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Our Ref: PGH/Cabinet
Date: 13 April 2012

Notice of meeting

CABINET

Date: Tuesday 24 April 2012

Time: 5.30p.m.

PLEASE NOTE THE START TIME

Place: Goddard Room, Council Offices, Knowle Green, Staines.

To: Members of Cabinet

Members of the Cabinet	Cabinet member areas of responsibility
F. Ayers (Chairman)	Leader of the Council, Strategy and Corporate Governance
Mrs. J.M. Pinkerton (Vice-Chairman)	Deputy Leader, Health, Wellbeing and Independent Living
C.A. Davis	Economic Development
T.J.M. Evans	Finance and Resources
P.C. Forbes-Forsyth	Community Safety and Young People
G.E. Forsbrey	Planning and Housing
N. St. J. Gething	Communications
Mrs. D.L. Grant	Parks and Assets
R.L. Watts	Environment

AGENDA

Description	Page Number
1. Apologies for absence	
To receive any apologies for non-attendance.	
2. Minutes	
To confirm the minutes of the meeting held on 21 February 2012.	1 - 6
3. Disclosures of Interest	
To receive any disclosures of interest from members in accordance with the Council's Code of Conduct for members.	
4. Minutes and Recommendations of the Local Development Framework (LDF) Working Party - 29 February 2012	
(Councillor Forsbrey)	7 - 46
5. Annual Review of the Constitution	
(Councillor Ayers)	47 - 52
6. Code of Conduct and Standards Committee	
(Councillor Ayers)	53 - 78
7. Independent Person - Appointments Panel	
(Councillor Ayers)	79 - 82
8. Police and Crime Panel - Establishment of a Joint Committee	
(Councillor Ayers)	83 - 86
9. Carbon Management Plan	
(Councillor Watts)	87 - 89
10. Discretionary Rate Relief Application	
(Councillor Evans)	90 - 107
11. Spelthorne Single Equality Scheme (Fairness and Respect)	
(Councillor Gething)	108 - 111
12. Appointment to Outside Bodies	
(Councillor Ayers)	112 - 113

13. Issues for Future Meetings

Members are requested to identify issues to be considered at future meetings.

14. Urgent Items

To consider any items which the Chairman considers as urgent.

15. Exempt Business

To move the exclusion of the Press/Public for the following item(s), in view of the likely disclosure of exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006.

16. Sundry Debt Write-off

(Councillor Evans)

Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding the information)

And on the basis that publication would not be in the public interest because publication of the Council's approach to dealing with this debt in Council would likely prejudice or compromise the identity of the debtor with the disclosure of personal data which is not in accordance with the Data Protection Act 1998.

17. Council Tax and Business Rates Write-off

(Councillor Evans)

Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding the information)

And on the basis that publication would not be in the public interest because information in this report relates to (1) Personal Data; (2) Disclosure is not in accordance with the Data Protection Act 1998; and (3) The Information has been provided to the Authority by individuals under an obligation of confidentiality

18. Write-off for Housing Benefit and Council Tax Benefit Claim

(Councillor Forsbrey)

Paragraph 1 – Information relating to any individual

And on the basis that publication would not be in the public interest because information in this report relates to (1) Personal Data; (2) Disclosure is not in accordance with the Data Protection Act 1998; and (3) The Information has been provided to the Authority by individuals under an obligation of confidentiality

Minutes of the Cabinet

21 February 2012

Present:

Councillor R.A. Smith-Ainsley (Acting Leader of the Council, Vice-Chairman of the Cabinet and Cabinet Member for Planning and Housing)

Councillor Mrs. J.M. Pinkerton (Deputy Leader and Cabinet Member for Older People and Health Liaison)

Councillor F. Ayers (Cabinet Member for Community Safety and Assets)

Councillor C. A. Davis (Cabinet Member for Economic Development)

Councillor T.J.M. Evans (Cabinet Member for Finance)

Councillor P.C. Forbes-Forsyth (Cabinet Member for Parks and Leisure)

Councillor N. Gething (Cabinet Member for Communications)

Councillor R.L. Watts (Cabinet Member for Environment)

1780. Minutes

The minutes of the meeting held on 24 January 2012 were agreed as a correct record.

1781. Disclosures of interest

There were none.

1782. *Fees and charges 2012-13 – Key Decision

Cabinet considered a report seeking members' approval of the proposed schedule of fees and charges to be implemented from 1 April 2012.

Cabinet noted that in the current challenging economic climate, the Council needed to be careful in setting fee levels which were sustainable and would not adversely impact on income levels.

RESOLVED to recommend that Council approves the fees and charges as set out in Appendix A to the report of the Chief Finance Officer.

1783. *Draft Capital Programme 2011-12 to 2015-16 – Key Decision

Cabinet considered a report on the proposed Capital Programme for 2012/13 to 2015/16 in the light of the available resources and corporate priorities. The report covered progress on the current scheme and included future schemes for consideration.

It also provided information on the availability of resources to continue moving forward with the proposed schemes.

RESOLVED to recommend that Council approves the Capital Programme and Prudential Indicators for 2012/13 to 2015/16.

1784. *Draft Detailed Budget 2012-13 – Key Decision

Cabinet considered a report by the Chief Finance Officer seeking Members consideration of the net Revenue Expenditure Budget for 2012/2013 and a formal proposal on a Council Tax for 2012/2013 for recommendation to the Council for approval. By accurately planning and managing its financial resources the Council is able to maximise the services it provides to the public.

Cabinet noted that significant savings had been made to enable a balanced Budget for 2012-13.

The options considered were in the main body of the report.

RESOLVED to recommend that Council:

1. approves the growth and savings items as set out in the Appendices to the Report of the Chief Finance Officer.
2. agrees the Council Tax Base for the whole council area as at 2012/2013. [Item T in the formula in Section 31B(3) of the Local Government Finance Act 1992, as amended (the "Act")] and calculates that the Council Tax requirement for the Council's own purpose for 2012/2013 is £172.22
3. approves a 2.9% increase in the Spelthorne Borough Council element of the council tax for 2012/13 the following proposals:
 - a) the Revenue Estimates as set out be approved
 - b) no money, as set out in this report, is appropriated from General Reserves in support of Spelthorne's local Council Tax for 2012/13.
 - c) to agree that the council tax base for the year 2011/12 is 40,667.3 calculated in accordance with regulation 3 of the Local Authorities (Calculation of Council Tax Base) Regulations 1992, as amended, made under Section 35(5) of the Local Government Finance Act 1992.
4. agrees that the following sums be now calculated by the Council for the year 2012-13 in accordance with Section 31 to 36 of the Local Government Act 1992.

(a)	£54,616,000	Being the aggregate of the amount which the Council estimates for the items set out in Section 31A (2) of the Act taking into account all precepts issued to it by Parish Council.
(b)	£47,612,334	Being the aggregate of the amount which the Council estimates for the items set out in Section 31A (3) of the Act.
(c)	£7,003,666	Being the amount by which the aggregate at 3(a) above exceeds the aggregate at 3(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year. (Item R in the formula in Section 31A (4) of the Act.
(d)	£172.22	Being the amount at 3(c)above (Item R), all divided by Item T (2 above), calculated by the Council, in accordance with Section 31B(1) of the Act, as the basic amount of its Council Tax for the year (including Parish precepts).
(e)	£0	Being the aggregate amount of all special items (Parish precepts) referred to in Section34 (1) of the Act (as per the Attached Appendix).

		Being the amount at 3(d) above less the result given by dividing the amount at 3(e) above by Item T (2above), calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no Parish precept relates.
(f)	£172.22	

That the following amounts be calculated for the year 2012/2013 in accordance with Sections 31 to 36 of the Local Government Finance Act 1992

VALUATION BAND	A	B	C	D	E	F	G	H
Spelthorne	114.81	133.95	153.08	172.22	210.49	248.76	287.03	344.44

Being the amounts given by multiplying the amount at (e) above by the number which, in the proportion set out in Section 5(1) of the Act, is applicable to dwellings listed in a particular valuation band divided by the sum which in that proportion is applicable to dwellings listed in valuation band 'D', calculated by the Council, in accordance with Section 36(1) of the Act, as the amounts to be taken into account for the year in respect of categories of dwellings listed in different band.

1785. 2011-12 Capital Monitoring

Cabinet considered a report on the capital spend against the budget position of schemes which had been included in the capital programme for the period April to December 2011.

RESOLVED that Cabinet notes the 2011-12 Capital Monitoring report.

1786. Net Revenue Monitoring and projected outturns as at December 2011

Cabinet considered a report updating members on the Council's net revenue spend figures and forecast outturn position as at 31 December 2011. The report detailed how resources were spent on providing services for residents for the 9 month period, April to December 2011.

RESOLVED that Cabinet notes the Net Revenue Monitoring and projected outturns report as at December 2011.

1787. Revenue Grants 2012-13 and other funding arrangements

Cabinet considered a report recommending funding for voluntary sector organisations for 2012/13 and seeking members agreement on future performance monitoring arrangements.

The options considered were in the main body of the report.

RESOLVED that Cabinet agrees

1. the future performance monitoring arrangements as set out in the report of the Assistant Chief Executive;

2. funding for the various organisations as detailed in appendix D to the report of the Assistant Chief Executive and
3. to allocate remaining funds of £17,550 to organisations (voluntary /business) who have worthwhile projects which support the local community, during 2012/13.

1788. *Pay Policy Statement

Cabinet considered a report on a Pay Policy Statement for 2012/13.

Cabinet noted that the Localism Act 2011 required local authorities to publish an annual Pay Policy Statement, approved by full Council, to increase transparency regarding the use of public funds to pay council staff.

The first annual statement must be published by 31 March 2012.

RESOLVED to recommend that Council approves the Pay Policy Statement for 2012/13.

1789. Adoption of Food and Health and Safety Service Plans 2012-13

Cabinet considered a report seeking approval for the adoption of the Food and Health and Safety Service Plans for 2012/13.

RESOLVED that Cabinet adopts the Food and Health and Safety Service Plans for 2012/13.

1790. *Spelthorne Safer, Stronger Partnership (SSSP) Plan 2012-15

Cabinet considered a report seeking approval of the Spelthorne Safer, Stronger Partnership (SSSP) Plan 2012-15. The Plan set out the priorities for the Safer Stronger Partnership for the period 2012-2015.

RESOLVED to recommend that Council approves the Spelthorne Safer, Stronger Partnership (SSSP) Plan 2012-15, (shown at Appendix A to the Report of the Chief Executive) in its capacity as a statutory member of the Spelthorne Safer, Stronger Partnership.

1791. Surrey Minerals Plan

Cabinet considered a report on Surrey County Council's Aggregates Recycling Joint Development Plan Document and seeking its endorsement to the consultation response agreed with Councillor R.A. Smith-Ainsley, Portfolio Holder for Planning and Housing Strategy and provided to Surrey County Council within the consultation period.

Cabinet noted that it was important the Borough Council responded to the consultation to ensure that the policies set out in the latest Surrey Minerals Plan document would most effectively protect and enhance the environment of the Borough.

RESOLVED that Cabinet endorses the response to Surrey County Council's consultation on the Aggregates Recycling Joint Development Plan Document, as shown at Appendices A and B to the Report of the Assistant Chief Executive.

1792. *Members' Allowances scheme

Cabinet considered the minutes and recommendations of the Independent Review Panel (IRP) for Members Allowances, which met on 10 February 2012.

RESOLVED to recommend that Council:

1. agrees the recommendation of the IRP in relation to the freezing of the Basic and Special Responsibility Allowances (paragraph 4.1(b))
2. agrees to refer back to the Panel, the recommendation at paragraph 4.1(a) to ask them to review the issue of travel expenses in the light of data to be obtained from other Surrey districts.

1793. Issues for future meetings

There were none.

1794. Urgent items

There were none.

NOTES:-

- (1) ***Members of the Overview and Scrutiny Committee are reminded that under Overview and Scrutiny Procedure Rule, the "call-in" procedure shall not apply to recommendations the Cabinet makes to the Council. The matters on which recommendations have been made to the Council, if any, are identified with an asterisk [*] in the above Minutes.***
- (2) ***Members of the Overview and Scrutiny Committee are entitled to call in decisions taken by the Cabinet for scrutiny before they are implemented, other than any recommendations covered under (1) above.***
- (3) ***Within three working days of the date on which a decision of the Cabinet or a Cabinet Member is published, not less than three members [one of whom must be the Chairman] of the Overview and Scrutiny Committee are able to "call in" a decision;***
- (4) ***To avoid delay in considering an item "called in", an extraordinary meeting of the Overview and Scrutiny Committee will be convened within seven days of a "call in" being received if an ordinary meeting is not scheduled in that period;***
- (5) ***When calling in a Cabinet decision for review the members doing so should in their notice of "call in":-***
 - ***Outline their reasons for requiring a review;***
 - ***Indicate any further information they consider the Overview and Scrutiny Committee needs to have before it in order to conduct a review in addition to the written report made by officers to the Cabinet;***
 - ***Indicate whether, where the decision was taken collectively by the Cabinet, they wish the Leader or his nominee (who should normally be the Cabinet Member) or where the decision was taken by a Cabinet Member, the member of the Cabinet making the decision, to attend the committee meeting; and***
 - ***Indicate whether the officer making the report to the Cabinet or the Cabinet Member taking the decision or his/her representative should attend the meeting.***

(6) The deadline of three working days for "call in" by Members of the Overview and Scrutiny Committee in relation to the above decisions by the Cabinet is the close of business on 2 March 2012

LOCAL DEVELOPMENT FRAMEWORK WORKING PARTY

Wednesday 29 February 2012

Present:

Cllr G E Forsbrey (Chair)

Cllr R Smith-Ainsley

Cllr I Beardsmore

Cllr R L Watts

Cllr N S Gething

1 Apologies

Cllrs Broom, Evans & Webb

2 Report of the Assistant Chief Executive

a. Programme of Work

Agreed a programme for progressing the draft Supplementary Planning Documents (SPDs) for Flooding and Housing Size and Type. The programme envisages approval of a consultation draft by Cabinet on 24 April followed by 4 weeks public consultation, report back to LDF Working Party in mid-June, Cabinet's consideration of final documents on 17 July and adoption of documents by Council on 19 July 2012.

Recommendation:

1. Cabinet be recommended to agree the work programme.

b. Flooding SPD

Document agreed subject to the following revisions and circulation of a tracked changes version to Working Party members for any final comments:

- i. Noted Appendix B to be completed which will explain the respective responsibility of Spelthorne Borough Council, Surrey County Council and the Environment Agency on flood matters;
- ii. Para 3.6: Put a definition of the acronym SUDS in a footnote;
- iii. Para 3.19: Noted officers recommended an additional sentence to explain that the 1 in 100 plus climate change flood level is broadly equivalent to the 1 in 1000 level;
- iv. Para 4.23: Add to the end of the first sentence 'and considered at the design stage';
- v. Para 4.43: Change the second word of the paragraph from 'many' to 'some';
- vi. Para 4.49: Noted officers recommendation of a new paragraph to follow 4.49 to explain in more detail the application of flood resistance and resilience requirements to residential extensions;

vii. Para 5.2: Add reference to Land Drainage Act;

viii. Officers to add other minor amendments to the text to improve clarity.

Recommendation:

1. Cabinet be recommended to agree the draft SPD on Flooding for public consultation subject to the above changes and any final adjustments proposed by Working Party members. (Following circulation of a tracked changes version of the document no further adjustments were requested).

c. Housing Size and Type SPD

Agreed that the text of both paragraphs 3.3 and 5.1 would be amended to include guidance on the dwelling size needs for private sector housing.

Recommendation:

1. Cabinet be recommended to agree the draft SPD on Housing Size and Type for public consultation subject to any final adjustments proposed by Working Party members. (Following circulation of a tracked changes version of the document no further adjustments were requested).

d. Public Consultation on the two SPDs

Recommendation:

1. Cabinet be recommended to agree the proposed arrangements for the 4 week public consultation.

e. National Planning Policy Framework

Noted that the Government intend to publish the final version by the end of March. A report will be presented to the Working Party on the document when it is available.

Information

f. Infrastructure and the Community Infrastructure Levy (CIL)

Officers presented a report which outlined the background to CIL, the considerable amount of work and statutory processes involved in introducing it in Spelthorne and a proposed programme.

Recommendation:

1. The Working Party notes the statutory requirements to introduce CIL and the work which is currently being undertaken;
2. Cabinet be recommended to formally agree to the Council proceeding with work necessary to enable the adoption of a Community Infrastructure Charging Schedule before April 2014.

Spelthorne Borough Council

Draft Supplementary Planning Document on Flooding

20 March 2012



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Appendices

- A** Policy LO1 – from Core Strategy and Policies Development Plan Document
- B** Flood related responsibilities
- C** Plan: Fluvial Flood Risk Areas and ‘Main Rivers’ in Spelthorne
- D** How to check the flood zones for your site on the Council’s web site
- E** Flood Risk Assessments for residential extensions

1 Introduction

- 1.1 Flood events in various parts of the country over the past 15 years or so provide a reminder of their devastating effect, including loss of life, and the need to have a comprehensive approach to dealing with the risk.
- 1.2 The purpose of this document is to explain in more detail the Council's policy on development in areas of flood risk. Policy LO1 'Flooding' is set out in the Core Strategy and Policies Development Plan Document¹ and is reproduced in Appendix A.
- 1.3 In addition to explaining the policy, factual information is also provided on the nature, extent and implications of flood risk facing the Borough.
- 1.4 The advice in this document is a 'material consideration' in determining planning applications in flood risk areas and is intended to answer the issues that most commonly arise. It is, however, important that anyone contemplating development not only carefully considers the general guidance in this document but also seeks the informal advice of the Council. In some cases it may also be necessary to obtain expert advice on the extent and potential implications of flooding on their site.
- 1.5 This advice will also be helpful to those looking to purchase a property within a flood risk area to assess whether a wish to carry out some form of development in the future is realistic.

