottish Social Services Council and the General Teaching Council.

### 2. Scottish Social Services Council (SSSC)

The SSSC Codes of Practice have been developed to raise standards in social services and describe the standards of conduct and practice required of employers and social service workers. Registration is required for those working in social services and this register is a public record that those registered have met the requirements for entry onto the register and have agreed to abide by the standards set out in the Code of Practice for Social Service Workers. In Scottish Borders Council all employees within Social Work, whether registered with SSSC or not, are required to sign up to and meet this Code of Practice. Some employees in other departments, for example nursery nurses and certain other employees in Integrated Children's Services also require to register with SSSC.

The Regulation of Care (Scotland) Act 2001 states that Scottish Borders Council must notify the SSSC immediately when:

- ❖ A social service worker is dismissed on grounds of misconduct; or
- ❖ The social service worker resigned or abandoned their position where, but for the resignation or abandonment:
  - The worker would have been dismissed on the grounds of misconduct; or
  - Dismissal on such grounds would have been considered by SBC.

In the above circumstance, Scottish Borders Council must notify SSSC of the dismissal, resignation or abandonment; and in doing so provide the SSSC with an account of the circumstances which led to the dismissal or which were present when the resignation or abandonment took place.

A referral should also be made immediately if Scottish Borders Council has taken the decision to suspend or redeploy a social service worker pending the outcome of an investigation into the conduct of that worker under this Disciplinary Procedure. The SSSC will make a separate decision about whether immediate action is required to remove a worker's name from the Register pending further inquiries.

Additionally Scottish Borders Council are required to inform the SSSC about any misconduct by registered social service workers that might call into question their registration and must inform the social service worker that a report has been made to the SSSC.

In order to supply SSSC with the appropriate details and help to meet the Council's responsibilities under both the Regulation of Care (Scotland) Act 2001 and the SSSC Code of Practice, please use the following form and letters. These can be used for providing information about a registered worker or a non-registered worker who may apply for registration in the future.

### **3. General Teaching Council Scotland (GTCS)**

The General Teaching Council for Scotland is the professional regulatory body for teachers in Scotland. They maintain and enhance professional standards for Scottish teachers and support new teachers through the standard for Full Registration. Their primary role is to ensure the fitness of individual teachers to be members of the teaching profession. Registration with GTCS is in effect a licence which means that a currently registered teacher is in a position to take up employment in local authority schools in Scotland.

The Public Services Reform (General Teaching Council for Scotland) Order 2011 states that the GTCS must be notified by an employer of the following:

- ❖ A registered teacher who is dismissed for misconduct;
- ❖ A registered teacher who is dismissed for incompetence;
- ❖ If a teacher resigns or abandons their position in circumstances, but for their abandonment or resignation they would either have been dismissed for misconduct, or dismissal for misconduct would have been considered by the Council;
- ❖ The teacher resigning, or abandoning his position, after being informed by the employer that a disciplinary hearing is to be held by the employer in respect of the teacher's alleged incompetence. When notifying the GTCS the Council must provide an account of the circumstances which led to the dismissal or which were present when the resignation or abandonment took place.

When notifying the GTCS the Council must provide an account of the circumstances which led to the dismissal or which were present when the resignation or abandonment took place.

In order to supply GTCS with the appropriate details, please use the following form and letters. Additionally managers should note that relevant information from the disciplinary process will be required to be sent to the GTCS.

### **4. Care Inspectorate**

The Care Commission was established in 2002 as the independent regulator set up under the Regulation of Care (Scotland) Act 2001 to regulate Care in Scotland. Social Care and Social Work Improvement Scotland (SCSWIS), subsequently renamed the Care Inspectorate, replaced the

Care Commission through the Public Services Reform (Scotland) Act 2010The Care Inspectorate register and inspect Scottish Borders Council services against a set of National Care Standards. The standards outline the quality of service that care service users have the right to expect from Scottish Borders Council.

Any allegation of misconduct against any persons employed in the care service must be reported to them without delay.

Additionally, where one of our external providers or one of our own managers is deemed unfit, it must be reported to the Care Inspectorate immediately. Being declared 'unfit' will be based on health, competence or where an offence has been committed and will be determined by an appropriate person within Scottish Borders Council.

It is the responsibility of the Service Manager to report appropriate details to the Care Inspectorate. Please refer to their website [www.SCSWIS.com](http://www.SCSWIS.com) for further information.

## **5. Disclosure Scotland**

Disclosure Scotland was developed under the guidance of the Scottish Executive and introduced a system of disclosing criminal history information to individuals and organisations for specific types of employment and other purposes. Scottish Borders Council should report to Disclosure Scotland any reasonable suspicion that an offence has been committed.

There are, however, some occupations which are defined as “notifiable occupations” where the police have an obligation to notify Scottish Borders Council if someone in these occupations is convicted. Any notification will come to HR who will inform the line manager immediately.

Scottish Borders Council has robust recruitment procedures in place which incorporate Disclosure checks for posts which require them. Further information on either Disclosure or SBC's Recruitment Policy & Procedure can be found on the Council's Intranet page under HR Policies and Procedures. Please also refer to the Disclosure Scotland website [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk) for further information.

## **6. Protection of Vulnerable Groups (Scotland) Act 2007**

This act applies to Scottish Borders Council as it employs people to work with children and protected adults both paid or unpaid. The Act provides for Scottish Ministers to keep lists of individuals who are disqualified from working with children or protected adults. The Act expands on the measures previously contained in the Protection of Children (Scotland) Act 2003and plugs a gap in previous safeguards which allowed unsuitable people to move from one childcare post to another without detection if they had not been convicted of an offence. All people working with children or protected adults are obliged to be registered under the appropriate Protecting Vulnerable Groups (PVG) Scheme. A check on somebody's status under the relevant scheme can be made by application to Disclosure Scotland.

People can be referred to the Scottish Ministers for possible inclusion on the list by regulatory bodies such as the General Teaching Council Scotland (GTCS) or the Scottish Social Services Council (SSSC), by the courts or by organisations such as Scottish Borders Council.

We have a duty to refer an individual to the Scottish Ministers for consideration for inclusion on the appropriate list who is or has been working with children or protected adults if the individual has (whether or not in the course of their work):

- ❖ Harmed a child or protected adult or placed a child or protected adult at risk of harm and been dismissed as a consequence;

- ❖ Harmed a child or protected adult or placed a child or protected adult at risk of harm and SBC would have dismissed or considered dismissing the individual as a consequence, but for the fact that the individual resigned, retired or was made redundant before SBC could take action to dismiss them;
- ❖ Harmed a child or protected adult or placed a child or protected adult at risk of harm and as a consequence was transferred to a position within SBC which is not a position involving work with children or protected adults;
- ❖ Harmed a child or protected adult or placed a child or protected adult at risk of harm and SBC would have dismissed or considered dismissing the individual as a consequence, but for the fact that the individual was on a fixed term contract which was about to expire or had expired before the organisation could consider dismissal proceedings.

It is a criminal offence for an organisation to fail to comply with the duty to make referrals to the Scottish Ministers.

Scottish Borders Council also has a duty to refer an individual if information which was not available to SBC at the time of the dismissal, resignation, retirement, redundancy or transfer has since become available. A referral will be required where SBC has formed the opinion that, if the information had been available at the time SBC would have dismissed the individual or would have considered dismissing the individual on the grounds that the individual had (whether or not in the course of the individual's work) harmed a child or vulnerable adult or placed a child or vulnerable adult at risk of harm.

Line managers wishing to make such a referral to the Scottish Ministers should refer to HR for guidance on individual cases.

Referrals to the Scottish Ministers should be made in addition to notifying the police and any relevant professional bodies as appropriate.

A referral form is available directly from Disclosure Scotland, available on the internet on <http://www.disclosurescotland.co.uk/documents/DSProtectionUnitREGULATORYBODYREFERRALFORMFeb11.doc>

**2. SAMPLE LETTER ACCOMPANYING FORM TO SCOTTISH SOCIAL SERVICES COUNCIL**

Conduct Section  
Scottish Social Services Council  
Compass House  
11 Riverside Drive  
Dundee  
DD1 4NY

DATE

Dear

**Re: Employee Name – Date of birth**

Please find enclosed information in respect of the above named employee.

I confirm that I am advising the employee of this notification and informing them that you may consider contacting them directly.

I trust that this information is satisfactory but please do not hesitate to contact me should you have any additional queries.

Yours sincerely

**Name**  
**Job title**

**3. NOTIFICATION FORM TO SCOTTISH SOCIAL SERVICES COUNCIL**

This form is to be used when there is a requirement to provide notification to the Scottish Social Services Council (SSSC) in respect of Scottish Borders Council employees.

The Regulation of Care (Scotland) Act 2001 states that:

s57A The employer of a social service worker shall -

- a) on dismissing the social service worker on grounds of misconduct; or
  - b) on the social service worker resigning or abandoning the worker's position in circumstances where, but for the resignation or abandonment-
    - i. the worker would have been dismissed on the grounds of misconduct; or
    - ii. dismissal on such grounds would have been considered by the employer
- forthwith notify the Council of the dismissal, resignation or abandonment; and the employer shall in doing so provide the Council with an account of the circumstances which led to the dismissal or which were present when the resignation or abandonment took place.

and

s57B The employer of a social service worker shall, when requested to do so by the Council, provide it with such information as respects the worker as it may reasonably require in connection with the exercise of the functions assigned to it under this Act or any other enactment.

The Scottish Social Services Code of Practice for Employers of Social Service Workers additionally requires an employer to inform the SSSC about any misconduct by registered social service workers that might call into question their registration and inform the worker that a report has been made to the SSSC.

It is important that a referral is made immediately if you have taken the decision to suspend or redeploy a registered worker pending the outcome of an investigation. The SSSC will make a separate decision about whether immediate action is required to remove a worker's name from the Register pending further inquiries.

This form is to help you meet your responsibilities under both the Act and the Code of Practice and can be used for providing information about a worker who is registered with us or a worker who is not, but may apply for registration in future.

We cannot investigate the conduct of non-registered workers but we will hold the information you provide on file and take it into account if the workers apply for registration on any part of the Register. We will also let the workers know what information we have received from you and offer them the opportunity to submit information and /or their views about the matter that led to you referring them to the SSSC and we will also take their views into account if they apply for registration.

Please note that all information supplied to the SSSC will be shared with the worker involved and may be released as a consequence of a data protection or freedom of information request.

It may also be put before a Sub-committee of the SSSC considering an application for registration or an allegation of misconduct against a registered worker. Conduct Sub-committees are normally held in public and as a consequence information supplied may be accessed by members of the public, including the press.

**Please be aware that we may ask any person involved in the circumstances which led to this referral to give evidence at a Sub-committee hearing. Please use a separate form for each worker you are referring to the SSSC.**

### **YOUR DETAILS**

Name

Job title

Organisation

Address

Telephone

Email

### **THE WORKER**

Full name

Any other names

Date of birth

Address

Telephone                      Home

Work

Mobile

Email

Is the worker registered with the SSSC?                       Yes                       No

If yes, please provide their registration number:

Is the worker registered with another regulatory body?                       Yes                       No

If yes, which body?

### **EMPLOYMENT STATUS**

Job title

Is the worker still employed by your organisation?                       Yes                       No

If not, are they employed by another organisation?                       Yes                       No                       Not known

If yes, which organisation?

### **REASON FOR REFERRAL TO THE SSSC**

**If the worker has been dismissed:**

On what grounds?

On what date?

Please provide full details of the reasons for dismissal:

**OTHER REASON FOR REFERRAL**

If the worker has **not** been dismissed please include full details of any action you have taken:

**INVOLVEMENT OF OTHER BODIES**

Have you alerted any other bodies to this matter?  Yes  No

If yes, please state which organisation and give a name and contact details:

Have the Police or Procurator Fiscal been involved?  Yes  No

If yes, have there been any criminal charges/convictions/alternatives to prosecution/warnings?

Yes  No

If yes, please provide details:

**SUPPORTING EVIDENCE**

Please list supporting evidence you are enclosing:

Has the worker received a copy of all the information enclosed?  Yes  No

If there is other evidence which you are not enclosing, please indicate what it is and why it is not enclosed.

**ANY OTHER RELEVANT INFORMATION**

Please include any other information which may be relevant to the SSSC in their consideration of this referral:

Please note that all information supplied to the SSSC will be shared with the worker involved and may be released as a consequence of a data protection or freedom of information request.

It may also be put before a Sub-committee of the SSSC considering an application for registration or an allegation of misconduct against a registered worker. Conduct Sub-committees are normally held in public and as a consequence information supplied may be accessed by members of the public, including the press.

### **FUTURE CONTACT**

Would you prefer us to contact someone other than you in your organisation about this referral?

Yes

No

If yes, please provide full contact details:

**Name**

**Date**

**Signed**

**Date**

Please return this form by post to:  
The Conduct Department  
Scottish Social Services Council  
Compass House  
11 Riverside Drive  
Dundee  
DD1 4NY

or by email to: [conduct@sssc.uk.com](mailto:conduct@sssc.uk.com)

**4. SAMPLE LETTER TO EMPLOYEE RE NOTIFICATION TO  
THE SCOTTISH SOCIAL SERVICES COUNCIL****Confidential**

EMPLOYEE'S HOME ADDRESS

DATE

Dear

**Notification to Scottish Social Services Council**

The Code of Practice for Social Service Workers is a list of statements that describe the standards of professional conduct and practice required of social service workers as they go about their daily work. The Code requires that Scottish Borders Council, as your employer, adheres to the standards set out in the Code, supports social service workers in meeting the Code and takes appropriate action when workers do not meet expected standards of conduct.

I refer to recent discussions/meetings to discuss the concerns raised over .....

Bearing in mind that your role requires Registration with Scottish Social Services Council, I am therefore required to inform them of my concerns and the reason for them.

Consequently, you may be contacted by them if they consider suspending your registration. Additionally I would remind you of your own obligations to inform them yourself of any relevant changes regarding your employment status that may impact on your professional standing.

I trust that this information is satisfactory but please do not hesitate to contact me should you have any additional queries.

Yours sincerely

**Name****Job title**

**5. SAMPLE LETTER ACCOMPANYING FORM TO GENERAL TEACHING COUNCIL**

GTC Scotland  
Sherwood House  
96 Clermiston Road  
Edinburgh  
EH12 6UT

Date

Dear Sir/Madam

**Re: Employee Name – GTC Number**

Please find enclosed information in respect of the above named employee.

I confirm that I am advising the employee of this notification and informing them that you may consider contacting them directly.

I trust that this information is satisfactory but please do not hesitate to contact me should you have any additional queries.

Yours sincerely

**Name**  
**Job title**

**6. NOTIFICATION FORM TO GENERAL TEACHING COUNCIL**

This form is to be used when there is a requirement to provide notification to the General Teaching Council (GTC) in respect of Scottish Borders Council employees.

**NAME & ADDRESS OF EMPLOYEE:****DATE OF BIRTH:****JOB TITLE & DEPARTMENT:****SCHOOL:****REGISTERED TEACHER** **GTC REGISTRATION No:****PROVISIONALLY REGISTERED TEACHER** **GTC REGISTRATION No:****NATURE OF CONCERN / ALLEGATIONS:****THE REASON FOR NOTIFICATION** Please tick as appropriate

1. Registered teacher dismissed for misconduct
2. Registered teacher dismissed for incompetence
3. Teacher resigns or abandons their position in circumstances, but for their abandonment or resignation they would either have been dismissed for misconduct, or dismissal for misconduct would have been a consideration
4. Teacher has resigned or abandoned their position after being informed that a disciplinary hearing is to be held in respect of alleged incompetence

**PLEASE COMPLETE WHERE APPROPRIATE**

- Date of suspension \_\_\_\_\_ Copy of letter attached
- Date investigation completed \_\_\_\_\_ Copy of report attached
- Date of dismissal \_\_\_\_\_ Copy of letter attached

**ADDITIONAL INFORMATION** Please use this section to add any information that you feel to be relevant

**DETAILS OF PERSON COMPLETING THE FORM**

**Name:**

**Job title:**

**Department:**

**Date:**

**7. SAMPLE LETTER TO EMPLOYEE RE NOTIFICATION TO  
THE GENERAL TEACHING COUNCIL****Confidential**

EMPLOYEE'S HOME ADDRESS

DATE

Dear

**Notification to General Teaching Council**

I refer to recent discussions/meetings to discuss the concerns/allegation raised over .....

Bearing in mind your role as a provisionally registered / registered Teacher, I am required to inform the General Teaching Council of my concerns and the reason for them.

Consequently you may be contacted by them if they consider suspending your registration. Additionally I would remind you of your own obligations to inform them yourself of any relevant changes regarding your employment status that may impact on your professional standing.

I trust that this information is satisfactory but please do not hesitate to contact me should you have any additional queries.

Yours sincerely

**Name****Job title**

**APPENDIX 6 – SAMPLE LETTER CONFIRMING PERIOD OF SPECIAL PAID LEAVE**

Note: this is a sample letter and should be adapted to suit the circumstances, taking into account the requirements of para 18. Special paid leave in the disciplinary procedures.

