

FAREHAM

BOROUGH COUNCIL

AGENDA FOR THE EXECUTIVE

Date: Monday, 2 September 2019

Time: 6.00 pm

Venue: Collingwood Room - Civic Offices

Executive Members:

Councillor S D T Woodward, Policy and Resources (Executive Leader)

Councillor T M Cartwright, MBE, Health and Public Protection (Deputy Executive Leader)

Councillor F Birkett, Housing

Councillor Miss S M Bell, Leisure and Community

Councillor K D Evans, Planning and Development

Councillor S D Martin, Streetscene

1. Apologies for Absence

2. Minutes (Pages 5 - 10)

To confirm as a correct record the minutes of the meeting of the Executive held on 01 July 2019.

3. Executive Leader's Announcements

4. Declarations of Interest

To receive any declarations of interest from members in accordance with Standing Orders and the Council's Code of Conduct.

5. Petitions

6. Deputations

To receive any deputations, of which notice has been lodged.

7. References from Other Committees

To receive any references from the committees or panels held.

Matters for Decision in Public

Note: Where an urgent item of business is raised in accordance with Part 3 of the Constitution, it will be considered with the relevant service decisions as appropriate.

8. Housing

Key Decision

(1) Consultation: Draft Housing Allocations Policy (Pages 11 - 40)

A report by the Deputy Chief Executive Officer.

9. Planning and Development

Key Decision

(1) Interim Nitrogen Mitigation Solution (Pages 41 - 48)

A report by the Director of Planning and Regeneration.

Non-Key Decision

(2) Eastern Solent Coastal Partnership Agreement 2019 (Pages 49 - 92)

A report by the Director of Planning and Regeneration.

10. Policy and Resources

Non-Key Decision

(1) Award of Contract: Daedalus Gate Guardian (Pages 93 - 102)

A report by the Director of Leisure and Community.

A handwritten signature in black ink, appearing to read 'P Grimwood', written in a cursive style.

P GRIMWOOD
Chief Executive Officer

www.fareham.gov.uk

22 August 2019

For further information please contact:
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FAREHAM

BOROUGH COUNCIL

Minutes of the Executive

(to be confirmed at the next meeting)

Date: Monday, 1 July 2019

Venue: Collingwood Room - Civic Offices

Present:

S D T Woodward, Policy and Resources (Executive Leader)
T M Cartwright, MBE, Health and Public Protection (Deputy
Executive Leader)
Miss S M Bell, Leisure and Community
K D Evans, Planning and Development
S D Martin, Streetscene

Also in attendance:



1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor F Birkett, Executive Member for Housing.

2. MINUTES

RESOLVED that the minutes of the meeting of the Executive held on 03 June 2019 be confirmed and signed as a correct record.

3. EXECUTIVE LEADER'S ANNOUNCEMENTS

The Executive Leader provided an update on the concerns raised by Natural England (the Government's adviser on nature conservation and part of the Department for Environment, Food and Rural Affairs, DEFRA) that increased levels of housing in South Hampshire could harm the marine environment.

This is because new housing could lead to an increased level of nitrates entering the Solent and that is because of increased amounts of wastewater. In addition, exhaust emissions from traffic passing close to The Solent or watercourses leading to it; in our case specifically the River Hamble, may also result in increased levels of nitrates.

The Executive Leader stressed that this is a serious issue, noting that on one hand the Government in the form of the Ministry for Housing, Communities and Local Government (MHCLG) encourage new build and are instructing the Council's Planning Authority how many houses should be permitted; whilst on the other hand, DEFRA, containing Natural England, say don't build one house or even one bedroom because it will result in additional nitrates going into the watercourses. This is despite the fact that 85% of nitrates which end up in the Solent and the Special Protection areas actually come from farming and depend on what is being farmed.

A solution is needed as clearly we cannot have a situation where not another house is to be built again in South Hampshire, which is the current situation. Fareham Borough Council is working closely with the other 11 councils of the Partnership for Urban South Hampshire (PUSH) to explore what can be done to mitigate this issue alongside Natural England and Southern Water.

Separately, Fareham Borough Council has commissioned work across the borough to assess the effects of emissions from increases in traffic and what effect that could have on the Solent and other watercourses. Whilst there is a lot of work going into this; we don't currently have an answer. Each council is producing a position statement with Fareham's being published this week and a solution will need to be found. It will possibly be similar to the South Hampshire Mitigation Partnership (known as Bird Aware) where the effects being caused by new developments and new residents on the coastal sites in terms of disturbance to birds is mitigated by a payment made by the developer for every new property. This is then used to provide rangers or to purchase land which can be used for overwintering birds etc. The solution will be a mitigation scheme but it will need to be acceptable to Natural England whilst meeting the Government's requirements to accommodate new housing.

4. DECLARATIONS OF INTEREST

There were no declarations of interest made at this meeting.

5. PETITIONS

There were no petitions submitted at this meeting.

6. DEPUTATIONS

The Executive received a deputation from Mr Matthew Hall in relation to item 8(1) – Warsash Neighbourhood Plan: Applications for Warsash Neighbourhood Forum and Warsash Neighbourhood Area.

7. REFERENCES FROM OTHER COMMITTEES

Policy & Resources Scrutiny Panel – 24 June 2019

Minute 7 – General Fund and Housing Revenue Account Outturn 2018/19

The Panel considered a report by the Deputy Chief Executive Officer on the General Fund and HRA outturn for 2018/19.

The Panel discussed two main areas where they felt there that further work could be undertaken, one was in regard to Council Trees and the other concerning Planning Appeals.

Members discussed at length the issue of Council trees which are affecting residents' properties and felt that it was reasonable to request the resident to pay for 50% of the costs for works to trees that they would like done to benefit their property.

The Panel also discussed at length the increasing costs in Planning Appeals and how the current system is unfair to the Local Authority who takes the majority of the costs whilst the applicant has very little costs to have to pay. Members expressed a desire for spurious appeal cases to have more of a charge levied on the applicant.

RESOLVED that the Policy and Resources Scrutiny Panel recommends to the Executive:

- (i). the Council charge 50% of the costs of works to Council trees when requested by residents for benefits to their property; and
- (ii). to task Officers with looking into the issue of Planning Appeal fees and look to lobby the Government to make a change to the current system whereby bigger charges are levied on developers who put forward spurious appeals.

This item is listed at Agenda item 9(1) for consideration by the Executive.

In considering the item referred at point (i) the Executive RESOLVED to ask Officers to review the proposed charge increase and to put forward any

subsequent recommended charge increases as part of the budget preparations for the financial year 2020/21.

In considering the item referred at point (ii) the Executive took the view that developers have the right to put forward appeals in accordance with Planning rules and that the review of Planning Appeal fees would be undertaken as part of the forthcoming Vanguard method review of Planning.

Minute 8 – Capital Programme Outturn 2018/19

The Panel considered a report by the Deputy Chief Executive Officer on the Capital Programme Outturn for 2018/19.

RESOLVED that the Panel had no comments to make to the Executive when it considers this item at its meeting on 1 July 2019.

This item is listed at Agenda item 9(2) for consideration by the Executive

8. PLANNING AND DEVELOPMENT

- (1) Warsash Neighbourhood Plan: Applications for Warsash Neighbourhood Forum and Warsash Neighbourhood Area

The Executive received a deputation in respect of this item from Mr Matthew Hall.

RESOLVED that the Executive approves the application to designate the Warsash Neighbourhood Forum and the application to designate the Warsash Neighbourhood Area, as they meet the requirements of the relevant legislation and regulations.

9. POLICY AND RESOURCES

- (1) General Fund & Housing Revenue Account Outturn 2018-19

In considering this item, the Executive took into account the comments of the Policy & Resources Scrutiny Panel, see minute 7 above.

RESOLVED that the Executive:

- (a) approves the carry forward of £171,700 to fund the completion of the General Fund expenditure programmes in 2019/20, as contained in the report;
- (b) approves the carry forward of £799,000 for the HRA Capital Programme to re-align budget and expenditure phasing and to support the forthcoming programme for 2019/20; and
- (c) notes the contents of the report.

(2) Capital and Treasury Management Outturn 2018-19

RESOLVED that the Executive:

- (a) approves that the General Fund capital programme for 2018/19 be approved and financed as set out in this report;
- (b) agrees that the additional expenditure incurred, amounting to £342,178 be financed retrospectively from unallocated capital resources; and
- (c) notes the treasury management activity for 2018/19.

(The meeting started at 6.00 pm
and ended at 6.37 pm).

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 02 September 2019

Portfolio:	Housing
Subject:	Consultation: Draft Housing Allocations Policy
Report of:	Deputy Chief Executive Officer
Corporate Priorities:	Providing Housing Choices

Purpose:

To approve the draft Housing Allocations Policy for a six-week period of consultation

Executive summary:

Local housing authorities have a duty to make sure that homes, which they own or have nomination rights to, are let in accordance with a published allocation scheme. The allocation scheme must describe the procedure for letting homes and for determining the relative priority accorded to different categories of applicants.

The Council implemented a new Housing Allocation Policy in May 2013 following the introduction of the Localism Act 2011. The Act gives councils greater powers to decide which groups of people, within their area should qualify for housing. Although councils have greater scope to decide who qualifies for housing in their area, some priority must still be given to the groups of people defined in law as falling into a 'reasonable preference' category.

As part of the on-going review of all Council services using 'systems thinking' methodology, our Housing Department (comprising Neighbourhood Services and Housing Options) undertook a detailed review of their functions to fully understand the demand on our current housing waiting list and the existing allocations process. The systems-thinking review and extensive experiment into a new way of working gave us the unique opportunity to consider the design of our service, remove waste from our system and create a more bespoke, customer-centred approach to solving housing problems.

The purpose of the Council's housing service is to "*understand each customer's housing problem and help them to solve it*" and the proposed changes to the Housing Allocation Policy will enable the service to achieve its purpose. Other changes have been incorporated to reflect changes in legislation and statutory guidance since the last update in 2013.

If approved, this draft policy will be published for a six-week period of public

consultation. Following this period, and once any necessary amendments are incorporated, it is intended that the Housing Allocations Policy will be presented to the Executive for adoption (replacing the current Housing Allocations Policy).

An Equalities Impact Assessment (EIA) of the policy will be undertaken before it is recommended for adoption.

Recommendation/Recommended Option:

It is recommended that the draft Housing Allocation Policy, as provided in Appendix A to the report, be published for a six-week period of public consultation.

Reason:

To undertake a period of public consultation as part of the ongoing progression of the Housing Allocation Policy to adoption and implementation.

Cost of proposals:

The costs of publication and consultation are covered in the existing Housing Options operational budget

Appendices: **A:** Draft Housing Allocation Policy

Background papers:

Reference papers:

FAREHAM

BOROUGH COUNCIL

Executive Briefing Paper

Date:	02 September 2019
Subject:	Consultation: Draft Housing Allocations Policy
Briefing by:	Deputy Chief Executive Officer
Portfolio:	Housing

INTRODUCTION

1. The Housing Act (1996) requires all housing authorities to have a scheme for determining priorities and procedures in allocating social housing. The Council's existing Allocations Policy was last reviewed in 2013 following the introduction of the Localism Act (2011). The Act gives councils greater powers in deciding which groups of people within their area should qualify for social housing but retains a 'reasonable preference criteria' for certain groups as defined by law.
2. Since the publication of our existing Allocations Policy there has been changes in legislation and statutory guidance, and significant changes to the way allocations to social housing are dealt with following the 'systems-thinking' review of our Housing Department. The draft Housing Allocations Policy (at Appendix A) has therefore been updated accordingly and the most significant change is the removal of the choice-based letting scheme.
3. The Council introduced the Government's choice-based lettings scheme, known locally as LetSelect, a number of years ago. Available properties are advertised on our website and households registered on our housing waiting list can express an interest or 'bid' on those properties. The adverts run for one week following which, the allocation decision is made based on the banding and position of only those who have placed a 'bid' for the property and therefore could exclude a household more suited to the property.

SERVICE REVIEW

4. As part of the on-going review of all Council services using 'systems thinking' methodology, our Housing Department (comprising Neighbourhood Services and Housing Options) undertook a detailed assessment of their functions to fully understand the demand on our current housing waiting list and the existing allocations process. This is known in systems-thinking as 'check' and simply means getting knowledge about the 'what and why' of current performance and involves a number of steps:

- 1) Understand what the 'purpose' of our service is from the customer's point of view
 - 2) Identify the type and frequency of the demand on our service
 - 3) Study and map the flow of work to assess what is currently provided, how well we respond to the demands of our service and how well we are achieving our 'purpose'
5. Assessment of the working practices highlighted that housing is offered not only to those with a housing 'need' but also to those with a housing 'want'. This means that as well as giving priority to vulnerable and homeless or inadequately housed people, priority through the current housing allocation policy is also given to those who simply want to move to alternative accommodation without any real necessity to move. With the limited availability of housing, allocating in this way is not sustainable or equitable.
 6. There is an average of 80 bids for every property advertised on LetSelect and the review found substantial evidence that allocating properties in this manner is administratively time consuming, resource intensive and does little in the way of meeting the housing need of our customers. Feedback from customers also concluded that there is not enough information on LetSelect for them to understand whether the property really meets their needs.
 7. The review team started to experiment with a new way of allocating to Council-owned properties. On receipt of a notification of a property becoming void, we did not advertise it on LetSelect, but matched a suitable applicant from the housing waiting list. The process of matching included obtaining up to date and detailed information about their current circumstances and gaining knowledge of the attributes of the property becoming vacant. For example, does it contain adaptations that could be made use of by an applicant, what are the sizes of the rooms, local knowledge obtained from the Neighbourhood Officer, etc. By amalgamating all this knowledge, the most appropriate person in the highest need of re-housing was matched to the property.
 8. We gradually and carefully increased the number of allocations made in this way until we reached a point where we stopped advertising Council-owned properties completely. The experiment has resulted in a better, more efficient process and a similar trial commenced with our main Housing Association partner, VIVID Housing which has achieved similar results.
 9. The second element of the experiment focused on customers who approached the Housing Options Team for advice and assistance about housing. By providing a more comprehensive and responsive service, specifically tailored to individuals and at a time when it was most needed, we saw a dramatic reduction in repeat contact and queries thus enabling officers more time to resolve customers' problems. This improved process enabled customers to make fully informed decisions about their housing within a clear and transparent system, in the knowledge that the level of support they required would be available to them by their case officer.

10. Giving an informed choice is made possible by matching our knowledge of what the customer is seeking with details of the availability of stock in their desired location. An analysis of our housing waiting list has been undertaken which has allowed us to understand what demand there is across the Borough for the various property types. This information is then matched to our current stock availability.
11. Our review showed that many customers repeatedly enquire about progress of their application because of an unrealistic expectation of what they are likely to receive. As our stock turnover is now more predictable we can use this data to inform customers on the likely waiting time for the type of home they need.

THE PROPOSED POLICY CHANGES

Ending the choice-based lettings scheme and introduce a best-match direct letting scheme

12. Choice-based letting schemes build in prescribed timescales and delays in the voids and allocations process. It prevents meaningful engagement with our customers and the opportunities to fully understand their requirements. Our review proved it is possible to give customers choice by recording their preferences at the time they join the housing waiting list and involve them in moving when a property becomes available. Consequently, we can bring the customer to view a property before the previous tenant leaves together with the contractors responsible for repair and refurbishment of the property. By doing this, the customer can influence the level of repair and unnecessary refurbishment is eliminated.
13. The existing policy does not allow for officers to fully understand the customer's needs because it simply requests that an application form is completed. The new policy removes the need for an application form and instead provides customers with an opportunity to discuss their housing problem in detail with a Housing Options Officer. This will ensure that customers can explore all available options and make an informed choice to best meet their housing needs.

Renaming the priority bands

14. Customers are categorised in priority bands, the existing policy bands are 'urgent, high, medium and low'. It was identified that some customers felt that being put in the 'low' band made them feel like they would not ever be housed and were considered to be an insignificant priority. This often led to waste work which in few cases changed the outcome. Therefore, the new policy has renamed the bands by simply lettering them A – D. the 'A' band replaces 'urgent' through to 'D' band replacing 'low'.

Appropriate updates to reflect changes in legislation

15. The draft Allocations Policy now includes the following legislation and statutory guidance:

- The Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015
 - Statutory guidance on social housing allocations for local authorities in England: Improving Access to Social Housing for Victims of Domestic Abuse in Refuges or Other Types of Temporary Accommodation (November 2018)
16. It also includes the Government's proposals (not yet legislation) for assigning a priority to divorced or separated spouses of those serving in the Armed Forces.

Other miscellaneous changes

17. Some further minor changes are proposed to help customers make an informed housing choice:
- The medical priorities have been amended to include sensory and mental health conditions and reworded so the unintentional inference that alternative housing would 'heal' them is removed.
 - Where previously an income threshold devised in line with Local Housing Allowance was used, the new policy has removed a threshold altogether. By fully understanding each customer's circumstances, officers can use incoming payments and outgoing expenses to guide customers in making an informed housing choice
 - To ensure sheltered accommodation is being allocated appropriately, clearer qualification criteria has been added.
 - Two criteria have been removed; '*a person or household living in any moveable structure with or without formal tenancy arrangements*' and '*a tenant living in the borough with dependent children living above the ground floor*'. The reason for these to be removed is that the former criteria has a very low demand and can be administered within other priorities. The latter is that unless other priorities are evident and due to the limited accommodation available, households are unlikely to be rehoused with a garden. In addition, many customers do not express a wish for a garden as a priority, instead understand through discussions with officers what housing options are available.