2 Responsibilities for managing flood risk

- 2.1 Responsibility for managing flood risk and related issues rests with a number of different organisations. Whilst this document primarily deals with development related issues and the Borough Council's planning responsibilities, Appendix B outlines the responsibilities of other organisations in the wider issues of flooding. These other organisations include the Environment Agency (EA), Surrey County Council and Thames Water.

3 Flood Risk in Spelthorne

a. Causes of Flood Risk

- 3.1 There are various potential causes of flooding in Spelthorne but the most significant is from rivers². It is this form of flooding to which Policy LO1 applies and which is mapped in some detail.
- 3.2 At Appendix C is a plan showing the general extent of fluvial flood risk in Spelthorne by reference to three flood zones. The same plan also shows all 'main rivers'³ in the Borough. Paragraph 3.19 provides information about detailed flood risk maps and it is those maps and site specific flood information from the EA which should be used when considering development proposals.

¹ Core Strategy and Policies Development Plan Document, February 2009.

² Flooding from rivers is technically known as fluvial flooding.

³ 'Main rivers' is a technical term used by the Environment Agency to refer to the larger arterial watercourses. These include some watercourses in Spelthorne that are relatively small but nevertheless are significant in drainage terms.

3.3 Other forms of flooding include:

- a. Surface water flooding – this can arise after heavy rainfall but will usually quickly drain away into the gravel substrata which underlies much of the Borough unless the ‘water table’⁴ is already high and close to ground level. The main susceptible areas are shown on Surrey County Council’s Preliminary Flood Risk Assessment maps and maps held by the EA. This form of flooding does not normally cause flooding within buildings.
- b. Ground water flooding – this can arise in lower lying areas where the water table is high and rises to such an extent that water lies at about ground level.
- c. Sewers – the Borough has a separate foul sewer system and most surface water is disposed of by soakaways. The foul sewers are therefore not a significant source of flood risk themselves in Spelthorne but they may become inundated in times of fluvial flooding and therefore become overloaded.
- d. Reservoir flooding – the Borough has five major reservoirs. A failure of the embankments of any one could cause widespread flooding across the Borough. However, the risk of this happening is sufficiently low so that no limitation on development as a result of this form of flood risk is justified. Further detail on the extent of risk from this source is provided on the Environment Agency website⁵.

b. Risk based approach to flooding

- 3.4 In response to several significant flood events nationally in the mid/late 1990s the Government published in 2001 new guidance on development and flood risk in the form of Planning Policy Guidance Note No 25 ‘Development and Flood Risk’. This was updated in 2006 and again in March 2012 with the publication of the National Planning Policy Framework. (update when published and remove refs to PPS 25)
- 3.5 The original guidance established a ‘risk based approach’ to flooding which now underpins the work/advice of the EA and the detailed planning policies on flooding prepared by local authorities.
- 3.6 This risk based approach requires:
 - a. A strategic approach which avoids adding to the causes or ‘sources of flood risk by such means as avoiding inappropriate development in flood risk areas and minimising run-off from new development onto adjacent and other downstream property and into the river system.
 - b. Managing flood ‘pathways’ to reduce the likelihood of flooding by ensuring that the design and location of development maximises the use of SUDS⁶. Account must also be taken of its susceptibility to

⁴ Water table: Is the level at which porous rock is saturated by underground water.

⁵ www.environment-agency.gov.uk – Reservoir Flood Maps page.

⁶ SUDS – Sustainable Urban Drainage Systems. For further information see paragraphs 4.20-4.24.

flooding, the performance and processes of river systems and appropriate flood defences, the likely routes and storage of flood water and the impact of the development on flood risk downstream.

- 3.7 Part of this objective approach to assessing risk is the requirement to undertake Flood Risk Assessments (FRAs). These are prepared at a strategic level for whole local authority areas in the form of Strategic Flood Risk Assessments (SFRAs) as well as flood risk assessments of individual development proposals.
- 3.8 Decisions about where development should go are to be made on the basis of a 'sequential approach' where areas of no flood risk or lower risk should be considered before areas of greater flood risk.
- 3.9 Exceptions to the 'sequential approach' can be considered, but only where there is a wider 'sustainable development' justification, including the need to avoid social or economic blight.

c. Fluvial Flood Risk

- 3.10 The main flood risk in Spelthorne comes from the River Thames. Spelthorne is located in the Lower Thames area with a larger part of its catchment area upstream of the Borough. That catchment area covers a significant part of central southern England extending up to within a few miles of Gloucester and Leamington Spa.
- 3.11 Two tributaries of the Thames also have a direct potential impact on the Borough:
 - a. River Colne system – the lower Colne Valley lies within the northwest part of the Borough and has a number of channels including the River Colne, the Colnbrook and Wraysbury River. The catchment area includes part of the Chilterns and outer northwest London. The River Colne joins the Thames at Staines. Part of the catchment area lies on areas of clay where run-off can be fast and heavy rainfall can lead to flash flooding. North of Staines the River Ash diverges from the Colne and takes a meandering course across the southern part of the Borough to join the Thames just up-stream of Sunbury Lock. The Stanwell Brook, and in turn the Stanwell and West Bedfont Ditches, flow into the River Ash between Ashford and Staines.
 - b. River Wey and Chertsey Bourne – these enter the Thames near Shepperton Lock and have a combined catchment area extending as far south as Haselmere. Whilst they do not pass through the Borough, flood water on these rivers would increase levels on the Thames and potentially affect areas downstream of Shepperton, including Sunbury. The catchment areas are generally on chalk and sand/gravel and whilst flash flooding does not normally occur water levels can rise more quickly than on the Thames itself because of the shorter length of the rivers and their tributaries.
- 3.12 The Borough has only experienced major flooding twice in the past 120 years – in 1894 (1 in 100 year event) and 1947 (1 in 56 year event). However, the predicted return periods for such events are simply a mathematical expression of their probability, where a 1 in 100 year event means there is a 1% chance of

it happening in any year. However, it is possible for several major flood events to occur in a very short space of time⁷.

- 3.13 The risk of flooding is determined by the normal capacity of the River Thames at any particular point on the river and the extent to which the flow of water created during severe weather conditions exceed this capacity. The following table provides an indication of the capacity of the Thames through Staines and the flow of water that can occur in specific flood events.

Table 1 Capacity of the River Thames at Staines⁸

Condition/Event	Estimate probability of recurrence	Flow rates in cumecs ⁹
Normal summer conditions	-	50 cumecs
Bank full	-	250 cumecs
2003 floods	1 in 14	390 cumecs
1947 floods	1 in 56	535 cumecs
1894 floods	1 in 100	600 cumecs

- 3.14 High flow rates cause major flooding, which in this reach of the Thames can extend more than a mile either side of the river affecting large parts of Spelthorne, Runnymede and to a lesser extent Elmbridge.
- 3.15 Whilst the natural flood plain covers extensive undeveloped areas, a major flood event would also impact on some urban areas, particularly parts of Staines, Laleham, Shepperton and Lower Sunbury. The following table gives an indication of the extent of that risk in terms of residential properties and the number of people likely to be affected in a 1 in 20 and 1 in 100 year event, both in Spelthorne as a whole and the wider Lower Thames area¹⁰. Given such floods could last for weeks the enormous impact on people and property serves to emphasise the importance of an appropriate flood policy – not least to ensure future development does not add to the problem.

Table 2 People and Property at Flood Risk¹¹

Level of Flood Risk	Spelthorne		Lower Thames area	
	Properties	People	Properties	People
1 in 20	680	1,700	5,300	13,000
1 in 100	2,800	7,000	15,000	36,000

⁷ In 2007, during the major floods around Gloucester and Tewksbury, two major peaks of flood water occurred. In 1990 flooding in Colnbrook exceeded the 1947 flood levels on 3 occasions.

⁸ Spelthorne Strategic Flood Risk Assessment, paragraph 42, page 10.

⁹ Cumecs = Cubic metres per second, which is a measure of water flow.

¹⁰ The Lower Thames area extends from Datchet to Teddington and includes parts of the Boroughs of Windsor & Maidenhead (Horton, Datchet and Wraysbury), Spelthorne, Runnymede, Elmbridge, Kingston and Richmond.

¹¹ Data supplied by the Environment Agency.

d. Climate change

3.16 The climate of the UK has always experienced varying degrees of change and projections for the UK suggest this will continue. Heatwaves have become more frequent in summer and there are now fewer frosts and winter cold spells. Winters over the last 200 years have become wetter relative to the summers and a larger proportion of winter precipitation in all regions now falls on heavy rainfall days than was the case 50 years ago¹². This suggests that flood events could become more frequent and the area affected by flood water could be greater.

e. Flood Risk and Flood Risk Vulnerability

3.17 Fluvial flood risk nationally is classified into 4 zones which relate to the relative probability of flooding. This classification is summarised in Table 1 'Flood Zones'. A definition of the appropriate uses of land/buildings for each flood zone is set out in Table 4 'Flood Risk Vulnerability Classification'. The purpose of these two tables is to identify uses appropriate to differing levels of flood risk.

Table 3 Flood Zones

Zone	Probability of flooding	Appropriate uses
Zone 1	Low probability Less than 1 in 1000 risk (0.1%)	All categories shown in Table 4 are appropriate
Zone 2	Medium probability Risk 1 in 100 to 1 in 1000 (1% to 0.1%)	Water compatible Less vulnerable More vulnerable Essential infrastructure
Zone 3a	High probability 1 in 20 to 1 in 100 (5% to 1%)	Water compatible Less vulnerable uses Essential infrastructure
Zone 3b	Functional flood plain 1 in 20 or greater (greater than 5%)	Water compatible Essential infrastructure

¹² PPS 25 'Development and Flood Risk' – Annexe B

Table 4 Flood Risk Vulnerability Classification¹³

Category	Appropriate uses
Essential Infrastructure	Essential transport infrastructure, including evacuation routes, and strategic utility infrastructure, including grid and primary substations.
Highly vulnerable	Police, Fire and Ambulance stations, Command Centres and telecommunication installations required to be operational in times of flood. Emergency dispersal points, basement dwellings, caravans, mobile homes and park homes intended for permanent residential use. Installations requiring hazardous substance consent.
More vulnerable	Hospitals. Residential institutes including care homes, childrens' homes, prisons and hostels. Dwelling houses, student halls and hotels. Non-residential uses for health services, nurseries and education. Caravan and camping sites.
Less vulnerable	Shops, offices, industry and storage uses. Agriculture, waste treatment (except landfill and hazardous waste) and minerals workings and processing. Water treatment and sewage treatment subject to adequate pollution control measures.
Water compatible	Flood control, water/sewage transmission, water based recreation and amenity open space including changing rooms. Essential sleeping accommodation for the water compatible uses.

f. Strategic Flood Risk Assessment

- 3.18 In 2006 the Council commissioned consultants to prepare a Strategic Flood Risk Assessment (SFRA) for the Borough¹⁴. The assessment used what was then the latest flood risk modelling and quantified the extent and nature of the flood risk in the Borough. An SFRA Part II¹⁵ was also prepared by the Council in conjunction with the consultants, which assessed the implications of the main report and included a draft flood policy. That draft policy is essentially the same as Policy LO1 in the Core Strategy and Policies DPD.
- 3.19 The modelling which was used in the SFRA has since been further refined by the EA and is reflected in flood maps now available on the EA website¹⁶ as well as the Council's own website¹⁷. The Council's website shows maps depicting

¹³ Source: PPS 25 'Development and Flood Risk' – Table D2

¹⁴ Spelthorne Borough Council Strategic Flood Risk Assessment (SFRA), December 2006.

¹⁵ Spelthorne Strategic Flood Risk Assessment Part II, February 2007.

¹⁶ For further information on flood maps and how they are produced: www.environment-agency.gov.uk – Flood Map – your questions answered page.

¹⁷ www.spelthorne.gov.uk – My Spelthorne (Select the 'My Maps' tab and type in the address; select the 'Environment & Planning' section in the left hand column and tick each of the three flood zone boxes).

the 1 in 20, 1 in 100 and 1 in 1000 flood outlines and to which Policy LO1 relates. The EA website shows only the 1 in 100 and 1 in 1000 outlines.

- 3.20 The EA publishes regular updates of their flood maps which are used to update the Council's maps. Updates of flood modelling arise for a number of reasons including further more detailed assessment work, any additional flood defences or changes in channel capacity or recent flood or high water events enabling a more detailed understanding of how flood water may behave. Such updating is important so the most accurate picture of flood risk is available. Users of either the EA records or those of the Council should therefore ensure they have the latest information.

4 Application of Policy LO1

a. General issues

- 4.1 Before dealing with the specific requirements of Policy LO1 some general issues are explained.

i. Spelthorne's approach to flood risk

- 4.2 Spelthorne's approach to development and flood risk in Policy LO1 is to:
1. Support measures to reduce the risk of flooding to existing properties.
 2. Apply strict controls over new development.
- 4.3 On the EA website is 'standing advice' which explains its general approach to specific forms of development under various flood risk circumstances.
- 4.4 Whilst councils consult the EA on larger proposals, decisions on planning applications rest with local planning authorities. Policy LO1 and this guidance explain in detail Spelthorne's approach to making such decisions, and the EA supports Policy LO1. In several respects, because of the severity of flood risk in Spelthorne, the Council's requirements are more stringent than the general requirements of government policy or the EA.
- 4.5 The EA website also identifies those types of development it does not wish to be consulted on. However, the EA's wish not to be consulted on certain matters should not be inferred as 'supporting' or 'not objecting to' those development types, it simply means that the EA is leaving the matter for the local authority to decide.

ii. Proposals to deal with flood risk

- 4.6 The supporting text to Policy LO1 (para 5.14 in the Core Strategy and Policies DPD) refers to the Environment Agency's 'Lower Thames Strategy' which is a package of measures to reduce flood risk in the section of the River Thames from Datchet to Teddington. The strategy has been formulated over a number of years. The package was approved by the EA Board in November 2010 and the strategy was agreed by Defra¹⁸ in July 2011.

¹⁸ Department of Environment, Food and Rural Affairs.

- 4.7 The 'Strategy' involves the following:
- a. Engineered components – 3 flood diversion channels to relieve existing urban areas between:
 - i. Datchet and Wraysbury – on north bank
 - i. Egham and Chertsey – on west bank
 - ii. Chertsey and Shepperton – on north bank
 - b. Structural improvements to increase the capacity of Teddington, Molesey and Sunbury weirs and widening of the Desborough Channel by 3-4 metres.
 - c. Flood plain management involving:
 - i. Controlling development in flood plains
 - ii. Safeguarding flood flow routes
 - iii. An intention to develop flood plain management software to help visualise flood risk
 - iv. Introducing community based protection measures, such as flood resistance work for the most vulnerable properties that will not be protected by the diversion channels.
- 4.8 As at April 2012 detailed design work and sources for all the necessary funding had not been progressed. However, further details of the strategy, including routes of the flood relief channels, are available on the EA website¹⁹. The scale and cost of what is proposed may take many years to complete. It is not proposed to start construction before 2019, subject to planning approval, and the construction may well be beyond the current end date of the Council's Core Strategy and Policies DPD of 2026.

iii. Application of a Sequential Approach in Spelthorne

- 4.9 Studies of land availability for housing and employment have shown that in Spelthorne land in both Zones 1 and 2 will be needed to meet housing and other needs over the next 15 years and therefore sites in either zone will be acceptable. There is, however, no housing need case to use land in Flood Zone 3 for housing where risks cannot be overcome.
- 4.10 Commercial areas in the Borough, including Staines Town Centre, are subject to varying degrees of flood risk - from 1 in 20 to 1 in 1000. For economic and social reasons it is considered unrealistic in sustainability terms to prevent further development or redevelopment in these commercial areas as this would inhibit their role in meeting the needs of the wider area. Therefore, as an exception to the sequential approach, redevelopment in any designated commercial area subject to flood risk will be allowed in principle. This also applies to other existing commercial areas and sites where there are no other overriding policy objections.
- 4.11 Policy LO1, however, requires that commercial developments in Flood Zone 3, which includes large areas of Staines Town Centre, result in a reduction in flood risk. This is to be achieved by providing a net increase in flood storage

¹⁹ www.environment-agency.gov.uk – Lower Thames page.

capacity of at least 20%, reducing impedance to the flow of flood water and other requirements which are explained below.

iv. Approach to 'permitted development'

- 4.12 Extensions and other structures up to a certain size and position within the curtilage of a dwelling can be built without planning permission under what is called 'permitted development'. Accordingly the Council has no control over them. Sometimes those wishing to extend their homes in a flood risk area propose that account should be given to what could be built under permitted development and only the amount of proposed development over and above that should be taken into account in deciding on the extent of harm in flood risk terms. Whilst the existence of permitted development rights is a material consideration, there are some important qualifications to the circumstances where permitted development rights will be given weight when assessing the flood risk implications of a proposal:
- a. Little weight will be given to the demolition of outbuildings since by their nature they are usually structures which are floodable/allowed to flood, whereas a proposed extension for habitable purposes is not. A new extension is likely to result in a greater loss of flood plain storage than a floodable structure.
 - b. An extension may be equivalent in floor space to an extension that might, in a different position or configuration, be permitted development. However, the proposal may be located in a position where it causes greater impedance to the flow of flood water and/or loss of flood storage capacity and therefore cause more harm in flood risk terms.
 - c. The permitted development rights that are claimed are not capable or likely of being implemented and therefore do not represent a real 'fall-back' position that can reasonably be taken into account.
- 4.13 Where planning permission is granted for a replacement dwelling in Flood Zone 3, 'permitted development' rights will be removed so as to control further development which may increase the flood risk.

v. 'Dry Islands'

- 4.14 The flood plain within Spelthorne is relatively flat and covers a large area. Within this flood plain are areas of slightly higher ground which are less prone to flooding than the land around them or may not flood at all. However, these areas would be surrounded by flood water in times of flood. Such areas are often referred to as 'dry islands'. During prolonged periods of flooding those living in these areas may be unable to leave and may require the assistance of the emergency services. Building additional residential properties on land surrounded by 1 in 20 and 1 in 100 flood risk areas will add to the problems a major flood will cause to emergency services and occupants. Proposals for additional dwellings on 'dry islands' will therefore be treated the same as for the level of flood risk in the area surrounding them regardless of their size. It is therefore important that those contemplating development not only use the flood maps to establish the flood risk at their particular site but also that of the wider area to ensure there is a dry route to a point outside the flood plain.

b. Consideration of each element of Policy LO1

4.15 Each section of Policy LO1 is explained in the following text:

The Policy starts with the statement:

'The Council will seek to reduce flood risk and its adverse effects on people and property in Spelthorne'.