**Confidential**

EMPLOYEE'S HOME ADDRESS

DATE

Dear

**Confirmation of period of special paid leave**

Further to our meeting on (date), this letter confirms that, in accordance with the Council's Disciplinary Procedures for Misconduct, you are on a period of special paid leave for the following reasons:

This period of special paid leave started on *date* and is expected to end on *date*. You are to remain away from work until advised further. If the end date changes, I will let you know. Your period of special paid leave is part of the investigation process; it is not disciplinary action and does not imply any pre-judgement of the case.

*(Insert if appropriate)* Bearing in mind your role I will consider whether I am required to inform the *Scottish Social Services Council / General Teaching Council / Care Inspectorate* of your period of suspension and the reason for it. Consequently you may be contacted by the appropriate body. Additionally, I would remind you of your own obligations to inform them yourself of any relevant changes regarding your employment status that may impact on your professional standing.

As part of the investigation, you will be contacted soon to attend an investigatory meeting so please remain contactable. You have the right to be accompanied by someone, who must be either a workplace colleague, an accredited trade union representative (who is certified as being trained or experienced in being a representative for disciplinary hearings) or an official employed by the trade union. All reasonable requests will be approved.

Your contract of employment and all normal employment procedures still apply. For example, if you want to go away or are sick during this period please contact me / your line manager to enable the necessary authorisation/documentation to be given/completed. You will continue to be paid during this period.

Please do not attend work or attempt to influence anyone who may be involved in the investigation process unless you want them to represent you formally or accompany you to a meeting. Every effort will be made to investigate this alleged misconduct fairly and promptly.

I appreciate that this time may be stressful for you. I have arranged for *(name/title)* to be a support person for you. *(S/he)* has agreed to this but I must make it clear that *(s/he)* has not been given any detail of the reasons for your period of special paid leave and will not take part in the investigation in any way. Consequently, *(name)* will not be able to give any opinion on the matters under investigation but will, however, be able to act as a general support to you and keep you in touch with workplace issues. You may contact *(him/her)* either by phone/email *(insert contact details)*.

I would also like to draw your attention to the free professional confidential counselling service which is available to all employees. If you feel that you would benefit from this you may refer yourself by contacting 08701648276.

I enclose a copy of the Council's Disciplinary Procedure for Misconduct for your information. If you require any further clarification please do not hesitate to contact me.

Yours sincerely

**Name**  
**Job title**

**APPENDIX 7 – EXAMPLES OF MISCONDUCT AND GROSS MISCONDUCT****MISCONDUCT**

The following list, which is neither exhaustive nor exclusive, gives an indication of the types of misconduct which can result in a disciplinary warning:

- Damage to Council property or to property not belonging to the Council.
- Unauthorised use or misuse of Council property and/or facilities, or of those not belonging to the Council.
- Poor timekeeping or unauthorised absence from work.
- Carelessness or negligence which creates risk or damage.
- Failure to follow reasonable instructions or procedures, or otherwise fulfil contractual obligations.
- Abusive or threatening behaviour toward any person.
- Minor abuse of authority, including acts and omissions.
- Less serious breach of relevant Codes of Practice, Regulations, Policies and Procedures, eg Code of Conduct for Scottish Borders Council Employees, Financial Regulations and Policy and Guidelines on the use of e-mail and the Internet.
- Less serious discriminatory acts or omissions which breach, or are inconsistent with, the Council's Equal Opportunities Policy.
- Less serious breaches of Health and Safety rules.
- Unauthorised disclosure of personal information or disclosure of a password to electronically held data.
- Attempts, whether successful or not, to access information without authorisation.
- Making malicious, frivolous or vexatious allegations

**GROSS MISCONDUCT**

The following list, which is neither exhaustive nor exclusive, provides examples of acts regarded as gross misconduct, which can result in summary dismissal without notice or pay in lieu of notice.

- Theft of Council property, or of property not belonging to the Council whilst engaged, or claiming to be engaged, on Council business.
- Serious damage to, or misuse of, Council property or resources or of property or resources not belonging to the Council, whilst engaged or purporting to be engaged on Council business.
- Physical or indecent assault.
- Indecent, abusive or threatening behaviour.

- Dishonest or fraudulent acts e.g. deliberate falsification of time sheets or other attendance records, work records, expenses claims or other records, whether computerised or manual, relating to the financial transactions of the Council.
- Provision of false or misleading information, or non-disclosure of information, either during the recruitment process or in subsequent employment.
- Serious breach of contract.
- Serious breach of confidentiality.
- Serious abuse of authority, including acts and omissions.
- Serious breach of trust and/or confidence caused by the actions of the employee.
- Serious breach of security systems (including premises, data etc)
- Significant non-disclosure of an interest, whether direct or indirect, in a contractual arrangement between an agency or other concern and the Council.
- Criminal conviction / civil liability or other unacceptable conduct which renders the employee unsuitable to carry out the duties and responsibilities of the post, whether or not the conduct occurred on duty.
- Serious breach of relevant Codes of Practice, Regulations, Policies and Procedures, eg Code of Conduct for Scottish Borders Council Employees, Financial Regulations and Policy and Guidelines on the use of e-mail and the Internet.
- Gross carelessness or negligence.
- Serious breach of Health and Safety rules.
- Serious discriminatory acts or omissions contrary to, or inconsistent with, the Council's Equal Opportunities policy including:
  - the selection or non-selection of any person for a post within the Council
  - the provision or non-provision of any rights or benefits to any person employed by or having contact with the Council
  - other forms of less favourable treatment, such as any form of harassment, victimisation or intimidation.
- Difficulty in carrying out the duties of the post due to the influence of alcohol or misuse of drugs.
- Drinking alcohol or taking illegal drugs during working hours or whilst on standby.
- Serious insubordination
- Bringing the Council into disrepute

**APPENDIX 8 – SAMPLE LETTERS FOR DISCIPLINARY HEARINGS****NOTES:**

These are sample letters only and must be adapted to fit the circumstances. Before finalising letters, it is important to have read Section 5: Formal disciplinary hearings, which covers the content of letters, timescales, options for hearings etc.

It is important that employees receive their letters promptly and confidentially. Managers should hand them personally to employees or send them by recorded delivery to home addresses. Alternatively, agreement may be made with the employee to email the letter.

**CONTENTS:**

1. Invitation to a disciplinary hearing
2. Outcome of the disciplinary hearing – no disciplinary action
3. Outcome of the disciplinary hearing – 1<sup>st</sup> or final warning
4. Outcome of the disciplinary hearing – normal dismissal
5. Outcome of the disciplinary hearing – summary dismissal

**1. INVITATION TO A DISCIPLINARY HEARING****Confidential**

EMPLOYEE'S HOME ADDRESS

DATE

Dear

**Notice of Disciplinary Hearing**

I write to invite you to attend a disciplinary hearing on *(date)* at *(time)*, at *(venue)* for the following reasons:

*Briefly state the complaint against the employee*

I will chair the hearing and *(name and job title)* will also attend the hearing with me. At the hearing, the matter will be explored in more detail. You will be given the opportunity to fully explain your position and to make me aware of any relevant factors. You should note that disciplinary action *(including dismissal)* may be taken as a result of this hearing.

A copy of the Council's Disciplinary Policy and Procedures for Misconduct is enclosed and I advise you to familiarise yourself with it prior to the hearing. The section on 'Formal disciplinary hearings' is of particular relevance to you. If there is anything that you do not understand, please contact me.

You have the right to be accompanied at the disciplinary hearing. See the sub-section on 'Employee representation' in the attached procedures for further information. This person can be a workplace colleague, an accredited trade union representative (who is trained or experienced in being a representative in disciplinary hearings, as certified by the trade union) or an official employed by a trade union. It is your responsibility to arrange this. No one else can accompany you. *OR As the hearing may lead to dismissal, your solicitor may be allowed to attend as your companion, subject to Council discretion.* Your choice of companion needs to be approved by me, so please let me know asap who you would like to bring.

Your accredited trade union representative/ accompanying person can address the hearing but cannot answer questions on your behalf. If your chosen person is unavailable at the time given above, we will try to re-schedule the hearing within 2 weeks.

You have the right to call witnesses or submit statements or other documents. Please let me have the details by *(date – 4 days before the hearing)* at the latest. It is your responsibility to arrange for the attendance of these witnesses.

*Either* – The management witnesses are *(names and job titles)* and the investigating officer is *(name and job title)*. I enclose copies of the documents which will be referred to at the hearing.

*Or* – Details of the management witnesses, investigating officer and copies of any documents which will be referred to at the hearing will be sent to you by the same date.

The disciplinary hearing will be run in line with sub-section 26 'Holding the disciplinary hearing' in the attached procedures.

If you have any queries prior to the hearing, or any special requirements at the hearing (eg to accommodate a disability, language difficulties etc) please do not hesitate to contact me.

Yours sincerely

**Name**

**Job title**

Enc

**2. OUTCOME OF THE DISCIPLINARY HEARING – NO DISCIPLINARY ACTION**

NOTE: There may be follow-up action required, even though disciplinary action is inappropriate, for example monitoring, setting targets, training. Outline any such action in this letter or indicate that a meeting will take place to discuss this further. It is important to ensure that such a meeting takes place asap.

**Confidential**

EMPLOYEE'S HOME ADDRESS

DATE

Dear

**Outcome of Disciplinary Hearing**

On *(date)* you attended a disciplinary hearing with myself and *(name of colleague/advisor)*. You were accompanied by *(name, work colleague/accredited trade union representative)* OR You chose not to be accompanied at the hearing.

The disciplinary hearing was held for the following reasons:

*Briefly state the complaint against the employee*

*Insert a summary of the key points raised at the hearing, the employee's response, and any key factors that you took into account..*

At the hearing, having considered all the points raised, I concluded that there was insufficient evidence to support the case against you and therefore no formal disciplinary action was appropriate in terms of the Disciplinary Procedures for Misconduct.

I confirm that the results of the investigation in relation to this particular issue will not be retained on your personal file, nor will they be included in any reference.  
The papers from the investigation will be destroyed.

*Include as required: As I indicated at the hearing, improvement is expected of you and you are required to meet the following standards:*

*State the standards required*

*(Detail any supportive action you will take.) Your conduct will be monitored by me by (indicate how you will monitor his/her conduct). If you do not meet these standards, you may be asked to attend another disciplinary hearing in due course.*

I would like to thank you for your assistance and co-operation during the disciplinary process and regret any inconvenience or distress that these proceedings may have caused you.

Yours sincerely

**Name****Job title**

**3. OUTCOME OF THE DISCIPLINARY HEARING – 1<sup>ST</sup> OR FINAL WARNING****Confidential**

EMPLOYEE'S HOME ADDRESS

DATE

Dear

**Outcome of Disciplinary Hearing**

On *(date)* you attended a disciplinary hearing with myself and *(name of colleague/advisor)*. You were accompanied by *(name, work colleague/ accredited trade union representative)* OR You chose not to be accompanied at the hearing.

The disciplinary hearing was held for the following reasons:

*Briefly state the complaint against the employee*

*Insert a summary of the key points raised at the hearing, the employee's response, any key factors that you took into account, why the misconduct was unacceptable, any mitigating circumstances and the reasons for giving this level of warning.*

At the hearing, having considered all the points raised, I issued you with a Verbal Warning/ Written Warning / *Final Written Warning* under the Disciplinary Procedures for Misconduct. In accordance with the procedures, this warning will remain live on your file for a period of 6 (for a Verbal Warning), 12 (for a *Written Warning*) or 18 (for a *final written warning*) months from the date of the hearing.

As I indicated at the hearing, improvement is expected of you and you are required to meet the following standards:

*State the standards required*

*(Detail any supportive action you will take.)* Your conduct will be monitored by me by *(indicate how you will monitor his/her conduct)*. If there is any other misconduct during this period, you may be asked to attend a further disciplinary hearing which could result in a *written warning/ final written warning / dismissal*.

You have the right to appeal against this warning if you believe the decision was wrong or unjust. Any appeal should be made in writing to *(name)* within 2 weeks of the date of this letter. The letter of appeal must state clearly the full grounds on which you are appealing and should not be simply that you feel unhappy with the outcome of the disciplinary hearing. An appeals form is included in the Disciplinary procedures at Appendix 9.

Should you require further information on the disciplinary or appeals process, please refer to the Disciplinary Procedures for Misconduct, or ask me.

Yours sincerely

**Manager**

**Job title**

**4. OUTCOME OF THE DISCIPLINARY HEARING –DISMISSAL**

NOTE: Dismissal letters must be approved by HR before being sent, due to the legal implications.

**Confidential**

EMPLOYEE'S HOME ADDRESS

DATE

Dear

**Outcome of Disciplinary Hearing**

On *(date)* you attended a disciplinary hearing with myself and *(name of colleague/advisor)*. You were accompanied by *(name, work colleague/ accredited trade union representative)* OR You chose not to be accompanied at the hearing.

The disciplinary hearing was held for the following reasons:

*Clearly state the case against the employee*

*Insert a summary of the key points raised at the hearing, the employee's response, any key factors that you took into account, why the misconduct was unacceptable, any mitigating circumstances and the reasons for deciding on dismissal.*

At the hearing, having considered all the points raised, I concluded that you should be dismissed for misconduct in line with the Disciplinary Procedures for Misconduct. I believe you have been given support and advice on your conduct over a period of time and have received previous disciplinary warning(s) to indicate that your conduct was unacceptable. However, you have not reached the required standards and your contract of employment with the Council will now end.

The decision to dismiss you means that, in accordance with your contract of employment, you are entitled to *(number)* months' period of notice and will be required to continue to work during that period. Your employment ends on *(date following period of notice)* and all employment benefits will cease to accrue from this date.

By the time you leave the Council, you must *(insert/amend as appropriate and consider if it is appropriate to give the name of a contact person to assist with this)*:

- return any security passes, property, keys, car parking permits, alarm code details, system passwords and security codes
- return any property e.g. laptops, mobile phones, printers, faxes, data records or documentation.
- ensure all outstanding Council expenses have been brought up to date, by submitting receipts and expense descriptions, within 2 days of leaving the Council
- return your Council vehicle
- repay any relocation expenses or outstanding loans as per the relevant agreement e.g. Relocation Receipt & Undertaking, Travel Loan agreement
- collect your personal belongings.

You have the right to appeal against this decision if you believe the decision was wrong or unjust. Any appeal should be made in writing to the Service Director Human Resources within 2 weeks of the date of this letter. You must state clearly the full grounds on which you are appealing, which

cannot simply be because you are unhappy with the outcome of the disciplinary hearing. An appeals form is included in the Disciplinary procedures at Appendix 9.

Should you require further information on the disciplinary or appeals process, please refer to the Disciplinary Procedures for Misconduct.

(Where appropriate – see Appendix 5)

In addition, in view of the circumstances of your dismissal I require to notify the Scottish Social Services Council/ General Teaching Council for Scotland/ Disclosure Scotland (*delete as appropriate*) of the fact of your dismissal and the circumstances which led to it. They will consider your registration/ whether you should be listed as barred from working with children and/ or protected adults. (*delete as appropriate*).

Yours sincerely

**Name**

**Job title**

**5. OUTCOME OF THE DISCIPLINARY HEARING – SUMMARY DISMISSAL**

NOTE: Dismissal letters must be approved by HR before being sent, due to the legal implications.

**Confidential**

EMPLOYEE'S HOME ADDRESS

DATE

Dear

**Outcome of Disciplinary Hearing**

On *(date)* you attended a disciplinary hearing with myself and *(name of colleague/advisor)*. You were accompanied by *(name, work colleague/accredited trade union representative)* OR You chose not to be accompanied at the hearing.

The disciplinary hearing was held for the following reasons:

*Clearly state the case against the employee*

*Insert a summary of the key points raised at the hearing, the employee's response, any key factors that you took into account, why the misconduct was unacceptable, any mitigating circumstances and the reasons for deciding on dismissal.*

At the hearing, having considered all the points raised, I concluded that your actions constituted gross misconduct and I took the decision to summarily dismiss you in line with the Disciplinary Procedures for Misconduct.

The decision to summarily dismiss you means that, in accordance with your contract of employment, you are not entitled to any notice period and your dismissal takes place immediately. Your employment ends on *(date of disciplinary hearing)* and all employment benefits will cease to accrue from this date.

You must *(insert/amend as appropriate and consider if it is appropriate to give the name of a contact person to assist with this)*:

- return any security passes, property, keys, car parking permits, alarm code details, system passwords and security codes
- return any property e.g. laptops, mobile phones, printers, faxes, data records or documentation. If this is not immediately possible, arrangements will be made to collect these from your home
- ensure all outstanding Council expenses have been brought up to date, by submitting receipts and expense descriptions, within 2 days of dismissal
- return your Council vehicle immediately. *(Specify the alternative arrangements to be made for the journey home)*
- repay any relocation expenses or outstanding loans as per the relevant agreement e.g. Relocation Receipt & Undertaking, Travel Loan agreement
- collect your personal belongings - you will be accompanied to/from your desk by *(specify by whom)*. *(If the employee is unable to collect them immediately after the disciplinary hearing, specify the arrangements for them to be delivered to the employee or collected from the Council)*.

You have the right to appeal against this decision if you believe the decision was wrong or unjust. Any appeal should be made in writing to the Service Director Human Resources within 2 weeks of the date of this letter. You must state clearly the full grounds on which you are appealing which cannot simply be because you are unhappy with the outcome of the disciplinary hearing. An appeals form is included in the Disciplinary procedures at Appendix 9.