CONSULTATION

18. Government guidance advises that Housing Authorities 'must ensure a reasonable time for consultation to anyone who may be affected to changes in an Allocations Policy'. Our consultation will run for a minimum of six-weeks and it will be open to all for comments.
19. The document will be made available on-line and all appropriate methods of publicising the consultation will be used. We will ensure key partners (including all Registered Providers to whom we have a nominations agreement with) are aware of the consultation period. All existing households on the housing waiting

list will be notified of the consultation and invited to comment on the proposals.

NEXT STEPS

20. Following the consultation period, it is intended that any necessary changes will be incorporated into the document before the Allocations Policy is returned to the Executive with a recommendation to adopt it.

Enquiries:

For further information on this report please contact Caroline Newman (Ext 4645)

Allocations Policy

Contents

Introduction.....	2
Definition of an allocation.....	2
Properties not allocated under this policy	2
Allocations not made under this policy.....	3
Legislation	3
Who must comply	3
The Housing Register	3
EU General Data Protection Regulation (GDPR)	3
How to apply.....	4
Who can join.....	4
Eligibility.....	4
Qualification criteria	5
Exclusions	6
Income.....	7
Savings & Assets.....	7
Positive contributions.....	7
Other forms of positive contribution	7
Positive contribution and disability	8
Positive Contribution Exceptions	8
Change of circumstances	8
Who to include on the application.....	8
Foster carers and prospective adopters	9
Retention on list.....	9
Allocations to existing tenants	9
Applications from people who are homeless	9
Choice and preference	10
How applicants are prioritised.....	10
Medical and Welfare Priority.....	11
Assigning accommodation.....	12
Size.....	12
Level/Accessible	13
Rents	13
Offer.....	13
Verification.....	13
Refusals.....	14
Equality and Diversity	14
Right to a Review.....	14
False or Misleading Claims.....	14
The Decision-Making Process	15
The involvement of elected Members in nomination decisions.....	15
Applications from relatives of Council Employees and Members	16
Amendments	16
Appendix 1 – Priority Bands	17

1 Introduction

- 1.1 The Housing Act¹ requires all housing authorities to have a scheme for determining priorities and procedures in allocating social accommodation. This document explains how Fareham Borough Council social housing and affordable rent housing is assigned and sets out the priorities used.
- 1.2 The Government² encourages housing authorities to use a 'housing options method' in conjunction with their housing register. This method is an information and advice process to prevent homelessness before it occurs through understanding the customer's personal circumstances and helping them explore all housing options.
- 1.3 Fareham Borough Council considers this method to be the best approach; it means that applicants are more easily able to solve their housing problem and those in greatest need do not slip through the net.
- 1.4 In helping the applicant solve their housing problem the team will support them to:
 - Remain in their current home if this is suitable and possible
 - Find other appropriate accommodation if it is not
- 1.5 The Council will provide free advice and assistance for those who are threatened with, or currently are, homeless. Eligibility for joining the housing register will be assessed in accordance with the procedural requirement set out in sections 11-15.
- 1.6 The best housing solution for every customer will differ. Where it is appropriate to add the customer to the housing register and allocate a social or affordable property, the details set out in this policy will come into effect.
- 1.7 The Housing Register and Allocation Scheme is operated on behalf of all Registered Providers that work with the Council.

2. Definition of an allocation

- 2.1 The Council allocates accommodation when it:
 - Selects a person to be a secure or introductory tenant of accommodation held by the Council
 - Nominates a person to be a secure or introductory tenant of accommodation held by another authority
 - Nominates a person to be a secure or introductory tenant of accommodation held by a Registered Provider
- 2.2 The properties allocated in this policy include:
 - General needs housing (such as houses and flats)
 - Retirement living accommodation (properties for older people who need support in line with the accommodation they are applying for)
 - Specially adapted properties for people with disabilities

3. Properties not allocated under this policy

- 3.1 The Council will use selected units as temporary accommodation to fulfil statutory

¹ The Housing Act (1996), Part 6, (s.166A) (1) as amended by the Localism Act (2011)

² The Allocation of Accommodation: Guidance for Local Housing (2012) (p.3.19)

duties owed to homeless households and when necessary to prevent homelessness from occurring. In these circumstances tenancies will be offered as a non-secure tenancy and will not constitute an allocation of accommodation under this policy or under the Housing Act.³

- 3.2 Where a managed move is necessary or where a new or existing housing scheme or development is subject to a 'Local Lettings Plan' the Council and local Registered Providers may nominate to housing accommodation outside of the terms of this policy.

4. Allocations not made under this policy

- 4.1 The following are not considered as allocations under this policy:
- An offer made under exceptional circumstances to someone not meeting reasonable preference criteria⁴
 - Individual circumstances which may include those defined under other legislation⁵
 - A succession to tenancy under The Housing Act⁶
 - A tenancy granted through mutual exchange (HomeSwapper.co.uk)
 - An Introductory Tenancy becoming a Flexible or Secure Tenancy
 - Decants – where the Council initiates moves to alternative accommodation to allow for major repair works

5. Legislation

- 5.1 This policy complies with the Housing Act (1996) and subsequent amendments, the Localism Act (2011) and all other relevant legislation and statutory guidance. Reference has also been paid to the appropriate Fareham Borough Council documents.

6. Who must comply

- 6.1 The Council and all Officers employed by the Council must comply with this policy when processing applications for all social and affordable accommodation that becomes available.

7. The Housing Register

- 7.1 The housing register is a record of all households that have registered with the Council to be considered for vacancies that arise in social or affordable rented housing.

8. EU General Data Protection Regulation (GDPR)

- 8.1 The housing register and all personal information will be dealt with confidentially and in accordance with EU General Data Protection Regulation (GDPR), the Housing Act (1996)⁷ and the Council's Privacy Policy. Any requests to see data held by the Council should be made in accordance with the above.
- 8.2 The Council will share relevant information, which will include financial information or details of tenancy related support needs, with Registered Providers prior to the offer of a tenancy.

³ The Housing Act (1996), Part 6 (s.159)

⁴ Where this is the case a panel of Senior Officers from the Housing Department will consider the application before an allocation is made

⁵ Such as displaced workers within the Rent (Agriculture) Act (1976)

⁶ The Housing Act (1985) (s.86A)

⁷ The Housing Act (1996) (Part VI) (s.166A)

9. How to apply

- 9.1 Wherever possible the Council aims to prevent homelessness from occurring. Therefore, the Council operates a drop-in service at the Civic Offices where customers can easily access the assistance they need. When applicants approach the Council, the Housing Options team will offer support and advice so that the applicant can make an informed choice to best meet their housing needs. This can include determining whether they could remain in their current home, how to secure private accommodation, routes to low cost home ownership and accessing affordable or social rent housing.
- 9.2 Officers will explore all available options before an applicant is added to the housing register. Care will be made to ensure that the applicant understands how the application will be treated under the scheme, whether they are likely to have any reasonable preference and how long before accommodation suitable to their needs is likely to become available.⁸
- 9.3 Through face-to-face discussions, applicants who may require additional assistance in accessing information or applying to the housing register will not be disadvantaged as support will be tailored to their requirements. Where required, applicants will also be given the opportunity to discuss their needs through telephone interviews or home visits.
- 9.4 Applicants are requested to bring any relevant supporting documentation with them to ensure that their case can be accurately assessed, further verification may also be required to confirm eligibility. The relevant supporting documentation can be found in section 34.

10. Who can join

- 10.1 The Council will consider all applicants over the age of 16 who meet the eligibility criteria and are a qualifying person. Any applicant who is homeless or is threatened with homelessness should contact the Council at the earliest opportunity to discuss their housing options.
- 10.2 Applicants will need to be over 18 to be able to hold a tenancy without a guarantor.

11. Eligibility

- 11.1 Eligibility for inclusion on the housing register and allocation of accommodation is set out in the Housing Act⁹.
- 11.2 Ineligible applicants (those that are not able to join the housing register) comprise of:
- A person subject to immigration control within the meaning of the Asylum and Immigration Act (1996) unless they are in a class prescribed in regulations by the Secretary of State
 - Other persons from abroad who are in a class prescribed by the Secretary of State as being ineligible for assistance

⁸ Waiting times vary for different property types and areas, and will only be a guide, based on the banding, time on list, and the number of properties offered within each band in the previous 12 months.

⁹ The Housing Act (1996) (s.160ZA) (and as amended in the Localism Act 2011)

- 11.3 In cases where a joint application is made and one of the applicants is a person from abroad who is ineligible, a joint tenancy will not be granted. However, a single tenancy may be granted to the person who is eligible. While ineligible family members will not be granted a tenancy, they may be considered when determining the size of accommodation required.

12. Qualification criteria

12.1 The following groups of people qualify to join the housing register ¹⁰:

- A person for whom the Council has accepted a duty under the Housing Act (1996) s.189B, s.193 or s.195
- Those who are currently serving in the Armed Forces or who were serving in the Armed Forces within 5 years of their application for an allocation of housing ¹¹
- Bereaved spouses or civil partners of those serving in the Armed Forces where:
 - the bereaved spouse of civil partner has recently ceased, or will cease to be entitled, to reside in Ministry of Defence accommodation following the death of their service spouse or civil partner, and;
 - the death was wholly or partly attributable to their service
- Existing or former members of the reserve forces who are suffering from a serious injury, illness, or disability which is wholly or partly attributable to their service
- Divorced or separated spouses or civil partners of Armed Forces personnel who are required to move out of accommodation provided by the Ministry of Defence
- Referrals made through Hampshire County Council Adult Services
- Those with an established local connection to the Borough of Fareham where one or more of the following applies:
 - They live in the Borough in settled housing arrangements and have done so continuously for at least 2 years immediately prior to their application
 - They are employed in the Borough. Employment must be permanent in nature and for a minimum of 16 hours per week
 - They need to move to the area to be near to a close member of their family to give or receive essential care and support. The family member must live in the Borough and have been resident continuously for 5 years or more ¹²
 - They can demonstrate a strong local connection to the Borough ¹³
 - They need to move to receive specialist care and support, which can only be accessed within the Borough of Fareham

12.2 Certain groups who are exempt from the local connection criteria and may still apply:

- Young People leaving the care of Hampshire County Council or other care authority whether or not they currently live in Fareham ¹⁴
- Verified rough sleepers, where there is evidence that they have been sleeping in the borough in the last 6 months
- Persons in prison who were continuously living in the borough for 5 years immediately before going into prison
- Those living in a refuge or other form of safe temporary accommodation having escaped domestic abuse ¹⁵

¹⁰ The Housing Act (1996) (s.160ZA) (7)

¹¹ Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012 (p.3)

¹² A close family member is defined as being a parent, sibling, or other relative who has previously acted as a guardian.

¹³ Definition of a strong local connection – the applicant must have been born and lived in the Borough for the majority of their lives (minimum of 70%) and have a close family member residing in the Borough who has been resident continuously for 5 years or more at the point of application

¹⁴ The Housing Act (1996) (s.199) (8) (b)

- Existing Council or Registered Provider tenants who reside in another borough but need to move to Fareham for work related reasons¹⁶

There may be circumstances that do not meet any of the above criteria but on consideration the applicant is deemed to have a local connection. These will be determined on a case by case basis.¹⁷

13. Exclusions

13.1 Under the qualifying criteria guidelines as set out in the Housing Act¹⁸ applicants will not be able to join the housing register if they are categorised below:

- Permanent Council or Housing Association Tenants that are assessed as being adequately housed
- Applicants who have assets, savings or income over the prescribed threshold, as set out in sections 14 and 15
- Have no established local connection unless section 12 applies
- All owner/occupiers unless they cannot stay in their own home and need to move into retirement living accommodation. Applicants who wish to apply for this type of accommodation must meet the following specific eligibility criteria:
 - They are over 55, will benefit from the retirement living services provided or have a significant disability; **and**
 - Their current home is not suitable for their specific needs (further medical evidence may be required); **and**
 - They have insufficient financial resources to secure accommodation that meets their particular housing needs in the private market

13.2 Applicants may also be excluded from joining the housing register if it is established that:

- False statements have been made or information has been withheld at any stage of the application
- They have debts with the Council or a Registered Provider where it is evident that they are not making arrangements to repay these arrears
- They, or a member of their household are assessed as being unsuitable to sustain a tenancy or otherwise unsuitable to be considered as a prospective tenant, this may be due to (but not limited to):
 - Serious anti-social behaviour¹⁹, nuisance or annoyance to neighbours
 - Illegal or immoral use of the property
 - Serious deterioration of property owned by the Council or Registered Provider resulting from the actions of the applicant, a member of their household or a visitor
 - The applicant or a member of their current or proposed household obtaining a tenancy fraudulently
 - If it is evident that the applicant owes a high level of arrears and a payment plan has not been adhered to²⁰

¹⁵ Statutory guidance on social housing allocations for local authorities in England: Improving Access to Social Housing for Victims of Domestic Abuse in Refuges or Other Types of Temporary Accommodation (November 2018)

¹⁶ Statutory guidance on social housing allocations for local housing authorities in England: Right to Move (March 2015)

¹⁷ Where this is the case a panel of Senior Officers from the Housing Department will consider the application before a decision is made

¹⁸ The Housing Act (1996) (S.160ZA) (p.7)

¹⁹ Behaviour that causes harassment, alarm or distress which can include: noise, verbal abuse, drug dealing or violence

²⁰ If an applicant is found to owe rent on their private sector tenancy, then the landlord or letting agent will be contacted to establish the level of debt and whether any payment plan is in place.

13.3 Ineligible applicants or those excluded from the housing register will be notified in writing and have the right to a review as set out in section 37.

14. Income

14.1 Applicants who are considered to have sufficient financial resources to source suitable accommodation through; renting privately, shared ownership or owner-occupation will not qualify. Officers will guide applicants on best meeting their housing needs in the initial stages of application.

15. Savings & Assets

15.1 Applicants with; savings or assets in excess of £16,000, own or part own accommodation, or who have a legal interest in home ownership (for example through marriage or civil partnership in accommodation owned by their spouse or civil partner) do not qualify to join the Housing Register and will normally be considered to be able to meet their housing need through other avenues.

15.2 Current or former members of the Armed Forces, who have left service within 5 years, with savings in excess of £16,000 may still qualify where a lump sum has been paid as compensation.

16. Positive contributions

16.1 Local authorities are encouraged to consider how their allocation policies can support those in paid employment or who otherwise make positive contributions to their community in other ways.²¹ Due priority will be given as set out in section 27.

16.2 For the purpose of this policy employment is defined as where the applicant or their partner has a formal contract of employment, is working as a temporary member of staff, or is self-employed. Applicants will only qualify if they can supply evidence that they have been employed for 9 out of the last 12 months, are in current employment, and are working for a minimum of 16 hours per week.

17. Other forms of positive contribution

17.1 In addition to paid employment, applicants can be assessed as making a positive contribution where they can demonstrate that they are undertaking voluntary work, are active foster carers, or are full time carers and so unable to undertake paid work.

17.2 Those doing volunteer work will need to have been volunteering for a continuous period of at least 6 months up to the point of application and the same at point of offer. Volunteering must be for a not-for-profit organisation or charity and must be for a minimum of 7 hours per week.

17.3 Carers and foster carers will need to have been providing care for a minimum period of six months up to point of application and the same at point of offer.

17.4 In all instances the onus shall remain on applicants to supply sufficient evidence to support their claim for making a positive contribution.

²¹ Allocation of accommodation: Guidance for local housing authorities in England (June 2012), (p.4.27)

18. Positive contribution and disability

- 18.1 The Council recognises that not all members of the community are able to undertake paid employment or voluntary work. Therefore, anyone who is proven to have a chronic disability, is in receipt of Personal Independence Payment or 'limited capability for work related activity' element of Universal Credit will be awarded this priority so that they stand an equal chance of securing accommodation as those in paid employment/undertaking voluntary work.

19. Positive Contribution Exceptions

- 19.1 There may be instances where someone is serving a 'Community Order' or 'Community Service Order' which requires them to undertake unpaid work. Such circumstances do not constitute either paid employment or volunteering and so are not included in the definitions set out above.