4.16 This reflects the overall intention of the policy which is not just about preventing development in areas of high flood risk but also reducing the level of flood risk that already exists.

4.17 ***a) Support appropriate comprehensive flood risk management measures within or affecting the Borough which are agreed by the Environment Agency'***

4.18 Policy LO1 makes clear that the Council supports the principle of such a comprehensive approach. It will not allow any development which would prejudice the implementation of the engineered components described in paragraph 4.7 that may be developed by the EA in the future.

4.19 The Council will not permit development in the flood plain in anticipation of the full implementation of the Lower Thames Strategy because this would add to current levels of flood risk.

4.20 ***b) Reducing the risk of flooding from surface water and its contribution to fluvial flooding by requiring all developments of one or more dwellings and all other development over 100m² of floorspace in the Borough to have appropriate sustainable drainage schemes.***

4.21 The objective of 'sustainable drainage schemes' is to slow up the rate at which rainfall eventually ends up in rivers and other watercourses. With intense periods of rainfall there is a risk of rapid run-off to watercourses resulting in 'flash flooding' from these watercourses.

4.22 Most of Spelthorne is underlain by river terrace gravels which comprise a granular material which can absorb large amount of water in the ground. Most of the drainage from the roofs of buildings and other hard surfaces in the Borough goes into soakaways dug into the gravel layers and represent an appropriate sustainable way of draining away such water.

4.23 For larger developments with more extensive surfaced areas additional measures for storing rainwater may be required and should be considered at the design stage. This must be considered within the flood risk assessment for a scheme and the advice of the EA on sites over 1ha should be sought.

4.24 In the case of larger developments, even those outside of Flood Zones 2 and 3, additional sustainable drainage measures may be required because run-off in these areas will also add to water entering watercourses and potentially contribute to raised floodwater levels. See the following sub-point (h).

4.25 ***c) Maintaining flood storage capacity within Flood Zone 3 by refusing any form of development on undeveloped sites which reduces flood storage capacity or impedes the flow of flood water.***

- 4.26 The purpose of this requirement is to keep the undeveloped parts of the flood plain free of development. This allows the flood plain to continue to perform its natural function and avoid flood water otherwise spreading into areas not currently at risk. This requirement will apply not only to existing open land which is designated as Green Belt, but also to open land within urban areas liable to flood.
- 4.27 ***d) Maintaining the effectiveness of the more frequently flooded area (Zone 3b) of the flood plain to both store water and allow the movement of fast flowing water by not permitting any additional development including extensions.***
- 4.28 The purpose of this requirement is to ensure that there is very strict control on development in frequently flooded areas and areas which, in a major flood event, are likely to have fast flowing flood water. Zone 3b is where the flood risk is 1 in 20 or greater. Within this flood risk area there is already some development and structures which will impede the flow of flood water. The intention of this part of the policy is to avoid adding to that development and making matters worse.
- 4.29 Paragraph 4.12 sets out the Council's approach to 'permitted development' rights and the account that may be given to them.
- 4.30 Where there are existing structures which are proposed to be removed on a site as part of a proposal for an extension, the potential beneficial effects of removing these to provide greater flood storage capacity and less flood water impedance can be taken into account. Only where the benefits equal or exceed the impact of an extension will a proposal be acceptable. The acceptability will need to be demonstrated by the applicant in a Flood Risk Assessment (FRA) which provides detailed calculations, including information relating to the depth of flood water in relation to the proposed structure and the degree of impedance to the flow of flood water.
- 4.31 Where proposals are submitted to replace an existing dwelling it will be expected to have no greater impact in flood terms than the existing, and 'permitted development' rights will be removed to prevent extensions without the need for planning permission. Those contemplating such proposals will need to ensure that any raising of the new structure to bring ground floor levels above the predicted flood levels or any increase in flood storage capacity is compatible with the character of properties in the immediate area and is consistent with the Council's design policies^{20 21}.
- 4.32 For the same reasons that extensions need to be controlled in Flood Zone 3b, strict control will also be applied over proposals for terraces and decking areas where they need planning permission and either involve raising ground levels and/or reducing flood storage capacity. Walls and fences can also impede the flow of floodwater and where they require planning permission the Council will require permeable forms of these to be used.²²

²⁰ Policy EN1 Core Strategy and Policies DPD.

²¹ Supplementary Planning Document 'Design of Residential Extensions and New Residential Development'.

²² Examples of permeable fences are 'hit and miss fences' where vertical slats are fixed alternately either side of cross rails between posts. Walls can also incorporate holes at lower levels to allow water to percolate through.

- 4.33 **e) Not permitting residential development or change of use or other 'more vulnerable' uses within Zone 3a or 'highly vulnerable uses' within Zone 2 where flood risks cannot be overcome.**
- 4.34 The purpose of this requirement is to prevent:
- a. Additional residential development in areas where there is a high probability of flooding (Zone 3a – up to 1 in 100) including change of use to residential and 'more vulnerable' uses such as hospitals or care homes (See Tables 3 and 4).
 - b. 'highly vulnerable uses' within Flood Zone 2 (1 in 1000).
- 4.35 This follows the principle that the most sensitive uses should be put in areas of lower flood risk.
- 4.36 Circumstances can arise where a site straddles Flood Zone 3a and Zone 2 or immediately abuts Zone 2. In such cases a 'dry route' of escape in a 1 in 100 year event may exist or can be created without adding to flood risk to allow people to leave buildings safely. The precise extent of flood risk for the site must be demonstrated with information based on a detailed topographical survey of existing ground levels and modelled flood levels provided by the EA. Neither the development nor means of ensuring a 'dry escape' in a 1 in 100 year event must involve either the impedance of the flow of flood water, loss of flood storage capacity or in anyway add to the risk of flooding elsewhere.
- 4.37 Applicants sometimes seek to argue that it is safe and therefore reasonable for people to 'escape' by walking through flood waters of a limited depth. The Council does not accept that walking through flood water can be safe because:
- a. Where there is fast moving water, even of shallow depth, it can be dangerous particularly to children and those who are frail.
 - b. Still water will usually be dirty and silted with significant amounts of debris floating in it. It will in many cases be impossible to be certain of its exact depth and where hidden obstacles including holes might be. The water is likely to be contaminated by sewage and be a health risk if accidentally swallowed following a fall.
- 4.38 There are methods of assessing the relative level of hazard associated with areas at flood risk and the EA is able to supply relevant information. However, Flood Risk Hazard Assessments are only useful where it is demonstrated there is no alternative to placing a use or development in an area of flood risk and sites and escape routes of least risk need to be identified. As already explained in paragraph 4.9 there is no need for any new housing in Spelthorne to be built in areas of higher flood risk (Flood Zone 3) and which require people to walk through flood water to leave their property. The Council's position is that for residential development the only safe route of escape is a dry route.
- 4.39 **f) Supporting the redevelopment of existing developed sites in the urban area in Zones 3a and 3b for 'less vulnerable' uses where:**
- i. **a minimum increase of flood storage capacity of 20% can be secured (all flood storage areas to be effective at all times throughout the lifetime of the structure/use and do not create unacceptable risks to people in times of flood),**

- ii. ***it reduces impedance to the flow of flood water where there would be flowing flood water,***
- iii. ***appropriate access for the maintenance of water courses is maintained,***
- iv. ***there is no adverse impact on the integrity and effectiveness of flood defence structures.***

- 4.40 The purpose of this section is to ensure that where non-residential development has to be accepted it results in an overall reduction of flood risk.
- 4.41 It recognises that the existing flood risk areas do include existing commercial areas and preventing either redevelopment or rebuilding is unrealistic. This applies to 'less vulnerable' uses including shops, offices, industry and warehousing and this part of Policy LO1 is particularly relevant to Staines Town Centre.
- 4.42 In some cases the requirements for a net increase in flood storage capacity can be met by incorporating floodable voids at the ground level of the building. It can also be met by providing compensatory flood storage capacity in either a part of the site or an adjoining/nearby site which is outside of the 1 in 100 flood risk area.
- 4.43 Any proposals must include detailed information demonstrating that the requirements can be met, including control over other land that may be involved.
- 4.44 ***g) Requiring any development in Zones 2, 3a and 3b to be designed to be flood resilient/resistant.***
- 4.45 It is important where any new structures are proposed and justified in areas of flood risk that they are designed to avoid the adverse impacts of flood water. Many of the techniques can be applied to existing structures.
- 4.46 In the first instance the aim should be to design new buildings in such a way that flood water is prevented from entering the building and damaging its fabric. This is referred to as being 'flood resistant'. The most effective way of achieving this is by ensuring that the ground floor level is above the height of any floodwater in a 1 in 100 year event.
- 4.47 For the purpose of assessing the appropriate height of the floor in new buildings the Council adopts a precautionary approach of using a level equal to 1 in 100 +20% for climate change plus a 300mm further clearance. This will ensure the building is resistant to wave action, the underside of the floor is clear of flood water and there is some flexibility in coping with floods exceeding a 1 in 100 level.
- 4.48 Where it is not possible to make a new building wholly 'flood resistant' there are products available to prevent water entering a building via doorways and airbricks. However, these tend to be most effective where floods are of short duration and height – particularly flash floods or on the margins of flood risk areas. During prolonged periods of raised water levels (several days), which are more likely in Spelthorne, floodwater can saturate building structures and seep in through cracks, etc.
- 4.49 For extensions to existing properties, including residential property, it will usually be impractical to set the floor level at a height which is different to the floor level of the existing building. For this reason higher floor levels will not be

required. However, where they are provided the external design of the extension in relation to the host building must be acceptable.

- 4.50 Where it is not possible to prevent water from entering a building they should be designed in such a way that they are 'flood resilient'. The main principle in flood resilience is that finishes and fittings are not capable of being adversely affected by water entering the building. This will involve using forms of plaster that is water resistant and setting all electrical, communication and central heating fittings higher than any predicted flood water levels.
- 4.51 There are a wide range of issues to consider in making buildings flood resistant or resilient and further information on flood resistance and resilience is available in the document 'Improving the Flood Performance of New Buildings', May 2007²³.
- 4.52 ***h) Requiring all development proposals within Zones 2, 3a and 3b, and development outside this area (Zone 1) on sites of 0.5ha or of 10 dwellings or 1000m² of non-residential development or more, to be supported by an appropriate Flood Risk Assessment.***
- 4.53 The preparation of an appropriate FRA is essential in giving the Council an accurate understanding of the flood risks associated with a particular development. It will need to consider all sources of flooding, not just fluvial flooding. In line with statutory requirements planning applications will not be considered valid by the Council unless they are accompanied by an FRA. An FRA will also be essential to those designing a scheme so that appropriate account can be taken of any particular flood risk related requirements.
- 4.54 FRAs help answer important questions about whether development will:
- a. increase the number of people at flood risk,
 - b. increase flood risk elsewhere through loss of flood storage capacity, impedance to the flow of flood water or increased run-off,
 - c. adversely impact on the effectiveness of existing water courses and/or flood defences.
- 4.55 FRAs will be required for any new buildings or changes of use within Flood Zones 2, 3a and 3b and for extensions within Flood Zone 3b. They are also required in Zone 1 for sites exceeding 0.5ha or 10 dwellings or 1000m² of non-residential development. The reason for the requirement for an FRA for larger developments in Flood Zone 1 is so that the potential increase in run-off from a site and potential contribution to increasing flood risk elsewhere is understood and appropriately mitigated.
- 4.56 Detailed information is provided on the Environment Agency website on the requirements for FRAs²⁴ and the essential elements of an assessment are also explained below. The level of detail required will depend on the proposal.

²³ 'Improving the Flood Performance of New Buildings', May 2007. DCLG

²⁴ www.environment-agency.gov.uk – Flood Risk Assessments and general advice for applicants and agents page.

4.57 Before proceeding with the preparation of a detailed FRA, those who are contemplating any type of development are strongly advised to go through the questions set out in Table 5. These provide an initial check to identify if fundamental objections may exist to the use that is proposed (screening assessment). The questions have been designed to enable both householders and others to undertake the assessment without professional assistance using the information which is either set out in this document or, in the case of flood maps, set out on the Council's website. If it is unclear whether a particular use may be acceptable, or how the Council's flood policy might apply, it is strongly advised to seek further informal advice from the Council before proceeding further.

Table 5 Screening assessment of whether a proposed use may be acceptable

	Questions	Comment
1.	Which flood risk area is the site located in (note all sites in the Borough will be within one of the flood zones)?	The Council's website has map based information on Flood Zones 2, 3a and 3b. Flood Zone 1 is all of the uncoloured area on these maps. (Step by step instructions to access the maps are given in Appendix D)
2.	Is the proposed use compatible with this flood zone?	Check Tables 3 and 4 in this document to see if the use is appropriate.
3.	If the use is compatible with the flood zone, do the requirements of Policy LO1 impose further restrictions preventing development in principle?	Check Policy LO1 in the Core Strategy and Policies DPD or in Appendix A of this SPD.
4.	Are there any genuine exceptions to justify a proposal contrary to Policy LO1?	These would need to be clearly documented as of sufficient importance to outweigh the flood risks.

4.58 Only if the response to the above questions is positive is it likely that planning permission may be granted and therefore worthwhile proceeding with a proposal.

4.59 Where a site is subject to flood risk a detailed FRA will help establish whether an acceptable scheme can be designed in a way which avoids these risks. Depending on the nature of the proposal this may still highlight potential objections in principle.

4.60 Using the information below an assessment can be made about:

- a. the precise extent and likely impact of flood water on a site,
- b. whether the form of development proposed is likely to result in an unacceptable loss of flood storage capacity or impede the flow of flood water,

- c. whether changes to an intended proposal can be made to overcome any flood related problems.

Table 6 Scoping assessment - information required to assess the level of flood risk

1.	Obtain an Ordnance Survey (OS) map of the site with sufficient area around it to include the printed ordnance datum levels shown (i.e. level of the ground relative to sea level)
2.	Obtain from the Environment Agency: <ul style="list-style-type: none"> a. Modelled flood levels for the 1 in 20, 1 in 100 and 1 in 100+20% for climate change for the site or points very close to the site (where highly vulnerable uses are proposed 1 in 1000 data will be needed). b. Modelled flow rate of flood water (direction of flow and rate of flow) and information on the depth of flood water. This is essential to check if there are risks from fast flowing flood water.
3.	Plot the EA's survey points on the OS plan (where they are not on the part of the site where the development will be, extrapolate the level for the site from the data supplied).
4.	Undertake a survey of the site to establish, in relation to the OS datum levels, the ground levels across the site and level of the ground floor of existing structures (this type of survey is commonly referred to as a topographical survey).
5.	By comparing the levels of the site/buildings with the EA flood data identify what level of flood risk exists, if any. If the site is subject to more than one flood zone the relevant boundaries of the zones should be shown on the plan.

4.61 If this more detailed assessment identifies issues that clearly cannot be overcome and planning permission is therefore unlikely to be granted, there is no point proceeding further with the FRA or submitting a planning application.

4.62 Where it appears that a scheme can be designed to comply with the Council's flood policy, an FRA must be submitted with any planning application. The amount of detail in an FRA will vary according to the nature of the use, form of development proposed and any particular factors related to the site, its locality and any flood compensation measures required. Some aspects may require specialist technical advice or support. As a minimum an FRA for new buildings must contain the information set out below. The requirements for an FRA for residential extensions in Flood Zone 3b are set out in Appendix E.

- a. A topographical survey of the site showing the position of all structures and their ground floor levels, the levels across the site and those of the adjoining highway,
- b. Copies of the flood related information supplied by the EA,
- c. A plan of the site showing the location of the modelled survey points on which the EA flood data is based. (Where the EA modelled flood points are not on the site calculations must be provided which extrapolate the flood levels for the site),

- d. Confirmation of the projected depth of any flood water on the site and the rate and direction of any projected flow,
- e. Calculations of the net loss or gain in flood storage capacity arising from development of the site,
- f. The likely impact of any new structure on the movement of flood water across the site,
- g. In the case of residential development, at the margins of a flood risk area information must be provided to confirm there is a dry route from the site to a point outside of the flood plain during a 1 in 100 year flood event. This must be across public land or land which the occupants of the site have an agreement to use in perpetuity,
- h. Details of sustainable drainage,
- i. Details of any flood resistance and resilience measures.

4.63 Detailed technical information from the EA should be obtained by first contacting them via WTEenquiries@environment-agency.gov.uk.

5 Impact on watercourses

- 5.1 It should be noted that where proposals are within 8 metres of a 'main river' or flood defence structure, in addition to planning permission being required from the Council, formal By-Law Flood Defence consent may be required from the Environment Agency. This process is intended to ensure that areas required to maintain 'main rivers' are preserved and that flood defence structures are not compromised. The plan at Appendix C shows all 'main rivers' in the Borough.
- 5.2 In addition, under Land Drainage legislation, consent will be required for damming or culverting a ditch or small watercourse.