Should you require further information on the disciplinary or appeals process, please refer to the Disciplinary Procedures for Misconduct.

(Where appropriate – see Appendix 5)

In addition, in view of the circumstances of your dismissal I require to notify the Scottish Social Services Council/ General Teaching Council for Scotland/ Disclosure Scotland (*delete as appropriate*) of the fact of your dismissal and the circumstances which led to it. They will consider your registration/ whether you should be listed as barred from working with children and/ or protected adults. (*delete as appropriate*).

Yours sincerely

**Name**  
**Job title**



c) What evidence do you have to support your case? (*Attach any documents and list them here*)

### Section 3: Arrangements for an appeal

Who would you like to accompany you to an appeal hearing?

- No one  *Go to 'Section 4: Declaration' below*

- Name:

- a) Is s/he:
- An accredited trade union representative who is trained or experienced in being a representative in disciplinary hearings (as certified by the trade union) or
  - an official employed by a trade union or
  - a workplace colleague
  - a solicitor (for certain appeals against dismissal, subject to the approval of the council)

b) Please state when you or your accredited trade union representative/ accompanying person will **not** be available over the next 4 weeks:

### Section 4: Declaration

I have read and understood the Disciplinary Policy and Procedures for Misconduct and I believe that my appeal meets the criteria for a hearing. I believe that all the information provided by me is accurate and true.

Name:

Signature:

Date:

**APPENDIX 10 – HOLDING AN APPEAL HEARING****HOLDING AN APPEAL HEARING****Introducing the hearing**

1. The Chair will make the necessary introductions and clarify the role of each person present. The approach should be formal and polite, with a view to establishing the facts.
2. The Chair will explain that the purpose of the hearing is for the panel to consider the appeal against disciplinary action, in accordance with the Council's disciplinary procedure. The procedure for the hearing will also be outlined, with the employee asked to confirm s/he understands the procedure.

**Presenting the employee's case**

3. The employee (and/or workplace colleague/ accredited trade union representative) will be given the opportunity to state his/her case and present evidence. This may include calling witnesses if appropriate and discussing any witness statements and the contents of any other documents.

**Questions on the employee's case**

4. The management representative (and any advisors) will be given an opportunity to ask questions to clarify the employee's case, including questions to any witnesses.
5. The employee (and/or workplace colleague/ accredited trade union representative) will be given a further opportunity to question any witnesses on issues raised during the panel's questions.
6. The appeals panel (and any advisors) will have a further opportunity to question any witnesses on issues raised during the employee's questions.

**Presenting the management case**

7. The manager will state clearly the complaint or allegation. S/he will outline the case briefly by going through the evidence which has been gathered. This may include calling witnesses if appropriate, discussing any witness statements and the contents of any other records and documents.
8. Occasionally, in exceptional circumstances, (for example, in some cases of bullying and harassment), the anonymity of witnesses may need to be maintained. In such cases, witness statements can be anonymised and/or the individuals may not be required to attend a hearing where they could be questioned by the employee. The manager shall explain the reasons for anonymity being maintained at the start of the hearing. The employee (and/or workplace colleague/ accredited trade union representative) shall have the opportunity to challenge the need for anonymity. The appeals panel shall make a decision on this. If the appeals panel decides to maintain the anonymity of witnesses, they must consider whether a fair hearing requires that the employee (and/or workplace colleague/ accredited trade union representative) be given an opportunity to put questions to the witnesses by other means, for example by the employee and/or workplace

colleague/ accredited trade union representative) submitting written questions to be answered by the witnesses.

### Questions on the management case

9. The employee (and/or workplace colleague/ accredited trade union representative) will be given the opportunity to ask questions to clarify the management case, including questions to any witnesses.
10. The management representative will be given a further opportunity to question any witnesses on issues raised during the panel's questions.
11. The appeals panel (and any advisors) will have a further opportunity to question any witnesses on issues raised during the employee's questions.

### Final questions and clarification

12. The appeals panel (and any officers/advisors) may use this stage to clarify any issues and to check that what has been said is understood. Where either party is asked to clarify any point, the other party will normally have the opportunity to comment.

### Summing up

13. The manager will sum up the case, without introducing any new material.
14. The employee (and/or workplace colleague/ accredited trade union representative) will sum up his/her response, without introducing any new material.

### Adjournments

15. Either party can request an adjournment during the hearing which, if considered reasonable by the Chair, will normally be allowed.
16. At the end of the hearing, **the Chair will adjourn** to allow full consideration of all the matters raised, before a decision is taken on whether or not to support the appeal.
17. **The appeals panel, together with any advisors, will deliberate in private**, only recalling the manager(s) or the employee to clarify points of uncertainty on the evidence already given. If a recall is necessary, both parties will be asked to return.
18. In some cases, the appeals panel may require further information and, in this or similar circumstances, the appeal hearing may need to be reconvened at a later date to enable further information to be provided and a decision to be made. Any additional written information will be copied to all parties. The hearing must be reconvened as soon as possible.

### Outcome of the hearing

19. **The appeal panel's decision** is normally one of the following:
  - the appeal is upheld and the case dismissed, with the record of disciplinary action removed from the employee's personal file
  - the appeal is partially upheld and the level of disciplinary action is reduced
  - the appeal is dismissed and the disciplinary action upheld

- exceptionally, the Chair may request further information from the employee and/or the previous decision maker before reaching a decision.
  - exceptionally, the panel may refer the matter back to be reheard, either by the original decision maker or another manager.
20. The decision of the Appeals Panel is final and will be confirmed in writing to the employee within **2 weeks** of the hearing, other than in exceptional circumstances when the decision will be confirmed as soon as possible. There is no further level of appeal under the disciplinary policy and procedures.

**APPENDIX 11 – FORMAT FOR PREPARING PAPERS FOR THE COUNCIL STAFFING APPEALS COMMITTEE**

In the event of dismissal, an employee may appeal to a Council Staffing Appeals Committee, for the appeal to be heard by elected members. An appeal to this Appeals Committee may also take place where a Director takes some other form of disciplinary action which the employee does not accept.

The receipt of the Committee papers will be the first sight or knowledge the members have of a particular case. This is to ensure the members' objectivity in hearing the appeal. It would be especially useful therefore for both the manager and the employee to ensure that their papers:

- are arranged in logical order
- have each page numbered
- include a content index
- have pages cross referenced where necessary.

The manager and the employee will each be asked to submit a written statement of their case, including any papers to which they wish to refer, to the Clerk to the Council to be received at least 10 working days before the date of the appeal hearing.

The Clerk to the Council will arrange for the papers, including the statements of case to be sent to the manager and the employee, as well as to the **Committee members and any advisors**.

At the appeal hearing there is a running order of events (see **Appendix 10** 'Holding an appeal hearing'). The statement of case by the employee follows the introduction by the Chair. The employee may be accompanied (see para 24) and the manager may be supported by an HR or Legal adviser.

Each party must decide whether to call witnesses or whether they wish to rely on their formal submissions. Witnesses may be useful if it is considered there is likely to be any contentious issues and a first hand account would carry more weight.

If the employee is calling witnesses it is their responsibility to arrange their attendance and names must be submitted to the Clerk to the Council 10 days before the date of the appeal.

Irrespective of the formal submissions, it would be normal for the parties to begin with a verbal summary. This would normally be an abbreviated version of the statement of case, which can be referred to as need be. It would be helpful if a copy of the script for the verbal summary (if available) could be given to the Council Staffing Appeals Committee on the day.

This Appendix provides a template, as guidance, for managers and employees to use when preparing papers for the Council Staffing Appeals Committee. Whilst it is important for sufficient information and papers to be provided to enable the Committee to reach a decision, both parties should be selective about what they submit, because an excessive quantity of papers can sometimes reduce rather than increase clarity.

**1. APPEAL PAPERS: MANAGEMENT TEMPLATE**

NOTE: This template is intended to indicate the layout of the submission. It does not, however, restrict the actual content of the manager's submission, which is likely to vary according to the details of the case.

**CONFIDENTIAL**
**COUNCIL STAFFING APPEALS COMMITTEE**
**APPEAL AGAINST DISCIPLINARY ACTION: MANAGEMENT CASE**

**Name:**  
**Job title:**  
**Dept:**

**Name of employee:**  
**Job title:**  
**Dept:**

**CONTENTS**

SECTION	DESCRIPTION	PAGE
1	Employee details	
2	Summary	
3	Case details	
4	Rationale for decision	
5	Conclusion	
<b>APPENDICES</b> ( <i>Examples of papers</i> )		
1.	Dates of counselling and review meetings and summary of key content.	
2.	Final warning letter dated xx from Scottish Borders Council	
3.	Letter dated xx inviting employee to attend disciplinary hearing (which resulted in dismissal)	
4.	Dismissal letter dated xx from Scottish Borders Council	
5.	Witness statement dated x.	
6.	Investigatory Report	

**1. EMPLOYEE DETAILS**

Name:

Job title:  Grade:

SBC employment start date:  Date of dismissal:

Total SBC service:  Years in post:

**2. SUMMARY*****Example***

Mr X was dismissed by (*name of manager*) on (*date*). The reason for dismissal was (*reason*). This followed a final written warning that was issued on (*date*).

**3. CASE DETAILS**

Include here, as appropriate:

- a concise history of the case, indicating when issues first arose and how they developed, how they were managed, standards set, monitoring arrangements etc
- any previous disciplinary action prior to the current disciplinary action
- the circumstances which led to the recent disciplinary hearing
- any mitigating circumstances that were considered
- reference to the investigation report / fact finding exercise
- reference to the response by the employee and/or workplace colleague/ accredited trade union representative at the hearing
- any new evidence.

**4. RATIONALE FOR DECISION**

Include a summary of why the decision was taken to dismiss the employee. Was 'action short of dismissal' considered?

Explain why you do not agree with the employee's specific reasons for appeal.

**5. CONCLUSION**

Pull together the key overriding points of the case and conclude that dismissal was the most appropriate course of action. This section may include the impact of the misconduct on other staff / the public, the impact on the Council, the risks of not dismissing the employee, action in other similar cases across the Council, likelihood of improvement, or any relevant new evidence.

Signature:

Date:



**2. APPEAL PAPERS: EMPLOYEE TEMPLATE**

NOTE: This template is intended to indicate the layout of the submission. It does not, however, restrict the actual content of the employee's submission, which is likely to vary according to the details of the case. The employee can choose to use the initial 'Appeal against disciplinary action' form at **Appendix 9** instead of this form. However, for more in depth submissions, especially those with substantial documentary evidence, it would be helpful to the Council Staffing Appeals Committee for this template to be used.

**CONFIDENTIAL**

**COUNCIL STAFFING APPEALS COMMITTEE**

**APPEAL AGAINST DISCIPLINARY ACTION: EMPLOYEE CASE**

**Name of employee:**

**Job title:**

**Dept:**

**Name of dismissing manager:**

**Job title:**

**Dept:**

**CONTENTS**

SECTION	DESCRIPTION	PAGE
1	Personal details	
2	Summary	
3	Case details	
4	Reason for your appeal	
5	Conclusion	
<b>APPENDICES</b> ( <i>Examples of papers</i> )		
1.	Dates of counselling and review meetings and summary of key content.	
2.	Relevant correspondence, emails, records of conversations to support the appeal.	
3.	Supporting Documents, for example showing good conduct, or of meeting standards / targets, or evidence that an offence was not committed.	
4.	Dismissal letter dated xx from Scottish Borders Council	
5.	Witness statement dated x.	

**1. PERSONAL DETAILS**

Name:

Job title:  Grade:

SBC employment start date:  Date of dismissal:

Total SBC service:  Years in post:

Name of line manager:  Manager's job title:

**2. SUMMARY****Example**

I was dismissed by *(name of manager)* on *(date)*. The reason for dismissal was *(reason)*. This followed a final written warning that was issued on *(date)*.

**3. CASE DETAILS**

Include here, as appropriate:

- a concise history of your case, indicating when issues first arose, how your manager handled them, how you responded, standards set, monitoring arrangements etc
- any previous disciplinary action prior to the current disciplinary action
- the circumstances which led to the recent disciplinary hearing
- any mitigating circumstances that should have been considered
- reference to any key issues in the investigation report / fact finding exercise
- reference to the issues you raised at the hearing and how the management responded
- any new evidence.

**5. REASON FOR YOUR APPEAL**

Include a summary of why you believe the decision to dismiss you was wrong or unjust. Why you do not agree with the management's decision to dismiss you.

**5. CONCLUSION**

Pull together the key overriding points of the case. This section might include mitigating circumstances (eg record of good conduct, your long service record, temporary personal problems etc), the likelihood of you reaching the required standards of conduct, the reasons why the offence (if any) would not recur, or relevant new evidence.

Signature:

Date:

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**POLICY ON DIGNITY AND RESPECT IN THE WORKPLACE**

**INFORMATION AND GUIDANCE  
FOR  
LINE MANAGERS AND EMPLOYEES**

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Contact Details:	Human Resources Unit Scottish Borders Council Head Quarters Old School Building Newton St Boswells Melrose TD6 0SA ☎ Tel 01835 825052/3 (HR reception) ✉ <a href="mailto:askhr@scotborders.gov.uk">askhr@scotborders.gov.uk</a>

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## POLICY ON DIGNITY AND RESPECT IN THE WORKPLACE

### Contents Page:

	Page No.
<a href="#">1. Introduction</a>	3
<a href="#">2. Policy Statement</a>	3
<a href="#">3. Policy Scope</a>	4
<a href="#">4. Key Principles</a>	4
<a href="#">5. Definitions</a>	7
<a href="#">5.1 Dignity and Respect in the Workplace</a>	7
<a href="#">5.2 Unacceptable Behaviour</a>	8
<a href="#">5.3 Recognising Unacceptable Behaviour</a>	10
<a href="#">6. Action by Council</a>	11
<a href="#">7. Roles and Responsibilities</a>	12
<a href="#">7.1 Staff are Expected to...</a>	12
<a href="#">7.2 Managers are Expected to...</a>	13
<a href="#">7.3 If Someone has Complained about your Behaviour</a>	13
<a href="#">7.4 Human Resources</a>	13
<a href="#">8. Bullying and Harassment Complaint Procedure</a>	14
<a href="#">8.1 What to do if you feel like you have been Bullied or Harassed</a>	14
<a href="#">8.2 Informal Action</a>	15
<a href="#">8.3 Formal Action</a>	15
<a href="#">8.4 Harassment by Non-Employees</a>	16
<a href="#">9. Records</a>	16
<a href="#">10. Raising Awareness</a>	16
<a href="#">11. Monitoring and Review</a>	17

### List of Appendices:

	Page No.
<a href="#">1. Appendix No. 1 Dignity at Work Incident Log/</a>	19

<a href="#">Complaint Form</a>	
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## POLICY ON DIGNITY AND RESPECT IN THE WORKPLACE

### 1. INTRODUCTION

1.1 The purpose of this policy is to:

- Give a clear statement of the Council's policy on dignity and respect in the workplace which applies to all employees.
- Give examples of the type of behaviour which can constitute as bullying and harassment.
- Give guidance on the responsibilities of employees and managers
- Advise employees on the procedure they should follow if they wish to complain about bullying or harassment.

1.2 Many people have misgivings about the introduction of a policy and procedure on dignity and respect in the work place which stem from a concern that it is intended to outlaw fun and jokes at work. It is important to be quite clear about both the importance of the issue and the distinction between bullying and harassment and actions or behaviour which are mutually agreeable.

### 2. POLICY STATEMENT

2.1 Scottish Borders Council (the Council) is committed to encouraging and maintaining good employee relations within a working environment which fosters team working and encourages employees to give of their best. **Everyone in the Council and those who have dealings with the Council has a responsibility to maintain good working relationships and not use words or deeds that may harm the wellbeing of others.** In addition to the obligations placed upon both employers and employees by the Equality and Human Rights legislation, **everyone has the right to be treated with consideration, fairness, dignity and respect.** This contributes to a workplace environment in which individuals feel safe and can work effectively, competently and confidently.

2.1.1 The Council has a "zero tolerance" policy and will investigate vigorously any allegations of bullying, harassment, discrimination, victimisation or unacceptable (referred to from this point forward as bullying and harassment) behaviour towards an individual or group, regardless of whether the matter has been raised formally or informally.

2.1.2 The Council fully recognises that bullying and harassment is a serious offence which may cause fear, stress and anxiety and be detrimental to the health, safety and well-being of employees and interfere with work effectiveness. It is also recognised that some employees may be unaware of the effect their behaviour has on others and that the most productive way to resolve such issues is to facilitate mediation between the parties involved.

2.1.3 The Council is also aware that cases of bullying and harassment can involve difficult and sensitive circumstances e.g. where the bully or harasser is an

employee's line manager or a very senior officer. Consequently, it undertakes to deal with cases involving harassment promptly, sensitively and confidentially. At all stages the wishes of the employee(s) involved will be taken into account.

- 2.1.4 Some cases of harassment may be unlawful and require the involvement of external authorities (e.g. the police). A balance will therefore require to be struck between the need to preserve confidentiality and the need for investigation and effective action.

### 3. POLICY SCOPE

- 3.1 The Council's policy applies to all staff working within the organisation and to all employees working off the premises. It also applies to elected members. It extends to include non-permanent workers such as secondees, contractors, agency, temporary staff, consultants and any other workers. The policy, in addition, covers the behaviour of staff outside working hours which may impact upon work or working relationships.