20. Change of circumstances

- 20.1 Applicants who have previously been deemed not to qualify may make a fresh application to join the housing register if their circumstances have changed. The applicant will be required to provide the relevant supporting documentation for their application.
- 20.2 When the Council is made aware of a change in circumstances further investigation may be required to ensure that the applicant is still eligible. Written confirmation of the outcome will be sent to the applicant.
- 20.3 A change in circumstances can include, but is not limited to:
- A change of address
 - Any additions or departures in the household
 - Any change in income, savings or assets
 - A change in medical conditions

21. Who to include on the application

- 21.1 Applications can include any member of the immediate family who would normally reside with them or would have an extenuating need to reside with them. This also includes those in the immediate family²² who would normally live with the applicant should circumstances allow.
- 21.2 The Council will not include family members on the housing register who do not reside in the UK at the time the application is submitted. Inclusion will only be considered once the family have been reunited and evidence of UK residence can be provided.
- 21.3 In cases where parents share the residency of children, the Council will classify them as living with the person who provides their main home.
- 21.4 People who are not immediate family but have an exceptional need to live with the applicant may be considered in the application and may consist of the following people:
- A dependant aged 16 or over who has lived with the applicant for over 6 months

²² Immediate family include; the applicant's spouse, civil partner or partner; anyone who lives with the applicant as their partner or would if circumstances allowed, and any dependent children

- and is unable to live independently due to a disability or care requirement
- A carer for any member of the household who may need to stay overnight

22. Foster carers and prospective adopters

- 22.1 Consideration will be taken into account for applicants who may require an additional bedroom to accommodate a foster or adopted child.
- 22.2 To avoid over occupation, an agreement will need to have been reached with Social Services and the Housing Options Manager prior to any placement.

23. Retention on list

- 23.1 Periodically, the Council will contact all applicants to review their applications and to confirm if their circumstances have changed.
- 23.2 Reassessment for eligibility, qualification and priority will be undertaken at the time of the review. Should a change of circumstance be indicated, the Council may request further information or supporting documentation from the applicant. The applicant will be contacted, in writing, with the outcome of the review decision.
- 23.3 Should applicants not respond within 28 days the Council will assume assistance is no longer required and the application will be removed from the housing register. Written confirmation of this will be sent to the applicant at the address provided on their application. It is the applicants' responsibility to advise the Council of any change of address or contact details.

24. Allocations to existing tenants

- 24.1 Allocations may be made to tenants who have made a request for a transfer or who wish to downsize and satisfy the reasonable preference criteria.
- 24.2 Existing tenants who do not qualify under the reasonable preference criteria will be guided to HomeSwapper, a mutual social housing exchange website. This provides tenants with greater opportunities to move and promotes social and economic mobility.
- 24.3 Additional priority will be given to tenants requesting a transfer where their current accommodation is accessible or specially adapted and these elements are no longer required.

25. Applications from people who are homeless

- 25.1 The Homelessness Reduction Act (2017) places a duty on local authorities to intervene at earlier stages to prevent homelessness²³. There is also a requirement to provide advice and services to all of those affected, not just those who have a priority need under the primary legislation.²⁴
- 25.2 The enhanced prevention duty, means that the Council is required to work with people to prevent homelessness at an earlier stage and to help those households already homeless for 56 days to secure accommodation.

²³ The Homelessness Reduction Act (2017) (s.1) (2)

²⁴ The Housing Act (1996) (s.189)

25.3 If homelessness is not prevented or relieved, a main housing duty is owed to those who are eligible, have a priority need, and are not homeless intentionally. Where a main duty is owed, the Council will discharge its duty through one of the following:

- An offer of a private sector tenancy
- An offer of a tenancy via the allocation scheme
- An offer of temporary accommodation until a settled home is available

25.4 People accepted as homeless and placed into temporary accommodation by the Council will not be able to exercise the same level of choice as other applicants in all instances. This is because the Council has a limited time to act and must ensure that the small amount of temporary accommodation available in the Borough is managed effectively to be able to meet future housing need.

26. Choice and preference

26.1 The Council operates a considered approach to allocating accommodation through understanding applicants' preferences in order to help with the following:

- Ensure no-one in greatest need slips through the net
- Improve customer satisfaction
- Focus on need/suitability
- Reduce anti-social issues and neighbour disputes

26.2 At application stage, applicants have the right to express choice and reasonable preference to accommodation type and location. Officers will work with applicants to ensure that they understand whether they will be offered social or affordable housing and, where possible the approximate waiting times.²⁵

26.3 Due to the shortage of available accommodation it may not always be possible to offer a home of a particular type or location, but the Council will consider all requests and work with customers to help them achieve the right housing outcome.

27. How applicants are prioritised

27.1 The Council uses a banding system to group together applicants and place them according to priority need. Each band takes into account the statutory reasonable preference categories and the Council's local priorities. The bands are as follows:

- Band A – where it is an urgent situation and no other option is available
- Band B – where a high priority housing need has been identified, such as those leaving the care of Hampshire County Council
- Band C – where a moderate priority housing need has been identified, such as applicants lacking 1 bedroom
- Band D – where a housing need has been identified but no higher priority applies, such as those who qualify as 'right-to-move' applicants

Full definitions are set out in each band in Appendix 1.

27.2 In establishing priorities for housing, the Council must give reasonable preference to the following groups of people²⁶:

- People who are homeless as defined by Part 7 of the Housing Act (1996)²⁷

²⁵ Waiting times vary for different property types and areas, and will only be a guide, based on the banding, time on list, and the number of properties offered within each band in the previous 12 months.

²⁶ Housing Act (1996) (s.166A) (3)

²⁷ S.175 (1) (as amended by Homelessness Reduction Act 2017) (s.1)

- People who are defined as owed a duty under the Housing Act (1996)²⁸
- People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory conditions
- People who need to move to a particular locality in the district of the authority where failure to meet that need would cause hardship to themselves or others
- People who need to move on medical or welfare grounds

Further details on medical and welfare grounds can be found in section 28.

27.3 Under the same Act the Council is also able to award priority to the following groups:

- Existing Council or Registered Provider tenants who wish to downsize
- Households occupying temporary accommodation provided by Fareham Borough Council
- Existing tenants who have property adaptations and no longer require them
- Those who are homeless and require urgent rehousing as a result of violence or threats of violence, including intimidated witnesses and those escaping serious anti-social behaviour or domestic violence²⁹
- Those who have a local connection, as set out in section 12
- Households with Armed Forces connections, as set out in section 12
- Foster carers as set out in section 22

The criteria for placement within each band can be found in Appendix 1.

27.4 The Council considers that applicants who have deliberately worsened their circumstances or have become homeless intentionally³⁰ should not receive priority over other applicants as a result of their worsened circumstances.

27.5 An applicant who is considered to have deliberately worsened their circumstances or become intentionally homeless will be placed in band D.

28. Medical and Welfare Priority

28.1 Medical and Welfare priorities will be determined by a Housing Options Officer and agreed by a Senior Housing Officer or the Housing Options Research and Review Officer upon sufficient evidence submitted by the applicant. Evidence could include relevant information supplied by an applicant's GP, Consultant, Occupational Health, other Health Professional or Support Worker and should specify how the accommodation has a negative impact on the applicant's health or condition.

28.2 There can only be one medical and welfare priority awarded for each household. The banding will be determined by the worst medical or welfare factor awarded to a member of the household.

28.3 The Allocations Officer will check that the factor still applies before making a nomination. Applicants will be informed in writing of the outcome of their medical and welfare assessment. It will include brief reasons explaining why that decision was made.

28.4 If the applicant disagrees with the assessment there is a right to review as set out in

²⁸ under sections 190(2), 192(3), 193(2) or 195(2) (as amended)

²⁹ This will be at the recommendation of the Council or Registered Provider and usually as a result of information from an organisation such as the Police or Social Services

³⁰ Housing Act (1996) (Part 7) (p.191) (3)

section 37.

29. Assigning accommodation

- 29.1 Council and Registered Provider accommodation will be allocated through a 'best match' applicant preference based direct offer. The accommodation will be allocated to the most suitable applicant in Band A, followed by Bands B, C and then D. Applicants with higher medical needs, are working or otherwise making a positive contribution will be prioritised where no other reasonable preference qualification applies. Where there are two or more suitable applicants, those who were added to the housing register first will be considered first.
- 29.2 Applicants who are already on the housing register and are moving between bands due to a change of circumstances, will enter the new band upon the date that their changes are notified to the Council. Applicants who improve their housing situation and consequently move to a lower band will retain their original application date.
- 29.3 Due regard will also be paid to policies set out by Registered Providers that may not align with the overcrowding measure set out in section 30. Where this is the case, applicants will be advised whether the spare room subsidy applies, and any affordability issues will be discussed.
- 29.4 The Council will make every effort to match any preferences expressed by the applicant on accommodation type and location, where availability allows. The suitability of the property and the following characteristics will be considered:
- The area in which the accommodation is situated
 - Whether the accommodation is a house, maisonette or flat
 - The size of the accommodation, including two or more living/dining rooms
 - The floor level
 - If there is lift access available
 - Whether pets are allowed
 - Whether any adaptations exist or necessary changes can be made easily
 - The weekly rent and any service charges

30. Size

- 30.1 The Council will measure overcrowding levels for the purpose of awarding reasonable preference. The Secretary of State takes the view that the bedroom standard is an appropriate measure for determining accommodation size and preventing overcrowding.
- 30.2 The bedroom standard allocates a separate bedroom to the following groups of persons:
- A married or cohabiting couple
 - A person aged 21 or more
 - Two persons of the same sex aged between 0 and 20
 - Two persons aged less than 10 years (regardless of sex)
 - Any person aged under 21 years in any case where he or she cannot be paired with another occupier of the dwelling as set out above
- 30.3 For the purposes of this Policy the Council recognises that persons considered for

sharing a room must be family members. Therefore, two young adults who are not in the same family and are not in a relationship should be considered as requiring their own bedroom.

- 30.4 For the purpose of this measure; a living room, bathrooms, and kitchens shall not be classed as usable bedroom spaces. However, additional rooms such as separate dining rooms may be assessed as being usable as a bedroom space.
- 30.5 In cases where applicants do not agree with the Council's overcrowding measurement, upon request a further assessment can be made in line with the statutory regulations as set out in the Housing Act³¹ and in conjunction with the Council's Environmental Health Department.

31. Level/Accessible

- 31.1 Applicants with disabilities or wheelchair requirements will be given priority to ground floor, level access accommodation or level-access properties with a lift.

32. Rents

- 32.1 Rents for the same size or type of home may differ between landlords. The Council will consider whether the costs of the accommodation can be met by the applicant. Income and eligibility for appropriate welfare benefits will be taken into account but it will remain the applicant's responsibility to ensure they can continue to meet the rental charge.
- 32.2 Anyone needing help or advice on rent affordability and other debts that may affect their tenancy should speak to a Housing Options Officer to be signposted to appropriate support.

33. Offer

- 33.1 Applicants matched to a suitable property owned by the Council will be contacted and invited to a viewing. They will be given the opportunity to discuss any concerns, repairs or alterations that may be required. An appointment will be arranged to sign the tenancy agreement once the tenancy start date has been confirmed.
- 33.2 Applicants matched to a suitable property owned by a Registered Provider will be contacted directly by them to arrange a viewing and to sign the tenancy agreement.
- 33.3 Applicants will be advised when they are nominated to a property of the type of tenancy being offered.

34. Verification

- 34.1 Before an offer is made a further assessment may be undertaken to ensure the applicant is still eligible and qualifies. This will be made in those cases where a considerable period has elapsed between application and offer, where Officers are aware of a change or believe there to be a change of circumstances.
- 34.2 The information required shall include:
- Proof of identity
 - Proof of address

³¹ The Housing Act (1985) (Part 10) (s.68)

- Proof of residency of any dependent children (e.g. child benefit, correspondence with child's school or GP)
- Proof of income and savings (e.g. wage slips, DWP documentation)
- Evidence of local connection (e.g. household bills)
- Evidence to verify housing need (e.g. home visit, proof of tenancy)
- Evidence of positive contribution (where required)

34.3 Requests for further information should be fulfilled within 3 working days to ensure that available accommodation can be allocated correctly and efficiently. Applicants are encouraged to contact the Council if they are unable to supply this information as they may not be allocated accommodation if the documents are not received.

35. Refusals

35.1 Applicants are encouraged to express preferences for location and property type at the application stage. Should an offer be rejected applicants will be required to provide reasons for refusal.

35.2 Applicants who unreasonably refuse an offer of a property may be removed from the housing register. Applicants may apply to re-join the housing register, but previous waiting times will not be taken into account.

36. Equality and Diversity

36.1 The Council treats each applicant equally in accordance with their needs, and where possible, their preferences for accommodation. This is regardless of age, disability, gender reassignment, marriage and civil partnership status, race, religion, belief, sex or sexual orientation.

37. Right to a Review

37.1 The Housing Act³² states that applicants have the right to request a review of the following:

- The decision to exclude them from joining the housing register on the grounds that they are ineligible
- The decision to exclude them from joining the housing register on the grounds that they do not qualify
- The decision to remove them from the housing register
- A decision concerning the facts which are likely to be or have been taken into account in considering whether to allocate housing.

37.2 Review requests must be made within 21 days of the decision in writing. The Council will consider an extension of the 21 days in exceptional circumstances and applicants should contact the Council for further advice.

37.3 The review will be dealt with by an Officer who is both senior to the original decision maker and who has not been involved in making that decision. Review decisions will be made in writing to the applicant within 8 weeks.

38. False or Misleading Claims

38.1 It is a criminal offence for anyone making an application, or anyone providing

³² The Housing Act (1996) ss.166A (9), As amended by the Localism Act (2011) ss.147(2)(a)

supporting information to:

- Knowingly or recklessly supply false information
- Knowingly withhold information which the Council has reasonably required the applicant to give

38.2 The information requested could include:

- Any information given on an application for social or affordable rent housing
- Any information given in response to review letters or updates for changes to circumstances
- Verification information
- Any information given during the proceedings of a review

38.3 Where it is suspected or alleged that false information has been given or deliberately withheld the application will be frozen whilst an investigation is undertaken. No accommodation offers will be made until the investigation is completed.

38.4 Where the investigation concludes that no false information was provided or deliberately withheld, the applicant will be reinstated from the date of the original application.

38.5 Where the investigation concludes that false information was provided or deliberately withheld, the applicant may be removed from the housing register or deemed ineligible to join.

38.6 The Council may seek possession of a tenancy it has granted as a result of a false statement by the tenant or a person acting at the tenant's instigation. If the tenancy is with another body, for example a Registered Provider, it will advise that organisation accordingly.

38.7 If there is evidence that a criminal offence has been committed the Council may take proceedings that could result in a criminal record, a fine or imprisonment.

39. The Decision-Making Process

39.1 The following table sets out the Officers involved in the decision-making process under delegated powers:

Officer	Delegated Powers
Housing Options Officer	The registration of applications and maintenance of the housing register
Housing Options Research and Review Officer	All of the above plus reviews of all decisions
Senior Housing Officer	All of the above
Housing Options Manager	All of the above

40. The involvement of elected Members in nomination decisions

41.1 Government regulations restrict the involvement of elected members of the Council in allocation decisions in certain specified circumstances. Normally, under this Policy, allocation decisions are made by Officers of the Council.

41.2 A Councillor is prevented from being part of a decision-making body at the time an allocation decision is made when either the home to be allocated is situated in the Councillor's electoral ward or the person subject to the decision has his or her sole or main residence in the Councillor's electoral ward.

41.3 Councillors may be involved in allocation decisions where the above circumstances do not apply. For example, Councillors are not prevented from:

- seeking or providing information on behalf of their constituents, or from participating in the decision-making body's deliberations prior to its decision, or
- participating in policy decisions that affect the generality of a particular ward's housing accommodation

42. Applications from relatives of Council Employees and Members

42.1 The Council will ask all housing applicants to declare whether they or any of their relatives work for the Council or are elected members of the Council. In the context of this policy the term "relative" applies to:

- anyone living with the applicant as a partner, or as a member of his or her household
- a natural, adoptive or step parent
- a child
- a sister or brother
- a daughter-in-law or son-in-law
- a grandparent
- an aunt or uncle
- an estranged spouse or partner, regardless of whether he or she lives as part of the applicant's household

42.2 In relevant cases the Council will subject applications to authorisation from a senior officer to ensure that the Allocations Policy criteria have been properly applied.

43. Amendments

43.1 This policy may be amended where changes in legislation, housing need or resources require it. Full consultation with Registered Providers and other relevant parties will be undertaken by:

- Sending a copy of the draft scheme, or proposed alteration, to every Registered Provider with interests within Fareham
- Notify existing applicants of the intended amendments and invite them to comment on proposals
- Make use of social media to raise awareness of proposals and invite comment from members of the public

43.2 Although it is not a statutory requirement, the Council will also consult with the Adult Services and Children Services Teams within Hampshire County Council, NHS Hampshire, relevant voluntary organisations and other appropriate and relevant referral agencies. This will ensure that the Allocations Policy reflects the needs of the Borough.

43.3 The Council will aim to allow 6 weeks as the standard minimum time for written consultation but may determine such other period as it considers appropriate.

Appendix 1 – Priority Bands

Band A	
Category	Criteria
Welfare	Existing Council or Registered Provider tenants, who are require urgent rehousing as a result of violence or threats of violence, including intimidated witnesses and those escaping serious anti-social behaviour or domestic violence.
Welfare	Existing Council or Registered Provider tenants who have property adaptations and no longer require them.
Medical	<p>Where one or more of the following apply; the applicant, or a member of their household has a condition that requires a move to more suitable or adapted accommodation due to a life-limiting or life-threatening medical condition, to give or receive a high level of care where it cannot currently be sustained in the long term, or where the housing situation is a significant factor in serious and sustained concerns relating to mental health, learning disabilities or sensory medical conditions.</p> <p>The move must be supported by medical evidence from the relevant professional such as the applicant's GP, Social Services or Occupational Therapist.</p>
Property	Existing Council or Registered Provider tenants who are required to move in less than 6 months because their home will be affected by demolition, redevelopment or major works and it's not possible for them to remain.
Armed Forces	Members of the Armed and Reserved Forces or Existing or former members of the reserve forces, having left within 5 years, who are suffering from a serious injury, illness, or disability which is wholly or partly attributable to their service who have an imminent threat of homelessness or fall into one of the categories above.
Armed Forces	Bereaved spouses or civil partners of those serving in the regular forces where the bereaved spouse or civil partner has recently ceased, or will cease to be entitled, to reside in Ministry of Defence accommodation following the death of their service spouse or civil partner, and the death was wholly or partly attributable to their service.