6 Further information

- 6.1 The Council encourages people to seek pre-application advice and this includes those looking to purchase a property with a view to undertaking development some time in the future. This will help identify at an early stage if expectations of what may be acceptable are unrealistic and therefore save further costs. The arrangements for obtaining advice on specific proposals are set out on the Council's website²⁵.
- 6.2 The Council is also able to deal with general factual queries about flood matters in the Borough. However, the Environment Agency is better placed to deal with more complex technical queries.

Contacting Spelthorne Borough Council:

Telephone: Customer Services: 01784 451499
 Email: planningdm@spelthorne.gov.uk
 Web: www.spelthorne.gov.uk

²⁵ www.spelthorne.gov.uk – Pre-application advice page

Contacting the Environment Agency for general information:

Telephone: 03708 506 506
Email: enquiries@environment-agency.gov.uk
Web: www.environment-agency.gov.uk

Policy LO1: Flooding

The Council will seek to reduce flood risk and its adverse effects on people and property in Spelthorne by:

- a) supporting appropriate comprehensive flood risk management measures within or affecting the Borough which are agreed by the Environment Agency,
- b) reducing the risk of flooding from surface water and its contribution to fluvial flooding by requiring all developments of one or more dwellings and all other development over 100m² of floorspace in the Borough to have appropriate sustainable drainage schemes,
- c) maintaining flood storage capacity within Flood Zone 3 by refusing any form of development on undeveloped sites which reduces flood storage capacity or impedes the flow of flood water,
- d) maintaining the effectiveness of the more frequently flooded area (Zone 3b) of the flood plain to both store water and allow the movement of fast flowing water by not permitting any additional development including extensions,
- e) not permitting residential development or change of use or other 'more vulnerable' uses within Zone 3a or 'highly vulnerable uses' within Zone 2 where flood risks cannot be overcome,
- f) supporting the redevelopment of existing developed sites in the urban area in Zones 3a and 3b for 'less vulnerable' uses where:
 - i a minimum increase of flood storage capacity of 20% can be secured (all flood storage areas to be effective at all times throughout the lifetime of the structure/use and do not create unacceptable risks to people in times of flood),
 - ii it reduces impedance to the flow of flood water where there would be flowing flood water,
 - iii appropriate access for the maintenance of water courses is maintained,
 - iv there is no adverse impact on the integrity and effectiveness of flood defence structures.
- g) requiring any development in Zones 2, 3a and 3b to be designed to be flood resilient/resistant,
- h) requiring all development proposals within Zones 2, 3a and 3b, and development outside this area (Zone 1) on sites of 0.5ha or of 10 dwellings or 1000m² of non-residential development or more, to be supported by an appropriate Flood Risk Assessment.

Flood related responsibilities

Spelthorne Borough Council

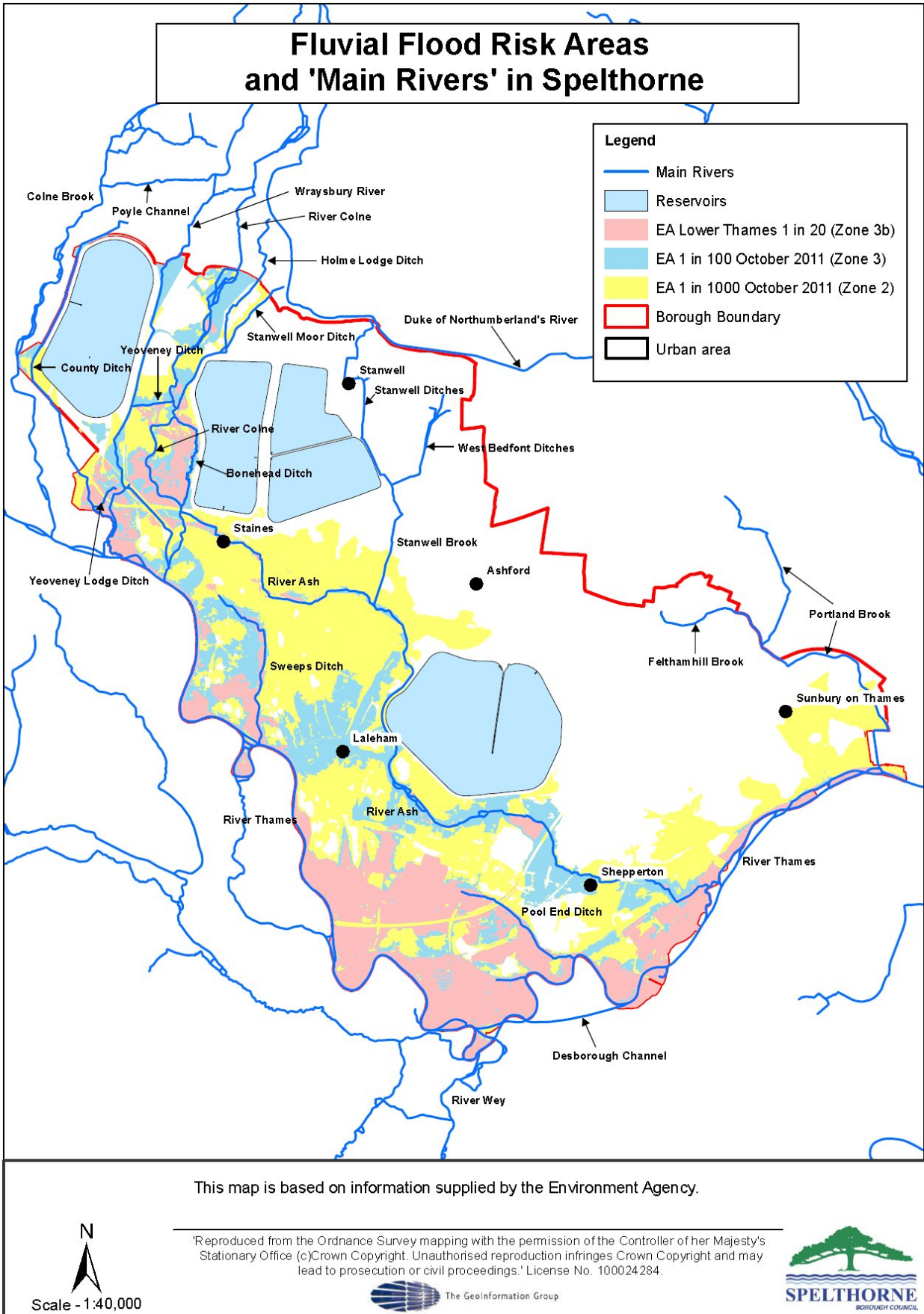
- statutory role in preparing local development plan documents
- statutory role in determining most planning applications
- emergency planning

Surrey County Council

- from October 2012 will have a statutory responsibility as the Lead Local Flood Authority
- from October 2012 (to be confirmed) responsibility as the Sustainable Urban Drainage Approval Body
- statutory role in preparing mineral and waste development plan documents
- statutory role in determining planning application for minerals, waste and its own planning proposals
- statutory role as 'highways authority'

Environment Agency

- Government agency which is responsible to the Secretary of State for Environment, Food and Rural Affairs (Defra)
- responsibilities include:
 - flood and coastal risk management
 - navigation
 - fisheries
 - conservation and ecology
 - water quality and resources
 - climate change
- the agency provides technical advice on flood risk to local authorities and developers



How to check the flood zones for your site on the Council's website.

1. On the home page of www.spelthorne.gov.uk select the 'My Spelthorne' green tab at the top of the page.
2. Click on the highlighted text 'Access My Spelthorne' halfway down the page.
3. On this page select the 'My Maps' tab.
4. Type in your address and click 'Find' - the map will then centre on your address.
5. Select the tab 'Show Map Categories' on the left of the screen and click on 'Environment and Planning'.
6. Tick all three Flood Zone boxes. Flood zones relevant to your site (if any) will then appear on the map and you will be able to see if your site is affected by any of them.
7. There is a zoom facility on the left hand side of the map and if you 'left click' on the map and hold your mouse down this will enable you to 'pan' in any direction.
8. If you require an aerial view of the area select 'Aerial 2008' on the top right hand side of the map.

Flood Risk Assessments for residential extensions

The purpose of this appendix is to provide further information about preparing FRAs for extensions to residential property.

FRAs for extensions will only be required for proposals within Flood Risk Zone 3b. This is where there is a flood risk of up to 1 in 20 (5%). These are areas of particularly high risk not only because of the greater frequency of flood events but their severity in terms of high flow rates and depth of flood water. The potential impact of extensions in such situations will therefore be greater not only in terms of lost flood storage capacity but the impedance to the flow of flood water.

Policy LO1(d) makes clear that development, including extensions, will not be allowed in Flood Risk Zone 3b. Paragraph 4.30 in this guidance does, however, allow for any existing structures on the site that are to be demolished to be taken into account in assessing whether an extension will result in a net loss of flood storage capacity. It will also be necessary to consider if the position of the proposed extension is such that it will protrude further into the path of fast moving flood water and result in a net increase in impedance to flood water flow. If there is either a net loss of flood storage capacity or net increase in impedance to the flow of flood water the proposal will be unacceptable.

There are some simple steps that anyone contemplating a development can take in assessing the likely acceptability of a proposal before embarking on the preparation of a formal flood risk assessment and detailed design of a scheme:

1. Check which flood risk zone the site is in – see the advice in Table 5 - Screening Assessments, which explains how to find out.
2. Make an initial assessment of whether it is likely there will be a net loss of flood storage capacity. This can be done by assessing the volume of the structures to be demolished and those to be constructed. It will be important to note that structures such as sheds and garages with a floor level close to ground level, where flood water would not normally be prevented from entering, would contribute little to additional flood storage capacity if removed. If there is clearly a net loss of flood storage capacity there is no point proceeding.
3. Make an initial assessment whether the structure is likely to protrude further into the path of flowing flood water than those structures to be removed. For an initial assessment it can be assumed that flood water will generally flow parallel to the river. If it is obvious that an extension is likely to cause a greater impedance to the flow of flood water by projecting out further into the path of fast moving flood water, again there is no point proceeding.

Only where a proposal is likely to meet the above requirements is it worth preparing detailed plans and an FRA.

To assess the flood risk implications of an extension the Council will require sufficient detailed information to identify:

1. The volume of those structures to be lost and gained to demonstrate there is no net loss of flood storage capacity. To make this calculation see points a to e in paragraph 4.62 of the main document.

2. There will be no greater impedance to the flow of flood water across the site than currently exists – information on projected flood flow at a site will need to be obtained from the EA.
3. The means of satisfactorily disposing of surface water from the roofs of the new structure (sustainable drainage).
4. Flood resistance and flood resilience measures appropriate to the extension.

Spelthorne Borough Council

Housing Size and Type

Supplementary Planning Document

20 March 2012



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Appendices

Appendix A	Policy HO4 and explanatory text from the Core Strategy and Policies DPD
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1. Introduction

- 1.1 The purpose of this Supplementary Planning Document is to explain in more detail the Council's requirements for securing the right size and type of dwelling in new residential developments and conversions.
- 1.2 Those requirements are set out in Policy HO4 of the Council's Core Strategy and Policies Development Plan Document (DPD)¹ and the supporting explanatory text to that policy. An extract of the policy and explanatory text is set out in full in Appendix A.
- 1.3 The purpose of the policy is to ensure that the mix of new dwellings, together with the existing housing stock, best meets the housing needs of the Borough as a whole.

2. What the policy requires

- 2.1 The policy seeks to ensure, during the plan period from 2006 to 2026, that:
 - a. In any residential scheme of 4 or more dwellings at least 80% of the dwellings should be one and two bedroom units;
 - b. Encouragement is given for the provision of housing to meet the needs of older people, including the provision of 400 units of extra care housing on suitable sites.
- 2.2 The last sentence of the explanatory paragraph 6.22 of Policy HO4 in the Core Strategy and Policies DPD provides an important qualification that exceptions to the requirements of the policy may be made where there is a need for larger affordable dwellings to be included in the mix.
- 2.3 The policy also encourages the provision of some dwellings which are designed to meet the needs of people with disabilities. This aspect of the policy is not dealt with in this SPD

3. Background to the Policy and this SPD

- 3.1 Over the life of the Core Strategy and Policies DPD from 2006 to 2026 the Council's policy is to ensure that 3320 additional dwellings are built. This will add some 8% to the existing dwelling stock of over 40,000.
- 3.2 Policy HO4 within the Core Strategy and Policies DPD was based on a Housing Needs Assessment and further detailed research on the size of dwellings that should make up the additional 3320. That work showed a significant projected growth in the number of small households and a need for smaller dwellings. It also showed a steady loss of existing smaller dwellings by extensions to existing properties of at least one or more bedrooms. The policy requirement that 80% of new dwellings in schemes of 4 or more should be 1 and 2 bed roomed is aimed at ensuring the additional 3320 dwellings helps maintain an appropriate balance in the existing dwelling stock as a whole.

¹ Core Strategy and Policies Development Plan Document, February 2009.

- 3.3 A further study of dwelling size and affordable housing requirements was undertaken in January 2012 and has informed this supplementary guidance². This shows that there is a continuing need for smaller dwellings overall but there is a specific need for affordable dwellings which can accommodate families. In particular the study found that during the period of 2006 to 2026:
- a. The overall population of the Borough is likely to remain broadly static.
 - b. There will be a growth in the number of smaller households with the increase in one-person households rising from around 12,475 to 17,150 – a difference of some 4,675.
 - c. Part of the growth in single person households is accounted for by the growth in the number of older people.
 - d. There will be a particular need for 1, 2 and 3 bedroom private housing.
 - e. Information from the Housing Register shows that there is an on-going need for affordable housing.
 - f. A significant part of the need for affordable housing is met from re-lets from the existing housing stock, but additional affordable housing is required to meet demand.
 - g. The required additional affordable housing needs to be family accommodation for between 4 and 7 persons to ensure an appropriate balance within the social housing stock.
- 3.4 The study concluded that there was no need to change Policy HO4 but that the 80% requirements for 1 and 2 bedroom dwellings should not apply to affordable family accommodation.
- 3.5 In the private housing market there is still the need for 80% 1 and 2 bedroom accommodation. However, no more than one third should be 1 bedroom. The balance of 20% should be 3 bedroom accommodation. This reflects the existing guidance in the supporting text to Policy HO1 in the Core Strategy.
- 3.6 The study recognised that developments of fewer than 4 dwellings were exempt from the 80% requirement and would continue to provide a supply of larger private dwellings.

4. Affordable housing requirements

- 4.1 Affordable housing will be required in any developments of 15 or more dwellings and, in addition, social landlords will be encouraged to bring forward smaller sites. This is required by Policy HO3 of the Core Strategy and Policies DPD. Where new schemes come forward they will be required to contribute to the need for affordable family housing.
- 4.2 The Council's research has confirmed that the size of affordable family dwellings required, and the proportions in which they need to be provided, are as follows:

- 2 bedroom 4 person dwellings 66%

² 'Provision of Smaller Dwellings', January 2012.

- 3 bedroom 5 person dwellings 31%
- 4 bedroom 6 and 7 person dwellings 3%

4.3 The minimum floorspace requirements for dwellings of these bedroom/person sizes are set out in the Council's Supplementary Planning Document 'Design of Residential Extensions and New Residential Development'³, Appendix 4.

5. Providing an appropriate dwelling mix in new developments

5.1 The Council recognises that town centre residential schemes will usually be at a higher density in the form of flats and often as part of a mixed use scheme. In these cases most of the dwellings will be one or two bedroom accommodation. Larger units providing family accommodation will usually be more appropriate in non-town centre locations.

5.2 On non-town centre sites there will be a number of factors to be taken into account in deciding on the appropriate dwelling mix. These are as follows:

1. **Affordable housing:** This should be provided in proportions to meet the mix set out in paragraph 4.2. This mix will be applied in line with the explanatory text to the policy in the Core Strategy and Policies DPD.

The need for four bedroom accommodation, whilst small, is important. However, providing such a small proportion (3%) in schemes involving less than 10 affordable dwellings is not always practical. Therefore, whilst the Council will encourage four bedroom affordable accommodation in schemes of less than 10 affordable dwellings, in order to ensure sufficient units of this size are provided it will require the proportion to be a minimum of 10% in developments where 10 or more affordable dwellings are provided.

2. **Private housing:** There is a need for smaller private sector dwellings (in terms of bedroom numbers) of 3 bedrooms or less. 80% of dwellings in schemes of 4 or more dwellings should be 1 or 2 bedroom with the 1 bedroom proportion not exceeding a third. The remaining 20% should be 3 bedroom. These requirements will not apply to small schemes of 3 or less dwellings which will provide the opportunity for larger dwellings to be provided.
3. **Sheltered housing schemes:** such schemes generally have only one and two bedroom accommodation and there will be no requirement for larger units in such developments.
4. **Character of housing development:** Any development will need to reflect the character of the area in which it is situated. In suburban areas of the Borough flats are less likely to be in character. Where there is a predominance of larger dwellings a mix with less than 80% one and two bedroom dwellings may be appropriate with a greater proportion of 3 bedroom dwellings. However, the majority should still have one and two bedrooms.

³ Design of Residential Extensions and New Residential Development, April 2011.

6. Other matters

a. Design

- 6.1 All schemes for new residential development should have regard to Policy EN1 which sets out a number of requirements including regard for local character, quality of design and avoiding an adverse impact on amenity. These are amplified in the SPD on the 'Design of Residential extensions and new Residential development'

b. Pre-application advice

- 6.2 The Council welcomes the opportunity to provide pre-application advice and its arrangements for providing this are explained on its website.⁴ This advice can provide the opportunity for particular mixes of dwellings, as well as other matters, to be discussed and resolved at an early stage in the design process.

