

Notice of Meeting



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Overview and Scrutiny Management Commission

Tuesday, 28th July, 2020 at 6.30 pm

This meeting will be held in a virtual format in accordance with The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020

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**Agenda - Overview and Scrutiny Management Commission to be held on Tuesday, 28
July 2020 (continued)**

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Date of despatch of Agenda: Monday, 20 July 2020

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Gordon Oliver / James Townsend on (01635) 519486 / 503605
e-mail: gordon.oliver1@westberks.gov.uk / james.townsend1@westberks.gov.uk

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**Agenda - Overview and Scrutiny Management Commission to be held on Tuesday, 28
July 2020 (continued)**

- To:** Councillors Jeff Brooks, James Cole, Lee Dillon (Vice-Chairman), Gareth Hurley, Alan Law (Chairman), Thomas Marino, Steve Masters, Gordon Oliver, Garth Simpson and Tony Vickers
- Substitutes:** Councillors Adrian Abbs, Peter Argyle, Jeremy Cottam, Carolyne Culver, Owen Jeffery, David Marsh, Claire Rowles and Andrew Williamson
- Other Officers & Members invited:** Joseph Holmes, Catlin Bogos, Gordon Oliver, James Townsend

Agenda

Part I

Page No.

1. **Apologies for Absence**
To receive apologies for inability to attend the meeting (if any).
2. **Minutes** 7 - 22
To approve as a correct record the Minutes of the meetings of the Commission held on 14 January 2020, 14 May 2020 and 25 June 2020.
3. **Declarations of Interest**
To remind Members of the need to record the existence and nature of any personal, disclosable pecuniary or other registrable interests in items on the agenda, in accordance with the Members' [Code of Conduct](#).
4. **Petitions**
Purpose: To consider any petitions requiring an Officer response.
5. **Actions from previous Minutes** 23 - 24
To receive an update on actions following the previous Commission meeting.
6. **London Road Industrial Estate Task and Finish Group Report** 25 - 120
Purpose: To outline to OSMC the work undertaken by the task group created to better understand the advice and guidance received in relation to the Council's decision when procuring a preferred partner for the London Road Industrial Estate (LRIE) development.
7. **Local Government Association Corporate Peer Challenge** 121 - 152
Purpose: To publish the results of the LGA Corporate Peer Challenge for West Berkshire Council and an action plan to address the recommendations within it.



Standing Items

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|-----|---|-----------|
| 8. | 2019/20 Performance Report Quarter Four
<i>Purpose: To provide assurance that the core business and council priorities for improvement measures (Council Strategy 2019-2023) are being managed effectively.</i> | 153 - 192 |
| 9. | 2019/20 Revenue Financial Performance: Provisional Outturn
<i>Purpose: To report on the financial performance of the Council's revenue budgets. This report is the provisional outturn position for 2019/20.</i> | 193 - 206 |
| 10. | 2019/20 Capital Financial Performance Report - Outturn
<i>Purpose: The financial performance reports provided to Members, throughout the financial year, report the under or over spend against the Council's approved capital budget. This report presents the provisional capital outturn for the Council in respect of financial year 2019/20. It should be noted that these figures are provisional and may change as a result of External Audit.</i> | 207 - 218 |
| 11. | West Berkshire Council Forward Plan 7 July 2020 to 31 October 2020
<i>Purpose: To advise the Commission of items to be considered by West Berkshire Council from 7 July 2020 to 31 October 2020 and decide whether to review any of the proposed items prior to the meeting indicated in the Plan.</i> | 219 - 222 |
| 12. | Overview and Scrutiny Management Commission Work Programme
<i>Purpose: To receive new items and agree and prioritise the work programme of the Commission.</i> | 223 - 224 |

Sarah Clarke
Service Director Strategy and Commissioning

If you require this information in a different format or translation, please contact
Moira Fraser on telephone (01635) 519045.



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OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION

MINUTES OF THE MEETING HELD ON TUESDAY, 14 JANUARY 2020

Councillors Present: Dennis Benneyworth, Jeff Brooks, James Cole, Lee Dillon, Alan Law (Chairman), Thomas Marino, Steve Masters, Garth Simpson and Martha Vickers (Vice-Chairman)

Also Present: John Ashworth (Executive Director - Place), Catalin Bogos (Performance Research Consultation Manager), Sarah Clarke (Service Director (Strategy and Governance)), Joseph Holmes (Executive Director - Resources), Richard Turner (Property Service Manager), Stephen Chard (Principal Policy Officer), Councillor Lynne Doherty and Councillor Ross Mackinnon

PART I

25. Minutes

The Minutes of the meeting held on 29 October 2019 were approved as a true and correct record and signed by the Chairman.

26. Declarations of Interest

There were no declarations of interest received.

27. Petitions

There were no petitions received at the meeting.

28. Actions from previous Minutes

There were no actions outstanding from previous Commission meetings.

29. Commercialisation Part 1: Property Investment Strategy

The Commission considered the report (Agenda Item 6) that provided information on the effectiveness of the Council's Property Investment Strategy to date to help influence its review. The Commission was tasked with scrutinising progress so far as well as the risks and level of return.

By way of background, Richard Turner explained that the proposal for the Council to invest in commercial property for the purposes of deriving revenue return was initially explored through a Corporate Programme project. This work resulted in Council approval of a capital budget of £50m in May 2017 for commercial property investment as part of the Investment and Borrowing Strategy 2017/18.

Council gave approval to increase this budget to £100m in July 2018. To date the Council had invested a total of £62.624m on nine properties.

Richard Turner then explained that a number of changes within the last year had created a circumstance where the Council was reviewing its Commercial Property Investment Strategy.

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Difficulties had been encountered with identifying suitable properties which aligned with the Strategy.

Amended guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA) and increased borrowing rates from the Public Works Loan Board (PWLb), coupled with emerging strategic direction related to the environment and housing, meant that the Council was currently reviewing its wider approach to investment. Commercial property investment would sit within that wider investment context.

Projected income was summarised within the report. The net income was after taking account of interest payments, Minimum Revenue Provision (MRP), fees and a risk fund.

Reference was made to the acquisition of 3 and 4 The Sector in Newbury. At the time of the investment, the Council's property agent had confidence in the market and felt that tenants could be found and the agent advised the Property Investment Board in light of this. Unfortunately, the economy had since worsened and 4 The Sector was currently vacant. Considering the current economy/market, it was considered to be difficult to fully invest the £100m budget.

The vendor for 4 The Sector was paying the Council in lieu of rent for the vacant building until 31 March 2020 via an Escrow payment. This payment ensured that income was in line with the anticipated level from this investment. However, from April 2020 the cost liability would fall to the Council. Efforts therefore continued to find a tenant.

Councillor Lee Dillon queried the level of confidence in securing a long term tenant for 4 The Sector. He acknowledged the importance of income generation, but queried whether the Strategy could be broadened to consider investments that would achieve greater community benefits such as affordable housing.

In response, Joseph Holmes explained that the Council could tolerate a lower level of income until 4 The Sector was tenanted. A net benefit could still be achieved for residents.

The Capital Strategy, presented to Council in March 2020, would set out different options for the investment of the remainder of the £100m budget. This fund was not fixed to investment and could be used in different ways but still needed to be utilised for housing – i.e. affordable housing.

Councillor Dillon felt that disposal of 4 The Sector should be considered as an option if a tenant could not be found as that would achieve a capital receipt (as long as the Council would not suffer a capital loss).

Joseph Holmes advised that options for 4 The Sector would be reconsidered if a tenant was not found.

Richard Turner explained that there was a yield target of 6% for the full investment of £100m. Properties of a lower level yield had not been pursued and therefore property investment to date was in line with the yield target.

Councillor Tom Marino referred to the other option considered in the report of continuing with the Strategy. Could this be pursued? Richard Turner explained that it was likely that investment would be restricted to West Berkshire only, this would severely reduce the potential for acquisition. The Council would focus on protecting its existing investment and the rate of return.

Councillor Alan Law queried whether the CIPFA guidance gave any further detail on the potential requirement to only invest within the district, i.e. when would this be imposed? Joseph Holmes advised that clarity was awaited from CIPFA, but the expectation of this made investment outside of West Berkshire a greater risk.

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It was noted that Members would have another opportunity to comment on the Property Investment Strategy when it was presented to Council in March 2020 as part of the Capital Strategy. The OSMC could also revisit the Strategy at a later stage if Members had concerns or wished to review the further progress of the Strategy.

RESOLVED that the report be noted. The OSMC's comments would be fed into the review of the Property Investment Strategy prior to its presentation to Council in March 2020 as part of the overall Capital Strategy.

30. Council Strategy Delivery Plan

The Commission considered the report (Agenda Item 7) that provided a summary of the feedback from the OSMC Task Group following its pre-scrutiny review of the proposed Council Strategy Delivery Plan and its Key Performance Indicators (Targets). The report proposed recommendations for the Executive.

The Task Group consisted of Councillors Alan Law, Jeff Brooks and Garth Simpson.

Councillor Law introduced the report. He explained that the OSMC was asked to agree the proposed recommendations for the Executive. The Delivery Plan and its Key Performance Indicators (KPIs) would be presented to the Executive for approval at its meeting on 13 February 2020.

In summary, the Task Group felt that the overall framework and structure was appropriate, but were concerned that the proposed number of KPIs was unmanageable; including 61 for the Executive (53 priorities for improvement and 8 for core business).

To help resolve this it was recommended that some of the KPIs be moved to core business and others be moved to a new strategic goal category. This new category would, for example, pick up the adoption by target date of strategic plans and/or goals.

A particular reason for reducing the number of KPIs to either core business or a strategic goal was the false impression 53 priorities for improvement gave of a Council in much need of improvement across a wide range of services. Approval of the recommendations would help to correct this balance.

Councillor Brooks added the importance felt by the Task Group of having a measurable set of KPIs. He was hopeful that the recommendations, subject to being approved by the OSMC, would be taken on board by the Executive.

Councillor Simpson explained that the Task Group was also recommending additions to the core category to ensure that areas of high importance that were performing well were retained. These were seen as being more important than or equally important to some improvement targets.

Councillor Lynne Doherty commented that much work had gone into the Delivery Plan. The document was important in that it provided the detail behind the Council Strategy. She greatly appreciated the input from the Task Group and commented that this had been a very useful exercise.

Councillor Doherty felt that the recommendations were sensible and agreed that it was important to both improve performance where this was needed as well as maintain good performance.

Councillor Law added that exception reporting needed to be done in detail so that performance could be properly scrutinised. Councillor Lee Dillon highlighted the importance of ensuring that the necessary data and information, exception reports etc, were provided at the Executive and OSMC to enable monitoring with delays avoided.

RESOLVED that the Task Group's recommendations be approved. They would be forwarded to the Executive for consideration at its meeting on 13 February 2020.

31. Revenue Financial Performance Report - Quarter Two of 2019/20

The Commission considered the Quarter Two revenue financial performance report (Agenda Item 8).

Joseph Holmes reported that the Quarter Two forecast was an overspend of £222k. This was 0.2% of the Council's 2019/20 net revenue budget of £125m. £263k of costs had reserve provision against them which could be used and would lead to a year end forecast of £41k under spent. There were no areas of particular concern within service areas at this stage of the financial year.

Joseph Holmes added that if the year-end position was close to a break even position then reserves might not be needed.

In response to a query from Councillor Alan Law, Joseph Holmes explained that sound treasury investments had helped to achieve the saving on levy costs and treasury investments. A benefit had also been achieved from making advance payments to the Pension Fund.

Councillor Lee Dillon noted that there was a risk that some income targets would not be met. He queried whether these targets would be reviewed to identify lessons learnt. Joseph Holmes confirmed that a fundamental review was being conducted of the 2018/19 outturn. This could result in income targets for 2019/20 being adjusted.

Joseph Holmes then clarified, in response to a question from Councillor James Cole, that there had been a shortfall in income at Castle Gate as placements were being utilised by West Berkshire children and there were not sufficient beds to sell to neighbouring authorities. However, this had the benefit of West Berkshire children being placed within the District and the achievement of cost avoidance on the disability support budget.

RESOLVED that the report be noted.

32. Capital Financial Performance Report - Quarter Two of 2019/20

The Commission considered the Quarter Two capital financial performance report (Agenda Item 9).

At the end of Quarter Two, expenditure of £45.2m had been forecast against the revised budget of £90.6m, an overall underspend of £45.3m. This was an overall change of £5.7m compared to Quarter One. A contributing factor to the underspend, aside from commercial property investment which had been discussed under the earlier agenda item, was a delay with some infrastructure projects.

Joseph Holmes confirmed that the slipped projects would still be undertaken and the expenditure incurred, but not within the current financial year.

RESOLVED that the report be noted.

33. Corporate Programme and New Ways of Working

The Commission considered the report (Agenda Item 10) concerning the Council's Corporate Programme and New Ways of Working (NWOW) reviews.

Catalin Bogos explained that the aim of the NWOW reviews was to work on a service by service and team by team basis within each service area to identify improved processes and efficiencies. This could result in a transformation project being identified which would

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then become a Corporate Programme Project. A project of this type would require the production of a business case.

Corporate Programme officers worked closely with officers in the respective service areas. Input was also provided from Finance.

Councillor Lee Dillon queried if the Red, Amber, Green (RAG) rating was up to date. As an example he queried whether the NWOW review for Public Protection and Culture reported as planned to Corporate Board in December 2019. He felt that an exception report should be produced for reviews/projects reporting as Red. Other examples highlighted were progress with the Economic Development Strategy and Delivery Plan, and delivery of the Local Plan.

The Economic Development Strategy and Delivery Plan was scheduled for consideration by the Executive in April 2020.

Councillor Lynne Doherty advised that she would pass on comments in relation to needing up to date information at the next Corporate Programme Board on 16 January 2020.

Councillor Alan Law queried when the outcome of NWOW reviews would be reported and the recommendations considered on a service and team basis. Catalin Bogos advised that the timeframe for the completion of some reviews would soon be confirmed. The information could be provided as part of future reports to the OSMC.

Councillor Law felt that it would be useful to question Heads of Service on achievements made, challenges etc arising from the NWOW reviews. OSMC Members felt that it would be useful to review progress with NWOW in this way.

RESOLVED that:

- The Corporate Programme and progress with the NWOW reviews would be noted.
- Progress with the NWOW reviews would be discussed with Heads of Service at appropriate stages in the process. Catalin Bogos to confirm timescales.

34. West Berkshire Council Forward Plan 4 February 2020 to 31 May 2020

The Commission considered the West Berkshire Council Forward Plan (Agenda Item 11) for the period covering 4 February 2020 to 31 May 2020.

Councillor Alan Law stated his aim for the OSMC to consider items before they were approved by the Executive, but this was constrained by timescales.

Councillor Jeff Brooks queried if the OSMC could consider the Economic Development Strategy and Delivery Plan prior to the Executive on 30 April 2020. However, the next OSMC was not scheduled until 21 April 2020.

Councillor Law felt that a special OSMC could be convened to review this item, potentially in March 2020. This could be timed to coincide with the consultation on the Strategy and Delivery Plan. Councillor Law to discuss the scheduling of a special OSMC with the Leader, Portfolio Holder and Chief Executive.

RESOLVED that:

- The Forward Plan be noted.
- Councillor Law would look to schedule a date for a special OSMC to discuss the Economic Development Strategy and Delivery Plan prior to the Executive on 30 April 2020.

35. **Overview and Scrutiny Management Commission Work Programme**

The Commission considered its Work Programme for the remainder of 2019/20 and for 2020/21.

Health Scrutiny arrangements across Buckinghamshire, Oxfordshire and Berkshire West (BOB)

Councillor Martha Vickers explained that she attended an informal scrutiny meeting in November 2019 where discussion was held on the scrutiny arrangements for proposed plans for the health service across the BOB area.

The proposals included commissioning at the BOB level and a merger of the Berkshire West Clinical Commissioning Groups (CCGs) by April 2021. A key benefit of this had been stated as minimising duplication.

Councillor Vickers added that the Health and Wellbeing Board (HWBB) had responded to the consultation on these proposals and had expressed some concerns in doing so.

The BOB Integrated Care System (ICS) contained a priority to deliver care close to the patient, but the HWBB had concerns that proposals would be detrimental to local provision.

There were also concerns related to funding and how health services across such a wide geographical area could be managed centrally without impacting on local services at Berkshire West and West Berkshire levels.

Councillor Vickers felt that monitoring needed to continue by either scrutiny or via the HWBB.

Councillor Lynne Doherty was a Member of the HWBB and advised that proposals had been discussed in depth/scrutinised by the HWBB. The role to be played by cross-party Members had been discussed, Members already had some input to the BOB ICS.

The OSMC was clear that any duplication should be avoided and questioned the value OSMC could add at the present time in addition to the HWBB.

It was agreed that Councillor Vickers would continue her involvement in the informal discussions and report back to OSMC with issues that arose. The OSMC could then opt to review the matter in more detail.

It was noted that ultimately, a report would need to be presented to Council if there was a proposal for a joint health scrutiny committee to be formed to monitor the BOB.

ICT/Digital Transformation Task Group

It was noted that Councillor Dennis Benneyworth was to replace Councillor Peter Argyle on this Task Group. The first meeting of the Task Group needed to be arranged.

RESOLVED that:

- The Work Programme be noted.
- Councillor Vickers would continue her involvement in the informal discussions relating to the BOB and report back to OSMC with issues that arose. The OSMC could then opt to review the matter in more detail.
- The first meeting of the ICT/Digital Transformation Task Group needed to be arranged.

(The meeting commenced at 6.30pm and closed at 8.30pm)

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CHAIRMAN

Date of Signature

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OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION

MINUTES OF THE MEETING HELD ON THURSDAY, 14 MAY 2020

Councillors Present: Jeff Brooks, James Cole, Lee Dillon (Vice-Chairman), Gareth Hurley, Alan Law (Chairman), Thomas Marino, Steve Masters, Garth Simpson and Tony Vickers

Also Present: Moira Fraser (Democratic and Electoral Services Manager)

PART I

1. Election of Chairman

RESOLVED that Councillor Alan Law be elected Chairman of the Overview and Scrutiny Management Commission for the 2020/21 Municipal Year.

2. Appointment of Vice-Chairman

RESOLVED that Councillor Lee Dillon be appointed Vice-Chairman of the Overview and Scrutiny Management Commission for the 2020/21 Municipal Year.

(The meeting commenced at 6.45 pm and closed at 6.49 pm)

CHAIRMAN

Date of Signature

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OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION

MINUTES OF THE MEETING HELD ON THURSDAY, 25 JUNE 2020

Councillors Present: James Cole, Lee Dillon (Vice-Chairman), Gareth Hurley, Alan Law (Chairman), Ross Mackinnon, Thomas Marino, Steve Masters, Garth Simpson and Tony Vickers

Also Present: John Ashworth (Executive Director - Place), Nick Carter (Chief Executive), Gary Lugg (Head of Development & Planning) and Gabrielle Mancini (Economic Development Officer), Gordon Oliver (Corporate Policy Support) and James Townsend

Apologies for inability to attend the meeting: Councillor Jeff Brooks

Councillor(s) Absent:

PART I

3. Declarations of Interest

There were no declarations of interest received.

4. Economic Development Strategy and Delivery Plan

Gabrielle Mancini provided introduced a report that provided an outline of West Berkshire Council's Economic Development Strategy and Delivery Plan. She noted that the strategy would be refreshed and a supplement report including the response to Covid-19 would also be produced. She clarified that the strategy was written before prior to Covid-19. She further noted that West Berkshire's economy was performing well before Covid-19. She highlighted how there were a number of positives in the district's economy, such as having a strong technology presence, a very mixed economy and its proximity to Heathrow. However, she also noted that there were a number of persistent negatives. She highlighted persistent inequalities, such as life expectancy with a 10 year age gap between the most and least deprived and housing inequality. She further noted that the strategy was centred on 'green and inclusive growth'. She stated that the key themes of the strategy were people, places, infrastructure and business environment, which were taken from the Berkshire Local Industrial Strategy. This strategy considered not just town centres but also rural communities. Infrastructure, both physical and digital. She stated that the business and environment theme reflected on what the Council and partners can do to make sure the 'open for business' message is backed up by sound policy making and a 'soft landing package' for those who choose to operate here. In order to deliver this strategy, £80,000 had been allocated to recruitment of an economic development officer and to provide a working budget. An additional £40,000 had been secured from Newbury West Berkshire Economic Development Company.

Councillor Tony Vickers asked why the strategy did not mention Covid-19. He stated that he understood that it was written before the pandemic, however he stated that this could not be discussed in depth with no mention of Covid-19.

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Councillor Alan Law stated that recovery plans would be looked at in detail when they were ready. He noted that the Economic Development strategy was taking a long-term viewpoint. He further noted that there would be amendments made because of Covid-19.

Councillor Ross Mackinnon stated that the Council did not know how long Covid-19 would last and that the core principles of the strategy were solid.

Councillor Vickers stated that he thought the report would make some reference to Covid-19 and the changes that the council is considering.

Councillor Law noted that in 12 months' time there would be a review of how the strategy was performing. He further stated that it was not the role of scrutiny to get into the detail of how the recovery from Covid-19 would be done. He stated that officers were developing a plan for the recovery, which Nick Carter would outline later in the meeting

Councillor Adrian Abbs raised concern over the use of the word 'hope' in the strategy. He stated that this raised concerns over how solid the strategy was. He also expressed concern over a lack of key performance indicators (KPIs) and measurements of its success.

Councillor Steve Masters stated that the strategy needed more emphasis on environmental policies and the part they will play in the economic development of West Berkshire. He noted how the Council declared a climate emergency and that the strategy needed more consideration of this. He stated that Covid-19 provided an opportunity to do things differently with the environment in terms of economic development.

Councillor James Cole stated that he was not keen on the use of 'future-proof' in the strategy. He further noted that he would like to see some strengthening around tougher planning for green issues. He pointed to gigabit capability installation as an example. He asked why these developments would be subject to viability.

Councillor Mackinnon, in response to Councillor Abbs, stated that the use of the word 'hope' centred on the desire to work with partners. He also noted that the delivery plan contained a number of KPI's. In response to Councillor Masters' point on a climate emergency, he stated that this was mentioned on pages 11, 14, 16 and 17 in the strategy.

Gary Lugg, in response to Councillor James Cole, stated that it was not the viability of putting in gigabit connection, but rather that this does not impact on viability of the development coming forward.

Councillor Law stated that he believed it was a good, high level strategy, but that it was missing a few key issues. Firstly, he stated that the strategy did not state how the delivery plan will operate. He also noted that it had no emphasis on focusing on the 10-15 existing major employers in West Berkshire and ensuring that they are retained. Furthermore, he stated that the section labelled 'West Berkshire in numbers' did not mention that 50% of the people who live in West Berkshire work outside and 50% who work here live outside, which had implications for housing and there was a need to work with the Local Enterprise Partnership (LEP) to ensure economic growth in neighbouring areas. Lastly, he stated that the Economic Development Company was a key partner of the Council and will help deliver the plan, however there was nothing on the company (goals, targets, who operates it) in the strategy. He also referred to the delivery plan and stated that although there were KPIs, he thought some were not in the Council's control. He also noted that the delivery plan was missing any reference to who was responsible for establishing Newbury College as a 'satellite' university. He stated that ownership of items on the delivery plan would help with commitment towards the delivery of the plan.

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Councillor James Cole stated that the name 'Newbury West Berkshire' sounded Newbury centric and asked whether it should be called West Berkshire Economic Development Company instead.

Councillor Mackinnon stated that he couldn't say why it was called 'Newbury West Berkshire' but that he could reassure that the strategy focused on the whole of West Berkshire.

Councillor Dillon stated that the name was part of a marketing strategy and the idea that Newbury was better known than West Berkshire and was more effective at attracting business and investment.

Councillor Vickers queried the role of the development company. He stated that inclusion and mention of eastern areas of West Berkshire in the strategy would help get the message across to the community. He also stated that the Council did not do much for businesses in terms of waste collection. He also asked how the re-structuring in the Council would help to deliver the strategy.

Councillor Gareth Hurley stated that there was no mention of Tilehurst, Purley, Streatley and Pangbourne apart from the AONB in the strategy. He noted that people in the east of the district would query this. He further noted that it would be better if these wards were mentioned in detail. Lastly, he noted that it would be good if infrastructure enhancements were more ambitious.

Nick Carter stated that 'Newbury West Berkshire' is as Councillor Dillon stated and the view was taken that Newbury was recognised more than West Berkshire. He stated that it was very similar to the Thames Valley Berkshire LEP and was a marketing move, however he assured that the plan was for the whole of West Berkshire. He further stated that some investment had been put into the strategy where it was struggling. He indicated that he had heard a number of criticisms around the need to spend more time understanding what businesses need and he stated that the Economic Development Company would help to facilitate this. He also noted that the budget that was approved by the Council did agree to put more investment in economic development, which should be reflected in the strategy. Inward investment for companies looking to come to West Berkshire would also be led by the Economic Development Company. In relation to the re-orientation of the Council to be more business-friendly, he noted that extra resources had been put into the economic development team through the appointment of another officer and there was also an Economic Development Board, and 'Open for Business' was a key theme in the Council Strategy.

Councillor Law stated that the strategy was a marketing pitch to residents, not just business investors and needed to reference communities across the district.

Nick Carter introduced a presentation on the Recovery Strategy of the Council. He noted that the Council did not fully understand the local economic impact of Covid-19 at the time of the meeting. He indicated that the draft strategy would be circulated to members within the next couple of weeks. He noted that work had already been done through measures such as deferring business rates for April and May; allocating £27 million grant funding for businesses; distributing a further £1.225 million in discretionary funding; providing detailed advice and guidance on the Council's website; and providing business advice through the Berkshire Growth Hub. He indicated that the Council had continued lobbying for more funding from Government to support local business. He also provided some insight on the challenges ahead in economic recovery from Covid-19, such as 15.1% of those employed in West Berkshire being in industries most affected by Covid-19, such as retail and leisure, the disproportionate impact on young people, and the West Berkshire Universal Credit claimant rate, which is expected to rise to 3.7%. He also noted

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that West Berkshire was home to a wide-ranging ICT, digital, science, technology and financial services that had been less affected by Covid-19 and were likely to recover faster than other industries. However, he noted that it was an ongoing and emerging situation and that a second spike may come.

Nick Carter provided further information on the recovery phases in West Berkshire.

- 1) **Supporting businesses to re-open** through measures such as signage / road closures in town centres, streamlined tables and chairs licences, and providing advice for businesses.
- 2) **Mitigating the structural economic impact**, through measures such as progressing the Newbury Town Centre Masterplan, updating the Economic Development Strategy, making improvements to digital infrastructure to facilitate home working, and the submission of funding bids to TVBLEP for local projects.

Councillor Dillon asked what 'making the council business friendly' meant in reality.

Nick Carter stated that he meant 'more business friendly'. He also noted that there were a number of measures being taken to make this a reality, such as a restructuring in planning to have a greater focus on big business applications.

Gary Lugg added to this point and stated that there was now a third team set up in planning. Those now included household applications and east and west planning teams that focused on commercial applications and process them more quickly. He stated that this also provided a closer link between planning and economic development. Furthermore, he highlighted the development order for Greenham Business Park.

Councillor Law stated that with planning applications, it used to be a 'first come first served basis'. He asked whether giving commercial applications priority had happened.

Gary Lugg confirmed that it had, with two designated teams now dealing with commercial applications.

Councillor Dillon, in reference to Nick Carter's presentation, asked with Universal Credit claimant rates going up would there be any support available for people to pay their Council tax. He also highlighted the need for broadband to support home working. He stated that the connection charge was high and whether the Council could do anything to help. He also noted that a number of pubs in Newbury needed a response on licenses to use outdoor space.

Nick Carter stated that the Council would be helping to support those who were struggling to pay their Council Tax. In reference to broadband and its costs he noted that this would come down to the market and that competition has brought down some costs. He stated it was unlikely that the Council could assist in broadband costs for homes. He also noted that the Council would be assisting providers where installation was not commercially viable.

Gabrielle Mancini stated that a number of licensing applications had been brought to attention in recent days and had reached agreement. She also noted that table and chairs licences had been accelerated and the Council had adapted before national Government on this. With regard to granting licences she noted that the requirements were on the website. She noted that there had been a delay in processing some applications because of awaiting confirmation on social distancing guidelines and because of a lack of resource but that these applications were now being dealt with.

Councillor Law stated that it would be wise if the Council could acknowledge applications.

Councillor Abbs raised concerns around the business advice and asked whether it would be non-entrepreneurs giving the advice. In reference to West Berkshire comprising a

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strong ICT and science sector, he noted that the district lost Bayer and that it now came down to Vodafone and MicroFocus. He asked about the depth of this sector past big businesses. Finally, he noted that it would be wise to pursue a deal with Vodafone on the installation of 5G to premises.

Nick Carter stated that business advice would be via the LEP and that the Council would sign-post people to the LEP. He further noted that it was not public servants providing business advice, but local entrepreneurs. He also stated that the Growth Hub advice was linked closely to Oxford Innovation. Furthermore, he noted that the ICT and science was not just reliant on big businesses and that West Berkshire had a large number of relatively small companies in this sector.

Gabrielle Mancini picked up the comments around 5G. She noted that the challenge was that West Berkshire struggled to attract 'pilot status' as it was not deemed urban or rural enough on the criteria factors. However, she further noted that the LEP is actively pursuing a trial to roll out the infrastructure. She concluded that work was underway to ensure that digital infrastructure provision would be integrated into the next Local Plan.

Councillor Abbs stated that Gabrielle Mancini's focus is on fibre and the need for gigabit in the home was not proven. He noted that he was worried about rural and not so rural communities that are still trying to get fibre to their homes.

Councillor Vickers stated that in the hospitality industry there was great confusion on what the Leader of the council said about the opening up of the town centre. He stated that it had now been resolved but he stated that there was an issue with the Council not communicating well with local businesses.

Councillor Mackinnon stated that if a business does not apply for a licence, the Council could not grant it, and if the business does not escalate concerns then the Council cannot respond. He noted that when applications were received, they were dealt with in good time.

Councillor Law stated that this issue should be dealt with separately as it was not relevant to the strategy.

Councillor Abbs noted that a key issue was restoring confidence in the high street. He stated that he had not seen much to deal with this in relation to Covid-19 in the Recovery Strategy through initiatives such as PPE and hand-gels.

Nick Carter stated that a lot of work had been done to ensure the town centres were safe in terms of signage and advice to local businesses through public protection, which was guided by Public Health.

Gabrielle Mancini stated that the Economic Development Team had worked with Public Health on evidence based interventions around cleanliness of the town centre and investing so that people would feel confident of returning to the town centre. She also stated that those who are going out onto the high street were spending on the high street and supporting local businesses.

Nick Carter stated that PPE guidelines were being followed, but it was not required in offices, but sanitiser is being used.

Gabrielle Mancini stated that through the Public Protection Partnership, guidelines were being given to businesses around PPE.

Councillor Abbs indicated that he wanted to know what the Council could do in practical terms (e.g. hand sanitisers at car parks).

Councillor Hurley stated that the businesses in Pangbourne had adapted well to social distancing and guidelines for businesses.

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Councillor Law asked Nick Carter when the recovery plan would be finalised.

Nick Carter stated that it would be finalised in early July.

5. Overview and Scrutiny Management Commission Work Programme

The Commission considered its work programme for 2020/21.

Councillor Alan Law stated that the Recovery Plan would be reviewed in July 2021. He also noted it may be wise to have a review of how the Council dealt with Covid-19. He further stated that the next OSMC meeting would be on 28 July to discuss the London Road Industrial Estate review.

Resolved that the work programme be noted.

(The meeting commenced at 6.00 pm and closed at 8.15 pm)

CHAIRMAN

Date of Signature

Actions arising from last OSMC Meeting

The OSMC is requested to consider the following list of actions and note the updates provided.

Ref No:	Date	Item/Action	Member/Officer	Comments/ Update
16	14/01/20	Commercialisation Part 1: Property Investment Strategy - OSMC's comments to be fed into the review of the Property Investment Strategy prior to its presentation to Council in March 2020 as part of the overall Capital Strategy	Richard Turner	Completed
17	14/01/20	Council Strategy Delivery Plan - Task Group's recommendations be forwarded to the Executive for consideration at its meeting on 13 February 2020	Councillor Alan Law / John Ashworth	Completed
18	14/01/20	Corporate Programme and New Ways of Working - Progress with the NWoW reviews would be discussed with Heads of Service at appropriate stages in the process.	Catalin Bogos	A schedule of reports is being finalised and service review items will be included on the forward plan.
19	14/01/20	Overview and Scrutiny Management Commission Work Programme - Councillor Vickers to continue her involvement in the informal discussions relating to the BOB ICS and report back to OSMC with issues that arose.	Councillor Martha Vickers	
20	14/01/20	Overview and Scrutiny Management Commission Work Programme - Arrange the first meeting of the ICT / Digital Transformation Task Group	Stephen Chard	The group was convened in June 2020 and is scheduled to report to OSMC in October 2020

Last updated: 21 July 2020

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OSMC Task Group Report: London Road Industrial Estate

Committee considering report:	Overview and Scrutiny Management Commission
Date of Committee:	28 July 2020
Lead Member:	Councillor James Cole (Task Group Chairman)
Report Author:	Report prepared on behalf of the Task Group
Forward Plan Ref:	n/a

1 Purpose of the Report

- 1.1 To outline to OSMC the work undertaken by the task group created to better understand the advice and guidance received in relation to the Council's decision when procuring a preferred partner for the London Road Industrial Estate (LRIE) development.

2 Recommendations

- 2.1 The full list of recommendations by the Task Group are set out in Paragraph 5.42 and Appendix H, and it is recommended that these be adopted by OSMC as recommendations to the Executive.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	None
Human Resource:	None
Legal:	None
Risk Management:	It is considered that the adoption of the recommendations of this report will reduce the risk that projects fail.
Property:	None

Policy:	None			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
Environmental Impact:		X		
Health Impact:		X		
ICT Impact:		X		
Digital Services Impact:		X		
Council Strategy Priorities:	X			
Core Business:		X		
Data Impact:		X		

Consultation and Engagement:	See full details in the report.
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4 Executive Summary

- 4.1 At its meeting on 9 April 2019, the Overview and Scrutiny Management Commission (OSMC) agreed to conduct a review to better understand the advice and guidance received in relation to the Council's decision making when procuring a preferred partner for the London Road Industrial Estate (LRIE) redevelopment.
- 4.2 This decision was taken following the Court of Appeal judgement in November 2018 which found that the Council had breached European public procurement legislation in identifying a preferred development partner. This came following a judgment of the High Court which found in favour of the Council. The Council was subject to a fine of £1 by the Court of Appeal.
- 4.3 The purpose of the review was to better understand the advice and guidance received in relation to the Council's decision when procuring a preferred partner for the LRIE development.
- 4.4 The Terms of Reference of the scrutiny review appear at Appendix A, and are as follows:
 1. To review the governance arrangements put in place by the Council to manage the LRIE development.
 2. To review the advice and guidance received by the Council which resulted in the Official Journal of the European Union (OJEU) commissioning rules not being followed.
 3. To better understand the cost of the initial advice and the subsequent cost of defending the Council's position in the High Court and Court of Appeal.
 4. To review what lessons have been learnt from this case.

Methodology

- 4.5 The review has been conducted by a cross-party Task Group. The Members of the Task Group were Councillors Jeff Brooks, James Cole, Lee Dillon, Claire Rowles and Andrew Williamson. Councillor Cole was elected as Chairman of the Task Group.
- 4.6 The Task Group met on multiple occasions to review the significant amount of documentary evidence, to direct further enquiries and to take evidence from Council Members (both past and present) and Council Officers (both past and present). Contributions were also requested from external organisations.
- 4.7 The documentary evidence available and considered by the Task Group is significant, and details of the evidence considered appears at Appendix B. This included Reports and Minutes from meetings of the Newbury Town Centre Task Group and Executive between 2008 and 2016. The history of this matter is set out in a chronology at Appendix C.

4.8 A detailed chronology is also produced at Appendix D, although this is restricted from publication because it contains confidential information relating to matters considered in meetings that are exempt from the publication requirements. Schedule 12A of the Local Government Act 1972 defines 'exempt information' as including:

1. Information relating to an individual (Schedule 12A, Paragraph 1)
2. Information relating to the financial or business affairs of any person (Schedule 12A, Paragraph 3)
3. Information in respect of which a claim to legal professional privilege could be maintained (Schedule 12A, Paragraph 5)

4.9 The officers supporting the Task Group were Sarah Clarke (Service Director, Strategy and Governance), Julie Gillhespey (Audit Manager) Stephen Chard (Principal Policy Officer) and Jo Reeves (Principal Policy Officer).

Acknowledgements and thanks

4.10 The Chairman and Members of the task group would like to thank all those who supported this process and gave evidence to the review.

Summary of Findings

4.11 There are a total of 15 recommendations detailed in the report, which arise out of a detailed consideration of all the evidence. These appear in full at paragraph 5.42 and Appendix H, and these include but are not limited to the following areas:

- The absence of proper project management methodology
- The absence of a detailed business case
- The record keeping and systems for record retention were not adequate
- The project was approached in a piecemeal manner
- Consultants engaged to advise the Council in respect of this project were also appointed on a piecemeal basis

4.12 The Task Group has not found any evidence to suggest that the Council intended to act unlawfully and it is clear that the Council had regard to its legal obligations under the Public Contracts Regulations when considering reports regarding the redevelopment of the London Road Industrial Estate. The evidence is also clear that the Council acted reasonably having taken expert advice from its external advisors throughout this process.

5 Supporting Information

Introduction

5.1 Redevelopment of the London Road Industrial Estate has been a long-term vision of the Council first set out in the Newbury Vision 2025 document in 2003. The document describes the aspiration to provide a positive gateway to Newbury which protected employment while providing canal side residential accommodation for families.

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London Road Industrial Estate**

- 5.2 The Vision was supported by a 15 year action plan. The two most important projects identified in the Vision were Parkway and Market Street and those projects were therefore progressed before London Road.
- 5.3 Newbury Town Centre Task Group (“NTCTG”) was created as a governance group to oversee work in Newbury. Reports would be considered by NTCTG before progressing to the Executive, who would have responsibility for making decisions.
- 5.4 The earliest evidence of options for London Road being considered by the NTCTG was during 2008.
- 5.5 Following a strategic feasibility and market assessment completed by Strutt and Parker who were appointed by the Council in 2011 to advise upon the prospects for securing regeneration of the London Road Industrial Estate. An Opportunity Document was produced by Strutt and Parker in 2012, which together with a market testing exercise was approved by the Executive in January 2013.
- 5.6 This generated a significant level of interest and six potential partners were shortlisted for further consideration. The final six bidders were considered by Members of a cross party working group, which was supported by Officers. This group was unanimous that St Modwen was the best candidate.
- 5.7 In 2014, the Council entered into a development agreement with St Modwen Developments Ltd. Faraday Development Ltd, which was part of a joint unsuccessful bid, challenged the Council’s decision at the High Court on grounds that:
- (1) The Council failed to comply with its duty not to dispose of land for consideration less than the best that could be reasonably obtained (Section 123 of the Local Government Act 1972)
 - (2) The development agreement was a public contract and the Council should have complied with the relevant public procurement legislation.
 - (3) To avoid following the relevant public procurement legislation, the Council did not look to impose enforceable obligations on St Modwen Developments Ltd.
- 5.8 The High Court rejected the challenge on all grounds and held that the development agreement was not a public works contract, nor was it a services contract, the Council had complied with its duty under the Local Government Act.
- 5.9 Faraday Developments Ltd applied to challenge the High Court’s decision on all grounds, and the application for leave to appeal was rejected by the High Court. This application was renewed to the Court of Appeal, which granted leave to appeal in relation to ground 2 of the original appeal, which claimed that the Council had acted inconsistently with its obligations under the public procurement regime.
- 5.10 The Court of Appeal agreed with the High Court on the following points:
- (1) the development agreement did not constitute a public works contract at the time it was entered into, because it did not impose any enforceable obligations at that time

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London Road Industrial Estate**

(2) the development agreement was not a public services contract because the main object of the agreement was the carrying out of works

(3) the Council did not adopt the structure so as to avoid compliance with public procurement legislation

5.11 However, whilst the development agreement did not constitute a public works contract at the time it was entered into, the Court of Appeal took the view that the transaction should be looked into in its totality at the date it was entered into and ‘establish whether, at that date, it embodied defined obligations that will, once they take effect, compose a ‘public works contract’”.

5.12 Upon entering into the agreement, the Council had made a legally enforceable decision to commit itself to the arrangement. St Modwen Developments Ltd had committed itself to the immediately enforceable obligations, but not to the contingency obligations.

5.13 However, the Court of Appeal decided that once St Modwen Developments Ltd had proceeded to draw down the land as per the terms of the agreement, there had been a procurement of development works that did not undergo the requisite procurement procedure. By entering into the agreement, the Council had effectively agreed to act unlawfully in the future.

5.14 The Court of Appeal rejected the argument that the public procurement rules had been deliberately and unlawfully avoided and being obligated to impose a financial penalty, it fined the Council £1. The Council was also ordered to pay Faraday Development Limited’s costs, limited to their costs in the Court of Appeal.

5.15 As a consequence of the judgment, a number of public questions were submitted to the Council’s Executive calling for a review and information on the total costs to the Council. At the Full Council meeting on 6 December 2018 a motion was put by the Liberal Democrat Opposition for an independent inquiry to be held. This motion was lost.

5.16 In January 2019, the Executive resolved to recommend to the OSMC that an inquiry be undertaken.

5.17 OSMC met on 9 April 2019 and agreed the Terms of Reference as detailed above and as included at Appendix A.

Background

5.18 The Task Group held the meetings outlined in the table below:

Meeting date	Focus of meeting
25 July 2019	<ul style="list-style-type: none">• Election of the Chairman• Agreement of the Terms of Reference and Methodology• To begin to establish the timeline• Consideration of questions to be put to witnesses
August/September 2019 – information pack – no meeting	<ul style="list-style-type: none">• Two substantial information packs were provided to the Task Group. These included:

Meeting date	Focus of meeting
	<ul style="list-style-type: none"> • Executive Membership and Shadow Executive Membership over the relevant time period • Documentation relating to and provided to the Newbury Town Centre Task Group • Maps of the LRIE • Scoring documentation from the appointment process • Court Judgments • Cost information • Documentation provided to the Executive including the Strategic Feasibility Study, developer bid summaries • Relevant questions and answers from Executive meetings • Strutt and Parker appointment documents • LRIE Steering Group membership
9 September 2019	<ul style="list-style-type: none"> • Review of the information received to date. • Identification of witnesses and questions to cover each section of the Terms of Reference
2 October 2019	<ul style="list-style-type: none"> • Input from Internal Audit • LRIE Chronology
18 October 2019	<ul style="list-style-type: none"> • Further work on the LRIE Chronology
14 November 2019	<ul style="list-style-type: none"> • Update on costs • Update on project management methodology • Update on the LRIE Chronology
20 January 2020	<ul style="list-style-type: none"> • Update on costs • Update on LRIE Chronology • Internal Audit Update • Questions for witnesses
24 January 2020	<p>Witness interviews:</p> <ul style="list-style-type: none"> • Nick Carter, Chief Executive • Shiraz Sheikh, Legal Services Manager • Bill Bagnell, Special Projects Manager
14 February 2020	<p>Witness interviews:</p> <ul style="list-style-type: none"> • Former Councillor Gordon Lundie • Councillor Jeff Beck • Former Councillor Keith Chopping • Former Councillor Paul Bryant • Former Councillor Roger Hunneman
25 February 2020	<p>Witness interview:</p> <ul style="list-style-type: none"> • David Holling, previous Head of Legal Services and Monitoring Officer

Meeting date	Focus of meeting
4 March 2020	Witness interview: <ul style="list-style-type: none"> • Councillor Alan Law
8 June 2020	<ul style="list-style-type: none"> • Review of evidence including written submissions from: <ul style="list-style-type: none"> • Former Councillor Graham Jones • Faraday Development Ltd • Consideration of findings and recommendations
18 June 2020	<ul style="list-style-type: none"> • Confirmation of findings and recommendations • Approval of draft report
23 June 2020	<ul style="list-style-type: none"> • Consideration of findings and recommendations
30 June 2020	<ul style="list-style-type: none"> • Continued review of submission from Faraday Development Ltd including response from officers • Consideration of findings and recommendations
7 July 2020	<ul style="list-style-type: none"> • Consideration of findings and recommendations • Consideration of draft report
14 July 2020	<ul style="list-style-type: none"> • Confirmation of findings and recommendations • Approval of draft report

Summary of Evidence

5.19 As can be seen from the table above, the Task Group met on a total of 16 occasions over the past year, with some of those meetings lasting the course of a full working day. In addition, the Task Group received and considered a significant amount of documentary evidence as detailed at Appendix B. The documentary evidence was used by the Task Group to direct further enquiries and to take evidence from Council Members (both past and present) and Council Officers (both past and present). Contributions were also requested from external organisations.

5.20 The Task Group sought contributions from the following, who did not respond:

- Frontier Estates Ltd
- St Modwen Developments Ltd
- Wilson Bowden Developments

5.21 Former Councillor Pamela Bale was also approached, who replied to advise that she was unable to assist.

5.22 The Task Group considered whether to seek contributions from Strutt & Parker and Bond Dickinson who were engaged to advise the Council through this project. It was determined on balance that these organisations would not be asked to contribute as it was considered that they would not have had detailed (if any) knowledge or understanding of the matters included in the terms of reference. The Task Group also considered the potential cost of inviting these experts to contribute.

- 5.23 As noted above, the documentary evidence available and considered by the Task Group was significant (Appendix B). This included Reports and Minutes from meetings of the Newbury Town Centre Task Group and the Executive between 2008 and 2016, where they were considering reports relating to the proposed redevelopment of London Road Industrial Estate. This evidence is summarised in a chronology which is produced at Appendix C. A more detailed version of the Chronology is produced for OSMC at Appendix J, but this contains confidential information and is therefore exempt from publication. Schedule 12A of the Local Government Act 1972 defines 'exempt information' as including:
1. Information relating to an individual (Schedule 12A, Paragraph 1)
 2. Information relating to the financial or business affairs of any person (Schedule 12A, Paragraph 3)
 3. Information in respect of which a claim to legal professional privilege could be maintained (Schedule 12A, Paragraph 5)
- 5.24 Internal Audit also assisted with the review process and interrogated the Council's systems to obtain information, such as financial information from Agresso. Full details of the costs of this project are included at Appendix E.
- 5.25 Some records requested by the Task Group were not available. This included a number of important items such as a risk register noted in the Report to Executive in January 2013 (considering the Opportunity Document) and the minutes of the internal project group which was comprised of the Chief Executive as the project sponsor, together with officers from Property, Planning, and Legal where required.
- 5.26 In 2011, the Council appointed Strutt & Parker to provide a strategic feasibility study for the London Road Industrial Estate. This appointment resulted from a competitive tender exercise, which resulted in three separate bids. The bid submitted by Strutt & Parker had the highest overall score and they were appointed to produce the Strategic Feasibility Study in May 2011.
- 5.27 The legal support required for the completion of the development agreement was also done via a formal competitive process, which saw Bond Dickinson appointed in April 2014. An invitation to quote was issued to four legal firms, with local government experience and the specialisms required for this project. Each of the firms responded and provided a quote and accompanying submission for undertaking the work. The firm which submitted the lowest quote, Bond Dickinson, was appointed. However, no evidence was seen by the Task Group to demonstrate how the submissions had been assessed by officers in order to ensure sustainability, efficiency and cost savings.
- 5.28 The Task Group also interviewed a number of people who had been involved with the process. Some, particularly those who had left the organisation, could not recall all the detail and that was unsurprising given the passage of time. The contribution of the witnesses was however of assistance to this review, and some of the key themes from the verbal evidence is set out below.
- 5.29 The Task Group interviewed officers who had been involved with the process. These interviews indicated:

- (a) Officers had an understanding of the governance arrangements which they believed were in place.
- (b) Officers were not always clear of their roles, or of the role of others. For example, it was suggested by one officer that Strutt & Parker were the project managers for the project, a suggestion which was emphatically rejected by the Chief Executive who was clear that management of the project remained in house.
- (c) It was clear from these interviews that officers had been surprised by the suggestion that this project could proceed outside of OJEU.
- (d) Officers tested the opinion given that this was not subject to OJEU rules, and sought both internal and external advice on the question of process. The advice was clear that as a land transaction, this would not be subject to OJEU. It was clear that others had adopted a similar approach.
- (e) There was some acknowledgement that systems and processes could have been tighter at the time of the original project, particularly with document management
- (f) Officers indicated that the project had progressed in a piecemeal manner and that there had not been a holistic approach.
- (g) It was considered unlikely that even if those systems had been better at the time that the actual decision as to how to proceed would have been any different.
- (h) Officers were aware of resource constraints, particularly in Legal. This related to the limitations on the disbursements budget and internal resource which had been reduced.
- (i) The budget for the project was managed and if costs escalated, there would have been a request for further funds.
- (j) There was a view expressed by some that the project was being rushed with unreasonable pressure on some officers to progress it quickly.

5.30 A number of Councillors (and former Councillors) were interviewed. Their evidence was again largely consistent and a number of points raised including:

- (a) There was general agreement that appropriate expert advice had been taken and relied upon.
- (b) Councillors did not simply accept the advice given and this was tested.
- (c) Even with the benefit of hindsight, there was little to suggest that they would have done things differently.
- (d) Members trusted the officers involved in the project.
- (e) The project took a long time, and the passage of time meant that it was difficult to recall all the details at this time.

- (f) St Modwen had been the best and the correct choice as a development partner for the project.
- (g) A clear business case should have been created at the outset.
- (h) Oversight of budgets was at a high level. Projects should have a budget formed on a zero based budget approach.

5.31 Copies of the notes of the witness interviews appear at Appendix F. Some of these are partially redacted due to the fact that they contain confidential information. A full copy of the evidence is provided for Members at Appendix I, which is exempt from publication as it contains confidential material.

5.32 Faraday Developments Ltd was invited to provide written comments on the terms of reference and was asked the following questions:

- Q1: *From your involvement what do you think worked well with how the project was managed by the Council?*
- Q2: *If things did not go as well as possible, what do you think the Council could do to improve these areas?*
- Q3: *Do you have any other comments, relevant to the Terms of Reference, that you would like the Council to consider as part of this review? Please note, only comments relating to the Terms of Reference can be considered as part of this process.*

5.33 The reply from Faraday Developments Ltd (FDL) suggested that the terms of reference of the task group were too narrow, and the submission included commentary on matters relating to the legal case that was considered by the High Court and the Court of Appeal.

5.34 The submission from FDL included 12 questions relating to the Council's approach and actions as follows:

1. What evidence supported WBC ignoring its obligation to carry out public consultation (including consultation with businesses, residents, employees and land-owners directly affected) prior to the DA (consultation relating to the Vision was not sufficient or reliable)

2. What evidence supported:

a. The original decision to avoid PPR?

b. Continuing to avoid PPR once aware of the risk of a third-party challenge (DA 25a)?

3. Did WBC properly consider whether alternatives would deliver a lower risk/better outcome:

a. Procurement method?

b. Approach to regeneration (e.g. engaging with land owners and occupiers)?

4. Before committing to very substantial expenditure on the DA process, what evidence supported WBC deciding not to carry out risk and impact assessments relating to:

- a. *Holistic development?*
 - b. *The appointment of a single development partner?*
 - c. *Potential harm to occupiers, residents and land owners?*
5. *Before committing to very substantial expenditure on the DA process, what evidence did WBC have to conclude that holistic regeneration through a single development partner would present the best outcome (economic, social, environmental)?*
6. *Before committing to very substantial expenditure on the DA process, what evidence did WBC have to conclude that holistic regeneration would be viable?*
7. *In pursuing a holistic approach, why did WBC as land owner disregard the 2025 Vision and its own planning authority in relation to appropriate land uses?*
8. *Why was WBC's underwriting of a significant part of SMD's risk deemed to be appropriate. (Given that transfer of risk to SMD was key to WBC's justification for the DA in the judicial proceedings)?*
9. *Why did the terms agreed in the DA differ so significantly from the Heads of Terms approved by the Executive, without referring back to the Executive?*
10. *Why and how (given WBC's declaration in the judicial proceedings of having received expert legal advice) did WBC publish a VEAT notice described by the CoA: **"... the council was seeking to stress that concept, "an exempt land transaction", as the "object of the contract". This, it seems to me, was more than mere over-simplification. It was incorrect, or at best misleading."***
11. *In the context of financial returns, which was correct:*
- a. *The representation in Judicial proceedings that the income stream from LRIE was significantly important to WBC and financial enhancement was the key objective of the DA ("to maximise returns from the property").*
 - b. *The representation in numerous public meetings that the income stream from LRIE was not significant and financial enhancement was not the key objective of the DA.*
12. *In light of the CoAs characterisation one of the two main breaches committed by WBC ("the unlawful direct award of contracts is the most serious breach of EU law in the field of public procurement"), is WBC right to claim it was akin to a technical breach?*
- 5.35 Officers were asked to consider and respond to the issues raised by FDL in their summary response, and that response is attached at Appendix G.
- 5.36 The submission by FDL has been fully considered by the Task Group. Those comments have been taken into account where relevant to the terms of reference, such as those relating to consultation. However, where that submission went beyond the terms of reference of this review, comments have been disregarded. The purpose of this review

is clearly set out in the terms of reference, and this does not extend to further consideration of the legal arguments which were previously considered in both the High Court and the Court of Appeal.

Proposals

5.37 The investigation has resulted in a number of findings and recommendations. These are set out below by reference to the points for consideration detailed in the Terms of Reference.

5.38 Terms of Reference Point 1 – Governance

To review the governance arrangements put in place by the Council to manage the LRIE development

Findings:

- 1(a) We hoped to find that Project Management had been a key aspect of this project, but in practice found no evidence of formal project management methodology having been in use by Council officers. The Council had a project management methodology in place from 2009 but this was only applied in relation to ICT projects, and as a result the records show a lack of project management controls; for example there was:
 - No evidence of formal project management meetings – minutes proved unavailable;
 - No obvious clear project budget (there were annual budgets);
 - No clear evidence of management of external consultants; and
 - There was a piecemeal approach to the whole project.
- 1(b) We did not find evidence that a clear business case was established for redevelopment of the LRIE. An early Strutt and Parker document did give some elements of a business case and it was clear that reports to the Executive certainly did give some details, but whilst there was a clear goal to secure redevelopment of the site, the route to that goal was not clear in the evidence presented to us.
- 1(c) Interviews with witnesses suggested that there was incomplete understanding of the purpose, role and responsibility of different individuals and groups in the process.
- 1(d) There was a lack of clarity over who was in charge of the day to day management of the project amongst officers.
- 1(e) It was evident from the interviews that some Members had been unclear as to the purpose of the Newbury Town Centre Task Group in relation to the LRIE redevelopment. The Terms of Reference of the Newbury Town Centre Task Group that we found were only in draft form, and there appears to have been an over-reliance on the Newbury Town Centre Task Group which was only a consultative body.
- 1(f) Although there was evidence of officers meeting as a group, and that group included the Chief Executive, Property, Planning, and Legal where necessary, there was no formal project group set up to oversee the whole project at the outset. The Task Group

noted that a formal Project Group was constituted after the development agreement was completed with St Modwen, but that meetings of this group were suspended following the legal challenge.

- 1(g) The Council did monitor the progress of Strutt and Parker via regular updates provided by them, and it is evident that this information was shared with the relevant governance groups.
- 1(h) Project document filing and retention was good in some areas but not adequate in all areas. A great number of formal meeting documents were made available for this review, but document/record management was a concern for the task group as there had been some key gaps in some areas, such as the lack of a risk register, and of minutes of project management meetings.
- 1(i) The cost of the project was not fully understood at the outset of the project. This is in part due to the fact that the project developed in a piecemeal manner. Costs were however approved by Executive and allocated to the project at each stage. It is considered that a clear business case at the outset would have resulted in a better understanding of the full financial implications of the project.
- 1(j) Risk management arrangements were inadequate. Although there is mention of a risk register in the records there is no evidence of it actually being in place for the project - amongst other things this should have captured which individuals were responsible for the risk to the Council from this project at both Officer and Portfolio Holder levels.

5.39 Terms of Reference Point 2 – Advice

To review the advice and guidance received by the Council which resulted in the OJEU commissioning rules not being followed

Findings:

- 2(a) As the Council did not have sufficient expertise in house for a project of this size it was necessary to procure external expertise. It was noted that the in-house procurement expertise had been reduced, and that there was no sign of a proper skills gap analysis at the outset of the project.
- 2(b) The Council did seek support from external property and legal advisers at appropriate times.
- 2(c) Progress through the stages of the LRIE was piecemeal, in that each stage was gone through, and then it was presented to and reviewed by Members of the Newbury Town Centre Task Group, before being considered and determined by the Executive. As a result advice procured at each stage was procured on an ad-hoc piecemeal basis.
- 2(d) The Council had an established relationship with Strutt & Parker, who had been engaged to assist the Council with other redevelopment projects such as Parkway. While it was acknowledged that the Council had established a good working relationship with Strutt & Parker, there was some concern that there could have been “project creep” from one project to the next.

- 2(e) The advice, which was considered at appropriate times and by the Executive when taking decisions, indicated that the Council was acting properly in proceeding in the manner that it did. There is nothing to suggest that the advice received was irrational and there was evidence that what was proposed was not unusual.
- 2(f) The Council received clear unequivocal advice from Strutt and Parker that the transaction proposed was a land transaction and thus fell outside of the scope of procurement legislation.
- 2(g) The Council also obtained legal advice from both the internal Legal Team and external legal advisers, Bond Dickinson. The legal advice was also clear and unequivocal that the proposed land transaction was outside the scope of the procurement regime.
- 2(h) The reports to Executive and the minutes of the meetings where this was considered provide clear evidence that the Council had not closed its eyes to the question of procurement, and it was openly discussed and considered in meetings of the Executive. There was no intention to avoid compliance with any legal duty to undertake a procurement exercise.