Band B	
Category	Criteria
Welfare	<p>Applicants with a local connection who are currently living in a Supported Housing Scheme and it has been evidenced that there is a need for social housing and that alternative housing options are unlikely to be successful.</p> <p>The Council will have joint arrangements with the appropriate agency to ensure that applicants are ready to live independently before they can be considered for offers of accommodation.</p>

Welfare	<p>An applicant who is a young person currently being cared for by Hampshire County Council under the Children Act.</p> <p>The Council will have joint arrangements with the appropriate agency to ensure that applicants are ready to live independently before they can be considered for offers of accommodation.</p>
Medical	<p>Where one or more of the following apply; the applicant, or a member of their household, requires a move to more suitable or adapted accommodation due to a significant medical condition that restricts the ability to access essential facilities and/or care (including the administering of care), or where the housing situation is a significant factor in concerns relating to sensory medical issues, mental health or learning disabilities.</p> <p>The move must be supported by medical evidence from a relevant professional such as the applicant's GP, Social Services or Occupational Therapist.</p>
Property	Existing Council or Registered Provider tenants living in the borough who wish to downsize.
Property	Existing Council or Registered Provider tenants requiring retirement living accommodation due to support needs.
Armed Forces	Divorced or separated spouses or civil partners of Armed Forces personnel who are required to move out of accommodation provided by the MOD.
Property (overcrowding)	<p>A household living in accommodation lacking 2 bedrooms or more, where the Council is satisfied that this is the most viable housing option available and has not been contrived.</p> <p>Owner occupiers will normally be assessed as being in a position to be able to resolve their own housing issues and will only be awarded this priority in exceptional circumstances.</p>
Property (Conditions)	<p>A household living in a property that is in significant disrepair and it is unreasonable for them to remain whilst remedial works are undertaken.</p> <p>The applicant must have a legal right to occupy the accommodation in question, it must be located within the borough of Fareham and the repair issues must have occurred after the initial date of occupancy.</p>

Band C	
Category	Criteria
Homelessness	Accepted homeless households owed a duty under S.193 of the Housing Act (1996) and have been placed into bed and breakfast or any other form of temporary accommodation, excluding private rented accommodation.
Medical	Where one or more of the following apply; the applicant, or a member of their household, requires a move to more suitable or adapted

	<p>accommodation due to medical conditions where independence is restricted when accessing essential facilities and/or care (including the administering of care) or where the environment is aggravating sensory medical issues, mental health or learning disabilities.</p> <p>The move must be supported by medical evidence from the relevant professional such as the applicant's GP, Social Services or Occupational Therapist.</p>
Property (Overcrowding)	<p>A household living in accommodation lacking 1 bedroom and the Council is satisfied that no other option is viable.</p> <p>Owner occupiers will normally be assessed as being in a position to be able to resolve their own housing issues and will only be awarded this priority in exceptional circumstances.</p>
Property (Overcrowding)	<p>To avoid overcrowding by 1 bedroom and enable fostering or adopting where an agreement has been reached with Social Services and the Housing Options Manager to provide permanent accommodation prior to any placement.</p>
Property (Conditions)	<p>Any other insanitary or unsatisfactory housing conditions where the Council's Environmental Health department have confirmed that Category 1 hazards exist, and that remedial action is not able to be pursued.</p> <p>This will include households where accommodation lacks facilities such as cooking facilities, bathing facilities, a degree of warmth or other utility supplies. It does not include households claiming to be without accommodation.</p> <p>Applicant must have a legal right to occupy the accommodation in question. It must be located within the borough of Fareham and the repair issues must have occurred after the date of occupancy.</p>
Property (Conditions)	<p>A household with a dependent child and in rented accommodation where facilities such as the bathroom or kitchen are shared with other households. This does not include households placed into temporary accommodation by the Council under Part 7 of the Housing Act (1996).</p>

Band D	
Category	Criteria
Welfare	<p>Right to move applicants who are existing tenants of other local authorities living outside of the borough but have reasonable preference to move to Fareham for work and failure to do so would cause hardship to themselves or others.</p> <p>Work related reasons means that the applicant already has a job or an apprenticeship within the borough or has a confirmed start date. The work must be more than 16 hours a week and long-term (lasting more than 12</p>

	months). It does not include voluntary work.
Tenure	An applicant who has been assessed as owed a duty by the Council or who is at risk of homelessness where it is likely that engagement can prevent or relieve homelessness.
Tenure	<p>A person or household with no fixed address or otherwise living in unsettled housing arrangements.</p> <p>This will include households having to stay at various addresses or any other accommodation that is regarded as unsettled.</p>
Welfare	<p>Applicants with no local connection who are currently living in a Supported Housing Scheme and it has been evidenced that there is a clear need for social housing and that alternative housing options are unlikely to be successful.</p> <p>The Council will have joint arrangements with the appropriate agency to ensure that applicants are ready to live independently before they can be considered for offers of accommodation.</p>
Tenure	Applicants who have deliberately worsened their housing situation in order to gain an advantage on the housing register or who have been found intentionally homeless.
Tenure	A person or household living in accommodation that is tied to their employment and where this will come to an end within 6 months of the application being approved.

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 02 September 2019

Portfolio:	Planning and Development
Subject:	Interim Nitrogen Mitigation Solution
Report of:	Director of Planning and Regeneration
Corporate Priorities:	Protect and Enhance the Environment

Purpose:
To consider the Interim Nitrate Mitigation Solution for Fareham Borough Council.

Executive summary:

This report details the present situation in the Planning Service in relation to advice from Natural England, the statutory advisor on protected sites, that developments in the Borough must be nitrogen neutral in order to mitigate a likely significant effect on internationally important protected sites in the Solent. As a result, planning permissions have been curtailed for a number of months. The report details a package of measures which together form an interim mitigation solution which would move the Council towards a position of issuing planning permissions.

Recommendation:

It is recommended that the Executive:

- (a) approves the approach to mitigation as set out in paragraph 16 of the report; and;
- (b) notes that the Planning Committee will be advised of the mitigation approach agreed by the Executive, as a material planning consideration in their determination of planning applications.

Reason:

To ensure sufficient options for mitigation to address any adverse effect of wastewater upon European Sites from new residential and overnight accommodation.

Cost of proposals:

The cost of the proposal will be at no overall cost to the Council in the medium term, however there may be some up-front costs to initiate some of the proposals which can be met from within existing budgets.

Background papers: None

Reference papers: None

FAREHAM

BOROUGH COUNCIL

Executive Briefing Paper

Date:	02 September 2019
Subject:	Interim Nitrogen Mitigation Solution
Briefing by:	Director of Planning and Regeneration
Portfolio:	Planning and Development

INTRODUCTION

1. This report outlines the issue surrounding nitrates in the Solent, the advice from Natural England as statutory advisors on European Sites, and the interim nitrogen mitigation solution. This report seeks Executive approval for the mitigation solution set out in the report, which will be a material consideration in the determination of planning applications.

BACKGROUND

Legal framework

2. The Conservation of Habitats and Species Regulations (2017 as amended), hereafter referred to as the Habitats Regulations is the UK's transposition of the European Union Directive 92/43/EEC Conservation of Natural Habitats and of Wild Fauna and Flora. The Regulations place significant responsibilities on the Council as competent authority for the protection of ecology. Regulation 63 requires competent authorities to undertake an 'Appropriate Assessment' of the implications of the permission, if it is likely to have a significant effect on a European site.
3. The Appropriate Assessment considers potential impacts against the conservation objectives of any European sites designated for their nature conservation importance. If a likely significant effect is predicted, it is only if the competent authority can determine no adverse effect on the integrity of the site having regard to any proposed mitigation measures that permission may be granted. Therefore, if mitigation measures are not available or sufficient to avoid the adverse effect, then the competent authority would not be able to conclude that the plan or project would not have an adverse effect.
4. Such European sites include Special Protection Areas (SPA) designated to conserve important or threatened bird species and Special Areas of Conservation (SAC) designated to conserve important and rare habitats. Significant effects on European designated sites can be caused through a number of impact pathways such as direct/indirect habitat loss, increase of recreational disturbance, construction activities, air and water pollution.

5. It is also necessary for the competent authority to consider not only the impact of a single plan or project in isolation but the likelihood of a significant effect occurring in combination with other plans and projects.

Recent case law

6. An established approach is that the Appropriate Assessment must use the 'precautionary principle' when determining likely significant effects. If it is not possible to rule out a likely significant effect, the competent authority must work on the basis that one exists and undertake an Appropriate Assessment. The precautionary principle also dictates that there must be certainty over the effectiveness of the mitigation measures in order to rule out any adverse effect. This precautionary principle has been reinforced by a recent case determination from the European Court of Justice commonly referred to as the 'Dutch Case'.
7. The Dutch Case also clarified the requirement that mitigation is to be secured at the time of carrying out an Appropriate Assessment in order for the competent authority to conclude with certainty that any mitigation proposed would sufficiently mitigate any adverse effects arising from the plan or project in question.

Water Quality in the Solent and Natural England's subsequent advice

8. The Partnership for South Hampshire (PfSH) authorities commissioned an Integrated Water Management Study (IWMS) looking into the effects of planned future development on water quality and water resources. The IWMS noted that the majority of the Solent water bodies had in most cases, less than good ecological status for elements such as dissolved inorganic nitrogen (made up of nitrates, nitrites and ammonium). The IWMS also identified that some Wastewater Treatment Works (WwTW) would reach capacity in the early to mid-2020s and that by this point, action would have to be taken to ensure that these issues are satisfactorily mitigated. Therefore, at present, the impact on the Solent SPA and SACs from development is uncertain and the effectiveness of any proposed mitigation is unknown.
9. One of the causes of a deterioration in water quality is new developments creating additional wastewater which is treated at WwTWs and discharged into the Solent. The percentage of nitrate coming from this source varies depending on the location in the Solent but is small (3-18%) in comparison to run-off from agriculture (20-77%) and background levels already in the waterbody (12-67%).
10. Based on the existing condition of the Solent water bodies and taking into account the implications of the more recent Dutch case ruling, Natural England's advice to competent authorities is that any new development which would result in an increase in 'overnight' stays¹, should achieve nitrate neutrality in order to not have any likely significant effects. The Council as competent authority under the Habitats Regulations, must have regard to Natural England's advice as a statutory consultee, and national body responsible for the natural environment. The Council should only depart from the advice of Natural England for good and justified reasons.

Calculating nitrate neutrality

¹ This includes all new residential dwellings, Gypsy Traveller accommodation, hotels and other tourist accommodation

11. Natural England have produced guidance on how to calculate nitrogen budgets for developments. The calculations compare the existing land use to the proposed land use in terms of nitrate loading and use assumptions on water use and occupancy rates to help planning applicants determine whether more or less nitrate will come from the site (either through run off or via the sewerage system) if permission were granted. Natural England suggest that larger sites, particularly those on agricultural land may achieve neutrality by providing a sufficient amount of open space. Achieving neutrality on smaller sites and brownfield developments is likely to require off-site mitigation.
12. As a result, the Council has not been able to issue planning decisions for a number of planning applications until they can demonstrate neutrality either on-site or via suitable off-site mitigation. At present, Fareham Borough Council has in excess of 50 undetermined planning applications (excluding Welborne) for new residential development under formal consideration. In total these applications propose over 3,000 dwellings. An Appropriate Assessment will need to be carried out on all applications that the Council decide to permit. Twelve of the planning applications, comprising 916 dwellings, have a resolution to grant planning permission from the Council's Planning Committee, pre-dating Natural England's current advice.
13. In addition, the Local Plan will need to consider the ability of developments coming forward to 2036 to be nitrate neutral through its own Habitats Regulations Assessment. Without certainty on the impact of this development and any required mitigation, Natural England would most likely lodge an objection to the plan.

Proposed approach to mitigation

14. In order to provide mitigation for current planning applications and for the Local Plan, particularly where developments cannot provide on-site mitigation, it is necessary to find a solution that allows the Council to meet its obligations both in terms of housing need and as a competent authority for the Habitats Regulations.
15. Given the complexity of the issue and the ability for some solutions to come forward more quickly than others, it is likely that a suite of measures will be needed to deliver nitrate neutrality in the Borough. These measures could include a mix of the following:

- a) Management of existing agricultural land

This solution involves altering the management of agricultural land to manage it in a way that involves the use of less nitrogen fertiliser. This result would be less nitrogen entering the European sites. Mitigation land could be publicly or privately owned and would be used to offset development via a legal agreement.

- b) Wetland creation

Wetlands are a good way of stripping nitrogen from water and so by creating wetlands on land adjacent to watercourses or wastewater treatment works, there would be a reduction in the nitrogen entering the European sites. Developer contributions could be secured for the creation and maintenance of such sites.

- c) Water efficiency measures in existing FBC housing stock

As the wastewater treatment works operate on a permissible amount of nitrogen per

litre of water, reducing the number of litres discharged from the works also reduces the amount of nitrogen going into the Solent. Installing water efficiency measures in existing housing stock, such as Council owned housing stock, could provide sufficient reductions in water use to offset some new development. Developer contributions could be used to fund the provision and installation of water efficiency kits.

d) Improvements to Peel Common wastewater treatment works

There is a need to understand the possible additional technology that could be employed at wastewater treatment works to strip out the maximum amount of nitrogen from wastewater. Developer contributions could be secured to fund additional measures which are required over and above existing regulatory practices.

e) Additional mitigation land secured through the Regional Habitat Creation Scheme

Through the Eastern Solent Coastal Partnership, there is a need to create additional habitats along the coastline. Additional land could be brought into this scheme, funded by developer contributions to create additional coastal habitats and offset development in the borough.

f) Catchment Sensitive Farming Advisors and advice

Developer contributions could be used to fund a Catchment Sensitive Farming Advice scheme whereby advisors would work with agricultural landowners on ways to minimise nitrogen input to their land.

16. Further discussions are required with third parties to advance many of these options. Early work suggests that a combination of measures would be sufficient to provide a solution for housing development going forward. This information would be developed in a Definitive Nitrate Mitigation Solution that would confirm the level of mitigation is sufficient to offset the scale of development, both for a number of current planning applications and the Local Plan. As the Definitive Solution is being worked up, the Council would be able to issue permissions with Grampian conditions, subject to agreement with applicants, which would prevent occupation of the dwellings until such a time as the Council can be satisfied that sufficient mitigation is secured to be able to conclude that there would be no adverse effect on the European sites. For those developments that will depend upon the Council's mitigation solution, there will be a financial charge to the developer secured through a legal agreement or similar.
17. However, it is important to note that each case will be dealt with on its merits and different mitigation may be proposed or secured depending on the circumstances. For example, if the development can provide sufficient mitigation on or off-site to demonstrate nitrate neutrality, the planning application can be determined on that basis and Grampian conditions need not apply. The Council may be able to conclude no adverse effect on integrity of designated sites in a number of ways.

Agreeing the solution with Natural England

18. Importantly, early discussions with Natural England suggest that this approach would be acceptable. In practice, this means that when consulted on the Appropriate Assessment for a planning application, they would raise the issue of water quality and the need for nitrate neutrality on developments and note that mitigation is not secured at the present time, but will be secured via a Grampian condition. They would therefore not object to the granting of planning permission. Before discharging that condition, the

Council would re-consult Natural England on a revised Appropriate Assessment demonstrating how the proposed mitigation would be secured so as to ensure no adverse effect on the European sites.

Legal and Financial Implications

19. This report sets out a suite of mitigation measures which officers consider, in conjunction with the Grampian condition, will allow the LPA to conclude in any appropriate assessment that a development will not cause an adverse effect on the integrity of the relevant designated site allowing the LPA to grant planning permission. Each application must be treated on its merits and determined in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004. Any particular mitigation measure identified for a particular application will need to be considered as part of the appropriate assessment for that particular application.
20. The cost of the proposal will be at no overall cost to the Council in the medium term, however there may be some upfront costs to make changes to council owned properties or purchase additional land which can be initially met from within existing budgets.
21. For those developments that will utilise the Council's nitrogen mitigation solution, financial contributions will be required from the developers which will cover the upfront costs borne by the Council. It may be that the costs and income span more than one financial year, but this will be monitored closely to make sure the money is received correctly.