⁴ www.spelthorne.gov.uk

Providing for Different Types of Housing

- 6.22 Policy HO4 sets out the mechanisms for ensuring a range of housing size and types to meet community needs. It takes account of the existing stock of some 39,500 dwellings of which 65% have three or more bedrooms.
- 6.23 The Council considers that the need for smaller dwellings in the Borough would best be met by requiring a high proportion of all new housing and conversions to be 1 and 2 bedroom dwellings. The figure needs to take account of the large number of existing dwellings that are extended every year by one or more bedrooms. Very small infill developments generally provide a disproportionate number of 3 and 4 bedroom dwellings. Therefore, on all developments of four or more dwellings a minimum of 80% 1 and 2 bedroom dwellings will be required. The Council's research suggests that about two thirds of these should be 2 bedroom dwellings. Of the remaining 20% of dwellings the greatest need is for 3 bedroom dwellings because much of the demand in the Borough for 4 bedroom dwellings and larger is met by the extensions to existing properties. It is important that the mix of dwellings in any individual development contributes to the needs identified above. The only exceptions will be where the requirements for affordable housing dictate a greater mix of larger dwellings.
- 6.24 There is a need for up to 400 units of extra care housing in Spelthorne by 2026. Because of the care requirements such housing can best be provided in larger schemes of around 40 units. Provision will be achieved by negotiation on individual sites.
- 6.25 The Council will encourage the provision of dwellings that exceed the minimum disability requirements so that they are, or can easily be made, fully accessible for disabled occupiers. In practice this will mean space for easy installation of a stair lift and facilities such as bathrooms that can easily be adapted for disabled occupiers at first floor level.

Policy HO4: Housing Size and Type

The Council will ensure that the size and type of housing reflects the needs of the community by:

- a) requiring developments, including conversions, that propose four or more dwellings to include at least 80% of their total as one or two bedroom units,
- b) encouraging the provision of housing designed to meet the needs of older people, including the provision of 400 units of extra care housing on suitable sites over the period 2006 to 2026,
- c) encouraging the inclusion within housing schemes of a proportion of dwellings that are capable of meeting the needs, as occupiers, of people with disabilities.

Annual Review of the Constitution

Cabinet: 24 April 2012

Resolution Required

Report of the Monitoring Officer

REPORT SUMMARY

How does the content of this report improve the quality of life of Borough Residents

Not applicable.

Purpose of Report:

To advise Council on suggested amendments and improvements to the Constitution.

Key Issues:

Constitution

Financial Implications:

None arising from this report.

Corporate Priority

This issue is not a Corporate Priority.

Officer Recommendations:

The Leader is asked to recommend to Council:

The amendments to the Constitution as identified in section 2 of the report be approved.

Report Author: Michael Graham, Head of Corporate Governance

Area of Responsibility: Roberto Tambini, Chief Executive

Cabinet Member: Councillor F. Ayers

MAIN REPORT

1. BACKGROUND

- 1.1 Each year the Council looks to review the Constitution to ensure that it remains appropriate and relevant as the main tool by which the Council manages its business. In most years these amendments are purely routine or technical. Last year saw significant changes as a result of the introduction of the “Strong Leader Model” of executive governance.
- 1.2 One of the major themes of change in this year is the change brought about by the Localism Act 2011 to abolish the statutory model code of conduct and the statutory scheme by which complaints against councillors are investigated. Councils are now free to decide upon their own codes of conduct and make their own arrangements to determine complaints against councillors. Work is under way to devise a new code of conduct and arrangements for dealing with complaints. The Council also awaits regulations on statutory “Disclosable Pecuniary Interests” as these will have an important bearing on the way that councillors have to register their interests and make declarations about interests at meetings. Detailed reports on these matters will be presented to Cabinet and Council at a later date for decision. The new Code of Conduct and the new arrangements have to be in place by July 2012. Whilst the new arrangements cannot be dealt with in this report, it is important to note that some references to the current standards framework will be changing soon and that when these matters have been decided, they will impact on the Constitution.
- 1.3 A recent review of the Constitution has highlighted the need for various amendments to be made to keep the document up to date. The summary below highlights the changes to be made, and a “track changed” version of the Constitution has been placed in the Members Room so that councillors can see where all the amendments are proposed. A copy can be made available for any councillor who is not able to attend the Council Offices to review the document.

2. KEY ISSUES

Part 1 - Introduction

- 2.1 **Constitution summary and explanation** – correction made that the Cabinet is for up to eight other councillors (not seven) in addition to the Leader and Deputy Leader.

Part 2 – Articles of the Constitution

- 2.2 **Article 1** – no change required.
- 2.3 **Article 2** – no change required.
- 2.4 **Article 3** – no change required.
- 2.5 **Article 4** – addition of Pay Policy Statement to Policy Framework.
- 2.6 **Article 5** – no change needed.
- 2.7 **Article 6** – confirms that where the Leader is replaced during his or her term of office then the new Leader takes office for the remainder of the original term i.e. until the day of the Annual Council Meeting following the next whole council borough elections.
- 2.8 **Article 7** – no change required.

- 2.9 **Article 8** – no change required.
- 2.10 **Article 9** – no change required.
- 2.11 **Article 10** – Standards Committee. No changes are required at present. The present system will remain in place until July 2012.
- 2.12 **Article 11** – updates the position to clarify that the Leader can make appointments where there are joint arrangements covering executive functions; this includes Surrey First Joint Committee. The arrangements for Surrey First will be placed in Part 3 (Terms of Reference for Committees).

The Council is also proposing to form a Joint Committee with other councils in the County to scrutinise the work of the Police and Crime Commissioner. This is not an executive function and so it will be for the Council to make an appointment. The arrangements for the Police and Crime Commissioner will also be placed in Part 3 (Terms of Reference for Committees).

Article 11 has been revised to make these issues clearer.

- 2.13 **Article 12** – Revised following the departure of the Deputy Chief Executive and the implementation of new responsibilities following the appointment of a further Assistant Chief Executive.

Certain aspects of the role of the Monitoring Officer have changed because of the abolition of the Standards Board for England under the Localism Act. These are already in force and therefore the constitution is updated at this point. The Monitoring Officer has been added as one of the Chief Officers of the Council to be in line with the Localism Act.

- 2.14 **Article 13** – no change required.
- 2.15 **Article 14** – no change required.
- 2.16 **Article 15** – no change required.
- 2.17 **Article 16** – places the duty to publicise the constitution on the Head of Corporate Governance instead of the Chief Executive.

Schedule 1 – no change required.

Part 3 – Responsibility for Functions

- 2.18 **(a) Scheme of Delegation general introduction** – An addition general delegation has been added to the Chief Executive and the Chief Officers in the case of emergencies involving a serious danger to life, property and public welfare. In this general delegation it is stated that Contract Standing Orders and Financial Regulations will be suspended for such matters where necessary and it is legal to do so.

The definition of Chief Officers has been amended to be in line with Article 12.

- 2.19 **(a) Terms of reference of Committees** – formatting changes have been made to each section.

The Planning Committee section has been updated to move some of the wording from the Officer Scheme of delegations – this is designed to make it easier to read but it has no effect on the powers of either the Committee or the Head of Planning as such matters were reviewed last year.

The remit of the Staffing and Appeals Panel has been clarified to take into account the requirements of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) as certain matters staffing matters are not executive functions.

For reference purposes details of the remit of the joint committees with other Surrey councils have been included (Surrey First and the Police and Commissioner Panel).

2.20 **(b) Member Development Policy Statement** – no change required.

2.21 **(c) Delegated functions in consultation with Cabinet Members or the Leader** – these are a mix of executive and non-executive functions. Insofar as the executive functions are concerned the Leader has the ability to make changes. The Leader also has the ability to make changes to the roles of Cabinet Members listed in this section.

One change has been made to include a delegation to finalise detailed budget proposals to cover areas of funding settlements if there is late notification from Government.

2.22 **(d) Delegations to officers** – Various amendments have been made at the request of services to reflect changes in practice, legislation etc. These are:

The delegations for the Head of Planning have been changed so that the powers of the Committee are shown in the earlier section of the constitution (see paragraph 2.19 above). There is no change in the overall effect of the remit of the Committee or the Head of Service.

All relevant changes have been made to reflect the departure of the Deputy Chief Executive and changes to job titles e.g. Head of Housing and Independent Living. Where the delegation was only to the Deputy Chief Executive an alternative officer has been selected. These are all detailed in the tracked changed version of the delegations.

All references to the Head of Environmental Health have been amended to the Assistant Chief Executive with responsibility for Environmental Health and Building Control.

A new delegation has been added to allow the Head of Customer Services to sign certificates under section 116 of the Social Security Administration Act 1992 as that department hold the relevant information which needs to be certified, whereas at present these are being passed to Legal Services.

Appendix A – Employment policies, procedures and arrangements – these have been updated to take into account the departure of the Deputy Chief Executive.

2.23 **(e) Proper Officer functions** – some additions are proposed following advice from the Association of Electoral Administrators.

2.24 **General Statutory Provisions** – have been updated to reflect the departure of the Deputy Chief Executive.

2.25 **(d) Roles of different councillors** – no change required.

Part 4 – Procedural Rules

2.26 **(a) Council Standing Orders** – no change required.

- 2.27 **(b) Overview and Scrutiny rules** – no change required.
- 2.28 **(c) Cabinet Procedure Rules** – minor typographical changes have been made.
- 2.29 **Annex A to the Cabinet Procedure Rules** – this section is at the discretion of the Leader.
- 2.30 **(d) Financial Regulations** – These have been amended to remove the references to the Deputy Chief Executive. Amendments have also been made to the inconsistencies between items A38 and B24. B29 has also been slightly amended for clarity.

The section for Write offs of income has been amended to be consistent with delegations to officers.

- 2.31 **(e) Contract Standing Orders** – the thresholds for contracts advertised via the Official Journal of the European Union have increased.

These have been updated in terms of the implementation of new legislation e.g. the Bribery Act 2010.

- 2.32 **(f) Employment Procedure rules** – no changes required.
- 2.33 **(g) Access to information rules** – no changes required.
- 2.34 **(h) Budget and Policy Framework rules** – no changes required.

Part 5 – Codes and Protocols

- 2.35 **(a) Members Code of Conduct** – there are no changes required until July 2012.
- 2.36 **(b) Code of Conduct for Employees** – please note that it is proposed to review this code in the forthcoming municipal year.
- 2.37 **(c) Protocol for Member Officer Relations** – removed reference to publishing of Cabinet agenda 7 days in advance of meeting.
- 2.38 **(d) Planning Code** – this was revised at Council on 16 December 2010 and no further changes are required at this time.
- 2.39 **(e) Confidential reporting Code** –no changes required.
- 2.40 **(f) Anti Fraud and Corruption Strategy** – there are no changes required.
- 2.41 **(g) Code of Corporate Governance** –there are no changes required.
- 2.42 **(h) Monitoring Officer Code** – there are changes required as a result of the Localism Act 2011 as the Standards Board for England has been abolished.
- 2.43 **(i) Money Laundering Code** – it is suggested that this policy is included within the constitution.

Part 6 – Members Allowances Scheme

- 2.44 The updated scheme was agreed at Council on 23 February 2012. A further review in relation to travel expenses has been requested.

3. OPTIONS ANALYSIS

- 3.1 No alternative options are proposed.

4. PROPOSALS

- 4.1 The proposals outlined in section 2 of this report are put forward for the consideration of the Leader and Council.

5. BENEFITS AND SUSTAINABILITY

5.1 This is not applicable.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications arising from this report.

7. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS

7.1 There are no other considerations.

8. RISKS AND HOW THEY WILL BE MITIGATED

8.1 There are no risks apparent.

9. TIMETABLE FOR IMPLEMENTATION

9.1 Changes to be effective straight away.

Report Author: Michael Graham, Head of Corporate Governance 01784 446227

Background Papers:

Track changed versions of the proposed alterations are available

Code of Conduct and Standards Committee

Cabinet: 24 April 2012

Resolution required

Report of the Monitoring Officer

REPORT SUMMARY

How does the content of this report improve the quality of life of Borough Residents

Not applicable.

Purpose of Report

To consider changes to the standards regime in light of the Localism Act 2011.

Key Issues

- The adoption of a new Code of Conduct
- Register of pecuniary and other interests
- Offences under the Localism Act 2011
- Arrangements for dealing with allegations of a breach of the Code of Conduct
- The appointment of an Independent Person
- The establishment of a Committee (suggested as the Audit and Standards Committee)

Financial Implications

There are no direct financial implications arising from this report.

Corporate Priority

Not applicable.

Officer Recommendations

Cabinet is requested to:

1. **Note the provisions of the Localism Act 2011 as it affects the ethical framework of the Council.**
2. **Consult with the Audit Committee and the Standards Committee on the suggested approach set out in this report including a new Code of Conduct and a new Audit and Standards Committee.**
3. **Authorise the Head of Corporate Governance to start discussions with other Surrey councils for the appointment of an Independent Person (and a reserve).**

Report Author: Michael Graham, Head of Corporate Governance

Area of Responsibility: Roberto Tambini, Chief Executive

Cabinet member: Councillor Frank Ayers, Leader of the Council

MAIN REPORT

1. BACKGROUND

1.1 Following the introduction of the Localism Act 2011, the Council retains a duty to promote high standards. A Code of Conduct must be prepared which is broadly compliant with the Seven Principles of Public Life. The Seven Principles are:

- **Selflessness:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.
- **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty:** Holder of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership:** Holders of public office should promote and support these principles by leadership and example.

1.2 The provisions of the Localism Act relating to standards will come into force on a day to be appointed (expected to be 1 July 2012 but still not finalised) and in the meantime the existing code of conduct and arrangements for complaints through the existing Standards Committee will continue to apply.

2. KEY ISSUES

Standards Committee

2.1 We will not be required to maintain a Standards Committee as we have at present but will have to establish “arrangements” to deal with complaints against members, including arrangements for investigations. It is practical for such powers of the Council to be delegated to a Committee. To all intents and purposes we need to have a committee which deal with standards whether we call that the Standards Committee or not.

2.2 The advantage of the present Standards Committee is that it is a distinct committee with a specialised remit which has done a good job over the years. The Cabinet might consider here the low level of complaints received and the low number of Sub-Committees called to consider investigations. Cabinet may also wish to note that Spelthorne had a Standards Committee before it was required

by law. The present system also lends itself to having an independent Chairman and Vice Chairman who can lead on Standards matters and visibly report to Council on such matters. This gives a high degree of transparency and reassurance to residents that complaints against councillors are “in safe hands”. It also means that where the Council is attacked for not investigating a complaint (perhaps from a vexatious complainant) it can categorically state that there has been fair dealing because of this outside supervision of the Committee.

- 2.3 The disadvantages of the present system are that it is a further committee in the structure which has some costs to service (albeit not disproportionate). Having an Independent Chairman and Vice-Chairman doesn't allow councillors to take the lead on an important issue of self-regulation. The work of the committee is similar to other committees, notably Audit Committee which also deals with fundamental safeguards and reassurances to the public, and so there is an overlap.
- 2.4 If the Council does not wish to retain a distinct Standards Committee (as at present) then I would suggest a merger with Audit to form an Audit and Standards Committee. The suggested remits are attached at **Appendices 1 and 2** for the Cabinet to consider.
- 2.5 The Act will not require us to have Independent Members on a Standards Committee (or any new Audit and Standards Committee). However there is no provision which stops us from keeping the independent members on a revised committee. The roles of the Independent Members would change slightly because at present (with the Standards Committee formed under the Local Government Act 2000) the Independent Members are full voting members. In any revised committee (which would be an ordinary committee of the Council under the Local Government Act 1972) the Independent Members would be advisory and non-voting.

Code of Conduct

- 2.6 The statutory requirements of the code are:
- (a) The Council must adopt a Code of Conduct to apply to members and co-opted members when they are acting in that capacity;
 - (b) The adopted Code of Conduct will need to take into account the role of members in relation to equalities legislation;
 - (c) The Code must be consistent with the 7 principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
 - (d) The Code must contain provisions dealing with the registration and declaration of interests. We can't finalise any of the detailed provisions on this at present as we need to wait for regulations to be published;
 - (e) The Code must include provisions that the Council considers appropriate in relation to registration and disclosure of pecuniary and other interests; and,
 - (f) The Code must be adopted by Council and publicised locally.
- 2.7 The intention is to make a Code which is applicable to councillors. There is currently a Code of Conduct for Employees and consideration was given to merger of the two codes. Whilst this is not impossible, it leads to complications in the arrangements for determining complaints. It is therefore suggested that the Code of Conduct for Councillors and the Code of Conduct for Employees

should be separate documents. Given that it is some time since the Code of Conduct for Employees was updated it is suggested that this is reviewed by the Audit Committee in line with the suggested revised remit of that Committee.

- 2.8 For discussion a draft code is shown at **Appendix 3**. Note that for reasons explained below, the provisions in relation to pecuniary interests are not shown in this draft code.

Registration of interests

- 2.9 The previous regime in the Local Government Act 2000 and our Code of Conduct for personal and prejudicial interests will be abolished. In its place councillors must now become familiar with the new term “Disclosable Pecuniary Interests”.
- 2.10 Whereas before failing to register or declare a personal or prejudicial interest was taken to be a possible breach of the Code of Conduct, now a failure to register or declare a “Disclosable Pecuniary Interest” is taken to be a criminal offence. This can be punished with a maximum fine of £5000 at the Magistrates’ Court and the councillor could also be disqualified by the magistrates for a period not exceeding 5 years.
- 2.11 This new regime is much harsher and stringent, and potentially has more serious consequences for councillors than the previous regime and therefore it is arguable that councillors will require greater training, guidance and support than hitherto was considered appropriate.
- 2.12 In addition to the “Disclosable Pecuniary Interests” – which are set out in regulations, the Council can also specify other interests which it thinks should be declared in the register of interest. It is impossible to say for certain what could be included under this heading until the regulations on “Disclosable Pecuniary Interests” are known. It may be that rules on gifts and hospitality come under this heading.
- 2.13 The register has to be maintained by the Monitoring Officer and a copy has to be made available for inspection to the public at all reasonable hours; a copy also has to be placed on the Council’s website.