- 3.2 This policy applies particularly in issues of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex or sexual orientation. These are referred to as '**protected characteristics**' which are outlined in the Equality Act 2010.

- 3.3 This policy is associated to the following key policies/guidelines and where applicable should be cross referenced to gain further detail:

- Code of Conduct
- Disciplinary Procedure
- Equality Diversity & Human Rights Policy
- Family Friendly Policies
- Grievance Procedure
- Managing employees with a disability guidance (see appendix 1 Attendance Management Policy)
- Managing Gender Re-assignment guidance (under Attendance Management Policy).

- 3.4 This policy and procedure has been agreed in consultation with the Council's recognised Trade Unions: Educational Institute for Scotland (EIS), GMB, Scottish Secondary Teachers Association (SSTA), Unison and Unite.

### 4. KEY PRINCIPLES

- 4.1 **The Council will provide and sustain a safe working environment in which everyone is treated fairly and with respect.** Those working or dealing with the Council must not encounter bullying and harassment, or unacceptable behaviour on the basis of the associated protected characteristics.

4.2 Everyone carries a personal responsibility for their own behaviour and for ensuring that their conduct is in accordance with the principles set out in this policy. In addition, each person has a responsibility to report any instance of bullying or harassment which they witness or which comes to their attention. Employees have a responsibility to act as role models, pro-actively addressing instances of bullying and harassment. Managers should also make themselves aware of their responsibility. It is emphasised that any acts of bullying or harassment by employees will be viewed as serious offences and will be subject to the Council's Disciplinary Policy.

4.3 Any employee who wishes to make a complaint under this policy is encouraged to first discuss matters informally with their line manager or with Human Resources, provided that they feel able to do so. Should the issues not be resolved at this stage, or the employee feels unable to raise the issue informally, then a formal resolution will be entered into.

Employees can discuss any issue with a member of the Human Resources staff on a completely confidential basis. If they wish to do this an employee should contact the HR Business Partners or contact Human Resources on 01835 825052/3 or at [askhr@scotborders.gov.uk](mailto:askhr@scotborders.gov.uk),

All enquiries will be dealt with sensitively and be kept entirely confidential.

It is appreciated that employees may find it stressful to raise such matters, particularly when it concerns colleagues and/ or line managers.

There is a confidential **Employee Assistance Programme** run by P.A.M which employees can access.

This service is available 24 hours a day every day of the year. Employees can obtain advice and support on any work or personal issue.

P.A.M. can be contacted via (Freephone 0800 882 4102) or by visiting the P.A.M. Assist Website [www.pamassist.co.uk](http://www.pamassist.co.uk). The log in details are:

**Username: Borders**

**Password: Council**

4.4 When a complaint of bullying or harassment is brought to the attention of a manager at any level, whether informally or formally, **prompt action will be taken to investigate the matter.** Corrective action must be taken where appropriate and this may require an investigation under the Council's Disciplinary Policy and Procedure.

4.5 If it is considered that one of the parties concerned in a bullying or harassment case should be moved from their current workplace, then as a matter of principle the Council will normally remove the alleged perpetrator rather than the complainant. However, the final decision on who should be moved should reflect the particular circumstances of the case and advice from Human Resources to the relevant manager. It should be noted and explained to those concerned that the moving of

either party is not an implication of guilt or blame and no detriment to either party will be construed as a consequence.

- 4.6 All matters relating to the investigation of complaints of bullying or harassment will be treated in strict confidence. Any breach of confidentiality in this regard may render those responsible liable to disciplinary actions. However, it will be necessary that any alleged perpetrator is made aware of the allegations against them and the name(s) of those making the allegations together with the name(s) of any witnesses.
- 4.7 No employee will be victimised or suffer detriment for making a complaint of bullying or harassment and no manager shall threaten either explicitly or implicitly that an employee's complaint will be used as the basis for decisions affecting that employee. Such conduct will be treated as a very serious disciplinary offence. Similarly, managers are required to act on any complaint of bullying or harassment. Failure to do so will be regarded as misconduct which if proven, will result in disciplinary action.
- 4.8 All formal complaints of bullying or harassment must be notified by the recipient of the complaint to Human Resources for recording in accordance with our data collection requirements. We are required to maintain such records to monitor the incidences of bullying and harassment.
- 4.9 As a valued employee the Council will ensure that you will:
- Be treated fairly and know what is expected of you.
  - Receive the training and development you need to do your work.
  - Discuss your work with the person you report to and raise any issues that you need support with.
  - Be consulted about issues that affect you and be valued and recognised for your contribution.
  - Be encouraged to develop and achieve your full potential.
  - Be able to be yourself and not what others may think you should be.
  - Be taken seriously if you make an allegation and have your complaint dealt with speedily and confidentially.
  - Receive confidential advice and support on the operation of this policy from your manager and where that is not appropriate, Human Resources. This is the case whether you are the complainant or the subject of a complaint.
  - Have your complaint resolved informally, and if this is not possible or appropriate, through a formal investigation.
  - Be supported in any investigation by your Trade Union representative or a work colleague.
- 4.10 This policy and procedure will be reviewed periodically giving due consideration to legislative changes.

## 5. DEFINITIONS

### 5.1 Dignity and respect in the workplace

5.1.2 Dignity and respect at work is about how we treat people. It is about our behaviour as an organisation and as individuals towards fellow employees and all those with whom we work. It is about respecting yourself and others as individuals, valuing their qualities and their differences.

5.1.3 When we don't value and respect people, our behaviour can undermine the dignity and respect to which we are all entitled. It can result in:

- Poor morale
- A loss of respect
- Poor performance
- Lost productivity
- Illness
- Absences and
- Resignations.

5.1.4 Behaviour that undermines someone's dignity and respect is unacceptable and can be a problem in any organisation if it is allowed to continue.

5.1.5 We will mainstream dignity and respect into the workplace by:

- Ensuring all employees know what is expected of them and are aware of the policy and associated procedures and the implications of certain behaviours
- Taking any allegations made by employees seriously and, so far as possible, will manage complaints speedily and confidentially.
- Making every effort to resolve complaints informally, however, where this is not appropriate or possible, we will hold a formal investigation.
- Supporting employees who are experiencing difficulties in a range of ways by offering:-
  - Codes of behaviour and conduct
  - Access to family friendly policies
  - Advice from Human Resource professionals
  - Support of independent counsellors
  - Use of informal or formal Mediation
  - Instigation of a formal complaint under the grievance and disciplinary procedures.
- Not accepting people as being victimised because they have made a complaint about bullying and harassment.
- Treating and dealing with all complaints appropriately and this may result in disciplinary action for misconduct. If however a complaint turns out to be without foundation, following investigation, or is found to be malicious or vexatious, then disciplinary action may be considered against the complainant. This policy is intended to deal with real allegations of behaviour that undermine someone's dignity and respect, which is unacceptable behaviour in the workplace.

- Monitoring any incidents to identify potential problems and areas for improvement.
- Reviewing this policy regularly in consultation with staff and trade unions to ensure that it reflects up to date Employment and Anti-discrimination Law, Government policy and European directives and regulations.

## 5.2 Unacceptable behaviour

5.2.1 We describe in detail what standards we expect from our staff, and what their rights and responsibilities are in respect of working together and for the organisation, in our Code of Conduct Policy.

5.2.2 Unacceptable behaviour towards an individual or a group can take the form of:

**Bullying;** which is persistent, unwelcome, offensive and intimidating behaviour or misuse of power which makes someone feel upset, threatened, humiliated or vulnerable and undermines their self-confidence.

Bullying is unlikely to be a single or isolated instance. It is usually, but not exclusively repeated and persistent behaviour which is offensive, abusive, intimidating, malicious or insulting. Bullying includes but is not limited to:

- Conduct which is intimidating, physically abusive or threatening.
- Conduct that degrades, ridicules or humiliates an individual, especially in front of colleagues.
- Picking on one person when there is a common problem.
- Shouting at an individual to get things done.
- Consistently undermining someone and their ability to do the job.
- Setting unrealistic targets or excessive workloads.
- “Cyber bullying” i.e. bullying via e-mail. (This should be borne in mind where employees are working remotely and are managed by e-mail. Care and sensitivity should be practised with regard to the choice of context and language).
- Setting an individual up to fail e.g. by giving inadequate instructions or unreasonable deadlines.

5.2.3 **Harassment;** which is unwanted conduct that, violates someone’s dignity and creates an intimidating, hostile, degrading, humiliating or offensive environment. Harassment may be defined as any conduct which is:-

- Unwanted by the recipient
- Is considered objectionable
- Causes humiliation, offence, distress or other detrimental effect.

5.2.4 Specific to the equality act 2010 this can include:

**Sexual harassment:**

- Unwanted physical contact including unnecessary touching or brushing against another employee's body.
- Unwelcome sexual advances; intrusive questions about a person's private life; suggestive or offensive remarks, innuendoes or lewd comments.
- Display of pornographic or sexually suggestive pictures, objects or written materials; sexually suggestive gestures.
- Any hostile or offensive expression by a person towards another - or encouraging others to commit such an act - on the grounds of their sexual orientation.

**Racial harassment**

- Any hostile or offensive expression by a person towards another - or encouraging others to commit such an act - on the grounds of their colour race, nationality, religion or ethnic or national origins.
- Ranges from violent physical assault to jokes, remarks, threats or abuse.

**Harassment of disabled people**

- Hostile or offensive action directed towards the abilities of disabled people.
- Includes jokes, remarks or abuse.

**Gender specific harassment**

- Any hostile or offensive expression by a person towards another - or encouraging others to commit such an act - on the grounds of their sex.
- Includes jokes, remarks or abuse.

**Harassment due to religion or belief**

- Any hostile or offensive expression by a person towards another - or encouraging others to commit such an act - on the grounds of their religion or belief.
- Includes jokes, remarks or abuse.

5.2.5 Harassment may be an isolated occurrence or repetitive: it may occur against one or more individuals. Harassment may be, but is not limited to:

- Physical contact – ranging from touching to serious assault, gestures, intimidation, aggressive behaviour.
- Verbal – unwelcome remarks, suggestions and propositions, malicious gossip, jokes and banter, offensive language.
- Non-verbal – offensive literature or pictures, graffiti and computer imagery, ignoring someone at work for example isolation or non-co-operation and exclusion or isolation from social activities.

**5.2.6 Discrimination** is about treating a person or group less favourably than another person or group because of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex or sexual orientation.

**5.2.7 Victimisation** occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

### **5.3 Recognising unacceptable behaviour**

5.3.1 Most people will agree on extreme cases of bullying, harassment, discrimination and victimisation, but it is sometimes the 'grey' areas that cause problems.

5.3.2 Behaviour that is considered unacceptable by one person may be considered firm management by another.

5.3.3 Legitimate management action within agreed procedures to deal with staff whose ability or behaviour is in question is not bullying or harassment. However, it is if that manager's behaviour is outside what we would consider to be 'legitimate and reasonable management action' such as:

- Deliberately undermining a competent worker by giving them more work than they can cope with, or
- Withholding information, or supplying incorrect information;

Then we could consider them as having harassed or bullied the employee concerned.

5.3.4 Examples of unacceptable behaviour include the following, particularly when they apply to one or more of the protected characteristics:

- Spreading malicious rumours, or insulting someone.
- Copying memos or e mails that criticise someone to others who do not need to know.
- Getting involved in other people's issues without being given their permission.
- Ridiculing or demeaning someone by picking on them, setting them up to fail, embarrassing remarks or jokes, or comments about such things as a person's dress, appearance, faith or sexual orientation.
- Deliberately excluding someone.
- Verbal abuse including comments related to race, gender, sexual orientation, age, disability or religious belief (these do not have to be directed or related to a specific individual).
- Asking someone to carry out inappropriate tasks.
- Displaying offensive materials including pornography, racist or homophobic material.
- Overbearing supervision or misusing power or position.

- Unwelcome sexual advances such as leering, touching, standing too close, demands for sexual favours.
- Physical assault including touching or other unwanted physical advances such as poking.
- Making threats or comments about job security without good reasons.
- Constant criticism.
- Preventing career progression by intentionally blocking promotion or training opportunities.

5.3.5 Unacceptable behaviour is sometimes hard to recognise because:

- It may not be obvious to others.
- We may feel it is normal behaviour that is culturally acceptable.
- We often ignore it for fear of showing weakness.
- We often ignore it for fear of colleague's perceptions of us, i.e that we cannot do our job.
- We worry about overreacting and not being believed.
- It may happen outside of work or it is not face to face.

5.3.6 Unacceptable behaviour does not always happen face to face. It may be by:

- Written communications
- E-mail
- Gossip in or out of work time
- Social networking sites, or
- Phone calls or texts.

5.3.7 When writing e-mails, bold, red and capital letters as well as offensive language can be seen to be aggressive and are not appropriate. We should not send anything by e-mail that we would not say in person.

5.3.8 When engaging in discussion or making comment, on social networking sites (eg Facebook), even in your own time, you should be aware of the potential impact that comments may have on relationships with colleagues in the workplace. Unacceptable incidents of this nature may be regarded as bullying and harassment and may lead to disciplinary action.

5.3.9 Inappropriate behaviour can lead to complaints of bullying and harassment, whether they occur at the workplace or at other venues during work related events. Recent tribunal cases have made it clear that work related events are considered under the law as a continuation of the workplace and that inappropriate behaviour which occurs at training courses or social events such as Christmas parties, or in the pub after work, can constitute unlawful discrimination in the same way as if it had occurred in the workplace.

## 6. ACTION BY THE COUNCIL

- 6.1 The Council recognises that a characteristic of harassment is that employees subjected to it are very vulnerable and are often reluctant to complain. They may be embarrassed and not want attention focused on the situation, or be concerned that it will be trivialised. It may be that the harasser is the employee's manager or supervisor. There will also be cases in which the alleged bully or harasser is unaware of the effect of their actions. In many cases, the most appropriate way of resolving issues is to arrange mediation between the parties.
- 6.2 Acknowledging these sensitivities the Council undertakes to:
- Provide employees with appropriate help quickly and confidentially.
  - In appropriate cases, facilitate mediation between the relevant parties. Where mediation has not succeeded or is inappropriate, thoroughly investigate any alleged incidents.
  - Use the appropriate disciplinary procedure where necessary; and
  - Protect employees against victimisation for making or being involved in a complaint.
- 6.3. HR is responsible for operating an advisory service to provide guidance to departmental management and employees on all aspects of bullying or harassment and also to provide a prompt and fully confidential service to investigate or advise on cases of complaint and to assist in the mediation process. All cases will be treated as a priority and be dealt with under this policy. Where warranted, disciplinary action will be taken against the perpetrator, in accordance with the Council's Disciplinary Procedure.
- 6.4 Harassment by non-employees. It is recognised that employees can be subjected to harassment by individuals who are not employees of the Council. The Council regards harassment by non employees equally seriously and will take appropriate action to investigate alleged incidents and protect employees. See the Unacceptable Behaviours policy for further information.

## 7. ROLES AND RESPONSIBILITIES

### 7.1 All staff are expected to:

- Treat colleagues politely, fairly and with dignity and respect and in accordance with the Council's Code of Conduct.
- Value differences in others and the contribution they make.
- Be aware of how your behaviour impacts on others and change it if it is likely to cause offence.
- Challenge inappropriate behaviour constructively and bring unfair treatment you have witnessed, or if you suspect, to the attention of managers.
- Co-operate with investigations into allegations made under this policy and maintain confidentiality as agreed.

- Ensure that training is attended and be aware of your responsibilities to your colleagues in relation to this policy.
- Be aware that disciplinary action may be considered if you make false or malicious allegations.
- Support others where possible as the lodging of a complaint and any associated investigation can be extremely difficult and distressing for both the complainant and the subject of the complaint.

## 7.2 All managers are expected to:

- Manage people effectively and in a fair and consistent way and refer to what is required by the Council's policies and procedures, and material available from your line manager or Human Resources.
- Ensure all their staff are aware and understand this policy, follow it and realise the implications of unacceptable behaviour, making it clear that unacceptable behaviour will be treated as a disciplinary matter.
- Lead by example, set high standards and be open to feedback.
- Be available to staff to discuss their problems or concerns and to provide appropriate support.
- Take allegations seriously and manage any investigation speedily and confidentially.
- Pass any investigation to Human Resources staff only when it is inappropriate for the manager to deal with it themselves because they may be implicated in some way.
- Ensure that employees, who have raised concerns are not victimised as a result of their actions.
- Be aware that any failure to act on a complaint will be treated as misconduct in itself.
- Complete the monitoring information as and when required to facilitate corporate reporting.
- Take prompt action to stop harassment as soon as it is identified. In some cases, by pointing out that the behaviour is unacceptable, managers will be able to effectively stop the problem without further action.
- Discourage the display and/or circulation of potentially offensive material in the workplace.

## 7.3 In addition, if someone has complained about your behaviour you should:

- Listen carefully to the person making the complaint and to the particular concerns they tell you.
- Respect the person's point of view and apologise for any offence caused.
- Deal with any issues as soon as you can and if necessary modify your behaviour.

## 7.4 Human Resources

- Will have responsibility for monitoring/reviewing the policy.
- To give appropriate advice and guidance on implementing the policy.
- Offering a fully confidential service and assist in the mediation process.