Other considerations

22. Officers are continuing to work with the Environment Agency to understand their role in relation to regulating permits for the wastewater network and the environmental assessments that they and Southern Water have undertaken. In addition, through PfSH, the Council is responding to OFWAT consultations on appropriate levels of infrastructure investment and environmental mitigation funding within the Southern Water region.
23. PfSH members are working collaboratively on this issue and have an ongoing dialogue with the Ministry for Housing, Communities and Local Government (MHCLG) and the Department for the Environment, Food and Rural Affairs (DEFRA) in finding a solution. The PfSH Joint Committee recently tasked the Water Quality Working Group with reviewing the IWMS with more up to date population figures and occupancy rates. The Joint Committee will receive a further update on the situation in October.
24. In addition to water quality, there is an ongoing study into the potential for increased nitrogen deposition from traffic on European Sites. This air quality study will be important in assisting the Council to understand whether there is a likely significant effect from new development.

Enquiries:

For further information on this report please contact Lee Smith or Gayle Wootton (Ext 4427 or 4328)

FAREHAM

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Report to the Executive for Decision 02 September 2019

Portfolio:	Planning and Development
Subject:	Eastern Solent Coastal Partnership Agreement 2019
Report of:	Director of Planning and Regeneration
Corporate Priorities:	Protecting and Enhancing our Environment

Purpose:

To seek the Executive approval to refresh and update the Eastern Solent Coastal Partnership Agreement from 2012.

Executive summary:

Fareham Borough Council (FBC) formed part of a shared service with Havant Borough Council (HBC), Gosport Borough Council (GBC) and Portsmouth City Council (PCC) in April 2012 to deliver a shared Flood and Erosion Risk Management Service. The agreement was formed under Section 113 of the Local Government Act with the aim to deliver a more efficient and effective service by co-ownership of objectives and an equitable fee structure, providing:

- A robust resilient and adaptable service by sharing of resources;
- Financial savings and efficiencies;
- Increasing the ability to secure government funding for future coastal initiatives and schemes;
- The delivery of numerous outcomes to protect over 30,000 properties;
- Services delivered differently in order to adapt to change and think more commercially.

Due to changes in legislation and the need to proactively evolve, the service requires a new agreement between the Partner Authorities.

Recommendation:

It is recommended that the Executive approves entering into the Eastern Solent Coastal Partnership Agreement 2019 set out at Appendix A.

Reason:

To ensure the Agreement reflects current legislation, enables the Partnership to evolve to maximise efficiencies, deliver best practise and have the potential to sell services to the public sector in order to generate income and manage risk.

Cost of proposals:

There is no additional cost to this current proposal. The fee structure to the Council remains unchanged.

Appendices: **A: Eastern Solent Coastal Partnership Agreement 2019**

Reference papers: [Partnership Report](#)

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Executive Briefing Paper

Date:	02 September 2019
Subject:	Eastern Solent Coastal Partnership Agreement 2019
Briefing by:	Director of Planning and Regeneration
Portfolio:	Planning and Development

INTRODUCTION

1. Fareham Borough Council (FBC), Havant Borough Council (HBC), Portsmouth City Council (PCC) and Gosport Borough Council (GBC) are working in partnership for the delivery of a coordinated Flood and Coastal Erosion Risk Management Service.
2. The Eastern Solent Coastal Partnership is responsible for managing the flood and erosion risk to 162 kilometres of coastline and has successfully provided numerous outcomes to protect over 30,000 homes and reduce the risk to life from flooding and erosion along our coastline. Fareham Borough Council is a Risk Management Authority with permissive powers under the Coastal Protection Act and Land Drainage Act. The Borough Council is a significant landowner along the Fareham coastline with responsibility for maintaining the Council's owned coastal assets, together with a Health and Safety duty of care to the public whilst on Council land. Many successful outcomes have been delivered to date by the Partnership such as:
 - Hill Head Seawall replacement Capital Scheme;
 - Portchester to Paulsgrove (P2P) scheme appraisal;
 - Asset inspection, investment and management including, Hill Head beach replenishment and groyne repairs and Portchester seawall repairs;
 - Proactive Coastal Surveys;
 - Developing a Beach Management Plan for Hill Head to Portsmouth Harbour entrance.
3. The Partnership has exceeded the work that each Local Authority could have achieved in isolation, delivering many multimillion-pound projects whilst making combined savings of £1.8 million to date.
4. The Coastal Partnership Agreement is a Section 113 of the Local Government Act 1972 agreement for the employment by the Councils of a shared Flood and Erosion Risk Management Service (known as the Eastern Solent Coastal Partnership "ESCP"). The original agreement was signed on 30th March 2012.

5. A review and update of the existing agreement between all Partners has been performed and all Partner Authorities, Client Managers, Legal and Finance Services have reviewed, contributed and advised on the new Coastal Partnership Agreement 2019.

RISK

6. The terms and conditions of the amended agreement are broadly the same as in the original agreement and as a result the Council's liabilities and responsibilities under the agreement will remain the same.
7. As the Partnership has been in operation for several years and no major contractual issues have arisen, the approach adopted by the service team when reviewing this agreement has been to amend only where necessary to reflect agreed changes in working practice of the Partnership, or where there have been legislative changes.
8. The amended agreement replaces all other existing agreements between the parties in connection with flooding and erosion risk management. However, any accrued liabilities and obligations will continue.
9. The agreement is for an indefinite/unspecified term and will be reviewed again two years after the date when all parties have signed it.
10. The parties can terminate the agreement by serving not less than 18 months' written notice.

PROPOSED 2019 AGREEMENT

11. The main changes made to the agreement are listed below:
 - Annual strategic planning internal audits and sharing of results;
 - Additional sections added for GDPR, Modern Slavery and Counterparts;
 - Cost and income apportionment added in that additional on-costs be reimbursed to the host employer (HBC) to meet costs for human resources, transactional services and accommodation for the wider service all of which would be tabled and agreed with Client Manager Board as part of annual budget setting;
 - Project fund is established to provide risk mitigation and flexibility for business investment and is capped at 10% of the budgeted in year salary expenditure. It includes:
 - risk to offset against future financial overspend
 - investment in new technology
 - consultancy support (for specialist advice or where service capacity is exceeded)
 - agile approach to development and transformation
 - calculated risk on shared initiatives to secure significant funding
 - risk of redundancy payments;
 - £20k limit on single expenditure unless agreed by Client Manager Board. Head of Service has authority to approve expenditure so long as within budget limit;
 - Ability to sell services to other public-sector organisations under the Local Government Act Section 101;
 - Update the governance arrangements and staffing structure;
 - Embed Financial Assurance into the Service;

- Additional clause for all assets to be added to an asset list.
12. The Eastern Solent Coastal Partnership Agreement 2019 can be read in full at Appendix A to the Executive report.

CONCLUSION

13. In order to continue to deliver efficient and effective outcomes for Fareham Borough Council today and in the future, it is important to assure that the Partnership builds on the successes to date and has an agile platform to work from.
14. The Coastal Partnership Agreement 2019 will continue to support develop, provide good governance and protect the service and benefits being delivered for Fareham Borough Council and its Partners.
15. The amended Agreement reflects current working practises and legislation and has been through a vigorous and lengthy approval process engaging with key stakeholders to assure it will continue to encourage growth, supports key strategic objectives and will continue to provide savings whilst managing risk and creating coastal resilience for coastal communities and the environment.
16. It is therefore proposed that the Council enters into the Eastern Solent Coastal Partnership Agreement 2019.

Enquiries:

For further information on this report please contact Lyall Cairns on 02392 446453.



DATED

2019

(1)The Council of the Borough of Havant

(2)Portsmouth City Council

(3)Gosport Borough Council

(4)Fareham Borough Council

COASTAL PARTNERSHIP AGREEMENT 2019

(An Agreement under section 113 of the Local Government Act 1972 for the employment by the Councils of a shared Flood and Erosion Risk Management Service (known as the Eastern Solent Coastal Partnership, “**ESCP**”) and for the placing at the disposal of each of the Councils, members of the ESCP Team employed by the other Councils for the purposes of their flood and erosion risk management functions.)



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CONTENTS

1	Definitions and interpretation
2	Preliminary
3	Eastern Solent Coastal Partnership Team Objectives
4	The Eastern Solent Coastal Partnership Team and the Application of Section 113 of the Local Government Act 1972
5	The ESCP Client Manager Board
6	Cost and Income Apportionment
7	Termination and Review
8	Variations to this agreement
9	Implementation and Governance of the Eastern Solent Coastal Partnership
10	Dispute Resolution
11	No Fetter of Discretion
12	Liabilities
13	Intellectual Property Rights
14	Notices
15	Rights and Duties Reserved
16	Legal and Other Fees
17	Provision of Statistical Information Accounts and other Documents etc
18	Audit
19	Partnership
20	Anti-Corruption
21	Discrimination
22	Human Rights
23	Freedom of Information
24	Survival of this Agreement
25	Whole Agreement
26	Waiver
27	Severance
28	Governing Law
29	Contracts (Rights of Third Parties) Act 1999
30	Non-assignment
31	Disruption
32	Health and Safety
33	Data Protection
34	Confidential Information
35	Modern Slavery
36	Counterparts

Schedule 1: Financial Protocols

Schedule 2: Data Protection: Processing, Personal Data and Data Subjects

Annexure A: Team Structure Chart



THIS AGREEMENT is made on the _____ day of _____ 2019

BETWEEN

- (1) **The Council of the Borough of Havant** whose principal office is at Public Service Plaza, Civic Centre Road Havant Hampshire PO9 2AX ("**HBC**");
- (2) **Portsmouth City Council** whose principal office is at Civic Offices Guildhall Square, Portsmouth PO1 2BG ("**PCC**");
- (1) **Gosport Borough Council** whose principal office is at Town Hall, High Street, Gosport, Hampshire PO12 1ED ("**GBC**"); and
- (2) **Fareham Borough Council** whose principal office is at Civic Offices Civic Way Fareham PO15 7AZ ("**FBC**").

BACKGROUND

- A. Section 113 (1) of the Local Government Act 1972 provides that a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their functions, on such terms as may be provided by the agreement, of the services of officers employed by the former.
- B. Pursuant to an agreement dated 30th March 2012 the respective Cabinets/Boards or, as the case may be, executive members of the Councils acting pursuant to the Councils' Executive Arrangements approved the creation of the Coastal Defence Management Team (now known as the ESCP) for HBC, PCC, GBC and FBC.
- C. The parties have agreed to continue their partnership and this contract records the parties agreement.

NOW IT IS HEREBY AGREED as follows

1. Definitions and Interpretation

- 1.1 In this agreement and the Background statement the following terms shall have the following meanings

Term	Meaning
Business Day:	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.



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Commencement Date	the date of this Agreement.
Council	HBC, PCC, GBC and FBC as the case may be
Data Controller	the data controller as defined by the Data Protection Legislation
Data Processor	the data processor as defined by the Data Protection Legislation.
Data Protection Legislation	means for the periods in which they are in force in the United Kingdom, the Data Protection Act 2018, the GDPR and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner; and any successor legislation
ESCP	Eastern Solent Coastal Partnership being the partnership governed by this agreement between HBC, PCC, GBC and FBC
ESCP Head of Service	the Head of Service who is responsible for the allocation of the resources of the ESCP Team to amongst other things deliver the priorities set by the ESCP Client Manager Board and as shown in purple on the Team Structure Chart
ESCP Team	the ESCP Team established by HBC, PCC, GBC and FBC and as shown on the Team Structure Chart
ESCP Client Manager Board	the senior managers appointed by the Councils to act as a project board to amongst other things set the priorities for the ESCP and as shown in red on the Team Structure Chart. To be referred to as Client Managers.
ESCP Member Board	the Board consisting of one member of each Council which shall act in an advisory capacity as shown in dark blue on the Team Structure Chart.
Executive Arrangements	construed in accordance with Part II of the Local Government Act 2000



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Executive Management Teams	the senior officer management teams of the respective Councils generally including the Chief Executive, Directors and Executive Heads of the Councils.
GDPR	means (a) the General Data Protection Regulation ((EU) 2016/679); and (b) any equivalent legislation amending or replacing it.
Host Employer	the Council elected from time to time pursuant to clause 4.2 to employ the staff recruited to the ESCP
Intellectual Property Rights	all rights available for the protection of any discovery invention name design process or work in which copyright or any rights in the nature of copyright subsist and all patents copyrights registered designs design rights trade marks service marks and other forms of protection from time to time subsisting in relation to the same including the right to apply for any such protection and trade secrets and other unpublished information
Legal Adviser	the Head of Legal, Licensing and Registrars with PCC, Solicitor to the Council or equivalent officer of FBC, the Borough Secretary of GBC and/or the Solicitor to the Council or equivalent officer of HBC
Net service Cost	Total Service Costs less Total Service Income
Personal Data	shall have the same meaning as set out in the Data Protection Legislation.
Project Fund	Financial reserve held on behalf of ESCP partnering authorities
Section 151 Officer	the officer appointed under Section 151 of the Local Government Act 1972
Team Structure Chart	the ESCP team structure chart attached to this Agreement at Annexure A
Termination Date	such date as may be determined in accordance with Clause 7
Total Service Costs	the total of all the costs listed in Clause 6.1



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|----------------------|--|
| Total Service Income | comprises Grant in Aid (GIA), Community Infrastructure Levy (CIL), Regional Flood and Coastal Committee Levy (RFCC Levy), Private Developer income, Utility Company income, Local Authority income, Community Group Income and Natural England and Coastal Groups. |
| TUPE Regulations | the Transfer of Undertakings (Protection of Employment) Regulations 2006 |
| Withdrawal Date | the date of expiration of the period of prior written notice specified in a notice served by a Council in accordance with Clause 7.5 (notice of withdrawal from the Agreement). |
-
- 1.2 Headings contained in this Agreement are for reference purposes only and shall not affect the validity or construction of this Agreement.
 - 1.3 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
 - 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
 - 1.5 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
 - 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
 - 1.7 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
 - 1.8 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
 - 1.9 The Schedules and Annexures form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules and Annexures.



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2. Preliminary

2.1 This Agreement is made pursuant to:

- (a) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities);
- (b) Section 113 of the Local Government Act 1972 (power to place staff at the disposal of other local authorities);
- (c) Section 3 of the Local Government Act 1999 (duty to secure best value);
- (d) Section 1 of the Localism Act 2011 (the general power of competence);

and all other enabling powers.

2.2 This Agreement has been entered into by the Councils by virtue of the decisions of the Councils referred to in the Background statement.

2.3 This Agreement shall commence on the Commencement Date and subject to Clause 7 (Termination and Review) shall terminate on the Termination Date.

3. Eastern Solent Coastal Partnership Objectives

3.1 HBC, PCC, FBC and GBC agree that this Agreement shall with effect from the Commencement Date replace and supersede all previous agreements or arrangements between them for shared services/joint working in flooding and erosion risk management in which agreements or arrangements shall be deemed to have been terminated immediately prior to the Commencement Date PROVIDED THAT this agreement for termination shall be without prejudice to the enforceability of any subsisting liabilities or obligations arising between the parties under such agreements or arrangements before the date of such termination. The service itself is to be considered as continuous, but under these revised terms.

3.2 The objective of the ESCP is to provide an effective and co-ordinated flood and erosion risk management service to the Councils such that it reduces the risks to people and the developed and natural environment from flooding and erosion by encouraging the provision of technically, environmentally and economically sound and sustainable defence measures within the respective local authority areas.



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- 3.3 Subject to the terms of this agreement, the ESCP can sell services to other local authorities or the private sector, but not to the detriment of the core service provision. ESCP Client Manager Board are to be informed of any such work.
- 4. The Eastern Solent Coastal Partnership Team and the Application of Section 113 of the Local Government Act 1972**
- 4.1 The Councils have agreed to continue the shared coastal services from the Commencement Date via the ESCP. The ESCP shall comprise the ESCP Head of Service and such other Officers as the Councils may agree. For the avoidance of doubt, at the date of this Agreement the ESCP is intended to initially comprise those Officer posts identified in Schedule 1.
- 4.2 Unless otherwise agreed in writing by all the Councils, HBC will continue to act as the host employer for all new staff recruited to the ESCP Team.
- 4.3 For superannuation purposes, services rendered by an officer of one of the Councils whose services are placed at the disposal of the other Councils in pursuance of Section 113 of the Local Government Act 1972 and hence in pursuance of this Agreement is service rendered to the Council by whom he is employed but any such officer shall be treated for the purposes of any enactment relating to the discharge of functions as an officer of the other Councils and members of the ESCP Team may act and shall have powers to act under the constitutions of all the Councils.
- 4.4 The officers of the ESCP Team shall divide their time fairly and reasonably between the Councils as directed by the ESCP Head of Service to meet the objectives set by the ESCP Client Manager Board and shall not show bias toward one Council vis-à-vis the others. It is acknowledged and accepted that time spent on objectives of one Council may be higher than that of the other Councils but in the longer term the proportions of time spent will be similar to the apportionment of resource needs agreed by the ESCP Client Manager Board identified in accordance with clause 6.2.
- 4.5 The officers of the ESCP Team will need to meet any corporate requirements of the Host Employer and it is estimated that this would account for between 5% and 10% of the officer's available working time. This will be monitored by the ESCP Head of Service and reported through to the ESCP Client Manager Board.
- 4.6 Each Council may instruct its own corporate priorities to be delivered by the ESCP Team without the prior agreement of the ESCP Client Manager Board. Where there is a potential impact on other Councils' priorities, the ESCP Head of Service



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shall report to and obtain the agreement of the ESCP Client Manager Board using the voting weighting mechanism set out in Clause 9.1.