Obligations on Councillors as regards interests

- 2.14 Below is a summary of the obligations on councillors and (voting) co-opted members.
- (a) Notify the Monitoring Officer of Disclosable Pecuniary Interests and the Disclosable Pecuniary Interests of:
- i) A spouse or civil partner
 - ii) A person with whom they are living as husband and wife
 - iii) A person with whom they are living as if they were civil partners

It is an offence not to make such a disclosure within 28 days and it also an offence to provide false or misleading information when making the disclosure. Note that councillors only have to declare the interests of spouses etc if they are aware that the other person has an interest, but they cannot be reckless as to whether their disclosures are true and not misleading. This is potentially quite a minefield.

This obligation is therefore far more stringent and intrusive than the existing obligation which is to declare in a meeting any personal or prejudicial interests arising from family and friend relationships where the councillor “ought reasonably to be aware of the existence of the personal interest”. Family and friend relationships and interests arising from those relationships do not have to be declared in the register at the present time.

- (b) When a Disclosable Pecuniary Interest arises at a meeting, the councillor must disclose the interest to the meeting. It is an offence not to do so.
- (c) If a Disclosable Pecuniary Interest arises at a meeting then the councillor must notify the Monitoring Officer within 28 days of the date of disclosure. It is an offence not to do so.
- (d) If a Disclosable Pecuniary Interest arises at a meeting then the councillor may not participate in the discussion of the matter at the meeting or participate in any vote taken at the meeting. It is an offence not to do so. The Council’s own standing orders may make provision for the councillor to leave the room when such a situation arises.

The present scheme, whereby a councillor with a prejudicial interest can speak in a meeting if there is a public right to speak, will disappear. If there is a Disclosable Pecuniary Interest then participation and voting are prohibited and it is submitted that it would be safest all round in such circumstances for the councillor concerned to leave the room for his or her own protection and that the Council’s Standing Orders should reflect this.

- (e) Where in relation to executive matters, any councillor acting alone is exercising a function and a Disclosable Pecuniary Interest arises, then that councillor cannot take any further steps in relation to that matter and must take steps to enable the matter to be dealt with in other ways. It is an offence not to do so.
- (f) Where a Disclosable Pecuniary Interest arises as in (e) above then the councillor has to disclose it to the Monitoring Officer within 28 days. It is an offence not to do so.

2.15 One peculiar feature of the new regime is that where councillors make a declaration of a Disclosable Pecuniary Interest and then notify the Monitoring Officer, I then have to make that interest known in the register, and this applies even if the interest declared is not a Disclosable Pecuniary Interest. It remains to be seen if this is problematic but the prevailing culture at Spelthorne has always been that councillors err on the side of caution and often leave the room when strictly speaking they do not have a personal and prejudicial interest. In such cases the minutes of the meeting would show that the councillor had made a declaration and left the room, but the register of interests may not be altered. It may be that in the future the register becomes more significant because of the requirement to notify spouses’ etc interests and notifications which aren’t in fact interests under the regulations.

2.16 Regulations are awaited which will specify the extent of the Disclosable Pecuniary Interests. Once these are known the Council will need to come to a view on whether other interests should be added and registered.

2.17 The Act also provides for non-disclosure of 'sensitive interests' (where violence or intimidation may arise from disclosure). Such circumstances are rare but similar provision is made in the existing Code of Conduct.

Arrangements for dealing with complaints

2.18 There will be an on-going duty on the Council to promote and maintain high standards of conduct by members.

2.19 We will be required to make arrangements for the consideration, investigation and deciding on allegations of breach of the Code and also appoint at least one "Independent Person" whose views must be sought before any decision is made on an allegation. This Independent Person acts as a touchstone to guide those concerned on the application of the Code and is meant to bring an element of outside objectivity to the proceedings.

2.20 The Independent Person's views must be taken into account by the Council before it makes a decision on a matter that has been investigated.

2.21 The Independent Person's view may be sought:

- a) By the Council in circumstances other than where it has decided to investigate (when consultation is mandatory).
- b) By a member if that person's behaviour is the subject of an allegation.
- c) Where the Council decides there is a breach and if so, what action to take against the member.

2.22 The Independent Person cannot be a member, co opted member or officer of the authority, a member, or a relative or close friend of any of those people, nor can the Independent Person have been a member, co opted member or officer of the authority at any time in the last five years. This means that the Independent Person may not be one of the current Independent Members of the Standards Committee.

2.23 The Act provides for the appointment of the Independent Person, following public advertisement and a vote at a Council meeting and permits the payment of allowances and expenses.

2.24 It is proposed that Spelthorne BC appoints an Independent Person (and a reserve/deputy) jointly with other Surrey councils and seeks to pay expenses only as incurred. This should save costs. Authority is sought to commence that process so that arrangements can be put in place in good time for the start of the new Code.

2.25 Draft arrangements for dealing with complaints are attached as **Appendix 4** to this report, but Members will note that there is further work to be done in relation to supporting documents, procedures etc. These draft arrangements are provided to stimulate discussion and consultation.

2.26 It is proposed to make arrangements with the following overall objectives:

- (a) They should reassure residents and others that complaints will be dealt with swiftly, properly and transparently;
- (b) They should be simple, clear and follow the rules of natural justice;
- (c) They should not be bureaucratic i.e. they should follow the law and not build in unnecessary additional measures;

- (d) They should allow councillors to take decisions on whether a fellow councillor should be investigated, and, following investigation whether that councillor should be held in breach of the Code;
- (e) They should allow the Monitoring Officer to dismiss complaints from timewasters i.e. complaints which are vexatious, frivolous or politically motivated;
- (f) They should allow for the Monitoring Officer to be accountable for such decisions in (e);
- (g) They should remove the requirement to have a Standards (Review) Sub-Committee – a feature of the present statutory requirements- which is unnecessary and wasteful; and,
- (h) They should ensure there is an element of outside scrutiny and objectivity by preserving the knowledge and experience of the independent members of the Standards Committee.

2.27 Two flowcharts are shown in **Appendix 5** which summarise the present position and the position which might be adopted under the new arrangements.

2.28 In conclusion, the significant differences between the provisions under the Localism Act 2011 and the current arrangements are:

- (a) the discretion given to councils under the new legislation as to the details of the arrangements including the content of the Code and the procedures for dealing with allegations of breach of the Code;
- (b) the absence in the new Act of any specific powers to sanction members who have breached the code, and,
- (c) the introduction in the Localism Act 2011 of criminal sanctions relating to breaches of the rules on “Disclosable Pecuniary Interests”.

3. OPTIONS ANALYSIS

3.1 There is no option but to develop new arrangements for ethical standards. The Council has choice in how to implement them and views are sought on the best way to achieve this.

4. PROPOSALS

4.1 To consider the contents of this report, provide feedback, and to consult those most affected by the changes on these draft recommendations.

5. BENEFITS AND SUSTAINABILITY

5.1 Not applicable.

6. FINANCIAL IMPLICATIONS

6.1 Not applicable.

7. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS

7.1 Identified in the report.

8. RISKS AND HOW THEY WILL BE MITIGATED

8.1 The current risk to implementation is the tight timetable. On the current calendar of meetings a programme has been developed which works on the assumption

that the implementation date will be 1 July 2012. This timetable requires an extraordinary meeting of Council in June to accommodate these changes.

9. TIMETABLE FOR IMPLEMENTATION

9.1 See table below.

Date	Meeting	Note
24 April	Cabinet	To launch consultation of initial proposals.
3 May	Audit	Consult on proposals
10 May	Standards	Consult on proposals
12 June	Cabinet	Final recommendations for reports
Before 1 July	Council	Decision for reports

Report Author: Michael Graham, Head of Corporate Governance 01784 446227

Background Papers:
There are none

Appendices:

1. Revised Article 10 of the Constitution providing for an Audit and standards Committee.
2. Revised Terms of Reference providing for an Audit and Standards Committee.
3. Revised Members' Code of Conduct.
4. Draft Arrangements for dealing with allegations of misconduct.
5. Flowchart showing the position comparing arrangements under the present system and proposed system.

Article 10 – The Audit and Standards Committee

9.1 Appointment

The Council will appoint an Audit and Standards Committee at its Annual Meeting.

9.2 Membership

The Audit and Standards Committee will be composed of:

- six councillors who shall be representative of all political groups and shall include only one member of Cabinet and shall not include the Mayor or the Leader; and
- two persons who are not members or officers of the Council or any other local authority (an Independent Member);

The Independent Members act in an advisory capacity for Standards functions and will not be entitled to vote at meetings.

9.3 Chairing the Committee.

The Chairman and Vice Chairman of the committee shall both be councillors and the Chairman shall not be a Cabinet Member or a member of the Overview and Scrutiny Committee.

9.4 Role and Functions

The Audit and Standards Committee will have the following roles and with more specific functions shown in Part 3 of the Constitution:

Audit functions:

To provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.

Standards functions:

To provide leadership to the Council in promoting high standards of conduct by staff and councillors.

To establish two sub-committees to assess and determine complaints against Members under the Code of Conduct:

- (1) **Audit and Standards (Assessment) Sub-Committee** – To make initial assessments of allegations of misconduct under the Council's Member Code of Conduct;
- (2) **Audit and Standards (Hearings) Sub-Committee** – To determine complaints about the conduct of Members

(including all pre-hearing directions) and, where appropriate, to impose sanctions;

Such sub-committees to comprise of three (voting) councillors, members of the Audit and Standards Committee, who shall be representative of all political groups and shall be selected to serve on the sub-committee by the Monitoring Officer in consultation with the Chairman of the Audit and Standards Committee. Each sub-committee to be chaired by an Independent Member (non-voting) of the Audit and Standards Committee and shall be selected to serve on the sub-committee by the Monitoring Officer in consultation with the Chairman of the Audit and Standards Committee.

Generally:

Any other responsibilities which may be delegated to it by the Council.

TERMS OF REFERENCE

Audit and Standards Committee

Audit functions:

To approve (but not direct) the internal audit's strategy plan and performance.

To review summary internal audit reports and the main issues arising and to seek assurance that action has been taken where necessary.

To consider the reports of external audit and inspection agencies.

To consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti fraud and anti corruption arrangements.

To seek assurances that action is being taken on risk related issues identified by auditors and inspectors.

To be satisfied that the authority's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and to take actions required to improve it.

To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.

To review the financial statements, external auditors' opinion and reports to members, and monitor management action in response to the issues raised by external audit.

To monitor and advise the Council on its Complaints Procedure.

To monitor and advise the Council on the following policies:

- (a) the Anti Fraud and Corruption Strategy;
- (b) the Confidential Reporting Code (Whistleblowing policy); and,
- (c) the Money Laundering Policy.

To monitor overview the operation of and advise the Council on any changes to its Constitution.

Standards functions

Promoting and maintaining high standards of conduct by councillors and any co-opted members, including the provision of training.

Monitoring the operation of the Members' Code of Conduct and any arrangements made to deal with complaints.

Advising the Council on the adoption or revision of the Members' Code of Conduct.

Granting dispensations to councillors and any co-opted members from requirements relating to interests set out in the Members' Code of Conduct.

Keeping an overview of and advising the Council on its Planning Code.

Keeping an overview of and advising the Council on its Member and Officer Protocol.

Keeping an overview of and advising the Council on its Monitoring Officer Protocol.

Keeping an overview on the operation of and advising the Council on any changes to its Constitution.

Assisting Members to carry out their civic duties effectively.

Promoting and maintaining high standards of conduct by staff under the Employee Code of Conduct, including training.

Advising the Council on the adoption or revision of the Employee Code of Conduct.

Monitoring the operation of the Employee Code of Conduct.

Draft MEMBERS' CODE OF CONDUCT

PART 1 - GENERAL PROVISIONS

1 INTRODUCTION AND INTERPRETATION

- 1.1 This Code applies to **you** as a Member of Spelthorne Borough Council ("the Council").
- 1.2 It is your responsibility to comply with the provisions of this Code in your work for the Council.
- 1.3 In this Code "meeting" means any meeting of—
- (a) the Council;
 - (b) the Cabinet;
 - (c) any of the Council's, committees, sub-committees, joint committees, task groups or working parties;
- "Member" includes a co-opted member;

2 SCOPE

- 2.1 Subject to sub-paragraphs 2.2 to 2.5 below, you must comply with this Code whenever you
- (a) conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of the Council,
- and references to your official capacity are construed accordingly.
- 2.2 Subject to sub-paragraphs 2.3 and 2.4, this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2.3 In addition to having effect in relation to conduct in your official capacity, paragraphs 4.5, 4.8 and 4.9 also have effect, at any other time.
- 2.4 Where you act as a representative of the Council on another relevant public body, you must, when acting for that other public body, comply with that other public body's Code of Conduct (if they have one) except and insofar as it conflicts with any obligations under this Code of Conduct. If there is no Code of Conduct for that other public body then you must comply with this one.

3 STANDARDS OF PERSONAL CONDUCT

- 3.1 Members are expected to fulfil the following general standards of personal conduct in all areas of their work and in all their relationships, with each other and with all residents and other service users for whom the Council has responsibility. The overarching duty of Members is to work together with Council staff for the benefit of the people of Spelthorne ensuring efficient, effective and economic use of resources and the provision of high quality services.
- (a) **Selflessness:** Members and Employees should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.
 - (b) **Integrity:** Members and Employees should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
 - (c) **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits Members and Employees should make choices on merit.
 - (d) **Accountability:** Members and Employees are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
 - (e) **Openness:** Members and Employees should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
 - (f) **Honesty:** Members and Employees have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
 - (g) **Leadership:** Members and Employees should promote and support these principles by leadership and example.

4 GENERAL OBLIGATIONS AND RESTRICTIONS

- 4.1 Members are expected to fulfil these specific obligations in all areas of their work and in all their relationships, with each other and with all residents and others service users for whom the Council has responsibility.
- 4.2 You must treat others with respect. This means treating people fairly and equitably and with courtesy, compassion and sensitivity. You should treat other people as you yourself would expect to be treated. Members and employees must respect the distinct but complementary roles that each has to play and abide by the advice in the Member Officer Protocol.
- 4.3 You must not do anything which may cause the Council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006). You have an obligation to ensure that you comply with policies relating to equality issues as agreed by the Council. All members of the local community, customers, councillors and employees have a right to be treated with fairness, equity and dignity.

- 4.4 You must not bully any person. This means you must not use behaviour which a reasonable person would consider as offensive, intimidating, malicious, insulting or humiliating.
- 4.5 You must not intimidate or attempt to intimidate any person who is or is likely to be—
- (a) a complainant,
 - (b) a witness, or
 - (c) involved in the administration of any investigation or complaint
- in relation to an allegation that any person has failed to comply with this Code of Conduct
- 4.6 Members must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 4.7 You must not disclose information given to you in confidence by the Council, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature. You should seek and follow the guidance of the Council's Data Protection Officer where the nature of the information or your ability to deal with it is in doubt.
- 4.8 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office, position or the Council into disrepute.
- 4.9 You must not use or attempt to use your position improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.
- 4.10 You must, when using or authorising the use by others of the resources of the Council-
- (a) act in accordance with the Council's policies or any directions issued by the Chief Executive
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 4.11 You must, when reaching decisions on any matter, have regard to any relevant advice provided to you by—
- (a) the Chief Finance Officer; or
 - (b) the Monitoring Officer,
- where that officer is acting pursuant to his or her statutory duties.
- 4.12 You must give reasons for all decisions in accordance with any statutory requirements and any additional requirements notified to you by the Council
- 4.13 You must report financial irregularities, risks to the safety of any person, misuse of resources, malpractice or breaches of this Code in line with the Council's guidance such as the Confidential Reporting Code, Anti-Fraud and Corruption Policy, Child Protection Policy and Vulnerable Adults Policy.
- 4.15 You must familiarise yourself with this Code of Conduct and related documents, the system for reporting disclosable personal interests, gifts and hospitality. Lack of knowledge of the policies or processes will not be considered an acceptable

defence. In turn the Council undertakes to provide induction training for all new Members.

5. APPOINTMENTS

- 5.1 If you are involved in appointments you must ensure that these are made on the basis of merit. It would be unlawful to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a personal relationship (including friendship) outside the Council.

6. GIFTS

- 6.1 You must avoid situations in which the acceptance of a gift or personal benefit would be or could give the appearance of the acceptance of an inducement or bribe.
- 6.2 A gift offered to you may be accepted if:-
- (a) it is of nominal value e.g. calendars, diaries, pens etc., and
 - (b) no ulterior motive is apparent nor is there any danger of misinterpretation by the public (for example, because the offer comes from a person or Company tendering for work).
- 6.3 Gifts outside the scope of the above guidelines, must be refused, unless refusal would give offence. In such a case, the gift could be accepted and donated to the Mayor's Charity Appeal with a suitable explanation to the person or Company concerned. Receipt of gifts in these circumstances should be reported to the Monitoring Officer for inclusion on your register of gifts and hospitality. They should always be refused if an ulterior motive is suspected.
- 6.4 You must always decline gifts of cash or vouchers with a redeemable cash value no matter how small the value.

7. HOSPITALITY

- 7.1 You must only accept offers of hospitality if there is a genuine need to impart information, represent or promote the interests of the Council in the community or promote a relationship which is of value to the Council. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. Any hospitality accepted, should be recorded.

8. REGISTER FOR GIFTS AND HOSPITALITY

- 8.1 You must record all gifts and hospitality received, and any offered but rejected, in the Register maintained by the Monitoring Officer. This must include all gifts and hospitality. This register will be a public document available online.