5.40 Terms of Reference Point 3 – Costs

To better understand the cost of the initial advice and the subsequent cost of defending the Council's position in the High Court and Court of Appeal

Findings:

- 3(a) The advice from Strutt and Parker was commissioned on a piecemeal basis. The failure to review all options for progressing this to conclusion means that the Council could not have known at the time whether or not a more effective outcome could have been achieved.
- 3(b) After the initial work undertaken by Strutt & Parker, the Council undertook a procurement exercise for further property work. A tendering exercise was undertaken at the Feasibility Study stage; there were 3 responses, and Strutt & Parker were awarded the contract with their quote of £39k. That exercise involved the Council's Procurement Officer, who was independent of the project. The estimated value of the work was below the then threshold of the Contract Rules of Procedure requiring contracts to go out to formal tender, which was £50k. Strutt and Parker were then engaged to undertake the Opportunity Document and Market Testing work, and reports requesting the retention of Strutt and Parker for this work, together with the estimated costs, were approved by Executive. Strutt and Parker were invited to provide a fixed fee quote for the final stage of consultancy work on the project, the developer selection process
- 3(c) The Council undertook a procurement exercise via a written invitation to quote, prior to appointing external lawyers to assist with the project. An invitation to quote was issued to four legal firms, with local government experience and the specialisms required. Each of the firms responded and provided a quote, including details of the lawyers within the firm who would assist, how they would approach the project, relevant experience, and costs. The firm which submitted the lowest quote Bond Dickinson, was appointed.

However, no evidence was seen to demonstrate how the submissions had been assessed in order to ensure sustainability, efficiency and cost savings.

- 3(d) It is clear that the Executive was asked to approve costs at each stage of the project. We heard evidence that there were challenges regarding costs as the legal disbursements budget was limited and there were pressures on officers to deliver work in unreasonable timescales. We did have some concern over how these costs were allowed to escalate, but it was felt that this was once again because of the piecemeal nature of the project.
- 3(e) The total cost of the project and litigation which followed was £946k. The construction of the LRIE Access Road incurred costs of £5.2m, which was funded in part by LEP funding, s106 contributions and DfT Challenge Funding.
- 3(f) The Council spent £156k on property consultants who advised in relation to the project.
- 3(g) The Council spent £58k on legal advice relating to the drafting and completion of the Development Agreement. The Council's in house legal team spent over 200 hours working on the project to the value of £27k. The hourly rate of officers in Legal Services is notably lower than lawyers with equivalent levels of post qualification experience in external firms.
- 3(h) The Council spent £378k on legal costs associated with the litigation which followed. In addition, 135 hours of officers time within Legal Services was recorded against the litigation which has a value of £18.5k.

5.41 Terms of Reference Point 4 – Lessons Learnt

To review what lessons have been learnt from this case

Findings:

- 4(a) Evidence was submitted that suggested that consultation and communications with those directly affected was limited. This is disputed by officers but it is considered that communications could have been better.
- 4(b) Whilst it is clear above that there are some things that could have been done better in this project, when we ask the question "if we had been there, based on the records we have seen and the advice given that we have seen, would we have made any different decisions regarding the proposed redevelopment of the London Road Industrial Estate?" we came to a simple answer, "No".

5.42 Recommendations of Task Group following Review:

- (1) OSMC should satisfy itself that the Council has in place appropriate project management methodology. This should be tested in order to provide assurance that this is now operating effectively and consistently across the organisation. This should include standardised documentation such as a risk register, and project sponsors should ensure that project managers understand their role. This would also ensure that appropriate governance structures, including Project Groups and Governance Groups are formally constituted and are understood by all.

- (2) All projects should be supported by a clear business case.
- (3) All projects should have a sufficient budget allocated to that project at the outset, including the cost of procuring external advice, and budgets should be monitored appropriately.
- (4) Each Committee / Board should review its Terms of Reference on an annual basis, possibly after the Annual Council Meeting to ensure that the Terms of Reference remain up to date and appropriate.
- (5) A review should be undertaken to ensure that any group fulfilling a governance role understands its purpose and function. All bodies need to understand the role they play in the decision making process.
- (6) The Council's Record Retention Policy should be reviewed to consider whether it is fit for purpose and being implemented uniformly across the organisation. It was considered that the Property Team, which appeared to have poor controls, could improve by establishing a formal document numbering system to reference and then store documents in a central repository. The current document was created for siloed services and is not ideal for long projects – in this era of relatively cheap electronic storage consideration should be given to permanent storage of all documents and emails relating to major projects, and to the long-term availability of such data in the light of future changes to software and storage media.
- (7) Project risks, including financial risks to the Council, need to be assessed and then recorded in a risk register for all projects. This risk register should document ownership of risks both at officer and Member level.
- (8) There is no justification for the Council substantially extending its in-house legal team for large scale (one-off) projects; the Council should continue to procure external expert advice where in house expertise does not exist, or where there is insufficient capacity in the in-house team.
- (9) External expert support for projects should be appropriately procured following a skills gap analysis at the start of the project. Procurement of external experts should be done transparently.
- (10) For future large scale projects OSMC should satisfy itself that the Council tests the market fully and assesses partners to ensure value for money.
- (11) External advice should be procured on the basis of the anticipated full project, in stages if necessary, and on the basis that it may not proceed through each stage of the same.
- (12) All officers' time should be recorded when dealing with large scale projects.
- (13) The Council should review and improve how it consults and engages with those who may be affected by the Council's proposals. Significant projects such as this should have a clear communications plan with a list of key stakeholders.

- (14) Legal Officers should be reminded that the Council's Contract Rules of Procedure must be followed when appointing external advisers which should be done in a uniform and standard process to ensure value and efficiency in accordance with those Rules.
- (15) Future partners should be expected to assist in reviews such as this free of charge and consideration should be given to making this a contractual requirement under the terms of engagement.

6 Other options considered

Not to make any recommendations. It is considered that the reasons for the recommendations are clear and doing nothing would be a wasted opportunity for learning. This option is not therefore recommended.

7 Conclusion

- 7.1 It is clear that the Council's proposals for the redevelopment of London Road have attracted public interest, particularly following the Court of Appeal decision.
- 7.2 The Council was under no obligation to conduct this scrutiny review of advice and guidance received in relation to the Council's decision when procuring a preferred partner for the London Road Industrial Estate (LRIE) development. However, the Council seeks to operate in an open and transparent manner, and considers that any opportunities for learning should be embraced.
- 7.3 The Task Group appointed to conduct this review was an independent cross party working group, made up of both experienced Members and those who were newly elected to the Council in 2019 and therefore after the events which are the subject of this review. All Members of the Task Group were in agreement regarding the findings and recommendations detailed in this report.
- 7.4 It is clear that the Council did not set out with the intention of acting unlawfully. It was given advice as to how to progress the project, which it tested by way of further expert advice. Indeed, the Court of Appeal noted at paragraph 70 of its judgment that:

There is no evidence in this case, and indeed no suggestion, of the council having acted at any stage in bad faith, or with any motive to create a mistaken understanding of its objectives in entering into the development agreement or of the "economic and commercial reality" of the transaction. That "economic and commercial reality" is fully apparent in the terms of the development agreement. It is not disguised.

- 7.5 The Council undertook an extensive competitive selection process before selecting St Modwen as a preferred development partner. Interest in the project had been tested at a national level by way of the Opportunity Document developed by Strutt & Parker. The cross party working group created to select the development partner were unanimous that St Modwen was the best candidate.
- 7.6 There is clear evidence that the Council had considered the issue of procurement when taking decisions, a fact reflected in the reports considered by Executive, and in the

minutes of those meetings. It is perhaps also of note in this regard that the Council did undertake competitive exercises to appoint property consultants and lawyers for this project.

- 7.7 It is accepted that the passage of time may mean that some processes within the Council have moved on since the matters that are the subject of this review. However, the recommendations detailed above make it clear that lessons that can be learnt from this project, which it is hoped will be accepted in order to ensure that the Council always operates in the most effective and efficient manner.

8 Appendices

- 8.1 Appendix A – Terms of Reference
- 8.2 Appendix B – List of Evidence Considered
- 8.3 Appendix C – Short Chronology
- 8.4 Appendix D – Costs with budget – to follow
- 8.5 Appendix E – Total Costs relating to Project
- 8.6 Appendix F – Redacted Witness Evidence
- 8.7 Appendix G – Questions from FDL with officers response
- 8.8 Appendix H – Findings and Recommendations
- 8.9 Appendix I – Witness Evidence – EXEMPT INFORMATION – Restricted pursuant to paragraphs 1, 3 and 5 of Schedule 12A, Local Government Act 1972
- 8.10 Appendix J - Chronology – EXEMPT INFORMATION – Restricted pursuant to paragraphs 1, 3 and 5 of Schedule 12A, Local Government Act 1972

Subject to Call-In:

Yes: No:

- | | |
|--|-------------------------------------|
| The item is due to be referred to Council for final approval | <input type="checkbox"/> |
| Delays in implementation could have serious financial implications for the Council | <input type="checkbox"/> |
| Delays in implementation could compromise the Council's position | <input type="checkbox"/> |
| Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months | <input checked="" type="checkbox"/> |
| Item is Urgent Key Decision | <input type="checkbox"/> |
| Report is to note only | <input type="checkbox"/> |
-

Wards affected: The site is based in Newbury but the recommendations in this report seek to ensure a more effective Council and it has broader implications for the operation of the Councils business.

Officer contact details:

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Job Title: Service Director, Strategy & Governance
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Overview and Scrutiny Review Matrix

Review Topic: London Road Industrial Estate (LRIE)

Timescale:
Start: 25/07/19
Finish: 14/07/20

Review Rationale: To better understand the advice and guidance received in relation to the Council's decision when procuring a preferred partner for the London Road Industrial Estate (LRIE) development.

Terms of Reference:

1. To review the governance arrangements put in place by the Council to manage the LRIE development.
2. To review the advice and guidance received by the Council which resulted in the OJEU commissioning rules not being followed.
3. To better understand the cost of the initial advice and the subsequent cost of defending the Council's position in the High Court and Court of Appeal.
4. To review what lessons have been learnt from this case.

Review Membership:

Councillor James Cole (Chairman)
Councillor Jeff Brooks
Councillor Lee Dillon
Councillor Claire Rowles
Councillor Andy Williamson

Chairman: Councillor James Cole

Vice-Chairman:

Lead Officer: Sarah Clarke/Jo Reeves

Information Required:

Documents/Evidence: 25/07/19 –Timeline of key milestones. Further documentation will be provided on request following that meeting.

Witnesses: Chief Executive
Legal Services Manager
Manager - Special Projects
Head of Finance

Desired Outcome:

To understand the advice and guidance received in relation to the Council's decision when procuring a preferred partner for the London Road Industrial Estate (LRIE) development.

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Appendix B: LRIE Evidence

- Executive Membership 2008/09 – 2018/19
- Shadow Executive Membership 2008/09 – 2018/19
- Newbury Town Centre Task Group Membership 2008/09 – 2018/19
- Newbury Town Centre Task Group Proposed Terms of Reference 2003/04
- Minutes of Newbury Town Centre Task Group on:
 - 19/05/08, 24/6/08, 23/07/08, 19/09/08, 29/10/08, 26/11/08, 27/01/09, 31/03/09, 28/04/09, 26/05/09, 24/06/09; 25/08/09, 29/09/09, 27/10/09, 17/12/09, 23/02/10, 22/03/10, 18/05/10, 27/07/10, 28/09/10, 23/11/10, 20/01/11, 24/05/11, 23/06/11, 03/08/11, 11/11/11, 12/01/12, 15/03/12, 21/05/12, 16/08/12, 19/11/12, 19/12/12, 07/03/13, 16/05/13, 09/07/13, 10/09/13, 19/11/13, 20/02/14, 01/04/14, 10/06/14, 10/07/14, 07/08/14, 25/09/14, 27/11/14, 03/02/15, 22/04/15, 24/06/15, 30/07/15, 12/10/15, 18/02/16, 11/04/16, 07/07/16, 06/04/17, 17/04/18
- LRIE Maps
- Scoring documentation from the appointment process to select a developer – 29th and 30th July 2013
 - First round notes and scores of the 6 developers interviewed at this stage.
 - Summary Report from Strutt and Parker with confirmation of the final 3 developers.
- Court Judgments:
 - High Court Judgment 26 August 2016
 - Court of Appeal Judgment 14 November 2018
- Cost summary and other financial information
- Audit feedback report
- Executive Questions and Answers:
 - 20/12/18, 17/01/19, 14/02/19, 28/03/19, 30/05/19, 25/07/19
- Reports, appendices and minutes from key Executive meetings (as referenced in the Chronology):
 - 25/03/10 – LRIE Development Proposals. Appendices: Location Plan; Council Land and Property Holding at London Road and associated tenancy information
 - 02/09/10 – Consolidation of Council Leases
 - 06/09/12 – LRIE Redevelopment.
 - 20/06/13 – LRIE Redevelopment – Strutt and Parker Market Testing Report including Developer Expressions of Interest.
 - 27/03/14 – Strutt and Parker’s LRIE Developers Submissions and Recommendation on Development Partner.
 - 20/11/14 – LRIE Development Agreement.
- Documents relating to the appointment of Strutt Parker: Tender submissions from Tribal Consulting and Urban Initiatives (unsuccessful bidders); Tender submission from Strutt and Parker/Broadway Malyan and successful award letter.
- LRIE Steering Group membership

- The Chronology
- Oral evidence from the following witnesses:
 - Nick Carter, Chief Executive
 - Shiraz Sheikh, Legal Services Manager
 - Bill Bagnell, Special Projects Manager
 - Former Councillor Gordon Lundie
 - Councillor Jeff Beck
 - Former Councillor Keith Chopping
 - Former Councillor Paul Bryant
 - Former Councillor Roger Hunneman
 - David Holling, previous Head of Legal Services and Monitoring Officer
 - Councillor Alan Law
- Written evidence from the following witnesses:
 - Former Councillor Graham Jones
 - Faraday Development Ltd
- West Berkshire Council Officer Response to evidence from Faraday Development Ltd

Appendix C

Chronology to support evidence review OSMC Task Group: London Road Industrial Estate

Date	Item
19.05.08	Meeting of the Newbury Town Centre Task Group (“NTCTG”)
23.07.08	Meeting of the NTCTG
17.09.08	Meeting of the NTCTG
26.11.08	Meeting of the NTCTG
27.01.09	Meeting of the NTCTG
27.10.09	Meeting of the NTCTG
23.02.10	Meeting of the NTCTG
25.03.10	Executive: London Road Industrial Estate, Newbury – Development Proposals
27.07.10	Meeting of the NTCTG
02.09.10	Executive: Part II Report on Consolidation of Council Leases LRIE
23.11.10	Meeting of the NTCTG
24.05.11	Meeting of the NTCTG
12.01.12	Meeting of the NTCTG
15.03.12	Meeting of the NTCTG
21.05.12	Meeting of the NTCTG
16.08.12	Meeting of the NTCTG
06.09.12	Executive: Part II report on London Road Industrial Estate Redevelopment
19.11.12	Meeting of the NTCTG
19.12.12	Meeting of the NTCTG
17.01.13	Executive: London Road Industrial Estate (LRIE) Redevelopment – Opportunity Document
07.03.13	Meeting of the NTCTG
21.03.13	Executive: Part II report - Acquisition of Site
16.05.13	Meeting of the NTCTG
20.06.13	Executive: Part II report - London Road Industrial Estate (LRIE) Redevelopment – Strutt & Parker Market Testing Report including Developer Expressions of Interest
09.07.13	Meeting of the NTCTG
10.09.13	Meeting of the NTCTG
19.11.13	Meeting of the NTCTG
20.02.14	Meeting of the NTCTG
27.03.14	Executive: Strutt & Parker’s Developers Submission and Recommendation on Development Partner for the London Road Industrial Estate Regeneration
10.07.14	Meeting of the NTCTG
07.08.14	Meeting of the NTCTG
25.09.14	Meeting of the NTCTG
20.11.14	Executive: Part II - London Road Industrial Estate Development Agreement
27.11.14	Meeting of the NTCTG
03.02.15	Meeting of the NTCTG
22.04.15	Meeting of the NTCTG
24.06.15	Meeting of the NTCTG

The redevelopment of the LRIE was a standing item at the cross party Town Centre Task Group (TCTG) from its introduction at the meeting on the 26/11/08 until the contract was awarded. The TCTG met on a 6 to 8 weekly basis during this time.

Appendix C

Chronology to support evidence review OSMC Task Group: London Road Industrial Estate

Date	Item
20.07.15	Council: A339/Fleming Road Junction Compulsory Purchase Order
30.07.15	Meeting of the NTCTG
04.08.15	VEAT notice published
04.09.15	WBC and St Modwen completed agreement
12.10.15	Meeting of the NTCTG
20.11.15	Claim submitted for Judicial Review
2.01.16	Claim in Technology Construction Court
21.01.16	Council: A339/Fleming Road Junction Compulsory Purchase Order
18.02.16	Meeting of the NTCTG
11.04.16	Meeting of the NTCTG

The redevelopment of the LRIE was a standing item at the cross party Town Centre Task Group (TCTG) from its introduction at the meeting on the 26/11/08 until the contract was awarded. The TCTG met on a 6 to 8 weekly basis during this time.

Appendix E - Expenditure Paid to Individual Organisations Involved with the LRIE

Organisation	Total Cost related to LRIE	Breakdown/Detail
Ressance Ltd and Faraday Developments Ltd	£82,500	N/A From the capital project code – reimbursement of legal fees
Strutt and Parker	£155,676	Property consultants - Broken down on separate table.
Womble Bond Dickinson	£473,576.24	£58,010.94 costs charged against LRIE capital project code £37,933.72 costs charged for highways works £377,631.58 for legal advice re Procurement Challenge
St Modwen Development Ltd	£175,962.00	One payment – Development Agreement Refund (ie repayment of costs already incurred by the developer on the project as the point it was stopped) – paid from capital budget for project
Deloitte LLP	£53,319.90	Instructed as part of defending case at High Court - expert advice regarding property valuations.
Broadway Malyan	£5,415	Work undertaken as part of the Feasibility Study (worked with Strutt and Parker as part of their tender for the work).
Montagu Evans	£7,500 – included in fees paid to Strutt and Parker, as they engaged Montagu Evans	Commissioned to undertake a Retail Study assessment after the Feasibility Report from Strutt and Parker was queried by Planning Officers because of the suggestions for a greater level of retail outlets/food stores
Total	£946, 449.14	

Expenditure Incurred to build the LRIE Access Road

<u>Value</u> <u>£</u>	<u>Source of Funding</u>
5,236,044	Funding from Thames Valley LEP, S106 contributions and DfT Challenge Funding.

Total expenditure incurred for the LRIE = £6,182,493.14

LD	Governance	Answers
1.	When or how was the possibility for redeveloping LRIE identified?	<p>The Newbury Vision 2025 document was published in 2003 and identified a range of projects. Work started approximately 3 years previously on the Vision. NC involved since 1999. Not aware of discussions prior to that.</p> <p>The Conservative opposition at the time raised the need for a Vision for Newbury. Newbury was dropping down the retail rankings and the Vision came out.</p> <p>LRIE redevelopment came about from the holistic work for Newbury Town Centre. No knowledge of more historical closure desire.</p>
2.	Once identified, what did officers do to ensure that there were suitable governance arrangements in place to manage the project?	<p>15 year Action Plan in place for the Vision. No additional resource for implementation. Two most important – Parkway and Market Street given priority. LRIE to start post Parkway once greater capacity available.</p> <p>Newbury Town Centre Task Group (NTCTG) set up as the governance group to oversee all Newbury work. This cross-party group been in existence since approximately 1998, chaired by Portfolio Holder.</p> <p>Beneath NTCTG - officer groups, Project Board, sub Task Group of Members/Officers formed to select LRIE developer.</p> <p>Felt clear governance in place. NTCTG a task group of the Executive and therefore linked to the Executive.</p> <p>Nick the Sponsor for the Vision. This gave him overall responsibility for Vision and included oversight of different projects, ensured delivery and governance in place/followed. Vision been updated over time.</p> <p>Arranged Annual Vision Conference.</p> <p>Engaged with different groups. NC a member of the majority of these.</p>
3.	Can you please describe those governance arrangements?	<p>Officer Groups/Project Board Terms of Reference queried.</p> <p>NC – officer group supported the NTCTG - largely 2025 vision. This helped to co-ordinate activity. Officer group (Programme Group) represented by Highways, Planning, Property, Legal (where necessary) and Economic Development Officer. Not a Procurement representative – covered by Legal.</p> <p>Project Boards for projects, included developers and advisors as required. This included St Modwen and external lawyers. Programme Group concerned with delivery rather than governance.</p> <p>LDillon – be useful for the full structure to be mapped out in a diagram.</p>

4.	There seems to be quite a time lag before the project actually commenced with reference to the project being made mid 2008 – why did it take so long to actually start on the main work e.g. the Feasibility Study – Strutt and Parker not engaged to do this until 2011.	Parkway concluded in 2011. In 2008 – initial discussions only re when to start LRIE. Not expected to start until 2010/11. JCole queried as reference to Feasibility Study in 2009 – minuted at NTCTG – discussed with Les Gaulton at meeting? July 2010 – mention about to complete? Pre-work only. NC – unclear, possibly over ambitious or misinterpreted. Always the expectation to commission Feasibility Study externally.
5.	At a NTCTG in 2008, you made reference to a working group being set up to review the strategy/vision for the area, was this group set up at the time, who was involved?	This was potentially making reference to officer work/initial discussions. No record of any substantive work in 2008. No formal working group until decision to start Feasibility Study.
6.	We have only found draft Terms of Reference for NTCTG. Can you confirm how the Terms of Reference for that Group were communicated to the Members of that Group?	NC – assume they were agreed by NTCTG itself. Key role the oversight of the Vision and delivery of projects. LDillon – expect agreed Terms of Reference? NC – lasted 14 years. Felt remit clear to Task Group and beyond. Purpose reviewed by TG and likely the Executive also. LDillon - no evidence? Were Terms of Reference made formal and communicated? NC felt Members clear on what required to do. Felt would have been made formal. Chair/Vice-Chair appointed annually – Chair the relevant Portfolio Holder. Membership confirmed at time of Annual (May) Council.
7.	At the point of choosing a developer it was agreed that a Steering Group would be set up, did this happen and who was involved?	Member led cross-party group formed to select developer (the sub-group of NTCTG). Members heavily involved: Pamela Bale, Alan Law, Roger Hunneman, Paul Bryant. Selection process included site visits. This would normally have been left to officers, but Members sought stronger involvement. This group regularly reported to NTCTG (well attended meeting). Officers involved – as per the Scheme of Delegation. Included Legal. LDillon – Terms of Reference for sub-group? NC – potentially, formed to oversee selection process – a clear process with clear objectives.

<p>8.</p>	<p>There were a few occasions where information was agreed to be provided to governance groups but was not followed through/picked up at the next meeting of the group. Consideration be given to having a specific Project Group for the new LRIE with minutes of each meeting and outstanding actions would help address any such omissions in future. Your view on this?</p>	<p>NC – actions list produced, but acknowledged lack of follow through could sometimes have been the case. Added that some actions could have been taken off line from the NTCTG. Julie Gillhespey voiced a concern then that some actions not done/lost, i.e. agreement to produce Risk Register by Exec. NC – same governance for Park Way as LRIE. Felt any issues separate from governance. LDillon ? evidence of some weak governance? NC - WBC had matured as an organisation over the last 20 years. It had got better at doing things and a number of systems/processes etc had been put in place – i.e. performance management. Project Management had significantly matured over the past 2/3 years. LDillon – concept of project management clear? JBrooks – any project input? Asked some time ago if project management methodology to be rolled out? NC – this had been developed/matured over time. Invested much time/staff resource to make improvements. LDillon – undertook project training as project sponsor? NC – not the project manager but had done training. JBrooks – PRINCE2 trained officers now? NC – yes. Felt methodology began to be introduced post Amey. Advanced further as part of the Corporate Programme. Being developed across services. Importance of Project Management now widely accepted.</p> <p>Strutt and Parker commissioned to project manage LRIE and provide specialist advice. They produced feasibility study in line with WBC framework.</p> <p>JCole – important to understand how project managed – whether all external/some internal?</p>
<p>.CR</p>	<p>Advice</p>	
<p>9.</p>	<p>From your perspective, who was providing specialist advice to the Council for this project?</p>	<p>NC – different advice for different areas. Some external.</p> <p>Strutt & Parker the advisors for Parkway (property advisors). Discussion held about whether to commission them. They recommended a proposal for LRIE, they produced the Feasibility Study and were the adviser for the appointment of the developer.</p>

	<p>Bond Dickinson – external legal advisors, also for Parkway. Legal Services also look to BD if not capacity or expertise internally.</p> <p>From there, Strutt & Parker could bring in sub-advisors – fairly common practice. They brought in Broadway Malyan specifically for planning advice. Project management clearly sat with Strutt & Parker. They held responsibility to resolve issues.</p> <p>LDillon – what specialisms were held internally in Legal – i.e. procurement? NC – Shiraz Sheikh part of Legal Service. Awareness of which individuals to ask as and when necessary. If a matter went beyond speciality of internal officers, contact made with Counsel. In this case Bond Dickinson. Strutt and Parker stated no need to follow OJEU route. WBC a risk averse organisation. NC stated was surprised at this non OJEU advice as were Legal and Legal Service contacted Bond Dickinson for in depth view. Sought to establish route followed elsewhere. Bond Dickinson heavily involved. Seemed fine.</p> <p>JBrooks – in 2007/08 – were Procurement Officers let go? Negatively effecting procurement capability internally. NC did not feel that necessary expertise was held in 2007/08 or at the time of OJEU advice. This was a matter of some complexity and necessary to go externally.</p> <p>CRowles – scope to enhance internal legal team? Would this be more cost effective? NC – felt difficult to bring in specialism internally. There was not felt to be justification to employ a full time officer when there was not much regeneration work to happen. So decision taken to buy in specialism. View of Monitoring Officer (David Holling) at the time. Sarah Clarke commented spend in year on external advice was currently under budget.</p> <p>Bond Dickinson costs - £474k. NC stated that only a relatively small sum agreed at the outset. £378k of spend on legal advice to defend procurement challenge.</p>
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10.	<p>In particular, who provided advice in the following areas:</p> <ul style="list-style-type: none"> a. Property b. Procurement c. Legal 	Detail noted above.
11.	Who determined what external advisers were appointed?	<p>NC - Strutt & Parker were properly commissioned. They tendered for Feasibility Study. Strutt & Parker wanted to tender for full project, Legal advice was no (Shiraz). JBrooks – any suggestion of ‘creep’ in the commissioning of Strutt and Parker? CRowles – ongoing relationship with advisers. Was this challenged/scrutinised? NC – others invited to tender which was advertised. Others considered, all subject to a scoring process. NC not involved in detail in the selection of Strutt & Parker.</p> <p>Discussed process with NTCTG – they were aware. Power to appoint not with the task group. Portfolio Holder input/oversight at that point. Julie Gillhespey – Executive delegated authority to Procurement Officer/Les Gaulton/Nick Carter to appoint. NC – confirmed point. Budget allocated within Vision budget.</p>
12.	Do you know what processes were followed to appoint those advisers? If so, are you satisfied that those processes were appropriate for this project?	<p>NC – followed due process – no suggestion otherwise. NC not involved in scoring process. Rarely was as not appropriate. Although involved in bus tour (for developer). 3-6 advisers were shortlisted, Shiraz/Bill Bagnell more involved.</p> <p>JG – felt an element of creep with Strutt and Parker. There was the tender exercise at the outset, but there followed work by them for middle and lower value work. NC – accepted, but made clear that tender exercise undertaken on advice from Legal. Legal ensured due process was followed.</p>

<p>13.</p>	<p>How was that advice communicated to relevant officers and Members?</p>	<p>NC – via governance. I.e. the necessary officers and Members on Project Board/Programme Board etc. Strutt & Parker made presentation to NTCTG in an advisory capacity and in relation to the Feasibility Study. S&P made several visits to the task group. On occasion perhaps Bond Dickinson. The task group did not generally hold legal discussions. Officers also reflected advice in their reports to Members.</p> <p>LDillon queried the interface between officers and NTCTG. Did task group Chairman ask for items etc or were items put to Chair on what to include? NC – felt an open process with the NTCTG. Officers would take/recommend a view on detailed/complex areas. LD – recall items not going through? NC would not look to hide away – not the organisation’s culture to do so. Would look to keep Members informed – keep backs covered.</p> <p>CRowles – any scrutiny of legal advice or taken as given? NC could have flagged up points, but discussions between lawyers. David Holling reliant on specialists, he led this relationship.</p>
<p>14.</p>	<p>Do you consider that the specialist advice, and the level of advice received by the Council was appropriate for a project of this scale?</p>	<p>NC – yes. Nothing missing in his view. Felt cautious approach taken with regards legal advice. Legal advice came from specialist legal adviser.</p>
<p>15.</p>	<p>What discussions took place between the Council and Faraday Developments Ltd (Duncan Crook) regarding the potential for redeveloping LRIE?</p>	<p>NC – many conversations held and they continued. Began at time when the Council started to try to move forward on LRIE. Discussions held with FDL re leases. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED].</p>

		<p>NC confirmed that key discussions were documented by WBC on the landowner side.</p> <p>FDL formed an alliance with Wilson Bowden – they bid for development. [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
16.	Did you receive any advice from any of land owners at LRIE?	<p>NC could not recall advice.</p> <p>Some comments received, i.e. from FDL. More lately Newbury Community Football Group.</p> <p>JBrooks – ? the Council’s obligation to the football club. Morally obliged to provide?</p> <p>NC – not aware legally obliged – not from land owner perspective.</p> <p>Planning Policy/Sport England view – should re-provide pitch on an existing facility.</p> <p>Sport England were a statutory consultee – asked for view re playing field facility. Felt not clear cut beyond use of an existing facility.</p> <p>Playing Pitch Strategy being developed.</p>
17.	If you did receive advice from any landowner(s), what action did the Council take in response to that advice?	As above.
JB	Costs	
18.	We understand that Strutt and Parker were involved and providing advice at an early stage. However, we cannot find any payments pre the appointment of them to do the Feasibility study in	<p>NC – not entirely clear.</p> <p>Felt not commissioned until the Feasibility Study. Possible that discussions held alongside Parkway work when S&P became aware of LRIE.</p> <p>There was no commissioning or payment until Feasibility Study work.</p> <p>Between Feasibility Study and receipt of advice – potential area to tighten.</p> <p>Julie Gillhespy couldn’t find any evidence on this point.</p>

	2011. Can you recall what sort of costs were involved and where these costs would have been charged to?	
19.	Strutt and Parker were engaged to manage the project, why was it decided to go down this route and have the project externally managed rather than internally?	<p>NC – not project managed by S&P. By WBC and continues to be so. Strutt & Parker commissioned for Feasibility Study and to manage developer selection process. Otherwise led by WBC officers with oversight from Members.</p> <p>JG – S&P paid £25k per quarter. So engaged for some project management? NC – not project managing. Need to speak to Bill Bagnell to understand cost.</p> <p>JBrooks – Project management improved since that time? Greater level of expertise? NC – not felt an issue with project management. LDillon public expect project management skills? NC – do have this. This was being enhanced by WBC undertaking more project work. Understood reason for project management questions – but not part of the issue in court. Would not have changed outcome. JG agreed.</p>
20.	Did you have any oversight of the legal of spend on this project?	<p>NC – Yes, in an oversight capacity – not the detail. Detail with David Holling. CRowles – an area subject to challenge? NC – yes with David H. Confident David did so.</p>
21.	Was there any central record maintained of the amount that the Council was spending (including both costs incurred and future spend) on this project? If not, should there have been? Project/financial controls?	<p>NC – undertook monitoring, supported by Bill Bagnell as project manager and with Nick's PA. NC – the budget was managed. If costs escalated would have looked for further funds. Legal costs would go to the developer at a point. Much cost incurred with defence of legal challenge.</p>

JC	Learning	
22.	What, if anything, have you learnt from this project?	<p>NC had reflected. No project was risk free. Legal challenges could happen. Falls to Judge on the day. High Court ruling in favour of WBC. But different interpretation at Court of Appeal.</p> <p>Decision of 3 judges of national legal significance – their interpretation of legal points. NC felt nothing particularly wrong.</p> <p>Project management had improved since. WBC took appropriate advice, was sound. But 3 appeal court judges took that view at that time.</p>
23.	With hindsight, is there anything that you would have done differently?	<p>NC felt process was open, strong governance arrangements in place, Member involvement there. No red lights flagged up throughout project.</p> <p>Felt nationally, court of appeal ruling could create concerns for others – as not followed OJEU. LDillon – decision not to follow OJEU – warnings raised at the time? Was there a gut feeling that OJEU should have been followed despite legal advice?</p> <p>NC – in hindsight. Was a little surprised at advice, but personally not able to form a professional view. Legal advice was followed. Comments on needing a speedier process acknowledged, but processes took time. Some areas tightened up since, but this could add more time.</p> <p>LD – costs/options put to Members at that time? NC believed some conversations held, but generally followed Counsels advice. WBC was new to this type of process. Little regeneration opportunities in West Berkshire. Aware other local authorities used same procurement route but they were not challenged.</p>

<p>24.</p>	<p>When engaging external consultants, how do we ensure that we don't approach that in a piecemeal fashion?</p>	<p>NC – did not accept a piecemeal approach taken other than 'middle period' - Strutt & Parker work. JG – forward looking piece needed? NC – felt taken a stage at a time. S&P wanted a longer term arrangement, but WBC view to take stages at a time 'phased'.</p> <p>JCole – once consultant in, much easier to keep on, the perception? NC – no evidence to support that. Paid Strutt & Parker for Feasibility Study as tendered. JG – could have quoted for the lot? NC – Could have, chose not to. LDillon – different approach now? NC - Strutt & Parker wanted ongoing involvement. Would have received a cut in payment. But decided no. Commission the Feasibility Study then wait and see beyond. Felt not a fundamental issue.</p> <p>CRowles – benefit for pool of lawyers as more cost effective. A consideration? NC – learning point here – felt not fleeced by Bond Dickinson. Not see learning point in that respect. CRowles – potential to achieve better value with access to a pool – achieve greater leverage from others? NC – Bond Dickinson did have to tender. CRowles – could this be a secondary option? JCole – put further discussion on this point through legal.</p>
<p>25.</p>	<p>We understand that there may have been changes to the manner in which projects are now managed. Could you please describe those changes</p>	<p>NC – overall, did not accept governance the cause of issues. Felt components of governance there and felt delivered.</p> <p>JG – lessons learnt – archiving improvements? NC – a captured point. Acknowledge area to develop since then with more formal records kept. General lesson learnt.</p> <p>JG – need to address with project group established now. Access to a shared folder/documents. NC – point of discussion with Property.</p>

<p>26.</p>	<p>For the new project there is a project board, and highlight reporting via the Programme Board. However there is no project group, so the communication/progress on the day to day basis is on a more informal basis, suggest a project group to formalise officer discussions and communication and decision making, and create a central project repository for project information and correspondence. Your view on this?</p>	<p>Project Sponsor – NC. Project Manager – BB. Programme Board reported to Economic Development. Below – project board formed by Members and Officers. BB/NC meet frequently. NC – need exists for stronger document management.</p>
<p>27.</p>	<p>Any other comments?</p>	<p>CRowles – regular scrutiny after projects. A helpful exercise? NC – view of officers/members that LRIE had consumed much resource, felt disproportionate to the issues/concerns. Been through two courts, but questionable what value added.</p> <p>However, post implementation reviews are valuable – but more light touch. Is a need to do more post a project.</p> <p>JBrooks – felt appropriate for a thorough review in this case. LDillon – also football club an impact. Adds cumulative impact.</p> <p>JCole – level of review dependent on value of project.</p>

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CR	Advice	Answers
1.	Can you please describe your involvement in the first LRIE project?	<p>Ad-hoc involvement – since the procurement for the Strategic Feasibility Study. Work was led by Special Projects Team – Mike Sullivan the Procurement Manager. SS advising on project since that time. This followed his role in St Barts project.</p> <p>He advised re consultant appointment, Strutt & Parker involvement – could it be extended etc?</p> <p>Detailed involvement followed once bids in from developers. Had input in handling correspondence – assisting Mike Sullivan – correspondence with Brian Raggett. Asked to look at Procurement regulations.</p> <p>Advice given on an ad-hoc basis to Bill Bagnell, Mike Sullivan, David Holling, Nick Carter. DH involved SS in discussions as a matter of interest/learning.</p> <p>Did not attend meetings regularly, i.e. Project Board/NTCTG. Recalled attending a meeting – a project board? with St Modwen in attendance. This was a cross-party group. Gordon Lundie was Leader at the time.</p>
2.	At what stage did you become involved?	Covered in the above.
3.	Can you recall what you were asked to provide advice on?	<p>Procurement advice – contractual/procurement elements for appointing Strutt & Parker for Feasibility Study only.</p> <p>No certainty project would have legs at that point so looked to a limited scope. Only found would proceed at a later date.</p> <p>Extension of Strutt & Parker arrangement. SS not comfortable in broadening scope without Executive approval as not in original tender. However, there was a view that the consultant (S&P) had taken the project so far and was felt to be a waste to look elsewhere. Section 151 Officer approved not for Executive as relatively minimal sum.</p> <p>SS was surprised/shocked that Strutt and Parker identified path to bring in bidders at so soon a stage.</p>

		<p>Beyond that, Opportunity Document produced. SS gave feedback on document, gave advice on that. Reports to Exec – felt needed advice. Be clear on Council’s objectives.</p> <p>JCole – why shocked? SS not been involved day to day in project. JCole questioned that. SS – St Barts had weekly project board, was closely involved throughout. Not so LRIE re next steps, asked to comment on produced Opportunity Document. Not felt wrong, more unexpected. A potential lesson to learn.</p> <p>LDillon – was David Holling involved in Opportunity Document? SS – felt potentially was, could not recall 100%, but he recalled being copied into some DH emails on the matter. Did discuss document with DH.</p> <p>LDillon – recollection of advice not being taken? SS – formulated advice in discussions, this was taken. Post Opportunity Document. Market testing exercise undertaken and project evolved to selection process. Could not recall advice ever being ignored.</p> <p>CRowles – part of collaborative discussions? SS focus on client objective – what WBC wanted.</p> <p>LDillon – Nick Carter the Project Sponsor? SS – NC was instrumental in meeting WBC objective to deliver project. His focus was on that.</p> <p>Once developer was selected, SS became more closely involved, shadowed DH. St Modwen were appointed. SS worked on Heads of Terms, participated in officer discussions. Heads of Terms were needed before St Modwen appointed. Heads of Terms followed the market testing. Was contact with FDL/Wilson Bowden.</p>
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		<p>JCole – felt SS not fully involved/clear on progress of project. Should have been on a regular project group/session? Involved from cradle to grave. SS – was unclear in some cases. Agreed point. But project board there. Not certain if DH involved.</p> <p>JBrooks queried Project Management Methodology at the time. SS Prince 2 trained.</p> <p>LDillon – did SS fully shadow DH, or ad-hoc/involved in reviews? SS at point of St Modwen. SS did not attend every meeting DH went to. Went to some when DH could not. Felt able to represent authority, i.e. at Strutt & Parker meetings.</p>
4.	<p>How involved were you in advising the Council on the appropriate procurement route that was used to identify a developer for this project?</p>	<p>SS - not involved in advising what appropriate procurement route for appointing St Modwen. Strutt & Parker made recommendation re procurement route/ why no regulated process. SS did advise on S&P approach/recommendations – questioned the approach. Strutt & Parker questioned – if land disposal then procurement route fine. Soft market testing report – showed objective was for land disposal and so outside procurement rules both then and now.</p> <p>LDillon – surprised at speed between soft market testing and appointment? SS – S&P devised shortlisting process. St Modwen selected. It was seen as acceptable to progress in this way due to this being a land disposal. Not Heads of Terms at time, therefore didn't have full detail. To be agreed at later stage. Generic advise provided to Executive Members, took time before able to confirm if to proceed for certain.</p>
5.	<p>As the project progressed were you comfortable that this option remained the most appropriate route (based on S&P advice)?</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED] S&P and St Modwen had experience of working within the sector. They had produced similar before for other projects.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

		<p>[REDACTED]</p> <p>SS recalled a conversation with Bond D after clearing with David Holling. DH was the lead.</p> <p>Selection of Bond D – SS advised that quotes were sought from three organisations – Bond D appointed.</p> <p>It was clear that legal costs would likely vary. The cost of tenders could only be estimates, was not a fixed fee.</p> <p>SS – WBC particularly sought clarity on procurement approach. This was an extra cost to incur.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>JCole – happy that signed Developer Agreement contained the necessary wording, gave clear reasoning for non-OJEU route?</p> <p>SS – yes.</p>
<p>6.</p>	<p>The Council published a VEAT Notice and this was subject to some criticism in the Court of Appeal. Can you please explain the purpose of the document and why it was served.</p>	<p>SS sought VEAT notice, part of need for transparency.</p> <p>Felt this to be a good risk mitigation strategy. Drafted by Bond Dickinson. Felt fully in order. Court of Appeal commented – insufficient (or similar) as Planning lawyers.</p> <p>SS considered that it contained the necessary provisions for St Modwen selection.</p> <p>CRowles – Were external lawyers questioned? SS – did question and always do so. Needed to be satisfied on VEAT notice. Sarah Clarke agreed much challenge.</p> <p>SS – VEAT better for transparency.</p>
<p>7.</p>	<p>Can you describe the processes that were followed to appoint the external legal advisers?</p>	<p>SS – not involved in appointment process, but DH, as part of shadowing, outlined the scoping and invite to tender processes.</p> <p>4 quotes were sought. Local Government Lawyers listed specialisms required.</p> <p>Bond Dickinson involved in Park Way/their precursor - Bevan Brittan.</p> <p>Cheapest was selected.</p> <p>LDillon – was cost the driver? CRowles – was proper process followed?</p> <p>SS – needed to firstly be comfortable on the quality of legal advice to be received.</p>

8.	In your opinion, was that an appropriate route by which to determine the most appropriate legal advisers?	<p>Yes.</p> <p>On the decision – many lawyers, including QC’s, had stated publicly that decision made was wrongly decided.</p>
9.	What were the external legal advisers asked to advise upon?	<p>SS – negotiation and conclusion of Developer Agreement. Unclear beyond that.</p> <p>LDillon could seek answers in writing if more detail needed and not contained in the paperwork.</p>
10.	What advice did you receive regarding the project and how was that advice communicated to relevant officers and Members?	<p>SS – procurement implications. [REDACTED]</p> <p>[REDACTED]</p> <p>+ procurement/VEAT notice.</p> <p>For DH to cascade as necessary - NC aware (also aware from Tim Seddon), plus Members (incl Pamela Bale & Gordon Lundie) and key officers.</p> <p>CRowles – opinion on judgment? WBC unlucky?</p> <p>SS – felt so. Felt judgment raised more questions than answers. Created uncertainty in the market. Some QC’s declared publicly that was wrongly decided.</p> <p>Differs from/impacts on prior caselaw. Difficult to see where the line was.</p> <p>LDillon – did advice outline the value/risk of the chosen approach, rather than OJEU?</p> <p>SS believed it did not. The tender had concluded, St Modwen were appointed. Senior Members and officers wanted deal done.</p> <p>The deal was not unlawful. It was based on a good precedent. Deals of recent months – same processes. Felt view at time of VEAT was to challenge.</p> <p>JBrooks - OJEU around for many years. What was saved in terms of time and money from not following OJEU? What was the upside? & LDillon questioned approach when WBC risk averse.</p> <p>SS could not recall. Would not necessary disagree with point being made, with benefit of hindsight would have put to OJEU. But no requirement for OJEU for a land transaction - exempt. Was comfortable with OJEU process.</p>

JB	Costs	
11.	<p>The expressions of interest received from the law firms contacted by Legal Services suggest that the project (in terms of negotiating and signing the DA) should have been delivered for considerably less than the actual costs incurred. Can you explain how that happened?</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>CRowles – the cost? Sarah Clarke – original bids had a capped fee. Questioned the qualified cap with external lawyers (pre action correspondence). SS – cost of £58k. ? if pre-litigation fees – point to check on.</p>
12.	<p>Who approved the legal costs?</p>	<p>David Holling.</p>
13.	<p>How were the legal costs monitored?</p>	<p>SS: DH role. Invoices received were checked against lawyer timesheets.</p> <p>CRowles – any challenge of costs? SS – not personally, he did not authorise payments. S. Clarke recalled cases where some aspects/fees were challenged.</p> <p>LDillon - with hindsight - not set a £16k budget? Was that enough at the time? SS -budget would have been approved at the time from the budget bid. If scope had increased would have revised estimates.</p> <p>CRowles – partner led approach – Bond Dickinson, at senior partner level? SS – from managing associate, not necessarily partner level. Spoke to St Modwen lawyers also. WBC, St Modwen, Bond D – all overseeing.</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

		<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED] £58k felt to be relatively inexpensive.</p> <p>JBrooks – could adapt starting template? SS – not a template to modify, St Modwen tailored here.</p> <p>JBrooks – WBC could have added to their draft.</p> <p>LDillon - Project management – Strutt and Parker costs - quarterly project management costs. What for? <i>(Also referenced in NC questioning)</i></p>
14.	Can you detail how the escalating costs were communicated within the organisation?	Beyond the cap, SS (on DH's behalf) – DH very conscious of increases. Invoices paid by Chief Executive cost centres. Looking at two years' work in a short space of time.
LD	Governance	
15.	The advice obtained indicates that there was a level of risk in the chosen route. How was that risk articulated to senior officers and members?	Was communicated to NC/Members. Recalled via e-mails. SS could not recall particular Member concerns over risks.
16.	Do you consider that the specialist legal advice, and the level of involvement of the external legal advisers was appropriate for a project of this scale?	<p>SS – Yes. However, clear benefit for legal to stay in the loop.</p> <p>LDillon – was it right for shadow person to be senior legal officer in the room for some meetings?</p> <p>SS – felt yes. DH featured in the majority of meetings.</p> <p>LDillon - was SS involved/asked re Strutt & Parker outside of procurement exercise/in between?</p> <p>SS – could not recollect clearly on that point.</p>

JC	Learning	
17.	The Council took advice regarding the options available to it. Was the advice received tested against the procedures adopted by other authorities when entering similar transactions?	<p>SS – once Heads of Terms/DA there, looked to external input. Told that structures existed.</p> <p>CRowles – felt reasonable to look to other LAs. Was that normal working practice?</p> <p>SS – aware of processes of others/could follow other areas, but that did not necessarily mean it was the correct way.</p> <p>CRowles – acknowledged would need same/very similar scenarios.</p> <p>SS – WBC process supported by case law throughout.</p>
18.	The Court of Appeal ruled against the Council. Are there any lessons that you will take from that judgment?	<p>SS – always lessons to learn.</p> <p>Would have expected/wanted to see a similar process, i.e. for St Barts.</p> <p>Now though would have insisted on legal input throughout project board. If exceptions were to arise then they needed to be challenged.</p>
19.	Do you have a view on where things could have been done better at the time?	<p>JCole – any different action that could or should have been taken?</p> <p>SS – always options. If chance to run differently, would have taken more structured approach. Legal been involved more in structure. But would not have altered Court of Appeal judgment.</p> <p>The course taken was based on a sound understanding.</p> <p>Pre action – QC advice – all clear on all grounds.</p> <p>CR – simply fell to Court decision on day?</p> <p>SS – yes, found in favour of WBC at High Court. Lost on a technical point in Court of Appeal.</p> <p>Provisions were in DA to stop process and roll back. Looked at mitigation of risks at all stages. Project management or not - processes still existed.</p> <p>LDillon – when to Court of Appeal – what chances to win/lose? Was technicality already identified?</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

		<p>[REDACTED]</p> <p>[REDACTED]</p> <p>JBrooks – was DH at Project Boards? SS – unclear on this point. SClarke – membership of different groups covered by NC.</p> <p>JBrooks – felt hit and miss project management approach at WBC? SS – was necessary to follow a clear process with defined parameters. It should be possible to involve key stakeholders as appropriate. A Procurement Strategy should be agreed and reviewed at each milestone. The right expertise needed to be brought in at the right time.</p> <p>CRowles commented – pleased SS had Prince 2 training – ahead of others.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
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CR	Advice	Answers
1.	Can you please describe your involvement in the first LRIE project?	<p>BB – took over as Project Officer to help to co-ordinate relevant parties to push forward (December 2011). Described his role as a ‘Gopher’.</p> <p>He reported to Les Gaulton in Special Projects. BB took on Project Manager role when LG left in May 2012.</p> <p>BB reported to LG and then Nick Carter.</p>
2.	At what stage did you become involved?	<p>December 2011 – point at which Strutt & Parker were commissioned for Strategic Feasibility Study.</p> <p>First draft Dec 2011.</p>
3.	Can you clarify who wrote the Specification for the Feasibility Study work, was it the Council i.e. Les Gaulton, or were Strutt and Parker involved?	<p>BB confirmed that Les Gaulton wrote the specification and not Strutt & Parker. The specification was tightly worded. It helped to form questions for the tender documents - could the estate be developed?, if so how?, experience of working with local authorities, a suggested programme for delivery including timings. Tender prices received were very close.</p> <p>Strutt & Parker were already in for Parkway. They might have put their name forward for LRIE.</p>
4.	At a meeting of NTCTG in November 2012, the minutes indicate that you advised that Group that the “procurement issue of finding a partner should not be as complex as had been anticipated.” Can you recall the origin of that statement?	<p>BB recalled prior to that meeting, in October/November 2012, considerable dialogue between WBC and Strutt & Parker.</p> <p>Strutt & Parker commented on the need to give thought to the procurement process. OJEU or not. It was felt to be straight forward if it was a land disposal.</p> <p>Procurement advice – must not be a change in direction – i.e. affordable housing. This would keep it as a commercial disposal with no public benefit and therefore outside of Procurement regulations. This was repeated consistently in reports to Management Board and Executive. If there was a change of view/approach, then would need to start OJEU.</p> <p>C.Rowles – groups BB attended?</p> <p>BB – direct link to Nick/David Holling, supported by Shiraz. A cross party working group formed across the Council. From there updates to NTCTG, before Management Board and Executive. Reporting on this escalated to senior officers/Members quite quickly. Felt access to senior officers/Members was more readily available here than other big construction projects.</p>

5.	<p>What advice was sought regarding the appropriate procurement route for securing a development partner? When was that advice sought?</p>	<p>BB this formed part of the dialogue referred to in October/November 2012. Work packages in Strategic Feasibility Study. Retail assumptions needed to be tested by Planning Policy. Need for sequential testing. Need to follow technical route.</p> <p>Strutt & Parker addendum to the test followed. This was done by Montagu Evans.</p> <p>From there report to Exec – late in 2012. Then sought development partner, need for external expert advice identified for the selection process. Strutt & Parker and Legal involved.</p> <p>Executive agreed to publish/procure Opportunity Document.</p>
6.	<p>Regarding the procurement route used for identifying a developer, as the project progressed was he comfortable that this option was still the most appropriate route?</p>	<p>BB – yes. Procurement was confident. Would have liked more control internally, but not the expertise internally though. Sought single development partner but control still with WBC. Felt 100% right route at time.</p> <p>Now WBC was a much more experienced authority. However, the same route could again be followed for the restarted redevelopment process.</p> <p>JBrooks – project management outsourced? BB – to Strutt & Parker for SFS, then to next stages. With hindsight, Strutt & Parker should have been given tighter brief for SFS before looking beyond.</p>
JB	Costs	
7.	<p>Strutt and Parker were engaged to manage the project. Do you know why it was decided to go down this route and have the project externally managed rather than internally?</p>	<p>Considered challenging, possibility that development would be piecemeal for this considerable site. Strutt & Parker held knowledge/experience. If work/development was to grow then original consultant could be kept on within a time/cost limit.</p> <p>At time, quote sought from Strutt & Parker and two others were looked to by BB/DH. View that if under £50k it would fall outside of procurement thresholds.</p> <p>JBrooks – retendered for second stage? BB – was a single tender or quote. The most economical outcome to be sought. Felt would be acting in bad faith to seek more external</p>

		<p>quotes when original quote was under the threshold. S&P came in with £40k and therefore continued with work. This was felt to be quite low.</p> <p>Would now tender for additional work in future but might not happen.</p> <p>JBrooks – further work with S&P? BB – Planning Policy worked on SFS. Needed to go back out. Work done by Montagu Evans, under Strutt & Parker. LDillon - payment to Montagu Evans? BB - the costs of advertising in national documents.</p> <p>20/2/14 – NTCTG – formal development plan referred to. JBrooks – did a development plan/vision exist of where this would end up? BB – S&P underwrote cost for detailed planning application. Could have been possible to outline general area/floor space but did not get that far. This would have been for S&P to progress. JBrooks – was a need identified to develop holistically or in smaller chunks? BB – Planning preference for holistic approach. Discussions held around a phased approach. In order to maximise the net developable area an access route was needed off the A339. This was felt to be the best way to package together. Access needed in overall proposals to service the plot and make most efficient use of the land.</p>
<p>8.</p>	<p>Can you describe the processes that were followed to select and appoint a property consultant to help to manage this project?</p>	<p>Part covered in response to no.7.</p> <p>Appointment of St Modwen a difficult and drawn out process. Were 6 candidates, reduced to 3 [REDACTED]</p> <p>Difficulties not envisaged by WBC or S&P. JBrooks – why so drawn out? [REDACTED]</p> <p>CRowles – potential to recover costs from St Modwen? BB felt not. St Modwen protected own interests.</p>

9.	How were the costs of the external advisers managed?	<p>LDillon – Strutt & Parker costs of £155k - for SFS? Quarterly project management fee – what was that for? BB – for managing the selection process. Scope of work was priced for. Believed document available that explored that. LDillon concerned at having a set quarterly rate.</p>
10.	Did you hold the budget for this project? How was that supervised and monitored?	<p>Budget holder was Les Gaulton, then Nick Carter.</p> <p>LDillon – why was £5k out of tender? BB referred to scope of service with Strutt & Parker. JGillhespey – project fees out of £40k? Keeping them for in between stages? BB – kept on for contract to ensure work done. Julie to share breakdown and BB to give further details.</p> <p>CRowles – was there scrutiny of costs/spend? BB – well aware of services and spend, could clarify on that. Ideal to keep consultants to continue progressing ‘middle’ work.</p> <p>Julie G - Property Services managed projects, although budget held in services. LDillon – manager sign off was based on individual officer view, but manager ultimately responsible.</p> <p>BB – looked at having a fee cap, with the exception of legal. Development partner unanimously agreed. Decision to restart – absolutely not.</p>
LD	Governance	
11.	Can you describe the governance arrangements that were in place to manage this project?	<p>BB – project board in place and Senior officers group. JCole – formally constituted? BB – an informal group. JBrooks – membership? BB – himself, NC, DH, LG, input from Bryan Lyttle/others as needed – Colin Broughton, Shiraz. Processes – reports then to NTCTG, then Management Board/Executive.</p> <p>BB attendance at informal group, in hindsight probably not best use of his time. Would meet sometimes, but was also necessary to speak to officers on an individual basis.</p>

		<p>LDillon – project board minuted? BB – not a project board then as would be now. LDillon – project board made recommendations to NTCTG? BB – yes & minuted at NTCTG.</p> <p>BB also holds significant email dialogue. JCole – how far back? BB – directly five years. Ten years by request.</p>
12.	<p>There were a few occasions where information was agreed to be provided to governance groups but was not followed through/picked up at the next meeting of the group. Consideration be given to having a specific Project Group for the new LRIE with minutes of each meeting and outstanding actions would help address any such omissions in future. Inclusion of a risk register and forward plan etc? Your view on this?</p>	<p>BB – once development partner appointed felt that risks were with them.</p> <p>LDillon – outstanding actions followed up on? BB not necessarily picked up. Key risks were outlined in committee reports. Julie G – more detailed project risks.</p> <p>LDillon – have lessons been learnt for improved processes? BB – project management methodology much improved. The type of Project Board that would be set up today would have been useful to meet regularly, i.e. for communications, but not practice at time. Would now seek to be more prescriptive.</p> <p>BB confirmed he had undertaken formal project training – Prince Foundation in 2008.</p>
JC	Lessons:	
13.	<p>There was no project group/board set up for the LRIE. For the new project there is a project board, and highlight reporting via the Programme Board. However there is no project group, so the communication/progress on the day to day basis is on a more informal basis, suggest a project group to formalise officer discussions and communication</p>	<p>BB – need for project group. As tier below project board.</p> <p>CR – anything different that could have led to a different decision? BB – bitterly disappointed personally. But could not identify a way of foreseeing losing at Court of Appeal. St Modwen not looking to a different scheme.</p> <p>LD – too ambitious based on resources, the market, recession? BB – felt not. Took fairly simple route, passed risks to consultants. Did not pursue football club site until vacant possession understood. Not seen as a risk. JC football club key to development? BB – yes and remains so.</p>

	<p>and decision making, and create a central project repository for project information and correspondence. Your view on this?</p>	<p>JB – What was the upside of not taking to OJEU? BB – officers had no issue with the OJEU route. All used to it. Not something to strongly avoid, but ultimately not done.</p>
<p>14.</p>	<p>Could things have been done better at the time?</p>	<p>BB – felt very tough decision by Court of Appeal. Was open to ideas on the new proposal.</p> <p>JC – Was a central project repository needed? BB – agreed useful.</p> <p>JC – Areas of learning? BB – avoid single points of failure. Ensure ability for others to pick up work, need for greater resilience.</p> <p>SCI – Did officer project group meet regularly? BB – encompassed many, many emails. Not formally constituted. SCI – Was it therefore the case that project group did not all hear everything? BB – accepted that, but raised issues as necessary based on importance – better via fixed meetings than running around.</p> <p>LD – ref to project board agenda from NC. JG – a wider programme board. JC – not consider lower level detail. That the role of the project group. LD – Project group operational rather than strategic. BB – needed for operational.</p>

OSMC TASK GROUP: LONDON ROAD INDUSTRIAL ESTATE

Minutes of the meeting held on 14th February 2020

Councillors present: James Cole (Chairman), Jeff Brooks, Claire Rowles and Andy Williamson

Also present: Stephen Chard (Principal Policy Officer), Sarah Clarke (Head of Legal and Strategic Support) and James Townsend (Policy Officer)

Apologies: Councillor Lee Dillon

Gordon Lundie:

Introductory question: What was your role at the time of the project?