- 4.7 The Councils shall appoint Officers to the posts of ESCP Head of Service, Business Development Manager, Team Managers, Team Leaders, Finance Business Partners, Coastal Project Engineers, Coastal Engineers, Coastal Surveyors, Technicians and Apprentices within the ESCP Team serving the Councils.
- 4.8 To accommodate the Coastal Defence Partnership, PCC will retain a post that has a part coastal function that sits outside the Coastal Defence Partnership. This clause does not have any implications for HBC, GBC or FBC but reflects that PCC is a Unitary Authority and therefore has additional responsibilities under the Flood and Water Management Act 2010. The funding for this post is also outside of the Coastal Defence Partnership and will be funded entirely by PCC. This role will include the following responsibilities:
- (a) Will act as PCC Client Manager and link from PCC to the Coastal Defence Partnership
 - (b) Will ensure customer focus to PCC communities and stakeholders at risk of flooding or coastal erosion
 - (c) Will be responsible for drainage and surface water management
 - (d) Will be responsible for flooding emergency response in Portsmouth
- 4.9 The ESCP Client Manager Board shall convene appropriate meetings to assist the ESCP Head of Service to deal with (1) conflicts of interests of individual officers in the ESCP Team and (2) the roles of individual officers in the ESCP Team in providing advice to the Councils jointly and separately and (3) ensuring that the ESCP Team is adequately resourced to deliver its objectives and work plans.
- 5. The ESCP Client Manager Board**
- 5.1 Each Council shall appoint one person to the ESCP Client Manager Board to set objectives and monitor progress of the said objectives of the ESCP. The ESCP Client Manager Board shall also consider and direct on future employment to the ESCP Team; decisions will be made in accordance with Clause 9 (Implementation and Governance of the Eastern Solent Coastal Partnership Service).



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CITY COUNCIL



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- 5.2 Notwithstanding Clause 6 (Cost and Income Apportionment) each Council shall meet any costs that they incur arising from meetings of the ESCP Client Manager Board.
- 5.3 The Council's shall procure that the ESCP Client Manager Board shall meet on at least four occasions a year where the ESCP Head of Service shall provide progress reports on the ESCP key objectives; financial position against budget; risk management updates; existing and future funding opportunities; and staffing matters. One of those meetings shall be scheduled to ensure that annual objectives are set, prioritised and budget assessments can be properly and fully considered by each of the Councils as part of their respective business planning and budget-making processes.
- 5.4 The Councils shall procure that the:
- (a) the ESCP Client Manager Board shall have proper regard to any relevant resolution of one Council provided that such resolution is not to the detriment of the other Councils;
 - (b) the ESCP Client Manager Board shall satisfy themselves that all relevant inter-Council consultation has been carried out;
 - (c) the taking of decisions shall be subject to there being appropriate and adequate budgetary provision by the Councils;
 - (d) any decision which could have legal implications shall be taken in consultation with the respective Legal Advisers to the Councils
 - (e) any decision which could have financial implications shall be taken in consultation with the Section 151 Officers of the Councils;
 - (f) the ESCP Client Manager Board shall satisfy themselves that all relevant consultation has been carried out with the ESCP Member Board;
 - (g) the ESCP Member Board shall consist of one member of each Council which will act in an advisory capacity;
 - (h) the ESCP Member Board shall meet at least two times a year;



Portsmouth
CITY COUNCIL



GOSPORT
Borough Council



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- (i) the ESCP Member Board meetings will be chaired by one of the member representatives, with the chairman role changing between the Councils on an annual basis unless otherwise agreed by the ESCP Member Board. The chairman role will rotate, from PCC member, followed by GBC then FBC and then HBC.

6. Cost and Income Apportionment

6.1 The Total Service Costs arising from the operation of the ESCP shall be considered and agreed by the ESCP Client Manager Board and be inclusive of the following:

- (a) ongoing salary and on-costs including National Insurance and superannuation
- (b) leave,
- (c) overtime (where applicable),
- (d) recruitment costs,
- (e) casuals and agency staff,
- (f) training,
- (g) travel and subsistence,
- (h) ICT to meet specific needs of the service,
- (i) maintaining appropriate equipment and other supplies to fulfil the requirements of the service,
- (j) any future costs as a result of redundancy payments directly related to the service,
- (k) any future costs arising as a result of a compromise agreement made in contemplation or of an Employment Tribunal Claim being brought or an award made by an Employment Tribunal directly related to the service. For the avoidance of doubt future costs that arise from an Employment Tribunal Claim or settling a contemplated claim brought on the basis that



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CITY COUNCIL



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the recruitment, redundancy process was flawed in some way or unlawful discrimination does not directly relate to the service and therefore must be fully borne by the Host Employer.

- (l) professional liability insurance cover for employees of the service,
- (m) incidental costs of the service,
- (n) additional on-costs associated with being the host employer, e.g. HR, transaction processing and additional work spaces. These costs will be tabled and agreed at ESCP Client Manager Board as part of annual budget setting.
- (o) annual internal audit fee (as required by schedule 1)

6.2 The Total Service Costs shall be apportioned on an agreed ratio basis:

HBC: 32%,
PCC: 40%,
GBC: 14%,
FBC: 14%.

(Note: This apportionment was based on an assessment of the resource needs of the Councils, at the commencement of the Coastal Partnership, looking forward over the financial years 2011/12 and 2012/13. Subsequent annual 'actuals' have been reported to ESCP Client Manager Board and have not led to a change in these apportionments.)

- 6.3 Future assessments of the resource needs and amendment to the agreed percentage ratio basis shall only be undertaken by the ESCP Head of Service on the request of the ESCP Client Manager Board.
- 6.4 If the ESCP Client Manager Board are in agreement that an assessment of resource identifies the need for an adjustment of the apportionment of costs between the Councils, then a proposal shall be required to be made to the Executive Management Teams of the Councils and only with the resolution of each of the Executive Management Teams shall there be any departure from the apportionment shown in clause 6.2.
- 6.5 An assessment of the Total and Net Service Costs and apportioned cost for each Council will be presented by the ESCP Head of Service to the ESCP Client Manager Board on an annual basis and sent to each authority's S151 officer at



Portsmouth
CITY COUNCIL



GOSPORT
Borough Council



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least one week before the meeting. These costs are to be agreed prior to the start of each financial year.

- 6.3 The income or grant received against the officer time incurred by the ESCP shall be apportioned to the Councils in accordance with the percentage contributions identified in clause 6.2.
- 6.6 The Councils will pay to the Host Employer as budget holder annually (in advance) at the start of each financial year, their annual fee (their apportionment of the estimated Net Service Costs).
- 6.7 Any year end surplus or shortfall against the estimated Net Service Cost will be presented to the ESCP Client Manager Board for approval and sent to each authority's S151 officer at least one week before the meeting. This will be reconciled/charged to the Partnership Councils in accordance with the percentage contributions pursuant to clause 6.2, unless otherwise agreed by the ESCP Client Manager Board. Any payments /reconciliations should only be completed upon approval of the ESCP Financial Audit (clause 6.8).
- 6.8 At the end of each financial year, at such time as the actual Net Service Cost has been established, PCC Finance Team shall undertake an annual financial audit of the financial transactions made in accordance with this Agreement and report their findings to the ESCP Client Manager Board.
- 6.9 The ESCP can hold a financial reserve referred to as a "Project Fund", only to be created via surplus income generation and held to provide risk mitigation and flexibility for business investment. The Project fund use is to be agreed by ESCP Client Manager Board. This fund is to be capped at 10% of the budgeted in year salary expenditure. The Project fund shall support amongst other things, the following:
 - (a) to offset any future financial over spend that has been fully authorised by the ESCP Client Manager Board,
 - (b) enable investment in equipment and technology to make the Partnership more effective,
 - (c) employ consultancy support to progress initiatives where staff are already fully committed,
 - (d) a more agile approach to service development and transformation,
 - (e) take calculated risk on shared initiatives to secure significant funding.



Portsmouth
CITY COUNCIL



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Borough Council



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- (f) to offset any redundancy payments

- 6.10 The Councils agree to provide workspaces for the ESCP Team on the following basis:

HBC: 4 workspaces,
PCC: 4 workspaces
GBC: 2 workspaces
FBC: 2 workspaces

The associated costs for these workspaces will be borne by each respective Council. This formulation will be used each year or until such time as the ESCP Client Manager Board agree otherwise. The Host Employer will provide any additional work spaces required and recover costs in accordance with clauses 6.1 (n) and 6.2.

- 6.11 All Councils will adhere to the financial protocol for this Agreement as set out in Schedule 1.
- 6.12 Costs incurred upon termination shall be apportioned in accordance with Clause 7 below.

7. Termination and Review

- 7.1 This Agreement shall continue until terminated in accordance with this Clause 7 PROVIDED ALWAYS THAT the provisions of this Clause 7 shall be subject to any other provision of this Agreement extending financial liability beyond termination, in particular Clause 7.7.
- 7.2 Subject always to Clauses 7.6 and 7.7 this Agreement may be terminated by agreement between the Cabinets/Board of all the Councils.
- 7.3 One or more of the Councils acting by their Cabinet/Board may subject to clauses 7.4 and 7.5, withdraw from this Agreement by giving written notice.
- 7.4 Where one or more of the Councils propose to withdraw from this Agreement for whatever reason that Council shall prepare a report to all of the Cabinets/Board setting out its reasons. If the Cabinets/Board concerned or all of them acting reasonably cannot remedy the problem and such remedy may include invoking Clause 10 (Dispute Resolution) below within a reasonable time to the reasonable satisfaction of the Council or Councils proposing to withdraw then the Council or Councils proposing to withdraw shall be at liberty acting always under their constitution to withdraw from this Agreement.



Portsmouth
CITY COUNCIL



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- 7.5 Subject to clause 7.4, where any of the Councils withdraw from this Agreement they shall do so by giving to the other Councils not less than eighteen months' prior written notice and such a decision to terminate or withdraw may only be made by the Councils acting by their Cabinet/Board.
- 7.6 In the event of termination of this Agreement for any reason the Councils shall:
- (a) co-operate in terminating modifying re-structuring assigning or novating contractual arrangements entered into to mutual advantage and properly and promptly execute any documents necessary;
 - (b) use best endeavours to secure an amicable and equitable financial settlement;
 - (c) immediately following the Termination Date transfer or return any property including data belonging to the other Councils;
 - (d) ensure that each Council is allocated a fair and reasonable proportion of the members of the ESCP Team subject to any necessary actions being taken as required by employment law or by the policies of the transferring Council so that (1) each Council can maintain continuity in the provision of its services at the same level of effectiveness and efficiency as if this Agreement had not been terminated and (2) they become employed by the Council to which they are allocated; and
 - (e) the licence of intellectual property rights granted pursuant to clause 13.3 shall terminate with effect from the Termination Date.
- 7.7 In the event of a termination of this Agreement however and whenever occurring the costs consequential upon such termination including final payments due in respect of staff salaries to the date of termination, costs relating to transfer of staff whether under the TUPE Regulations or otherwise, removal of IT access/equipment and any other costs arising directly from such termination shall be apportioned between the Councils at the same percentages identified in Clause 6.2. For the avoidance of doubt the TUPE Regulations will be deemed to apply to any staff carrying out work for the ESCP at the date of termination who are required to transfer to another Council as a result of the termination. The apportionment of income due to each Council shall also be calculated up to the date of termination. Each Council shall pay the balance of costs due after deducting any income due, to the Host Employer within 1 calendar month of the date of termination. Unless otherwise agreed, any assets acquired by and



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belonging solely to the ESCP shall be apportioned between the Councils at the same percentages identified in Clause 6.2.

7.8 In the event that one or more of the Councils withdraw from this Agreement but the Agreement continues between the remaining Councils:

- (a) recruitment selection and administration costs arising directly from the withdrawal, excluding salary costs after the Withdrawal Date shall be apportioned between the Councils at the same percentages identified in Clause 6.2;
- (b) the estimated apportionment of income due to the withdrawing Council or Councils shall be calculated up to the Withdrawal Date;
- (c) the withdrawing Council or Councils shall pay the estimated costs due after deducting any estimated income due within 6 months of the date upon which notice of withdrawal is served in accordance with clause 7.5 unless otherwise agreed by the remaining Councils;
- (d) at the date of withdrawal any requisite balancing payments shall become due and payable by or to the withdrawing Council(s) as the case may be so as to reconcile the estimated costs against the actual costs;
- (e) the withdrawing Council shall co-operate in terminating, modifying, restructuring, assigning or novating contractual arrangements entered into and promptly execute any documents necessary;
- (f) immediately following the Withdrawal Date the withdrawing Council shall transfer or return any property including data relating to the work of the ESCP to the other Councils remaining part of the ESCP;
- (g) the licence of intellectual property rights granted by the withdrawing Council in favour of the Councils remaining part of the ESCP pursuant to clause 13.3 shall terminate with effect from the Withdrawal Date; and
- (h) the licence of intellectual property rights granted by the Councils remaining part of the ESCP in favour of the withdrawing Council pursuant to clause 13.3 shall terminate with effect from the Withdrawal Date.

7.9 Within 6 months of receipt of notice of withdrawal of a Council or Councils from the Agreement, the remaining Councils shall agree how costs and income shall be



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CITY COUNCIL



GOSPORT
Borough Council



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apportioned from the Withdrawal Date. If agreement cannot be reached between the remaining Councils, each of the remaining Councils acting by their Cabinet/Board shall have the right to terminate or withdraw from the Agreement by giving 12 months written notice.

- 7.10 In the event of termination of or withdrawal by one or more Councils from the Agreement, each Council shall indemnify and keep indemnified the other Councils in respect of its share of the costs consequential upon such termination or withdrawal (as calculated pursuant to Clauses 6.2 and 7.7) from and against any actions and causes of action claims demands proceedings damages losses costs charges and expenses whatsoever arising from or in connection with such termination or withdrawal and such indemnity shall continue after the termination of this Agreement but shall not extend to indemnifying the Councils in relation to the costs of any replacement arrangements put in place to replace the ESCP Team.
- 7.11 The value of any assets owned by the ESCP and reserves held (Project Fund) will be paid over to the terminating authority on the cessation of the notice period at their relevant percentage share (Clause 6.2).

8. Variations to this agreement

- 8.1 The Councils may review and seek to amend this Agreement from time to time and in any event, shall carry out a review as to the efficacy and relevance of its terms upon every second anniversary of the Commencement Date. All changes arising upon such reviews shall only take effect upon the completion and sealing of a formal amending agreement.
- 8.2 No deletion addition or modification to this Agreement shall be valid unless agreed in writing and sealed by all the Councils forming part of the ESCP from time to time.

9. Implementation and Governance of the Eastern Solent Coastal Partnership

- 9.1 For the purpose of implementing the shared ESCP Service, the following governance arrangements will be established:

(a) ESCP Member Board

Composition: One member from each of the Councils

Delegated Powers: none



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Functions: member consultation/advisory capacity

(b) ESCP Client Manager Board

Composition: One Client Manager from each of the Councils,

Delegated Powers: To take decisions as set out in Clause 5.3. Each Council will have one vote that is weighted as per the percentage shares in Clauses 6.2.

HBC: 32%

PCC: 40%

GBC: 14%

FBC: 14%.

The weighting will reflect the percentage shares in operation at the point in time the decision is required.

Functions: To review expenditure and apportionment of the total service cost; if it is proposed to increase the total Net Service Cost, by more than 10% in any one year then each of the Council's executive cabinet or Board as the case may be, must pass a resolution approving the increase.

- 9.2 The ESCP Head of Service will manage the shared ESCP Service in accordance with the Team Structure Chart.
- 9.3 Performance Appraisals will be undertaken by the appropriate line manager in accordance with the Team Structure Chart. The Performance Appraisal of the ESCP Head of Service shall be carried out by Host Employer, who shall first obtain feedback from the ESCP Client Manager Board.
- 9.4 The following service specification identifies the general service functions provided by the ESCP Team. These are available for partners to use if required by the respective Partner authority:
 - (a) Liaison and representation with the Environment Agency and Coastal Groups,
 - (b) Setting long term Policies i.e. North Solent Shoreline Management Plans,
 - (c) Developing local flood and erosion risk management strategies,
 - (d) Design & Implementation of Capital Projects,



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CITY COUNCIL



GOSPORT
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- (e) Asset Inspections,
- (f) Maintenance of Coastal Assets,
- (g) Provide Flood Risk Advice and application of the Partnership for Urban South Hampshire Strategic Flood Risk Assessment,
- (h) Provide consultancy service support and express views on development application proposals that include coastal defences,
- (i) Attendance at Committee, Board and other meetings of the Councils in support of the Service provided; where required, the ESCP Client Manager Board to provide appropriate support to the ESCP Team,
- (j) Provide assistance to the Lead Local Flood Authorities in accordance with the Floods and Water Management Act with regard to managing tidal flood and erosion risk,
- (k) Land drainage and Surface Water Flood Risk Management;
- (l) Provide support and advice for Environmental Impact and Coastal Process Assessments.