## 8. BULLYING AND HARASSMENT COMPLAINT PROCEDURE

### 8.1 What to do if you feel you are being bullied or harassed.

An employee (or group of employees) who believes that he or she has been the subject of bullying or harassment should, if they feel able, in the first instance, ask the person responsible to stop their behaviour. It may be that the person did not realise that their behaviour was offensive and unwanted and will stop it once it is brought to their attention. It is important to gather as much supporting evidence of your experience as possible. Therefore it would be helpful if the employee writes down the nature of the bullying or harassment, including what was said or done, the time, date, place, and any other relevant circumstances and details of any witnesses. The note should be made as soon as possible after the event occurred. Please use the Dignity at Work Incident Log/ Complaint Form (Part A).

8.1.1 If the employee feels unable to ask the person to stop their behaviour or, having done so, the bullying or harassment continues or the employee feels that he or she has been victimised as a result of speaking to the person responsible, there are two possible routes they may follow:

- Contact their most immediate departmental manager not involved in the complaint, or, where this is not appropriate;
- They may raise the issue directly with a senior member of HR staff of their choice, who will provide confidential assistance and advice on the appropriate course of action.

8.1.2 If an employee is a member of a Trade Union they may also seek advice and representation from their Trade Union representative.

8.1.3 An individual who is made aware that their behaviour is unacceptable should:-

- Listen carefully to the complaints and the particular concerns raised.
- Respect the other person's point of view: everyone has a right to work in an environment free from harassment/intimidation.
- Understand and acknowledge that it is the other person's reaction/perception to another's behaviour that is important.
- Agree the aspects of behaviour that will change;
- Review their general conduct/behaviour at work and with workplace colleagues.

8.1.4 If there is no change in the behaviour of the perpetrator, or the employee still feels that they are still being harassed or bullied it will be necessary to complete Part B (Informal Complaint Form) of the Dignity at Work Incident Log/Complaint Form.

8.1.5 In many cases it will be possible for the line manager or member of HR to resolve the problem informally. However, if informal action fails or is not appropriate, a formal investigation of the complaint will be carried out in accordance to the Council's Grievance Policy.

- 8.1.6 If it is inappropriate for you to submit the incident log or complaint form to your immediate Manager, either because your complaint is about them or they are implicated in some way, then you should submit it to their immediate manager.
- 8.1.7 Employees can, if they wish, seek advice and representation from their Trade Union in raising a complaint and responding to a complaint made against them.

## 8.2 Informal action

- 8.2.1 The appropriate supervisor/manager or member of HR staff will arrange a confidential meeting with the employee at a location other than their immediate workplace. At this meeting the case will be discussed to establish the reason for the complaint and the circumstances. Further investigation will be undertaken as appropriate to establish the facts.
- 8.2.2 Where appropriate, a meeting will be arranged involving all relevant parties. The meeting will also be attended by a representative from HR and, if appropriate, a senior manager from the relevant department. The purpose in the meeting will be to mediate between the parties and, where possible, to restore working relationships and find a solution that allows the parties to continue working together.
- 8.2.3 In cases where a meeting has not resolved the issues or is otherwise inappropriate and the complaint is found to be justified informal action will vary according to the nature of the harassment but may include the line manager consulting HR for advice on policy, rights and procedures and subsequently.
- Counselling the perpetrator on the effect of his/her behaviour.
  - Explaining to the perpetrator that disciplinary action may follow if the behaviour continues or is repeated;
  - Ensuring that the issue is seen as a potentially serious matter.

## 8.3 Formal Action

- 8.3.1 Where informal action has failed to provide a solution, or is not appropriate because of the seriousness of the matter, you will be asked to complete a Dignity at Work Incident Log/ Complaint Form (Appendix 1).
- 8.3.2 Unless the matter is to be handled outwith the department, it will normally be the responsibility of the appropriate line manager, with advice from HR. In cases of sexual harassment it may be desirable to assign one male and one female investigating officer
- 8.3.3 If it is inappropriate for you to submit the Form to your immediate Manager, either because your grievance is about them or they are implicated in some way, then you should submit it to their immediate manager.
- 8.3.4 Action will be undertaken expeditiously and sensitively and every effort will be made to ensure that the process does not cause unnecessary distress to either party. Similarly, confidentiality will be maintained as far as possible, consistent with a thorough investigation.

- 8.3.5 At the conclusion of the investigation the appropriate action will be taken and may range from no action where no evidence has been found to substantiate an allegation of harassment to a formal disciplinary hearing and appropriate disciplinary action which may include dismissal in accordance with the Council's Disciplinary Policy.
- 8.3.6 Employees can, if they wish, seek advice and representation from their Trade Union in raising a grievance and responding to a grievance made against them.

#### **8.4 Harassment by non-employees**

- 8.4.1 It is recognised that employees can be subjected to harassment by individuals who are not employees of the Council. Where this occurs, employees should immediately bring it to the attention of their line manager who will provide help and support and take any immediate action necessary to protect an employee. See the Unacceptable Behaviours policy for further information.
- 8.4.2 Line managers should fully investigate alleged incidents without delay and report them to the relevant senior manager and external authorities as appropriate.

### **9. RECORDS**

- 9.1 Where the complaint is informal and resolved at this stage, no record will be kept on personal files.
- 9.2 Following formal investigation, where the complaint is not substantiated, no records will be retained.
- 9.3 Where a complaint is substantiated or partially substantiated but does not proceed to disciplinary, a letter confirming the outcome will be retained on the personal file and supporting documentation retained in a separate file for a period of 12 months.
- 9.4 Where the matter proceeds to a disciplinary hearing then the storage of records should be in accordance with the disciplinary procedure.

Guidance for managers:

Allegations, incidents or concerns may be raised through -

- Recorded incidents of bullying, harassment, victimisation or discrimination through discipline and grievance policies;
- 121/PRD sessions;
- Exit Interviews;
- Staff Survey/HSE Stress Survey; (if conducted)
- Feedback through the Trade Union representatives;
- Contents of Occupational Health Reports information gained from sickness absence procedures; and

- Equality-diversity mailbox.

## 10. RAISING AWARENESS

10.1 To support the fair and consistent application of this policy, the Council will ensure that all staff understands what this policy means for them, with regard to both rights and responsibilities. We will:

- Ensure that this policy is publicised widely using appropriate communication channels.
- Ensure that presentation on our commitment to dignity and respect in the workplace is included within the corporate induction programme.
- Require all staff to undertake mandatory training on dignity and respect in the workplace alongside training on our policy developed in line with the Equality Diversity and Human Rights Policy.
- Develop and deliver additional targeted training in response to any issues identified as part of the monitoring process; and
- Ensure all those staff with a managerial responsibility participate in additional management training (as soon as possible on becoming a manager and from time to time thereafter) on their vital role and responsibilities under the policy, particularly in relation to how to prevent bullying and harassment arising and on how to manage such situations where they do arise within the workplace.

## 11. MONITORING AND REVIEW

11.1 The Chief Officer HR has overall responsibility to ensure that this policy is implemented and adhered to.

11.2 Human Resources are responsible for supporting managers in operating the policy and for monitoring its operation.

11.3 This policy will be reviewed every two years and will reflect any changes in legislation.

**DIGNITY AT WORK INCIDENT LOG/COMPLAINT FORM**

# Dignity at Work Incident Log/ Complaint Form

**STRICTLY PRIVATE AND CONFIDENTIAL**

**Note to the Employee**

When you submit this form to your line manager please ensure that you have attached all relevant information, including letters, e-mails, memos etc. It will help your manager in deciding what the next steps are to resolve your situation.

**Part A Incident Log**

<b>Name</b>	
<b>Department</b>	
<b>Job Title</b>	
<b>Grade</b>	
<b>Work Location</b>	
<b>Contact Number</b>	
<b>Line Manager</b>	
<b>Representative</b>	

**What is the name of the person(s) you feel is bullying/harassing you**

<b>Name</b>	
<b>Job Title</b>	

**Where did the incident take place?**

**Who else was present when the incident took place?**

**What happened?**

**What did you do?**

**How did you feel?**

**Other information: e.g. do you feel that the incident was because of a particular reason such as sexual orientation, ethnicity, gender etc.**

**I hereby confirm that the above information is a true and accurate reflection of events. Furthermore, I understand that making vexatious or malicious allegations or allegations I know to be untrue is a breach of the Council's Disciplinary Policy and may be subject to disciplinary action.**

<b>Print Name:</b>	
<b>Signature</b>	
<b>Date:</b>	

**Part B Complaint Form**

**STRICTLY PRIVATE AND CONFIDENTIAL**

**I wish to make an informal complaint under the Dignity at Work Policy.**

<b>Name</b>	
<b>Department</b>	
<b>Job Title</b>	
<b>Grade</b>	
<b>Work Location</b>	
<b>Contact Number</b>	
<b>Line Manager</b>	
<b>Representative</b>	

**This complaint(s) is against:**

<b>Name</b>	
<b>Job Title</b>	

*(Continue on separate sheet if necessary)*

**Statement of Complaint**

Please explain your complaint in detail, including any evidence which backs this up, such as the date(s) and time(s) when the incident(s) took place. (Continue on a separate page if required)

---

**Supporting Evidence**

**Name(s), job title(s) and contact details of witness(es) if applicable:**

**In your opinion what did they witness?**

Has this or a similar complaint been raised previously? (Delete as appropriate)	Informally		Formally	
	Yes	No	Yes	No

**What was the outcome of this?**

**I hereby confirm that the above information is a true and accurate reflection of events. Furthermore, I understand that making vexatious or malicious allegations or allegations I know to be untrue is a breach of the Council's Disciplinary Policy and may be subject to disciplinary action.**

<b>Print Name:</b>	
<b>Signature</b>	
<b>Date:</b>	



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## GUIDELINES ON CONDUCTING INVESTIGATIONS

### Index

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1. Introduction .....	3
2. Timescales.....	3
3. Who investigates.....	4
4. The role of an investigating officer.....	4
5. Special Paid Leave.....	5
6. The role of accompanying persons.....	6
7 Preparation for the investigation.....	6
8. Documentary evidence.....	8
9. At the start of the investigatory meeting.....	8
10. Interviewing the employee under investigation.....	9
11. Interviewing witnesses .....	9
12. Telephone interviews.....	11
13. General Questioning Techniques.....	11
14. During the course of the meeting.....	13
15. Surveillance.....	13
16. Confidentiality.....	13
17. Data Protection Act.....	14
18. Documents and e mails.....	14
19. Statements .....	14
20. Disputed record of investigation meeting.....	15
21. Evaluation.....	15
22. Reporting.....	15
23. Outcome of the investigation .....	16
24 Presenting the investigation at a hearing.....	17
25 Access to Investigation report.....	17

26. Anonymous reports/unsigned statements.....	18
27. Third party evidence.....	18
28. Police enquiries.....	18
29. Discrimination/harassment.....	18
30. Whistleblowing/Code of Conduct for employees.....	19
31. Contacts.....	19
- Sample letters/reports.....	20

## 1. Introduction

These guidelines should be used when investigating either internal disciplinary investigations or complaints of grievance and should therefore be read in conjunction with the relevant disciplinary or grievance procedure.

The guidelines provide a brief framework within which to work and are neither intended to be entirely definitive nor provide specific legal or professional advice.

Some incidents may need to be investigated by those who have legal/regulatory/policy responsibilities and particular obligations to meet, for example Internal Audit or Social Work. In these cases the appropriate investigative processes/requirements may have to take precedence.

The purpose of investigations is to establish facts in order to answer the question whether or not the employee has a case to answer. The investigators' role is to gather evidence concerning the specific allegations. The evidence collected may or may not support the allegations, and it is not the role of the investigators to "build a case" against an employee.

What must be made clear to those under investigation is that the investigation, whilst forming part of either the disciplinary or grievance process, does not amount to disciplinary action in itself. Any formal disciplinary action must only be determined within a formal disciplinary hearing and a hearing should not be held until there has been an investigation.

In cases of misconduct the law is quite clear that the employer may be deemed to have acted unreasonably if the allegation/complaint is not investigated fully and fairly and the employee has not had the opportunity to state his/her defence and offer explanation or mitigation. In conducting investigations the employer must act reasonably and avoid doing anything which may lead to accusations of bias or discrimination.

## 2. Timescales

Investigations should be carried out as soon as possible, before recollections fade and be conducted as speedily as possible consistent with the principles of fairness and natural justice.

In less complex circumstances it is expected that an investigation should be concluded within one week to ensure that the service suffers minimum disruption. Speed of investigation however should not compromise the integrity of the investigation.

More complex cases may take longer but should not exceed 6 weeks other than in exceptional circumstances.

If the investigation is taking longer than 6 weeks the appropriate Service Director and HR Business Partner must be formally notified. The employee under investigation must also be kept informed of the anticipated timescales together with any reasons for delay

There may be occasions when an investigation is delayed due to the intervention of an external agency, such as the Police or the Child Protection Agency. Advice should be sought in such circumstances from HR and/or Legal Services.

Case law exists to demonstrate the fact that undue delays in conducting an investigation can lead an Employment Tribunal to a conclusion of unfair dismissal, as can failure to provide all witness statements to the employee under investigation and failure to interview witnesses who may have relevant evidence, even if these defects may not have affected the outcome.

### 3. Who Investigates

Each investigation will require at least one Investigating Officer, normally two because when conducting interviews the use of a second investigator or at least a notetaker is essential to ensure sufficient and accurate notes can be made and to protect against any misunderstanding. Where the complaint concerns an allegation of harassment or discrimination it is essential two investigators are present.

The investigators will ordinarily be appointed from within the relevant Department. It is recommended that at least one investigator must be independent of the section/office where the alleged incidents occurred. The investigators need to be of sufficient seniority and wherever possible at least one of whom should have had prior experience of investigations. HR will advise on the appointments of investigators and give clear advice where it appears that there may be conflicts of interest, particularly where the investigator is the manager of the department in question.

To avoid any potential conflict of interest it is important that roles within disciplinary and grievance matters are kept discrete. This means that an investigator should not be appointed if he/she has previously been involved in giving advice on the matter in question to the employee under investigation. Neither should an investigator be appointed if he/she is a witness to any relevant incident or event and an investigator must not later become involved in making disciplinary decisions. Care should also be taken to avoid any personal conflicts such as the involvement of a family member or friend. Obviously if a manager is the subject of a complaint then it is not appropriate for he/she should not be involved as either investigator or decision maker. Additionally if a complaint has been made against a manager it is advisable that a more senior officer carries out any investigation.

HR and/or Legal Services advice must be sought in cases involving child protection and vulnerable adults' issues. Where investigations take place involving alleged financial irregularities, Internal Audit must be informed and they will advise if they wish to assist in the investigation.

Before embarking on an investigation the investigators should be given a written remit by the commissioning manager. (A commissioning manager is usually the manager who will ultimately decide whether or not a disciplinary hearing would be appropriate and who would normally chair that hearing should there be one) The remit must detail what the investigators are being asked to investigate. The Investigators should ensure that they receive full details of what they are being asked to investigate including any documentation that already exists and in particular any written complaint(s). This will enable a focus on what is trying to be established. If the allegations are unclear at the start the investigation has the potential to be unfocused.

HR are available to give advice to investigators but are unable to routinely assist in conducting investigations. They will offer advice on all cases and may support only in serious or complex cases, for example those involving alleged harassment or discrimination.

### 4. The role of an Investigating Officer

Anyone appointed as an investigator must read these guidelines before embarking on an investigation to ensure he/she understands the role.

In carrying out investigations, investigators are advised to prepare thoroughly by assembling any relevant documentation, deciding which witnesses may be required, notifying individuals in advance (where possible)

As stated in the introduction, the role of the investigator in assembling evidence is to pursue relevant facts whether or not those facts support or oppose the allegations under investigation. It is not the role of investigators to “build a case” against an employee and it is important therefore that investigators maintain a neutral position. If neutrality is not maintained it could bias an investigation. Investigators during the course of an investigation may hear two or more opposing accounts of events, each of which is equally convincing. If the first view heard is assumed to be the truth and questions follow on from this then unconscious bias may occur. It is important that the investigators ask each person for their version of events, and probe and challenge where accounts differ. The investigators can then cross-reference evidence as much as possible in order to try and establish fact.

Investigators should remember that someone holding a belief is a fact i.e. it is a “fact” that someone believes something to be true, in which case it will be the investigators’ role to establish the evidence for this, normally in the first instance with the person who has the belief.

Investigators need to be thorough and cover not only the specific allegation but also include relevant context in their investigation. If not, this could mean that any subsequent hearing has to be postponed to allow further information to be gathered, for instance, if an employee raises matters during the hearing which have not previously been investigated (such as evidence from a witness, custom and practice etc). For example a complaint may exist that an employee has done /not done something which is believed to constitute misconduct/gross misconduct. The employee under investigation might admit it immediately and it may be tempting to conclude the investigation at this point. However in reality there may be other information that may be critical to a hearing which should be ascertained. The investigation should therefore probe further. If say a person is accused of and admits to not following a particular procedure which has had unacceptable consequences. Whilst on the surface this seems fairly straightforward, further probing of employee and witnesses may reveal a lack of training, a lack of understanding, a more general culture of not following procedures, management turning a blind eye etc. The investigators are not expected to draw any conclusions from their findings but it will be more difficult for the commissioning manager to determine whether or not to call a disciplinary hearing or later to come to an appropriate conclusion at hearing without an understanding of context.