Leader of the Council between August 2012 and November 2015. In his role as Leader he was involved with the Vision, Parkway and Market Street. Worked closely with the Chief Executive on the strategy relating to these matters which included LRIE.

1) Can you detail the governance that was put in place to ensure that the project for the redevelopment of the London Road Industrial Estate was effectively managed and progressed?

GL was part of the Executive from 2010. LRIE did not fall in his portfolio, this was more in the remit of Councillors Alan Law, Joe Mooney and Keith Chopping.

More involved, with the Chief Executive, from 2012. This included the Feasibility Study produced by Strutt and Parker.

Recalled discussions on the type of development for the LRIE – i.e. a mix of housing, industry and retail. There was much discussion on the Feasibility Study at Management Board/Operations Board. Looked at benefits that could be achieved for the Council and beyond.

In feasibility discussions with S&P looked at larger companies, potential for higher rates. Also more sustainable jobs. [REDACTED].

Selection of developer, had a shortlist of 6. S&P involved in the process that resulted in the appointment of St Modwen. The JR forced work to come to a halt.

[REDACTED]

Between 2012 and 2015 strategic decisions, not the day to day, were discussed by Management/Ops Board and taken by Executive.

Also referred to private meetings and more detailed discussions between Nick Carter and senior Members. GL stated that he had full confidence in the work of Nick Carter and Bill Bagnell.

[REDACTED]

[REDACTED]

FDL were in the shortlist of 6 after following the selection process rules. However, scored/ranked lower than others when it came to selection.

[REDACTED]

[REDACTED]

[REDACTED]

GL stated that he believed that a fair process had been followed to select St Modwen. GL felt that St Modwen were the most credible and capable.

2) Can you recall who provided the Council with advice regarding this project? & 3) Did you have any concerns about the advice received?

Main advice came from Strutt and Parker, [REDACTED]

[REDACTED]

S&P outlined a business plan which showed the costs but also the benefits to WBC including income to be received over time.

A discussion within Management Board was that WBC should take forward development themselves and not appoint a developer, thereby achieving a bigger financial receipt. [REDACTED]

[REDACTED]

[REDACTED]

Was a process followed to appoint Strutt and Parker? GL stated that this decision was made before he became an Executive Member.

Any concerns at S&P recommendations for shortlisting? [REDACTED]

Was the advice of S&P in relation to OJEU challenged? GL felt that this advice was surprising and had concerns, but was told this qualified as a land transaction. GL had no reason to believe that was incorrect. Bond Dickinson were employed to provide extra validation/a second opinion on this legal advice.

What was achieved by not following OJEU? Saving of time/money? GL – viewed as an unnecessary step. Would not go through OJEU route when unnecessary.

4) Were you/the Executive given details of the costs of the project?

How were costs monitored and additional sums signed off? Was there an escalation in costs?

GL stated that he had no clear recollection over costs. He could not recall regular reviews of total costs, but such projects were expensive to run. If a larger than expected sum came through then discussed with Chief Exec. Costs had to be agreed of gaining a second opinion, it was costly to bring in expertise. GL felt that Chief Exec was good at managing long term projects.

GL could not recall a specific budget, but had a strong expectation that there would have been, managed by Nick Carter/Bill Bagnell with oversight from Portfolio Holders.

As Leader, GL held monthly meetings with each Portfolio Holder on their performance in the role etc, but did not discuss detailed budget monitoring within that, more so oversight of projects etc in their entirety.

With the benefit of hindsight, what, if anything, could have been done differently? Any areas of learning? [REDACTED]

Approach to project management? GL stated that he had been critical of the Council's project management. Considered it to be too slow and inconsistent. However, expectations of local authorities and their capabilities had to be considered, although little difference was made with project management from employing external expertise.

GL stated that he had complete confidence in Nick Carter and Bill Bagnell and trusted their skills. They worked well with partners. So, overall, project management in WBC was adequate. Felt that progress was made with project management approach in his 3 years as Leader.

Jeff Beck

Introductory question: What was your role at the time of the project?

Was Chairman of the Newbury Town Centre Task Group (NTCTG).

1) Can you please confirm the role of Newbury Town Centre Task Group in the governance of the project for the redevelopment of the London Road Industrial Estate?

The NTCTG was advised by officers on the redevelopment process. Subject was debated and the NTCTG provided comments and views on the redevelopment.

The NTCTG was cross-party and was not solely made up by Newbury Members.

JBeck stated that the NTCTG considered that the process followed with LRIE was correct and legal, and would bring benefits to the community. Members on NTCTG considered that LRIE needed to be brought up to date. This was the general consensus of the Members.

NTCTG – a decision maker or advisor?

JBeck stated that the group discussed proposed options and acted in an advisory capacity on those options. NTCTG also made decisions over process, i.e. procurement process to be recommended/followed.

Final decisions were made by the Executive.

2) Can you recall who provided the Council with advice regarding this project?

Strutt and Parker provided the Council with advice on any potential developers.

3) Did you have any concerns about the advice received?

JBeck stated that he had no serious ongoing concerns with Strutt and Parker and the advice they provided. Advice from officers and Bond Dickinson was that the approach was legally sound and could proceed.

Decision to select St Modwen, rather than FDL? JBeck – decision taken to select St Modwen a genuine decision based on their capability and development of other sites.

[REDACTED]

Sites were visited. Members visited sites suggested by each of the shortlisted candidates. Helped inform judgements.

Councillor Beck stated that he was satisfied with the advice given to the NTCTG. He thought it was reasonable and thorough.

Who made the decisions on S&P and Bond Dickinson? Councillor Beck stated that options/decisions were discussed collectively by the NTCTG based on advice and recommendations of officers and the recommendations that came from consultants. The decisions were made/signed off by the Executive.

JBeck felt that the appointment of St Modwen was the first choice of all Members involved.

4) Were the Task Group given details of the costs of the project?

NTCTG was kept informed, particularly of external costs. Less so internal. Neither overall costs of implementing the project, but felt fully visible when necessary/transparent.

What was the process for agreeing money to advisors, particularly additional costs? What controls were in place? Councillor Beck stated that any cost requests were closely scrutinised and additional costs/charges were not accepted lightly. Questions were asked as to what funds were needed for to be clear as they arose. The Executive/Portfolio Member then signed these decisions off.

What was the involvement of Bond Dickinson? Councillor Beck said that they advised on the legality of the process.

Anything that could have been done differently? Councillor Beck felt not. WBC followed its set processes to the letter. No undue concerns were raised, i.e. by the NTCTG, other than it was a time consuming process.

Did the NTCTG make the decision on not going to OJEU? JBeck – NTCTG were advised, but did not make the decision. Believed decision was for officers.

Keith Chopping

Introductory question: What was your role at the time of the project?

KC – from memory – was on the Executive, but not on the NTCTG. Recalled attending NTCTG but this was in advance of the LRIE redevelopment.

He had his own views which he made clear for the LRIE – this was a WBC owned site. He felt the Council should not look to others to develop/make a profit on LRIE when it was WBC's land. KC argued strongly for this approach with Executive, but it did not proceed that way.

Did KC consider that the Council held the expertise to progress project internally? KC – if not held then would have been necessary to employ externally. WBC could have created a professional team. KC felt that the Council should have consulted with/worked with local commercial agents. He still held this view.

KC stated that key decisions were taken by the Executive.

1) Can you detail the governance that was put in place to ensure that the project for the redevelopment of the London Road Industrial Estate was effectively managed and progressed?

KC had little to add on this point. Once he had made his strong views known, he played little part.

He could not particularly recall updates at Management Board or Operations Board.

KC have covered many portfolios, but did not have strong recall of holding the Property Portfolio. Felt LRIE fell in the remit of other Portfolio Holders.

2) Can you recall who provided the Council with advice regarding this project?

KC stated that he couldn't recall who provided the Council with advice regarding the project as he was not involved in this part of the process. Believed it to be largely internal.

He did not recall meeting Strutt and Parker.

3) Did you have any concerns about the advice received?

Not involved in this aspect.

4) Were you/the Executive given details of the costs of the project?

KC unable to offer any information on costs.

St Modwen were selected and it was felt that they were an organisation that could handle such a large project. It was also acknowledged that it would be a long term project due to the makeup of the site and the number of leases. KC agreed with the recommendation put before Executive to appoint St Modwen.

[REDACTED]

KC stated that legal advice was received on not following the OJEU process. Advice was that OJEU did not need to be followed. It was a relief that this did not need to be followed, but it had been his expectation that the Council would have followed OJEU in line with its risk averse approach.

Paul Bryant

Introductory question: What was your role at the time of the project?

A Member of the NTCTG. Also on Planning Policy Task Group. NTCTG received information, advice, guidance etc for the LRIE.

Recalled the view being formed that a comprehensive redevelopment was needed for the entire site and not on a piecemeal basis. A masterplan was needed. It was recognised that redevelopment would take a long period of time.

Recalled that the Faraday Plaza proposal was a complication as was the football ground. Otherwise there were no other areas of concern.

1) Can you please confirm your understanding of the role of Newbury Town Centre Task Group in the governance of the project for the redevelopment of the London Road Industrial Estate?

The NTCTG was an advisory group for the relevant Portfolio Holder(s). A purpose of the group being to discuss and debate the redevelopment/its proposals. This would help to advise the Portfolio Holder in advance of decisions being taken by the Executive in addition to officer advice. PBryant recalled Pamela Bale attending as Portfolio Holder for the Visions.

At this time this was a new area of activity and it was necessary for the Council to feel its way forward.

He recalled that the NTCTG was a minuted meeting.

PB was not involved in the site visits. He did recall each candidate presenting their case for the redevelopment. It was difficult to differentiate between the stronger bidders.

The NTCTG was advised of the St Modwen selection. Paul Bryant said that he felt that St Modwen had a reasonably strong background in this type of area and felt they were competent to handle large developments based on their experience. He then stated that the Task Group gave their opinion to the Executive and from there it was decided that St Modwen were the best option.

2) Can you recall who provided the Council with advice regarding this project?

Paul Bryant stated that the Council were given professional advice, but that he could not recall who from.

The consensus among the NTCTG at least was that expert/external input was needed and that the Council could not do this alone. He was not directly involved in the appointment of the advisors.

3) Did you have any concerns about the advice received?

Paul Bryant stated that he did not have any concerns with the advice/recommendations from Strutt and Parker. The consensus on the Task Group was that this was a sensible way forward and no concerns were raised. The NTCTG supported getting a developer in.

The task group did not have oversight of the legal advice and would not be involved in this aspect. His assumption was that legal processes would be followed.

4) Were the Task Group given details of the costs of the project?

Paul Bryant stated that he believed he saw some initial seed costs for the receipt of advice. He felt that pre tender costs were estimated, a 'finger in the air', rather than a set budget. He could not recall a budget being outlined to the Task Group. It would have been difficult at the outset to cost a budget when the project was expected to run for a long period of time.

He added that he could not recall the costs of advice from Strutt and Parker, he believed they were relatively minor costs. He was unclear on costs of legal advice. Actual construction costs were held separately.

PB recalled his expectation that the Council would have followed OJEU. He was unclear if OJEU had been followed or not, only a vague recollection that was not followed. The NTCTG did not hold the necessary expertise to have made the decision to not follow OJEU route. Did not remember NTCTG discussing OJEU.

Lessons learnt - PB stated that legal expertise had to be employed where necessary for advice and that advice had to be closely followed by those involved.

With the benefit of hindsight, PB did not think that the Council could have done any better. More questions could perhaps have been asked on processes, but the approach for LRIE was little different to that taken for other major projects such as Grainger or the Veolia contract.

Roger Hunneman

Introductory question: What was your role at the time of the project?

RH involved as Ward Member and a Member of the NTCTG for many years.

1) Can you please confirm the role of Newbury Town Centre Task Group in the governance of the project for the redevelopment of the London Road Industrial Estate?

RH stated that much time had passed since he was involved – over 6 years ago – so was difficult to recall. Any records he had were on his WBC laptop which he no longer had. There was no public record of the NTCTG.

RH stated that he did not think that the Task Group played a big role. He could not remember the task group taking votes on ways forward, although highly likely that options would have been discussed and views given in advance of going to the Executive. However, did not want to speculate when he was unclear on the details.

RH was Deputy Leader of the Opposition at the time and that from as far as he was aware, everything seemed to be in order/as it should be so little need to challenge extensively. Regular briefings were received from the Chief Executive.

2) Can you recall who provided the Council with advice regarding this project?

RH remembered WBC hiring external consultants to provide advice over the redevelopment of the LRIE. Recalled having sight of this on the NTCTG. Strutt and Parker advised the Council. RH added that legal advice was provided by the Council's legal team, specifically from Shiraz.

3) Did you have any concerns about the advice received?

RH said that he had some concerns, particularly with the benefit of hindsight, over the avoidance of a public procurement process and not wanting to publish in the OJEU. He recalled legal advice that this was unlikely to be challenged.

The OJEU process was discussed and Legal were asked for advice. The advice was that OJEU did not need to be followed as this was not a public procurement – he accepted this view from legal advisors. RH was concerned re avoidance of OJEU but he was put at ease on receipt of legal advice.

RH recalled Members being informed that OJEU process would take more time, create more work and add costs. Avoidance of OJEU would be quicker and more cost efficient. There was a desire to crack on with the work. There were also resource limitations.

RH restated the view that legal concerns were addressed adequately by legal officers and by Strutt & Parker. Therefore, no particular objections or need to challenge. High majority of Members wanted the project to proceed for the good of the community.

RH was not personally involved in the site visits. Recalled that St Modwen were considered to be a robust partner who scored strongly. Felt that selection of St Modwen was a sound decision that followed a thorough process. Could not recall any particulars relating to FDL.

4) Were the Task Group given details of the costs of the project?

RH did not recall detailed discussions on costs at NTCTG other than a general oversight of total budgets and headline figures. However, felt that Strutt and Parker costs were seen by the Task Group.

Lessons learnt – RH felt that a through process had been followed at the time, although difficulties had since followed.

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JC	General	
	<p>Can you please describe your involvement in the LRIE project?</p>	<p>Asked by Chief Executive to be involved. Project run by Chief Exec. DH closely involved prior to leaving WBC.</p> <p>DH a member of Corporate Board.</p>
	<p>At what stage did you / Legal Services become involved?</p>	<p>Involved in Parkway, Market Street, LRIE.</p> <p>Legal Services had been reduced by that time – approx 12 FTE.</p>

CR	Advice	Answers
1	Can you recall whether you were asked to provide legal advice in respect of the project?	<p>Regularly asked. DH advised personally or delegated to a member of the Legal team.</p> <p>Unable to recollect specifics.</p>
2	(If you were asked to advise) were there any specific elements that you were asked to advise upon?	<p>Gave advice on risk elements, probity, regulation.</p> <p>Legal rules and WBC rules.</p>
3	How involved were you, if at all, in advising the Council on the appropriate procurement route that was used to identify a developer for this project?	<p>Legal Service was involved. Procurement expertise held internally by Shiraz and small Procurement Team.</p> <p>Felt likely would have employed external counsel.</p> <p>The topic featured frequently at Corporate Board. Recalled producing a report over a weekend.</p> <p>Clear message from Chief Executive to get on with the project.</p>

<p>4</p>	<p>As the project progressed were you comfortable that this option remained the most appropriate route?</p> <p>Or</p> <p>Did the Council review the decision that OJEU did not apply to the project as that progressed, in order to consider if that remained the best option for progressing this?</p>	<p>DH – not necessarily, were many risks.</p> <p>Discussions held with Bond Dickinson re legal advice/action.</p> <p>Efforts were made to keep costs down, but difficult as things changed.</p> <p>DH had no clear recollection of detailed discussions re the OJEU process. Cost of OJEU could have been a factor on that decision.</p> <p><i>On what was the decision to not follow OJEU based – i.e. exempt as a land sale?</i></p> <p>DH – land sale one of many aspects. Would have highlighted risks of not following OJEU – WBC a risk averse authority. Felt he would have pushed back on this point.</p> <p><i>Who led the discussion/decisions around the OJEU process?</i></p> <p>DH stated that it was Nick Carter, Strutt and Parker, and potential partner.</p> <p>Recalled being given view that needed to proceed with minimal delay. Unclear why such urgency at the time. Although DH stated not 100% on this point.</p>
<p>5</p>	<p>We are aware that external legal advisers were involved in assisting the Council with this project. Can you describe the processes that were followed to appoint those external legal advisers?</p>	<p>DH recalled 3 quotes being received for Developer Agreement. Bond Dickinson were appointed. They held the necessary planning/procurement specialisms and had been used by WBC before, i.e. for CPOs.</p> <p>DH recommended Bond D to Nick Carter – was agreed. This followed usual practice. Shiraz and Mike Sullivan also involved. Bond D work was limited to a paper based exercise due to resource limitations.</p> <p>Shiraz involved as when needed, not throughout though.</p>
<p>6</p>	<p>In your opinion, was that an appropriate route by which to determine the most appropriate legal advisers?</p>	<p>See above.</p>

7	What were the external legal advisers asked to advise upon?	Procurement process
8	What advice did you receive regarding the project and how was that advice communicated to relevant officers and Members?	<p>David Holling sought views on the Developer Agreement. Alterations were made as a result.</p> <p>[REDACTED]</p> <p>Amended Developer Agreement presented to/provided to Nick, Corporate Board and Project Group.</p>
9	Can you recall whether you had any professional view on the advice received by the Council that it did not have to go through OJUE to appoint a partner?	<p>DH - No, as not a procurement lawyer.</p> <p>Mike Sullivan, Shiraz involved and they disagreed with some of the external advice provided which was challenged.</p> <p><i>Was the Council advised that OJEU unnecessary? What was the Bond Dickinson advice on that?</i></p> <p>SClarke – legal view/internal view that project amounted to a land transaction and outside of OJEU.</p> <p><i>Was it routine to seek a second opinion?</i></p> <p>DH – would do so, subject to available budget.</p> <p><i>Did budget restrictions prohibit the seeking of further advice?</i></p> <p>DH - yes, but can't remember specific examples</p> <p><i>Was there a budget for external advice?</i></p> <p>DH – not a set budget. Would need to find funds for external advice as and when needed.</p> <p>DH stated that costs were monitored, he reported legal costs to Nick every three weeks.</p>

10	Did you obtain external legal advice on this point?	See above – Bond D.
JB	Costs	
11	The expressions of interest received from the law firms contacted by Legal Services suggest that the project (in terms of negotiating and signing the DA) should have been delivered for considerably less than the actual costs incurred. Can you explain how that happened?	
12	Who approved the legal costs?	
13	How were the legal costs monitored?	
14	Can you detail how the escalating costs were communicated within the organisation?	

LD	Governance	
15	Can you recall the systems or processes which the Council had in place to ensure appropriate governance existed for these types of projects?	<p>DH – were many:</p> <ul style="list-style-type: none"> - Legal SMT - Corporate Board - Project Board - Working Group (incl. Bill Bagnell/ Shiraz) <p>Could not recall if Project Board/Working Group had formal agendas/minutes. Nor recollection of discussion of the project management methodology.</p>
16	Did you sit on a project group / board for this project? If so, can you recall who else was on that project group?	See above
17	The advice obtained indicates that there was a level of risk in the chosen route. How was that risk articulated to senior officers and members?	<p>Reports produced highlighted areas of risk. Recalled many risks - commerciality, letting ability of the site, potential challenges – including from existing owners/ lease holders already on the site who might want to remain. Responsibility for risks was co-ordinated.</p> <p><i>Consultation with businesses in response to their concerns? Was there an impact assessment for those businesses?</i></p> <p>DH recalled discussions. Some businesses had been on site for any many years. Was a very useful site for garages.</p>

18	Do you consider that the specialist legal advice, and the level of involvement of the external legal advisers was appropriate for a project of this scale?	<p>DH: Yes</p> <p><i>Was there the necessary budget?</i></p> <p>DH stated that there was not the experience or capacity internally. 12 FTE in Legal for the entire Council. Therefore necessary to seek external legal advice.</p> <p>However, DH thought that Bond Dickinson gave reasonable/good advice to the questions asked of them.</p> <p>Time restricted the potential to be more thorough.</p>
JC	Learning	
19	Do you have a view on where things could have been done better at the time?	<p>David Holling felt that more time should have been taken to work through/think through options. Not time to fully consider legal matters.</p> <p>Felt the project was rushed, WBC wanted to get site redeveloped.</p> <p>Stated that the pace of the project was regularly discussed with Nick Carter.</p> <p>Also political/Administration drive to redevelop and show that Newbury was more than just a market town.</p> <p><i>Further points?</i></p> <p>David Holling stated that a team of experts would need to be in place to handle a project of this size. Greater resource was needed. He would have liked more personal capacity to be involved.</p> <p>He felt that a request for more resource would have been turned down.</p>

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Alan Law – 4 March 2020

Alan Law provided and read out a personal statement – ‘My involvement with LRIE 2013-2015’ outlined as follows:

My direct involvement with the LRIE Project was both short (circa July 2013 – circa Feb 2014) and was limited to assisting with the final phase of selecting (recommending) a Joint Venture Development Partner.

I was elected in May 2007. From May 2008 until July 2012 I was the Portfolio Holder for Planning. As such, being the Executive Member responsible for the Local Planning Authority, I could not have any involvement with the property or land owning side of the Council or whenever the Council acted as a property developer as it did with Market Street and LRIE.

I was of course aware, through my attendance at Operations Board and Executive meetings, of the Council’s general intent to develop both areas as part of the Newbury Town Vision 2026. However I was not at all involved in any details and my only recollection of anything significant relating to LRIE was a discussion at Ops Board/Executive (mid/end 2010?) concerning the need to consolidate the many different leases within the LRIE site.

From July 2012 until May 2015 I was Portfolio Holder for Finance. I later added the Property and Human Relations portfolios in 2013. Property under Richard Turner was mainly involved with Council owned buildings, the majority of which were schools. London Road was not however part of the Property Portfolio at this time. It was the responsibility of Bill Bagnell working directly with Nick Carter and its Member governance was covered by the Newbury Town Centre Task Group, within Pamela Bale’s Visions portfolio.

The first time I ever heard the term OJEU was at an Ops Board discussion prior to Executive in September 2012. I recall asking what exactly is OJEU? and having it broadly explained as EU procurement rules and regulations. I recall some discussion about whether or not we would need to follow OJEU rules in this case, but I am not certain if this was first raised at this meeting or at a later meeting.

In any case in mid-2013 (July?) I was asked by Pamela Bale and Nick Carter if I would join a small cross party working group to help in the selection of the preferred developer. I do not have the precise dates of any of these meetings but there were 3 or 4 of them during the remainder of 2013 and start of 2014. Other Members of this group were Cllrs Pamela Bale, Jeff Beck and Roger Hunneman, plus Nick Carter and Bill Bagnell. Other attendees were Shiraz Sheikh and/or Head of Legal, David Holling. Also present at all meetings were representatives of Strutt and Parker, property development consultants to the Council on the LRIE project led by Brian Raggett and Simon Underhill.

Prior to my involvement with this selection working group, I believe the question of OJEU had been raised (probably at an Ops Board meeting in May/June 2013). Subsequently, at one of the following working group meetings (it may have been the first I attended but I cannot be sure) both David Holling and Shiraz Sheikh were

present and they clearly stated their legal advice, following external legal advice. It was that we did not need to follow OJEU procurement rules as this transaction was via a land sale and as such did not qualify for OJEU procurement rules to be applied. This statement was accepted by all and I don't ever recall the question ever being raised again within this group.

The first meeting of this group which I attended was following the short list being narrowed from 6 to 3 bidders (August). I was not involved in this initial filtering. The three shortlisted candidates were: St Modwen, Frontier Estates and Wilson Bowden. A further meeting was a presentation from the 3 shortlisted candidates and there were also two lots of site visits to examples of the 3 shortlisted developers in late October 2013. The main criteria for selection was: could they do the job envisaged (advised by S&P they all were capable), but the most important selection criteria was which one did we feel we (the Council) could best work with during a long term partnership. In the final analysis, and I believe it was unanimous, we all felt most comfortable with the St Modwen team and with the quality of their build and project management (particularly as seen and experienced at a site visit near to Weston-Super-Mare). Final selection and recommendation of St Modwen as our JV partner was made by the group in early 2014 (February I believe). This was the last time I was involved with this group and I am not aware of this small selection group ever meeting again after early 2014.

Following our recommendation, the process then moved to acceptance of the recommendation by Executive and then onto final legal contract negotiations. Final approval to proceed and to conclude a legal agreement with St Modwen was approved at Executive on 20/11/14. I understand the agreement was finally signed by both parties in October 2015, by which time, following the election in May 2015, I had moved back to the Planning Portfolio and had not further involvement with the LRIE project.

In early 2016 I was aware of a legal challenge and court case involving Faraday Development Limited but I was not involved and I had no detailed knowledge of any of the issues or arguments or costs involved. I finally left the Executive in July 2016, before the initial court judgement or any of the subsequent appeal cases occurred. Therefore, I had no contemporaneous knowledge of the rationale for the cases, or the defence of the cases or the costs involved. My limited knowledge of these events has subsequently come via the press and Council statements, just like everyone else not directly involved.

Q&A

1. *Can you describe your involvement in the LRIE project?*

Outlined in the personal statement.

2. *Can you detail the governance that was put in place to ensure that the project for the redevelopment of the LRIE was effectively managed and progressed?*

Outlined in the personal statement.

3. *Can you recall who provided the Council with advice regarding this project? &*
4. *Did you have any concerns about the advice received?*

Discussions already referred to at Ops Board in relation to OJEU. Firstly in September 2012 when AL sought clarity on the OJEU process. Then again in May/June 2013. *Covered in personal statement.*

Firm recollection that Shiraz Sheikh and David Holling attended a cross party working group to give advice on OJEU after they had received external legal advice. *Covered in personal statement.*

Was there any surprise at the advice to not follow OJEU?

AL - not at that meeting.

Believed it was questioned at Operations Board.

Legal did their job on this. They procured external advice which was followed. It was categorical advice.

5. *Were you as Finance Portfolio Holder/the Executive given details of the costs of the project?*

High level budget management did not go down to a project by project basis. There was no line by line analysis of costs. The reliance was on officers to monitor expenditure and report exceptions.

AL recalled that Chief Exec's budget often funded many areas, including some projects, but no budget management issues there.

AL could recall the Legal budget being stretched in some years but could not remember the specifics.

Believed that project budget was set on a yearly basis as part of the Visions.

Was AL aware of the link between Wilson Bowden and FDL?

AL felt there was a loose connection.

6. *Is there anything further you would like to add that has not been covered/anything that could have been done differently?*

AL felt that a business case would have been useful.

Felt it was a lengthier process than expected.

Felt that projects that covered different service areas needed an overall project budget and formed using a zero based budget approach.

View on project management in WBC?

AL – Bill Bagnell was project manager and he involved expertise as when required, the necessary officers and Members etc. AL did not feel that a changed project management approach would have made any difference to the outcome.

Was the project discussed at Cons Group meetings?

General process for final papers to go to Group ahead of Exec/Council.

Awareness of process in appointing advisers – i.e. S&P?

AL believed S&P involved from the outset, also involved with Parkway. Believed that S&P had a long history with WBC and had worked closely with Nick Carter. Felt they were competent.

Governance by the NTCTG was questioned?

AL – NTCTG was a sub-section of the Visions. He was only involved in 2014 when his portfolio included Visions and economic development for a period of time.

AL wanted area task groups to work together across the district and not be separate. As such he looked to remove the NTCTG and replace it with a district wide approach that would be able to have a greater reference in the Core Strategy.

Was the pace of the project appropriate?

AL - in retrospect - no, was very time consuming. AL felt that he would likely have questioned this. However, that was partly due to the nature of local authorities and how they operated. Progress was also restricted by the various leases on the LRIE.

James Cole felt that tighter project management was a potential area of learning.

Was there a focus in the Executive to push the project through quickly as this could have limited the advice and guidance received?

AL unable to give a view on that point.

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Graham Jones response dated 9 March 2020

Stephen

All my comments are from recollection and I cannot remember timescales accurately.

The project was commissioned sometime after Sept 12 and before Sept 15. I don't recall being on the Exec at the time and was not on the working group. I understand that the project and the way it was commissioned followed the recommendation of a cross party working group which in understand had legal advice. The Executive minutes at the time show cross party support for the recommended actions.

I was Deputy Leader and then Leader from Sept 15 to May 19. I recall discussions during Roger's time as leader but cannot recall detail. After I returned to the leadership in early 2017 the project had been commissioned and the case taken through legal process by Duncan Crook/his company. His initial case against the council was lost but he was given leave to appeal. Subsequently the legal process supported part of his case.

At this stage, as so much time had been lost with the project we took the decision not to appeal the court decision as this would have two significant risks – the project would be delayed for a further significant period [REDACTED]
[REDACTED] We took the decision that it was at this stage in the public interest to restart the project. The potential costs were discussed but I cannot recall them.

Advice came from Counsel and the authority's legal team. At the time of the Court of Appeal decision there were a number of articles in national publications about the case as the court's interpretation was different to what many in local government was the established understanding.

I hope this helps and answers the questions as best I can.

Regards

Graham

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Appendix G

West Berkshire Council Officer Response to Faraday Development Ltd's summary questions:

1. What evidence supported WBC ignoring its obligation to carry out public consultation (including consultation with businesses, residents, employees and land-owners directly affected) prior to the DA (consultation relating to the Vision was not sufficient or reliable)

Response:

WBC did not ignore its obligation to carry out public consultation. There were throughout the process meaningful discussions with various stakeholders at various organised meetings for example the Town Centre task group and Croft. Strutt & Parker led various discussions too in formulating the Development Brief which subsequently was included in the tender (non EU) that was issued widely in leading property publications.

2. What evidence supported:
 - a. The original decision to avoid PPR?
 - b. Continuing to avoid PPR once aware of the risk of a third-party challenge (DA 25a)?

Response:

There is no such thing as the PPR. However I think Faraday Developments Ltd (FDL) refer to Public Contracts Regulations (PCR) however I am not clear of which one in particular.

It is wrong to state there was any decision to avoid the PCR. The Court of Appeal (CA) concluded at paragraphs 66 to 71 of its judgment that the public procurement regime had not been deliberately and unlawfully avoided.

*CA also stated that **“there is no evidence in this case, and indeed no suggestion, of the council having acted at any stage in bad faith, or with any motive to create a mistaken understanding of its objectives in entering into the development agreement or of the "economic and commercial reality" of the transaction.”***

In relation to b) it should be noted that the wording of the Development Agreement (DA) was proposed by St Modwen. The Council made amendments and additions to the wording proposed as it would do with any transaction and to diligently cover its risk whether apparent or not. Here it did so with external specialist advice.

3. Did WBC properly consider whether alternatives would deliver a lower risk/better outcome:
 - a. Procurement method?
 - b. Approach to regeneration (e.g. engaging with land owners and occupiers)?

Response:

WBC were advised by its property consultants, Strutt & Parker (SP). SP formed the procurement strategy as well as the development brief which covered the approach to regeneration. SP and the Council were clear that a wider advertisement of the opportunity for the LRIE regeneration would generate market interest. This led to nationwide advertisement of the development opportunity in the leading property journals, non EU tender and a thorough evaluation and award process.

4. Before committing to very substantial expenditure on the DA process, what evidence supported WBC deciding not to carry out risk and impact assessments relating to:
 - a. Holistic development?
 - b. The appointment of a single development partner?
 - c. Potential harm to occupiers, residents and land owners?

Response:

The Council commissioned a multi-disciplinary feasibility study into the regeneration of the LRIE led by SP. It did not decide on restricting the market to the single or multiple development partners. Indeed Wilson Bowden's bid was formulated with FDL as a junior consortium partner. The market responded better than expected to the LRIE opportunity and the shortlist included a range of developers.

At the time of entering into the DA there was no decision to dispose of the Council's interests in the LRIE. Any such decision was dependent on further evaluation of the land assembly or the parcels of land at the LRIE as they were packaged as separate development lots. Obviously at that stage there would have been a detailed consultation both in planning and land terms on how the development would affect the occupiers, residents and leaseholders.

5. Before committing to very substantial expenditure on the DA process, what evidence did WBC have to conclude that holistic regeneration through a single development partner would present the best outcome (economic, social, environmental)?

Response:

As above, I would refer to the multi-disciplinary team that was led by SP in recommending comprehensive regeneration of the LRIE.

6. Before committing to very substantial expenditure on the DA process, what evidence did WBC have to conclude that holistic regeneration would be viable?

Response:

The market responded to the published opportunity with lots of interest in a comprehensive regeneration of the LRIE. Both SP and short listed bidders were keen to point out that if the Council was to achieve its twin objective of regeneration and income maximisation from the LRIE it would be for the site as whole with appropriate land assembly and packages. As part of that was the construction of the link road and also the use of the football ground as a residential development to make the regeneration viable.

7. In pursuing an holistic approach, why did WBC as land owner disregard the 2025 Vision and its own planning authority in relation to appropriate land uses?

Response:

The Council did not disregard its 2025 Vision. The Vision clearly refers to both residential and commercial aspects.

8. Why was WBC's underwriting of a significant part of SMD's risk deemed to be appropriate. (Given that transfer of risk to SMD was key to WBC's justification for the DA in the judicial proceedings)?

Response:

As per earlier the DA was entered following thorough tender process (non EU) which led to a lot of interest in the regeneration of the LRIE. All shortlisted bidders presented bids on commercial terms. The decisions to dispose of parcels of land would not arise under the DA until the Steering Committee agreed to it. This meant that prior to the Council committing to any level of risk it would need to be satisfied that the disposal represented best value obviously remaining within the commercial parameters.

9. Why did the terms agreed in the DA differ so significantly from the Heads of Terms approved by the Executive, without referring back to the Executive?

Response:

The terms of the agreement and a summary of the DA were contained in the Executive report approved on 20 November 2014. The Head of Legal and Chief Executive had delegated authority to enter into agreement. We do not consider the DA changed significantly.

10. Why and how (given WBC's declaration in the judicial proceedings of having received expert legal advice) did WBC publish a VEAT notice described by the CoA:

"... the council was seeking to stress that concept, "an exempt land transaction", as the "object of the contract". This, it seems to me, was more than mere over-simplification. It was incorrect, or at best misleading."

Response:

The Council received specialist advice (Bond Dickinson) on the VEAT notice prior to its publication and its drafting. The Council was open and transparent about its intention to award the contract hence the publication of the VEAT notice. It contained factually correct information and the Council observed a standstill process before awarding the DA.

The Council's main purpose of entering into the DA was the redevelopment and regeneration of the LRIE. There was established case law both domestic and EU which was applied. The requirements set out by the European Court of Justice, in the Helmut Müller case stated that in order to determine whether the development agreement should be classified as a public contract for EU procurement purposes is that the contractor must be "directly or indirectly obliged to provide the works". The High Court undertook a detailed examination of the terms of the DA and analysed the practical impact of those provisions. The High Court concluded that the development agreement did not create an enforceable obligation on St Modwen to carry out the redevelopment and so it was not a public contract for the purposes of the EU procurement rules.

The CA agreed that the development agreement was not a public works contract at the time it was concluded because there were no enforceable obligations. However, the CA decided that the arrangement had to be looked at as a whole. In entering into the development agreement, the Council was committing itself to entering into a public works contract in the future without complying with the public procurement legislation.

11. In the context of financial returns, which was correct:

- a. The representation in judicial proceedings that the income stream from LRIE was significantly important to WBC and financial enhancement was the key objective of the DA ("to maximise returns from the property").
- b. The representation in numerous public meetings that the income stream from LRIE was not significant and financial enhancement was not the key objective of the DA.

& 12. In light of the CoAs characterisation one of the two main breaches committed by WBC ("*the unlawful direct award of contracts is the most serious breach of EU law in the field of public procurement*"), is WBC right to claim it was akin to a technical breach?

Response:

The Council has been clear from the outset and is evident in the DA of the twin objectives for the LRIE. Regeneration of the LRIE and income maximisation.

FDL are clearly stating excerpts from the CA judgment without context. We obviously don't want to mislead the Task Group by doing the same however we urge that both the High Court and CA judgments are read carefully. Judgements contain a detailed examination of the Council's approach. We also refer to our summary of the CA judgment if it would assist the Task Group. Please follow the link below.

<https://info.westberks.gov.uk/CHttpHandler.ashx?id=46767&p=0>

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Appendix H - Findings and Recommendations

Purpose of review:

To better understand the advice and guidance received in relation to the Council's decision when procuring a preferred partner for the LRIE redevelopment.

Terms of Reference Point 1 – To review the governance arrangements put in place by the Council to manage the LRIE development

Findings:

- 1(a) We hoped to find that Project Management had been a key aspect of this project, but in practice found no evidence of formal project management methodology having been in use by Council officers. The Council had a project management methodology in place from 2009 but this was only applied in relation to ICT projects, and as a result the records show a lack of project management controls; for example there was:
 - No evidence of formal project management meetings – minutes proved unavailable;
 - No obvious clear project budget (there were annual budgets);
 - No clear evidence of management of external consultants; and
 - There was a piecemeal approach to the whole project.
- 1(b) We did not find evidence that a clear business case was established for redevelopment of the LRIE. An early Strutt and Parker document did give some elements of a business case and it was clear that reports to the Executive certainly did give some details, but whilst there was a clear goal to secure redevelopment of the site, the route to that goal was not clear in the evidence presented to us.
- 1(c) Interviews with witnesses suggested that there was incomplete understanding of the purpose, role and responsibility of different individuals and groups in the process.
- 1(d) There was a lack of clarity over who was in charge of the day to day management of the project amongst officers.
- 1(e) It was evident from the interviews that some Members had been unclear as to the purpose of the Newbury Town Centre Task Group in relation to the LRIE redevelopment. The Terms of Reference of the Newbury Town Centre Task Group that we found were only in draft form, and there appears to have been an over-reliance on the Newbury Town Centre Task Group which was only a consultative body.
- 1(f) Although there was evidence of officers meeting as a group, and that group included the Chief Executive, Property, Planning, and Legal where necessary, there was no formal project group set up to oversee the whole project at the outset. The Task Group noted that a formal Project Group was constituted after the development agreement was completed with St Modwen, but that meetings of this group were suspended following the legal challenge.

- 1(g) The Council did monitor the progress of Strutt and Parker via regular updates provided by them, and it is evident that this information was shared with the relevant governance groups.
- 1(h) Project document filing and retention was good in some areas but not adequate in all areas. A great number of formal meeting documents were made available for this review, but document/record management was a concern for the task group as there had been some key gaps in some areas, such as the lack of a risk register, and of minutes of project management meetings.
- 1(i) The cost of the project was not fully understood at the outset of the project. This is in part due to the fact that the project developed in a piecemeal manner. Costs were however approved by Executive and allocated to the project at each stage. It is considered that a clear business case at the outset would have resulted in a better understanding of the full financial implications of the project.
- 1(j) Risk management arrangements were inadequate. Although there is mention of a risk register in the records there is no evidence of it actually being in place for the project - amongst other things this should have captured which individuals were responsible for the risk to the Council from this project at both Officer and Portfolio Holder levels.

Terms of Reference Point 2 – To review the advice and guidance received by the Council which resulted in the OJEU commissioning rules not being followed

Findings:

- 2(a) As the Council did not have sufficient expertise in house for a project of this size it was necessary to procure external expertise. It was noted that the in-house procurement expertise had been reduced, and that there was no sign of a proper skills gap analysis at the outset of the project.
- 2(b) The Council did seek support from external property and legal advisers at appropriate times.
- 2(c) Progress through the stages of the LRIE was piecemeal, in that each stage was gone through, and then it was presented to and reviewed by Members of the Newbury Town Centre Task Group, before being considered and determined by the Executive. As a result advice procured at each stage was procured on an ad-hoc piecemeal basis.
- 2(d) The Council had an established relationship with Strutt & Parker, who had been engaged to assist the Council with other redevelopment projects such as Parkway. While it was acknowledged that the Council had established a good working relationship with Strutt & Parker, there was some concern that there could have been “project creep” from one project to the next.
- 2(e) The advice, which was considered at appropriate times and by the Executive when taking decisions, indicated that the Council was acting properly in proceeding in the manner that it did. There is nothing to suggest that the advice received was irrational and there was evidence that what was proposed was not unusual.

- 2(f) The Council received clear unequivocal advice from Strutt and Parker that the transaction proposed was a land transaction and thus fell outside of the scope of procurement legislation.
- 2(g) The Council also obtained legal advice from both the internal Legal Team and external legal advisers, Bond Dickinson. The legal advice was also clear and unequivocal that the proposed land transaction was outside the scope of the procurement regime.
- 2(h) The reports to Executive and the minutes of the meetings where this was considered provide clear evidence that the Council had not closed its eyes to the question of procurement, and it was openly discussed and considered in meetings of the Executive. There was no intention to avoid compliance with any legal duty to undertake a procurement exercise.

Terms of Reference Point 3 – To better understand the cost of the initial advice and the subsequent cost of defending the Council’s position in the High Court and Court of Appeal

Findings:

- 3(a) The advice from Strutt and Parker was commissioned on a piecemeal basis. The failure to review all options for progressing this to conclusion means that the Council could not have known at the time whether or not a more effective outcome could have been achieved.
- 3(b) After the initial work undertaken by Strutt & Parker, the Council undertook a procurement exercise for further property work. A tendering exercise was undertaken at the Feasibility Study stage; there were 3 responses, and Strutt & Parker were awarded the contract with their quote of £39k. That exercise involved the Council’s Procurement Officer, who was independent of the project. The estimated value of the work was below the then threshold of the Contract Rules of Procedure requiring contracts to go out to formal tender, which was £50k. Strutt and Parker were then engaged to undertake the Opportunity Document and Market Testing work, and reports requesting the retention of Strutt and Parker for this work, together with the estimated costs, were approved by Executive. Strutt and Parker were invited to provide a fixed fee quote for the final stage of consultancy work on the project, the developer selection process
- 3(c) The Council undertook a procurement exercise via a written invitation to quote, prior to appointing external lawyers to assist with the project. An invitation to quote was issued to four legal firms, with local government experience and the specialisms required. Each of the firms responded and provided a quote, including details of the firms, and the lawyers who would assist, how they would approach the project, experience, and costs. The firm which submitted the lowest quote, Bond Dickinson, was appointed. However, no evidence was seen to demonstrate how the submissions had been assessed in order to ensure sustainability, efficiency and cost savings.
- 3(d) It is clear that the Executive was asked to approve costs at each stage of the project. We heard evidence that there were challenges regarding costs as the legal disbursements budget was limited and there were pressures on officers

to deliver work in unreasonable timescales. We did have some concern over how these costs were allowed to escalate, but it was felt that this was once again because of the piecemeal nature of the project.

- 3(e) The total cost of the project and litigation which followed was £946k. The construction of the LRIE Access Road incurred costs of £5.2m, which was funded in part by LEP funding, s106 contributions and DfT Challenge Funding.
- 3(f) The Council spent £156k on property consultants who advised in relation to the project.
- 3(g) The Council spent £58k on legal advice relating to the drafting and completion of the Development Agreement. The Council's in house legal team spent over 200 hours working on the project to the value of £27k. The hourly rate of officers in Legal Services is notably lower than lawyers with equivalent levels of post qualification experience in external firms.
- 3(h) The Council spent £378k on legal costs associated with the litigation which followed. In addition, 135 hours of officers time within Legal Services was recorded against the litigation which has a value of £18.5k.

Terms of Reference Point 4 – To review what lessons have been learnt from this case

Findings:

- 4(a) Evidence was submitted that suggested that consultation and communications with those directly affected was limited. This is disputed by officers but it is considered that communications could have been better.
- 4(b) Whilst it is clear above that there are some things that could have been done better in this project, when we ask the question "if we had been there, based on the records we have seen and the advice given that we have seen, would we have made any different decisions regarding the proposed redevelopment of the London Road Industrial Estate?" We came to a simple answer "No".

Recommendations:

- (1) OSMC should satisfy itself that the Council has in place appropriate project management methodology. This should be tested in order to provide assurance that this is now operating effectively and consistently across the organisation. This should include standardised documentation such as a risk register, and project sponsors should ensure that project managers understand their role. This would also ensure that appropriate governance structures, including Project Groups and Governance Groups are formally constituted and are understood by all.
- (2) All projects should be supported by a clear business case.
- (3) All projects should have a sufficient budget allocated to that project at the outset, including the cost of procuring external advice, and budgets should be monitored appropriately.

- (4) Each Committee / Board should review its Terms of Reference on an annual basis, possibly after the Annual Council Meeting to ensure that the Terms of Reference remain up to date and appropriate.
- (5) A review should be undertaken to ensure that any group fulfilling a governance role understands its purpose and function. All bodies need to understand the role they play in the decision making process.
- (6) The Council's Record Retention Policy should be reviewed to consider whether it is fit for purpose and being implemented uniformly across the organisation. It was considered that the Property Team, which appeared to have poor controls, could improve by establishing a formal document numbering system to reference and then store documents in a central repository. The current document was created for siloed services and is not ideal for long projects – in this era of relatively cheap electronic storage consideration should be given to permanent storage of all documents and emails relating to major projects, and to the long-term availability of such data in the light of future changes to software and storage media.
- (7) Project risks, including financial risks to the Council, need to be assessed and then recorded in a risk register for all projects. This risk register should document ownership of risks both at officer and Member level.
- (8) There is no justification for the Council substantially extending its in-house legal team for large scale (one-off) projects; the Council should continue to procure external expert advice where in house expertise does not exist, or where there is insufficient capacity in the in-house team.
- (9) External expert support for projects should be appropriately procured following a skills gap analysis at the start of the project. Procurement of external experts should be done transparently.
- (10) For future large scale projects OSMC should satisfy itself that the Council tests the market fully and assesses partners to ensure value for money.
- (11) External advice should be procured on the basis of the anticipated full project, in stages if necessary, and on the basis that it may not proceed through each stage of the same.
- (12) All officers' time should be recorded when dealing with large scale projects.
- (13) The Council should review and improve how it consults and engages with those who may be affected by the Council's proposals. Significant projects such as this should have a clear communications plan with a list of key stakeholders.
- (14) Legal Officers should be reminded that the Council's Contract Rules of Procedure must be followed when appointing external advisers which should be done in a uniform and standard process to ensure value and efficiency in accordance with those Rules.

- (15) Future partners should be expected to assist in reviews such as this free of charge and consideration should be given to making this a contractual requirement under the terms of engagement.

Local Government Association Corporate Peer Challenge - West Berkshire

Committee considering report:	Overview and Scrutiny Management Commission on 28 July 2020
Portfolio Member:	Councillor Lynne Doherty
Date Portfolio Member agreed report:	29 February 2020
Report Author:	Catalin Bogos
Forward Plan Ref:	EX3887

1. Purpose of the Report

To publish the results of the LGA Corporate Peer Challenge for West Berkshire Council and an action plan to address the recommendations within it.

2. Recommendations

To note the report and approve the actions that are being taken to address the recommendations within the LGA Corporate Peer Challenge Report.

3. Implications and Impact Assessment

Implication	Commentary			
Financial:	There are no direct financial implications as a result of this report. However, governance boards responsible for particular actions might identify such implications and manage accordingly.			
Human Resource:	There are no direct HR implications as a result of this report. However, governance boards responsible for particular actions might identify such implications and manage accordingly.			
Legal:	N/A			
Risk Management:	There are no significant risk management issues as a result of this report.			
Property:	N/A			
Policy:	There are no direct HR implications as a result of this report. However, governance boards responsible for particular actions might identify such implications and manage accordingly.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed		x		The actions planned in response to the Corporate Peer Review recommendations are

decision, including how it is delivered or accessed, that could impact on inequality?				expected to achieve service improvements for the benefit of all residents and staff.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		The actions planned in response to the Corporate Peer Review recommendations are expected to achieve service improvements for the benefit of all residents and staff.
Environmental Impact:				N/A
Health Impact:				N/A
ICT or Digital Services Impact:				N/A
Council Strategy Priorities or Business as Usual:	x			The actions planned in response to the Corporate Peer Review recommendations are expected to achieve service improvements impacting on the delivery of all Council's Priorities.
Data Impact:				N/A
Consultation and Engagement:	Corporate Board, Heads of Service, Portfolio Holders			

4. Executive Summary

4.1 This paper sets out the results of the LGA Corporate Peer Challenge which was undertaken here in November 2020. The resulting report from the LGA paints a positive picture with a small number of recommendations being made. The purpose of this paper is to set out these recommendations, facilitate debate and then set out how it is proposed to implement the recommendations.

4.2 The report highlights the current strengths of the Council's current leadership, governance and financial planning arrangements and sets out a number of suggested areas for attention, namely:

- Jointly design with residents the mechanisms through which to hear their voice more
- Respond to the desire partners have for the council to lead the setting of a clear direction for West Berkshire into the future and influence the place it should be – raising the ambition, establishing clarity of purpose and sharpening the focus

- Determine West Berkshire’s housing, economic growth and environment priorities, how they need to inter-relate and reflect them in the emerging respective strategies
- Make communications central to the council’s thinking
- The council needs to reassure itself that its approaches to demand management, modernisation, commercialisation and digitisation will deliver the anticipated savings for the authority
- Take stock of the council’s commercialisation agenda and related risk appetite
- The council’s accounts for 2018/19 have not yet been signed off by the Auditor – this needs to be addressed and the learning drawn out
- The Council Strategy needs to become central to the authority’s thinking and understanding
- Look at how to strike a better balance in relation to the council’s very extensive governance arrangements – ensuring proportionality through looking at how people use their time
- Extend opportunities for staff engagement
- Establish a focused programme to drive genuine transformation centred on the resident and improving outcomes

4.3 The action plan in Appendix D lists the actions planned in response to the key recommendations highlighted for reporting at Executive.

5. Supporting Information

Introduction

5.1 The Local Government Association (LGA) launched its offer of ‘sector led improvement’ in 2011. As a solution to reduce the inspection burden on local Government, the Peer Challenge has become the primary means for delivering sector led improvement. There are a number of different types offered but all local authorities are meant to have a Corporate Peer Challenge every four or five years.

Background

5.2 West Berkshire had its latest Corporate Peer Challenge in November 2019. Concluding their work, the LGA Peer Review Team produced a self contained report which is attached at Appendix C for Members’ information. The LGA Peer Review report is relatively brief and covers the findings, recommendations and details of the peer challenge approach. As a result, the information is not replicated here.

5.3 The report has been placed on the Executive agenda to formally acknowledge it and provide an opportunity for further debate. A copy has already been made available to all staff and Members and is available to the public via the Council’s website.

5.4 The recommendations in the report which are set out above are already being acted upon and Appendix D provides the full list of the actions being taken. These actions will

be incorporate in the refreshed Council Strategy Delivery Plan for 2020/21 which is currently being prepared.

Proposals

- (a) The strengths in each of the five core components of the LGA Corporate Peer Challenge and the recommendations included in the LGA Report are noted.
- (b) The actions in response to the Peer Challenge's recommendations and the allocation of these actions to governing bodies responsible for their delivery are approved by the Executive.

6. Other options considered

The Council found valuable the Corporate Peer Challenge process which reflects on the strengths recognised by fellow experienced Councillors and officers and also recommendations for further improvement. A careful consideration of the feedback, resulting in an action plan to address the recommendation, is the option that will achieve the maximum benefit from undertaking the corporate peer challenge.

7. Conclusion

The LGA Peer Challenge highlights that there is much for the Council to shout about in terms of its successes. It also identifies a number of recommendations for further improvement. Work has already begun on addressing some of the recommendations highlighted in the report. All of the actions in response to these recommendations will be built into the refreshed Council Strategy Plan for 2020/21 and beyond.

8. Appendices

Appendix A – Equalities Impact Assessment

Appendix B – Data Protection Impact Assessment

Appendix C – LGA Corporate Peer Challenge Feedback Report

Appendix D – Action Plan in Response to the Corporate Peer Challenge 2019

Background Papers:

None

Subject to Call-In:

Yes: No:

Wards affected: All

Officer details:

Name: Catalin Bogos
Job Title: Performance and Risk Manager
Tel No: (01635) 519102
E-mail Address: Catalin.Bogos@westberks.gov.uk

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:**
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;**
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:**
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;**
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;**
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.**
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.**

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

What is the proposed decision that you are asking the Executive to make:	Note the LGA Report and approve the Action Plan.
Summary of relevant legislation:	n/a
Does the proposed decision conflict with any of the Council's key strategy priorities?	No
Name of assessor:	Catalin Bogos
Date of assessment:	11/02/2020

Is this a:		Is this:	
Policy	Yes/No	New or proposed	Yes/No
Strategy	Yes/No	Already exists and is being reviewed	Yes/No
Function	Yes/No	Is changing	Yes/No
Service	Yes/No		

What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	Support further improvement by addressing the recommendations from the LGA Corporate Peer Challenge 2019
Objectives:	Executive to note the LGA report and approve the Action Plan produced in response to the report
Outcomes:	Areas of strength for the Council are maintained and further improvements are achieved in response to the LGA Corporate Peer Challenge's recommendations.
Benefits:	Improved services for residents in West Berkshire.

Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.		
(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
Group Affected	What might be the effect?	Information to support this
Age		
Disability		
Gender Reassignment		

Marriage and Civil Partnership		
Pregnancy and Maternity		
Race		
Religion or Belief		
Sex		
Sexual Orientation		
Further Comments relating to the item:		
Improvements are expected to impact on all residents in the district.		

Result	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	No
Please provide an explanation for your answer:	
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	No
Please provide an explanation for your answer:	

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).

Identify next steps as appropriate:	
Stage Two required	Not required.
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	

Name: Catalin Bogos

Date: 11/02/2020

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) (rachel.craggs@westberks.gov.uk), for publication on the WBC website.

Data Protection Impact Assessment – Stage One

The General Data Protection Regulations require a Data Protection Impact Assessment (DPIA) for certain projects that have a significant impact on the rights of data subjects.

Should you require additional guidance in completing this assessment, please refer to the Information Management Officer via dp@westberks.gov.uk

Directorate:	Resources
Service:	Legal and Strategic Support
Team:	Performance, Research and Risk
Lead Officer:	Catalin Bogos
Title of Project/System:	Action Plan in Response to the Corporate Peer Challenge 2019
Date of Assessment:	11/02/2020

Do you need to do a Data Protection Impact Assessment (DPIA)?

	Yes	No
<p>Will you be processing SENSITIVE or “special category” personal data?</p> <p><small>Note – sensitive personal data is described as “data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation”</small></p>	<input type="checkbox"/>	x <input type="checkbox"/>
<p>Will you be processing data on a large scale?</p> <p><small>Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both</small></p>	<input type="checkbox"/>	x <input type="checkbox"/>
<p>Will your project or system have a “social media” dimension?</p> <p><small>Note – will it have an interactive element which allows users to communicate directly with one another?</small></p>	<input type="checkbox"/>	x <input type="checkbox"/>
<p>Will any decisions be automated?</p> <p><small>Note – does your system or process involve circumstances where an individual’s input is “scored” or assessed without intervention/review/checking by a human being? Will there be any “profiling” of data subjects?</small></p>	<input type="checkbox"/>	x <input type="checkbox"/>
<p>Will your project/system involve CCTV or monitoring of an area accessible to the public?</p>	<input type="checkbox"/>	x <input type="checkbox"/>
<p>Will you be using the data you collect to match or cross-reference against another existing set of data?</p>	<input type="checkbox"/>	x <input type="checkbox"/>
<p>Will you be using any novel, or technologically advanced systems or processes?</p> <p><small>Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised</small></p>	<input type="checkbox"/>	x <input type="checkbox"/>

If you answer “Yes” to any of the above, you will probably need to complete [Data Protection Impact Assessment - Stage Two](#). If you are unsure, please consult with the Information Management Officer before proceeding.

Corporate Peer Challenge **West Berkshire Council**

19th to 22nd November 2019

Feedback Report

1. Executive Summary

Partners value the council for good quality delivery across a range of council services and performance indicators, the 'on the ground' joint working that it contributes to and its track record of securing external funding. The authority is using its influence effectively sub-regionally and, at a regional level, is seen as central to the very good relationships within the Integrated Care Partnership.

West Berkshire is a beautiful part of the United Kingdom, has very good transport links with the rest of the country and has a strong and diverse local economy. Partners are keen for these advantages to be built upon, involving the council stepping more fully into the 'place leadership' space. Within this, there is a need to identify West Berkshire's growth priorities and deliver a 'laser-like' honing in on the 'pockets of deprivation' and underlying social issues that exist. Also, more needs to be done to hear the voice of the resident increasingly consistently, more directly and on a wider range of issues.

Following the agreement of the Council Strategy in May, it is important that it now becomes central to the authority's thinking and understanding. It needs to act as the key driver for the organisation going forward.

The authority has a good track record of achieving savings and increasing income. The Medium Term Financial Strategy (MTFS) is currently being refreshed and this provides the opportunity for the council to both challenge and reassure itself in relation to its financial position and ambition. Significant savings are required in each of the next two years. The council cites demand management, modernisation, digitisation and new ways of working as being central to achieving what is required. It is imperative that these ambitions are fulfilled in order to ensure the council's financial position is safeguarded. The careful on-going monitoring arrangements that have been put in place around social care spend need to continue, with the signs so far being good.