9.5 Governance is the process by which the ESCP Member Board ensures that the ESCP is effectively and properly run. The ESCP Client Manager Board is made up of a group of people ultimately accountable for the activities of the ESCP; for making the decisions about the overall purpose and direction of the organisation; for ensuring that the money and property are properly used (and managed) to meet the aims and objectives of the organisation; for ensuring that the organisation does everything within the law and abides by this agreement; is accountable to its partner authorities.

9.6 The seven Principles of Good Governance (based on the Nolan Committee's 7 Principles of Public Life) will apply to staff working for the ESCP as well as those sitting on the ESCP Client Manager Board.

10. Dispute Resolution

10.1 In the event of a dispute concerning the construction or effect of this Agreement which cannot be resolved by the ESCP Client Manager Board the matter may be



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CITY COUNCIL



GOSPORT
Borough Council



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referred to the respective Leaders of the Councils in consultation with the Chief Executives of the Councils and such other Senior Officers as are appropriate who shall take all reasonable steps to conciliate and resolve such dispute or difference whether by negotiation mediation or any other form of dispute resolution procedures (with a view to resolution by discussion and negotiation).

- 10.2 In the event that a matter in dispute cannot be resolved under Clause 10.1 the matter may be referred to an arbitrator under Clause 10.3.
- 10.3 The arbitrator shall be appointed with the agreement of the Councils or in the event that agreement cannot be reached, by the president or other chief officer of The Chartered Institute of Arbitrators or such other professional body appropriate to the matter in dispute (such body to be determined by the Chief Executives of the Councils).
- 10.4 For the avoidance of doubt this Clause shall remain in effect after the termination or expiry of this Agreement to confer powers on the Councils to resolve matters remaining in dispute.

11. No Fetter of Discretion

- 11.1 Nothing in this Agreement shall fetter the discretion of the Councils.

12. Liabilities

- 12.1 The Councils shall be jointly and severally liable to any third parties in respect of all actions and causes of action claims demands proceedings damages losses costs charges and expenses directly arising from this Agreement ("Third Party Claims"). A Council shall not settle a Third Party Claim without the prior written agreement of the other Councils. The Council making a payment to such third party shall be the Paying Council for the purposes of this clause. Each of the other Councils (each one being an Indemnifying Council) shall promptly indemnify and keep indemnified the Paying Council for the full extent of the Indemnifying Council's liability for any Third Party Claims. In the event of breach of this Agreement by one of the Councils or negligence by one of the Councils in relation to this Agreement that Council shall be liable for an indemnify and keep the other Councils indemnified in respect of all actions claims demands proceedings damages losses costs charges and expenses directly arising from its breach of this Agreement or its negligence. The liability and indemnity provisions in this clause shall for the avoidance of doubt continue after the termination of this Agreement.



Portsmouth
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- 12.2 Each Council shall ensure that it has all appropriate insurances relating to public liability, employee liability professional indemnity and Member indemnity to cover any liabilities arising under this Agreement.
- 12.3 All proposed fee-income work contracted to non-partner councils and private third party businesses and organisations will be referred to the Host Employer's insurance department to arrange bespoke insurance cover which will be recharged to the employing authority/company.

13. Intellectual Property Rights

- 13.1 Each Council shall remain the owner of all intellectual property rights it owns at the date of this Agreement in any materials which it has created or the creation of which was undertaken by a third party which it commissioned to create those materials.
- 13.2 Any new material created jointly by the Councils in the course of provision of the ESCP Service shall belong to the Councils jointly.
- 13.3 Each Council hereby grants a licence to the other to use its intellectual property rights incorporated in or appearing from the materials referred to in Clauses 13.1 and 13.2 for the purposes of the performance of this Agreement.

14. Notices

- 14.1 Any notice to be served under this Agreement shall be valid and effective if it is addressed to the Chief Executive of the receiving Council and delivered by email, pre-paid first-class recorded delivery post or delivered by hand to the receiving Council's principal office.
- 14.2 Any notice or other communication served under or in connection with this agreement shall be deemed to have been received:
- (a) if delivered by hand, at the time it is left at the relevant address;
 - (b) if posted by pre-paid first-class recorded delivery post or other next working day delivery service, on the second Business Day after posting; and
 - (c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume.



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Borough Council



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- 14.3 A notice or other communication given as described in clause 14.2 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day. In this clause, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

15. Rights and Duties Reserved

- 15.1 Nothing in this Agreement shall prejudice or fetter the proper exercise of any function by the Councils or their officers.

16. Legal and Other Fees

- 16.1 Each Council shall bear its own legal and other fees in relation to the preparation and completion of this Agreement.

17. Provision of Statistical Information Accounts and other Documents etc

- 17.1 Each Council shall make available to the other such statistical information which each Council may from time to time reasonably require for the provision of the ESCP Service.
- 17.2 Without prejudice to any provision in this Agreement requiring the keeping of records the supply of statistics or the provision of information the Councils shall keep such other records and details of or concerning the ESCP Team or their performance as the Councils may require and shall produce or provide to the other copies whether kept electronically or in paper format of such accounts invoices orders contracts receipts statistics and other information or documents touching or concerning or arising from this Agreement or their performance or this Agreement as and when and in such form as each Council may reasonably require.
- 17.3 Without prejudice to any provision in this Agreement the Councils shall keep and maintain all necessary information and shall provide all necessary assistance to enable each Council to complete all necessary official returns or statistics related to this Agreement.
- 17.4 The Councils shall supply each other with such assistance and information as each Council may require to enable it to allocate such expenditure as each Council may incur under this Agreement.



Portsmouth
CITY COUNCIL



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Borough Council



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18. Audit

- 18.1 Each Council's external and internal auditors shall have the like powers set out in Part II of the Audit Commission Act 1998. Each Council shall at all reasonable times (including following the termination for whatever reason of this Agreement) allow or procure for any auditor for the purposes of an external or internal audit immediate access to and permission to copy and remove any copies of and permission to remove the originals of any books records and information in the possession or control of either Council which in any way relates to or are or were used in connection with this Agreement including (but without limitation) any of each Council's data and any such information stored on a computer system operated by a contractor servant or agent of the other Council.
- 18.2 Each Council will provide all practicable co-operation and afford all appropriate access to personnel and records in order to assist the requesting Council in carrying out any investigations which are already under way at the Commencement Date and any investigations which are carried out after the termination or expiry of this Agreement.
- 18.3 The Client Manager Board shall determine from time to time which of the Councils shall carry out planned internal audits of the ESCP and when such planned internal audits should take place. All reasonable costs (reasonably incurred) in respect of the performance of a planned internal audit shall be met by the ESCP. Each Council shall be entitled to receive a copy of the final internal audit report within 10 Business Days of such report being finalised.

19. Partnership

- 19.1 Nothing beyond the terms of this Agreement shall be construed as establishing or implying any legal partnership or joint venture between the Councils.

20. Anti-Corruption

- 20.1 Any of the Councils may terminate this Agreement at any time and recover from the other the amount of any loss resulting from such termination if any of the following apply: -
- (a) any of the other Councils has offered or given or agreed to give to any person any gift or consideration as an inducement or reward without the joint agreement of all the Councils (1) for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or



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CITY COUNCIL



GOSPORT
Borough Council



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execution of the Agreement or any other contract with the Council (2) for showing or forbearing to show favour or disfavour to any person in relation to the Agreement or any other contract with the Council;

- (b) any person employed or by acting on behalf of the other Councils (whether with or without the other Council's knowledge or consent) acts in a similar manner to that set out in sub-Clause (a) above;
- (c) in relation to any contract or potential contract with the Council the other Councils or any person employed by or acting on behalf of the other Council shall have committed any offence under the Bribery Act 2010 or any amendment or replacement thereof or shall have given any fee or reward the receipt of which is an offence under sub-Section (2) of Section 117 of the Local Government Act 1972.

21. Discrimination

- 21.1 The Councils shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010 and any other legislation prohibiting discrimination on any grounds whatsoever. The Councils shall take all reasonable steps to secure the observance of these provisions and any statutory provisions amending or replacing the same by its employees in the performance of the Agreement.

22. Human Rights

- 22.1 The Councils in the performance of this Agreement shall comply with the provisions of the Human Rights Act 1998. The Councils shall indemnify and or keep indemnified each other against all actions and causes of action claims demands proceedings damages losses costs charges and expenses whatsoever in respect of any breach by a Council of this Clause and such indemnity shall continue after the termination of this Agreement.

23. Freedom of Information

- 23.1 The Councils recognise that they are public authorities subject to legal duties which may require the release of information under the Freedom of Information Act 2000 Environmental Information Regulations 2004 or any other applicable legislation governing access to information on request.
- 23.2 If any of the Councils do not wish any of the information supplied to the other Councils during the term of this Agreement to be disclosed, that Council shall, when providing information, identify that which is confidential or commercially



Portsmouth
CITY COUNCIL



GOSPORT
Borough Council



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sensitive and should not be disclosed in response to a request for information under the Freedom of Information Act 2000. The Council should state why it considers the information to be confidential or commercially sensitive.

- 23.3 If a Council receives a request under the Freedom of Information Act 2000 that Council shall not be under any obligation to refuse to release any information from any of the other Councils that is marked confidential or commercially sensitive, and it is up to the Council receiving the request to decide if an exemption applies and whether information should be disclosed, but it shall properly consider the representations of the other Councils before making such decision.
- 23.4 The Councils agree to assist one another in order to enable them to comply with their obligations. In the event any of the authorities receives a request for information under the Freedom of Information Act 2000 or any other applicable legislation relating to the shared service it shall inform the others and seek their assistance.

24. Survival of this Agreement

- 24.1 In so far as any of the rights and powers of the Councils provided for in this Agreement shall or may be exercised or exercisable after the termination or expiry of this Agreement the provisions of this Agreement conferring such rights and powers shall survive and remain in full force and effect notwithstanding such termination or expiry.
- 24.2 In so far as any of the obligations of the Councils provided for in this Agreement remain to be discharged after the termination or expiry of this Agreement the provisions of this Agreement imposing such obligations shall survive and remain in full force and effect notwithstanding such termination or expiry.

25. Whole Agreement

- 25.1 Subject to clause 3.1, this Agreement constitutes the whole agreement and understanding of the Councils as to its subject matter and there are no prior or contemporaneous agreements between the Councils save as expressly mentioned herein.

26. Waiver

- 26.1 Failure by any of the Councils at any time to enforce any provision of this Agreement or to require performance by the other or others or any of the



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provisions of this Agreement shall not be construed as a waiver of any such provisions and shall not affect the validity of this Agreement or any part or the right of that party to enforce any terms and provision of this Agreement.

27. Severance

- 27.1 If any term or provision of this Agreement shall in whole or in part become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way such invalidity or unenforceability shall in no way impair or affect any other term or provision all of which shall remain in full force and effect.

28. Governing Law

- 28.1 This Agreement shall be governed by and interpreted in accordance with English law and the Councils submit to the exclusive jurisdiction of the English courts.

29. Contracts (Rights of Third Parties) Act 1999

- 29.1 The Councils do not intend that any term of this Agreement should be enforceable by any third party as provided by the Contracts (Rights of Third Parties) Act 1999.

30. Non-Assignment

- 30.1 None of the Councils shall be entitled to assign this Agreement or any of its rights and obligations under it without the written consent of the others (which consent the other Councils may in their absolute discretion withhold).

31. Disruption

- 31.1 The Councils shall take reasonable care to ensure that in the execution of this Agreement it does not disrupt the operations of the other Councils, its employees or any other third party.

32. Health and Safety

- 32.1 Each Council shall promptly notify the other Councils of any health and safety hazards which may arise in connection with the performance of this Agreement and shall promptly notify each other of any health and safety hazards which may exist or arise at a Council's premises and which may affect the performance of this Agreement.



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- 32.2 While on the Councils' premises the ESCP Team shall comply with any health and safety measures implemented by any of the Councils in respect of employees and other persons working on those premises.
- 32.3 Each Council shall notify the others immediately in the event of any incident occurring in the performance of this Agreement on the Councils' premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 32.4 The Councils shall comply with the requirements of the Health and Safety at Work etc Act 1974 and any other acts orders regulations and codes of practice relating to health and safety which may apply to employees and other persons working on the Councils' premises in the performance of this Agreement.
- 32.5 The Councils shall ensure that their health and safety policy statements (as required by the Health and Safety at Work etc Act 1974) are made available to each other on request.

33. Data Protection

- 33.1 The parties will comply with all applicable requirements of the Data Protection Legislation. This clause 33 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 33.2 The Parties agree that, for the purposes of Data Protection Legislation, each Party (to the extent it processes Personal Data pursuant to or in connection with this Agreement) processes Personal Data as an independent Data Controller in its own right. Nothing in this Agreement (or the arrangements contemplated by it) is intended to construe either Party as the Data Processor of the other Party or as joint Data Controllers with one another.
- 33.3 Each Party shall:
- (a) comply with its obligations under Data Protection Law;
 - (b) be responsible for dealing with and responding to Data Subject requests, enquiries or complaints (including any request by a Data Subject to exercise their rights under Data Protection Legislation) it receives, unless otherwise agreed between the Parties; and



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- (c) promptly (and without undue delay) notify the other Party in writing of any security incident affecting the Personal Data it processes pursuant to or in connection with this Agreement, including the unlawful or unauthorised Processing of the Personal Data, to the extent the security incident is likely to affect the other Party.

33.4 Without prejudice to clause 33.2, each Party (the **Disclosing Party**) agrees that if it provides Personal Data to the other Party (the **Receiving Party**), it shall ensure that it has provided all necessary information to, and obtained all necessary consents from, the Data Subjects of the Personal Data, in each case to enable the Personal Data to be disclosed to the Receiving Party for the purposes of this Agreement and in accordance with Data Protection Legislation.

33.5 In relation to the Personal Data it receives from the Disclosing Party, each Party shall at all times process the Personal Data in a manner that ensures appropriate security of the Personal Data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical and organisational measures, and the measures shall, at a minimum, comply with the requirements of Data Protection Legislation, including Article 32 of the GDPR.

33.6 Notwithstanding clause 33.2, should the Host Employer at any time act, for the purposes of the Data Protection Legislation, as a **Data Processor** on behalf of the any other Party then the other Party (**Data Controller**) will provide to the Host Employer information about the Personal Data in substantially the format set out in Schedule 2 (to include the scope, nature and purpose of processing by the Host Employer, the duration of the processing and the types of Personal Data and categories of Data Subject) and the Host Employer shall, in relation to any Personal Data processed in connection with the performance by the Host Employer of its obligations under this Agreement:

- (a) process that Personal Data only on the written instructions of the Data Controller unless the Data Processor is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Data Processor to process Personal Data (**Applicable Data Laws**). Where the Data Processor is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Data Processor shall promptly notify the Data Controller of this before performing the processing required by the Applicable **Data Laws** unless those Applicable **Data Laws** prohibit the Data Processor from so notifying the Authority;



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- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Data Controller, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (d) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
 - (i) the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Data Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Data Processor complies with reasonable instructions notified to it in advance by the Data Controller with respect to the processing of the Personal Data;
- (e) assist the Data Controller, at the Data Controller's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;



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- (f) notify the Data Controller without undue delay on becoming aware of a Personal Data breach;
- (g) at the written direction of the Data Controller, delete or return Personal Data and copies thereof to the Data Controller on termination of the agreement unless required by Applicable **Data** Law to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 33 and allow for audits by the Data Controller or the Data Controller's designated auditor;
- (i) not appoint any third-party processor of Personal Data under this agreement with the written consent of the Data Controller in question.

34. **Confidential Information**

34.1 Each party undertakes that it shall not at any time during this Agreement and for a period of 6 years after termination of this Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of any other party except as permitted by clause 34.2.

34.2 Each party may disclose the other parties' confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 34.1; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

34.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

35. **Modern Slavery**



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35.1 Each Council represents and warrants that at the date of this Agreement neither it nor any of its officers, employees, sub-contractors or other persons associated with it:

- (a) has been convicted of any offence involving slavery and human trafficking; and
- (b) to the best of its knowledge and belief, has been or is the subject or any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.

35.2 Each Council shall at all times comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015.

36. Counterparts

36.1 This Agreement may be executed in counterparts, each of which shall be regarded as an original, but all of which together shall constitute one agreement binding on both of the Parties.



IN WITNESS of which this Agreement has been executed as a Deed on the first day before written

Executed as a Deed by affixing the
Common Seal of **The Council of the**)
Borough of Havant in the)
presence of:)

Solicitor to the Council

Executed as a Deed by affixing
the Common Seal of **Portsmouth**)
City Council in the)
presence of:)

Authorised officer

Executed as a Deed by affixing the
Common Seal of **The Council of the**)
Borough of Gosport in the)
presence of:)

Authorised officer

Executed as a Deed by affixing the)
Common Seal of **The Council of the**)
Borough of Fareham in the)
presence of:)

Solicitor to the Council



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SCHEDULE 1: Financial Protocol

1. Budget Setting and Authorisation

- 1.1 Budget years will run from 1st April to the 31st March. The budget will be set on an annual basis and in accordance with clause 6, the budget will be agreed by ESCP Client Manager Board prior to the start of the next financial year
- 1.2 The budget for the Income and Expenditure Account and the Notional Balance Sheet with the Project Fund should be presented by the ESCP Head of Service with clear assumptions and supporting schedules. The ESCP Head of Service is responsible for ensuring that the Partnerships' objectives are met within the agreed budget.
- 1.3 This budget will detail all expenditure (including equipment and assets) required in order for the Partnership to complete its objectives as detailed in clause 3 of the agreement and will include all costs as defined in clause 6.1 of the agreement, although this list may not be exhaustive.
- 1.4 The budget will also detail the income expected to be earned in the budget year, estimated against each member of staff.
- 1.5 The ESCP Head of Service has no authority to overspend the budget, resulting in a net increase to Partnership fees. Overspend can only be incurred if agreed first by all members of the ESCP Client Manager Board, and a source of funding can be identified to meet the increased liability.