PART 3 – DISCLOSABLE PECUNIARY INTERESTS – THIS CURRENT SECTION WILL HAVE TO CHANGE ONCE WE KNOW DETAILS OF REGULATIONS

Registration requirements and publicity.

Updating requirements.

Possible conflicts of interest outside the statutory definition.

Participation in duties where an interest exists.

Spelthorne Borough Council

Members' Code of Conduct

Draft Arrangements for dealing with allegations of misconduct under section 28 Localism Act 2011

Context

1. These arrangements describe how the public can make a complaint that a Member of Spelthorne Borough Council “the Council” has failed to comply with the Council’s Member Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council’s Code of Conduct.
2. Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member of the authority (i.e. a councillor or a co-opted member) has failed to comply with that Council’s Code of Conduct can be investigated and decisions made on such allegations.
3. The arrangements under the Localism Act must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a Member against whom an allegation as been made.

Principles of these arrangements

4. At its meeting on x June 2012 the Council agreed that these arrangements or any revisions to them, should abide by the following principles:
 - a. They should reassure the public that complaints will be dealt with swiftly, properly and transparently;
 - b. They should be simple, clear and follow the rules of natural justice;
 - c. They should not be bureaucratic i.e. they should follow the law and not build in unnecessary additional measures;
 - d. They should allow councillors to take decisions on whether a fellow councillor should be investigated, and, following investigation whether that councillor should be held in breach of the Code;
 - e. They should allow the Monitoring Officer to dismiss complaints which are vexatious, frivolous or politically motivated;
 - f. They should allow for the Monitoring Officer to be accountable for such decisions in (e);

- g. They should ensure there is an element of outside scrutiny and objectivity by recruiting Independent Members to the Audit and Standards Committee.

The Code of Conduct

5. The Council has adopted a Member Code of Conduct, which is available for inspection on the Council's website. The Council has tasked the Audit and Standards Committee to keep the Code of Conduct and the operation of these arrangements under review.

Making a complaint

6. Any person may make a complaint, in writing, to-

Michael Graham
Monitoring Officer
Spelthorne Borough Council
Council Offices
Knowle Green
Staines-upon-Thames
Middlesex TW18 1XB

Email: m.graham@spelthorne.gov.uk

7. The Council will only process complaints which are in writing. The name and address of the complainant must be given and only in very exceptional circumstances will the Council investigate anonymous complaints.
8. The Monitoring Officer will acknowledge receipt of a complaint within 5 working days of receiving it, and will keep the complainant informed of the progress of the complaint at appropriate junctures.

Role of the Monitoring Officer

9. The Monitoring Officer's job is to oversee the complaints process and refer complaints to the Independent Person, the Assessment Panel and where appropriate to an Investigator and a Hearings Panel.
10. The Monitoring Officer is accountable to the Audit and Standards Committee for this function.

Independent Person

11. The Council has appointed an Independent Person in conjunction with x council.
12. The Independent Person is not (and has not within the last five years been) a Member or an Officer of the Council.

13. The role of the Independent Person is to advise the Monitoring Officer on action to take under these arrangements at the points stated.
14. A Member who is the subject of a complaint is also entitled to refer to the Independent Person for advice during the course of a complaint.
15. The Independent Person receives expenses for undertaking this role but no other remuneration.

The Assessment Panel

16. The Assessment Panel is a Sub-Committee of the Audit and Standards Committee.
17. The role of the Assessment Panel is to review complaints for investigation which are sufficiently serious to warrant such formal action.
18. The remit of the Assessment Panel and the Audit and Standards Committee is available for inspection on the Council's website.
19. The Assessment Panel will comprise of three voting members of the Audit and Standards Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of Audit and Standards Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Assessment Panel but legally cannot vote on the decision.

Assessment of complaints

20. The Monitoring Officer will review every complaint received and, consult with the Independent Person.
21. The Monitoring Officer will inform the subject Member about the complaint and inform the Member that advice can be taken from the Independent Person. The Monitoring Officer will inform the subject Member of any advice offered by the Independent Person.
22. Following discussions with the subject Member and the Independent Person the Monitoring Officer will refer the matter to the Assessment Panel with a recommendation as to whether it merits formal investigation. This Assessment Panel will normally meet within 14 days of receipt of a complaint.
23. The Monitoring Officer has power to reject complaints which are vexatious, frivolous or malicious or which are politically motivated or in some other way an abuse of process. Where the Monitoring Officer has taken a decision that a complaint falls into one of these categories, he will inform the complainant of his decision and the reasons for that decision. There is no appeal from this decision, but the Monitoring

Officer will report all such decisions to the next meeting of the Audit and Standards Committee who are entitled to refer the matter for investigation if they feel that the Monitoring Officer has acted incorrectly.

24. Where the Monitoring Officer requires additional information in order to come to a decision (about a vexatious etc complaint) or a recommendation (about any complaint) he may seek such information from the complainant and the subject Member, but he will not conduct an investigation prior to an Assessment Panel.
25. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer will consult with the Independent Person and the subject Member where this outcome seems appropriate. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action. Where the Member makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether to recommend that the complaint merits formal investigation.
26. If the Monitoring Officer decides that the complaint concerns a service, policy or decision of the Council then he may refer it to the normal complaints procedure. This may entail the Monitoring Officer dealing with the matter personally under the Council's complaints procedure.
27. The Audit and Standards Committee has adopted a policy for the assessment and investigation of misconduct complaints. The Assessment Panel will refer to these guidelines when making a decision to refer a matter to investigation. The Assessment Panel will take advice from the Monitoring Officer when reaching its decision.
28. If the Assessment Panel decides that a complaint merits formal investigation, the Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator.
29. If the Assessment Panel decides not to investigate the complaint the Monitoring officer will write to the complainant outlining the reasons of the Assessment Panel. The decision of the Assessment Panel is final and will be reported to the next Audit and Standards Committee.
30. During the Assessment phase the Monitoring Officer will keep all parties informed of the progress of the case. It is expected that the complaint will be confidential during the Assessment phase.

The investigation

31. The Investigating Officer will complete the investigation in accordance with any policy or guidelines that the Audit and Standards Committee shall specify.
32. The investigation shall be carried out promptly.
33. At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the subject Member, to give both an opportunity to identify any factual matter in that draft report which is disputed or requires further investigation.
34. Having received and taken account of any comments on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.
35. The Monitoring Officer will consult with the Independent Person on the outcomes or recommendations of the investigation.
36. If following consultation, the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.
37. The Monitoring Officer will review the Investigating Officer's report in light of the Independent Person's advice and, if he is satisfied that the Investigating Officer's report is sufficient and that no further investigations are required, the Monitoring Officer will write to the complainant and to the subject Member concerned with a copy of the final report.

Findings of "No-breach"

38. If the Investigating Officer finds that there has been no breach of the Code of Conduct then the Monitoring Officer will write to the complainant and the subject Member and dismiss the complaint. The Monitoring Officer will report the outcome of the case to the next Audit and Standards Committee. The decision is final and there is no appeal.

Findings of "Breach"

39. If the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct then the Monitoring Officer will consult with the Independent Person, the subject Member and the complainant to see if any form of local resolution is possible.

Local Resolution

40. The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he will consult with all the parties and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the subject Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action.
41. If the subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit and Standards Committee for information, but will take no further action. Such report should be open to public scrutiny.
42. If following consultation with the parties it seems likely that any suggested resolution would not be possible or would not be suitable in all the circumstances, the Monitoring Officer will refer the matter to the Hearings Panel.

Local Hearing

43. If the Monitoring Officer considers that local resolution is not appropriate, or the Member or Employee concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.
44. The Hearings Panel will comprise of three voting members of the Audit and Standards Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of Audit and Standards Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Hearings Panel but legally cannot vote on the decision.
45. The Audit and Standards Committee may agree a procedure for Hearings Panels.
46. The Monitoring Officer will conduct a "pre-hearing process", requiring the subject Member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chairman of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted.
47. The Monitoring Officer will advise the Chairman whether the hearing should be in public or private. The Access to Information Rules will apply to this hearing as it would apply to any other meeting of the Council. In order to give confidence to the public it is expected that the

Hearings Panel will take place in public unless there are exceptional circumstances which dictate otherwise.

48. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the subject Member or has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the complainant to attend and give evidence to the Hearings Panel. The subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.
49. The Independent Person may attend the hearing to advise the Panel but is not required to attend.
50. If the Hearings Panel concludes that the subject Member did not fail to comply with the Code of Conduct, then they will dismiss the complaint.
51. If the Hearings Panel concludes that the subject Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the Member's failure to comply with the Code of Conduct.

Powers of the Hearings Panel

52. In considering its response the Hearings Panel will give the Member an opportunity to make representations to the Panel, but will then decide what action, if any, to take in respect of the matter. The powers of the Hearings Panel are:
 - a. To require the Member to apologise either privately or in public.
 - b. To require the Member to attend training.
 - c. To censure the Member.
 - d. To send a report to Council to censure the Member.
 - e. To require the Monitoring Officer to publish a report in the newspaper or on the Council's website about the Member's conduct.
 - f. To withdraw privileges provided by the Council such as computer equipment, internet or email access.
 - g. To recommend to the Member's Group Leader that the Member be removed from a Committee, a Cabinet responsibility or an Outside Body (as appropriate).
 - h. Or a combination of any of the above.

53. As a matter of law, the Hearings Panel does not have the power to suspend or disqualify the Member or to withdraw allowances to which members are entitled.

Appeals

54. There is no right of appeal for the complainant or for the Member against a decision of the Hearings Panel.

Post hearing

55. At the end of the hearing, the Chairman will state the decision of the Hearings Panel as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.
56. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Hearings Panel, and send a copy to all the parties, and if required by the Hearings Panel, make that decision notice available for public inspection. The decision will be reported to the next meeting of the Audit and Standards Committee.

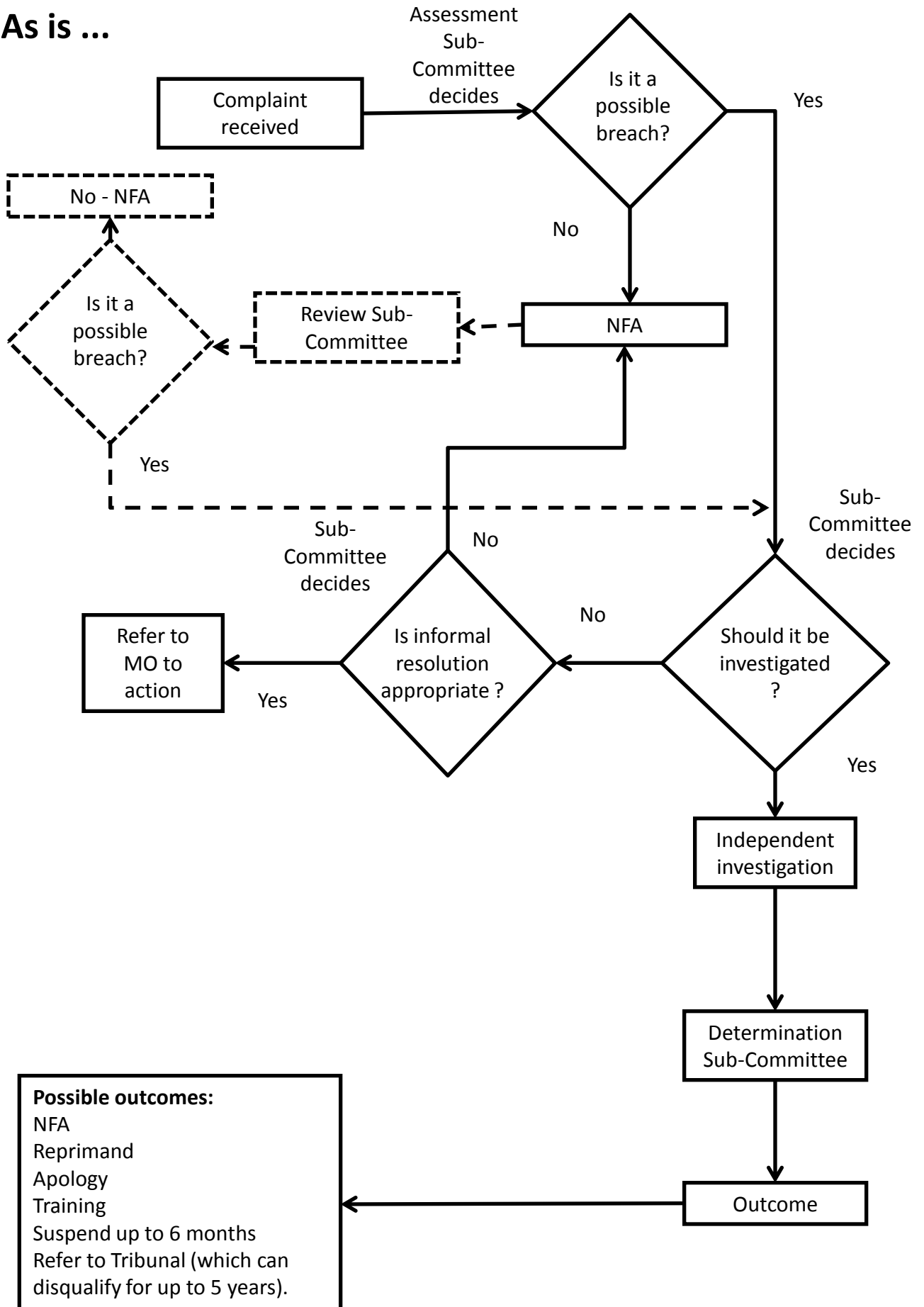
Revision of these arrangements

57. The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

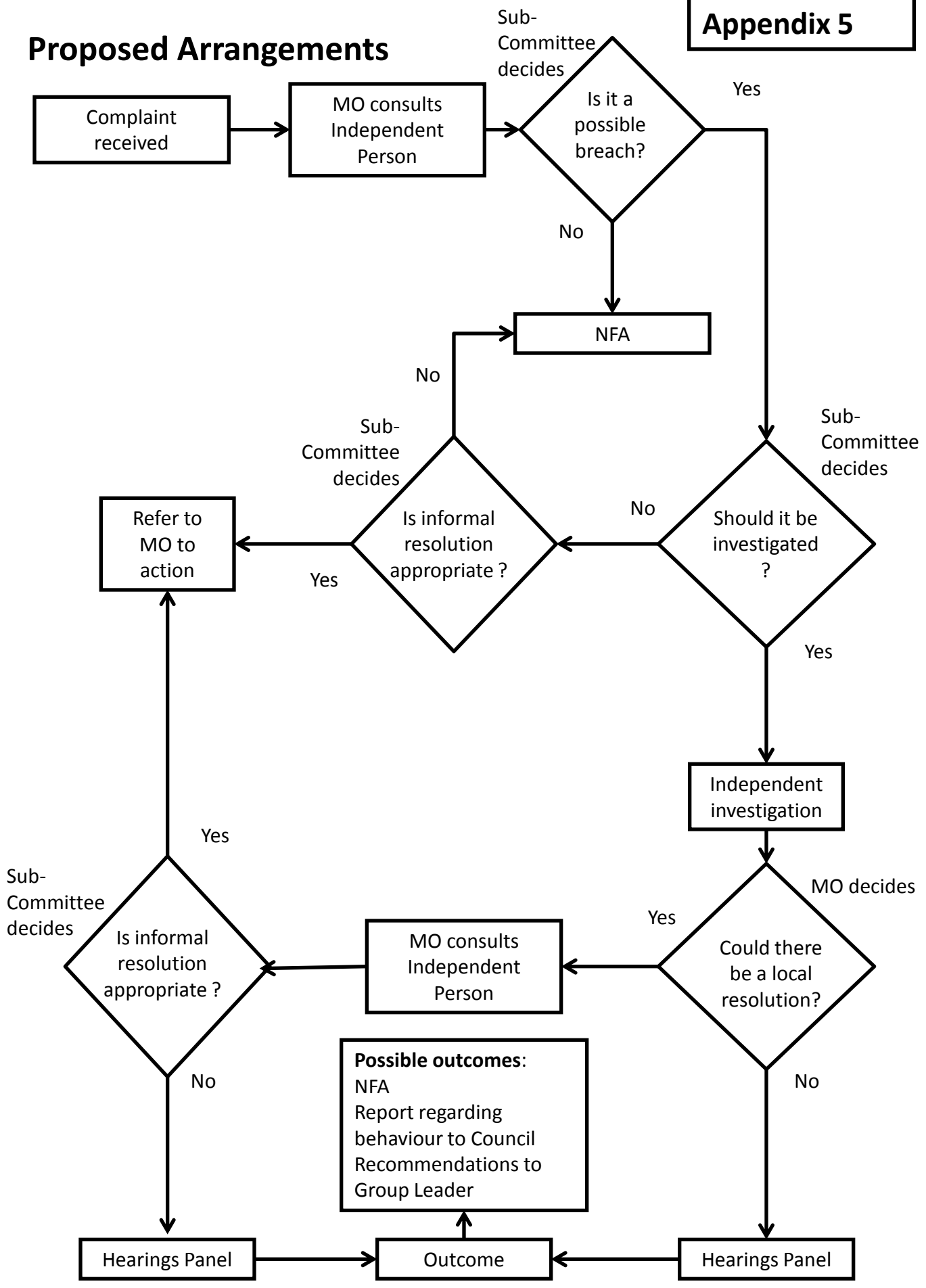
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March 2012

As is ...



Proposed Arrangements



Independent Person – Appointments Panel

Cabinet: 24 April 2012

Resolution required

Report of the Monitoring Officer

REPORT SUMMARY

How does the content of this report improve the quality of life of Borough Residents

Not applicable.

Purpose of Report

To delegate authority to allow for the appointment of an Independent Person in view of the changes to the standards regime.