When the Investigators have concluded their investigations they must prepare a report for the appropriate commissioning manager. This report will form the basis of any decision that manager makes regarding necessary action. The investigators will lay out the evidence in the report but will not make recommendations either about the need for a Disciplinary hearing or any suitable outcome. This role belongs to the commissioning manager.

## **5. Special Paid Leave**

Periods of Special Paid Leave for alleged misconduct may have been put in place before the appointment of investigators – please refer to Section 18 of the Council’s Disciplinary Procedure. However, there may be occasions when, during the course of the investigation, investigators decide a period of special paid leave is appropriate. This may be because new evidence comes to

light in which an employee is implicated in something more serious than was first suggested/known. In this case the investigator(s) will recommend a period of special paid leave to the commissioning manager who will then, having taken advice from HR, determine whether this is necessary or not and arrange as appropriate.

If a person is put on a period of special paid leave he/she should always be given written confirmation (See template in Appendix)

All periods of special paid leave should not lead to any assumption of guilt.

## **6. The role of accompanying persons**

Employees have the right to be accompanied at formal investigatory meetings. The accompaniment rights vary dependant on circumstances.

Where an employee is being investigated for potential disciplinary matters he/she may be accompanied by a Trade Union Representative or workplace colleague.

Where an employee raises a grievance and an investigation follows that employee's right to accompaniment is limited to a Trade union representative or a colleague.

Offers of accompaniment should also be given to witnesses in the investigatory process.

The representative may accompany the employee but may not answer questions on their behalf. Having said that they may speak up for the employee and generally act in a representative capacity. Also the representative may raise any procedural matters and request clarification of the process.

The responsibility to ensure that a Trade Union representative or colleague accompanies the employee at an investigation lies with that employee although if the representative is already known the investigating officer may want to contact him/her in advance of arranging a meeting date for reasons of efficiency.

The investigators will need to consider if the accompanying person an employee calls for is appropriate. If not the investigators will have the right of veto but they must explain the reasons to the parties involved. For example it may be that if an employee calls for a person who is going to be called as a witness in his/her own right then it would not be appropriate for that person to also act as an accompanying person as allegations put to an employee together with responses heard by the witness may influence the evidence the witness may later give him/herself. Another factor for the investigators to consider is the appropriateness of an employee calling upon his/her manager as a witness. This may be particularly important where allegations involve procedure and practice and that manager will be called to give account of his/her own expectations of employees.

## **7. Preparation for the investigation**

Effective planning and preparation are key essentials of any successful investigation. Depending on the complexity of the matter(s) to be investigated a project plan may be a useful tool to adopt. (See template in Appendix.)

Investigations will frequently involve interviewing witnesses. The process of investigating an allegation may be stressful for some individuals and it is important to ensure everyone involved, including investigators themselves are supported as appropriate. Support should be arranged by the relevant line managers.

The Investigators should make clear to everyone what they are doing, what they expect and need, and focus on gathering evidence.

The Investigators should prepare a programme of meetings with the employees they need to interview and make appropriate arrangements with appropriate line management for the release of those employees to participate in the investigation process. Employees required for interview should be given a reasonable period of notice. (See template in Appendix). Once dates are known meeting rooms should be arranged, as these are always difficult to obtain at short notice.

As far as possible it may be useful to determine the order in which people are interviewed to avoid, wherever possible, having to interview the same person more than once. Depending on the circumstances, however it may be entirely appropriate to go back and interview someone again having gathered further evidence which may require more explanation/exploration. Managing expectations is an important part of this process and forewarning someone that there may be a need to see him/her again will help in this aspect.

Although investigators will not be able to fully predict the exact path of an investigation the more planning and preparation that takes place will enable them to better respond to any matters arising.

It will be usual to start the investigation with the complainant in order to elicit the precise details of their complaint.

If an employee is absent and this causes a significant problem, seek advice from HR. If the reason for absence is sickness the investigators will need to establish the likely recovery time. In cases of more lengthy absence HR may need to seek advice from Occupational Health about the fitness for someone to participate in the investigation process.

If an employee requests a postponement of the meeting because they are unable to get a Trade Union/Professional representative or work colleague to accompany them on the proposed date, a new date should be arranged which is mutually acceptable to all involved, provided the new date falls within 5 working days of the original date.

If there is no mutually acceptable date available within 5 working days of the originally proposed date then it is for managers, in conjunction with HR, to decide how reasonably to proceed.

Judgement needs to be exercised by the Investigators in proceeding with the investigation if employees or witnesses are not available to participate in an investigation, in circumstances where it would not be reasonable or appropriate to delay the investigation.

Written statements may be offered by people who are unwilling to take part in investigatory meetings although these are only usually useful in very straightforward cases and are not as helpful where further probing of an issue is necessary.

## **8. Documentary evidence**

If documentary evidence has been identified as relevant at either the planning stage or later within the investigation the investigators will need to gather it. This may include for example gathering relevant corporate or departmental policies and procedures if allegations exist that suggest an employee has breached these.

Evidence may also take other forms. For example, in cases of alleged computer abuse, records of computer usage will be available from the IT Department. Computer records of various types are useful in determining different things, for example, fuel records or internet usage records.

Any anonymous written complaint or allegation must be handled and stored sensitively and appropriately.

Depending on the circumstances photographic evidence may be helpful, for example, to record the physical layout or the state/location of equipment.

Timesheets may prove useful where there are cases involving hours of duty.

The personnel file should also be checked to ensure there are no live warnings or other relevant information.

## **9. At the start of an investigation meeting**

At the start of an investigation meeting with the employee under investigation or a witness, it should be made clear to the individual that: -

- the purpose of the meeting is to ask questions relating to allegations and record responses. The person to whom the allegations refer should be assured that no opinion has yet been reached as to the validity of the allegations or to the outcome of the investigation. Everyone involved in the investigation should be advised of the possible next steps.
- after the meeting he/she will be given a record of the meeting and asked to sign it as an accurate record or, alternatively, detail on the record any parts with which he/she does not agree, indicating their alternative version.
- he/she may be required to attend any subsequent hearings(s) either in order to formally respond to allegations that have been made against them or as a witness.
- he/she is required to maintain confidentiality on matters discussed. Any breach of this confidentiality could be deemed to be a disciplinary offence in itself.

Investigators should remember that the process of being interviewed in investigation is stressful for some individuals. This may be acknowledged. Explaining the procedure and likely timescales may help to allay some concerns.

Additionally investigators should be prepared to allow for breaks in the meeting and the interviewee and any accompanying person should be advised that breaks will be given on the request of any party.

## **10. Interviewing the employee under investigation**

There is no prescriptive order in which to interview people. In potential disciplinary cases interviewing the employee under investigation first may save time if for example the employee admits to the allegations. However it may, depending on the circumstances, be better to interview others first to inform the discussion with the employee under investigation.

At whatever juncture the employee is interviewed it is important to capture the information needed later to complete a statement. For example name and job title etc. (See template in Appendix)

Investigators must give an employee the opportunity at the investigation stage to respond to any allegations against him/her and give their version of events including any reasons for the behaviour/conduct.

The investigators should advise the employee of the precise details of the allegations and give the opportunity for a response. For example it would not be sufficient to tell the person that there had been a complaint about misuse of equipment (as this is too broad and could mean anything) if the allegation was about alleged misuse of computer equipment by downloading appropriate material which is in direct contravention of the email and internet policy. Similarly it would not be sufficient to ask an employee if he/she is aware of any financial irregularities involving Client A if the allegation really is that that employee has been taking/borrowing money from the Client. The difficult question must ultimately be asked even if this is preceded by other contextual questions.

No copies of written complaints are given over at this stage nor will an employee about whom allegations have been received be given the names of the person(s) making the complaint. These details, where they exist, will be revealed if it is later determined that a disciplinary hearing will be held at which stage the employee, has the right to see all the supporting evidence. The important thing to focus on is did someone do/not do a particular thing and not who made the allegation about it. If the source is known then he/she will be expected to participate fully in the investigation

There are occasions when an allegation comes in anonymously. The anonymous allegation may be as valid as one from a known source. The important thing is that it will be the investigation which will inform the commissioning manager and help him/her decide on whether or not to hold a disciplinary hearing or take some other sort of appropriate action.

## **11. Interviewing witnesses**

Witness statements should be taken as quickly as possible before memories fade. The Investigators will normally be entitled to interview any employee of the Council who they feel could provide any information to assist the investigation. There may be occasions however where people are reluctant to participate in an investigation. In these circumstances the Investigators may encourage participation but must not coerce people.

Reliable evidence is required in any investigation and there is always a chance with people who, for whatever reason, may not want to participate that their evidence may not be valid.

The investigators should make a record of anyone refusing to take part and note the reasons given.

If members of the public and /or employees of other organisations are interviewed it should be ensured that two investigators are present.

If it is necessary to interview children, permission will need to be sought beforehand from the parent/ guardian and if there is a need to interview either children or vulnerable service users the interviews should be conducted by someone with relevant professional experience with the investigating officer present as appropriate. The parent or guardian should be present in all circumstances where children under 16 have to be interviewed.

Witnesses should be informed at the start of the interview that if the case results in a disciplinary hearing, they may be required to give evidence. They need to be aware that anonymity cannot be guaranteed unless there is a genuine fear of reprisal.

The employee under investigation and witnesses can be interviewed more than once if further evidence comes to light.

Where there is more than one witness it is important that they are interviewed separately to ensure individual evidence and avoid the possibility of collusion. This will give the opportunity to find any similarities or differences in events and cross check these where necessary.

As with the employee under investigation, it is important that when witnesses are interviewed information needed to complete a witness statement is captured. For example name, and job title of the witness and their relationship to the employee about whom allegations exist. (See template in Appendix)

Full notes should be made at the time of the interview. At the conclusion of the interview it is best practice for witnesses to be invited to read through any notes the investigator has made and then sign them. Statements should be produced and taken back to the witness for signature. The original notes on which the statement was based must be retained until the conclusion of any hearing or subsequent appeal.

Investigators have to distinguish between those witnesses who have first hand knowledge of the incident/complaint and those who only have indirect or "hearsay" knowledge of it. In the simplest terms someone who says, "I saw that person doing something in particular" is going to be much more reliable than someone who says, " I heard that that person did something in particular". There is little value in this type of indirect evidence except where it may confirm or contradict someone else's evidence e.g. Person A says Person B was there and Person B denies this.

Opinion should only be relied upon where it is given in a professional capacity, for example, an auditor's opinion on a matter of fraud.

The sort of information that should be sought from a witness includes:-

- What the witness actually saw/heard
- When and where he/she saw/heard it
- Whether he/she could see clearly (it may have been dark or was at distance)
- Whether he/she could hear clearly (it may have been noisy)
- Could the witness be mistaken about these events

- Any circumstantial evidence such as why the witness happened to be where he/she was and what he/she may have seen/heard leading up to the incident and
- Whether there was a reason why the evidence may be tainted, for example because the witness has a personal grudge against the person under investigation
- What was his/her own understanding of formal procedure and practice
- How did custom and practice match up to the formal way
- What circumstances, if any, would warrant deviation from procedure
- What does he/she know of any influencing factors the employee may have been under
- What is the personal relationship to the employee i.e. friend/colleague
- Is the witness on good terms with the employee
- Were actions out of character
- Can any reasons be suggested for conduct

## **12. Telephone interviews**

Whilst not recommending these as the norm these may prove to be a speedy and effective way of obtaining information from witnesses should communications difficulties exist or for example if witnesses are not local. Best practice would indicate that face to face interviews are preferable and telephone interviews should only occur in circumstances where it is important to speak to someone who cannot attend for interview.

As a matter of protocol if the investigators determine that a telephone interview will suffice then similar provisions should be made as would exist in a face to face interview. The witness should be first contacted to make him/her aware of the request and a time agreed to call back and discuss the matter. Arrangements may need to be made by either the investigating officer or witness for privacy and appropriate time put aside to take the call.

Notes should be taken of the call and transcribed onto a witness statement. The witness should then be afforded the same opportunity to agree or amend this statement.

## **13. General Questioning techniques**

Investigators should ask for advice from HR on questioning techniques if they have not been trained in this area as the value of an effective investigation relies heavily on what the employee and witnesses say. The responses given to investigators will often depend on the formation of their questions and the depth and breadth of questions asked. If the questioning is weak this may result in an ineffective investigation.

Whilst investigators should have some prepared questions before starting an investigation meeting this does not mean that further questions should not be asked of either the employee or witness on an individual basis in relation to responses given or information supplied. Whilst investigators may prepare well in terms of what questions to ask it would be unlikely that additional questioning will not be required.

Questioning should be therefore thorough but the person being questioned should be made to feel as comfortable as possible.

Direct questions should be asked. If a question are so vague e.g. "Can you think of any complaint that has been raised against you" it may not have any value.

It is important that the employee or witness is allowed to do most of the talking to enable the investigators to elicit as much information as possible. Interruptions should be avoided when

accounts are being given, other than to prompt as necessary. For example “....and what happened then?” “You said such and such.....can you explain that in more detail?”

### Questions that are likely to help gain information:

**Open:** introduces a general area of questioning which require explanations;  
e.g. “describe what you saw on that day”

These type of questions encourage a detailed response and are helpful in obtaining information and assessing capability.

**Probing:** finds out what lies behind a statement:  
e.g. “What exactly do you mean by that?” “...” “When was this?”..... “what did you think of that?”..... “Why was that”

These questions elicit more specific information and allow you to explore important or uncertain points.

**Closed:** checks facts.  
e.g. “How many times did you see that?”

These questions can help focus an evasive or verbose individual. They are useful for confirming information and establishing facts.

### Questions to avoid:

**Leading:** encourages a person to answer in a particular way:  
e.g. “You saw that person approach his colleague – did you think he was going to strike him?”

The answers to these questions are less reliable as the question indicates the answer expected.

**Multiple:** asks several questions at once:  
e.g. “Can you tell me how you dealt with an angry pupil, what the outcome was and how you would tackle a similar problem again?”

These questions are confusing and the person is unlikely to be able to remember everything you have asked.

**Hypothetical:** asks a person how he/she would handle a particular situation:

e.g. “How would you deal with a difficult pupil?”

People are unlikely to be able to imagine the situation in its real context and their answer will be based on how they think you should handle the situation, not what they would do in reality. Instead ask them to describe situations they have encountered and how they behaved.

e.g. “Have you ever had a similar situation to deal with?”.....”What did you do?”

**Discriminatory:** questions about childcare, domestic and personal circumstances and health. For example, in an investigation over a female employee's grievance involving hours of work a question such as "Did you leave early because you have childcare responsibilities?" may be viewed as discriminatory. This is because the woman may assume that childcare and other family commitments are viewed as having a negative impact on her motivation, commitment to the job, attendance or availability to work overtime. Because such discriminatory assumptions would not be likely to be made about a male employee, questions of this nature are viewed as discriminatory on the grounds of gender. It would suffice to ask "Why did you leave early?"

Any questions which could be viewed as discriminatory on the grounds of sex, religion, disability, sexuality, faith, gender, etc must be avoided.

#### **14. During the course of the meeting**

The individual does not have the right to ask questions of the investigators, other than ones relating to the investigation process itself or for points of clarity.

The Investigators should not get into debate or argument with the individual or his/her representative. Where such issues arise investigators should take a note of what is said but not offer an opinion.

During the course of the investigation the Investigators may recall the employee being investigated or any witnesses to obtain clarification on any points or ask further questions if other events are brought up during the course of the investigation.

#### **15. Surveillance**

It is important that no form of surveillance should be started in connection with an investigation without reference to HR or Legal Services as there are legal issues involved.

This not only covers surveillance involving third party investigators but also when instructing other employees to take on surveillance activities. Written permission is required from Legal Services before any covert surveillance is undertaken.

Overt surveillance is surveillance done in plain view, for example when a manager goes out to visit some workers and openly observes (i.e. the workers are aware of being observed) what is being done. Covert, is by definition, secret and thus covert surveillance is not conducted with the knowledge of the observed. It could still entail a manager going out to observe employees but doing so with the intention that he/she will not be seen in order to witness what the employees do when they are not being supervised and have no knowledge of being observed. It is this latter form of surveillance that requires written permission in advance.

If a manager wishes to know what activities an employee is conducting via email/internet a request will need to be made to IT with written authority given by an appropriate Director

#### **16. Confidentiality**

The fact that an investigation is taking place is not in itself confidential information. However information gathered through an investigation process should be treated as confidential.

Interviewees should be reminded of the need for confidentiality both before and after investigatory interviews although this will not preclude discussion with Trade Unions and /or legal advisors.

Another aspect, which should be taken into consideration, is that there may be some information gathered in an investigation, which should not be allowed to go into the public domain, such as specific medical details or information about clients. Whilst the investigation and any subsequent disciplinary hearing /appeal are internal processes there is always the possibility that ultimately any written report may be produced in a public forum such as an Employment Tribunal. All confidential information of this nature should therefore be deleted from the investigatory report and referenced by some other way. For example in an investigation in Social Work where clients are involved they must be referenced Client A, Client B etc. rather than by real name.

## **17. Data Protection Act**

Investigators should note that the Data Protection Act applies to personal data processed in relation to investigations.