2. The Early Warning / Risk Mitigation Process

- 2.1 The Early Warning/Risk Mitigation Process is designed to alert all partner Councils of any forecast increases to net cost, or circumstances that will not allow the ESCP to achieve its fee target
- 2.2 It is the responsibility of the ESCP Head of Service to ensure that as soon as the possibility of an overspend becomes known that the ESCP Client Manager Board should be made aware, using the Early Warning Process, and in particular circumstances an emergency meeting should be called. The ESCP Client Manager Board will decide whether this expenditure can be avoided or mitigated in some way.
- 2.3 In the event that it can not be avoided or mitigated the ESCP Client Manager Board will work together to identify savings in any areas that would offset the effect of the overspend.
- 2.4 If after doing this it can not be avoided or mitigated in full this may mean that a change to the service provided is required in order that the budget can be met.



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- 2.5 If this is not practicable or would make the financial position worse the ESCP Client Manager Board will be required to fund the overspend from their respective authorities in the proportions as set out in clause 6.2 of the agreement.

3. Financial Reporting and Financial Assurance

- 3.1 ESCP financial accounts and budgets will be hosted by the Host Employer and managed by ESCP Financial Assurance staff. Full transaction lists can be made available at any point at the request of an ESCP Client Manager.
- 3.2 The following reports will be issued to the ESCP Client Manager Board on a Quarterly basis:
- Quarterly Income & Expenditure Report
 - A Quarterly Staffing Report
 - Quarterly Notional Balance Sheet Report
 - Summary of Expenditure “at risk”, either awaiting approval for funding or on objectives agreed by ESCP Client Manager Board that are outside of budgeted objectives.

4. Accounting for Transactions

- 4.1 All accounting transactions relating to the ESCP will be recorded in the Host Employer’s Financial System.
- 4.2 For the purposes of this protocol Financial System means the system with which the Hosting Employer prepares its audited accounts, spreadsheet reconciliation will not be acceptable as a form of recording transactions.
- 4.3 Procurement will be conducted and authorised as per the partner Councils financial and contract procedure rules. All accounts payable invoices relating to expenditure covered by the agreement and as agreed in the approved budget will be matched to an authorised purchase order or authorised as per the financial procedure rules and paid in accordance with the Better Payment Practice Guidelines.
- 4.4 All accounts receivable invoices relating to income covered by the agreement will be raised in a timely manner and generated by the Host Employer’s financial system. The recovery of overdue payments will be carried out in accordance with the Host Employer’s policies and procedures.
- 4.5 All partner authorities will undertake to follow the same commitment to ensure they raise purchase orders, accounts payable and accounts receivable invoices in a timely manner.

5. ESCP Accounts

- 5.1 All accounts for the ESCP will be accounted for under a single identifiable cost centre within each authority and only transactions that relate directly to ESCP activities will be recorded there. Each Council will make available any reports,



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invoices or any other evidence of income or expenditure available to any of the ESCP Councils on request.

- 5.2 As per Clause 6.8 of the main agreement, PCC shall undertake a financial audit and calculate any reconciling balances either to be paid or received by each authority on an annual basis by the 30th June of the year following the budget year.

- 5.3 Accounts will be produced on an accruals basis in line with the SerCOP as per Local Authority Accounting Practices.

6. Allowable and Disallowable Costs

- 6.1 Costs for the year are agreed in advance by the ESCP Client Manager Board. The ESCP Head of Service should report to the Client Managers and seek their specific agreement to large one-off items of proposed expenditure over £20k, that arise outside the originally agreed budget. The ESCP Head of Service has authority for all expenditure if within the agreed budget.
- 6.2 Any costs that are incurred by any authority without prior approval by the ESCP Client Manager Board will be disallowable and will be borne by the Council who has incurred them
- 6.3 Any costs incurred that do not relate solely to ESCP activities will not be allowable under the agreement and will be borne by the authority who has incurred them.

7. Fee Earning

- 7.1 Fees for ESCP officers will be calculated using the Green Book methodology or as required by any grant aid memorandum as required. Each Council will be responsible for agreeing and calculating its staff's hourly rates prior to the budget year to allow the ESCP Head of Service to forecast potential fee income.
- 7.2 Any work carried out by ESCP employees as detailed in the agreement will be deemed to be ESCP income and will be shared equally to all Partnership members without exception as stated in clause 6.2 of the main agreement.
- 7.3 All fee earning time will be recorded on an auditable and controlled time recording system to be agreed by all partner authorities. Output reports from this system will be made available to all ESCP Councils upon request.

8. Tax

- 8.1 Each Council is required to ensure that it accounts for all tax in line with HM Revenue and Customs Guidance.
- 8.2 All budget amounts are included net of VAT. All VAT will be accounted for by the authority that incurs the expenditure under its own VAT registration.
- 8.3 All ESCP bodies are Section 33 bodies and the invoices between authorities are not required to account for VAT. Therefore, any invoices raised for fees will not be subject to output tax.



9 Asset Register

- 9.1 The Host Employer shall maintain a register of assets acquired by and solely belonging to the ESCP.



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Schedule 2 Data Protection

Processing, Personal Data and Data Subjects

The subject matter and duration of the Processing	
Scope	
The nature and purpose of the Processing	
Types of personal data	
Categories of Data Subject	



Annexure A: Team Structure Chart

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Report to the Executive for Decision 02 September 2019

Portfolio:	Policy and Resources
Subject:	Award of Contract: Daedalus Gate Guardian
Report of:	Director of Leisure and Community
Corporate Priorities:	Leisure Opportunities for Health and Fun

Purpose:

This report presents the results of the public vote to select a favoured design for the landmark piece of public art, known as a Gate Guardian, that will be erected at Daedalus, by the Peel Common roundabout. It will then seek approval for the most popular design to be procured using developer contributions.

Executive summary:

The Daedalus site, on the outskirts of Stubbington, is a growing hub for aviation, education, engineering and innovation. Alongside its development for business, there is a parallel commitment to providing quality community activities and facilities, establishing an attractive location that has benefits for the community and industry alike.

As part of the IFA2 project, National Grid has committed to funding a package of these community facilities at Daedalus. They will include a play area, a large area of open space for recreation and conservation and, most relevant to this report, a landmark piece of public art to encapsulate the ambition of the site.

This sculpture, measuring approximately 4 metres in height, will be known as a Gate Guardian, and is intended to evoke a sense of local pride while providing a strong point of reference for visitors to Daedalus. It is proposed that the Gate Guardian will be located in a highly visible location, adjacent to the busy Peel Common roundabout.

The Executive approved the concept of a Gate Guardian in September 2018. Since this time, a strict Procurement process has been undertaken to identify the best five designs that were submitted to the Council during a competitive tender exercise. These 'final five' shortlisted designs were then presented to the public for a month-long vote, which invited people to choose their favoured design.

The public consultation, which attracted 2,280 votes through various consultation methods, identified a clear favourite, receiving almost half of all votes cast.

Recommendation/Recommended Option:

It is recommended that the Executive agrees to procure the shortlisted design favoured by the public, Daedalus in Flight by Peter Clutterbuck, selected during the comprehensive public consultation process.

Reason:

To create a distinctive landmark that would promote the Daedalus brand to visitors, businesses and the local community.

Cost of proposals:

The total cost of the Gate Guardian project is £100,000, which National Grid has committed to fund as part of a package of community facilities for Daedalus.

Appendices: **A:** Public consultation leaflet

Background papers: Daedalus Gate Guardian, Executive 03 September 2018

Reference papers: None

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Executive Briefing Paper

Date:	02 September 2019
Subject:	Award of Contract: Daedalus Gate Guardian
Briefing by:	Director of Leisure and Community
Portfolio:	Policy and Resources

INTRODUCTION

1. This report presents the results of the public consultation to select a favoured design for the landmark piece of public art, known as a Gate Guardian, that will be erected at Daedalus, by the Peel Common roundabout. It will then seek approval for the most popular design to be procured using established developer contributions.

BACKGROUND

2. Since the purchase of Daedalus by the Council, and the adoption of its vision for the site in 2015, it has become a large employer in the area and continues to thrive as a growing hub for aviation, education, engineering and innovation.
3. In addition, the Council's commitment to holding high profile community events on the site, firstly to commemorate its 100th anniversary in 2017 and then to honour the site's important historic link to World War II through its hugely popular D-Day 75 event, has contributed to increasing levels of community interest and pride in the site.
4. An important attraction to businesses and residents is the newly formed area of public green space in the northern most boundary of Daedalus, known as Daedalus Common. The provision of this open space, funded by the National Grid, is part of a package of community focussed improvements linked to the IFA2 (interconnector) project.
5. These developments, and the growing community interest in the history and potential of the site, are giving Daedalus a unique character and brand.
6. In 2018, the Executive approved a proposal to erect a landmark piece of public art on a formed mound at the north-eastern tip of the site, adjacent to the busy Peel Common roundabout. Approval was given under the condition that a formal Competitive Tender Process was followed to identify the design with the greatest relevance to the local community and ensuring that the project would meet the Council's demands for safety and longevity. This ambitious sculpture, known as a Gate Guardian, would then enhance a sense of local pride in the area, encapsulate the site's important links to innovation, and providing a unique and attractive sense of place.

7. A contribution of £100,000 was secured through the Section 106 Agreement with the National Grid specifically for the provision of the Gate Guardian. The aim of this funding is to promote Daedalus as an attractive site to businesses, providing a sense of ownership on arrival, yet it will also offer significant benefits to the local community.

THE COMPETITIVE TENDER EXERCISE

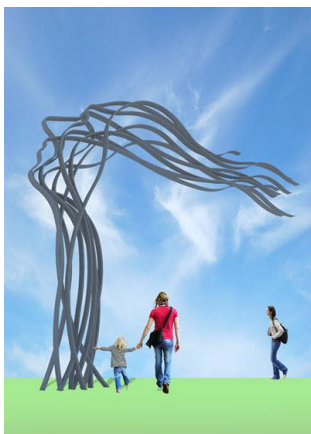
8. Further to the Council's support of this proposal, Officers began a Competitive Tender Exercise, following strict procurement practices, to invite artists and sculptors to submit their designs for the Gate Guardian. The final sculpture would be installed on Daedalus Common, next to Peel Common roundabout, which would make it highly visible to the thousands of vehicles passing it daily, many of whom would be navigating to the Daedalus site:



9. Sixteen full submissions were received during the four-week long period that the tender was open. The procurement process evaluated each in accordance with the following criteria:
 - **Experience:** The sculptor / designers previous experience of similar large-scale public art projects.
 - **Method Statement:** The comprehensiveness of the supplied Method Statement, taking into account the publicly accessible nature of the site and the logistical demands of a project of this size.
 - **Artistic Merit:** The ability of the designer to convey the ambitions of the Daedalus site and its strong aviation links in the submitted design but also to be able to articulate this clearly in the supporting narrative.
 - **Match with Narrative Brief:** The ability for the narrative brief to clearly match the design submitted. There was a demand for the inspiration of the sculpture to be easily understood.
 - **Appearance on site:** The submitted designs were scored for their anticipated ability to be clearly seen and understood by the passing traffic at the Peel Common roundabout. The design also needed to demonstrate that it had considered the positioning of the sculpture on a mound.

10. An evaluation panel comprised of officers from Procurement, Property Services and Leisure and Community considered all 16 submissions that were received. All were objectively scored on the 5 stated criteria, giving an evaluation score and rank for each submission.
11. The five designs that ranked highest were shortlisted. All five had demonstrated sufficient consideration of each stated criteria, and as such officers would be confident in the final selection of any of the 'final five' to deliver the project.
12. The five shortlisted designs were as follows:

A



B



C



D



E



CONSULTATION

13. The 'final five' shortlisted designs were presented to the public for a month-long public vote, from 8 June to 8 July 2019. People were invited to choose their favoured design using a variety of engagement opportunities, including:
 - a staffed consultation stand at both days of the D-Day 75 event;
 - an online survey on the 'Have Your Say' pages of the Fareham Borough Council website;
 - a social media promotion of the vote and a half-page article in the Portsmouth

News on 17 June; and;

- an invitation to participate emailed to the Council's 1,000 E-Panel members.

These were all in addition to emails, leaflets and banners promoting the opportunity to help choose the design delivered to schools, community centres, libraries and Daedalus' businesses.

14. A total of 2,280 votes were received through the various consultation methods. The results were:

Design	Total Votes	% of Votes
A	493	21.6%
B	1,056	46.3%
C	279	12.2%
D	201	8.8%
E	251	11%

The Design Favoured by The Public

15. As can be seen, Design B, Daedalus in Flight by Peter Clutterbuck, was a clear winner receiving almost half of all votes received.
16. Peter Clutterbuck is an artisan designer who has worked with the Council previously on a number of successful projects, including the Falklands Arch in the Town Centre and the Vannes 50th Anniversary Twinning sculpture in Westbury Manor.
17. The designer provided the following narrative for his design:

'The inspiration for the sculpture comes from Daedalus himself. Daedalus made wings for his son, Icarus, and himself so that he could escape the islands of Crete, where he was being held captive to prevent him from revealing the secrets of the labyrinth that he had designed.

As we know, the ill-fated Icarus flew too close to the sun, fell into the sea and drowned, but Daedalus flew to safety.

Daedalus was grief-stricken at the loss of his son, but the goddess Athena was impressed by his ingenuity and courage and gave him real wings with the power of flight...

The sculpture represents Daedalus taking flight for the first time. Daedalus leaps into the air and spreads his wings, looking toward the sky with his hands open, as if embracing the joy of his new-found ability.

The figure itself is constructed to represent a realistic figure, with enhanced musculature, reminiscent of classic sculpture but with an abstract appearance when viewed closely.

As Daedalus spirals upward, his path is traced by fluid lines, their gentle curves suggesting a measured, joyful take off, rather than a hurried, aggressive one.

But these elegant lines serve another purpose. They support the figure and bind it to the ground, reminding us that man will never possess the power of flight alone. Their

minimalist design is in complete contrast to the figure, suggesting that through technology, man can be elevated to the skies, and, the mixture of classical and modern is intended to represent the history of the area.

The sculpture will inspire hope and achievement as well as the joy of discovery. Its intriguing design will demand a closer inspection when viewed, as a distance, from its elevated position.'

18. The entire sculpture would be constructed of marine-grade galvanised steel which would be aesthetically pleasing and able to withstand the elements. The Gate Guardian would be secured to the mound using steel and concrete foundations.
19. As the Gate Guardian would be situated in a public open space, the design has no sharp edges and offers minimal potential for members of the public to climb it.
20. The design clearly has a strong resonance with the Daedalus brand, with an inspiring but easily recognisable message and a strong link to aviation. The installation of such an impressive piece of public art would provide a fitting navigation point, to enable the local community to take pride in the site, create a nationally recognisable brand for the Daedalus businesses, and offer an impressive welcome for visitors to Daedalus.

PROJECT BUDGET

21. The total budget for the project will be up to £100,000. This has been funded by National Grid as part of the package of community facilities at Daedalus.
22. The money has already been earmarked specifically for this project in line with the terms of the agreement with National Grid.

NEXT STEPS

23. If approved, planning permission would be sought for the sculpture, with an anticipated timescale for construction and installation of Spring to Summer 2020.

Enquiries:

For further information on this report please contact Claire Benfield. (Ext 4495)



HELP CHOOSE A NEW LANDMARK SCULPTURE FOR DAEDALUS

**VOTE
BY 8 JULY
SEE OVER FOR DESIGNS**

Fareham Borough Council has commissioned a landmark sculpture for the Daedalus site, called a Gate Guardian – and we want you to help us choose the final design!

The sculpture, next to the Peel Common roundabout, will be a landmark for both residents and visitors and will reflect the history and legacy of the Daedalus site. It will be in place by Summer 2020 and is being paid for by National Grid.

**Vote for your favourite by 8 July at
www.fareham.gov.uk/haveyoursay**

CHOOSE YOUR FAVOURITE FROM THESE FIVE DESIGNS

OPTION A



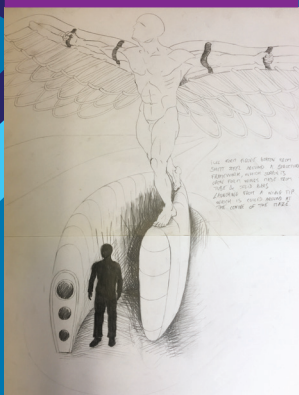
OPTION B



OPTION C



OPTION D



OPTION E



For more information call 01329 824 409
or visit www.fareham.gov.uk/haveyoursay