The council's accounts for 2018/19 have not yet been signed off by the External Auditor, with the council being accustomed to unqualified statements being agreed much earlier for many years now. There is a lot of work taking place currently to resolve the matter, although some of the factors have been outside of the council's control. This work needs to come to a conclusion soon and the opportunity should be taken by the council to draw out the learning to aid it in future years.

West Berkshire has traditionally been a very stable council both politically and managerially. A greater degree of change has been experienced recently. The changed make-up in the elected membership has generated a new dynamic, with politics now much more to the fore and many officers experiencing a more complex political make-up for the first time. It is important that the council's adaptation around these changes continues to settle down.

The council's changed Executive and managerial leadership team are both seen to be impacting positively. The Executive is seen to be forging an increasing clarity around a refined political direction and set of priorities and are being supported by a Corporate Board combining experience and 'corporate memory' with new ideas and perspectives.

People are highlighting that capacity is very constrained in the organisation and clearly the demands on it continue. The way forward on this issue seems to us to centre upon concentrating on how to make the biggest impact upon commonly agreed goals in West Berkshire through viewing and using resource as an 'enabler' and seeking to 'free up', leverage and maximise the benefit gleaned from resources. This entails implementing a greater focus on the delivery of outcomes, looking to a more medium term horizon in relation to financial planning, developing an increased risk appetite, empowering staff and facilitating the contribution of other organisations.

The council has a very extensive set of governance arrangements and controls in place, raising a question of proportionality. How much added value is gained from the extent of what exists, in a context of the council already delivering well?

Opportunities for staff engagement have increased in recent times and there is both the potential and a desire to see this extended. The staff that we met revealed their thirst for knowledge about what is happening across the council and their desire and ability to contribute thoughts and ideas. A commonly recurring theme at all levels was that of greater empowerment being sought.

'Transformation' is talked about as a concept within the authority and there are good examples of it taking place 'on the ground'. Much time and effort is going into identifying change initiatives but things can't yet be seen to be translating into a focused programme of change and transformation.

2. Key recommendations

There are a range of suggestions and observations within the main section of this report that will inform some 'quick wins' and practical actions, in addition to the conversations on-site – many of which provided ideas and examples of practice from other organisations. The following are the peer team's key recommendations to the council:

- Jointly design with residents the mechanisms through which to hear their voice more
- Respond to the desire partners have for the council to lead the setting of a clear direction for West Berkshire into the future and influence the place it should be – raising the ambition, establishing clarity of purpose and sharpening the focus
- Determine West Berkshire's housing, economic growth and environment priorities, how they need to inter-relate and reflect them in the emerging respective strategies
- Make communications central to the council's thinking
- The council needs to reassure itself that its approaches to demand management, modernisation, commercialisation and digitisation will deliver the anticipated savings for the authority
- Take stock of the council's commercialisation agenda and related risk appetite

- The council's accounts for 2018/19 have not yet been signed off by the Auditor – this needs to be addressed and the learning drawn out
- The Council Strategy needs to become central to the authority's thinking and understanding
- Look at how to strike a better balance in relation to the council's very extensive governance arrangements – ensuring proportionality through looking at how people use their time
- Extend opportunities for staff engagement
- Establish a focused programme to drive genuine transformation centred on the resident and improving outcomes

3. Summary of the peer challenge approach

The peer team

Peer challenges are delivered by experienced elected member and officer peers. The make-up of the peer team reflected the council's requirements and the focus of the peer challenge. Peers were selected on the basis of their relevant experience and expertise and agreed with you. The peers who delivered the peer challenge in West Berkshire were:

- Alison Griffin, Chief Executive, Southend-on-Sea Borough Council
- Councillor Peter Nutting, Leader, Shropshire Council
- Councillor Adam Paynter, Deputy Leader, Cornwall Council
- Alex Thompson, Finance Director and Section 151 Officer, Cheshire East Council
- Jacqueline Gay, Head of Communications, Kingston Upon Hull Council
- Dean Tyler, Service Lead Strategy and Performance, Slough Council
- Matthew Hamilton, Head of Improvement Co-ordination and Strategy, Local Government Association
- Chris Bowron, Programme Manager, Local Government Association

Scope and focus

The peer team considered the following five questions which form the core components looked at by all corporate peer challenges. These are the areas we believe are critical to councils' performance and improvement:

1. Understanding of the local place and priority setting: Does the council understand its local context and place and use that to inform a clear vision and set of priorities?
2. Leadership of place: Does the council provide effective leadership of place through its elected members, officers and constructive relationships and partnerships with external stakeholders?
3. Organisational leadership and governance: Is there effective political and managerial leadership supported by good governance and decision-making arrangements that respond to key challenges and enable change and transformation to be implemented?
4. Financial planning and viability: Does the council have a financial plan in place to ensure long term viability and is there evidence that it is being implemented successfully?
5. Capacity to deliver: Is organisational capacity aligned with priorities and does the council influence, enable and leverage external capacity to focus on agreed outcomes?

Alongside these questions, the council asked the peer team to consider:

6. The issues, challenges and approaches relating to community engagement

The peer challenge process

It is important to stress that this was not an inspection. Peer challenges are improvement focused and tailored to meet individual councils' needs. They are designed to complement and add value to a council's own performance and improvement. The process is not designed to provide an in-depth or technical assessment of plans and proposals. The peer team used their experience and knowledge of local government to reflect on the information presented to them by people they met, things they saw and material that they read.

The peer team prepared for the peer challenge by reviewing a range of documents and information in order to ensure they were familiar with the council and the challenges it is facing. The team then spent four days on-site in West Berkshire, during which they:

- Spoke to more than 150 people, including a range of council staff, elected members and external partners and stakeholders
- Gathered information and views from around 35 different interviews and focus groups, additional research and reading that were all kindly arranged for us
- Collectively spent more than 450 hours to determine their findings – the equivalent of one person spending around thirteen working weeks in West Berkshire

This report provides a summary of the peer team's findings. It builds on the feedback presentation provided by the peer team on Friday 22nd November upon the conclusion of our visit. In presenting feedback to the council, we have done so as fellow local government officers and elected members, not professional consultants or inspectors. By its nature, the peer challenge is a snapshot in time. We appreciate that some of the feedback may be about things the council is already addressing and progressing.

4. Feedback

4.1 Understanding of the local place and priority-setting

The council and its partners demonstrate a good high-level understanding of the make-up and nature of West Berkshire now and into the future plus the underlying social issues that are being faced. Such understanding sits at the heart of the partnership-based and recently established West Berkshire Vision 2036, the Council Strategy 2019 – 2023 (entitled 'Building on our Strengths') and the Joint Health and Well-Being Strategy 2017 – 2020. The Vision has only recently been established and was instigated by the council, who developed an initial outline for consideration, and ultimately adoption, by the Health and Wellbeing Board under whose auspices it now sits. The Council Strategy was agreed in May this year, links directly to the aspirations set out in the Vision 2036 and outlines six priorities for improvement:

- Ensuring sustainable services through innovation and partnerships
- Ensuring vulnerable children and adults achieve better outcomes
- Supporting everyone to reach their full potential
- Supporting businesses to start, develop and thrive
- Developing local infrastructure, including housing, to support and grow the local economy
- Maintaining a green district

To underpin the Vision 2036 and the Council Strategy, a number of additional strategies are being developed to shape how the council and partners take key agendas forward, including those for housing, economic development and the environment.

The council has a sound corporate framework for consultation to guide what it delivers. This comes in the form of a consultation toolkit and a degree of officer support made available through a small team at the heart of the organisation and used to guide corporate consultations, such as that informing the budget-setting process, and those undertaken by individual services across the council. However, we believe that more needs to be done to hear the voice of the resident increasingly consistently, more directly and on a wider range of issues. The authority no longer undertakes a residents' survey and we understand that the Residents' Panel, established as a surrogate means of gaining insights and understanding, is not adequately representative of the population.

What has been undertaken in the way of consultation and engagement through 'Building Communities Together' (BCT) represents a model potentially to draw upon and adopt more widely. BCT is a team of officers from the council and the police and works to help communities become stronger and more self-reliant. They deliver restorative practice, advice for dealing with neighbourhood issues, support for vulnerable adults and advice and guidance around preventing domestic abuse, radicalisation and exploitation. The team is

co-located in the council's offices and sits at the heart of a wider Building Communities Partnership involving a number of other agencies. The engagement delivered through BCT is integral to creating locally-derived solutions in communities.

In devising the approach to hearing the voice of the resident more, we would urge the council to avoid the temptation of seeking to deliver this through 'Building Communities Together' despite its expertise. We would encourage it instead to foster increased consultation and engagement capacity and skills through the wider organisation. It should also seek to adopt an approach whereby consultation and engagement approaches are designed jointly with residents.

Partners highlighted a desire to see the development of a more sophisticated understanding of, and focus on, 'place'. There are two main elements to this. The first is a 'laser-like' honing in on the 'pockets of deprivation' and underlying social issues that exist within the area. There was a view amongst partners that these tended to have been masked traditionally by the fact that West Berkshire is, overall, amongst the least deprived places nationally and performs well on a range of social, health and economic indicators. However, the underlying issues have been being profiled more under the council's leadership in the last few months and partners are welcoming of this.

The second element relates to ensuring a greater balance in the focus between Newbury and the rest of West Berkshire. Given Newbury is the primary urban centre in the area it is entirely understandable that its profile is significant and its critical mass draws spend and provision. However, this makes it all the more important to strive to ensure a counter-balance with other places.

4.2 Leadership of Place

As we outlined earlier, the council has been instrumental in establishing the 2036 Vision for West Berkshire. There is work to do before the Vision is widely recognised and fully bought into by partners, with the council acknowledging in the position statement it produced to inform the peer challenge that the communication of it is at an early stage – something which partners that we met confirmed.

During the course of our discussions, it became apparent that partners particularly value the council for:

- How effectively it delivers – it provides good quality across a range of council services and performance indicators, with good inspection outcomes and a step change in children's social care (which it is crucial to consolidate and then build upon)
- The 'on the ground' joint working that it contributes to, including 'Building Communities Together'
- Its track record of securing external funding, including three West Berkshire schemes being in the top five Growth Deal priority schemes in the region and with more than £14m having been secured through the Local Enterprise Partnership (LEP) in recent years

As can be seen with the successes around LEP funding and Growth Deal projects, the council is using its influence effectively at a sub-regional level. As another example, and whilst the social care and health integration landscape across Buckinghamshire, Oxfordshire and West Berkshire is complex, the council is seen as central to the very good relationships at the Integrated Care Partnership level in Berkshire West. The council's Chief Executive is seen as instrumental in this. The challenge is in ensuring that the maximum benefit is derived from the positive state of the relationships and the work that is being done, in order to deliver improved outcomes for local people.

West Berkshire is a beautiful part of the United Kingdom, with around three-quarters of it classed as an Area of Outstanding Natural Beauty. There are very good transport links with the rest of the country and it has a strong and diverse local economy, which the concept of 'Open for Business' – one of the key themes of the Council Strategy – seeks to consolidate and enhance. Partners are keen for these advantages to be built upon, involving the council leading the setting of a clear direction for West Berkshire and influencing more heavily the place it should be. Essentially, partners wish the council to step more fully into the 'place leadership' space and this entails raising the ambition, establishing greater clarity of purpose and sharpening the focus.

What partners we met outlined shouldn't be interpreted as being about place marketing or branding. It is instead concerned with defining what West Berkshire's key characteristics and 'offer' are for the future. Place leadership is crucial in enabling West Berkshire to build upon its strengths and both to continue to thrive and to tackle underlying social issues through focusing on growth and outcomes.

Within this there is a need to identify West Berkshire's growth priorities – determining the balance between and within the spheres of housing and economic development and ensuring this is reflected in the emerging respective strategies. We gleaned through our discussions with the council's senior leadership that the housing priorities have emerged recently as being around starter homes, key worker housing and genuinely affordable housing. The economic development ambitions and prioritisation feels less clearly defined at this stage. As these agendas become clearer, they need to be captured in the related strategies. The emerging housing and economic development strategies need to work together with the equivalent for the environment to ensure the growth and climate change agendas work in tandem in order for them to become embedded in the ambitions for the place.

Thoughts amongst partners about scenarios and opportunities for West Berkshire going forward included reinforcing its offer of rural living and Newbury's position as a market town, accepting a role as a 'dormitory town' for Reading and London and developing a 'unique' offer linked to further or higher education as a centre of learning and excellence around a theme such as health and social care in order to draw in and retain younger generations. The fact that partners themselves are positing options for West Berkshire into the future emphasises the importance of collectively determining a shared direction and offer that people can unite behind and drive forward. Whilst it is beneficial to have established the Vision 2036, partners felt something much more specific is needed in order to define West Berkshire into the future.

There is an imperative around the council responding to the plea for increased place leadership. There was real concern amongst partners regarding the news that Sovereign Housing has taken the decision to relocate its main offices, employing around 200 people, from the centre of Newbury to Basingstoke. This was attributed to not enough having been done to engage organisations already invested in the area and outline a compelling future and clear ambitions both for Newbury and West Berkshire.

Fulfilling the ambitions for place entails looking across a wider geography and nurturing existing and potential partner and community relationships. The council itself indicates it has traditionally 'looked east' because of the geography of the Berkshire councils and the LEP plus the role of the capital. We would encourage diversification of this thinking, looking at the opportunities that perhaps lie in other directions. Some of this is starting to happen because of the changed social care and health integration landscape but we would encourage this to be built upon and the potential for increased dialogue with some of the local authorities and agencies lying in other directions to be capitalised upon.

We would also encourage increased nurturing of the relationship with the local voluntary and community sector and Town and Parish Councils. The strength of what they already offer and achieve is impressive, including maintaining eight out of the nine libraries in West Berkshire and a number of community centres, plus delivering a wide range of initiatives to support communities and promote and protect the environment, and there seems to be further potential that could usefully jointly be explored.

Communications also needs to become central to the council's thinking both as a leader of place and in its role more generally. As a leader of place, this entails establishing a clear narrative for West Berkshire and looking to position it appropriately so it can both bring influence to bear and capitalise upon opportunity. West Berkshire is well placed strategically within the country, has much to offer and be proud of both as a place and as a council and could look to capitalise upon this more in terms of potential investment and being a shaper and influencer within local government and at government level.

Enhancing the approach to communications also involves adopting a more proactive approach than is seen at present and engaging stakeholders locally more effectively so they know more about what is going on, what the ambitions for the place are and how they can help to shape things. We would encourage the council to think about jointly reviewing and re-designing with residents the mechanisms and channels through which the council keeps them informed.

4.3 Financial planning and viability

The Medium Term Financial Strategy (MTFS) is currently being refreshed under the guidance of a newly-appointed S151 officer. This provides the opportunity for the council both to challenge and reassure itself in relation to its financial position and ambition.

The authority has a good track record of achieving savings and increasing income, delivering 92 per cent of its planned objectives across the last four years and already implementing 83 per cent of those set for the current year. Significant savings are required in each of the next two years respectively, with £5m projected to be required in 2020/21

and over £6m in 2021/22, from a net revenue budget totalling £125m based on the current year. The council cites demand management, modernisation, digitisation and new ways of working as being central to achieving what is required. It is imperative that these ambitions are fulfilled in order to ensure the council's financial position is safeguarded. This is in a context of the level of the council's reserves being marginally below the authority's own target of 5% of net expenditure.

It is positive that the authority has established a £1m Transformation Fund to help pump prime its change agenda. The use of such funding needs to align with a clear set of corporately agreed ambitions – reflected in a focused programme of change – around how the organisation needs to operate and deliver going forward

Measures have been taken to avoid a recurrence of the overspending experienced in adults and children's services in 2018/19. Overall, the council delivered a balanced budget at the financial year end but this was achieved through underspends in other areas, cost reductions across the whole council, capitalisation of costs and the use of reserves. The authority highlights the taking over of Birchwood care home, judged to be 'Requiring Improvement', as a significant contributory factor to the overspend. The careful on-going monitoring arrangements that have been put in place around social care, and elsewhere, need to continue and the signs so far are good, with a small overspend of 0.2 per cent of the net revenue budget currently projected. The £131m capital programme through to 2021/22 reflects the council's ambitions, including the building of new schools and roads, but the borrowing involved inevitably generates revenue budget implications that also need to be monitored carefully.

The council is showing an increasing commercial appetite, with it having agreed borrowing of £100m to fund investments, including commercial property, to generate a revenue return. The ambitions around the return from this investment funding seem fairly cautious, with an aim to secure a two per cent return per annum. It is perhaps now the time to take stock, to determine the authority's commercial risk appetite going forward and clarify the scale of the ambitions. This work should be overseen by the Commercial Board and what emerges should inform a commercial strategy. This would serve to bring real focus to the council's commercialisation agenda, which is cited as another key element in the addressing of the financial challenges of the coming years.

The council's accounts for 2018/19 have not yet been signed off by the External Auditor, with the council being accustomed to unqualified statements being agreed much earlier for many years now. There is a lot of work taking place currently to resolve the matter, although some of the factors have been outside of the council's control. This work needs to come to a conclusion soon and the opportunity should be taken by the council to draw out the learning to aid it in future years.

The authority has an intention of moving to outcomes-based budgeting for 2020/21. This provides tremendous opportunity, given what we outlined earlier regarding the shared desire to ensure West Berkshire both continues to thrive and to tackle underlying social issues through focusing on growth and outcomes. In addition, adopting this approach to budgeting, plus the revision of the MTFs, could usefully aid a shift away from the budget-setting process representing a major 'annual event' which absorbs much effort and attention for a significant period of time every year. It is important, however, for the

council's ambitions and expectations around adopting such an approach to budgeting to be realistic given both the complex nature of what it will entail and the short timescales being set to implement it.

Austerity has inevitably impacted and very naturally generated a focus within the organisation on the 'bottom line'. Caution and prudence will continue to be key 'watchwords' for the authority going forward but we would encourage a greater balance in the thinking. At present, finance comes across as the primary driver in the council's thinking and decision-making. Perhaps it is time to see a shift to a mind-set where resource comes to be positioned more as an 'enabler' than as a constraint.

4.4 Organisational leadership and governance

Following the agreement of the Council Strategy in May, it is important that it now becomes central to the authority's thinking and understanding. It needs to act as the key driver for the organisation going forward. Work is already taking place to ensure the MTFS aligns with it, which is a significant step, as is the development of a Delivery Plan to underpin its implementation.

West Berkshire has traditionally been a very stable council both politically and managerially. Relationships between officers and councillors have long been strong, founded upon mutual respect and aided by the council keeping elected members well informed of issues in their ward and providing good officer responsiveness to casework issues. Relationships across the elected membership have also been very positive over many years.

A greater degree of change has been experienced recently, particularly in relation to the political make-up of the council. This follows an overall reduction in the number of councillors following a Local Government Boundary Commission Review in 2018 and the elections in May this year. This sees the Conservative Administration with 24 seats now (48 previously), the Liberal Democrats having 16 seats (4 previously) and the Greens winning seats (3) for the first time. The changes have also seen a significant number of newly elected councillors join the authority and a proportion of former elected members returning.

The changed make-up in the elected membership has generated a new dynamic, with politics now much more to the fore and many officers experiencing a more complex political make-up, and what this entails in terms of the way they need to operate, for the first time. It is important that the council's adaptation around this changed political make-up continues to settle down. Recent months have proved challenging, with some disruption to the usually constructive relationships. There is much to be lost through any deterioration in the way relationships across the elected membership and between councillors and officers function and there is a shared responsibility to ensure that the environment which has traditionally existed prevails. The leaders of the different political groups, the Chief Executive and the Monitoring Officer are taking their commitments and responsibilities around maintaining what has traditionally been held dear very seriously and they need everybody to follow suit.

The council's changed Executive and managerial leadership team are both seen to be impacting positively. The Executive is seen to be forging an increasing clarity around a refined political direction and set of priorities and are being supported by a Corporate Board combining experience and 'corporate memory' with new ideas and perspectives which have been facilitated through recent external appointments at that level.

The council agreed a new senior management structure in March, which is coming into being organically. Adopting this approach of delivering change over time, capitalising upon retirements and people moving on of their own volition as such situations arise, reflects an organisation that is very loyal to its workforce. This revised structure is central to the council's ambitions of creating greater strategic capacity. However, the current period and rate of transition is generating questions within the organisation as to how such strategic capacity will be released and this needs to be worked through.

Creating the opportunities for more strategic engagement at Corporate Board level would aid the challenge of enhancing strategic capacity within the organisation. The Strategy Board, comprising all of the elected members in the Administration, has been established to provide the opportunity for regular widespread engagement in the strategic direction of the authority at that level. Mirroring this, to provide the senior-most officers with increased scope to consider the challenges and opportunities facing the council strategically, differentiating this from their activities looking at day to day matters and undertaking the preparations for important forthcoming meetings, such as Cabinet and Full Council, would help with the balance of their focus.

The council has a very extensive set of governance arrangements and controls in place, raising a question of proportionality. As an example, there is a large proliferation of Boards within the council, to which there is an extensive flow of information and the flow of reports seems often to be duplicated across different parts of the governance structure. We heard anecdotal evidence of reports, seeking authorisation for relatively minor amounts of expenditure on often traditional items of spend, being presented multiple times. Equally, Overview and Scrutiny is in the process of developing a comprehensive work programme under the leadership of a new Chair and it is important to ensure this is geared to making the greatest possible difference to the council and the place.

Linked to this issue of proportionality, currently the council's approach to risk around decision-making seems to be one of seeking to 'eradicate' it, through multiple reporting and escalating matters to the senior-most levels. At the heart of this would seem to sit issues of clarity of decision-making processes, trust and organisational confidence. How much added value is gained from the extent of the arrangements and controls that exist, in a context of the council already delivering well and capacity being constrained? We would encourage the adoption of an approach that is more proportionate and looks to hold risk at the most appropriate level. This would serve to ease resource constraints, empower people and expedite decision-making. We would encourage the council to look at how to strike a better balance through looking at and re-evaluating how people spend their time.

The council undertakes an Employee Attitude Survey every three years and attaches a lot of importance to it, as can be seen from the constructive drilling down that takes place on issues identified in given areas. Opportunities for staff engagement have increased in recent times, as seen with the 'Let's Talk' sessions held across the organisation by the

Leader and Chief Executive. These have been implemented as an additional way of both communicating to and hearing directly from staff. There is both the potential and a desire to see this extended. The staff that we met through the course of a number of focus groups, held with people at a range of levels in the organisation, revealed their thirst for knowledge about what is happening across the council and their desire and ability to contribute thoughts and ideas. A commonly recurring theme at all levels during our discussions was that of greater empowerment, with people feeling constrained by what they saw as disproportionate levels of control and a low risk threshold within the council. For many, it was the first opportunity they had had to contribute to discussions of this nature and it is clear from their attitudes and contributions that they offer much for the council to tap into.

Partners see the council as having a tendency towards modesty – 'to hide its light under a bushel'. This seems to be a natural characteristic of the organisation, with it not appearing inclined towards either self-promotion or celebrating its successes. Such a disposition will clearly make it more challenging for the council to shift its approach but we would encourage it to shout more, both internally and externally, about what is delivered and take the opportunity to enable people to enjoy what they have achieved. After all, there is much for the council to shout about. The use of digital communications, including social media, on the part of the council seems relatively limited and this might form part of the thinking about how to get its messages out more.

4.5 Capacity to deliver

People are highlighting that capacity is very constrained in the organisation and clearly the demands on it continue, both in relation to services and the need to deliver further savings. We came across several examples of people, particularly in the corporate centre and in management roles, taking on increased responsibilities when colleagues left and who, rather than being replaced, have had their functions 'absorbed' by others. We also gleaned anecdotal evidence of growing concerns regarding staff well-being and both personal and organisational resilience, with people speaking of increasing numbers of 'single points of failure' in the authority. This suggests that something has to give.

The way forward on the issue of capacity seems to us to centre upon concentrating on how to make the biggest impact upon commonly agreed goals in West Berkshire through viewing and using resource as an 'enabler' and seeking to 'free up', leverage and maximise the benefit gleaned from resources. This entails implementing a greater focus on the delivery of outcomes, looking to a more medium term horizon in relation to financial planning, developing an increased risk appetite and a more proportionate approach to managing risk, empowering staff and facilitating the contribution of others in the form of partners and the voluntary and community sector in particular. These are all themes that we have outlined earlier in this report and they coalesce here under the banner of 'capacity' and how to enhance it.

'Transformation' is talked about as a concept within the authority and there are good examples of it taking place 'on the ground', with examples including the creation of Family Safeguarding Hubs, multi-client day centres and paperless Planning processes. Much time and effort is going into identifying change initiatives, as seen with the number and breadth of initiatives within the purview of the Corporate Programme. There are two issues

here. The first is the sheer quantum of identified initiatives, whilst the second is that of the Corporate Programme seeming essentially to have purely a monitoring role. Things can't yet be seen to be translating into a focused programme of change that drives genuine transformation centred on the resident, improving outcomes and capitalising upon 'the world of possibility'. There is scope to achieve much more – ironically by developing a narrower focus on less – through capitalising on technology, drawing in learning from others who have gone before (for example in digital innovation) and ensuring the £1m Transformation Fund aligns with a clear set of corporately agreed change ambitions.

This links to a wider theme to emerge from our work – that of drawing in lessons from other places. The authority values external challenge, as seen with it undertaking three peer challenges of different types in 2019 alone. This valuing of other people's insights and perspectives is very positive and the council can clearly outline the way it has derived benefit from it. We would encourage it to look to build on this by seeking to learn more from elsewhere, both through increasingly visiting other councils and organisations who have already progressed issues West Berkshire is now grappling with, and engaging in more forums and events at the national level in local government. This applies to both officers and elected members and should equally involve the council taking opportunities to offer its learning and knowledge to others by appearing on national platforms and considering taking up opportunities to provide peer support more. This also links to what we outlined earlier in relation to the council shedding some of its modesty and shouting about its achievements.

The council has a good track record of 'growing its own' and this is being built upon, as seen with the number of apprenticeships that have been established across the organisation. We met a lot of people who have been with the authority for many years and who have progressed in their careers during their time there. As the organisation reduces in size and the hierarchy becomes 'flatter' there are inevitable challenges emerging in relation to staff being able to continue to move upwards through a hierarchy. The council is looking creatively at this, seeing part of the solution lying with enabling people to move across the organisation, by emphasising the value of transferable generic skills in addition to experience and knowledge of 'professional domains'. This has the added benefit of aiding the council with recruitment to posts that have been proving difficult to fill.

Consistency of management practice across the organisation has been highlighted as an issue and this needs to be addressed. Issues here include managers' levels of comfort and confidence in undertaking 'self-serve' on matters such as finance and HR, their willingness and ability to manage performance or sickness absence issues and their approach to valuing a diverse workforce. There are ambitions around establishing a management development programme within the council but this is intended to focus more on developing a 'coaching' approach within the organisation rather than more traditional elements of management and we see real benefit in that. It probably wouldn't be right anyway to look to address the managerial inconsistency issue through a 'one size fits all' programme, with us suggesting the council looks instead to address the challenge through a more tailored approach that identifies and supports individuals in relation to specific responsibilities and issues.

We would, however, encourage the council to think broadly in relation to people's development and look at the opportunity to create an exciting and innovative 'skills uplift'

agenda with applicability to all staff. This could offer opportunities around a range of themes, potentially involving some of those mentioned in our report. This could include approaches to community consultation and engagement, empowering staff and residents, developing commercial approaches, utilising social media as a council and increasing political acumen for officers. Such a programme would help to facilitate the necessary shifts in the way the council operates.

The council is committed to elected member training and development, delivering both a comprehensive induction programme following the elections, which was open to all councillors, and an on-going offer of specific training in such areas as chairing skills and all-member briefings on key issues like the budget. The council is also open to individuals making approaches to request specific pieces of training and development for themselves.

We suggest two things to take forward here in relation to this approach. The first is reviewing the impact of the induction programme in order to draw out learning not just for after the next elections but also to identify anything further that might be delivered additionally, or usefully repeated, over the coming months. The second is developing a more proactive approach to on-going training and development that reaches out to councillors and moves things away from a standard and programmed offer to one that aims to identify individual need and provide things in a more 'tailored' way. This reflects the fact some elected members may either be reluctant to request something, or perhaps don't even know they can or how to do so, and that people simply 'don't know what they don't know'. There is also the issue that waiting for the type of training they are looking for to come up in the programme may not fit with the timing of their need. The council is clearly keen to support elected members in their development – the approach would simply benefit from some refinement.

5. Next steps

Immediate next steps

We appreciate the senior managerial and political leadership of the council will want to reflect on these findings and suggestions in order to determine how the organisation wishes to take things forward.

As part of the peer challenge process there is an offer of further activity to support the council. The LGA is well placed to provide additional support, advice and guidance on a number of the areas for development and improvement and we would be happy to discuss this. Mona Sehgal (Principal Adviser) is the main point of contact between the authority and the Local Government Association (LGA). Her e-mail address is mona.sehgal@local.gov.uk

Follow-up visit

We are keen to continue the relationship we have formed with the council through the course of the peer challenge.

The LGA corporate peer challenge process includes a follow-up visit. The purpose of this is to help the council assess the impact of the peer challenge and demonstrate the

progress it has made against the areas of improvement and development identified by the peer team. It is a lighter-touch version of the original visit and usually involves some, rather than all, members of the original peer team. The timing of the visit is determined by the council. Our expectation is that it will occur within the next two years.

Next corporate peer challenge

The current LGA sector-led improvement support offer includes an expectation that all councils will have a corporate peer challenge or finance peer review every four to five years. It is therefore anticipated that West Berkshire would commission its next peer challenge by 2024.

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Appendix D. ACTION PLAN following the LGA Peer Challenge – West Berkshire Council - November 2019

Legend:

Actions in response to Key recommendations – for reporting at **Executive**

No.	Recommendation	Action	Timescale	Governance
A. Peer Challenge Theme: Understanding of the local place and priority-setting				
1.	Key recommendation: Jointly design with residents the mechanisms through which to hear their voice more	Customer First Programme Board to consider a paper on the broader topic of communication which will include further developing the approach to hear the voice of the residents more. Additional resource has been allocated to progress this area.	Oct 2020	Customer First Programme Board (Nick Carter / Andy Sharp)
B. Peer Challenge Theme: Leadership of Place				
2.	Key recommendation: Respond to the desire partners have for the council to lead the setting of a clear direction for West Berkshire into the future and influence the place it should be – raising the ambition, establishing clarity of purpose and sharpening the focus.	Review the 2036 Vision to address this recommendation. Ensure strong links between Climate change, Economic development and Housing agendas.	Dec 2020	Health and Wellbeing Board (Lynne Doherty / Nick Carter)
3.	Key recommendation: Determine West Berkshire’s housing, economic growth and environment priorities, how they need to inter-relate and reflect them in the emerging respective strategies	Ensure that an updated Vision 2036 links with the key strategies around housing, economic growth and environment.	Dec 2020	Health and Wellbeing Board (Lynne Doherty / Nick Carter)
4.	Key recommendation: Make communications central to the council’s thinking (both as a leader of place and in its role more generally)	Linked to action under recommendation 1: Prepare a paper on how to enhance our communication approach – for approval at Customer First Programme Board	Oct 2020	Customer First Programme Board (Nick Carter / Andy Sharp)
C. Peer Challenge Theme: Financial planning and viability				
5.	Key recommendation: The council needs to reassure	To review the Corporate Programme to determine its ability to	Aug 2020	Budget Board /

	itself that its approaches to demand management, modernisation, commercialisation and digitisation will deliver the anticipated savings for the authority	support the MTFS.		Corporate Programme Board (Joseph Holmes / Andy Walker)
6.	Key recommendation: Take stock of the council's commercialisation agenda and related risk appetite	<p>Review of the Council's Commercial Strategy progressed to a large degree though the Capital Investment Strategy and Property Investment Strategy.</p> <p>In addition, the Council is reshaping its risk approach to produce a Risk Strategy with a clearly articulated risk appetite. This appetite will be used to shape the Council's future commercial agenda, and it will be clear on the risk awareness of the Council Where reports wish to go beyond the risk appetite it is clear how this is effectively managed.</p>	<p>Jul 2020</p> <p>Sep 2020</p>	<p>Commercial Board</p> <p>Corporate Board (Joseph Holmes / Sarah Clarke)</p>
7.	Key recommendation: The council's accounts for 2018/19 have not yet been signed off by the Auditor – this needs to be addressed and the learning drawn out	<p>The audit of financial statements is now finalised and the audit opinion has been completed.</p> <p>A lessons learnt review has been scheduled with the external auditors to improve the process for the following year. Interim arrangements are being put in place to bolster resources for the 2019-20 financial statements.</p>	May 2020	<p>Finance and Governance Group</p> <p>Corporate Board (Joseph Holmes / Andy Walker)</p>
D. Peer Challenge Component: Organisational leadership and governance				
8.	Key recommendation: The Council Strategy needs to become central to the authority's thinking and understanding (incl. link with MTFS and development of the Delivery Plan)	<p>Continue activities to promote the Council Strategy Delivery Plan within the Council and partner organisations. This includes the links with the MTFS.</p> <p>Links with the actions under Key recommendation 4.</p>	ongoing	Executive and Corporate Board
9.	Key recommendation: Look at how to strike a better balance in relation to the council's very extensive governance arrangements – ensuring proportionality through looking at how people use their time	<p>The Executive currently considering whether it would be appropriate to review the Council's governance arrangements. Work planned to be concluded once the current Covid 19 crisis has been managed though.</p>	TBC	TBC
10.	Key recommendation: Extend opportunities for staff engagement	<p>Explore further opportunities for staff engagement in the new Workforce Strategy 2021.</p>	Apr 2021	Workforce Board
E. Peer Challenge Component: Capacity to deliver				

11.	Key recommendation: Establish a focused programme to drive genuine transformation centred on the resident and improving outcomes	This is linked with the review of the Corporate Programme (linked with recommendation 5) Implement an annual review of the Corporate Programme to ensure it remains aligned with the delivery of the Council Strategy.	Feb every year	Corporate Programme Board and OSMC (Joseph Holmes / Sarah Clarke)

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2019/20 Performance Report Quarter Four

Committee considering report:	Overview and Scrutiny Management Commission
Date of Committee:	28 July 2020
Portfolio Member:	Jo Stewart
Date Portfolio Member agreed report:	8 July 2020
Report Author:	Jenny Legge/Catalin Bogos
Forward Plan Ref:	Ex.3716

1 Purpose of the Report

- 1.1 To provide assurance that the core business and council priorities for improvement measures ([Council Strategy 2019-2023](#)) are being managed effectively.
- 1.2 To highlight successes and where performance has fallen below the expected level; to present information on the remedial action taken, and the impact of that action.

2 Recommendation(s)

- 2.1 To note the report, including the following recommendations approved by the Executive:
 - (a) To note progress and achievements.
 - (b) To review the appropriateness of any remedial actions taken to improve performance, in particular for:
 - % of WBC provider services inspected by Care Quality Commission (CQC) and rated as good or better
 - % of repeat referrals to Children's Services within 12 months of a previous referral
 - Attainment results for Free School Meals (FSM) cohorts
 - (c) To consider areas where strategic action may need to be taken.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	To be highlighted and managed by individual services.

Human Resource:	To be highlighted and managed by individual services.			
Legal:	To be highlighted and managed by individual services.			
Risk Management:	To be highlighted and managed by individual services.			
Property:	To be highlighted and managed by individual services.			
Policy:	To be highlighted and managed by individual services.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		x		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		x		

Environmental Impact:		x		
Health Impact:		x		
ICT or Digital Services Impact:		x		
Council Strategy Priorities or Business as Usual:	x x			Supports all priorities and core business of the Council Strategy 2019-2023.
Data Impact:		x		
Consultation and Engagement:	The information provided for this report, has been signed off by the relevant heads of service and portfolio holder.			

4 Executive Summary

- 4.1 The measures shown in this report relate to the period prior to Covid-19, and the subsequent lockdown from 23 March 2020. The Council's response to the pandemic greatly affected social care and education services, however all services have registered an impact. Although the detrimental effects of Covid-19 to the economy and residents of West Berkshire will take a while to fully emerge, it will certainly have taken a huge toll.
- 4.2 Prior to the outbreak of Covid-19, the influencer measures appear to show a slight upturn in employment, but a stagnation in house prices and a decrease in the number of properties being sold. The number of business rated premises has however, continued to increase slightly, but fewer people are using council run car parks and visiting Newbury Town Centre. Considered as a whole, these could be a sign of a slowing economy, or alternatively an indication of a change in people's purchasing and working behaviour, and uncertainty about the UK's future in Europe.
- 4.3 As concluded in the recent Peer Challenge, carried out by officers from other Local Authorities, performance across the Council remains strong. All but two targets within the Council's core business activities were met by the end of 2019/20.
- 4.4 The Council's relatively strong position is further confirmed when performance is compared with other local authorities. The majority of the Council's indicators rank in

the first and second quartiles. It is also clear that this already positive benchmarking position continues to improve in many areas.

4.5 The Council Strategy Delivery Plan includes the outcomes for our priorities for improvement, that are often being sought over a four year period and therefore is a more challenging area and performance is mixed. The majority of indicators are however on track. Particular concerns are emerging in the following areas:

- Rate of repeat referrals to children's services
- Educational attainment for the 2018/19 academic year, in particular for the cohort who receive Free School Meals

4.6 The Council's corporate health indicators highlight sound budgetary control (based on an end of year under spend of £1.461m), an improved position regarding sickness absence and stable staff turnover.

5 Supporting Information

Influencer measures

Refer to Appendix A for more detail

5.1 Non-targeted measures of volume are monitored to provide context to the work being carried out across council services.

5.2 In the area of economy, the economic activity rate (chart 1) and unemployment rate (chart 2) appear stable and therefore encouraging. Although it is still of concern that the number of empty business rated properties continues to rise (chart 7 & 8). The steep reduction in Newbury footfall, more than the seasonal norm (chart 9) and the equally sharp fall in parking tickets sold may be of significance.

5.3 As all benefits become subsumed by Universal Credit, the number of claimants will rise (charts 5 & 6). In addition, a broader span of people are required to look for work compared to previously for Jobseeker's Allowance. Therefore, this measure can't be used to monitor unemployment, but may possibly give an indication of low income.

5.4 Crime cases overall appear fairly static (chart 15), with non-criminal domestic violence cases (chart 16) decreasing generally over the last three quarters. However, for domestic violence cases where police intervention was needed (chart 17), there is a steady upward trend. This will potentially rise further in Q1 of 2020/21 as we begin to experience the impact of lockdown.

5.5 In the area of social care services, due to the implementation of the Family Safeguarding Model, which focusses on family strengths and uses early intervention and joint partnership working, the number of children in need and children subject to a child protection plan have decreased compared to Q3 2018/19 (-20.9% and -7.7% respectively) although the number of children in care has risen slightly (2.3%). Our Contact Advice and Assessment Service has increased their management capacity and are able to deliver intervention at an earlier stage. By intervening earlier in a child's journey, we are able to provide effective support for those who are at risk of poor

outcomes. We can also foster personal strengths and skills to help them better prepare for adult life.

- 5.6 There is evidence of falling demand in Children and Family Services with referrals declining slightly. The number of children with Child Protection Plans in place has fallen more sharply, which may be evidence that the Council's prevention programmes are showing successful results.
- 5.7 The overall number of people receiving a long term service (LTS) from Adult Social Care (snapshot – Q4 1,692) is above the Q4 position for 2018/19. The service is monitoring the LTS cohort closely, alongside the number of new requests for support that are progressing to receive a long term service, as this activity feeds into the ASC modelling and budget forecast work.
- 5.8 The number of households on the Common Housing Register continues to slowly increase. It is expected that this area of demand will change significantly over the next period, due to the impact of Covid-19 on our residents who were rough sleeping. There is also a potential for higher demand as residents are affected by the furlough scheme and possible job losses.
- 5.9 Although, only slightly dipping at Q4, it is expected that the number of volunteers involved in heritage venues, libraries and countryside activities will drop in Q1 2020/21 due to lockdown and the closure of cultural and leisure amenities. However, this has been reassuringly counter-balanced by an excellent response from volunteers and community groups to the Covid-19 challenges. A Community Hub has been set up by WBC, harnessing the previous work of the Building Communities Together team, which coordinates the Covid-19 response at community level.
- 5.10 The number of highways related third party claims received has significantly increased this quarter. This can be attributed to the winter season and the exceptional rainfall that was experienced in January (87 claims), February (64) and March (49), which resulted in the increased deterioration of the road network in general. The number was also inflated by multiple claims being received on individual defects.
- 5.11 The number of flytipping incidents reported is also steady at Q4, but this will be monitored during Q1 to identify any impact, due at least in part to the HWRCs being closed during part of the lockdown period and with social distancing restrictions in place for the services once re-opened.

Core Business Activities

Refer to Appendix B for Exception Reports

Please note:

R (red): year-end target will not be met

A (amber): behind schedule, but expected to achieve year-end target

G (green): year-end target will be met.

DNA: Data not available

DNP: Data not provided

Category	Measure	RAG	2019/20 YE Outturn	2019/20 Target	Notes
Protecting our children	Ofsted rating of at least Good for our Children and Family Service	G	Pending outcome of next inspection	Good	
	% of Children in Care where the child has been visited in the past 6 weeks (or 12 weeks if this is the agreed visiting schedule)	R	92%	≥95%	YE: 145 / 158
Supporting education	% of maintained schools judged good or better by Ofsted	G	96%	≥91%	YE: 67 / 70 As at 31 December 2019
	% of applications receiving one of their three preferences for West Berkshire children (Primary Admissions)	G	Complete in Q1 (99.1%)	≥95%	
	% of applications receiving one of their three preferences for West Berkshire children (Secondary Admissions)	G	Complete in Q1 (96.6%)	≥95%	
Maintaining our roads	% of the principal road network (A roads) in need of repair	G	2%	4%	

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Category	Measure	RAG	2019/20 YE Outturn	2019/20 Target	Notes
Collecting your bins and keeping the streets clean	% of household waste recycled, composted and reused	G	50.2% (P)	≥ 49.5% (≥ 2018/19 outturn)	Q3 2019/20 has been updated. All results are subject to change once validated by DEFRA after Q4
	Maintain an acceptable level of litter, detritus and graffiti (as outlined in the Keep Britain Tidy local environmental indicators)	G	Good	Good	NB: target amended following recommendation made by OSMC on 14/01/2020
Providing benefits	Average number of days taken to make a full decision on new Housing Benefit claims	G	18.5	≤20 days	
Collecting Council Tax and Business rates	Council Tax collected as a percentage of Council Tax due	G	99%	99%	
	Non domestic rates collected as percentage non domestic rates due	G	99%	99%	
Ensuring the wellbeing of older people and vulnerable adults	% of WBC provider services inspected by Care Quality Commission (CQC) and rated as good or better	R	67%	100%	
	% of financial assessments actioned within 3 weeks of referral to the Financial Assessment & Charging Team	G	98%	≥98%	YE: 2,181 / 2,228
Planning and housing	% of planning appeals won	G	81%	65% (England average)	Result reported for the full year, not just Q4

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Category	Measure	RAG	2019/20 YE Outturn	2019/20 Target	Notes
	% of 'major' planning applications determined within 13 weeks or the agreed extended time	G	99%	90% (England average)	
	% of 'minor' planning applications determined within 8 weeks or the agreed extended time	G	90%	86% (England average)	
Supporting local employers	Number of top 10 business sector employers in 2018/19 retained in the district	-	-	10	The Economic Development Strategy (EDS) is due to be considered by the Executive on 30 April. If approved, the Key Performance Indicators, aligned to the EDS Delivery Plan, will be finalised as part of the 2020/21 Service Planning process.

5.12 Performance for the majority of core business activities has been on target.

5.13 The areas that were most affected at the end of the 2019/20 year by Covid-19 pandemic were in Children and Family Service for example, where it was not possible to have face-to-face meetings with clients and multi-agency tasks were challenging to carry out. However, alternative arrangements have been put in place such as using telephone calls or video calls to conduct contact/meetings. The Department of Education is aware of this.

5.14 For provider services in care homes, the pandemic has also taken precedence. A plan has been put in place for Birchwood Nursing home and there had been notable improvements at the last inspection.

National Benchmarking (April 2017- March 2019)

Please note:

R (red): year-end target will not be met

A (amber): behind schedule, but expected to achieve year-end target

G (green): year-end target will be met.

Category	Measure	2017/18 National Qtile/rank	2018/19 National Qtile/rank	RAG	2019/20 YE Outturn	2019/20 Target
Supporting education	% of maintained schools judged good or better by Ofsted	2nd Qtile Rank 46/152 (August) (YE: 94%)	2nd Qtile Rank 38/152 (August) (YE: 96%)	G	96%	≥91%
	% of applications receiving one of their three preferences for West Berkshire children (Primary Admissions)	2nd Qtile Rank 62/152 (YE: 98%)	2nd Qtile Rank 51/152 (YE: 98%)	G	Complete in Q1 (99.1%)	≥95%
	% of applications receiving one of their three preferences for West Berkshire children (Secondary Admissions)	1st Qtile Rank 33/152 (YE: 98%)	1st Qtile Rank 27/152 (YE: 98%)	G	Complete in Q1 (96.6%)	≥95%
Maintaining our roads	% of the principal road network (A roads) in need of repair	2nd Qtile Rank 55/145 (YE: 3%)	1st Qtile Rank 17/146 (YE: 2%)	G	2.0%	4%
Collecting your bins and keeping the streets clean	% of household waste recycled, composted and reused	1st Qtile Rank 24/150 (YE: 52%)	1st Qtile Rank 31/148 (YE: 51%)	G	50% (P)	≥ 49.5% (≥ 2018/19 outturn)
Providing benefits	Average number of days taken to make a full decision on new Housing Benefit claims	3rd Qtile Rank 77/122 (YE: 19.5 days)	2nd Qtile Rank 54/122 (YE: 19.5 days)	G	18.5	≤20 days

2019/20 Performance Report Quarter Four

Category	Measure	2017/18 National Qtile/rank	2018/19 National Qtile/rank	RAG	2019/20 YE Outturn	2019/20 Target
Collecting Council Tax and Business rates	Council Tax collected as a percentage of Council Tax due	1st Qtile Rank 6/149 (YE: 99%)	1st Qtile Rank 6/123 (YE: 99%)	G	99%	99%
	Non domestic rates collected as percentage non domestic rates due	2nd Qtile Rank 55/151 (YE: 99%)	3rd Qtile Rank 82/151 (YE: 98%)	G	99%	99%
Ensuring the wellbeing of older people and vulnerable adults	% of WBC provider services inspected by Care Quality Commission (CQC) and rated as good or better		England overall = 84%	R	67%	100%
Planning and housing	% of 'major' planning applications determined within 13 weeks or the agreed extended time	4th Qtile Rank 102/122 (YE: 79%)	4th Qtile Rank 108/122 (YE: 78%)	G	99%	90% (England average)
	% of 'minor' planning applications determined within 8 weeks or the agreed extended time	4th Qtile Rank 108/124 (YE: 75%)	4th Qtile Rank 102/123 (YE: 78%)	G	90%	86% (England average)

5.15 In the majority of areas, we compare favourably with our peers (English Local Authorities) in 2018/19, and in others we have improved our position on 2017/18.

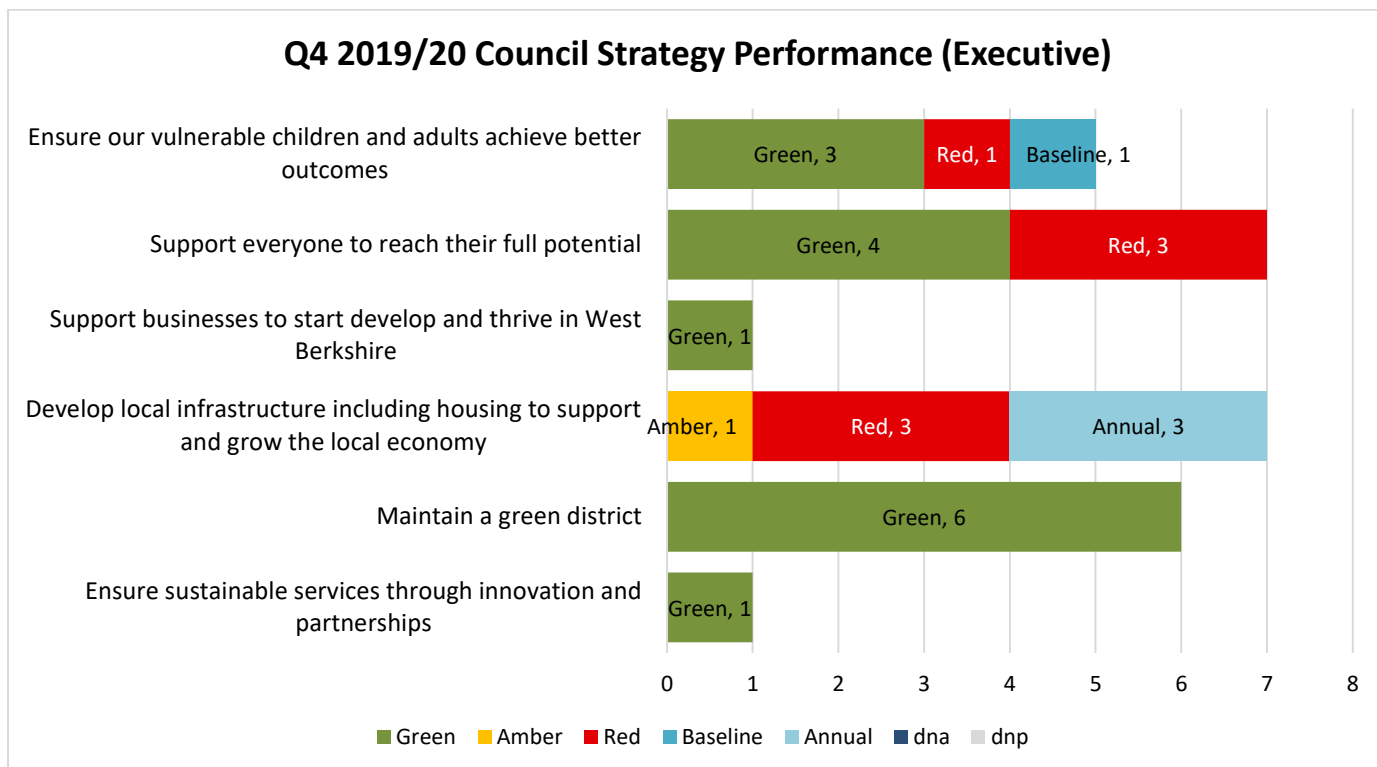
5.16 However, in two areas we remain in the lowest quartile. The first is in the CQC rating of our provider services which at 67% is slightly below the national average of 84%. In practice, this showed that in 2018/19 one out of six settings was not rated as highly as desired. During 2019/20, an improvement plan has been implemented and it is expected that our position will improve.

5.17 In terms of planning applications, the target in 2017/18 was set at 60% for major and 65% for minor applications. As part of the New Ways of Working review in 2018/19, it was noted that targets had been set below similar planning authorities, and they were increased to match the national averages of 88% and 85% respectively at Q2 2018/19. By Q4 2018/19 the service was achieving 93.3% and 96.3%, but this was not enough to bring up the year-end figure and move us into the third quartile. For comparison, 23

authorities were reporting 100%, and the margins between the first and third quartile were slim. As performance has substantially improved during 2019/20, it is expected that this will positively affect our relative position.

Council Strategy:

Refer to Appendix B for Exception Reports



Note: After the middle of Q4, a number of new performance measures have been added and full reporting for these measures will start from Q1.

Ensure our vulnerable children and adults achieve better outcomes

5.18 Children and Family Services have recognised an increase in the number of repeat referrals and are investigating the causal factors to reduce the impact on the service. An audit has been completed which identified where recording practices could be improved. Positively, referrers have not reported that any referrals have been blocked.

5.19 The number of older residents who say that WBC services make them feel safe and secure has risen this year from 92.7% to 93.8%.

Support everyone to reach their full potential

5.20 Key Stage 2 (KS2) attainment outturn and KS4 results for the cohort of pupils on Free School Meals (FSM) for the academic year 2018/19 have not been as successful as expected. We have maintained our comparative position for most areas. Although, WBC has moved from the 3rd quartile to the 4th for Average attainment 8 Scores for Free School Meals pupils, we have moved from the 4th to the 3rd quartile for Year 1 Phonics.

Support businesses to start develop and thrive in West Berkshire

5.21 Measures were being developed following the completion of the Economic Development Strategy, however, staff in this area were redeployed to work on the Covid-19 response and therefore this activity has not yet been completed.

Develop local infrastructure including housing to support and grow the local economy

- 5.22 Due to Covid-19, work on Superfast Broadband installation has been delayed as it was not possible for the contractors to continue their activity during the lockdown period.
- 5.23 A new Local Development Scheme (Project Plan) has been approved by Members, setting out a detailed timetable that will see the examination and adoption of the local plan in late 2022.

Maintain a green district

- 5.24 Work is underway to commission feasibility studies and identify sites to generate energy from renewable sources.

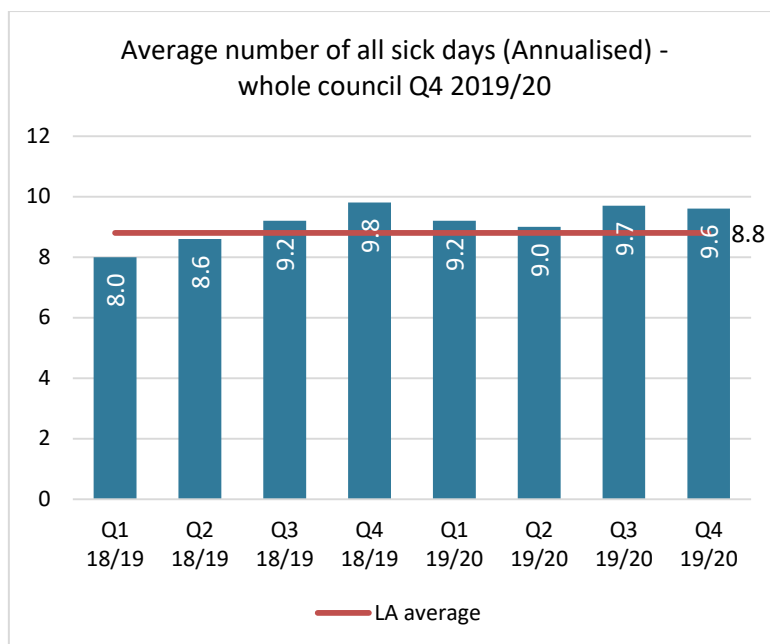
Ensure sustainable services through innovation and partnerships

- 5.25 This area of activity has been impacted by Covid-19 as Public Health and Wellbeing and Human Resources have been heavily involved in the response both for staff and the community and the services have not been able to report their Q4 performance. However, the response to the pandemic made great use of and enhanced the existing partnerships arrangements with other public bodies, organisations and communities to support especially the vulnerable residents and local businesses.

Corporate Health

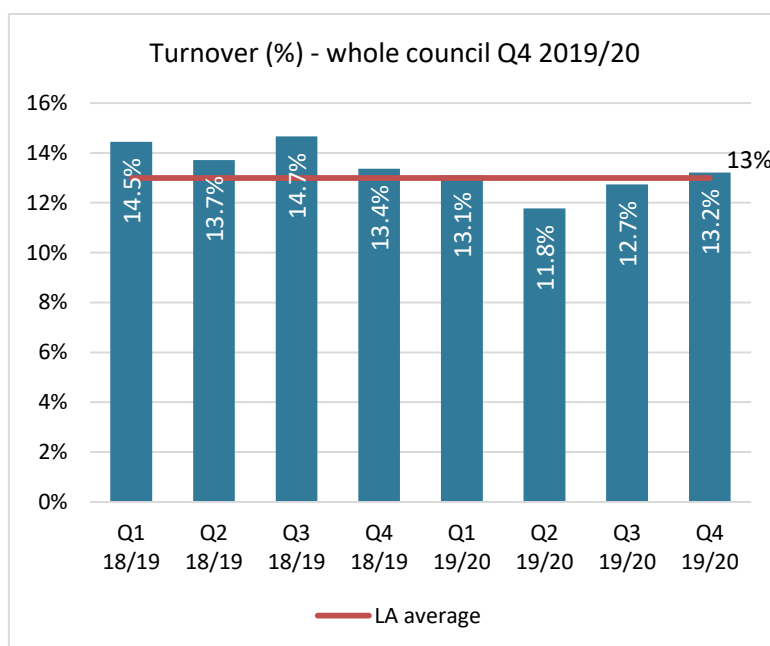
- 5.26 The end of year financial position shows a strong budget management reaching an under spend of £1.461m.
- 5.27 Overall, sickness absence has followed the usual seasonal fluctuations, and is below Q4 last year. Covid19 self-isolation days lost are not included in these figures, as this is not reported via sickness absence. Overall this financial year the sickness levels have been slightly higher than last year but this has changed in Q4.

2019/20 Performance Report Quarter Four



Note: LA average refers to West Berkshire Council's average over 2 years.