This means that individuals have a right to see information concerning them. If requests are received responses should be given even if there might be an impact on the investigation or on any forthcoming proceedings. The only reason not to respond would be if a response were likely to prejudice a criminal investigation.

In order to ensure investigations comply with the requirements of the Data Protection Act it should be ensured that:-

- No evidence is gathered by deception
- Records used in the course of investigations are of good enough quality to support any conclusion drawn from them
- Records are kept securely
- Unsubstantiated allegations are removed unless there is an exceptional reason for retention

Investigators should not retain information about employees because it might have relevance to the investigation if it is either

- Incompatible with the purpose the information was gained for, or
- Disproportionate to the seriousness of the matter under investigation

## **18. Documents and emails**

Transcripts of telephone conversations/meetings may form part of the investigation. Contemporaneous notes (i.e. notes taken at the time of a conversation/meeting) tend to have more credibility than notes that are written up at some later time.

Copies of emails may also form part of investigatory evidence.

Any other written evidence should be logged and entered into the Investigating Officer's report with a clear audit indicating author, date and status.

## **19. Statements**

Occasionally the Investigators may receive a request from a person being investigated, from a complainant or from a witness that an investigation should be taped. It is not the Council's practice to allow the taping of conversations, as this suggests some sort of mistrust, and any such request should normally be refused. Exceptions are made if a request relates to a disability. If this is the case clarity should be sought from Occupational Health that taping would be the most appropriate adjustment and is reasonable in terms of addressing the disability.

Investigators will, within a reasonable period of time following a meeting with the employee/witness, draw up a record of the meeting. (see statement templates) This record will reflect what questions were asked along with the responses. Individuals will be given this record of their own interview and after been given sufficient time to go through it will be asked to sign it to confirm that it represents a true record.

Individuals should be informed that any record of their investigation meeting/statements may be referred to in any future action and that they may be required to attend any hearing that is necessary.

## **20. Disputed record of investigation meeting**

The Investigators should, wherever possible, ensure that the content of any witness statements/record of meeting is agreed with the individual concerned. In the event that a record of an investigation meeting is disputed by the individual concerned, the Investigators should:-

- either amend the notes (if they agree with the individual's proposed amendments) or
- endorse the notes to the effect that the individual disputes the Investigators' version (highlighting the areas under dispute).

## **21. Evaluation**

The Investigators should review all the evidence gathered to determine if any gaps are evident. If there are these areas may need to be revisited before finalising a report

The investigators should in their findings be able to conclude on whether there is evidence of the allegations or not or whether there is any dispute surrounding any particular allegation. Absolute certainty will not always be possible and it will be acceptable to record a conclusion that is based on the balance of probability, having weighed up the evidence gathered.

It is not the role of the investigators to recommend whether or not a disciplinary hearing should be held and neither should they recommend action of any sort, formal or informal. It is the role of the commissioning manager to decide whether or not a hearing should be held and any formal disciplinary action should only come from a hearing.

## **22. Reporting**

When the investigation is concluded the Investigators should prepare an investigation report for the commissioning manager. (See template in Appendix )

The report should include:

Confidential marking

Draft or final report marking

Date prepared

A Glossary of Names and Abbreviations

An introduction.

The name(s) of the Investigating Officer(s).

Process undertaken.

People interviewed.

Any specialist advice taken.

The initial allegations

Any further allegations which came to light during the investigation and were included in the investigation because they were relevant to it.

Details of any relevant Policies and Procedures that may have been breached

Findings of fact :-

- Evidence to support the allegations
- No evidence to support the allegations
- Any conflicting evidence regarding the allegations

Any explanation/circumstances in mitigation.

All supporting documentation

There may sometimes be other issues of a more general nature, such as deficiencies in policy or procedures, which have come to light as a result of an investigation. Where these have a wider aspect and do not relate directly to the employee the investigators should not include them in their investigation report. These aspects however should not be lost and the investigators should write a separate memo recording any issues they feel merit the attention of the commissioning manager and HR.

### **23. Outcome of the investigation**

The commissioning manager will be responsible for making any decision based on the investigation report.

This decision may include

- A disciplinary hearing to determine disciplinary action or
- Some other form of management action
- No action

The manager at this stage should simply consider the report in making that decision and should not seek to interview witnesses or take representations from the parties involved.

If the commissioning manager feels that the report has omitted relevant details he/she may refer the report back to the investigators for more facts to be gathered.

Whilst the report may contain details of findings of fact which either support the allegations or not the commissioning manager is free to decide whether to accept these in calling a hearing. For example the report may conclude that there was insufficient evidence of an allegation but the manager may still decide to call a disciplinary hearing in order to hear some of the evidence first hand. If this is the case the commissioning manager must record in writing his/her reasons for doing so and if appropriate take advice from HR, in order to avoid accusations of persecution or bias.

The evidence obtained in support of an employer's case does not have to prove the matter "beyond all reasonable doubt", as would be the case in criminal proceedings. The employer may take action if, after sufficient investigation, there are reasonable grounds to believe an offence has been committed and this is substantiated by evidence.

The commissioning manager will inform the employee(s) of the outcome of the investigation including whether a disciplinary hearing will be called or not.

If a disciplinary hearing is called this must be done in accordance with the Disciplinary Procedure and all supporting documentation gained through the investigation, including the investigation report must be given to the employee in advance of the hearing.

Where following an investigation no further action is to be taken in terms of the disciplinary procedures then all references to the investigation should be removed from the employee's personal file.

#### **24. Presenting the investigation at a hearing**

It is the practice for investigators to be called to present their findings at a disciplinary hearing. The key to this is preparation. Before the hearing the investigators should write out their presentation. It should include a summary which captures the essence of the evidence relating to the individual.

Investigators may choose to call witnesses if they believe that a witness may be able to better portray some particular evidence from a first hand perspective. This may be especially useful for the chair of the hearing where evidence is not consistent as it will allow the chair to probe matters him/herself in order to take a more balanced view of matters. If investigators decide to call witnesses they should prepare in advance, as far as they are able, the questions they wish to ask them.

#### **25. Access to investigation report**

If the commissioning manager determines that the issue is to be considered at a disciplinary hearing the employee being investigated will be given a copy of the investigation report together with its supporting evidence as part of the documentation made available to him/her.

No documents relating to the investigation should be placed on the employee's personal file. The documents should be held in a separate, secure and confidential location to ensure the Council meets its obligations in data protection. Only in exceptional circumstances will these documents be further referred to for employment purposes concerning the employee.

Where the investigations concern matters relating to the safety and well being of young people and/or vulnerable adults in receipt of client services the documents shall be available for inspection by the employee and the employee may add a personal note to the record. If there is further disciplinary investigation relating to the employee, the documents should be examined and, where considered relevant may be taken into account to the extent required by the circumstances of the case. Where a previous allegation is taken into account in any disciplinary decision, the written notification shall indicate this fact and the reasons for doing so.

In the case of disciplinary matters arising from a grievance/complaint the complainant is not entitled to receive a copy of the report, but is entitled to know whether or not the matter will

be pursued in accordance with the appropriate Scottish Borders Council procedure. For reasons of confidentiality the complainant must not be given any details of outcome, other than that appropriate action has been taken. (even if that action did not include disciplinary action)

## **26. Anonymous reports/unsigned statements**

Occasionally information is received anonymously. Any anonymous letters/statements should be treated with some caution and any such material received should be immediately placed into a clear plastic wallet. This would enable the police to later examine the letter for finger prints if this became necessary (for example if it transpires that the letter is malicious or worthy of police investigation).

Information received anonymously is still valid and may still lead to an investigation which provides information on which further decisions can be based.

Anyone against whom an anonymous allegation is made should be informed that a complaint has been received and be invited to comment. A response may lead to other people being included in the investigation.

Depending on the nature of the allegation there may also be documentary evidence that can be examined which would either substantiate the allegations or not.

The final outcome of any investigation or discussion should be recorded, in writing.

## **27. Third party evidence**

Some investigations may involve taking third party evidence from members of the public, from councillors or from other persons, for example, contractors. The same principles should be applied to third party evidence as is applicable to other evidence.

## **28. Police enquiries**

The fact that a police investigation is taking place does not usually mean the postponement of a management investigation and/or subsequent hearing.

The important thing to note is that no action should be taken which might prejudice/undermine a police enquiry. If there is any suggestion that either the management investigation/hearing should be postponed this must be discussed with HR/ Legal in order that appropriate correspondence can be set up with the Police/Procurator Fiscal to enable an audit trail to be established.

## **29. Discrimination/harassment**

In dealing with investigations into particularly sensitive cases of discrimination/harassment the investigators may wish to consider whether or not it is possible to try and match the gender of the complainant. For example if a woman complains of extreme sexual harassment from a man then the complainant may be more comfortable being interviewed by another woman rather than a man. In all cases the investigators should always be sensitive to the issues involved.

### **30. Whistleblowing/code of conduct for employees**

Some investigations may arise as a consequence of “whistleblowing”. If this occurs, please advise the Internal Auditor for monitoring purposes and seek advice from HR.

### **31. Contacts**

#### **HR:-**

Contact the relevant HR Business Partner on 01835 825052/3 or at [askhr@scotborders.gov.uk](mailto:askhr@scotborders.gov.uk)

## GUIDELINES ON CONDUCTING INVESTIGATIONS

### Sample letters/reports



1. Sample investigation plan.....	20
2. Sample letter for special paid leave.....	21
3. Sample invite to investigatory meeting .....	23
4. Note of Investigation Meeting	
4. Witness statement .....	
5. Statement from person under investigation .....	
6. Investigatory report .....	

<b>Investigation plan</b>	
Details of allegation	
Commissioning manager	
Relevant documentation e.g. Disciplinary/Grievance Policy & Procedure Codes of Practice/ Policies	
Complainant advised of right to have union representative or workplace colleague and date	
People to interview	Scheduled dates for interview
Complainant	
Person(s) complained about	
Witnesses	
Specialist advice e.g. legal	
Action plan Detail proposed approach- interviews, gather documentary evidence etc.	
Target date for completion	

Revision to target date with reasons

**PRIVATE & CONFIDENTIAL**

Please ask for: Manager's name

Ext.

Name  
Address

Your ref:

Date:

Dear

**CONFIRMATION OF PERIOD OF SPECIAL PAID LEAVE**

Further to our meeting on (date), this letter confirms that, in accordance with the Council's Disciplinary Procedures for Misconduct, you are on a period of special paid leave for the following reasons:

This period of special paid leave started on *date* and is expected to end on *date*. You are to remain away from work until further notice. Please do not attempt to attend work or influence anyone who may be involved in the investigation process unless you want them to support you as an accompanying person. Every effort will be made to investigate this alleged gross misconduct fairly and promptly. Your period of special paid leave is part of that process, and does not imply in any way that you have committed the offence. Your contract of employment remains intact.

(insert if appropriate) Bearing in mind your role requires an Enhanced Disclosure through Disclosure Scotland and is guided by the Scottish Social Services Council Codes of Practice for registered and non-registered workers I will therefore have to give consideration to whether I am obliged to inform them of your period of special paid leave and the reason for it. Consequently you may be contacted by the appropriate body. Additionally I would remind you of your own obligations in this regard to inform them yourself of any relevant changes regarding your employment status that may impact on your professional standing.

As part of the investigation, you will be contacted soon to attend an investigatory meeting so please remain contactable. You have the right to be accompanied by someone, who must be either a workplace colleague, an accredited trade union representative (who is certified as

being trained or experienced in being a representative for disciplinary hearings) or an official employed by the trade union. All reasonable requests will be approved.

Your contract of employment and all normal employment procedures still apply. For example, if you want to go away or are sick during this period please contact me / your line manager to enable the necessary authorisation/documentation to be given/completed. You will continue to be paid during this period.

I appreciate that this time may be stressful for you. As discussed at the meeting I have arranged for (Name/title) to be a Contact Person for you. (He/she) has agreed to this but I must make it clear that (he/she) has not been given any detail of the reasons for your period of special paid leave and will not take part in the investigation in any way. Consequently (name) will not be able to give opinion on the matters under investigation but will however be able to act as a general support to you and answer any questions you may have regarding such things as process, procedure or timescales. You may contact (name) either by phone/email (insert contact details)

I would like to draw your attention to the free professional confidential counselling service which is available to all employees. If you feel that you would benefit from this you may refer yourself by telephone (freephone 0800 882 4102) or by visiting the P.A.M. Assist Website [www.pamassist.co.uk](http://www.pamassist.co.uk). The log in details are:

**Username: Borders**  
**Password: Council**

I enclose a copy of the Council's Disciplinary Procedure for your information. If you require any further clarification please do not hesitate to contact me.

Yours sincerely

Name  
Title of Line manager

**PRIVATE & CONFIDENTIAL**

*Please ask for: Name*

*Ext.*

*Our Ref:*

*Date:*

Dear Name

**INVESTIGATORY MEETING**

. I would be grateful if you could attend an investigatory meeting

on **date**

at **time**

in **venue**

The purpose of the meeting will be to investigate a complaint that } insert details of allegation/complaint. (For witnesses, substitute this sentence with: *You are being called as a witness*).

I will be assisted at this meeting by (*name, job title*). The investigation is being carried out in accordance with the Disciplinary policy and procedures for misconduct (a copy is enclosed). You have the right to be accompanied by an accredited trade union representative or work colleague, although you should understand that this is an investigatory meeting and not a disciplinary hearing. All reasonable requests will be approved.

Please confirm your attendance at this meeting and the name of your accredited trade union representative/ accompanying workplace colleague at your earliest convenience.

Yours sincerely

Name

Title

Enc.

cc: (Name of person also to be present at meeting)  
HR

**1. NOTE OF INVESTIGATION MEETING**

**CONFIDENTIAL**

**NOTE OF INVESTIGATION MEETING**

**Date of meeting:**

---

**DETAILS OF INTERVIEWEE**

a) Incident under investigation:

b) Name of interviewee:

Job title:

Department:

Date employment started with SBC:

Date employment started in post:

Relationship to person under investigation (*co-worker etc*):

c) Name of interviewee's accredited trade union representative/ workplace colleague, if any:

Job title / Name of trade union:

---

**DETAILS OF INVESTIGATING OFFICERS**

a) Name:

b) Name:

Job title:

Job title:

Relationship to  
person under  
investigation:

Relationship to  
person under  
investigation:

---

**SUMMARY OF INVESTIGATION**

Briefly summarise the reason for the investigation (eg the nature of the complaint):



(Name of investigating officer) opened the meeting by introducing everyone present before giving a brief explanation of the reason for the meeting and the procedure to be followed. The following questions were asked:

**Q1. Details of question:**

**Summarised response:**

**Q2. Details of question:**

**Summarised response:**

*(Continue to list all questions)*

**QX. Do you have anything more to add in respect of this matter?**

**Summarised Response**

---

**5. DECLARATION**

I understand that the report and statements are confidential to the investigation and any subsequent disciplinary hearing.

I understand that I cannot discuss these proceedings with anyone other than my accredited trade union representative/ accompanying workplace colleague, and I must not attempt to influence anyone involved in this matter. If I breach this or provide untrue or misleading information to the investigation, I may be subject to disciplinary action.

I declare that my contribution to this investigation meeting has been accurate and true. I have been given a copy of my statement to check its accuracy and to make any amendments or comments if I disagree with it. I accept that if I do not sign, or return comments within the given timescale, then the statement may still be used

Interviewee's signature:

Date:

Investigating officer's signature:

Date:

Investigating officer / Note taker's signature:

Date:

## 2. STATEMENT FROM WITNESS

NOTE: If the witness is unavailable for interview, s/he can complete an investigatory statement instead. In some instances, the investigating officer(s) may wish to have both an interview and statement.

### CONFIDENTIAL

### INVESTIGATION STATEMENT

---

#### DETAILS OF WITNESS

a) Incident under investigation:

b) Name of witness:

Job title:

Department:

Date employment started with SBC:

Date employment started in post:

Relationship to person under investigation (*co-worker etc*):

---

#### DETAILS OF INVESTIGATING OFFICERS

a) Name:

b) Name:

Job title:

Job title:

Relationship to  
person under  
investigation:

Relationship to  
person under  
investigation:

---

#### MY STATEMENT

## DECLARATION

I declare that:

- I understand that I may be required to clarify points raised during the investigation.
- I understand that the report and statements are confidential to the investigation and any subsequent disciplinary hearing.
- I understand that I cannot discuss these proceedings with anyone other than my representative, and I must not attempt to influence anyone involved in this matter. If I breach this or provide untrue or misleading information to the investigation, I may be subject to disciplinary action.
- This statement is a true and fair account.

Employee's signature:

Date:

---

**3. STATEMENT FROM PERSON UNDER INVESTIGATION**

NOTE: If the person under investigation is unavailable for interview, s/he can complete an investigatory statement instead. In some instances, the investigating officer(s) may wish to have both an interview and statement.