5.28 Staff turnover has been low for the majority of the year when compared to 2018/19.



Proposals

5.29 To note key achievements and success as detailed above.

5.30 To review the actions taken to address performance below expected levels with a focus on:

- % of WBC provider services inspected by Care Quality Commission (CQC) and rated as good or better
- % of repeat referrals to Children's Services within 12 months of a previous referral

- Attainment results for Free School Meals cohorts

6 Other options considered

6.1 None considered.

7 Conclusion

- 7.1 Quarter four results show that strong performance levels have been maintained and key services delivered to residents as part of the activities in the Core Business category.
- 7.2 Some of the improvement activities that were underway for achieving the Priorities for Improvement have understandably been paused due to restrictions in place as a result of Covid-19, as staff, customer and partners had to quickly change the way they worked. In some cases projects such as Superfast Broadband, simply had to stop until those restrictions were lifted. A residents' survey and a staff survey are being conducted during Q1 to capture the positive and the negative aspects of the experience to respond to the crisis. Communities, Council staff and members have worked even more closely and more flexibly during the crisis and it is to be hoped that this will continue as we work our way through.
- 7.3 Action plans are in place to address performance of the measures rated 'red' and the Executive is asked to review and approve these actions and to note the overall performance reported.

8 Appendices

- 8.1 Appendix A – Influencer Measures dashboard
- 8.2 Appendix B – Exception Reports

Corporate Board's recommendation

*(add text)

Background Papers:

[Council Strategy 2019-2023](#)

Subject to Call-In:

Yes: No:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

- Delays in implementation could compromise the Council's position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

Wards affected: All wards

Officer details:

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 Job Title: Performance, Research and Risk Manager
 Tel No: (01635) 519102
 E-mail: Catalin.Bogos@westberks.gov.uk

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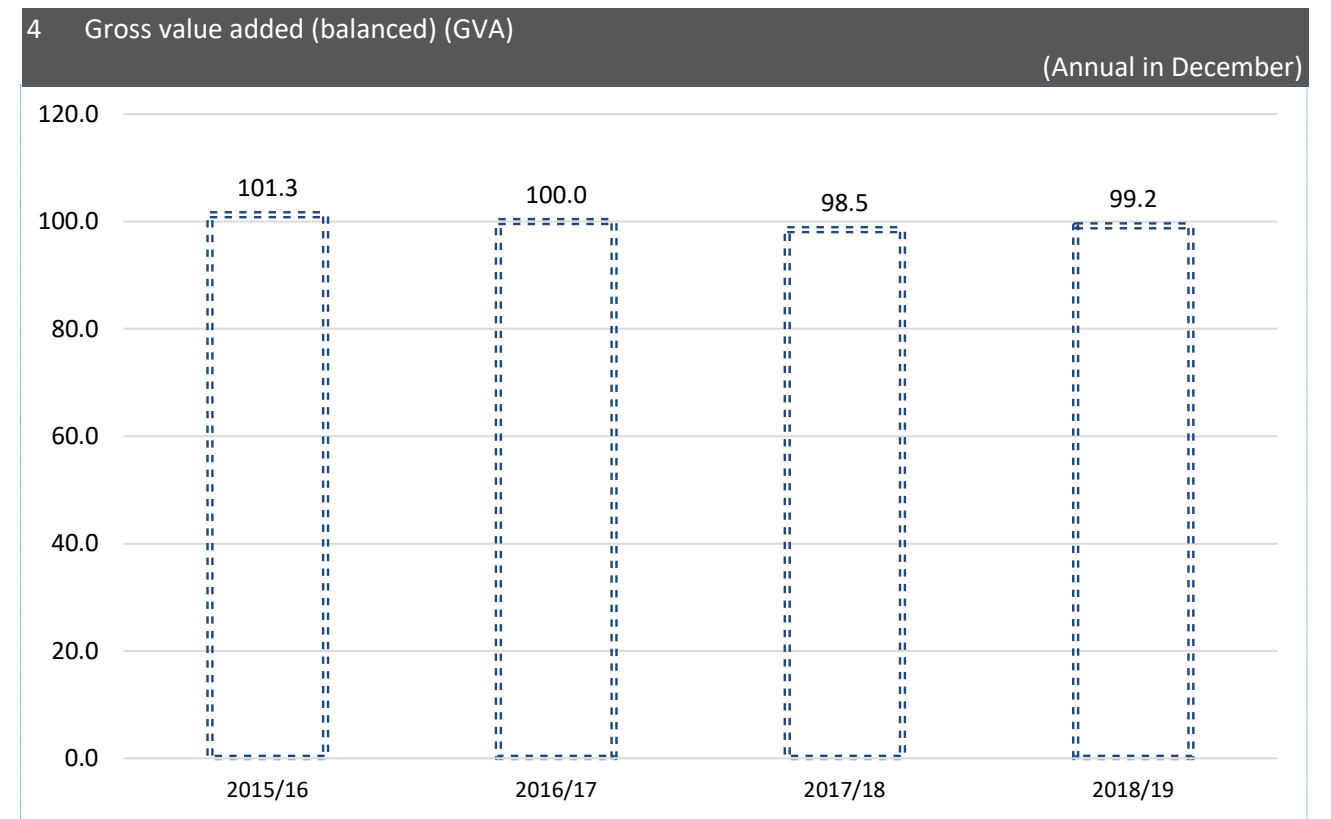
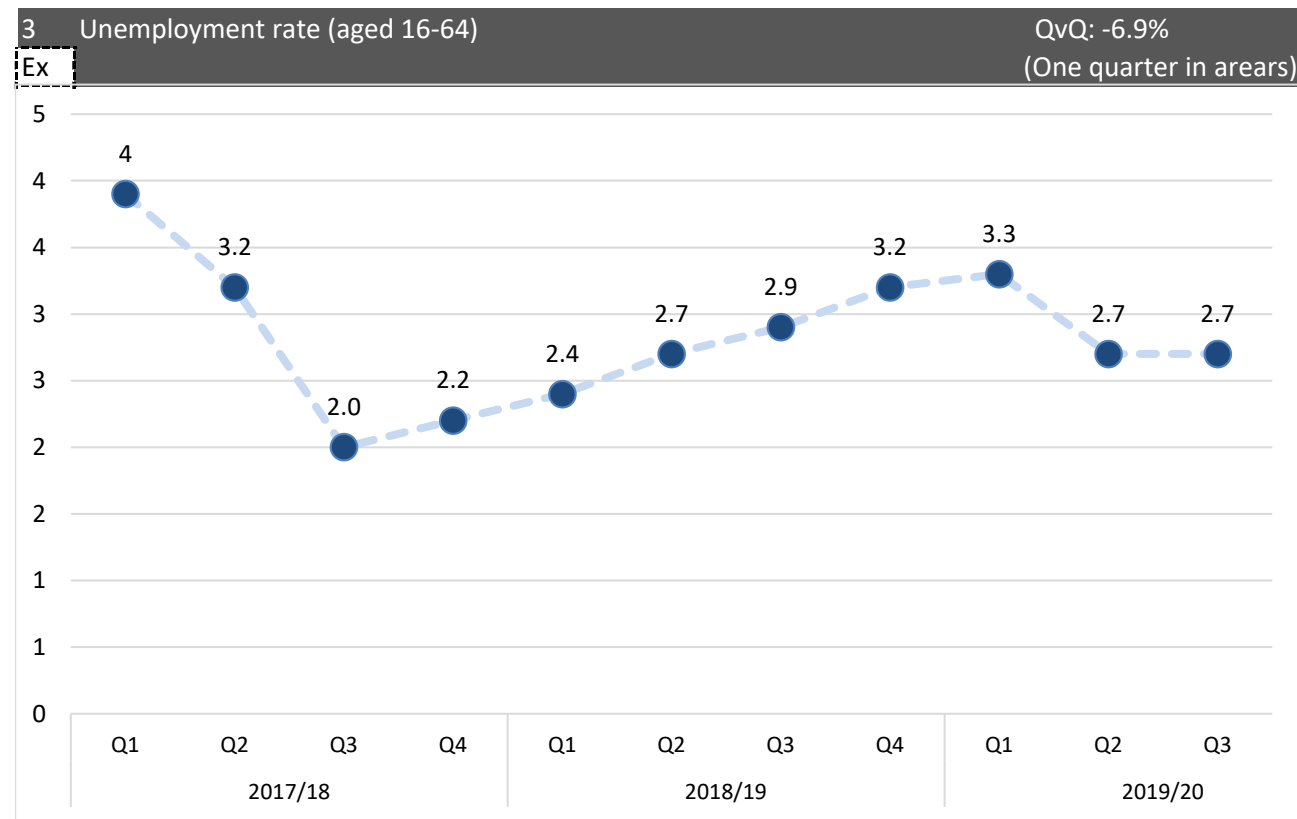
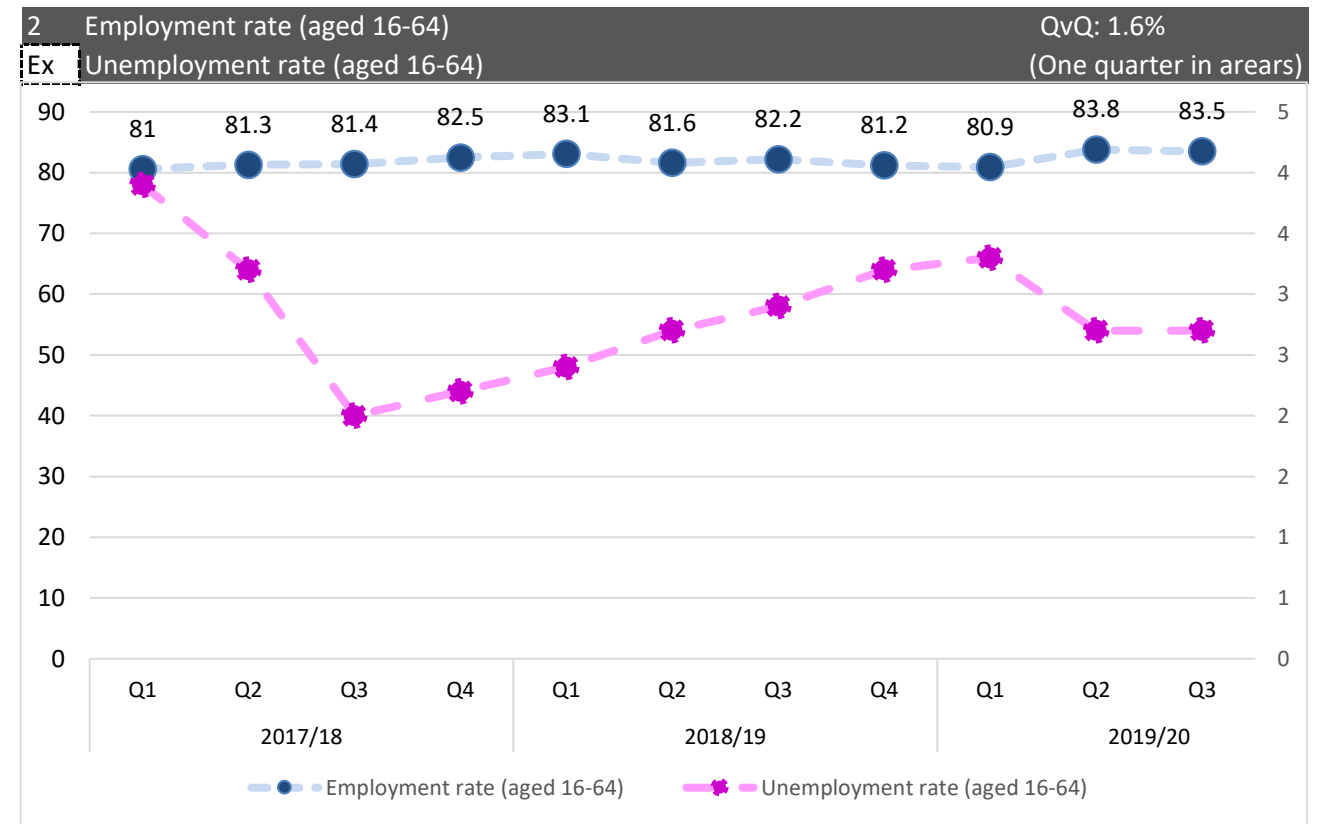
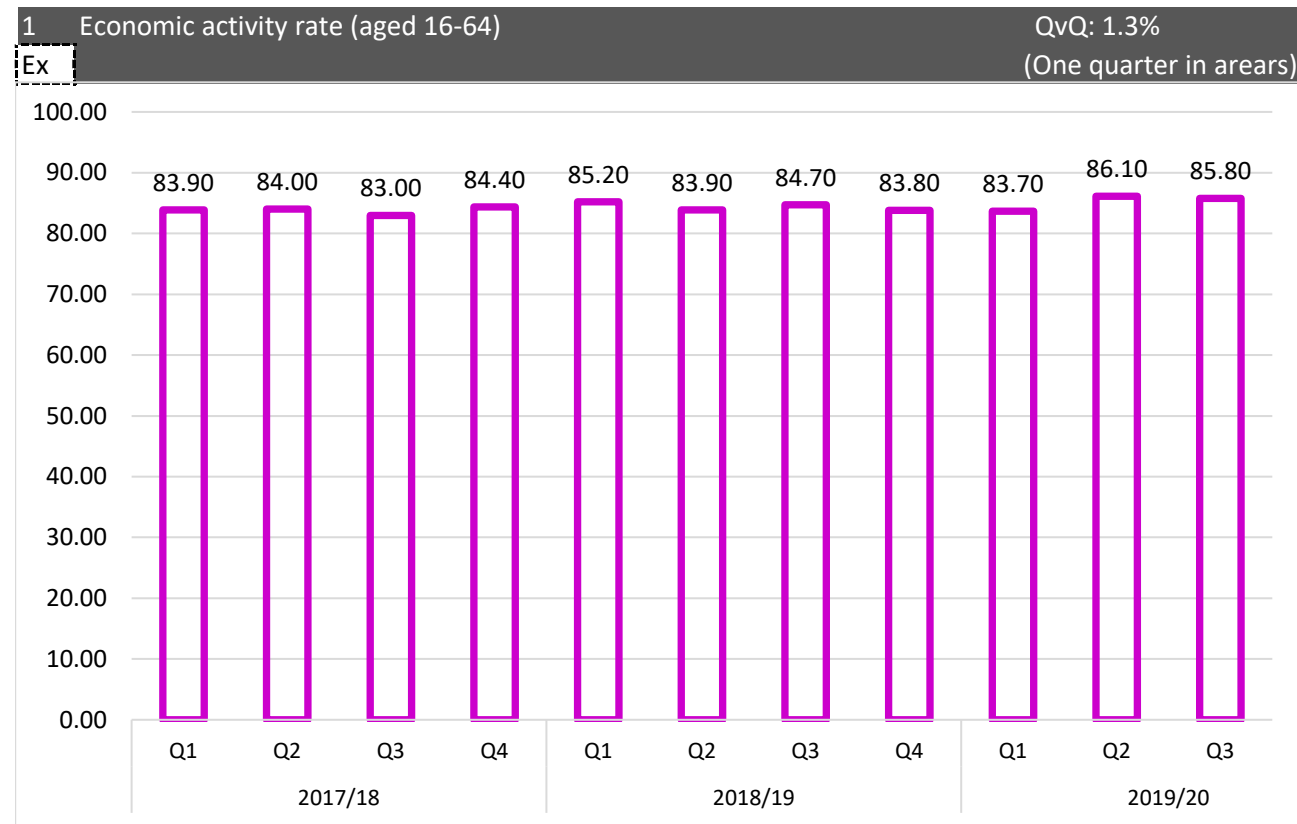
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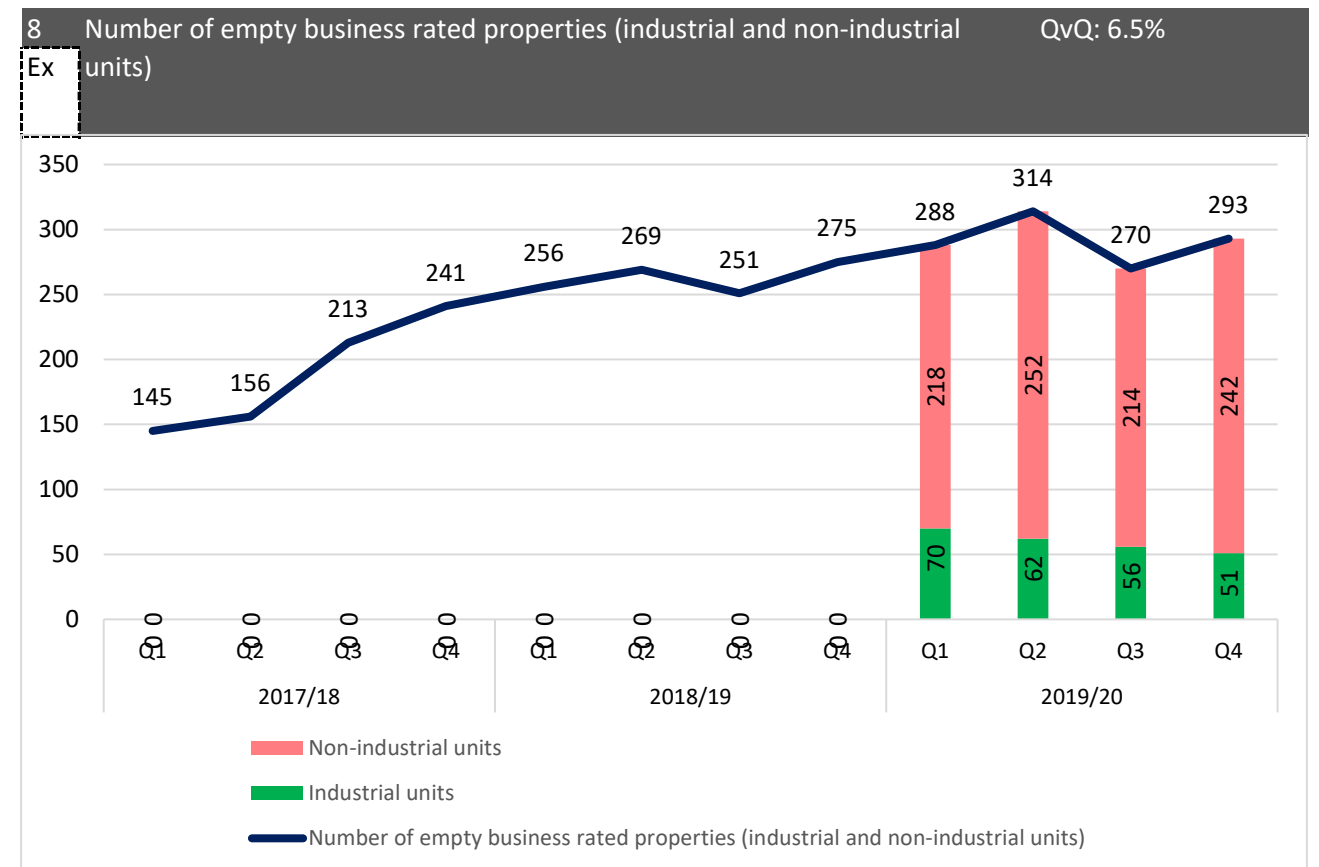
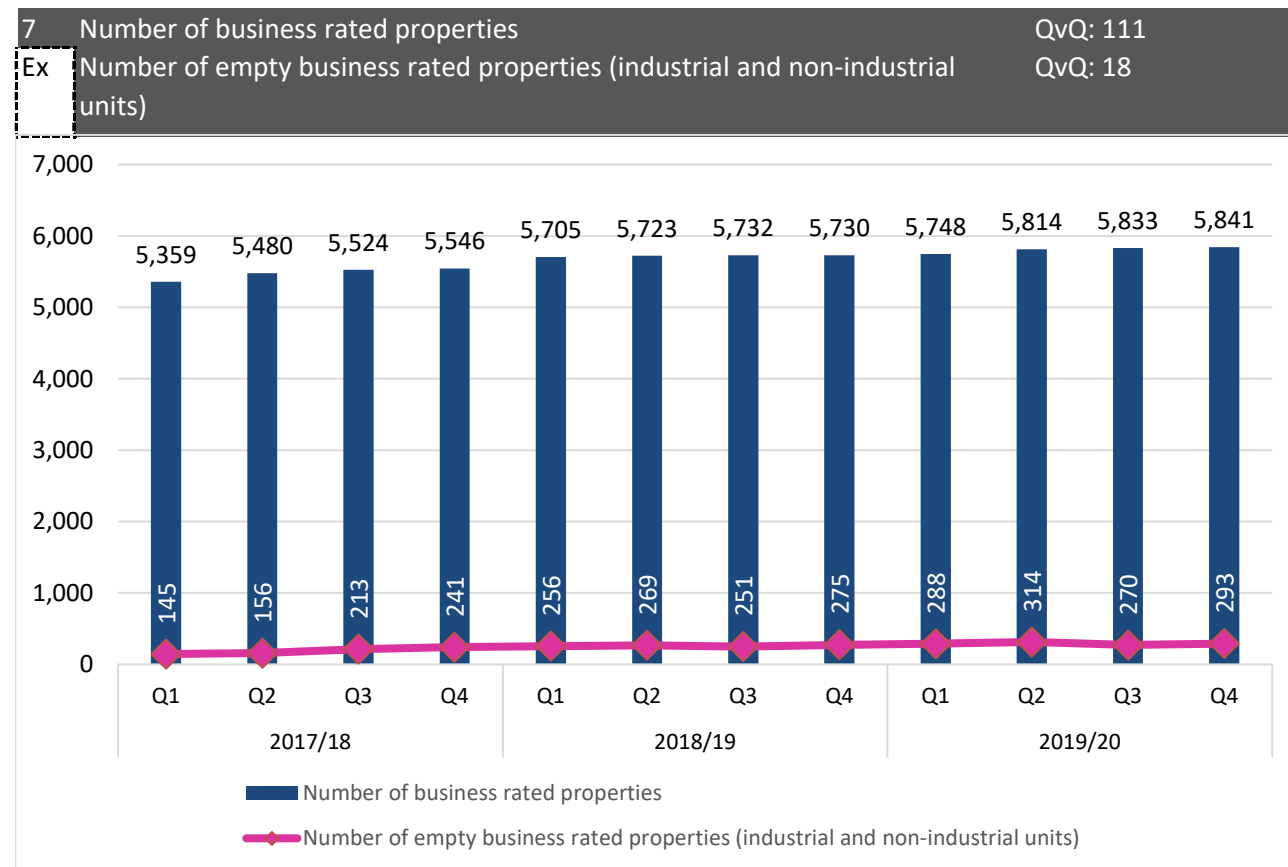
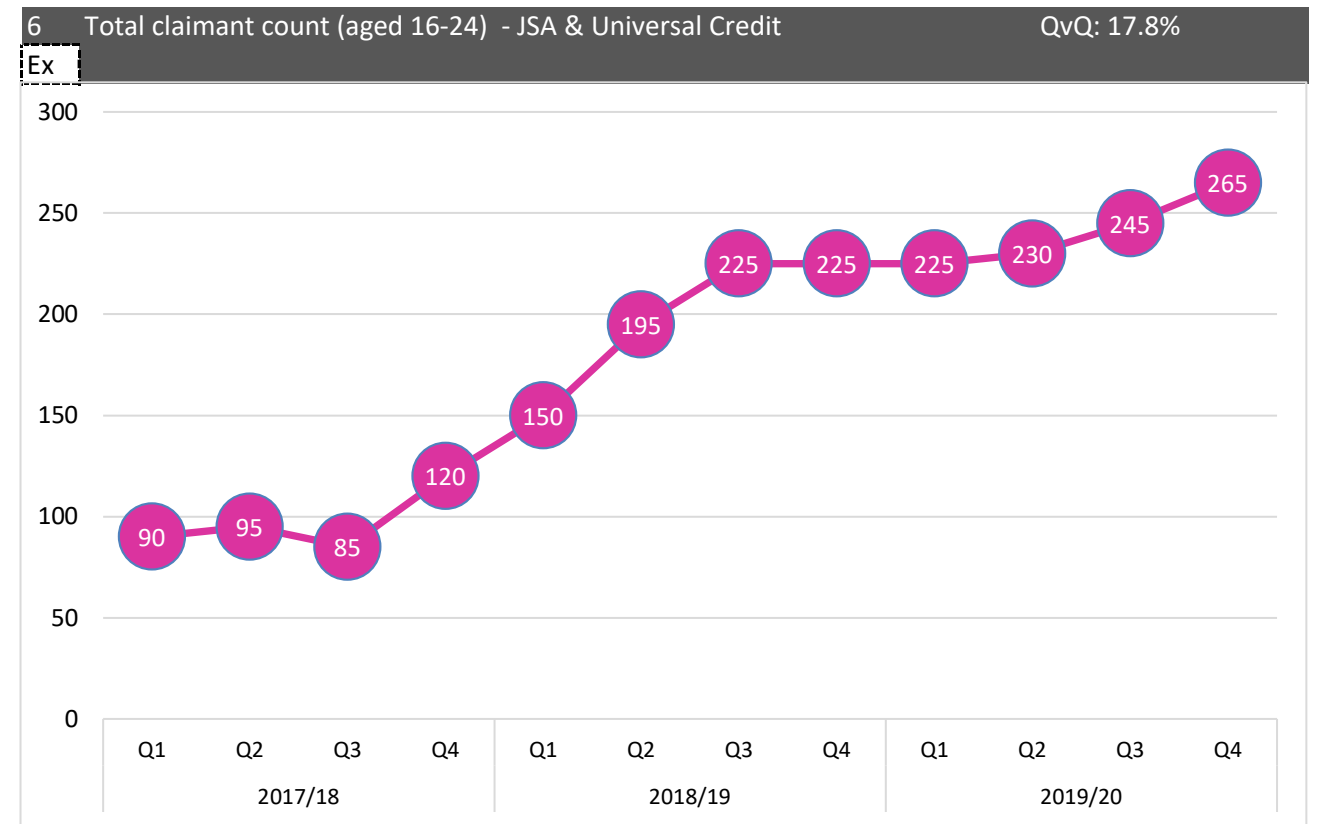
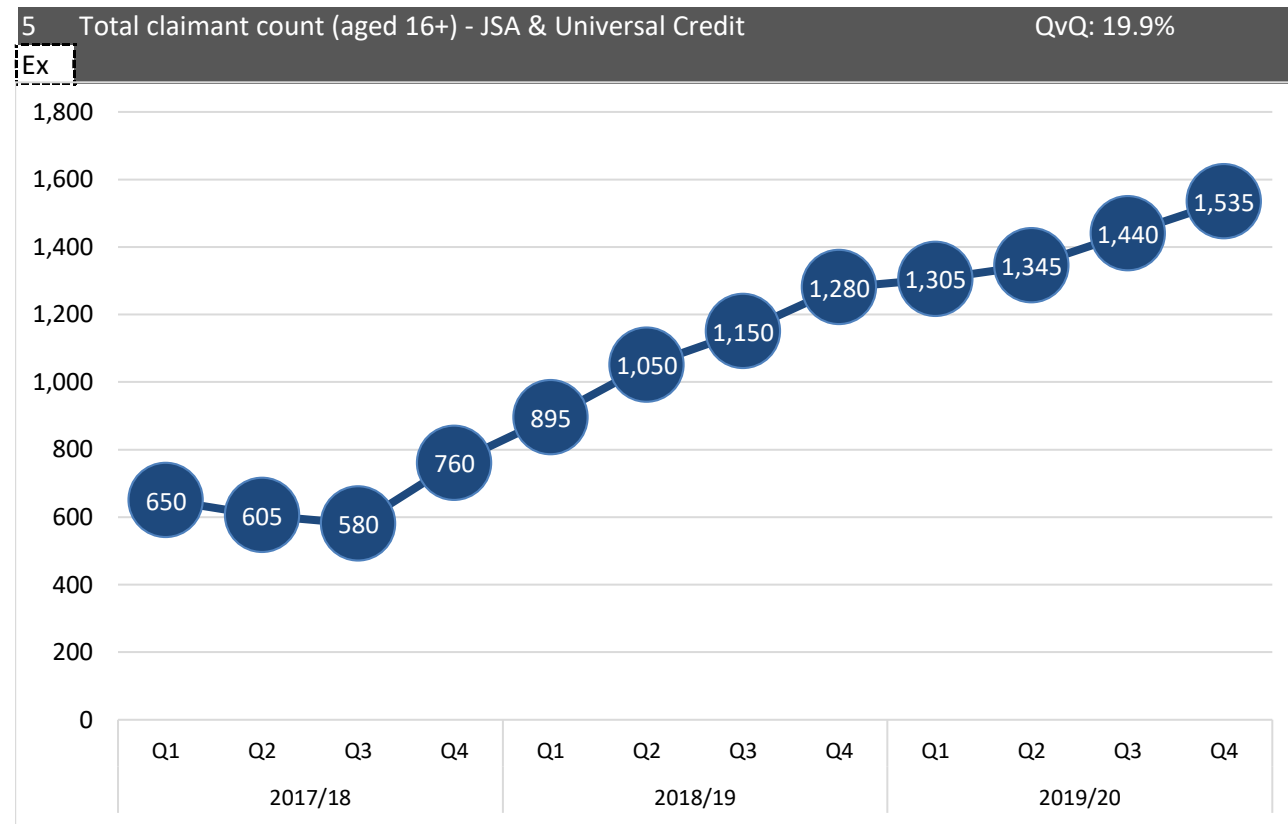
Appendix A: Influencer Measures 2019/20 (current qtr v same qtr last year)

Economy (Grey) | Social Care (Blue) | Environment (Green)



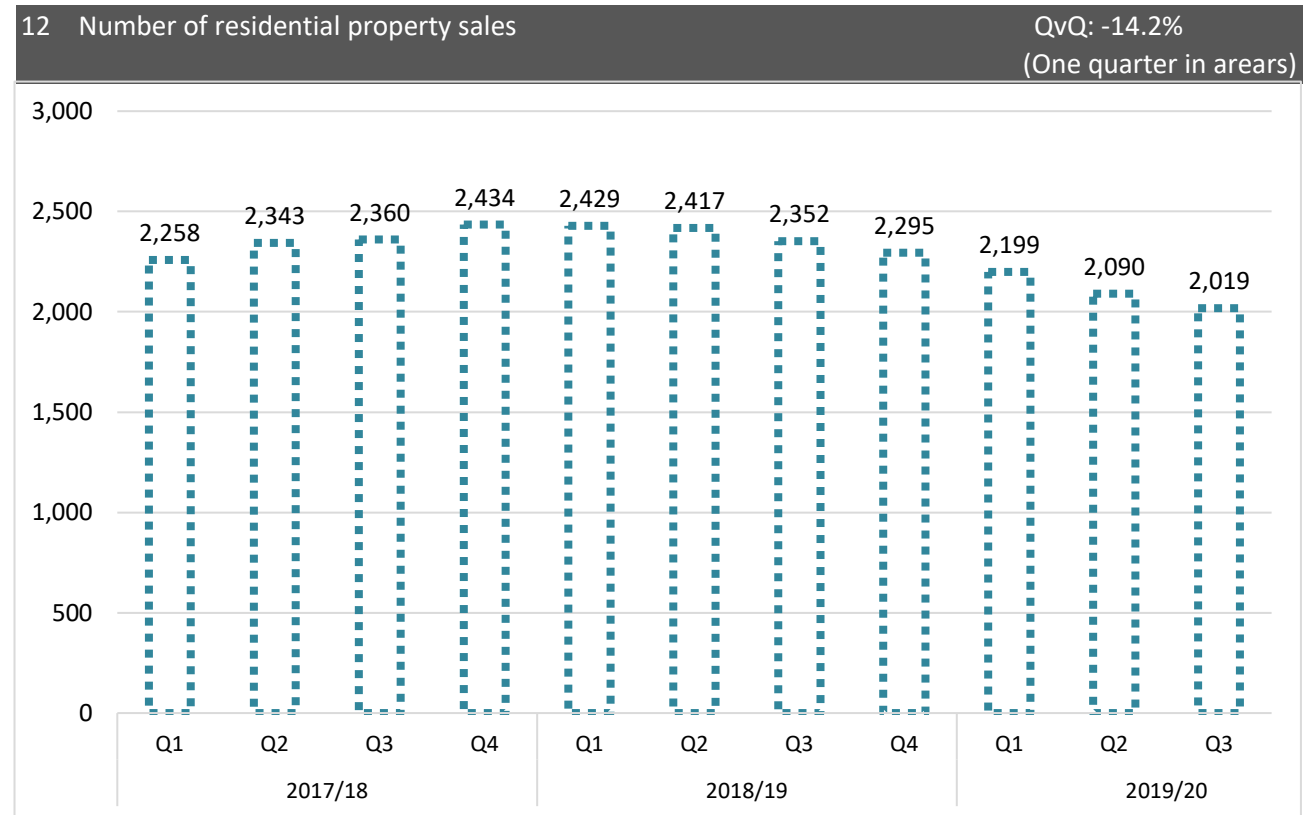
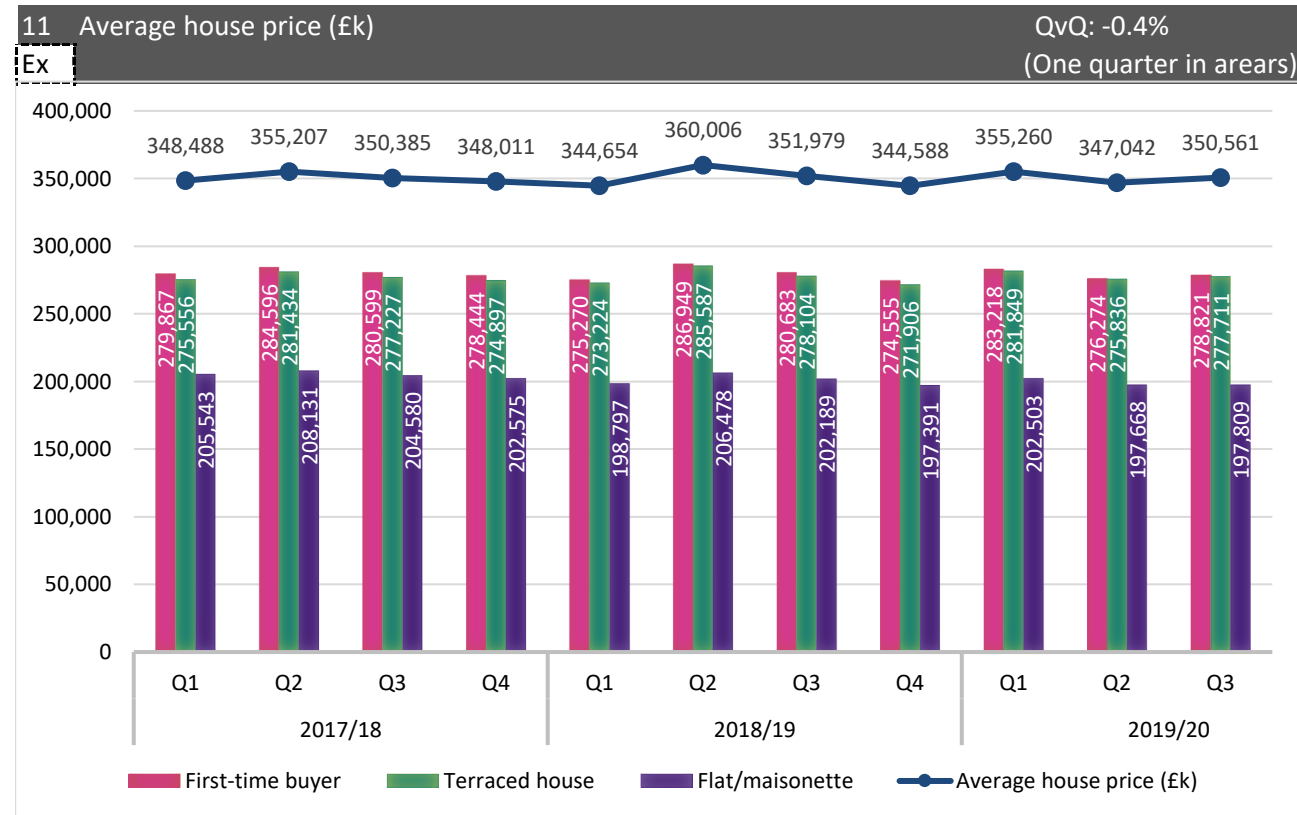
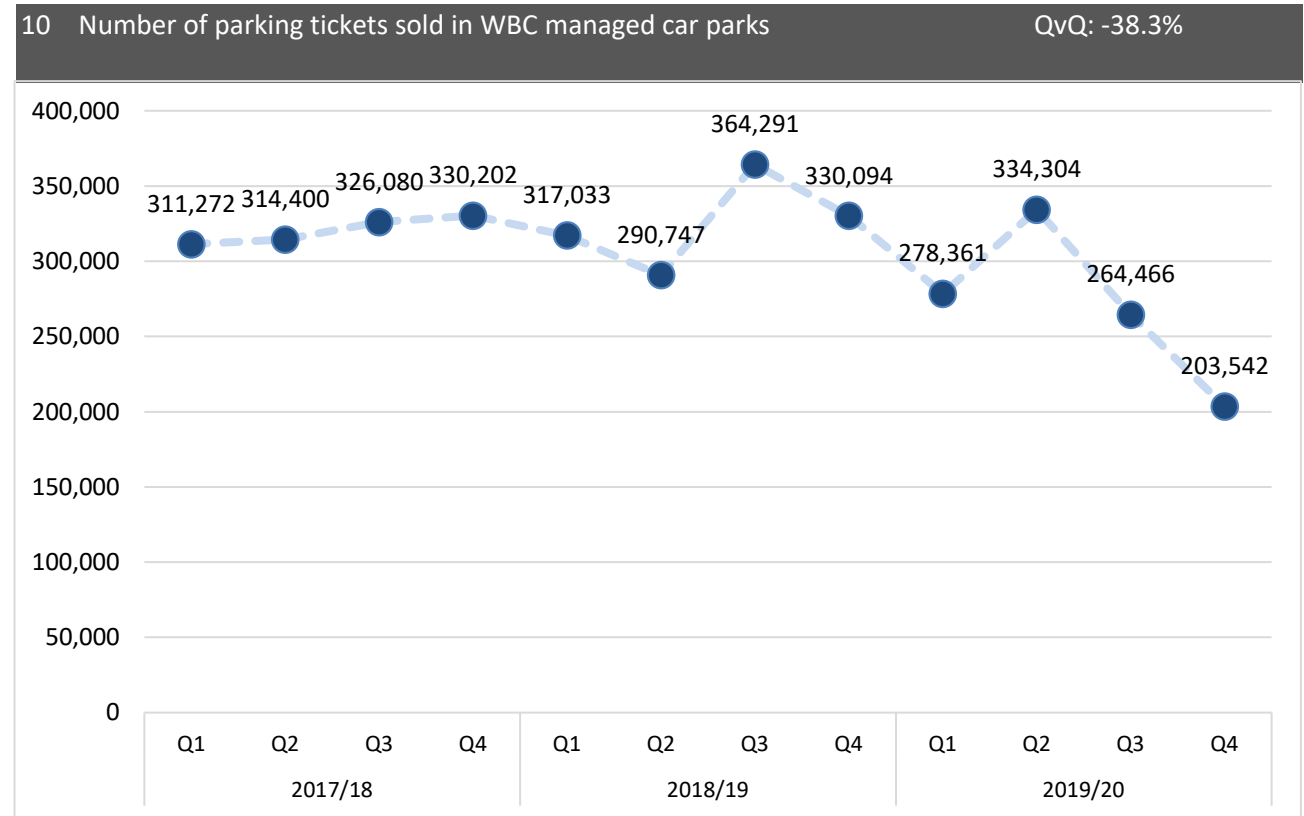
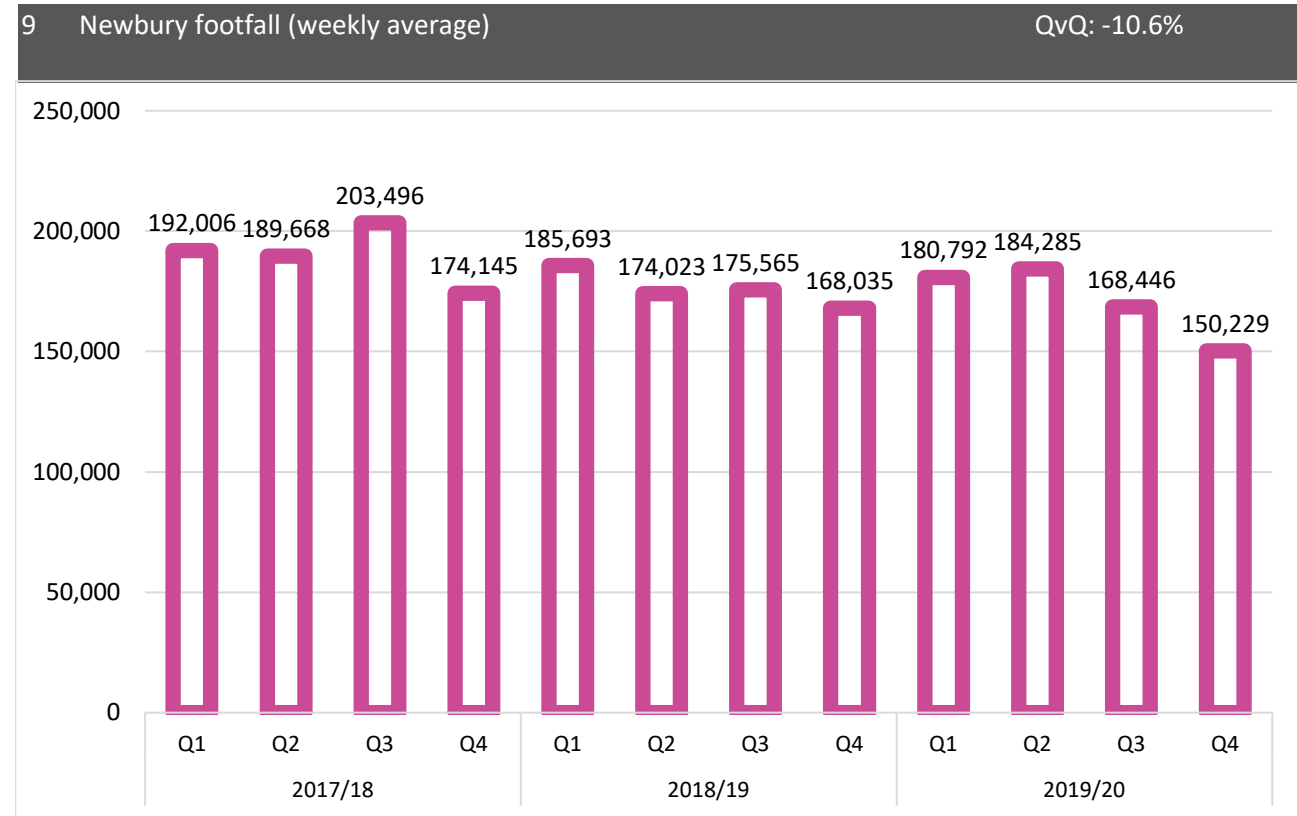
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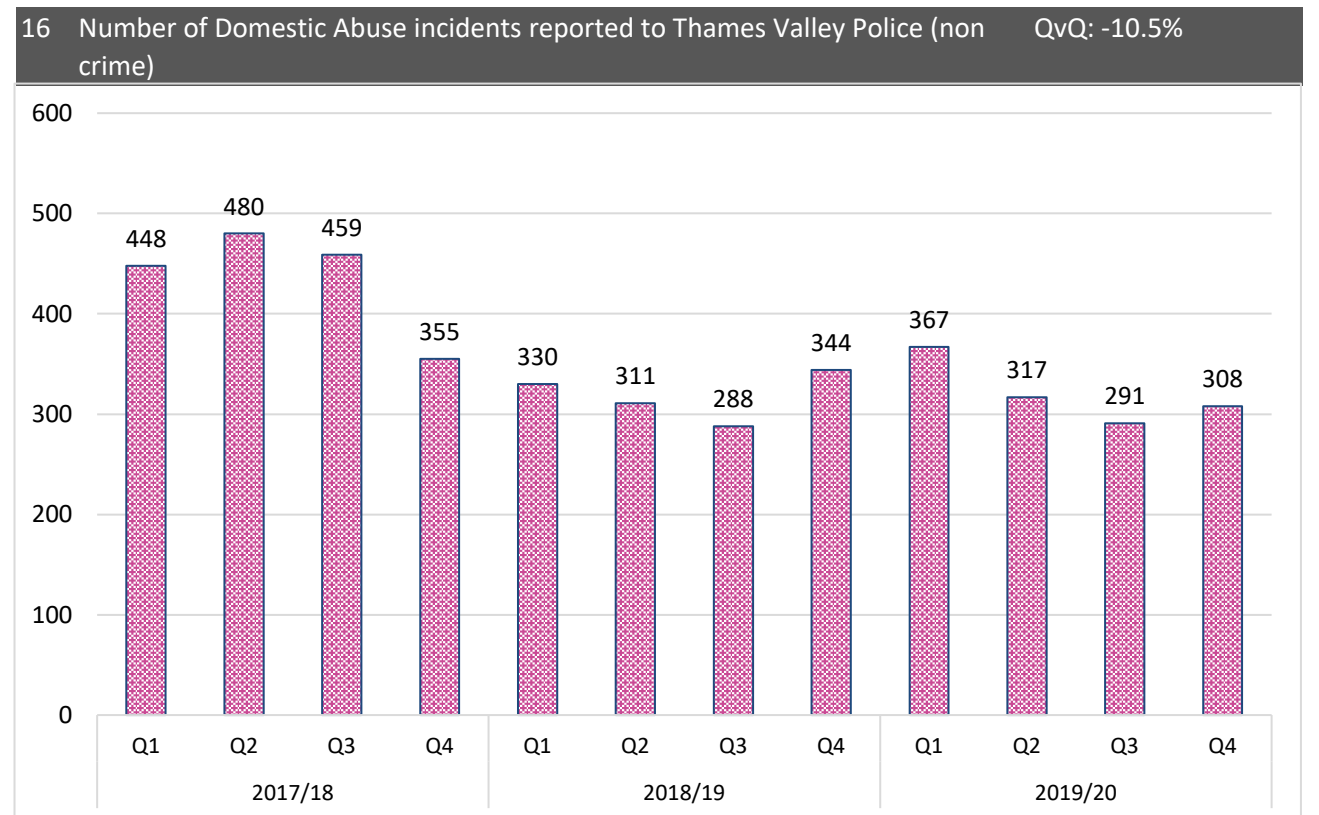
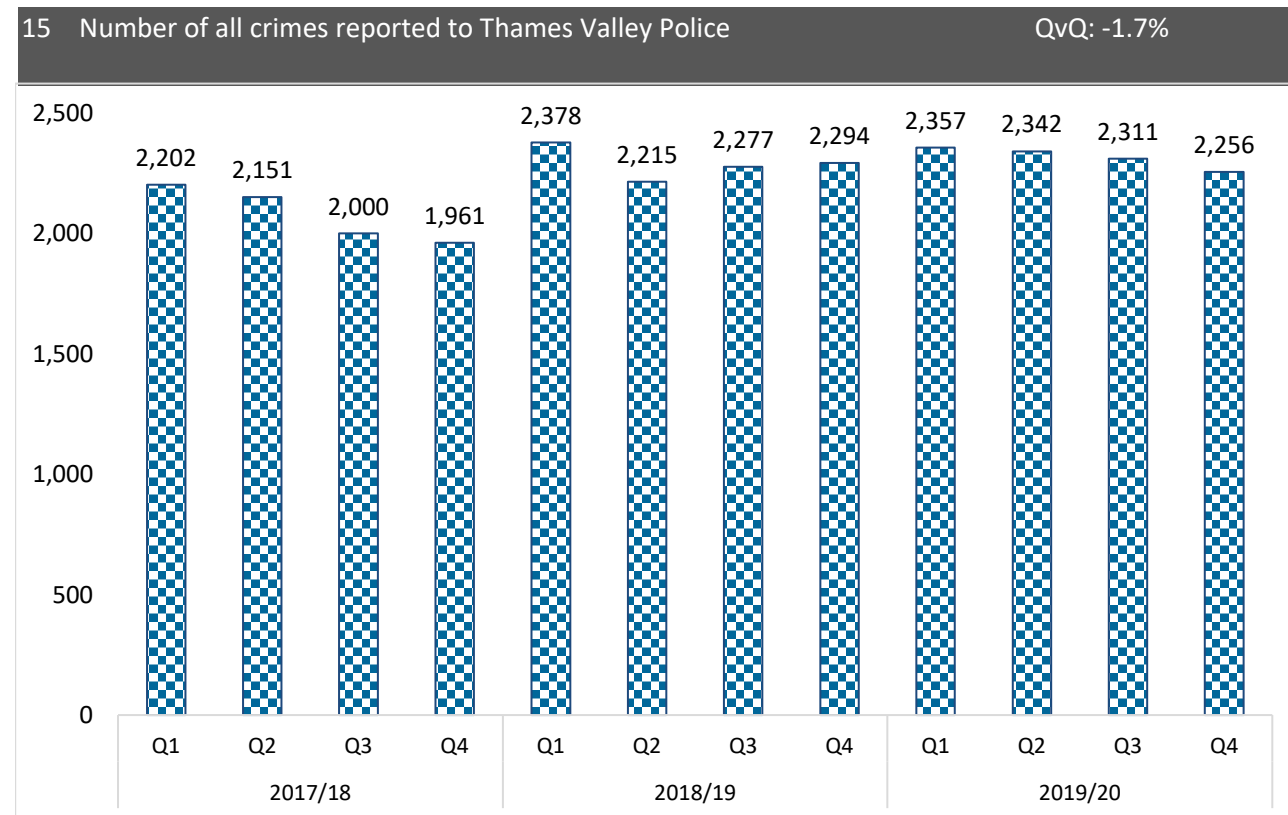
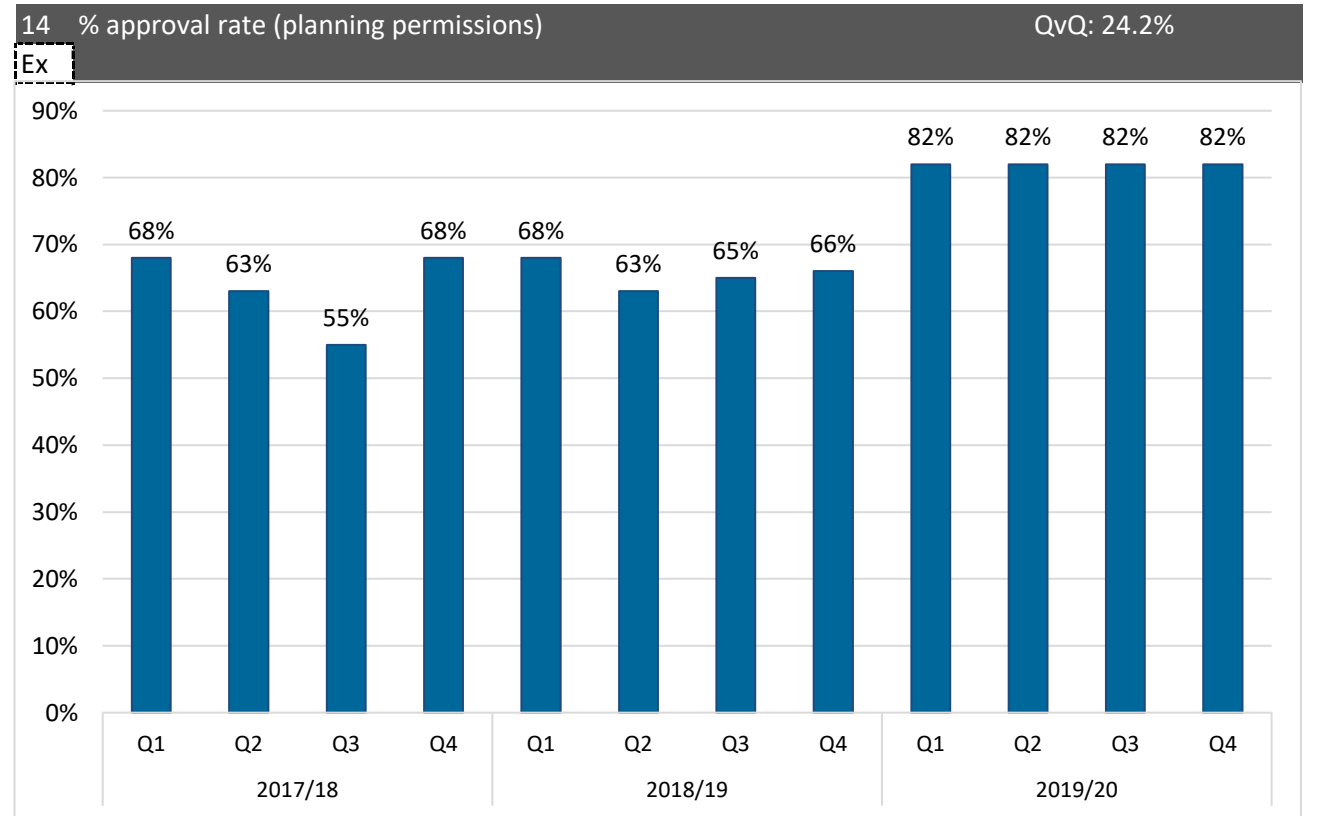
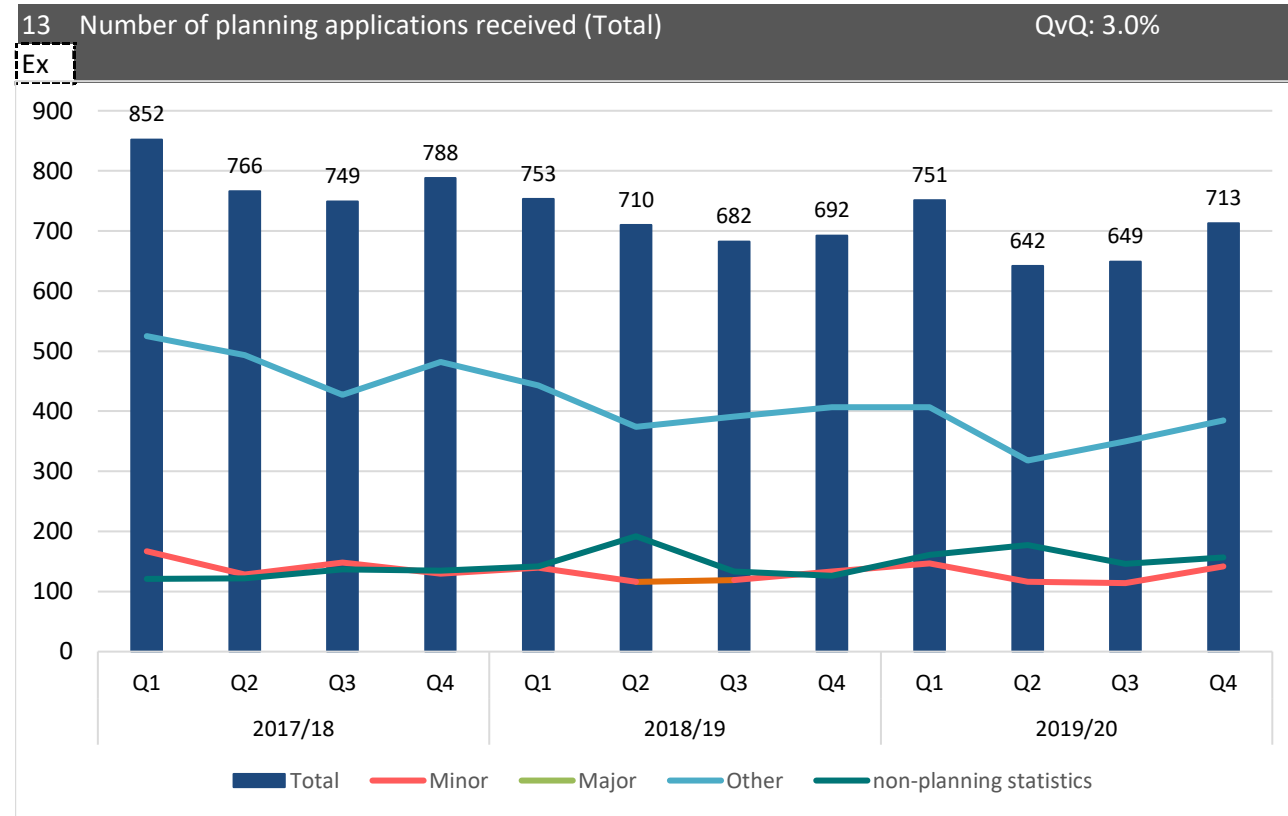
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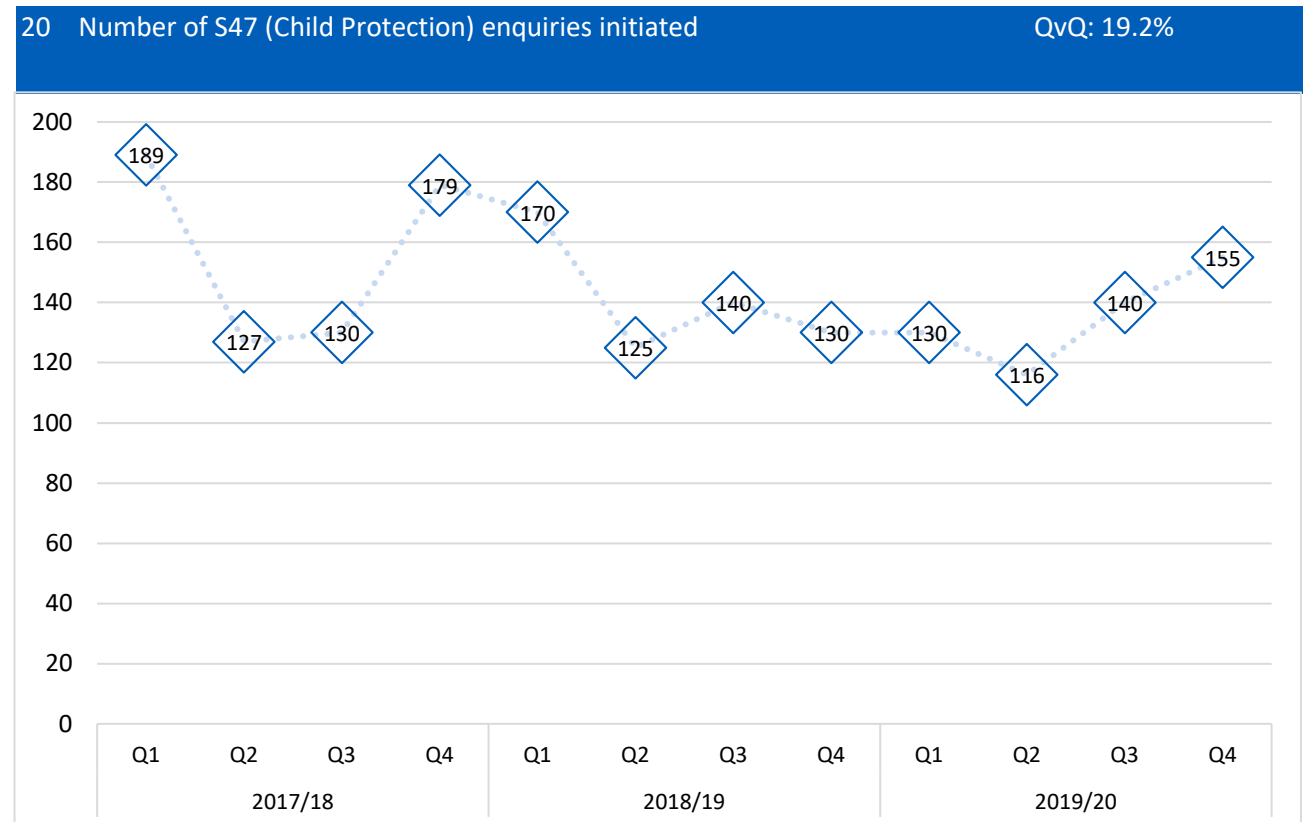
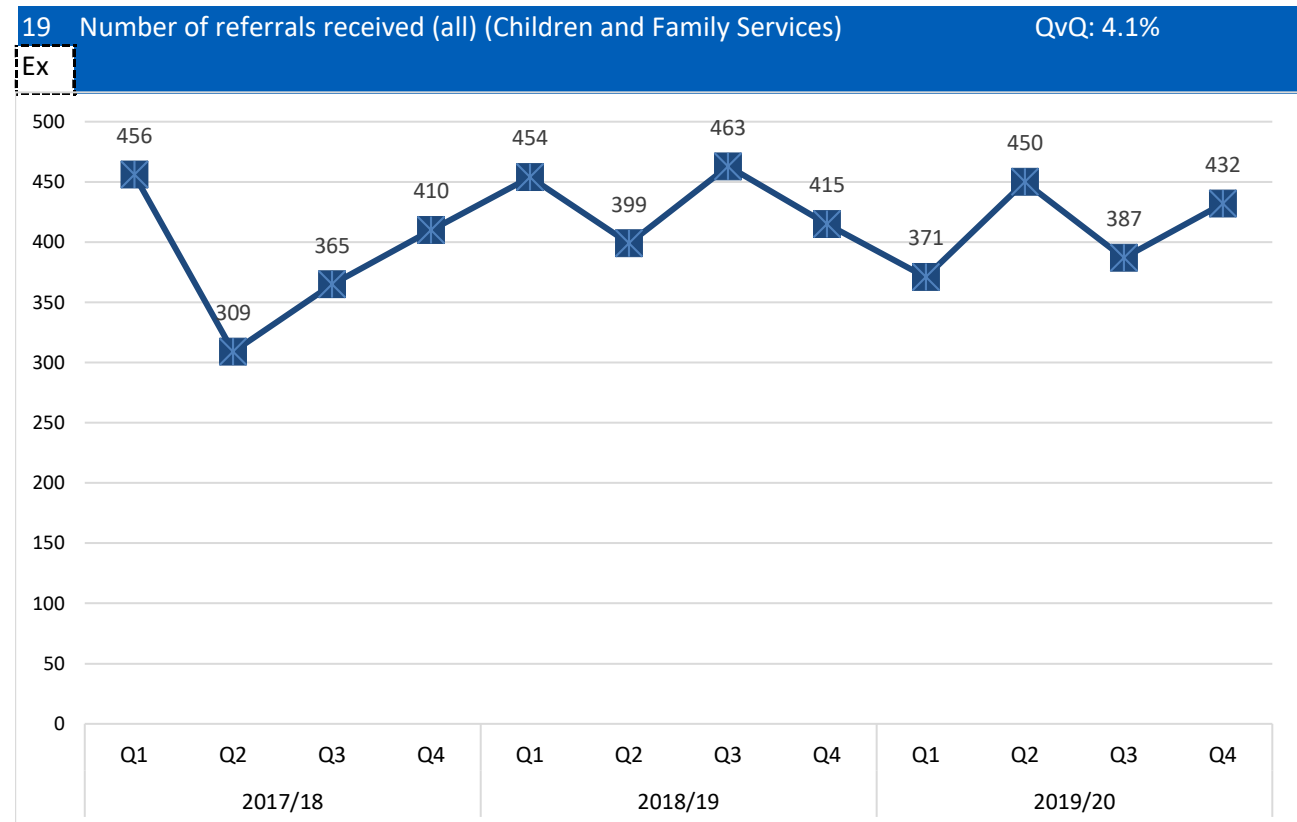
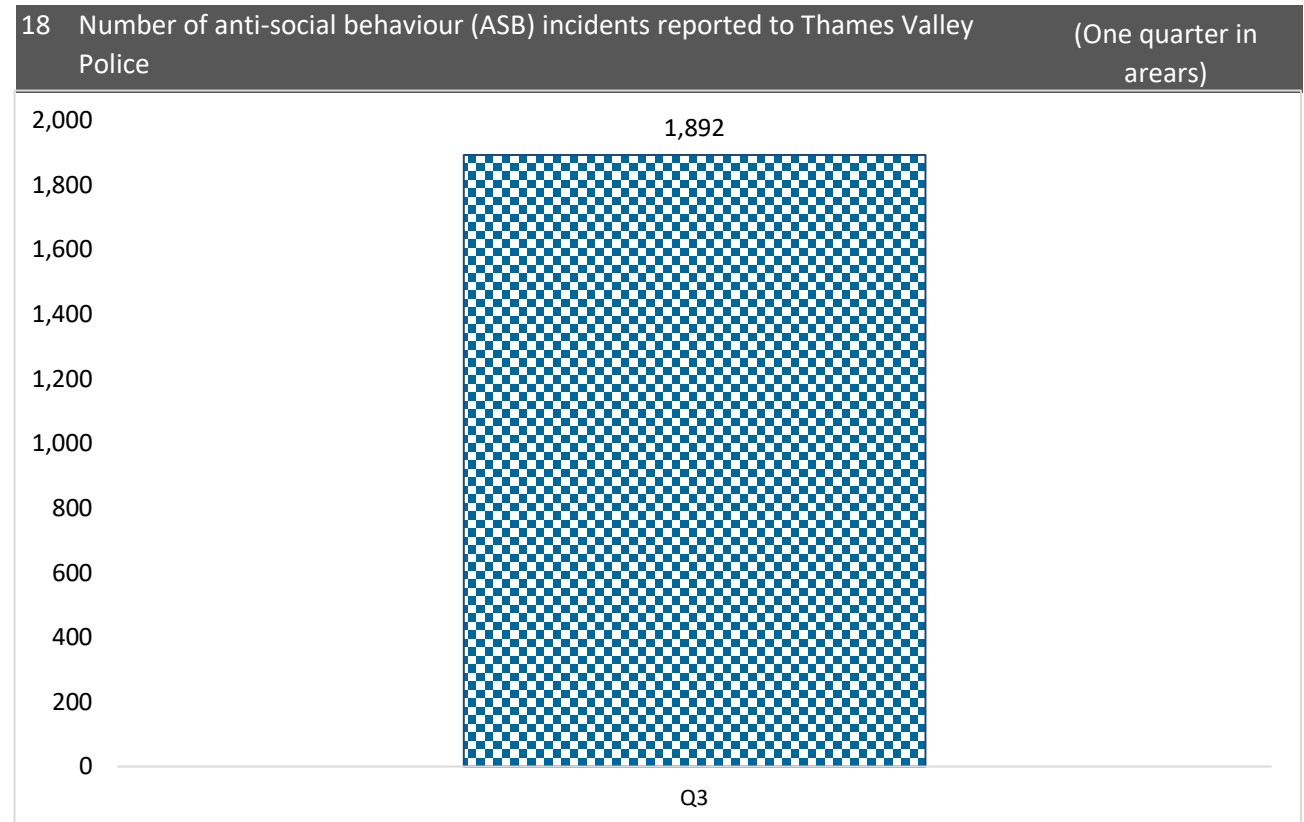
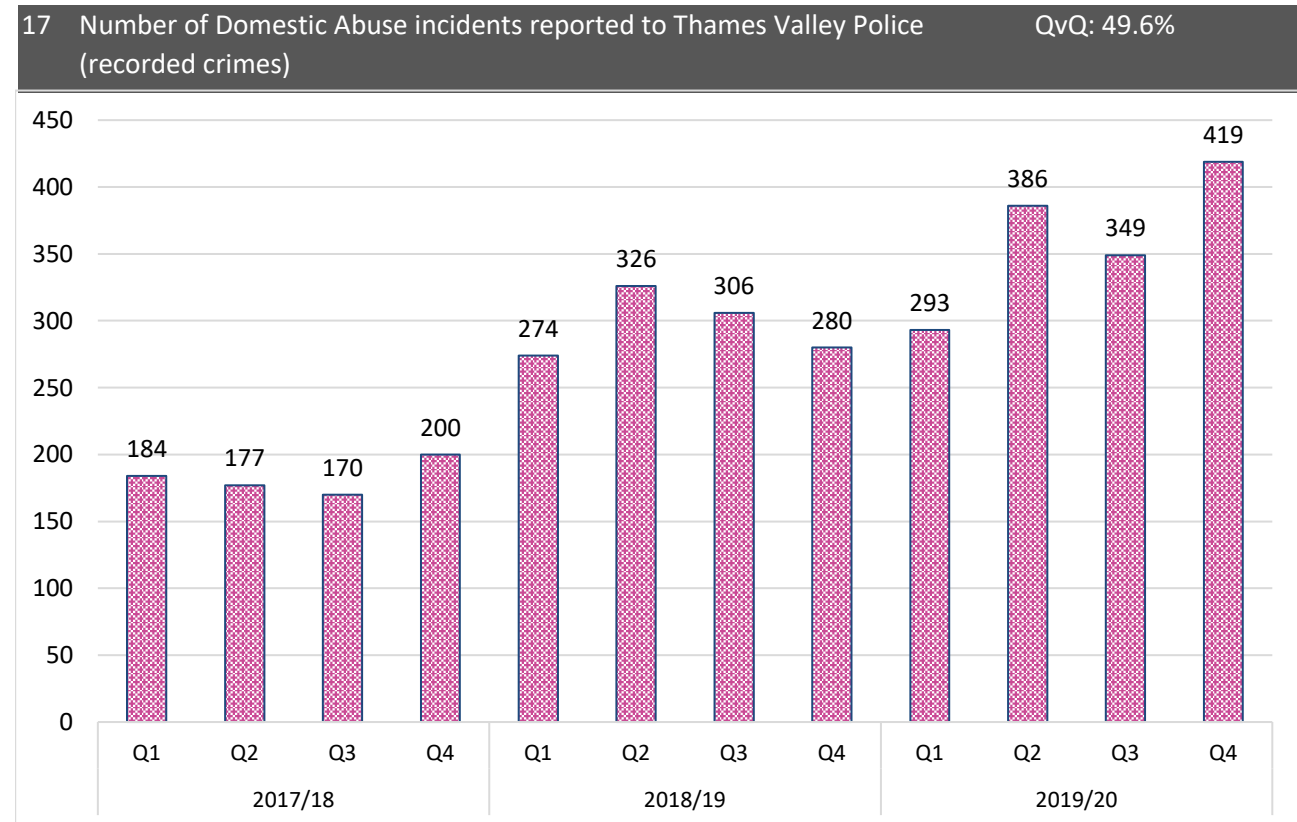
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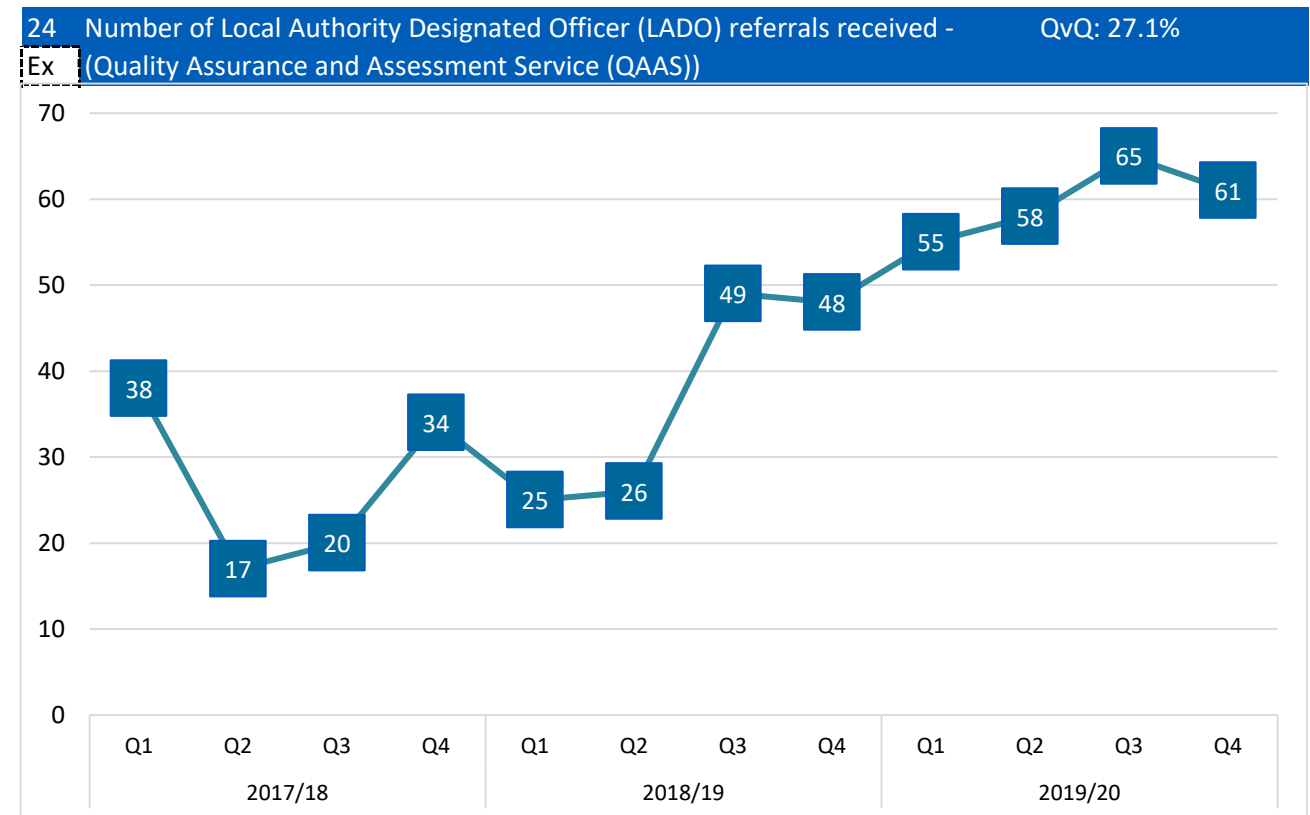
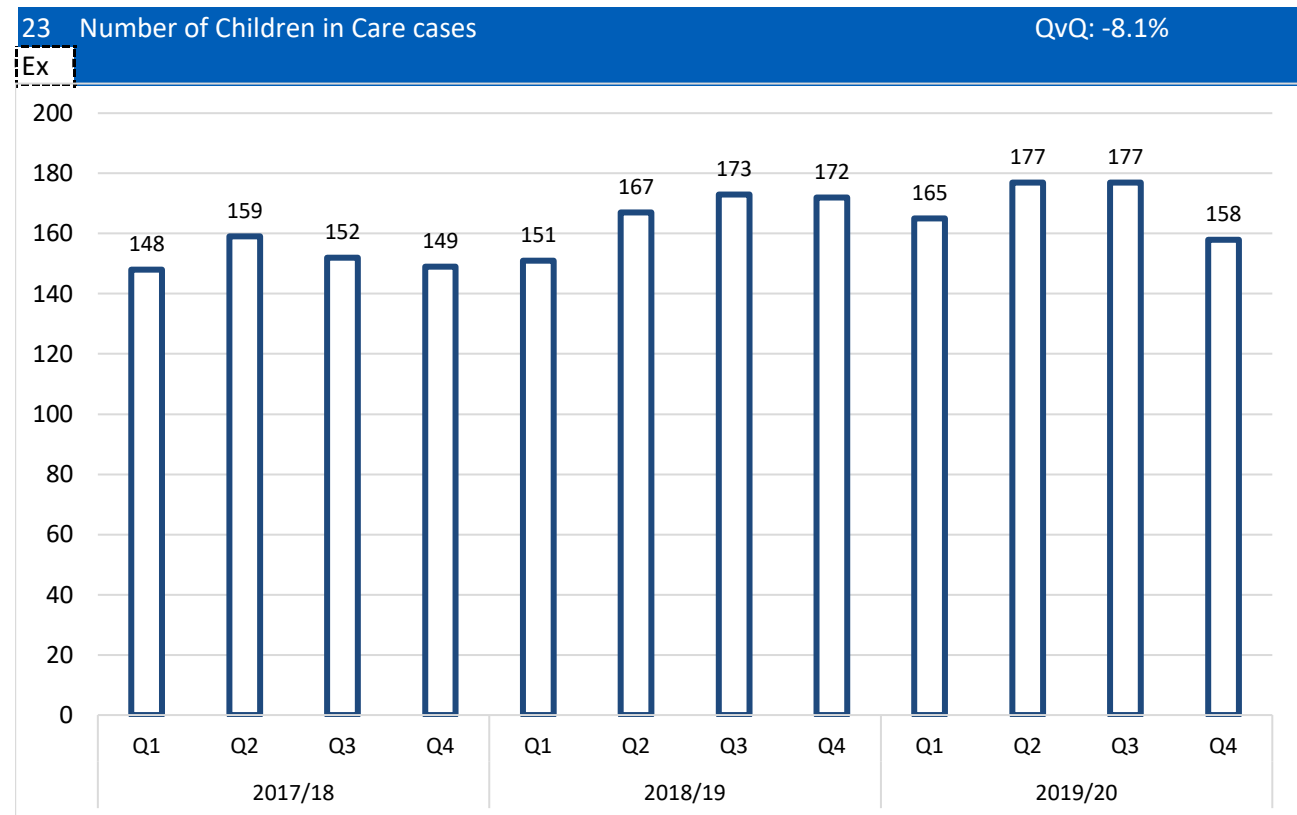
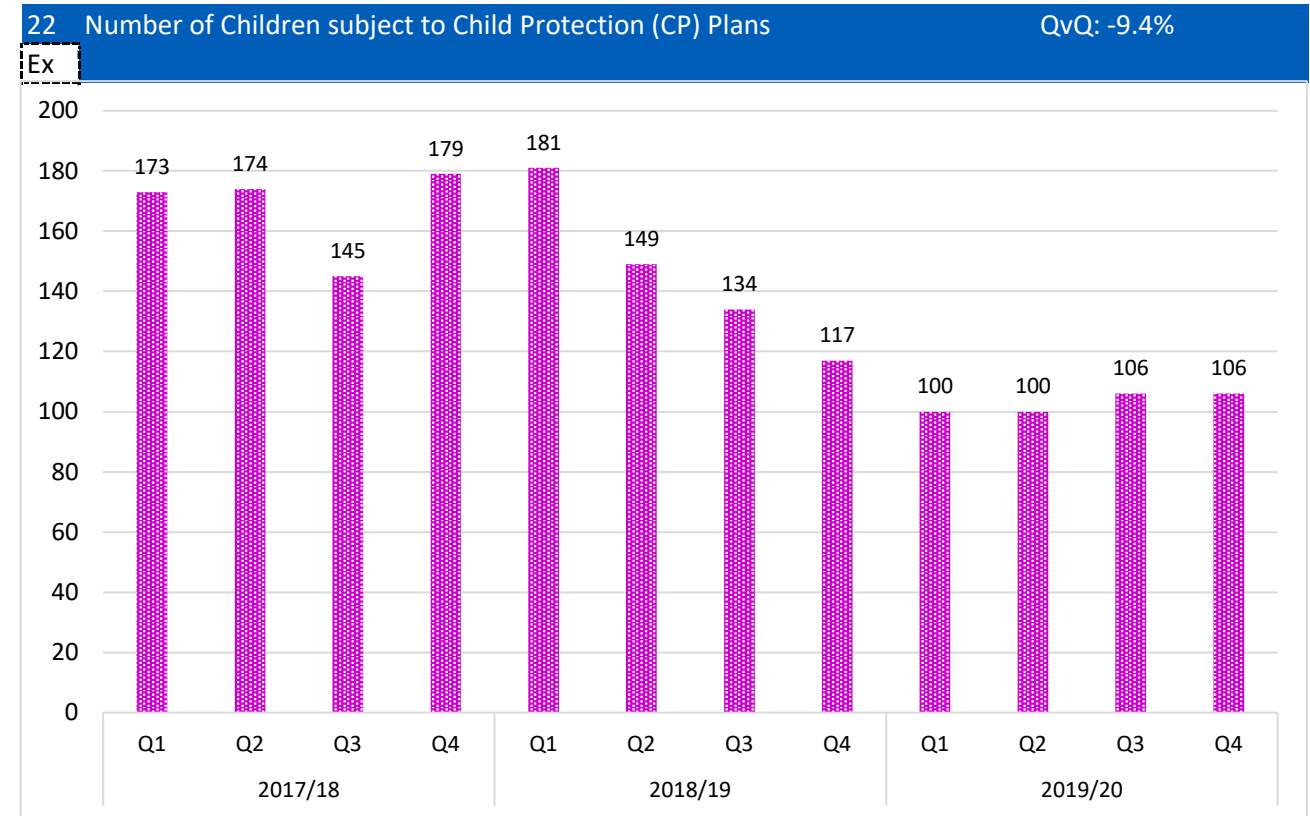
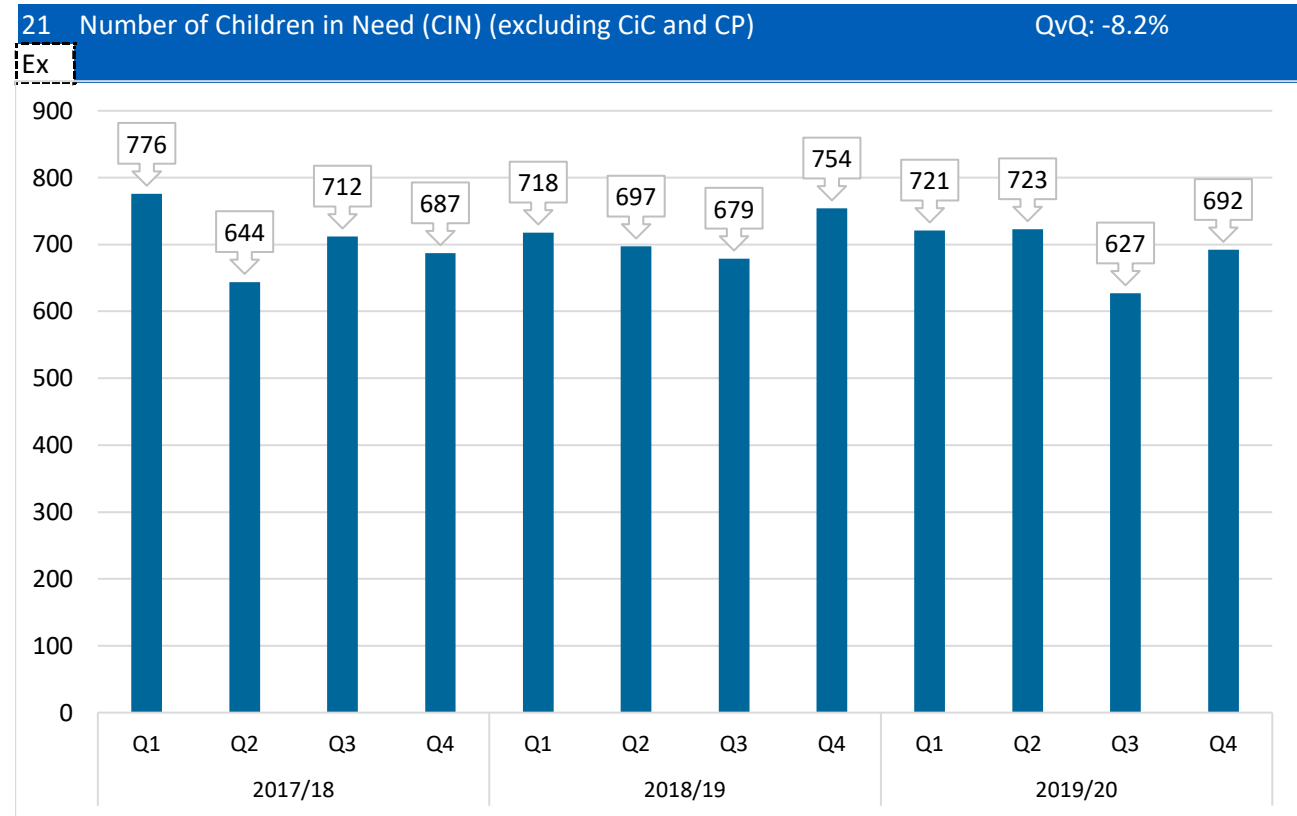
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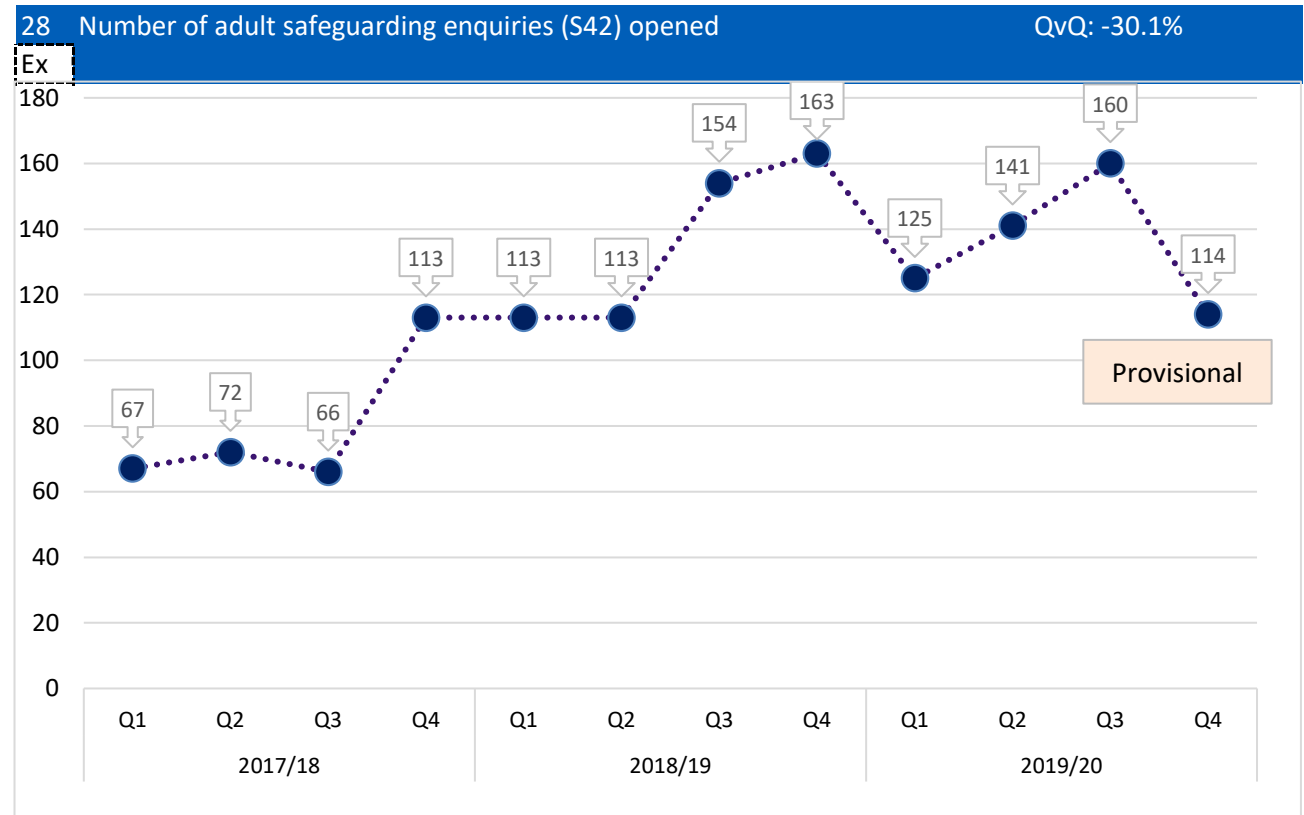
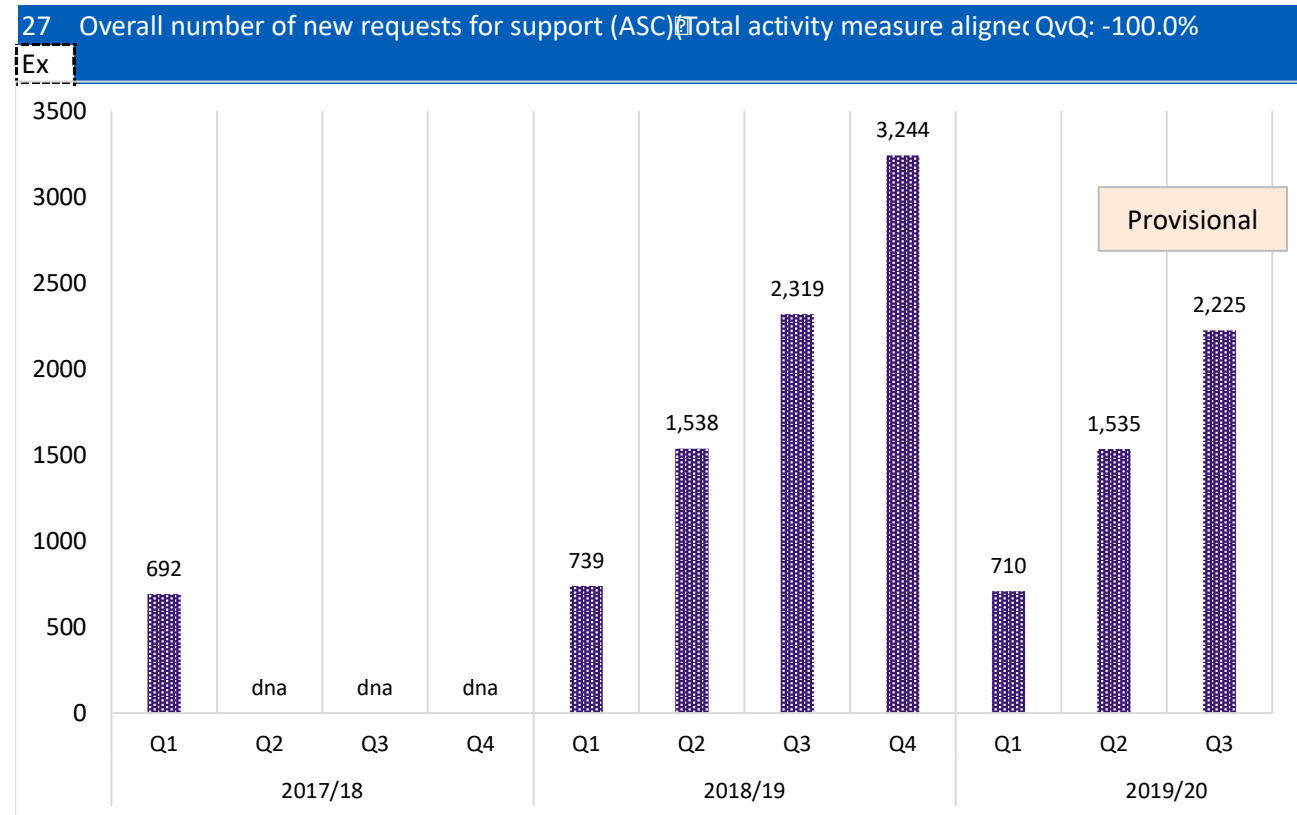
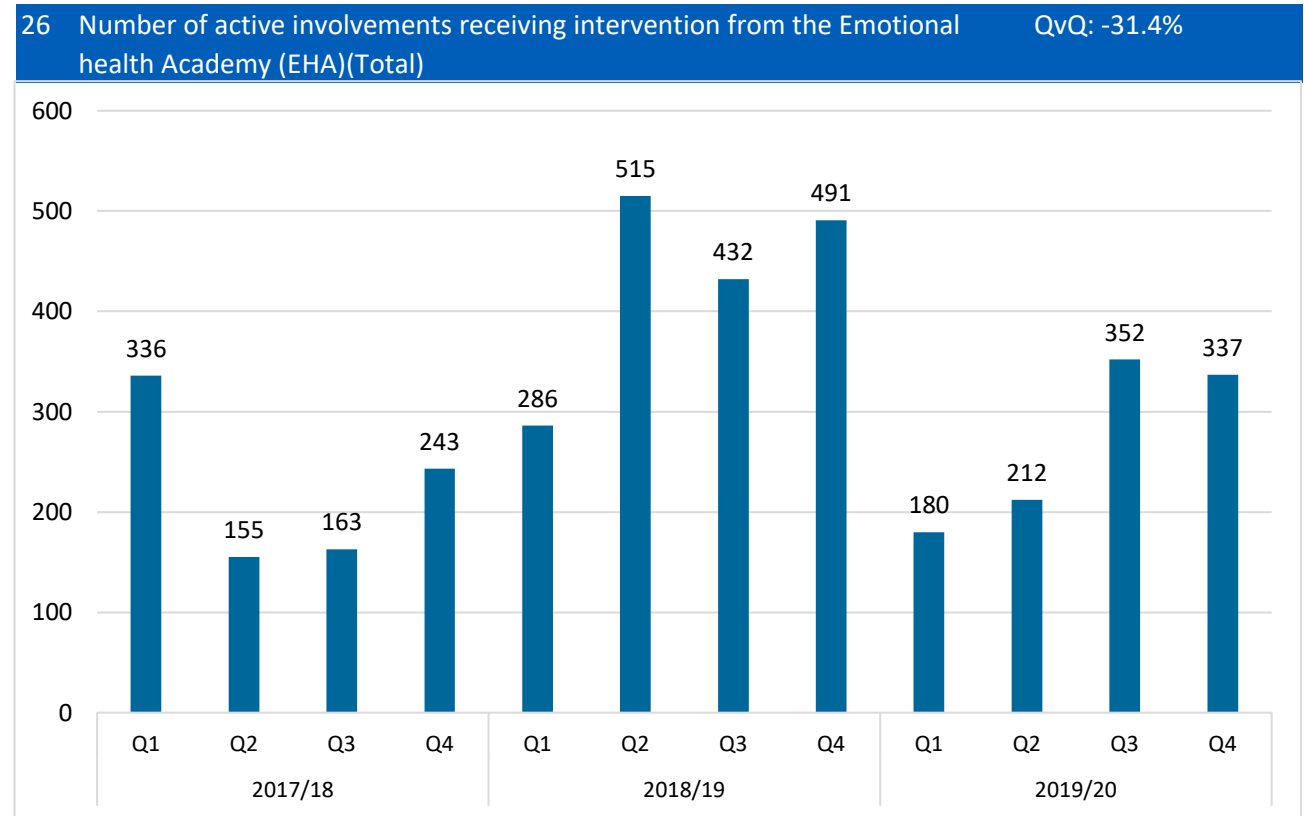
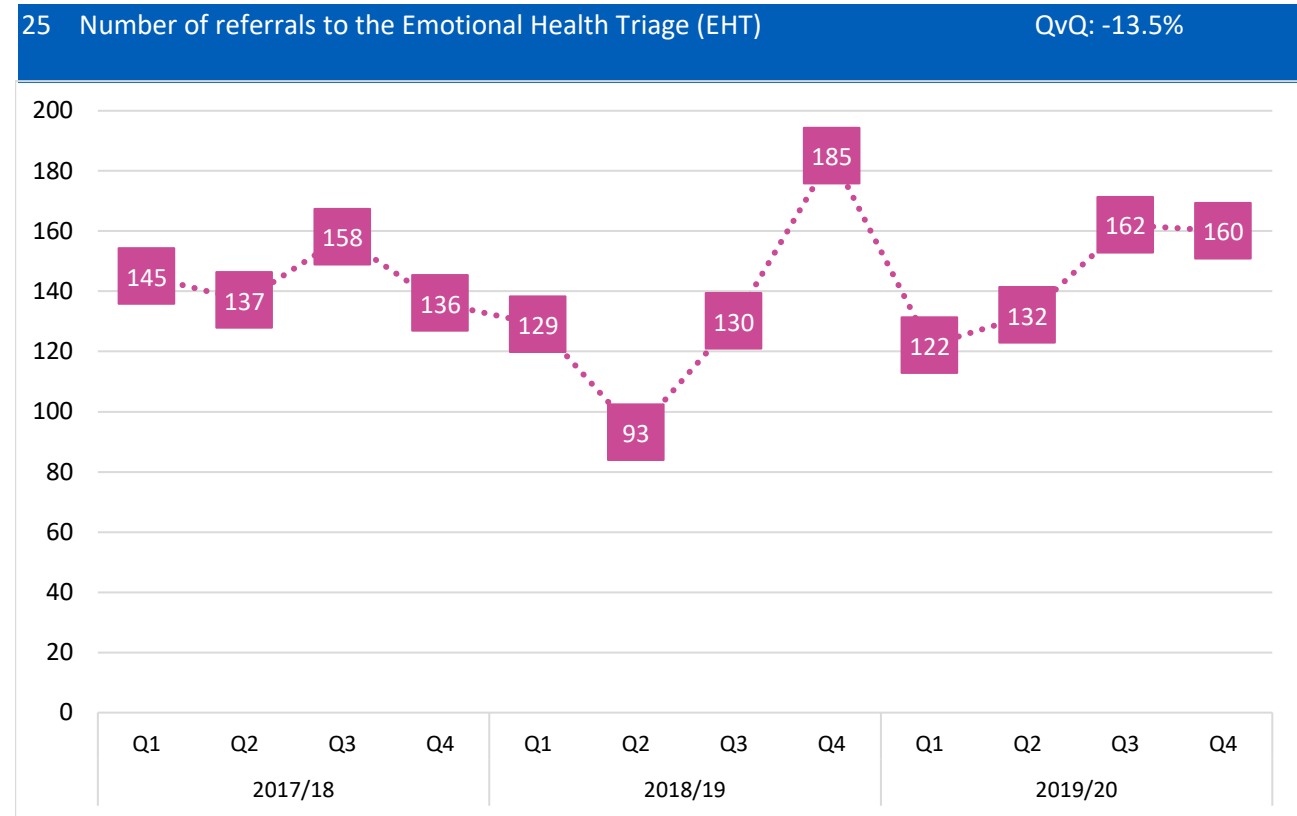
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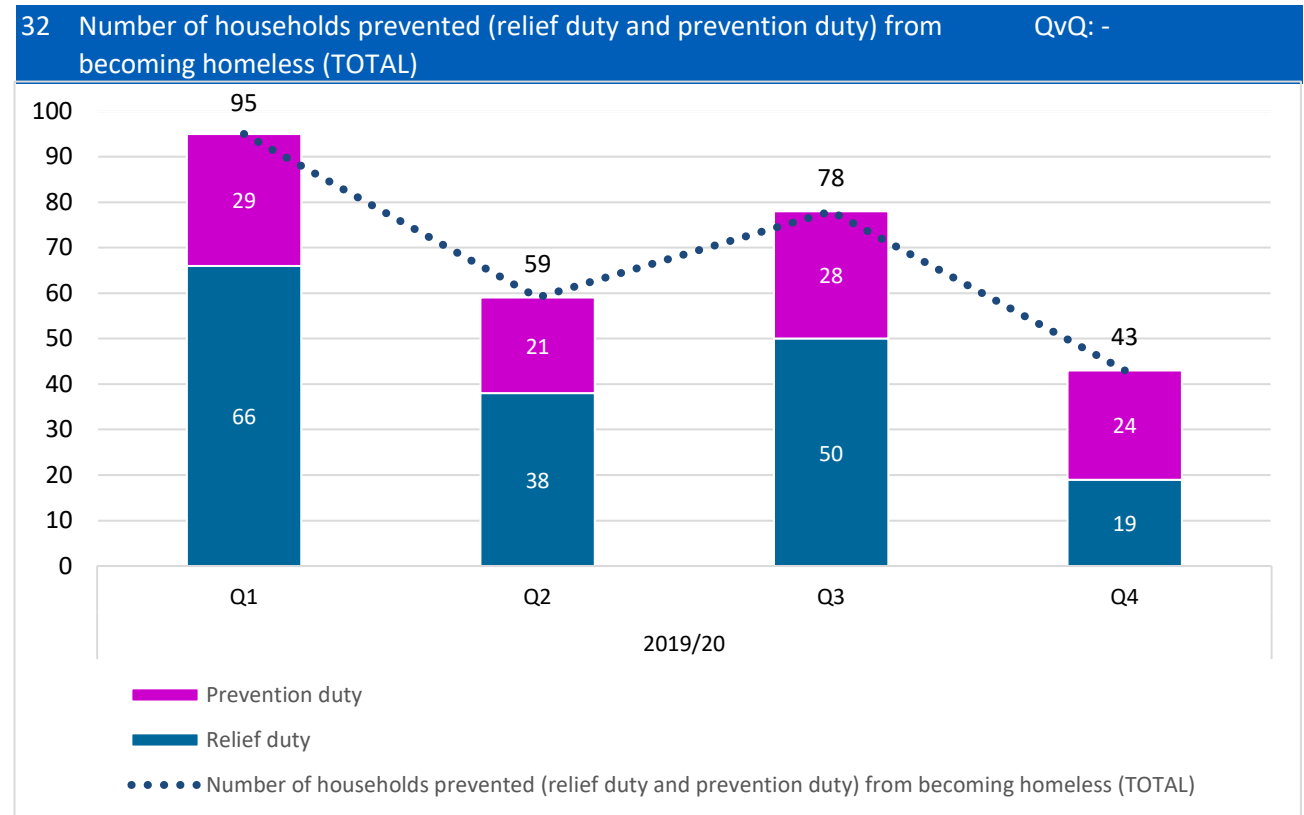
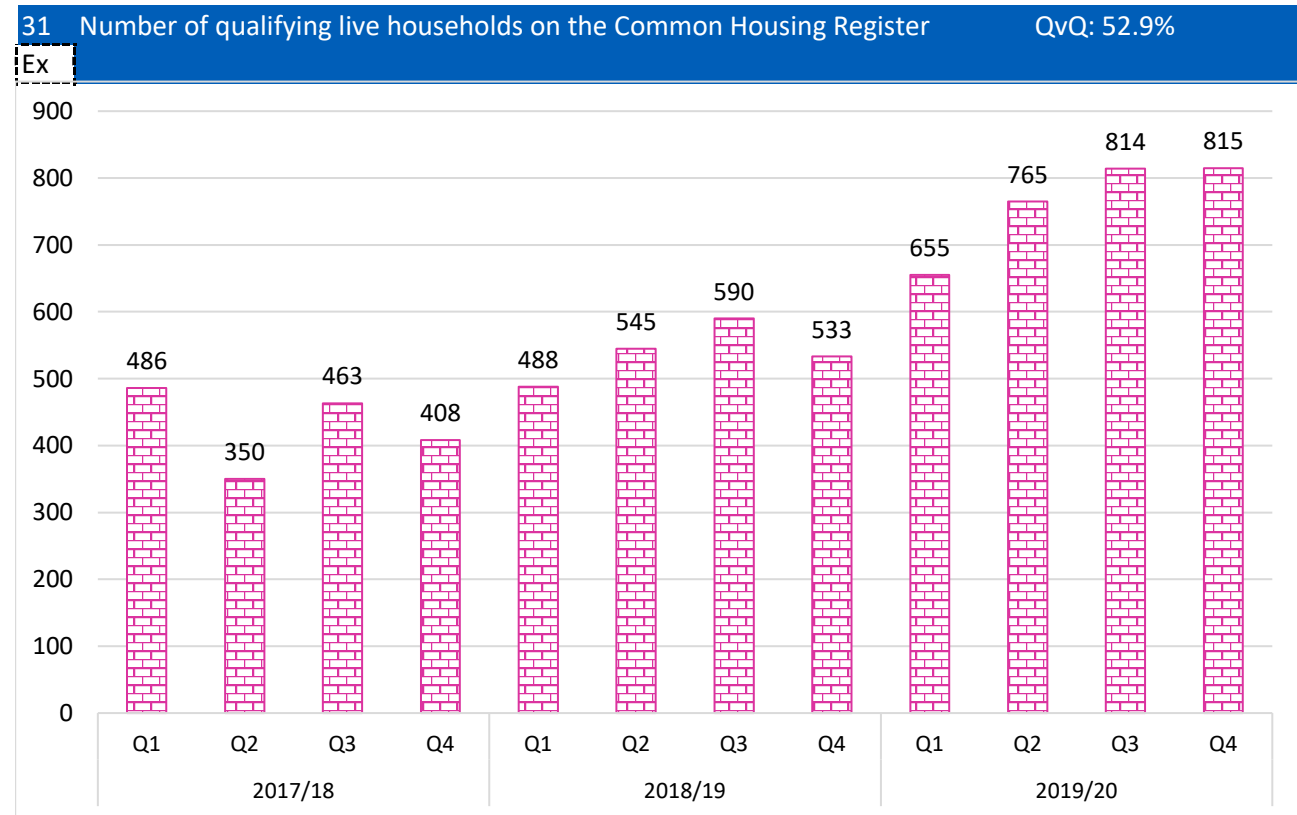
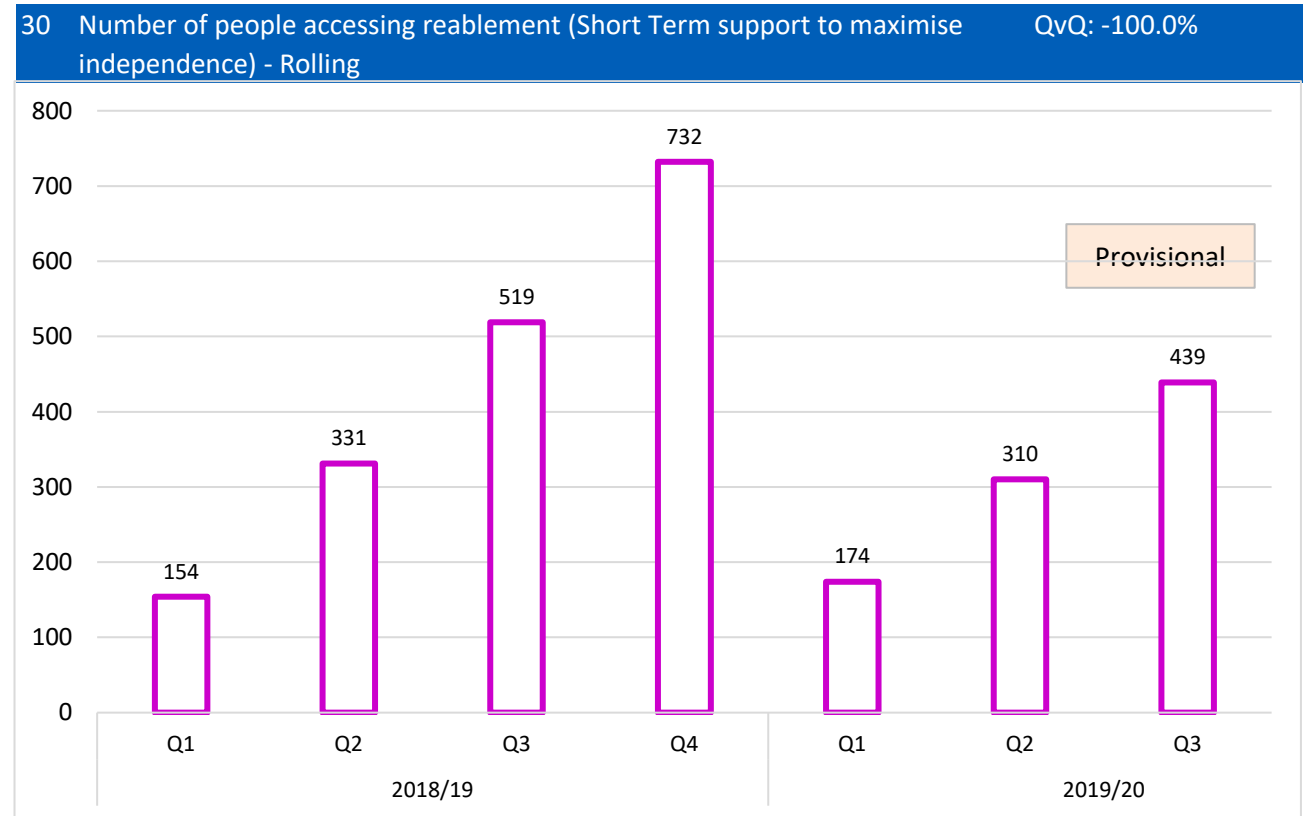
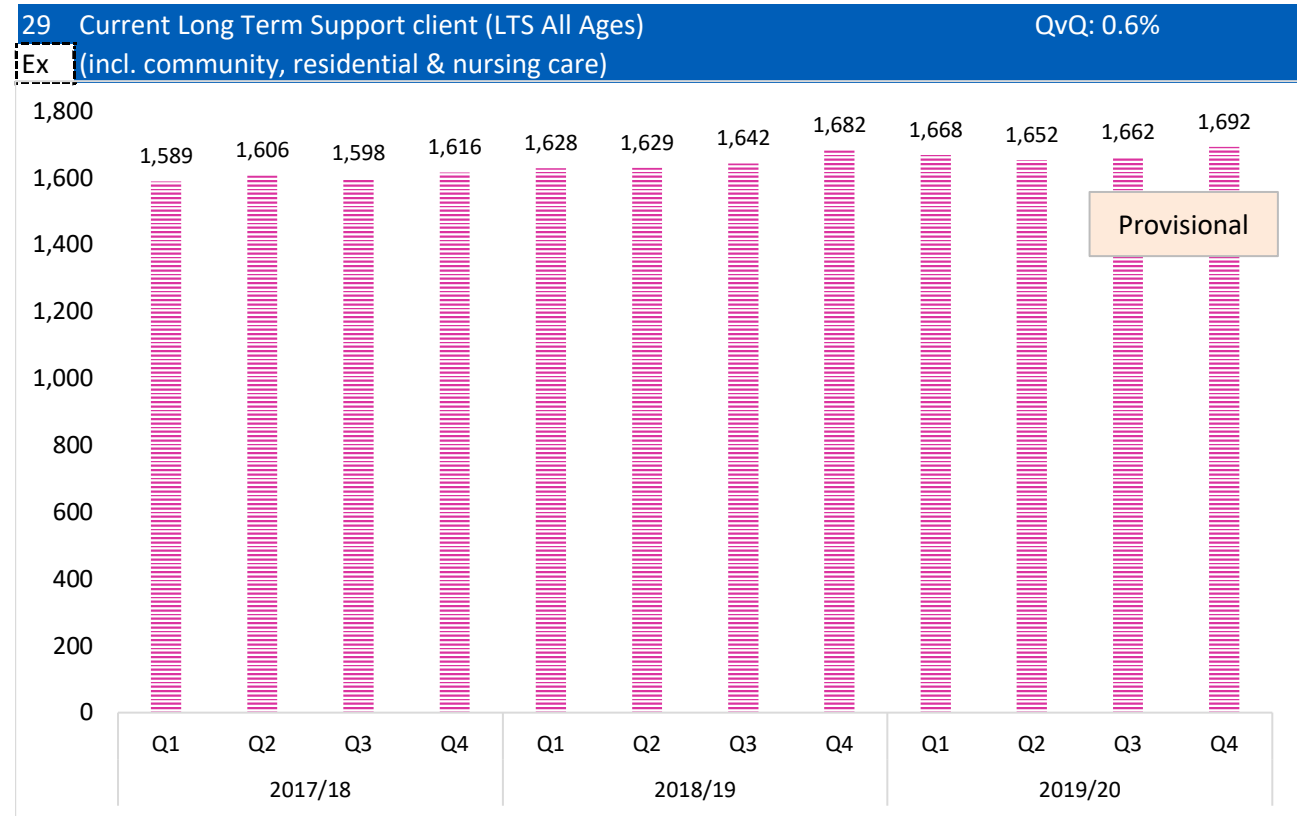
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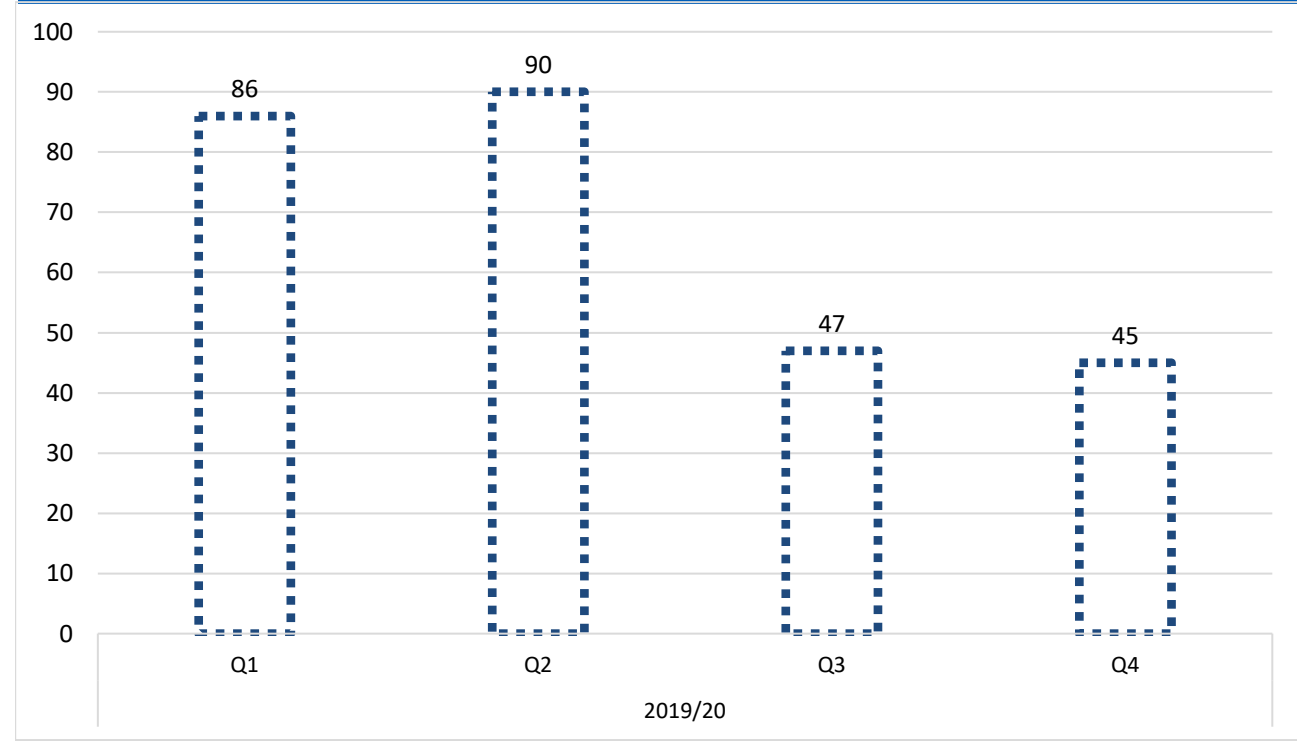
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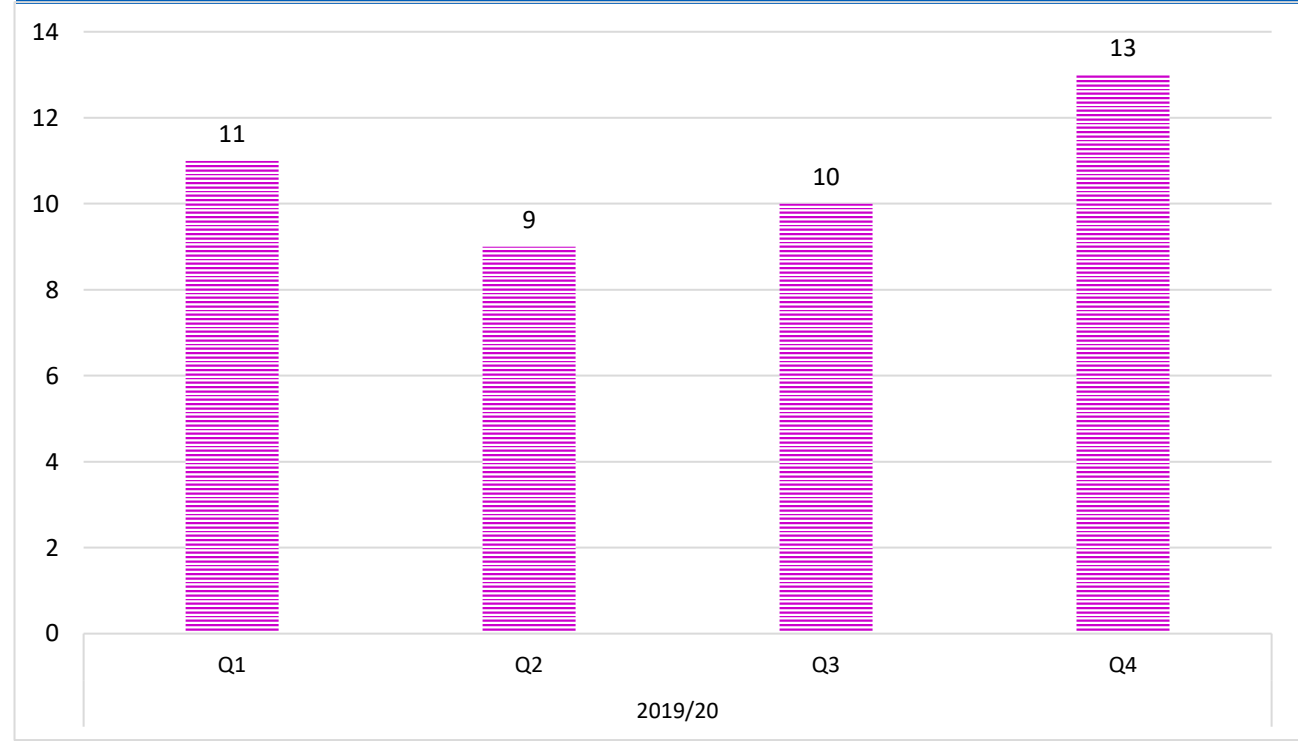
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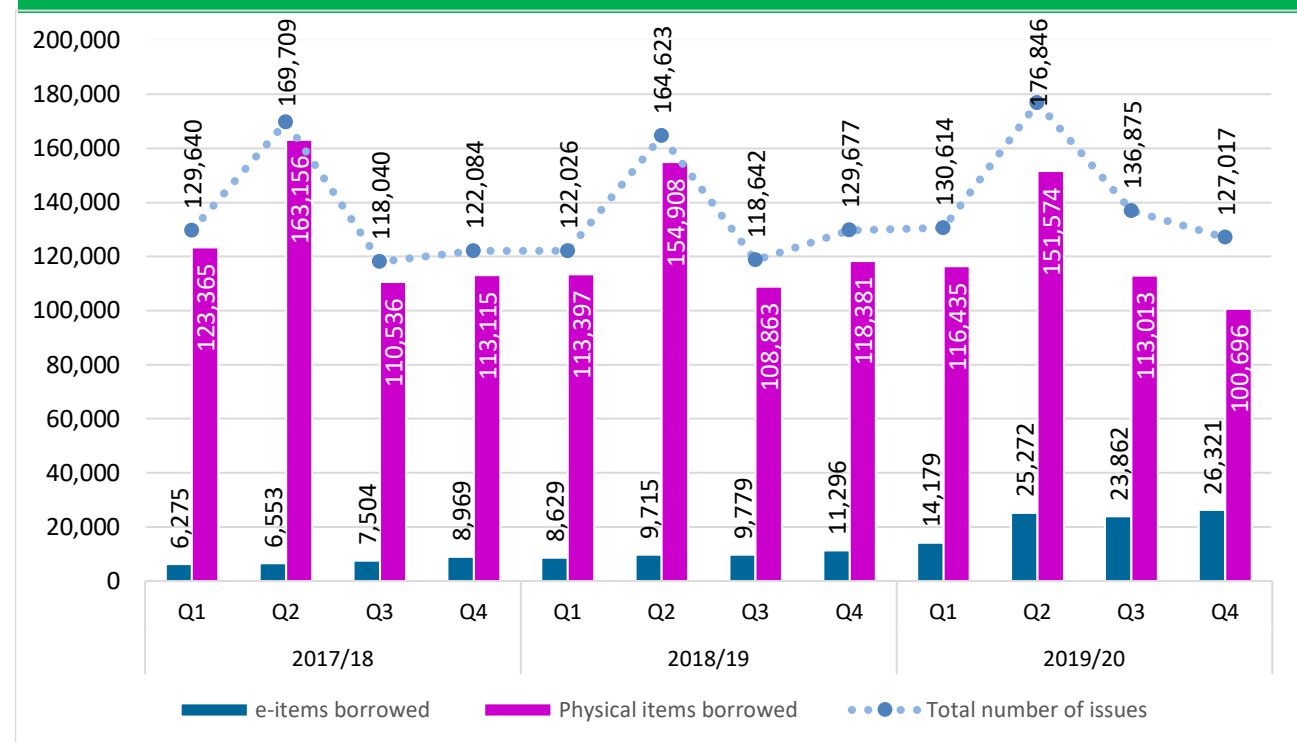
33 Number of households in temporary accommodation at the end of the quarter QvQ: -