**CONFIDENTIAL**

**INVESTIGATION STATEMENT**

---

**DETAILS OF WITNESS**

a) Incident under investigation:

Job title:

Department:

Date employment started with SBC:

Date employment started in post:

Relationship to person under investigation (*co-worker etc*):

---

**DETAILS OF INVESTIGATING OFFICERS**

a) Name:

b) Name:

Job title:

Job title:

Relationship to  
person under  
investigation:

Relationship to  
person under  
investigation:

---

**MY STATEMENT**

I declare that:

- I understand that I may be required to clarify points raised during the investigation.
- I understand that the report and statements are confidential to the investigation and any subsequent disciplinary hearing.
- I understand that I cannot discuss these proceedings with anyone other than my representative or immediate family members (provided that I ensure they retain confidentiality), and I must not attempt to influence anyone involved in this matter. If I breach this or provide untrue or misleading information to the investigation, I may be subject to disciplinary action.
- This statement is a true and fair account.

Employee's signature:

Date:

#### 4. INVESTIGATION REPORT

NOTE: The content of this template is an example only and should be varied to suit each case.

### CONFIDENTIAL

### INVESTIGATION REPORT

---

#### REPORT OVERVIEW

- a) Report to: *(Name of commissioning manager)*
- b) Date report completed:
- c) Report from the following investigating officer(s):
- |   |   |
|---|---|
| Name:                                       | Name:                                       |
| Job title:                                  | Job title:                                  |
| Relationship to person under investigation: | Relationship to person under investigation: |
- d) Name of person under investigation:
- |                                   |                                  |
|-----------------------------------|----------------------------------|
| Job title:                        | Department:                      |
| Date employment started with SBC: | Date employment started in post: |
- 

#### SUMMARY OF INVESTIGATION REMIT

Briefly summarise the reason for the investigation (eg the nature of the complaint):

---

#### THE REPORT

##### Contents

1. Introduction
  2. Background
  3. Investigation
-

4. Summary
5. Appendices
  1. Statement / note of meeting with the person under investigation
  2. Witness statements / notes of meetings
  3. Other relevant documentation – eg emails, correspondence etc.

## 1.0 INTRODUCTION

*(Names of investigating officers)* were commissioned by *(Name of manager, job title)* to investigate the complaints and report their findings to *(Name, job title)*.

If in the process of the investigation, further complaints or allegations came to light, *(give details of the complaints or allegations)* and, under advice from *(name of commissioning manager)*, they have been included here as they are relevant to the case.

## 2. PROCESS

The investigation commenced on *(date)* and finished on *(date)*.

The people interviewed were:

- |    |       |            |
|----|-------|------------|
| 1. | Name: | Job title: |
| 2. | Name: | Job title: |
| 3. | Name: | Job title: |
| 4. | Name: | Job title: |

Specialist advice was sought from HR/Legal Services on the following:

- 
- 
- 

## 3. INVESTIGATION

Outline the investigation eg briefly recap of what prompted the investigation, who was involved, why the witnesses were selected, why the questions were chosen, evidence that supported or conflicted with other evidence, the nature of other evidence collected (e.g supporting documents) etc

**Allegation number 1:** *(specify the allegation or complaint)*

The investigating officer(s) found that there was evidence to support this allegation because:

- 
- 

The investigating officer(s) found that there was conflicting evidence in respect of this allegation because:

-

The investigating officer(s) found insufficient evidence to support this allegation because:

- 
- 

**Allegation number 2:** *(specify the allegation or complaint)*

The investigating officer(s) found that there was evidence to support this allegation because:

- 
- 

The investigating officer(s) found that there was conflicting evidence in respect of this allegation because:

- 
- 

The investigating officer(s) found insufficient evidence to support this allegation because:

- 
- 

The Investigators found no evidence to support this allegation

**Allegation number 3:** *(specify the allegation or complaint)*

*Continue as above*

4. **SUMMARY** *(The investigating officer must not make recommendations – the manager is responsible for assessing the investigation (eg whether more information is needed at this stage) and deciding whether to proceed to a disciplinary hearing.)*

Investigating officer's signature:

Date:

Investigating officer's signature:

Date:

## **EMPLOYMENT TRIBUNALS IN SCOTLAND FAQs FOR WITNESSES**

### **1. Where is the Employment Tribunal (“ET”)?**

The Scottish ET offices are in Glasgow, Edinburgh, Dundee and Aberdeen. The ET you will be required to attend is the Edinburgh ET at 54-56 Melville Street, Edinburgh, telephone 0131 226 5584.

### **2. Do I have to attend?**

Your attendance as a witness will normally be a matter of discussion and agreement between us and our legal advisors. If through that process we determine that your evidence is important or even desirable then you are expected to attend.

You should also note that the Tribunal has power either as a result of a request by a party to the proceedings or by its own decision to cite witnesses to attend under threat of criminal penalties if the individual then refuses.

### **3. When/how many days will I have to attend?**

This will depend on the nature of the case but most witnesses' evidence lasts no more than 2 or 3 hours and is usually taken during the course of 1 day.

### **4. What time should I arrive at the ET?**

The hearing is scheduled to start at 10am (subject to any short matters that the Employment Judge has to deal with first) but you are requested to arrive at the tribunal building no later than 9.30am. The ET day is usually 10 am – 1 pm and 2 pm – 4 pm but this will ultimately depend on the Employment Judge of the hearing you are attending.

### **5. What do I do when I arrive at the ET?**

You should report to reception on your arrival. You will be asked for your name, the name of the case that you have been asked to attend to give evidence in and on whose behalf you are attending as a witness. You will then be directed to the relevant waiting room. There are separate waiting rooms for witnesses for the Claimant and witnesses for the Respondent.

Although we will try to decrease the inconvenience to you inevitably caused by your attendance as a witness, it is difficult to predict accurately how long each stage of the tribunal hearing will take so it is possible that you will need to spend a certain amount of time waiting before being called as a witness. There are few facilities provided in the waiting room so it will help pass the time if you bring something to read.

### **6. Can I sit in the Tribunal hearing and listen/watch the case until I have to give evidence?**

In Scotland, witnesses whose evidence is still to be heard are **not** permitted to sit in the tribunal room and you must wait in the waiting room until you are called to give evidence.

### **7. How do I know when it's my turn to give evidence?**

When the tribunal is ready to hear your evidence you will be called to the tribunal room, probably by a clerk employed in the ET office.

### **8. Do I have to swear on the bible before giving evidence?**

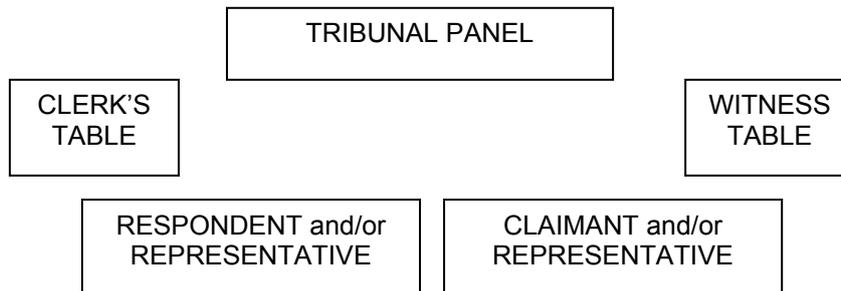
You will have to give evidence on oath or affirmation. If you do not tell the truth after swearing an oath or affirmation you could be convicted of perjury. When you come into the tribunal room, you will be directed to the witness table. You will be asked by the Employment Judge to

stand at the witness table and take the oath or affirm. You do not require to remain standing to give your evidence and will be seated throughout the questioning.

**9. Is the ET very formal and where does everyone sit?**

The ET is not as formal as a court although there is a structure to the proceedings which is usually followed (see below). Unlike courts, nobody wears a wig or gown. You should, however, dress smartly.

The tribunal room consists of four tables loosely shaped like a square. The tribunal panel sits at the front of the tribunal room. The representatives for both the Claimant and Respondent sit at a table opposite the tribunal panel, with the Claimant sitting on the right hand side of the table and the respondent on the left. A witness table is situated at 90 degrees to and between the tribunal panel and the representatives of the parties to the hearing. The clerk's table is situated opposite the witness table.



**10. Who hears the case?**

The case is heard by a tribunal panel, comprised of 3 members who will listen to the evidence. These are an Employment Judge, who is legally qualified, and two lay members, who sit on either side of the Employment Judge. Neither lay member will be legally qualified but one will usually have an HR or management background and the other a trade union or employee background.

**11. Which side gives evidence first?**

Generally in an unfair dismissal case the Respondent will give evidence and call any witnesses first, while in a discrimination case the Claimant will normally be first to give evidence followed by any witnesses. However, there is no absolute rule as to which side starts and this will be discussed with you before the hearing begins.

**12. How will I give my evidence?**

In Scotland, you will first be asked questions by the person presenting the case for the party that has called you as a witness, to draw out your evidence; (this is called "examination in chief"). Once (s)he has completed their questioning, you will be questioned by the other party/parties or their representative(s); (this is called 'cross-examination'). Once that is completed, the person who questioned you first will again have the opportunity to question you further should (s)he wish, in order to clarify matters which came up when being asked questions by the other side; (this is called "re-examination"). Finally, the Employment Judge and members may ask you some questions in order to clarify any points about which they are unclear.

Once the tribunal is satisfied that no more questions require to be asked you will be informed of this by the Employment Judge and you may sit in the gallery to listen to the rest of the case or leave the tribunal room.

The same procedure is then usually followed for the other witnesses and then with the witnesses for the other side.

Once all the evidence has been heard, both sides can sum up before the tribunal retires to consider their judgment.

**13. Can I refer to my own notes?**

Almost certainly not. A full pack of papers which is called an Inventory of Productions will be put together and will be sitting on the desk in front of you. These are the papers which are referred to in the case. During the preparation phase (see 14 below), all these documents will be identified so it is vitally important that any papers which you wish to refer to are inserted into that pack. There are, however, certain exceptional circumstances where additional papers can be referred to. Where this happens, arrangements will be made to photocopy these papers so that they are visible to all three Members of the Tribunal and all parties in the case. Please be alert to the fact that if you want to refer to a note which you regard as private then it will cease to have its private status as soon as you refer to it.

**14. What preparation will I get/need to do?**

Arrangements will be made for you to attend a preparation meeting (perhaps more than one), when the issues in the case will be discussed in depth, a strategy for the case will be developed and you will be given a full indication as to the questions that you are likely to be asked and the papers to which reference is going to be made. It is very important that you attend any such meetings as otherwise, neither the case nor you will be adequately prepared.

A copy of the Inventory of Productions will normally be made available to us no later than 14 days before the case is due to start. You will be provided either with a copy of that whole bundle of papers or the sections of it which are referable to you. It is very important that the papers within that bundle, which are referable to you, are familiar to you by the time the Hearing starts. For example if you were an Investigating Officer and prepared an Investigation Report or a Disciplinary Officer and convened a Disciplinary Hearing then you have to be extremely familiar with that Report or the set of Minutes of the Hearing so that your evidence represents an accurate narration of what happened. In Scotland (unlike in England) you are not referred to a written statement which you can read. Your evidence has to be reasonably spontaneous in answer to questions asked of you. Accordingly, you have to be very clear as to what evidence you intend to give and to make sure that that evidence sits neatly with the documents that are being read by all the parties involved in the case.

**15. Is the decision in the case given immediately after the end of the hearing?**

The tribunal may reserve its judgment, in which case, it will be sent out in writing at a later date. This may happen in complicated cases or if there is not enough time on the day of the hearing to come to and announce the judgment. Alternatively, the Employment Judge will announce the judgment at the end of the hearing.

**16. Can members of the public attend ET hearings?**

Almost all hearings are open to the public.

**17. Can I recover expenses in attending the ET to give evidence?**

You may be entitled to travelling costs and other allowances when going to a tribunal hearing. You can download a copy of the guidance leaflet "Expenses and allowances payable to parties and witnesses attending an Employment Tribunal" at [http://www.employmenttribunals.gov.uk/publications/documents/ExpensesLeafletamendv.410.06.rtf1\\_ETS\\_guide.doc](http://www.employmenttribunals.gov.uk/publications/documents/ExpensesLeafletamendv.410.06.rtf1_ETS_guide.doc) for information on what you are entitled to. You can also obtain this from the Employment Tribunal enquiry line 0845 795 9775 or any tribunal office.

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# Employment Tribunals

Employment Tribunals,  
54-56 Melville Street, Edinburgh, EH3 7HF

Tel: 0131 226 5584 Fax: 0131 220 6847



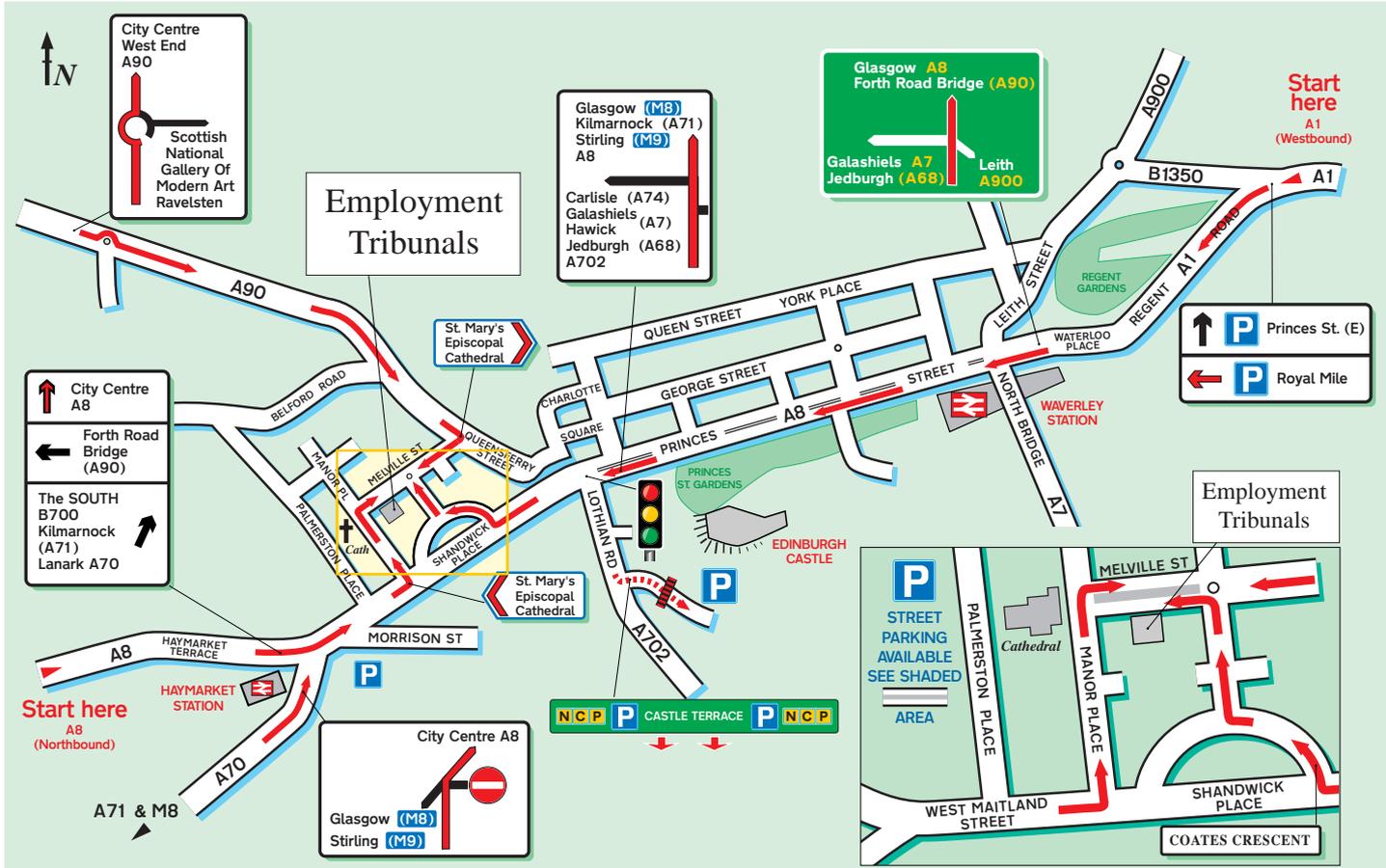
**By Rail, Haymarket Station.**  
East coast main line, Glasgow and Fife lines.



**By Bus.**  
There are no direct bus services to the Tribunal Office, however buses run from the majority of towns and cities into Edinburgh City Centre.



**Edinburgh Airport.**  
Situated west of Edinburgh, on the Glasgow Road (A8). The Airport is a 30 minute drive from the City centre, see locator map below.



# Employment Tribunals Edinburgh



Car parking is not available at the Office. The nearest car parks are indicated on the map overleaf.



A coin operated public telephone is located near the reception area on the ground floor. The use of mobile telephones is not permitted in the Tribunal rooms and corridors.



Smoking is not permitted in any part of the building.



Please ensure you have adequate copies of papers for the Tribunal. There is no public photocopying facility within the building, copying facilities are available in the vicinity of the Office.



There are no refreshment facilities within the building but there are a number of food outlets in the vicinity of the Office.



If you, or anyone attending with you, are a person with a disability and you are concerned about accessibility to the Tribunal and necessary facilities, please contact the Tribunal Office as soon as possible to discuss the matter.



For details of hotel accommodation please contact our local Tourist Board on 0131 473 3800.



Details of the expenses which can be claimed are set out in the expenses leaflet which can be found on the Employment Tribunals' web site. Claim forms will be available on the hearing day. Please note that professional representatives are not allowed to claim, unless they are on the staff of a Citizen's Advice Bureau or the Representation Unit.