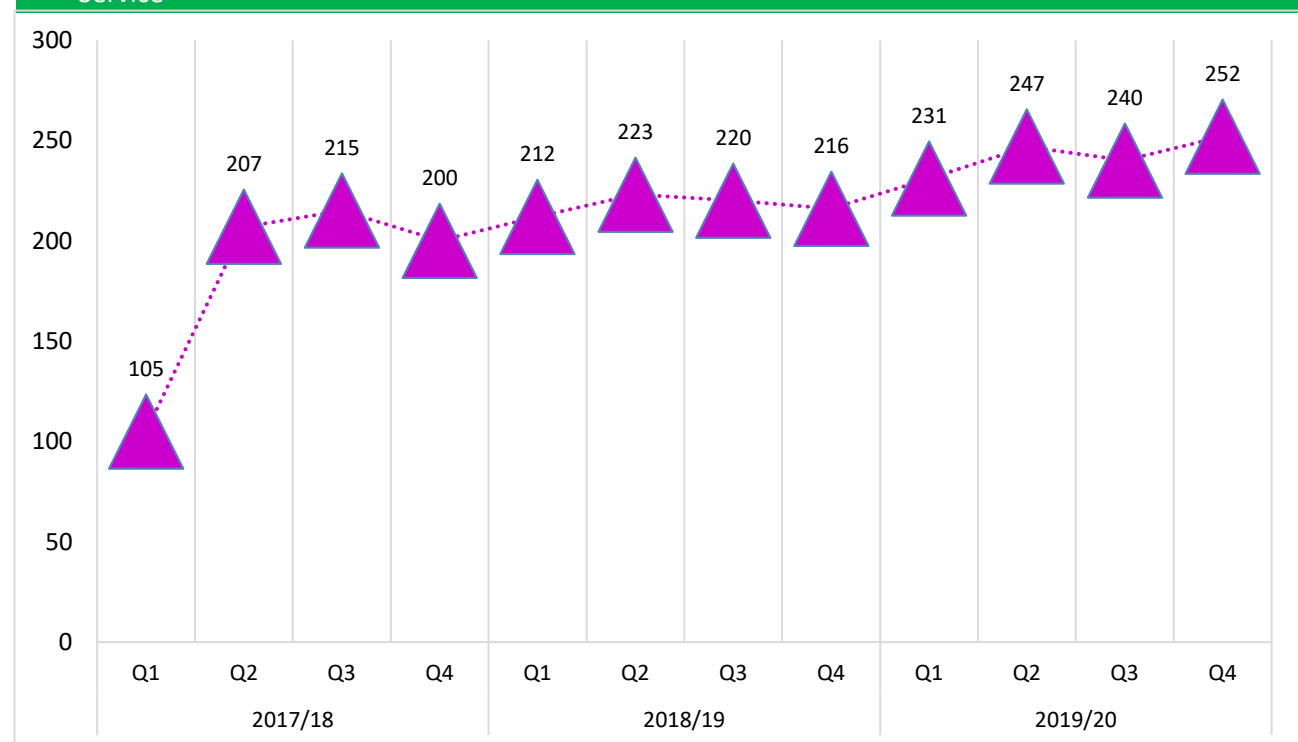
34 Number of rough sleepers on the last day of the quarter QvQ: -



35 Number of library issues (Total) QvQ: -2.1%



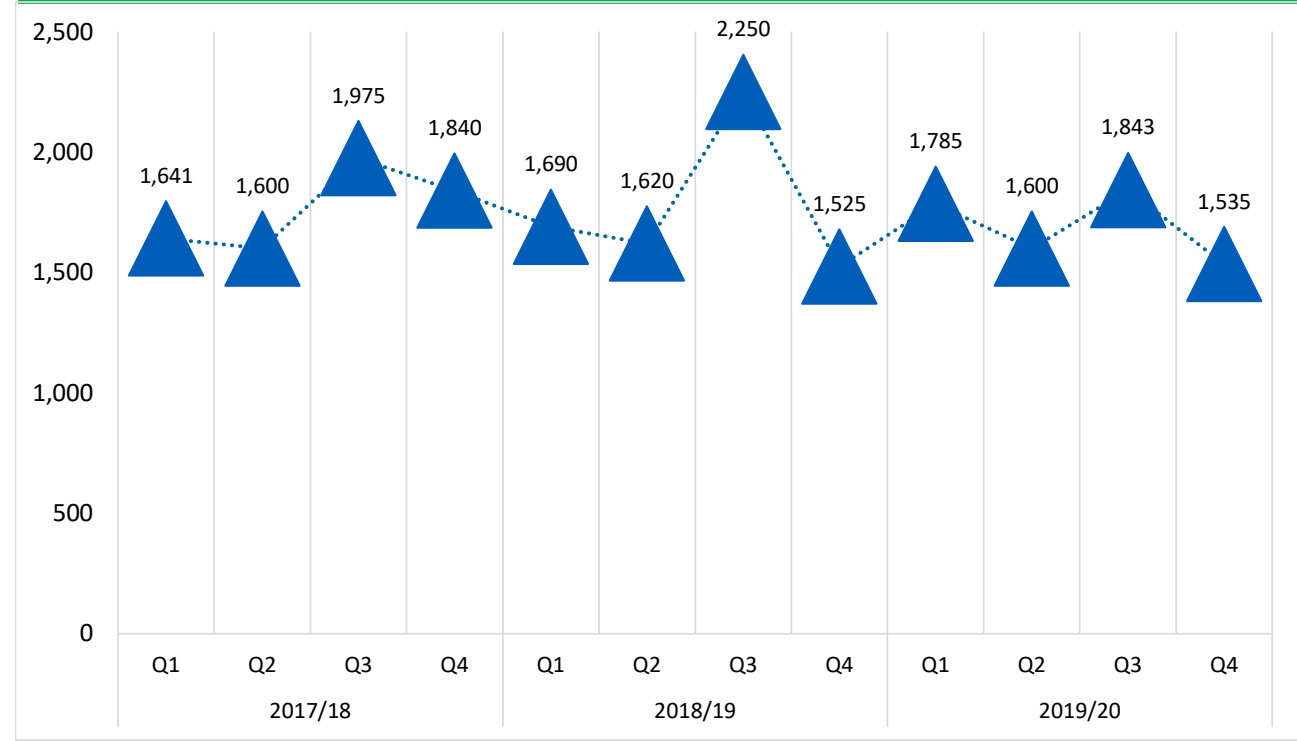
36 Number of volunteers across libraries, including the Mobile and 'At Home' Service QvQ: 16.7%



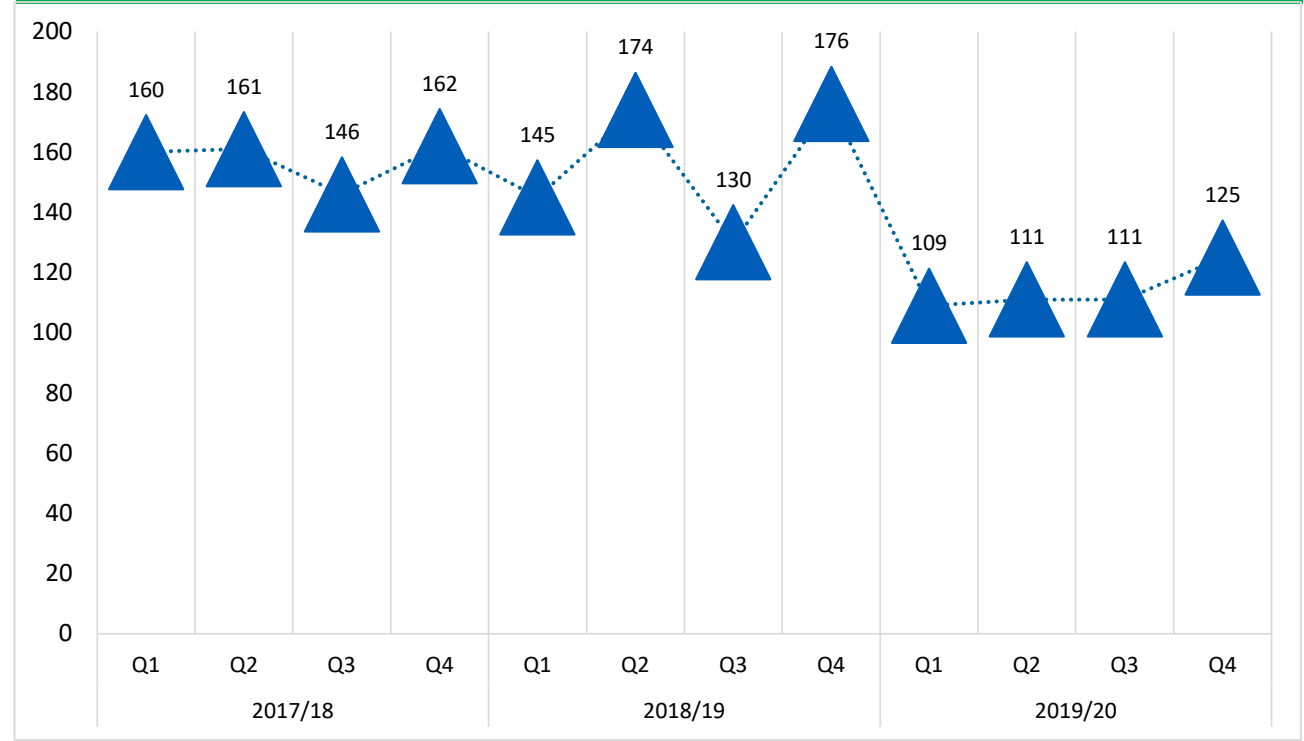
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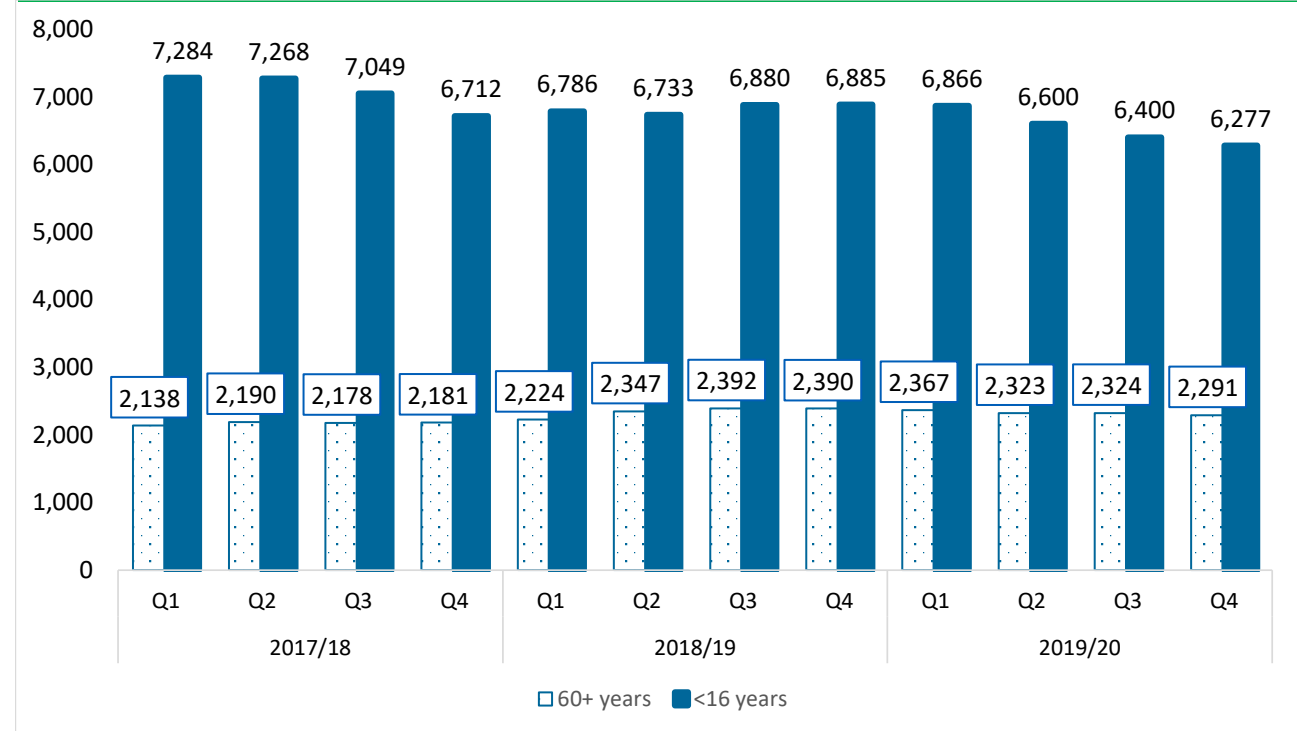
37 Number of volunteer hours dedicated to countryside activities QvQ: 0.7%



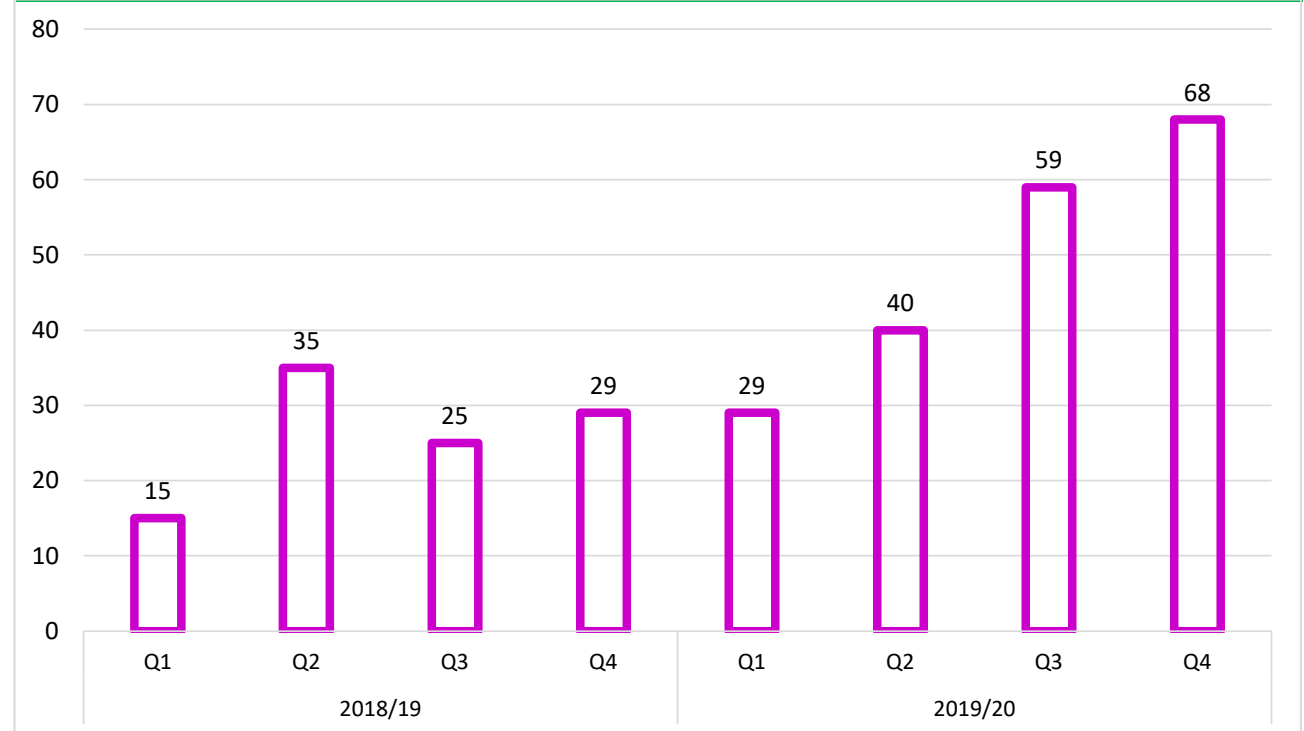
38 Number of volunteers across Heritage venues (Shaw house and museum) QvQ: -29.0%



39 Number of those aged 60+ visiting sports/leisure centres in last year QvQ: -4.1%
 Number of those aged <16 visiting sports/leisure centres in last year QvQ: -8.8%



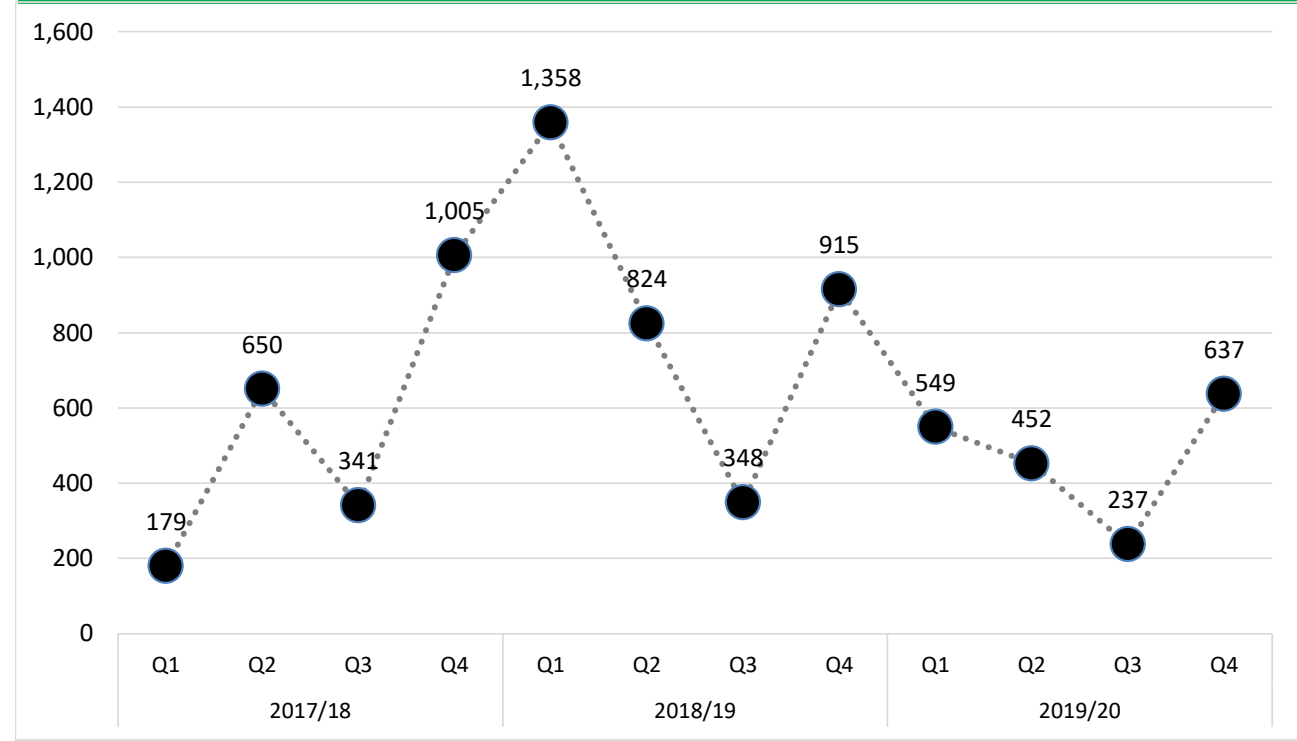
40 Number of Children in Care (and those care leavers aged 18 to 25 who left care due to age) who access a leisure centre QvQ: 134.5%



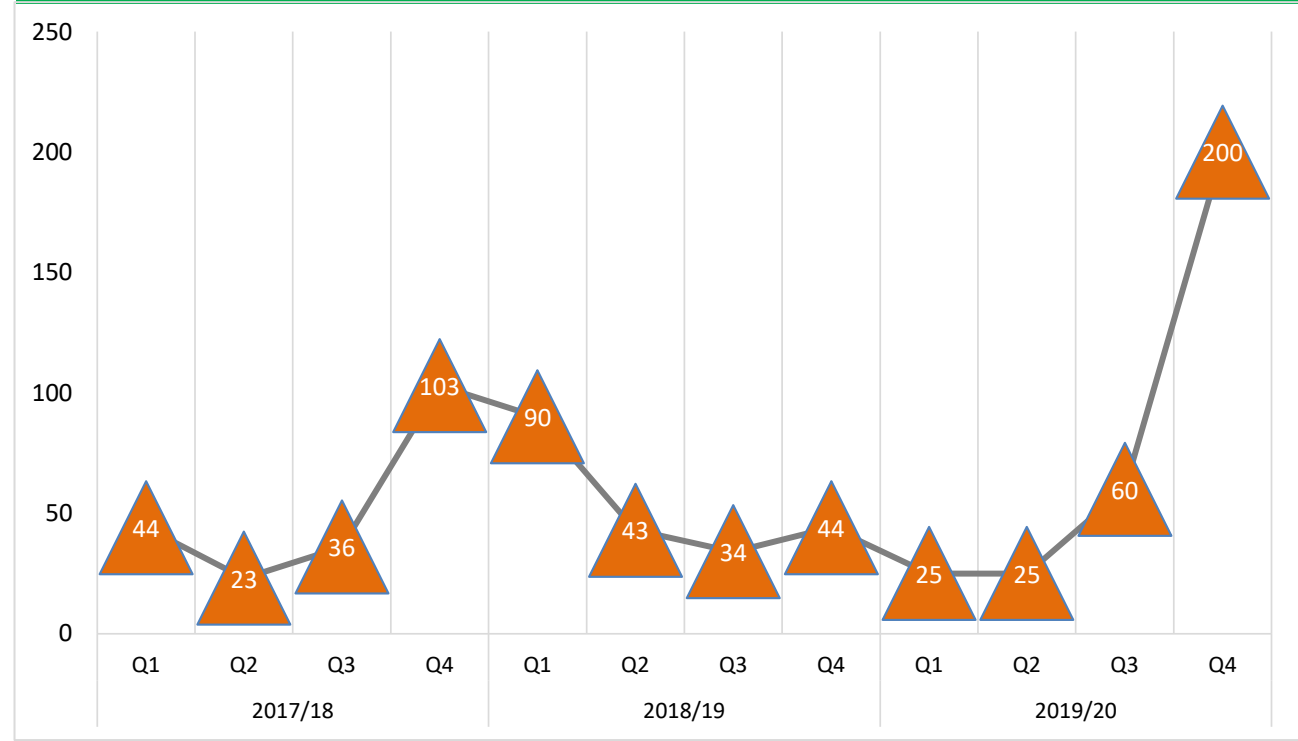
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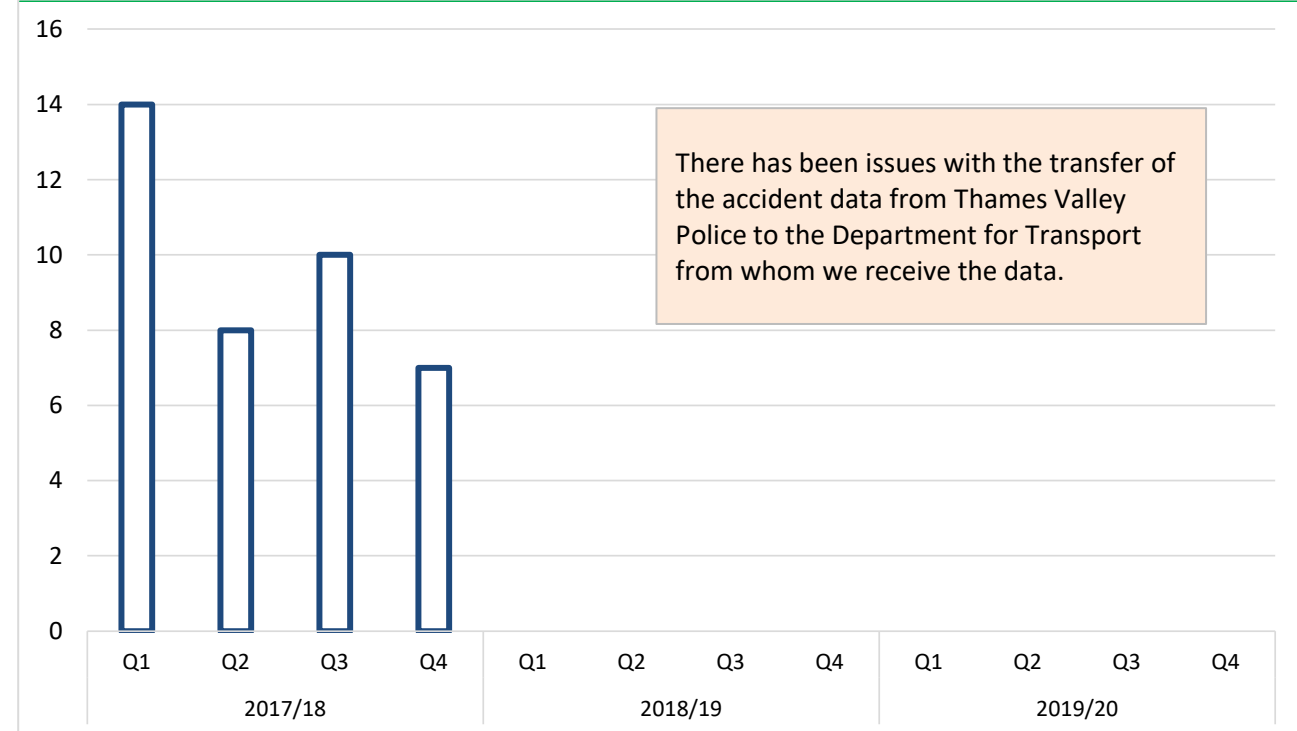
41 Number of permanent carriage repairs (PCR) completed QvQ: -30.4%



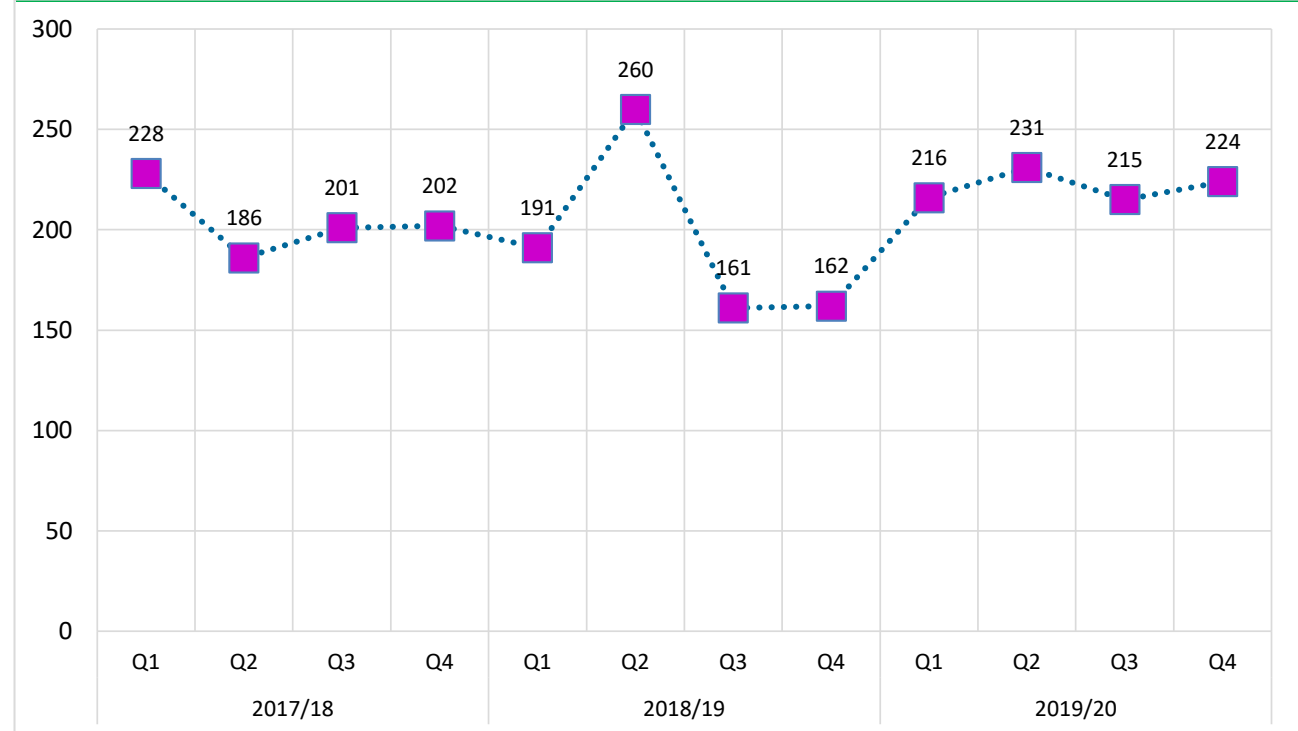
42 Number of highway related third party claims received QvQ: 354.5%



43 Number of people killed or seriously injured on roads in West Berkshire (incl. Highway Agency roads) QvQ: -



44 Number of flytips reported QvQ: 38.3%



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Andy Sharp/Pete Campbell			Children and Family Service				Q4 2019/20	RED
Indicator Ref: CBacfs13			% of Children in Care where the child has been visited in the past 6 weeks (or 12 weeks if this is the agreed visiting schedule)				Type: %snapshot	
Executive	2017/18 Year End	2018/19 Year End	2019/20				Target	Polarity
			Q1	Q2	Q3	Q4		
RAG	★(G)	■(R)	★(G)	★(G)	★(G)	■(R)	≥95%	Higher is better
Qrtly outturn	-	-	-	-	-	-		
YTD outturn	(138/147) 93.9%	(164/173) 94.8%	(157/165) 95.2%	(175/177) 98.9%	(172/177) 97.2%	(145/158) 91.8%		
<p>REASON FOR RED:</p> <p>This target is ambitious, but was met for the most part of the year. The disruption due to COVID19 in March made some statutory visits impossible to achieve. 'Visits' were undertaken by phone/video, but could not be counted as meeting statutory standards. The Department of Education are aware of this challenge.</p> <p>REMEDIAL MANAGEMENT ACTION BEING UNDERTAKEN AND ALTERNATIVE PLANS: None</p> <p>FINANCIAL IMPLICATIONS: None</p> <p>SERVICE PLAN UPDATES REQUIRED: None</p> <p>STRATEGIC ACTIONS REQUIRED: None</p>								

Andy Sharp / Paul Coe			Adult Social Care				Q4 2019/20	RED
Indicator Ref: CBgasc2			% of WBC provider services inspected by Care Quality Commission (CQC) that are rated good or better by CQC in the area of "safe"				Type:% Snapshot	
Executive	2017/18 Year End	2018/19 Year End	2019/20				Target	Polarity
			Q1	Q2	Q3	Q4		
RAG	★(G)	■(R)	■(R)	■(R)	■(R)	■(R)	100%	Higher is better
Qrtly outturn	-	-	-	-	-	-		
YTD outturn	5/5 100%	5/6 83.3%	5/6 83.3%	5/6 83.3%	4/6 66.7%	4/6 66.7%		
REASON FOR RED:								
<p>Birchwood Nursing was re-inspected in July 2019 and achieved an overall rating of Requires Improvement (RI); published in September 2019. There were improvements within the 5 domains and 2 achieved a rating of Good, but this was not within the domain of 'Safe'.</p> <p>Walnut Close was inspected in September with a published report in November 2020. The Home achieved a rating of RI overall and in all domains with the exception of Caring. One issue for Walnut, causing breaches in regulation leading to an RI rating, related to the fabric of the building and internal maintenance which was deemed to be poor.</p>								
REMEDIAL MANAGEMENT ACTION BEING UNDERTAKEN AND ALTERNATIVE PLANS:								
<p>An external consultant was commissioned to review environment and practice in Birchwood and work directly with the home on specific areas of activity to improve the rating for 2020. This work began towards the end of 2019 and will continue through 2020. Further action plans have been developed and implemented.</p> <p>Similarities in practice apply across all our homes and it is reasonable to assume all will benefit from actions drawn from this work.</p> <p>Positively; Willows Edge has recently been inspected (Feb 2020) and the overall outcome achieved was good in all 5 areas. It is clear that some of the recent work is having a positive impact.</p> <p>Recent focus has been on adapting to and supporting the Coronavirus Pandemic.</p>								
FINANCIAL IMPLICATIONS: There are no embargoes in place. All Homes are open for business.								
SERVICE PLAN UPDATES REQUIRED: None, as this is already incorporated in the ASC Service Plan and monitored through the Council Delivery Plan.								
STRATEGIC ACTIONS REQUIRED: None								

Andy Sharp/Pete Campbell			Children and Family Service				Q4 2019/20	RED
Indicator Ref: PC1cfs4			% of repeat referrals to Children's Services within 12 months of a previous referral				Type: %+	
Executive	2017/18 Year End	2018/19 Year End	2019/20				Target	Polarity
			Q1	Q2	Q3	Q4		
RAG	★(G)	■(R)	◆(A)	◆(A)	■(R)	■(R)	≤20%	Lower is better
Qrtly outturn	-	-	-	-	-	-		
YTD outturn	(320/1,622) 19.7%	(360/1,727) 20.8%	(97/371) 26.1%	(225/828) 27.2%	(316/1,204) 26.2%	(437/1,636) 26.7%		

REASON FOR RED:

This has proved a stubborn measure to reduce. An audit was completed and identified some recording practices that led to incorrect counting. For example, Early Response cases were being counted in the re-referral rates. These are not statutory children in need and so (in line with other local authorities) these will be removed from the count from 1st April. This will impact positively on re-referral rates. What we can assure is that referrers are not reporting to us or the safeguarding partnership that referrals are being 'blocked' by the teams, nor are they having to make repeated referrals to be heard.

REMEDIAL MANAGEMENT ACTION BEING UNDERTAKEN AND ALTERNATIVE PLANS.

An independent audit (external to the team) has been commissioned in April 2020.

FINANCIAL IMPLICATIONS:

There are no direct financial implications but there is obviously a hidden cost associated with the increased workload at the front door. For this reason, performance against this indicator needs to remain under review.

SERVICE PLAN UPDATES REQUIRED:

None

STRATEGIC ACTIONS REQUIRED:

None over and above those already mentioned above.

Andy Sharp / Ian Pearson			Education Service				Q4 2019/20	RED
Indicator Ref: PC2es32			% of pupils eligible for Free School Meals (FSM) achieving a Good Level of Development (GLD) at Foundation Stage (EYFS)				Type: Snapshot	
Executive	2016/17 Year End	2017/18 Year End	2018/19 Academic Year				Target	Polarity
			Q1	Q2	Q3	Q4		
RAG		■(R)				■(R)	Third Quartile	Higher is better
Qrtly outturn	-	-	-	-	-	-		
YTD outturn	3 rd Qtile Ranked 99/152 (53%)	4 th Qtile Ranked 150/152 (43%)	-	-	-	4 th Quartile Ranked 150/151 (41%)		
REASON FOR RED:								
<p>The gap between the free school meals pupils and all other pupils remains a challenge over time and the approach used has relied on engagement from schools. The team has offered support sessions to targeted schools and provided advice and guidance on best practice and the use of pupil premium funding to support children. For some children and some schools this approach has had an impact. However, this has not had the impact needed overall, analysis of the data indicates that this small be significant group are hard to reach as the numbers in an individual school are small. The schools who engage best with the support offered are those with relatively more children in their schools but this rarely reaches a group of children in double figures. A complete rethink is needed.</p>								
REMEDIAL MANAGEMENT ACTION BEING UNDERTAKEN AND ALTERNATIVE PLANS:								
<p>After a careful review of previous plans it was decided that in order to have a tangible impact on outcomes at the end of Foundation Stage action needs to take place much earlier in the educational journey of a child. Evidence from the successful Flying Start pilot indicated that intervention with the family made a huge difference on entry to school and at the end of Foundation Stage.</p>								
<p>Data clearly shows that outcomes for FSM (Free School Meal) children and children who were funded 2 year olds are significantly below others at the end of EYFS (Early Years Foundation Stage) in West Berkshire. Last year, 43.5% FSM children achieved a Good Level of</p>								

Development compared with 76% non FSM children. This is a gap of 32.5%. Also 51.2% who previously received 2 year old funding achieved a Good Level of Development compared with 77.4%. This is a gap of 26.2%. These vulnerable groups are often the children who enter settings/schools with a very low base line.

In comparison the families working with Flying Start (previously funded 2 year olds) 66.6% of children in West Berkshire achieved a Good Level of Development in July 2019.

A comprehensive plan has been developed: Integrated Early Years Strategy for School Readiness, which provides detail of work to ensure; Ready Children, Ready Families and Ready Schools.

This plan takes the approach that if we are going to make an impact for very young children we need to engage with the child but also those who have an influence over the lived experience of the child. With this at the core a comprehensive plan has been designed which works in three ways:

Ready Families

We will do this through;

- Early Help collaborative work with Children & Family Services:
 - My Family Plan
 - Early Response Hub
- Family Hubs:
 - Post and antenatal work
 - Collaborative work with midwifery and health visiting
 - Boost
 - Incredible Years
 - Thrive
 - School Readiness
- Flying Start:
 - Thatcham
 - Calcot
 - Newbury
 - School programme development
 - Universal Twilight sessions – Flying Start Essentials
- Parent Engagement
 - Instagram – Tiny Happy People
 - Facebook – Family Hub engagement

- Parent Awareness Raising Sessions
- Parent Workshops to enrich home learning

Ready Children

We will do this by;

- Dolly Parton Imagination Library book gifts
 - All vulnerable 2 year olds
 - Key postcodes across West Berkshire
 - All 3 year olds in maintained nursery classes and schools.
- Collaborative work with the Library Service
 - Book Start support for the reception text
 - Toy Library
 - Collaborative sessions
 - Summer Reading Challenge

Ready Schools and Settings

We will do this by;

- Quality Professional Development for Early Years Providers
 - Speech and Language (ECaT)
 - Two Year Olds
 - Linked Health Visitors with good links to providers supporting vulnerable 2 year olds.
 - SEND early identification and support
 - Learning Together
 - Early Years Subscription
 - Targeted Training for Nursery Classes
- EYFS Twilights with a focus on disadvantaged groups
 - Oracy
 - Reading
 - Writing
- Individual School visits focusing on free school meals
 - Tailored visit for schools with 5 or more FSM children
 - Action plan
 - Support resources
- Leadership of Foundation Stage

- Head Teacher Session
- Foundation Lead
- Strengthening Transition
 - Parent sessions
 - School and setting liaison
 - Transition Forum (document)

COVID update on plans:

The main measure of impact has been the end of Foundations Stage Profile outcomes. This assessment measure is not going to take place this year due to COVID so it is going to be necessary to consider local data collections.

Some of the planned work has begun and there is a real willingness to find ways to continue to develop plans in the light of the changes due to COVID. This will include digital solutions; Family Hubs are very successfully delivering their parenting programme via zoom and there is some indication that for some individuals and groups the engagement is more consistent when using this method of engagement. During the lockdown and while schools and settings have had reduced numbers of children there has been a clear focus on supporting differentiation for vulnerable children.

Work to support children particularly the engagement with on-line resources for reading and phonics has been a priority. There has also been the development of a collaborative piece of work with Lincolnshire LA developing support materials for families accessing the Dolly Parton Imagination Library.

FINANCIAL IMPLICATIONS: None already planned for as part of service planning.

SERVICE PLAN UPDATES REQUIRED: None

STRATEGIC ACTIONS REQUIRED: None

Andy Sharp / Ian Pearson			Education Service				Q4 2019/20	RED
Indicator Ref: PC2es51			Average attainment 8 score for pupils eligible for Free School Meal (FSM) (KS4)				Type: Annual	
Executive	2016/17 Year End	2017/18 Year End	2018/19 Academic Year				Target	Polarity
			Q1	Q2	Q3	Q4		
RAG		■(R)				■(R)		
Qrtly outturn	-	-	-	-	-	-	Rank higher than 91/152	Higher is better
YTD outturn	Rank 86/152 (33.2 points) 3 rd Qtile	Rank 94/152 (32.5 points) 3 rd Qtile	-	-	-	Rank 125/151 (31.5 points) 4 th Qtile		

REASON FOR RED: Attainment 8 and Progress 8 measures (the average attainment and progress over 8 subjects) are used to compare schools, but they still mean little to an individual pupil or to an employer. In 2019, 40.5% of our Disadvantaged pupils achieve 4+ in English and Maths.

REMEDIAL MANAGEMENT ACTION BEING UNDERTAKEN AND ALTERNATIVE PLANS: We have developed good relationships with our partner academy secondary schools this year. We will continue our work with Secondary Leads and Headteachers to make this group of children visible to them.

We are promoting strategies that acknowledge the adverse life experiences for students and the impact this makes on their day to day learning. Mental Health First Aiders and Trauma Informed School Training sessions are being promoted to schools. Leaders acknowledge that more needs to be done for students who need support.

We are also working with Secondary leads to emphasise the importance of the wider curriculum. The New Ofsted Framework requires all disadvantaged pupils to have a highly ambitious curriculum. Schools will be judged on outcomes in other subjects at their next inspection.

FINANCIAL IMPLICATIONS: We are advising schools how best to use their pp budgets, investing in strategies suggested by the education endowment fund. In September 2020 we will also divert funds to appoint a specific pp lead for secondary schools.

SERVICE PLAN UPDATES REQUIRED: We will need to revise our current service plan to reflect the situation caused by the closure of schools and the anticipated lengthy time secondary schools will need to provide a 'blended learning' approach.

STRATEGIC ACTIONS REQUIRED: We will be identifying schools who fall well below the National average and providing bespoke work with a new Secondary PP lead. Secondary networks are continuing the next academic year and these will also provide some support to schools. We will plan a more targeted approach with a support offer to schools whose attainment score is below the National Average.

Andy Sharp / Ian Pearson			Education Service				Q4 2019/20	RED
Indicator Ref: PC2es31			% achieving the national standard for reading, writing and maths combined (KS2)				Type: Annual	
Executive	2016/17 Year End	2017/18 Year End	2018/19 Academic Year				Target	Polarity
			Q1	Q2	Q3	Q4		
RAG		■(R)				■(R)	Top 25%	Higher is better
Qrtly outturn	-	-	-	-	-	-		
YTD outturn	62% 2nd Qtile Rank 65/152	Top 75% (64%) 3rd Qtile Rank 85/152	-	-	-	Top 75% (64.0%) 3rd Qtile Rank 95/151)		
<p>REASON FOR RED: The 2019 result was 64% compared to 63.6% in 2018. This result is a combination of Reading Writing and Mathematics. The reason there has not been more improvement is because our Mathematics results still lag behind Reading and Writing. Mathematics has seen a 3.5 percentage point improvement for West Berkshire pupils at the expected level and a 2.4 percentage point increase for those pupils working beyond expected levels in 2019. However, there is more work to do to see an impact on the combined result.</p> <p>REMEDIAL MANAGEMENT ACTION BEING UNDERTAKEN AND ALTERNATIVE PLANS: A new Mathematics Adviser was appointed from September 2019. This leader also works as an adviser for the regional mathematics Hub. West Berkshire has been awarded the lead for a mathematics Hub by the Department for Education last autumn. This will impact on the ability to provide high quality intervention and training to schools in West Berkshire. The Mathematics lead is also involved in the ‘securing good outcomes for all,’ project specifically targeting disadvantaged pupils. We have focused our core support on schools where the Mathematics data is below National Average figures.</p> <p>FINANCIAL IMPLICATIONS: We have redirected our resources to create a specialist maths adviser post</p> <p>SERVICE PLAN UPDATES REQUIRED: ‘Every school securing Good and better outcomes for all pupils’ is the plan for raising attainment for Disadvantaged and all pupils. The Maths element of this work is contained in this plan.</p> <p>STRATEGIC ACTIONS REQUIRED: Schools were closed to pupils on Friday 20th March until Monday 1st June. This has severely impacted the Mathematics recovery plan. No testing took place in June 2020. Our strategy to recover learning is evolving and will require us to revise our implementation plan to include digital delivery and more remote scrutiny.</p>								

John Ashworth / Gary Lugg			Development and Planning				Q4 2019/20	RED
Indicator Ref: GP1dp21			Produce the infrastructure delivery plan				Type: text	
Executive	2017/18 Year End	2018/19 Year End	2019/20				Target	Polarity
			Q1	Q2	Q3	Q4		
RAG			◆(A)	■(R)	★(G)	■(R)	September 2020	-
Qrtly outturn	-	-	-	-	-	-		
YTD outturn	-	-	Behind schedule	Behind schedule	On track	Behind schedule		
REASON FOR RED:								
The Infrastructure Delivery Plan that covers the period to 2036 to tie in with the Local Plan Roll-Forward (LPR) can't be produced until we know the number of houses we're planning to build. Target will be reviewed as part of the 2020/21 service planning process.								
REMEDIAL MANAGEMENT ACTION BEING UNDERTAKEN AND ALTERNATIVE PLANS:								
The infrastructure plan cannot be developed further until the Council decides on a housing number as part of the LPR.								
FINANCIAL IMPLICATIONS:								
None								
SERVICE PLAN UPDATES REQUIRED:								
The Infrastructure Delivery Plan should be brought into line with the Local Plan Review for next year.								
STRATEGIC ACTIONS REQUIRED:								
The Infrastructure Delivery Plan should be brought into line with the Local Plan Review for next year.								

Joseph Holmes / Kevin Griffin			Customer Services and ICT				Q4 2019/20	AMBER
Indicator Ref: GP1csict3			Number of West Berkshire premises able to receive Superfast Broadband services 24Mb/s or above				Type: snapshot	
Executive	2017/18 Year End	2018/19 Year End	2019/20				Target	Polarity
			Q1	Q2	Q3	Q4		
RAG	★(G)	■(R)	◆(A)	■(R)	★(G)	◆(A)	72,897 (99.7%) Sept 2020	Higher is better
Qrtly outturn	-	-	-	-	-	-		
YTD outturn	67,763 (92.7%)	70,689 (96.7%) (P)	70,190 (96.02%)	70,296 (96.17%)	70,622 (96.69%)	71,032 (97.16%)		
REASON FOR RED:								
Due to COVID-19, the deadline has slipped from April to Sept 2020 for all fluid works. People will receive broadband later than expected. The majority of the West Berkshire build is complete. However due to Covid-19 and waiting on wayleaves a small percentage as still to be built, however we will continue to pursue rather than descope.								
REMEDIAL MANAGEMENT ACTION BEING UNDERTAKEN AND ALTERNATIVE PLANS:								
Gigaclear are recruiting new gangs to replace those that are self-isolating and are continuing to build.								
FINANCIAL IMPLICATIONS:								
SERVICE PLAN UPDATES REQUIRED:								
The new deadline will be included in the 2020/21 Service Plan								
STRATEGIC ACTIONS REQUIRED:								
None								

John Ashworth / Paul Anstey			Public Protection and Culture				Q4 2019/20	RED
Indicator Ref: GP1ppc11			Produce and adopt new ten year West Berkshire Cultural Heritage Strategy				Type: Project	
Executive	2017/18 Year End	2018/19 Year End	2019/20				Target	Polarity
			Q1	Q2	Q3	Q4		
RAG	-	-	★(G)	★(G)	■(R)	■(R)	April 2020	n/a
Qrtly outturn	-	-	-	-	-	-		
YTD outturn	-	-	On track	On track	Behind schedule	Behind schedule		
REASON FOR RED:								
Due to the COVID-19 pandemic it has been decided to postpone the public consultation on the draft strategy until September 2020, when the public and stakeholders are more likely to be receptive to participating, and we have more information from Government about the likely long-term impacts for the culture and heritage sector.								
REMEDIAL MANAGEMENT ACTION BEING UNDERTAKEN AND ALTERNATIVE PLANS:								
The draft strategy will be updated to include the latest information about the impacts of COVID-19 for the sector, for example, the strategy has objectives to improve health and well-being, and to increase inward investment and improve resilience and sustainability of arts organisations in the district. Clearly those will become even more important.								
FINANCIAL IMPLICATIONS:								
None								
SERVICE PLAN UPDATES REQUIRED:								
The target will be reviewed as part of the 2020/21 service planning process. However, it is proposed to go out for public consultation in September 2020, for final approval in December 2020.								
STRATEGIC ACTIONS REQUIRED:								
The Cultural Heritage Project Board will monitor and update the development of the strategy.								

2019/20 Revenue Financial Performance: Provisional Outturn

Committee considering report:	Overview and Scrutiny Management Commission
Date of Committee:	28 July 2020
Portfolio Member:	Councillor Ross Mackinnon
Date Portfolio Member agreed report:	25 June 2020
Report Author:	Melanie Ellis
Forward Plan Ref:	EX3798

1 Purpose of the Report

To report on the financial performance of the Council's revenue budgets. This report is the provisional outturn position for 2019/20.

2 Recommendation

2.1 To note the provisional outturn position of £1.46m under spend.

3 Implications and Impact Assessment

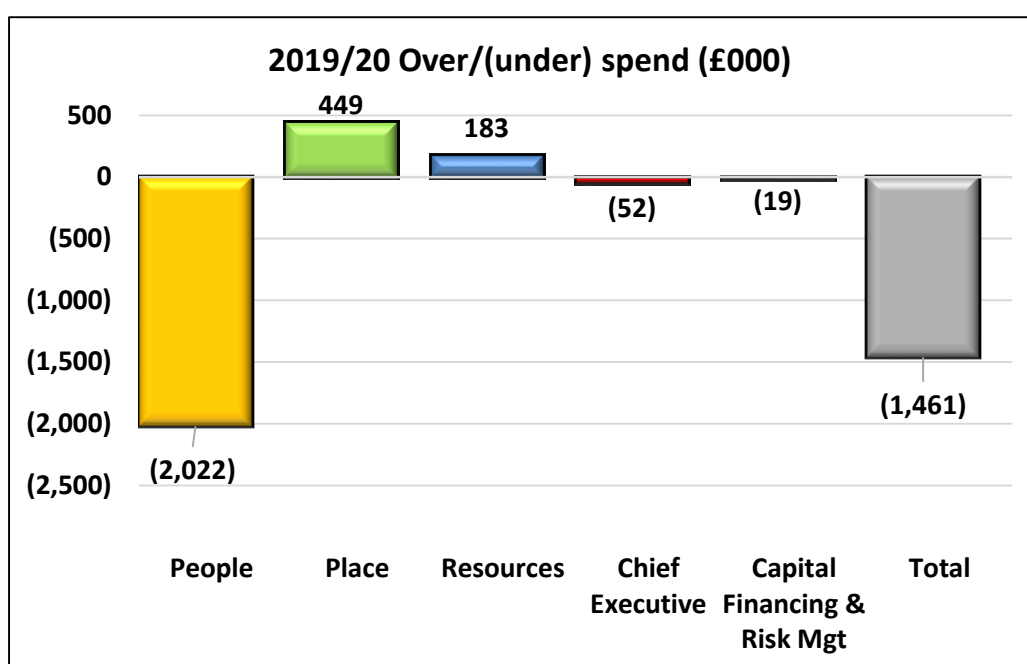
Implication	Commentary
Financial:	The provisional outturn is an under spend of £1.46m against a net revenue budget of £125m. The under spend equates to 1.2% of net budget.
Human Resource:	None
Legal:	None
Risk Management:	None
Property:	None

Policy:	None			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		y		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		y		
Environmental Impact:		y		
Health Impact:		y		
ICT Impact:		y		
Digital Services Impact:		y		
Council Strategy Priorities:		y		BAU
Core Business:		y		BAU
Data Impact:		y		

Consultation and Engagement:	Budget holders, Heads of Service and Directors, Corporate Board.
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4 Executive Summary

- 4.1 This report is to inform members of the financial performance of the Council’s revenue budgets. This report is the provisional outturn position for 2019/20.
- 4.2 The provisional revenue outturn position is an under spend of £1.46m, which is 1.2% of the Council’s 2019/20 approved net revenue budget of £125m. The under spend will have a positive impact on General Fund reserve. The Directorate position is shown below.



- 4.3 The People Directorate under spend comprises £1.3m in Adult Social Care (ASC), £435k in Children & Family Services (CFS) and £245k in Education.
- 4.4 In ASC, long term services under spent by £932k arising from Continuing Health Care funding, higher than modelled levels of deceased clients, competitive pricing, over achievement of income and the introduction of the new Approved Provider Listing from October 2019 held prices of domiciliary care, particularly in Quarter Four when fully implemented. The under spend is reflected in the model for 2020/21. Short term services under spent by £735k due to utilising own services when users are discharged from hospital leading to lower than expected pressures in the last quarter, care packages not fully utilised due to clients being re-abled over a shorter time period or requiring fewer hours care, and fewer than modelled clients transitioning to further education settings.

2019/20 Revenue Financial Performance: Provisional Outturn

- 4.5 In CFS, Child Care Lawyers achieved a saving of £331k, due to fewer complex cases and an overall reduction in cases. This saving increased by £67k in the final quarter when the financial information was received by the Joint Arrangement host authority. Throughout the service there have been a number of vacant posts, particularly in the last quarter, generating a £179k under spend after required agency costs.
- 4.6 Education saw under spends in residential placements and community support packages for children with disability and Castle Gate.
- 4.7 The Place Directorate had income pressures in development control and car parking, and cost pressures due to the Homelessness Reduction Act and emergencies during three storms.
- 4.8 The Resources Directorate over spend was largely related to under achievement of investment income.
- 4.9 The 2019/20 savings and income programme of £6.2m is 88% Green and 12% Red. Unachieved commercial property income accounts for 5% of the unmet savings.
- 4.10 There has been some impact due to Covid-19 on the 2019/20 financial position. There have been income pressures in the Place Directorate, for example due to the Council not charging for car parking, though as the pandemic started right at the end of the financial year, the overall impact has not been significant.
- 4.11 Conclusion

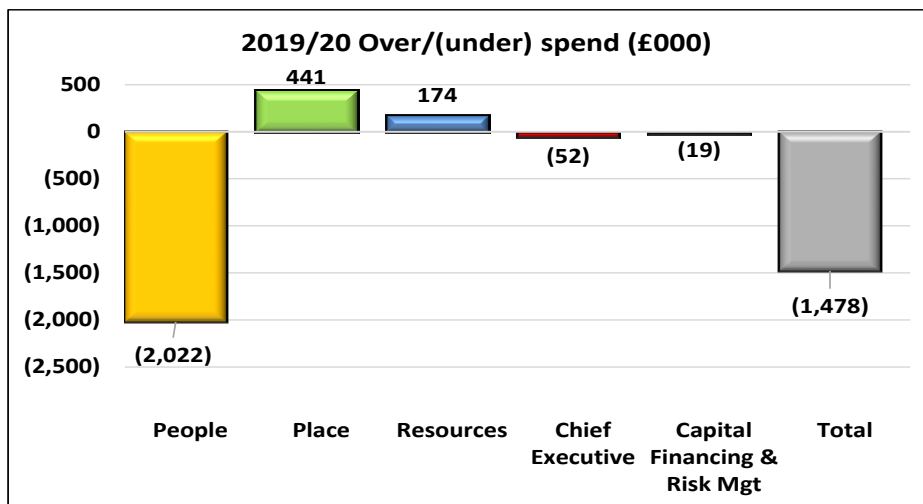
The Council is reporting a provisional under spend of £1.46m which will increase the Council's General Fund reserve. The report highlights the directorate outturns and any implications for the 2020/21 budget setting. The £6.2m savings and income generation programme has achieved 88%, with provision for unmet savings being made in the 2020/21 budget.

5 Supporting Information

Introduction

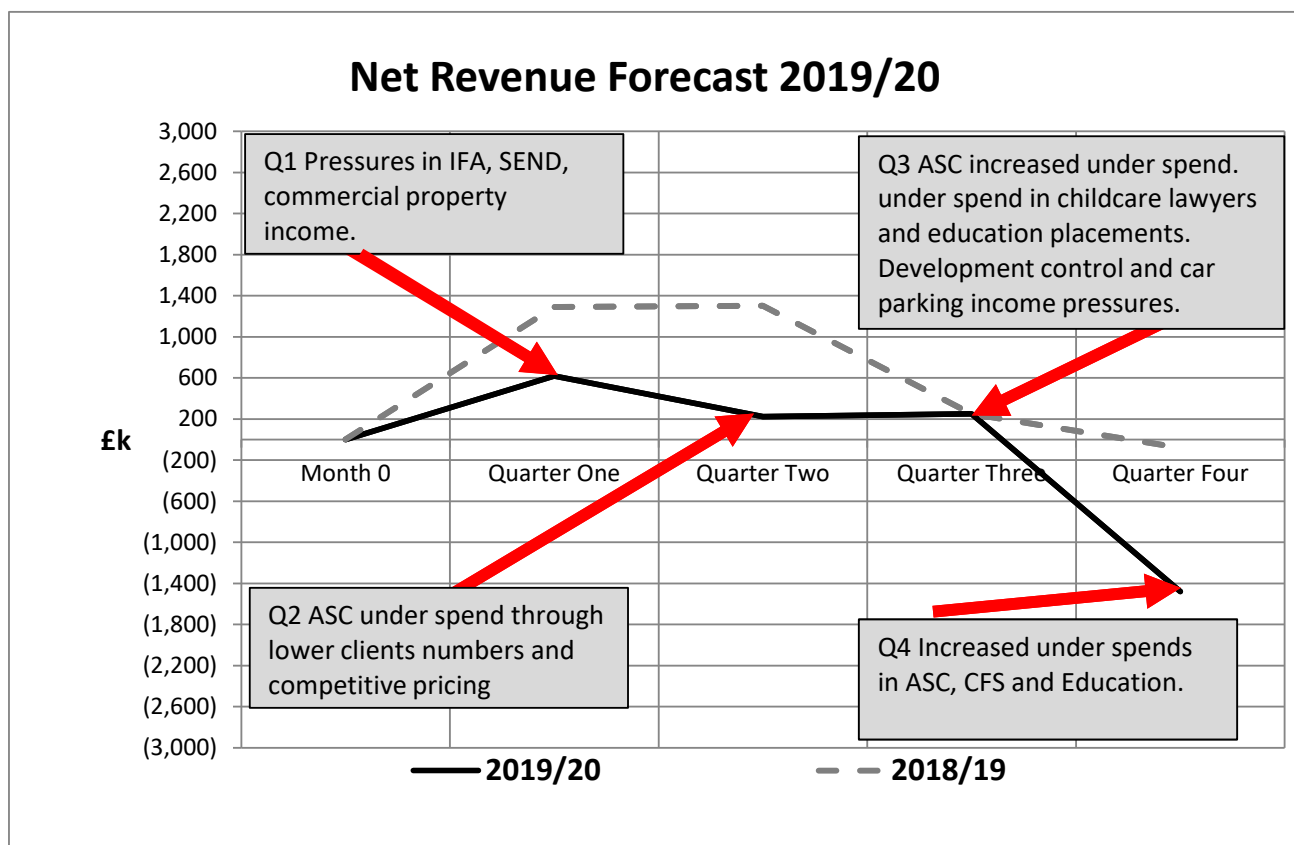
- 5.1 The revenue outturn position is an under spend of £1.46m. This is 1.2% of the Council's 2019/20 net revenue budget of £125m. The Directorate outturns are shown below:

2019/20 Revenue Financial Performance: Provisional Outturn



Background

5.2 The quarterly forecast and outturn is shown in the following chart:



5.3 At Quarter One pressures amounting to £620k were identified in the following areas:

- Adult Social Care (ASC), care home workforce and reliance on agency staff;
- Children & Family Services (CFS), Independent Fostering Agency (IFA) placements;
- Education, pressures from removal of the SEND grant;

2019/20 Revenue Financial Performance: Provisional Outturn

- Finance & Property, shortfall on commercial property income.

5.4 At Quarter Two the forecast over spend reduced to £222k:

- ASC forecast under spends in both long and short term services arising from Health Care awards, deceased clients, competitive bed pricing, use of own services and fewer than modelled clients transitioning to further education. The workforce pressures remained.

5.5 At Quarter Three the forecast over spend was £252k:

- ASC increased the forecast under spend in long and short term services;
- CFS reduced its forecast over spend due to a reduction in child care lawyers costs;
- Education reduced its forecast over spend seeing savings in residential placements and community support packages for disabled children;
- The Place Directorate forecast an over spend pressures in housing (homelessness), culture and shortfalls in income from development control and car parking;

5.6 At Quarter Four the provisional outturn is an under spend of £1.46m. The key changes from Quarter Three are in the People Directorate:

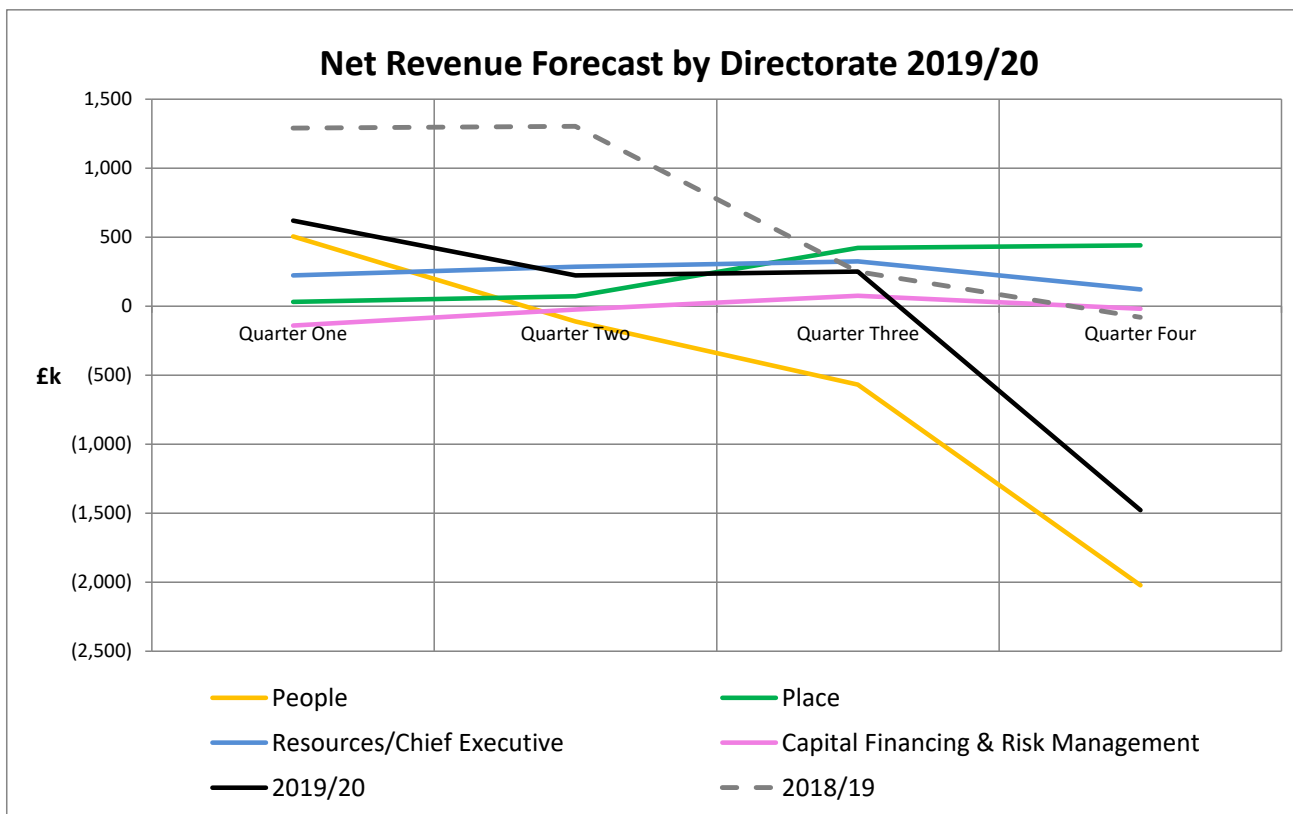
- ASC increased under spend by £585k (1.25% of budget) to £1.34m under.
- CFS increased under spend by £668k (4% of budget) to £435k under.
- Education increased under spend by £202k (2.3% of budget) to £245k under.

5.7 The Service forecasts and outturns are shown in the following charts:

2019/20 Revenue Financial Performance: Provisional Outturn

	Current Net Budget	Net Forecast	Over/ (under) spend				Change to Service Forecast from Last Quarter
			Quarter One	Quarter Two	Quarter Three	Quarter Four	
			Service Forecast	Service Forecast	Service Forecast	Over/ (under) spend	
	£000	£000	£000	£000	£000	£000	£000
Adult Social Care	47,893	46,549	153	(653)	(759)	(1,344)	(585)
Children & Family Services	16,914	16,479	203	439	233	(435)	(668)
Executive Director	226	228	(30)	0	0	2	2
Education DSG funded	(444)	(444)	0	0	0	0	0
Education	8,606	8,361	180	103	(43)	(245)	(202)
Public Health & Wellbeing	114	114	0	0	0	0	0
People	73,310	71,288	505	(111)	(569)	(2,022)	(1,453)
Executive Director	186	184	0	(7)	0	(2)	(2)
Development & Planning	2,886	3,090	(30)	35	287	204	(83)
Public Protection & Culture	3,752	3,812	52	138	124	60	(64)
Transport & Countryside	23,078	23,265	10	(94)	11	187	176
Place	29,902	30,351	32	72	422	449	27
Executive Director	91	86	0	0	(5)	(5)	0
Commissioning	1,134	1,132	72	60	40	(2)	(42)
Customer Services & ICT	3,104	3,009	18	(9)	(52)	(95)	(43)
Finance & Property	893	1,259	114	273	440	366	(74)
Human Resources	1,487	1,432	7	(12)	(34)	(55)	(21)
Legal and Strategic Support	3,465	3,439	12	8	(31)	(26)	5
Resources	10,174	10,357	223	320	358	183	(175)
Chief Executive	882	830	0	(34)	(34)	(52)	(18)
Capital Financing	11,011	10,892	(125)	(125)	(25)	(119)	(94)
Commercialisation	(100)	0	100	100	100	100	0
Movement through Reserves	(2,411)	(2,411)	0	0	0	0	0
Risk Management	350	350	(115)	0	0	0	0
Capital Financing & Risk Mgt	8,850	8,831	(140)	(25)	75	(19)	(94)
Total	123,118	121,657	620	222	252	(1,461)	(1,713)

NB: Rounding differences may apply to the nearest £k.



People Directorate

5.8 The Directorate has under spent by £2m, an increase of £1.4m from last quarter. The main budget variances and increases from last quarter are detailed below.

- Adult Social Care (ASC) have under spent by £1.3m (2.8% of net budget), an increase of £585k from last quarter.

The under spend in long term services (LTS) is £932k arising from Continuing Health Care funding, higher than anticipated levels of deceased clients, ability to find care home beds at competitive prices and over achievement of income. The introduction of the new Approved Provider Listing from October 2019 has held prices of domiciliary care, particularly in Quarter Four when fully implemented. The under spend is reflected in the LTS model for 2020/21.

The under spend in short term services is £735k largely due to utilising own services when users are discharged from hospital, lower than expected pressures from hospital discharge between December and February, care packages not fully utilised due to clients being re-abled over a shorter time period or requiring fewer hours care than expected, and fewer than modelled clients transitioning to further education settings.

The service continues to see significant pressures in our own provider services, being driven by the lack of a permanent care workforce and associated agency costs. A number of options are being explored for recruitment in conjunction with Human Resources. However, vacancies in other areas of ASC did generate an under spend of £329k.

- Children & Family Services have under spent by £435k (2.6% of net budget), a move of £668k from last quarter's £233k forecast over spend.

The overall placement position was a £21k under spend. Savings were seen in residential, UASC, care leavers, special guardianship and residence orders due to fewer clients and lower negotiated costs. Client numbers were unchanged in Quarter Four, although an increase had been modelled. However, additional funding, changes to packages, reduced respite and reduced placement costs brought the expenditure down.

There was an over spend of £458k in the Independent Fostering Agencies (IFA) budgets due to an increase in the number of placements being commissioned and a challenging savings target. IFA placements are able to meet complex care and cultural requirements which are a challenge to adequately meet from our own fostering provision. The service is also using IFA placements to prevent children entering residential placements where possible.

Child Care Lawyers achieved a saving of £331k, due to fewer complex cases and an overall reduction in cases. This saving increased by £67k in the final quarter when the financial information was received by the Joint Arrangement host authority.

There was a £94k shortfall of funding for the Family Safeguarding Model as a result of partner agencies not contributing to the scheme.

Throughout the service there have been a number of vacant posts, particularly in the last quarter, generating a £179k under spend after required agency costs.

Accountancy will be working with the service to review outstanding commitments on a monthly basis to ensure the forecasts are based on accurate and up to date information. Accountancy will also be piloting monthly accruals accounting in Children's alongside Adult's and this will provide further assurance as it will give a more realistic awareness of expenditure and income.

- Education have under spent by £245k, an improvement of £202k from last quarter. There are under spends in residential placements and community support packages for children with disability and Castle Gate.
- Education Dedicated Support Grant (DSG) shows an on-line position, as any over or under spends against the DSG grant, go to the DSG reserves. The 2019/20 DSG expenditure budget was set £1.86m higher than available funding, and this was treated as a deficit recovery target against the High Needs and Early Years blocks. The deficit recovery targets had £1.3m remaining at year end. Overall DSG funding received was £211k less than budgeted, and budgeted expenditure was overspent by £344k. This resulted in a total in year deficit of £1.86m, but with balances already held in reserves, the cumulative deficit position is £1.56m. This will be held against Council reserves at 31.3.2020 and top-sliced against the relevant DSG blocks in the 2020/21 budget.

- Public Health is reported on-line. There are a number of small pressures which the Head of Service has been able to mitigate through in-year one off savings due to staffing vacancies and reduction of activities offered.

Place Directorate

5.9 The Directorate has over spent by £449k, an increase of £27k from last quarter. The main drivers of this are detailed below.

- Development & Planning have a £204k over spend, a decrease of £83k from last quarter. Development control income is below target due to a drop in the number of planning applications. In Housing, additional temporary resource has been deployed to manage the implications of the Homelessness Reduction Act. Additional temporary accommodation has been required leading to an over spend on B&B accommodation. Additional budget has been requested for housing as part of the budget build process for 2020/21.
- Public Protection & Culture have over spent by £60k, a decrease of £64k from last quarter. The over spend arose from Shaw House savings targets not being achieved, cleaning costs in libraries and reduced building control contributions. Unmet savings will be incorporated into projects coming online in 2020/21, and additional budget has been requested for some of the other service pressures.
- Transport & Countryside have a £187k over spend, an increase of £176k from last quarter. There is a £326k pressure from ongoing road works in the town centre and loss of income from the Market Street car park closure. Emergency costs were £192k over budget due to three significant storms. These pressures were partly mitigated by streetworks income, reduced gritting runs and waste savings.

Resources Directorate

5.10 The Directorate has a £183k over spend, a reduction of £175k from last quarter. The main driver of the service over spend is in Finance & Property, reporting a £366k over spend. The current year £1.5m investment income target was assumed to be delivered from an average property value totalling £75m in year. However, the current portfolio stands at £62m. Staff vacancy savings within the Housing Benefits Team amounting to £130k have helped to mitigate this over spend. During the last quarter, the service over spend reduced due to reduced postage costs on council tax bills and additional rental income.

Chief Executive

5.11 An under spend of £52k has arisen largely from corporate management staff retirement and restructuring.

Capital Financing and Risk Management

5.12 The outturn position is a £19k under spend. There was a £25k under spend on levy costs and £87k over achievement of treasury management investment income. There was a further £350k surplus on treasury management investment income which has

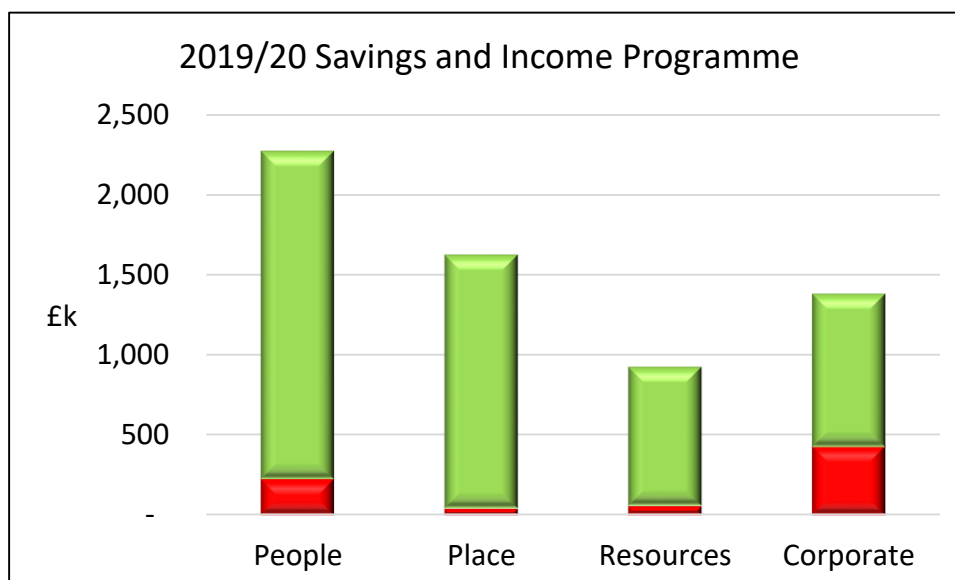
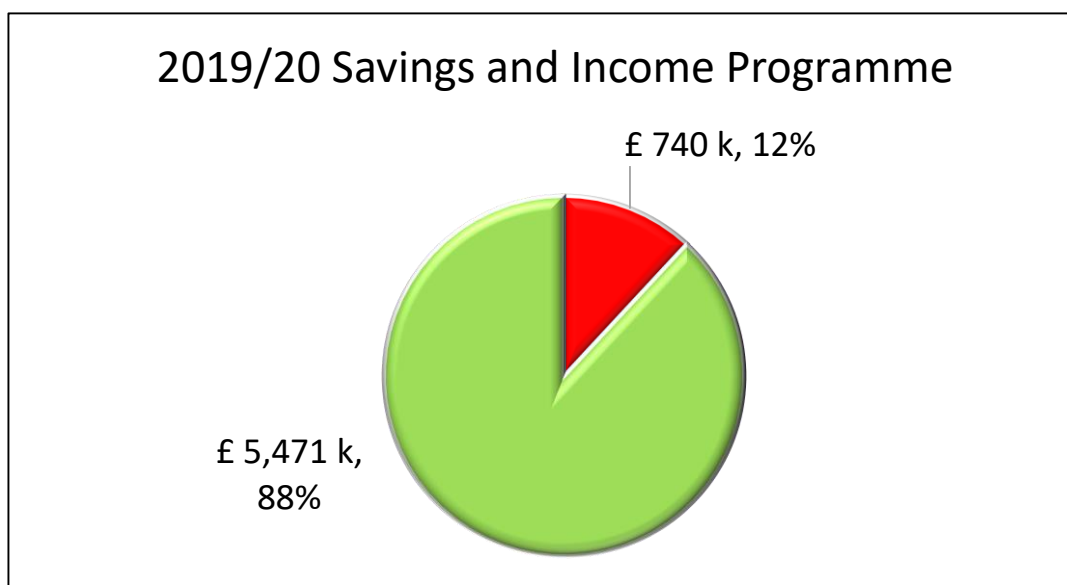
2019/20 Revenue Financial Performance: Provisional Outturn

been used to increase Minimum Revenue Provision (MRP) contribution to cover off our maturity loan liabilities.

5.13 The £100k income target from commercialisation was not achieved and has been removed as part of the 2020/21 budget build.

2019/20 Savings and income generation programme

5.14 In order to meet the funding available, the 2019/20 revenue budget was built with a £6.2m savings and income generation programme. The programme is monitored using the RAG traffic light system. The status of the programme is shown in the following charts.



5.15 In the People Directorate, £120k target for reducing use of Independent Fostering Agencies was not achieved due to increase of children coming into care, many of whom with complex care or cultural needs that could be fully met within the council service. Efforts have been made to recruit additional carers, and increase the skill mix of our own carers to meet some of these complex needs. There was an unachievable income

target in the Emotional Health Academy of £70k which has now been removed as part of the 2020/21 budget setting.

5.16 The corporate savings not achieved were £300k for commercial property and £100k commercialisation. Both savings have been reduced as part of the 2020/21 budget build.

Covid-19 impact on the 2020/21 budget

5.17 There will be a significant impact on the 2020/21 budget due to Covid-19. To date, the Council has received two tranches of funding from Central Government to mitigate the initial impact of Covid-19, and this total £7.6m of un-ring-fenced funding. The latest forecast through to August 2020 is that the Council faces expenditure and income pressures of £8.4m for 2020/21, though these estimates fluctuate significantly and are dependent on how the Covid-19 response progresses and people's behavioural change to this. The Main areas of financial pressure for the Council are:

- Adult Social Care costs
- Children's service costs
- Reduced planning income
- Reduced car parking income
- Additional leisure services costs
- Funding the Community Hub
- Loss of income from other Council service areas

5.18 The Council has received other specific funding as part of the response to Covid-19. There are a range of funds, and some of the key areas include:

- £29m for business grants to specific businesses
- £3.5m of business rates reliefs
- £548k local council tax support
- £700k for infection control
- £140k for high streets
- £124k for active travel funding (capital) for cycling and walking provision
- £108k for supported bus services

5.19 The funding received from Government to date, and the Council's level of general fund reserves mean that the Council is well placed to focus its efforts on response and recovery from the Covid-19 in the current financial year. The longer term position will require further analysis and announcements from Central Government on the funding

position for Local Government, before the impact on 2021/22 and beyond is known. The Government have announced a pause to the fair funding review for 2021/22 and so the Council is planning for a similar financial settlement for 2021/22 as it received in 2020/21.

Proposals

- To note the outturn position of £1.46m under spend.

6 Other options considered

6.1 Earmarked reserves could be created from the under spend in particular to help with the response to the Covid-19 impact on West Berkshire.

7 Conclusion

The Council is reporting a provisional under spend of £1.46m which will increase the Council’s General Fund reserve. The £6.2m savings and income generation programme has achieved 88%, with provision for unmet savings being made in the 2020/21 budget.

8 Appendices

None

Background Papers:

None

Subject to Call-In:

Yes: No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council’s position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

Document Control

Document Ref:		Date Created:	
Version:		Date Modified:	
Author:			

2019/20 Revenue Financial Performance: Provisional Outturn

Owning Service	
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Change History

Version	Date	Description	Change ID
1			
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2019/20 Capital Financial Performance Report - Outturn

Committee considering report:	Overview and Scrutiny Management Commission
Date of Committee:	28 July 2020
Portfolio Member:	Councillor Ross Mackinnon
Date Portfolio Member agreed report:	1 July 2020
Report Author:	Shannon Coleman-Slaughter
Forward Plan Ref:	EX3802

1 Purpose of the Report

- 1.1 The financial performance reports provided to Members, throughout the financial year, report the under or over spend against the Council's approved capital budget. This report presents the provisional capital outturn for the Council in respect of financial year 2019/20. It should be noted that these figures are provisional and may change as a result of External Audit.

2 Recommendations

- 2.1 The capital provisional outturn position and the level of budget to be carried forward to 2020/21 should be noted.
- 2.2 Members agree a new £909k capital budget funded from Council borrowing to be included within the current approved 2020/21 capital programme to enable the delivery of the Care Director upgrade.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	<p>The provisional outturn is a £52.4 million underspend against the 2019/20 revised capital budget of £91.9 million. £35 million of the underspend relates to the Commercial Property budget which was not spent during 2019/20.</p> <p>£14.5 million, is proposed to be re-profiled into 2020/21 to enable the continuation of ongoing capital schemes.</p>

	A new £909k Council funded capital project for the upgrade of the existing Care Director system is proposed. This budget will be over and above the approved capital programme for 2020/21 – 2022/23 as agreed by Council in March 2020. The additional project will create additional capital financing costs of approximately £100k per annum from 2021/22 within the revenue capital financing budget.			
Human Resource:	Not applicable			
Legal:	Not applicable			
Risk Management:	Future risk identified relating to the Covid pandemic is the potential for engaged suppliers to default on contractual obligations through financial difficulties. Budget managers and CSG are currently undertaking a review to highlight projects with potential suppliers of concern and where there is a risk of default and/or the potential to retender agreed contracts at potentially higher cost.			
Property:	Not applicable			
Policy:	Not applicable			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		

B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
Environmental Impact:		X		
Health Impact:		X		
ICT Impact:		X		
Digital Services Impact:		X		
Council Strategy Priorities:		X		
Core Business:		X		
Data Impact:		X		
Consultation and Engagement:	Capital Strategy Group chaired by Joseph Holmes, Executive Director for Resources, s151 officer. Andy Walker – Head of Finance & Property			

4 Executive Summary

4.1 Total capital expenditure incurred in 2019/20 was £39.5 million against the £91.9 million revised budget.

Directorate Summary	Quarter Three			Outturn				Total Slippage requested
	Budget at Q3	Forecast Spend in Year	Forecast (under)/Over Spend	Budget at Outturn	Expenditure in 2019/20	Outturn Variance to Budget	Spend as a % of budget	
	£'000	£'000	£'000	£'000	£'000	£'000		£'000
People	£18,620	£15,976	(£2,644)	£18,665	£14,064	(£4,601)	75%	£1,777
Place	£30,989	£22,968	(£8,021)	30,989	21,264	(£9,725)	69%	9,553
Resources (excluding commercial property)	£7,279	£6,831	(£448)	£7,279	£4,192	(£3,087)	58%	£3,136
Commercial Property	£35,000	£	(£35,000)	£35,000	£	(£35,000)	0%	£
Totals	£91,888	£45,775	(£46,112)	£91,933	£39,521	(£52,412)	43%	£14,466

4.2 The key areas contributing to the underspend position are:

- (a) The £35 million Commercial Property budget (within Finance and Property Services, Resources Directorate), has not been utilised during 2019/20. During 2019/20 the Government announced that PWLB rates could no longer be accessed to fund assets used primarily to generate yield. On 23rd April 2020 the Property Investment Board (PIB) agreed a suspension in future commercial property acquisitions, on this basis it has not be proposed to slip the unutilised budget into 2020/21.
- (b) Transport and Countryside ended the year with a £7.2 million of underspend cumulative across the service, £6.1 million of the underspend relates to delays in the Sandford Access Project and the Newbury railway Station Improvements Project. CSG agreed at Quarter Three of the financial year to re-profile anticipated expenditure against these projects into 2020/21.
- (c) Education Services ended the year with a £4.3 million underspend across a number of school projects, most notably Highwood Copse (£1.2 million), The Willink (£636k) and Speenhamland Primary two form entry project (£793k) and the Eastern Area Pru (£989k). £2.8 million of the underspend has already been agreed to be re-profiled into the 2020/21 – 2022/23 approved capital programme as part of the budget setting process.

4.3 Based on the financial performance against the approved Capital Programme as at the yearend, Capital Strategy Group have proposed that planned expenditure from 2019/20 is to be re-profiled into 2020/21 and future years. A number of projects, primarily within Development & Planning (purchase of temporary accommodation), Public Protection & Culture (Solar Photovoltaics), and feasibility studies and planned maintenance across Education projects incurred delays at the yearend as a result of national lockdown procedures in response to the Covid pandemic. Issues identified related to accessibility to sites to enable construction works to continue, disruptions of suppliers chains, closure of estate agents and vendors preventing conclusion of temporary accommodation purchases and the diverting of internal resources to focus on business continuity issues. The level of expected re-profiling of project expenditure from 2019/20 into 2020/21 and later years has therefore increased between Quarter Three and the yearend. It is proposed that £14.5 million of expenditure is re-profiled into 2020/21.

5 Supporting Information

Introduction

5.2 A capital budget for 2019/20 of £75 million was set by Council in March 2019 with funding of £20.8 million from external grants, £5.4 million of section 106 contributions (s106) and Community Infrastructure Levy (CIL), with £48.8 million of expenditure planned to be funded from external borrowing. The repayment of principal sums and interest on loans used to fund capital expenditure are met from the revenue budget for capital financing and risk management. Forecast spend against this budget is reported in the Revenue Financial Performance Report.

5.3 During the financial year budget changes have occurred, mainly as a result of budgets brought forward from prior financial years, additional grants, s106 and CIL allocations

2019/20 Capital Financial Performance Report - Outturn

received in year and expenditure re-profiled in future financial years. Changes of less than £250k can be approved by the s151 Officer in conjunction with the portfolio holder, all other changes must be approved by Capital Strategy Group (CSG) and reported to Executive as set out in the Council's Financial Regulations. As part of the annual closure of the accounts process, the yearend position of the capital projects is reviewed and proposals for unutilised budgets to be re-profiled into subsequent financial years is reviewed by Capital Strategy Group (CSG).

5.4 The capital programme at the yearend was £91.9 million, Appendix A gives a breakdown of budget changes during 2019/20.

Background

5.5 Total capital expenditure incurred in 2019/20 was £39.5 million against the £91.9 million revised budget.

Directorate Summary	Quarter Three			Outturn			
	Budget at Q3	Forecast Spend in Year	Forecast (under)/Over Spend	Budget at Outturn	Expenditure in 2019/20	Outturn Variance to Budget	Spend as a % of budget
	£'000	£'000	£'000	£'000	£'000	£'000	
People	£18,620	£15,976	(£2,644)	£18,665	£14,064	(£4,601)	75%
Place	£30,989	£22,968	(£8,021)	30,989	21,264	(£9,725)	69%
Resources (excluding commercial property)	£7,279	£6,831	(£448)	£7,279	£4,192	(£3,087)	58%
Commercial Property	£35,000	£	(£35,000)	£35,000	£	(£35,000)	0%
Totals	£91,888	£45,775	(£46,112)	£91,933	£39,520	(£52,413)	43%

5.6 The main contributing factors to the £52 million underspend were:

- The £35 million Commercial Property budget (within Finance and Property Services, Resources Directorate), has not been utilised during 2019/20. During 2019/20 the Government announced that PWLB rates could no longer be accessed to fund assets used primarily to generate yield. On 23rd April 2020 the Property Investment Board (PIB) agreed a suspension in future commercial property acquisitions, on this basis it has not be proposed to slip the unutilised budget into 2020/21.
- Transport and Countryside ended the year with a £7.2 million of underspend cumulative across the service, £6.1 million of the underspend relates to delays in the Sandleford Access Project and the Newbury railway Station Improvements Project. CSG agreed at Quarter Three of the financial year to re-profile anticipated expenditure against these projects into 2020/21.
- Education Services ended the year with a £4.3 million underspend across a number of school projects, most notably Highwood Copse (£1.2 million), The Willink (£636k) and Speenhamland Primary two form entry project (£793k) and the Eastern Area Pru (£989k). £2.8 million of the underspend has already been agreed to be re-profiled into the 2020/21 – 2022/23 approved capital programme as part of the budget setting process.

5.7 A number of projects across the Directorates incurred delays at the yearend as a result of national lockdown procedures in response to the Covid pandemic. Issues identified

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related to accessibility to sites to enable construction works to continue, disruptions of suppliers chains, closure of estate agents and vendors preventing conclusion of temporary accommodation purchases and the diverting of internal resources to focus on business continuity issues. The level of expected re-profiling of project expenditure from 2019/20 into 2020/21 and later years has therefore increased between Quarter Three and the yearend. On average annually £8 – £10 million of re-profiling occurs at the end of each financial year, for 2019/20 it is proposed that £14.5 million of expenditure is re-profiled.

- 5.8 A future risk identified relating to the Covid pandemic is the potential for engaged suppliers to default on contractual obligations through financial difficulties. Budget managers and CSG are currently undertaking a review to highlight projects with potential suppliers of concern and where there is a risk of default and/or the potential to retender agreed contracts at potentially higher cost.

The People Directorate

People	Quarter Three			Outturn			Spend as a % of budget
	Budget at Q3	Forecast Spend in Year	Forecast (under)/Over Spend	Budget at Outturn	Expenditure in 2019/20	Outturn Variance to Budget	
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Adult Social Care	£1,501	£1,573	72	£1,546	£1,326	(£220)	86%
Children & Family Services	£7	£7	0	£7	£	(£7)	0%
Education Services	£17,112	£14,395	(£2,717)	£17,112	£12,738	(£4,374)	74%
Totals	£18,620	£15,976	(£2,644)	£18,665	£14,064	(£4,601)	75%

- 5.9 The People Directorate ended the year with expenditure of £14 million against a revised budget of £18.6 million.

- (a) Adult Social Care: The Occupational Therapy Equipment budget was underspent by £361k at the yearend. £141k of the underspend has been utilised to offset overspends against care homes capital works budgets, primarily relating to remedial works undertaken at Willows Edge.
- (b) Education Services: Underspends were incurred against a number of school projects most notably Highwood Copse (£1.2 million), The Willink (£636k) and Speenhamland Primary two form entry project (£793k) and the Eastern Area Pru (£989k). A number of projects primarily feasibility studies and planned maintenance were delayed at the yearend due to Government dictated lockdown procedures in response to the Covid pandemic.

The Place Directorate

Place	Quarter Three			Outturn			Spend as a % of budget
	Budget at Q3	Forecast Spend in Year	Forecast (under)/Over Spend	Budget at Outturn	Expenditure in 2019/20	Outturn Variance to Budget	
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Development & Planning	£2,382	£2,318	(£64)	£2,382	£1,636	(£746)	69%
Public Protection & Culture	£2,652	£1,120	(£1,532)	£2,652	£877	(£1,775)	33%
Transport & Countryside	£25,955	£19,531	(£6,424)	£25,955	£18,751	(£7,204)	72%
Totals	£30,989	£22,968	(£8,021)	£30,989	£21,264	(£9,725)	69%

2019/20 Capital Financial Performance Report - Outturn

5.10 The Place Directorate ended the year with expenditure of £21.2 million against a revised budget of £30.9 million.

- (a) Development and Planning ended the year with a £746k underspend. The underspend was mainly attributable to works relating to Four Houses Corner (£162k) and purchase of temporary accommodation (£561k). The Four Houses Corner project has been delayed due to site access issues, £1.9 million of proposed expenditure relating to Four Houses Corner was agreed by CSG and re-profiled into 2020/21 at Quarter Two during 2019/20. Delays in the purchase of temporary accommodation were incurred at the end of 2019/20 as a result of estate agents closing as part of Government dictated Covid lockdown procedures.
- (b) Public Protection and Culture ended the year with a £1.7 million underspend. The underspend was mainly attributable to delays in the Solar Photovoltaics project (£670k), caused by technical issues with building feasibility and the panel supplier (based in Scotland) suspending work in response to the Covid lockdown procedures. Further underspends were incurred across multiple service maintenance budgets (leisure centres £326k, Museum £118k, culture £352k).
- (c) Transport and Countryside ended the year with a £7.2 million of underspend cumulative across the service, £6.1 million of the underspend relates to delays in the Sandleford Access Project and the Newbury railway Station Improvements Project. CSG agreed at Quarter Three of the financial year to re-profile anticipated expenditure against these projects into 2020/21.

The Resources Directorate

Resources	Quarter Three			Outturn			Spend as a % of budget
	Budget at Q3	Forecast Spend in Year	Forecast (under)/Over Spend	Budget at Outturn	Expenditure in 2019/20	Outturn Variance to Budget	
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Customer Services & ICT	£4,631	£3,915	(£716)	£4,631	£1,658	(£2,973)	36%
Finance & Property	£2,208	£2,294	£86	£2,208	£2,209	£1	100%
Finance & Property - Commercial Property	£35,000	£0	(£35,000)	£35,000	£0	(£35,000)	0%
Human Resources	£61	£61	(£)	£61	£29	(£32)	47%
Strategic Support & Legal	£344	£375	£31	£344	£239	(£105)	69%
Chief Executive	£35	£187	£152	£35	£58	£23	167%
Totals	£42,279	£6,831	(£35,448)	£42,279	£4,192	(£38,087)	10%

5.11 The Resources Directorate ended the year with expenditure of £4.1 million against a budget of £42.2 million, inclusive of the Commercial Property budget allocation of £35 million.

- (a) The £35 million Commercial Property budget (within Finance and Property Services, Resources Directorate), has not been utilised during 2019/20. During 2019/20 the Government announced that PWLB rates could no longer be accessed to fund assets used primarily to generate yield. On 23rd April 2020 the Property Investment Board (PIB) agreed a suspension in future commercial property acquisitions.

- (b) Customer Services and ICT ended the year with a £2.9 million underspend. £2.4 million of the underspend is attributable to delays in the superfast broadband project which has been forecast throughout the 2019/20 financial year. Further underspends were cumulatively incurred across corporate replacement budgets.

Proposals

5.12 Capital Strategy Group on the 28th May reviewed the outturn position in detail and propose that re-profiling of £14.5 million should be carried forward into 2020/21 to enable the continuation of schemes already underway. The table below details outturn against revised budget and proposed re-profiling into 2020/21.

Directorate Summary	Outturn				Total Slippage requested at Outturn	Slippage already re-profiled into 2020/21 and future years	Total Funds Slipped into 20/21 and future years
	Budget at Outturn	Expenditure in 2019/20	Outturn Variance to Budget	Spend as a % of budget			
	£'000	£'000	£'000		£'000	£'000	£'000
People	£18,665	£14,064	(£4,601)	75%	£1,777	£2,801	£4,577
Place	30,989	21,264	(£9,725)	69%	9,553	£	9,553
Resources (excluding commercial property)	£7,279	£4,192	(£3,087)	58%	£3,136	£	£3,136
Commercial Property	£35,000	£	(£35,000)	0%	£	£	£
Totals	£91,933	£39,521	(£52,412)	43%	£14,466	£2,801	£17,266

5.13 The main areas of proposed re-profiling are:

- (a) **People Directorate:** Education Services ended the year with a £4.3 million underspend across a number of school projects, most notably Highwood Copse (£1.2 million), The Willink (£636k) and Speenhamland Primary two form entry project (£793k) and the Eastern Area Pru (£989k). £2.8 million of the underspend has already been agreed to be re-profiled into the 2020/21 – 2022/23 approved capital programme as part of the budget setting process. The service is proposing a further £1.5 million is re-profiled into 2020/21 to complete existing projects.
- (b) **Place Directorate:** Transport and Countryside ended the year with a £7.2 million of underspend cumulative across the service and is proposing to re-profile £6.9 million into 2020/21 and later years. The main element of the proposed re-profiling is £6.1 million relating to the Sandleford Access Project and the Newbury railway Station Improvements Project which have both been subject to developer delays. CSG agreed at Quarter Three of the financial year to re-profile anticipated expenditure against these projects into 2020/21.
- (c) **Place Directorate:** Public Protection and Culture ended the year with a £1.7 million underspend. The underspend was mainly attributable to delays in the Solar Photovoltaics project (£670k), and underspends across maintenance budgets (leisure centres £326k, Museum £118k, culture £352k). The service is proposing that £1.7 million of proposed expenditure is re-profiled into 2020/21.
- (d) **Place Directorate:** Development and Planning ended the year with a £746k underspend. The underspend was mainly attributable to works relating to Four Houses Corner (£162k) and purchase of temporary accommodation (£561k). The

service is proposing to re-profile £162k of expenditure in respect of Four Houses Corner into 2020/21, £1.9 million of proposed expenditure relating to Four Houses Corner was agreed by CSG and re-profiled into 2020/21 at Quarter Two during 2019/20. The service is proposing to re-profile £561k relating to the purchase of temporary accommodation into 2020/21.

- (e) **Resources Directorate:** Customer Services and ICT ended the year with a £2.9 million underspend. The majority of the underspend is attributable to delays in the superfast broadband projects (£2.4 million), with further underspends incurred against corporate replacement projects. The service is proposing that £2.8 million of proposed expenditure is re-profiled into 2020/21.

5.14 Across the whole capital programme £14.5 million of expenditure is proposed to be re-profiled into 2020/21.

5.15 Post setting of the 2020/21 – 2022/23 capital programme, a new project relating to the upgrade of the Care Director system used by both Adult Social Care and Children and Family Services has been identified. The proposed project has a capital requirement in 2020/21 of £909k. It is proposed that this project is included in an amended capital programme for 2020/21. The project will incur an additional capital financing cost of approximately £100k per annum (as of 2021/22) which will require funding through the revenue capital financing budget.

6 Other options considered

6.1 No other options have been considered.

7 Conclusion

7.1 At the yearend expenditure totalling £39.5 million was incurred against a capital programme budget of £91.9 million. In respect of funding the capital programme, £32.3 million of external funding in the form of s106, Community Infrastructure Levy (CIL) and external grants were applied to the programme in 2019/20.

8 Appendices

8.1 Appendix A – 2019/20 Budget Changes

Subject to Call-In:

Yes:

Officer details:

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Appendix A

Budget Changes 2019/20

Service Area	Original Budget 2019/20 £000	Budget Agreed by CSG to be Slipped from 2018/19 £000	Other Agreed Changes to 2019/20 Budget £000	Revised Budget for 2019/20 £000	Explanation of Other Agreed Changes	Approved by
PEOPLE DIRECTORATE						
Adult Social Care	£1,576	(£90)	£60	£1,546	Additional £15k Grant Funding OT's 86008. Additional DFG funding in OT's £45k.	
Children & Family Services	£13	(£6)	£0	£7		
Education Services	£16,120	£992	£0	£17,112		
Total for Communities Directorate	£17,709	£896	£60	£18,665		
PLACE DIRECTORATE						
Development and Planning	£3,582	£612	(£1,812)	£2,382	Reverse of slippage re Travel Plans 81455 £88k, Reprofile Four Houses to 20/21 £1.9m	
Public Protection & Culture	£2,379	£216	£57	£2,652	£35k Newbury Lido/£22k S106 Funding. Libraries PC Replacement S106 funding £23k	CSG 21/10/19
Transport & Countryside	£12,645	£6,374	£6,936	£25,955	£1.9 m reprofiled from 18/19	CSG 19/07/18
					£2,575m reprofiled from 18/19	CSG 08/11/18
					£2.4m re-profiled from 18/19	Approved Feb 19
					Additional S106 funding for Countryside	CSG 05/09/19
Total for Environment Directorate	£18,606	£7,202	£5,181	£30,989		
RESOURCES DIRECTORATE						
Customer Services and ICT	£1,416	£82	£3,133	£4,631	£4k to ICT for Lone working	CSG 09/05/19
					£3,129 for Superfast Broadband	
Finance & Property	£1,996	£165	£6	£2,167	£6k to Finance for IDEA Software	CSG 09/05/19
Finance & Property : Corporate Allocation Budget	£98	£0	(£57)	£41	£4.5k to ICT for Lone Working, £12k to Legal for Iken, £6k to finance for IDEA Software, £35k Newbury Lido	CSG 21/10/19 CSG 09/05/19
Finance & Property : Commercial Property Budget	£35,000	£0	£0	£35,000		
Human Resources	£0	£61	£0	£61		
Strategic Support & Legal	£161	£171	£12	£344	£12k To Legal for Iken	CSG 09/05/19
Chief Exec	£35	£0	£0	£35		
Total for Resource Directorate	£38,706	£479	£3,094	£42,279		
Totals	£75,021	£8,577	£8,335	£91,933		

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West Berkshire Council Forward Plan

7 July 2020 - 31 October 2020

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Reference	Item	Purpose	Decision Body	Month/Year	Executive	ID	Date Report Published	Council	Governance and Ethics Committee	OSMC	Other	Officer and Contact No	Directorate	Lead Member	Consultee(s)	Part II	Call In
DOD3882	School Meals Contract <i>(Paragraph 5 - information relating to legal privilege)</i>	To agree the Contract award.	DOD	01 July 2020			tbc				TBC DOD	Robert Bradfield	Resources	Children, Young People & Education		Yes	Yes
EX3931	Parking provision for electric vehicles	To highlight the Motion made at Full Council on 3rd March and make recommendations as to whether the Motion should be implemented.	EX	01 July 2020	16/07/20 EX		08/07/2020					Neil Stacey				No	No
EX3831	Post Consultation Environment Strategy	To adopt the post consultation strategy.	EX	01 July 2020	16/07/20 EX		08/07/2020					Paul Anstey	Place	Environment		No	Yes
EX3716	Key Accountable Performance 2019/20: Quarter Four	To report Q4 outturns for the Key Accountable Measures which monitor performance against the 2019/20 Council Performance Framework. To provide assurance that the objectives set out in the Council Strategy and other areas of significant activity are being managed effectively. To present, by exception, those measures that are predicted to be 'amber' or 'red' and provide information on any remedial action taken and the impact of that action. To recommend changes to measures/targets as requested by services.	EX	01 July 2020	16/07/20 EX		08/07/2020					Catalin Bogos	Resources	Internal Governance		No	No
EX3900	Future arrangements for the provision of Public Health across West Berkshire, Wokingham and Reading	To consider options and recommendations concerning the future management of Public Health across Berkshire West.	EX	01 July 2020	16/07/20 EX		08/07/2020					Nick Carter	Resources	Public Health & Community Wellbeing, Leisure and Culture		No	Yes
EX3937	West Berkshire Recovery Strategy	For Executive to review and approve the recovery strategy in respect of Covid-19	EX	01 July 2020	16/07/20 EX		08/07/2020					Joseph Holmes	Resources	Leader, District Strategy and Communications			
EX3942	Social Care Emergency Duty Service <i>(Paragraph 3 – information relating to the financial/business affairs of a particular person)</i>	To request that the Executive approve a new shared service agreement for the continuing provision of a hosted Emergency Duty Service (EDS) between the six Berkshire unitary authorities with Bracknell Forest Council as a lead/host authority.	EX	01 July 2020	16/07/20 EX		08/07/2020					Robert Bradfield	Resources	Finance and Economic Development		Yes	No
GE3821	Internal Audit Annual Assurance Report 2019/20 including the Annual Governance Statement.	The Public Sector Internal Audit Standards (PSIAS) require the Audit Manager to make a formal annual report to those charged with governance within the Council.	GE	01 July 2020			17/07/2020		27/07/20 GE			Julie Gillhespey	Resources	Internal Governance		No	Yes
ID3918	West Berkshire Council Forward Plan 25 Aug- 31 Dec 2020	To agree the Forward Plan for the next four months.	ID	01 July 2020		23/07/2020	15/07/2020					Moira Fraser	Resources	Leader, District Strategy and Communications		No	No
ID3936	Appointment of representatives on the West Berkshire SACRE	To appoint representatives to vacancies on SACRE (Standing Advisory Council on Religious Education)	ID	01 July 2020		07/07/2020	29/06/2020					Janet Giddings	Resources	Children, Young People and Education			
ID3938	Appointment to Outside Bodies	To agree any changes required to the Council's Outside Body Appointments	ID	01 July 2020		16/07/2020	08/07/2020					Moira Fraser	Resources	Leader, District Strategy and Communications			
ID3939	Endorsement of the Hamstead Marshall Parish Plan		ID	01 July 2020		01/07/2020						Jo Naylor	Resources	Public Health and Community Wellbeing			
ID3941	Discretionary Housing Payments Policy - Update	To agree amendments to the existing policy.	ID	01 July 2020		07/07/2020						Liz Martin	Place	Planning and Housing			
PC3940	Menopause Policy	To agree the policy.	PC	01 July 2020			09/07/2020				17/07/20 PC	Katie Penlington	Resources	Internal Governance			

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DOD3881	Appointment of the Independent Remuneration Panel	To agree the membership and scope of the IRP.	DOD	01 August 2020							DOD August 2020	Jo Watt	Resources	Leader, District Strategy and Communications		No	No
EX3833	Adoption of the Housing Strategy	To adopt a new Housing Strategy	EX	01 September 2020	03/09/20 EX		25/08/2020					Neil Coles	Place	Planning and Housing		No	Yes
EX3883	Key Accountable Performance 2020/21: Quarter One	To report Q1 outturns for the Key Accountable Measures which monitor performance against the 2020/21 Council Performance Framework. To provide assurance that the objectives set out in the Council Strategy and other areas of significant activity are being managed effectively. To present, by exception, those measures that are predicted to be 'amber' or 'red' and provide information on any remedial action taken and the impact of that action. To recommend changes to measures/targets as requested by services.	EX	01 September 2020	03/09/20 EX		25/08/2020					Catalin Bogos	Resources	Internal Governance		No	
EX3798	Revenue Financial Performance Report - Outturn for 2019/20	To inform Members of the latest financial performance of the Council.	EX	01 September 2020	03/09/20 EX		25/08/2020					Melanie Ellis	Resources	Finance, Transformation and Property		No	Yes
EX3802	Capital Financial Performance Report - Outturn for 2019/20	To inform Members of the latest financial performance of the Council.	EX	01 September 2020	03/09/20 EX		25/08/2020					Shannon Coleman-Slaughter	Resources	Finance and Economic Development		No	Yes
EX3888	Leisure Strategy Consultation	To agree the Council's Leisure Strategy.	EX	01 September 2020	03/09/20 EX		25/08/2020					Paul Anstey	Place	Public Health & Community Wellbeing, Leisure and Culture		No	Yes
EX3906	Capital Financial Performance Report - Q1 of 2020/21	To present the Q1 capital financial performance for Members to note.	EX	01 September 2020	03/09/20 EX		25/08/2020					Shannon Coleman-Slaughter	Resources	Finance and Economic Development			
EX3905	Revenue Financial Performance Report - Q1 of 2020/21	To inform Members of the latest financial performance of the Council.	EX	01 September 2020	03/09/20 EX		25/08/2020					Melanie Ellis	Resources	Finance and Economic Development			
GE3822	Draft Financial Year 2019/20 Going Concern Assessment	This report summarises the management assessment of the Council continuing to operate as a going concern for the purposes of producing the Statement of Accounts for 2019/20.	GE	01 September 2020			25/08/2020		07/09/20 GE			Shannon Coleman-Slaughter	Resources	Finance and Economic Development		No	Yes
GE3823	Draft Annual Governance Statement	To allow the committee to review the Annual Governance Statement before it is signed by the Leader and Chief Executive	GE	01 September 2020			25/08/2020		07/09/20 GE			Shannon Coleman-Slaughter/ Catalin Bogos	Resources	Internal Governance		No	Yes
GE3935	2019/20 Financial Statements – Highlight Report	To receive the report.	GE	01 September 2020			25/08/2020		07/09/20 GE			Shannon Coleman-Slaughter	Resources	Finance and Economic Development			
ID3919	West Berkshire Council Forward Plan 6 October 2020- 31 Jan 2021	To agree the Forward Plan for the next four months.	ID	01 September 2020		03/09/2020	25/08/2020					Moira Fraser	Resources	Leader, District Strategy and Communications		No	No
GE3864	Internal Audit Interim Report 2020/21	To update the Committee on the outcome of internal audit work.	GE	01 October 2020			02/10/2020		12/10/20 GE			Julie Gilhespy	Resources	Internal Governance			
GE3824	External Audit Fee 2020-21	To present to members the Audit Fee Letter for 2020/21 from Grant Thornton. The letter sets out the fee for the audit in line with the prescribed scale fee set by the Public Sector Audit Appointments Ltd (PSAA).	GE	01 October 2020			02/10/2020		12/10/20 GE			Shannon Coleman-Slaughter	Resources	Internal Governance		No	Yes
GE3934	External Auditors Report on the Financial Statements	To receive the report from the external auditors.	GE	01 October 2020			02/10/2020		12/10/20 GE			Shannon Coleman-Slaughter	Resources	Finance and Economic Development			
GE3820	Summary of Draft West Berkshire Council Financial Statements 2019/20	To present the draft West Berkshire Council Financial Statements 2019/20.	GE	01 October 2020			02/10/2020		12/10/20 GE			Shannon Coleman-Slaughter	Resources	Finance and Economic Development		No	Yes
GE3689	External Audit Plan 2020-21	To provide Members with a copy of the External Audit Plan for 2020-21	GE	01 October 2020			02/10/2020		12/10/20 GE			Shannon Coleman-Slaughter	Resources	Internal Governance		No	Yes

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ID3920	West Berkshire Council Forward Plan 10 Nov 2020- 28 Feb 2021	To agree the Forward Plan for the next four months.	ID	01 October 2020		08/10/2020	30/09/2020					Moira Fraser	Resources	Leader, District Strategy and Communications		No	No

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Overview and Scrutiny Management Commission Work Programme 2020/21

The following items will be considered in addition to Standing Items (Financial Performance (Quarterly), Key Accountable Performance (Quarterly), New Ways of Working Reviews (ad hoc) and Corporate Programme (annually/ on request))						Last Updated: 16 July 2020
No. Item	OSMC Theme	Purpose	Lead Officer	Profolio Holder/ Lead Member	Pre or post decision?	
28 July 2020 (Report deadline 20 July 2020)						
3	London Road Industrial Estate: Task Group Report	<i>Corporate Effectiveness</i>	To report the findings of the scrutiny review into the London Road Industrial Estate development	Sarah Clarke	Internal Governance	OSMC decision
4	LGA Corporate Peer Challenge	<i>Corporate Effectiveness</i>	To consider the feedback from the Peer Challenge held in November 2019 including the Council's action plan	Joseph Holmes	Leader of the Council	OSMC decision
06 October 2020 (Report Deadline 28 September 2020)						
5	IT / Digital Transformation Task Group *	<i>Corporate Effectiveness</i>	To explore the capacity of the IT and Digital Services to support transformation projects in the organisation	TBC	Internal Governance	OSMC decision
6	Shared Services	<i>Partnership Effectiveness</i>	To report to the Commission the effectiveness of the Council's shared services and provoke discussions on whether any other Council services should be shared with other authorities.	Nick Carter	Economic Development and Planning	OSMC decision
26 January 2021 (Report Deadline 18 January 2021)						
7	Housing Strategy *	<i>Policy Effectiveness</i>	To consider the Housing Strategy	Gary Lugg	Planning and Housing	Pre decision
8	Commercialisation Part 2: Commercial Board Update	<i>Corporate Effectiveness</i>	To report to the Commission the Board's activities and achievements, what revenue had been achieved and how this was tracked. To include an update on actions from the Property Investment Strategy review carried out previously by OSMC.	Andy Sharp	Finance	OSMC decision
20 April 2021 (Report Deadline 12 April)						
9	Performance or financial topic tbc.	<i>Corporate Effectiveness</i>	tbc	tbc	Finance	OSMC decision
10	Joint Health and Wellbeing Strategy	<i>Policy Effectiveness</i>	To consider the draft Health and Wellbeing Strategy	Matt Pearce	PublicHealth and Community Wellbeing	Pre decision
11	Community Safety	<i>Partnership Effectiveness</i>	Meeting as Crime and Disorder Committee, to receive presentations on and consider: performance of the Building Communities Together Partnership in 2020/21, and their priorities for 2021/22	Susan Powell	This report applies to all portfolios	OSMC decision

tbc July 2021						
12	Recovery Strategy	<i>Corporate Effectiveness</i>	To review progress in implementing the Recovery Strategy	Susan Powell	This report applies to all portfolios	OSMC decision
13	Inequalities in West Berkshire	<i>Policy Effectiveness</i>	To present a research report to the Commission outlining inequalities in West Berkshire, actions to address these and benchmarking data against comparable local authorities.	tbc	This report applies to all portfolios	OSMC decision
tbc October 2021						
14	Environment Strategy Operational Review	<i>Corporate Effectiveness</i>	To review progress in implementing the Environmental Strategy	tbc	Environment	OSMC decision

Key:

- Ensure our vulnerable children and adults achieve better outcomes
- Support everyone to reach their full potential
- Support businesses to start, develop and thrive in West Berkshire
- Develop local infrastructure including housing to support and grow the local economy
- Maintain a green district
- Ensure sustainable services through innovation and partnership
- Crime and Disorder Committee