Key Issues

- The appointment of an Independent Person

Financial Implications

There are no direct financial implications arising from this report.

Corporate Priority

Not applicable.

Officer Recommendations

Cabinet is requested to recommend to Council:

- 1. To delegate authority to the Head of Corporate Governance in consultation with the Leader to:**
 - (a). establish a joint appointments panel with such other Surrey councils as are appropriate for the appointment of an Independent Person and a reserve (or deputy), and**
 - (b). such panel to have representation from each council as is appropriate with numbers and representatives to be determined by the Head of Corporate Governance in consultation with the Leader, but to be broadly representative of the political make-up of the councils involved.**

Report Author: Michael Graham, Head of Corporate Governance

Area of Responsibility: Roberto Tambini, Chief Executive

Cabinet member: Councillor Frank Ayers, Leader of the Council

MAIN REPORT

1. BACKGROUND

- 1.1 The provisions of the Localism Act relating to standards will come into force on a day to be appointed (expected to be 1 July 2012 but still not finalised) and in the meantime the existing code of conduct and arrangements for complaints through the existing Standards Committee will continue to apply.
- 1.2 A separate paper has been sent to Cabinet to outline the arrangements to be put in place.

2. KEY ISSUES

Independent Person

- 2.1 The Council will be required to make arrangements for the consideration, investigation and deciding on allegations of breach of the Code and also appoint at least one "Independent Person" whose views must be sought before any decision is made on an allegation. This Independent Person acts as a touchstone to guide those concerned on the application of the Code and is meant to bring an element of outside objectivity to the proceedings.
- 2.2 The Independent Person's views must be taken into account by the Council before it makes a decision on a matter that has been investigated.
- 2.3 The Independent Person's view may be sought:
 - a) By the Council in circumstances other than where it has decided to investigate (when consultation is mandatory).
 - b) By a member if that person's behaviour is the subject of an allegation.
 - c) Where the Council decides there is a breach and if so, what action to take against the member.
- 2.4 The Independent Person cannot be a member, co opted member or officer of the authority, a member, or a relative or close friend of any of those people, nor can the Independent Person have been a member, co opted member or officer of the authority at any time in the last five years. This means that the Independent Person may not be one of the current Independent Members of the Standards Committee.
- 2.5 The Act provides for the appointment of the Independent Person, following public advertisement and a vote at a Council meeting and permits the payment of allowances and expenses.
- 2.6 It is proposed that Spelthorne BC appoints an Independent Person (and a reserve/deputy) jointly with other Surrey councils and seeks to pay expenses only as incurred. This should save costs. Authority is being sought to commence that process so that arrangements can be put in place in good time for the start of the new Code.
- 2.7 Selection of the Independent Person would normally be undertaken by a panel of five councillors (4 majority group and 1 minority group) drawn from the staffing and Appeals Committee. However if the Council were to make a joint appointment with other councils there is no mechanism in the Constitution for the selection of a candidate with other councils and no mechanism for a joint

committee to make a recommendation to Council about the eventual appointment.

2.8 It is therefore proposed that as the Head of Corporate Governance investigates the possibility of having an Independent Person shared with other Surrey councils, the Council considers how this person might be selected and appointed.

2.9 To keep things flexible and to be able to work with other councils (who will probably have similar issues) it is proposed that there is a delegation from Council to the Head of Corporate Governance in consultation with the Leader to establish a panel which can make a recommendation to Council at a later date. The composition of this panel will be agreed with other councils and will be broadly reflective of the political makeup of the councils concerned.

3. OPTIONS ANALYSIS

3.1 There is no option but to develop new arrangements for ethical standards. The Council can appoint its own Independent Person through the Staffing and Appeals Committee process (as normal) but if the Council wishes to work in partnership with other councils to make a joint appointment that a process needs to be in place to achieve that.

4. PROPOSALS

4.1 To delegate authority to the Head of Corporate Governance in consultation with the Leader.

5. BENEFITS AND SUSTAINABILITY

5.1 Not applicable.

6. FINANCIAL IMPLICATIONS

6.1 Not applicable.

7. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS

7.1 Identified in the report.

8. RISKS AND HOW THEY WILL BE MITIGATED

8.1 None identified.

9. TIMETABLE FOR IMPLEMENTATION

9.1 The new arrangements need to be in place by 1 July 2012. The appointment of the Independent Person needs to have been completed by that time.

Report Author: Michael Graham, Head of Corporate Governance 01784 446227

**Background Papers:
There are none**

Police and Crime Panel – Establishment of a Joint Committee

Cabinet: 24 April 2012

Recommendation required

Report of the Chief Executive

Report Summary

How does the content of this report improve the quality of life of Borough residents

The Police and Crime Panel will scrutinise the actions and decisions of the Police and Crime Commissioner who will, in turn, scrutinise the performance of the local police force.

Purpose of Report

To inform the Council about the proposal to set up a Police and Crime Panel covering the area of the Surrey police force.

Key Issues

- Police and Crime Panels are being introduced in every police force area.
- Panels will support and challenge the Police and Crime Commissioner.
- Panels will not scrutinise the performance of the police.
- Panels will be in place by May 2012.

Financial Implications

There will be no cost to the Council.

Corporate Priority 1. A Safer Spelthorne

Officer Recommendations:

The Cabinet is asked to recommend to Council:

That Spelthorne Borough Council agrees to the establishment of the joint committee, with the other Surrey local authorities, to act as the Police & Crime Panel in Surrey (in accordance with the Police Reform and Social Responsibility Act 2011) and nominates Cllr Forbes-Forsyth as the Council's representative on the Panel.

Report author: Greg Halliwell, Principal Committee Manager (01784) 446267

Area of responsibility: Roberto Tambini, Chief Executive (01784) 446250

Cabinet member: Councillor Frank Ayers, Leader of the Council.

MAIN REPORT

1. BACKGROUND

- 1.1 Under the Police Reform & Social Responsibility Act 2011, local authorities are required to set up Police and Crime Panels in every police force area.

2. KEY ISSUES

- 2.1 Local authorities are required to set up Police and Crime Panels before the election of the Police and Crime Commissioner (PCC), due to take place in November 2012.
- 2.2 To allow time for the Panel to appoint co-opted members and sufficient training to be undertaken prior to the PCC taking office, local authorities are being asked to establish panels which will be in place by May 2012.
- 2.3 The Panel must be a joint committee of all the authorities in a particular police area, i.e. Surrey, and the duty to appoint the Panel falls on these local authorities.
- 2.4 Each authority must, therefore, pass a formal resolution in order to establish the Panel, and each local authority will appoint a representative to the Panel at their annual meeting, in line with their own Committee appointment procedures.
- 2.5 The Panel is a joint committee, made up of both appointed and co-opted members.
- 2.6 In Surrey, there will be 12 appointed members equating to the 12 authorities.
- 2.7 All county, district and borough councillors are eligible to be panel members.
- 2.8 In addition, there must be at least 2 co-opted members but the size of the Panel must not exceed 20 members in total.
- 2.9 If there are more than 2 co-opted members, then at least 2 of them must not be members of a local authority.
- 2.10 The Police Reform & Social Responsibility Act 2011 specifies that panels must be balanced in terms of geography, politics, and the skills, knowledge and experience of panel members.
- Geography: “represents all parts of the relevant police area”.
 - Politics: “represents the political make-up of the relevant local authorities (when taken together)”.
 - Skills, knowledge and experience: “ensures that all panel members have the necessary skills, knowledge and experience to discharge their functions”.
- 2.11 The role of the Panel is not to scrutinise the performance of the police nor is it to scrutinise the Chief Constable: it is to support and challenge the PCC.
- 2.12 The Panel will be established as an Overview and Scrutiny body and therefore have the legal powers to:
- Require any papers in the PCC’s possession (except those that are operationally sensitive).
 - Require the PCC (and his or her staff) to attend the Panel to answer questions.

- Request the Chief Constable attends to answer questions where the PCC has been required to appear before the Panel.
- Make reports and recommendations on any action or decision of the Commissioner.

2.13 The Act also details the functions that the Panel will exercise as follows:

- Review the draft police and crime plan, or draft variation, given to the panel by the PCC and make a report or recommendations on the draft plan or variation to the PCC.
- Review the PCC's annual report and make a report or recommendations on the report to the PCC.
- Review or scrutinise decisions made or other action taken by the PCC in connection with the discharge of the PCC's functions.
- Publish any report and recommendations made to the PCC.
- Review certain senior appointments made by the PCC.
- Review Chief Constable appointments', with the power to veto the appointment with a two-thirds majority.
- Review and report on the PCC's proposals to remove a Chief Constable.
- Review the PCC's level of precept, with the power to veto the proposed precept with a two-thirds majority.
- Suspend the PCC if he or she is charged with certain criminal offences.
- Appoint an acting PCC if necessary.
- Initial handling and informal resolution of complaints about the conduct of the PCC or his or her Deputy.

2.14 The Panel may not exercise any functions other than those conferred by the Police Reform & Social Responsibility Act 2011.

3. OPTIONS ANALYSIS

3.1 Police and Crime Panels are a mandatory requirement under the Act therefore it is not an option for Spelthorne to opt out of the process.

4. PROPOSALS

4.1 It is the duty of the local authorities in Surrey to agree the arrangements for the Panel. The Panel will then be responsible for agreeing its own rules of procedure, with appointed members reporting back to their respective authorities as appropriate.

4.2 The Panel will meet approximately quarterly at venues within Surrey, with additional special meetings as necessary, e.g. to deal with senior appointments.

4.3 The Surrey Leaders' Group has agreed that Surrey County Council should act as the host authority and provide the necessary officer support using the available government funding for 2012-13.

4.4 It is proposed to nominate Councillor Forbes-Forsyth as the Council's representative on the Panel.

5. BENEFITS AND SUSTAINABILITY

5.1 In appointing a councillor representative to the Panel, Spelthorne will be an integral and influential part of the process from the outset.

6. FINANCIAL IMPLICATIONS

6.1 There will not be a cost to the Council.

7. LEGAL IMPLICATIONS/OTHER CONSIDERATIONS

7.1 There are none.

8. RISKS AND HOW THEY WILL BE MITIGATED

8.1 There are no risks identified.

9. TIMETABLE FOR IMPLEMENTATION

9.1 Individual Surrey authorities to appoint their representative by **May 2012**.

9.2 The appointed members will select co-opted members in **July 2012**.

9.3 All members to participate in an induction programme during **September and October 2012**.

9.4 The first formal meeting of the Panel in **late October 2012**.

9.5 The first election of the Police and Crime Commissioner on **15 November 2012**.

Background Papers:

There are none.

Carbon Management Plan
Cabinet: 24 April 2012
Resolution Required
Report of the Assistant Chief Executive
REPORT SUMMARY

How does the content of this report improve the quality of life of Borough Residents

The Carbon Management Plan will set a way of maintaining and enhancing the environmental, economic and social well-being of the Borough. The strategy maps out a five year action plan covering carbon reduction which impact residents in the Borough.

Purpose of the Report

To seek approval for wider internal and external consultation of the strategy and endorsement of the strategy as a whole along with associated projects.

Key Issues

- To update the previous Carbon Management Plan
- To include latest developments, legislation and performance targets in energy efficiency at a local and national level.

Financial Implications

None at present

Corporate Priority

,A Cleaner and Greener Environment, Help for Older People in Need

Officer Recommendations

The Cabinet is asked to adopt the Carbon Management Plan for implementation.

Report Author: Sandy Muirhead

Area of Responsibility: Liz Borthwick

Cabinet member: Councillor Robert Watts

MAIN REPORT

1. BACKGROUND

- 1.1 The Carbon Management Plan (CMP) is an opportunity for the Council to 'get its own house in order' through taking practical steps to achieve year on year carbon reductions and work towards being a 'low carbon authority'. This plan will be a working document; merging parts of the Surrey Climate Change Strategy along with elements from the Council's Sustainable Development Strategy. The CMP identifies actions for the next five years by which the Council can meet both its ambitious target and its national requirements.

It sets the strategic context and the 'case for action', our current carbon emissions, a programme of proposed projects and actions to reduce our emissions, how much this will cost and save, as well as the governance arrangements to keep the programme on track.

2. KEY ISSUES

- 2.1 Energy reduction needs to be incorporated into all aspects of work and business so that we can prepare ourselves, our communities, local businesses and residents from rising economic conditions whilst also protecting our environment and social resources. This is of significant importance in the current economic climate.
- 2.2 The Carbon Management Plan stresses the urgency and importance of ensuring ambitions set at national, regional and local level are acknowledge at Spelthorne Borough Council and sets out the Council's targets over the next five years.
- 2.3 To help meet our carbon management targets it is necessary to develop action plans and monitor outcomes for the Council's main service areas.
- 2.4 Internal consulting parties to include: Asset Management, Planning, and Environmental Health, Depot and to raise awareness of carbon reduction across all staff.

3. OPTIONS ANALYSIS

- 3.1 The Carbon Management Plan is offered for consultation and adoption. This will enable the Council to respond to Government carbon reduction targets and meet the needs and expectations of residents in respect to energy efficiency issues. The plan will help embed energy reduction into other areas of the Council and stakeholders' activities.

4. PROPOSALS

- 4.1 Seeking views and collaborating with other stakeholders – internally and externally, will help in meeting government carbon reduction targets and integrating energy efficiency into products and services used and offered by the Council.

5. BENEFITS AND SUSTAINABILITY

- 5.1 The Carbon Management Plan offers a detailed breakdown to improve energy efficiency. It will leave us less open to risks such as rising financial burden of increasing energy prices.
- 5.2 The plan offers positive direction and a holistic approach to working for the Council and the relevant stakeholders in terms of carbon reduction.

6. FINANCIAL IMPLICATIONS

- 6.1 The Carbon Management Programme will provide the opportunity to save money and reduce the Councils carbon emissions and, therefore, the impact of its operations on the environment. Financial implications will fall under individual projects, The main source of funding for the projects outlined in the plan will be through the Salix revolving fund. Overall the plan will enable more robust development and financial commitments and therefore strengthen our economic position.

7. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS

- 7.1 None.

8. RISKS AND HOW THEY WILL BE MITIGATED

- 8.1 Not adopting the plan could result in some negative publicity and may demonstrate a lack of commitment and initiative in an area currently topping many political agendas.
- 8.2 The plan outlines ways of reducing our carbon footprint. As the action plans do inter-link it is necessary for complete 'buy-in' from all stakeholders and 'responsible people' to ensure progress. Not adopting the plan could leave the Borough more open to these risks.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 Some individual projects are already underway. Current progress can be seen in carbon management project register.
- 9.2 The progress of this programme will be discussed and reviewed every nine weeks at the sustainable development delivery board, quarterly at Management Team (MAT) and annually to Cabinet members and to the Carbon Trust.

Report Author: Francesca Nesbitt, Energy Reduction Officer 01784 446308

Background Papers: There are none

Appendix 1 – The Carbon Management Plan, copies of which are available in the Member's Room.

Application for Discretionary Rate Relief

Cabinet: 24 April 2012

Resolution required

Report Assistant Chief Executive

REPORT SUMMARY

How does the content of this report improve the quality of life of Borough Residents

The Council recognises that the voluntary and community sector makes a major contribution to the quality of life for the people who live and work in the Borough. Awarding discretionary rate relief to voluntary sector bodies is one way the Council can provide support.

Purpose of Report

To consider awarding relief and determine the level of relief awarded to WR Sports Ltd based upon the contribution that the organisation makes to the local area.

Key Issues

- Legislation provides for at least 12 months notice for removal or changes of relief. Any variance to relief must start at the beginning of the financial year.
- Under delegated powers, Members only see applications for those organisations where the cost borne by the Local Authority exceeds £2,000.
- From 1 April 2004, registered community amateur sports clubs (CASCs) are able to qualify for mandatory relief which reduces the cost of relief to Spelthorne.
- An application for Discretionary Relief was received as part of the 2012/13 Relief Review from WR Sports Ltd. Examination of the accounts confirms that they are a non-profit making organisation.
- Council policy is to advise Sports Clubs to apply to Her Majesty's Revenues and Customs (HMRC) for registration as a CASC which would allow the council to grant Mandatory Relief of 80% and up to 20% Top Up Discretionary relief as this would lessen the burden on the Borough Council Taxpayers.
- WR Sports have applied on two occasions and have been turned down on both due to a clause in their Memorandum and Articles of Association which restricts Voting Rights of the member clubs at WR Sports AGM.
- This clause is not relevant when considering their eligibility for relief as they fulfil the criteria in respect of 'Membership open to all'
- Annex B (A) of the current Discretionary Rate Relief Policy states that 'Where sporting or recreational pursuit clubs have been unable to register as a CASC, 100% discretionary relief will be granted subject to the following six criteria being satisfied
 - membership open to all.
 - membership encouraged from children, disabled or other disadvantaged groups.
 - the club facilities are of benefit to all.
 - membership fees are not excessive.
- As the club continue to fulfil the above and are seeking to amend their rules to obtain CASC status the relief granted should continue.

Financial Implications

The anticipated cost to the Council of approving discretionary relief to WR Sports Ltd is £2,461.75.

Corporate Priority 3. Supporting Younger People

Officer Recommendations

The Cabinet is asked to approve the application for Discretionary Rate relief for WR Sports Ltd as it meets the Council's criteria for granting discretionary relief to non-profit making organisations.

**Report Author: Linda Norman, Head of Customer Services 01784 446375
Area of Responsibility: Terry Collier, Assistant Chief Executive 01784 446296
Cabinet member: Councillor Tim Evans**

MAIN REPORT

1. BACKGROUND

- 1.1 The Council has the discretion to grant relief of up to 100% on properties occupied by certain non-profit making bodies, or in the case of registered charities, that are entitled to 80% mandatory relief, to top this relief up to 100%.
- 1.2 A change in legislation for Community Amateur Sports Clubs (CASC) came into force from 1 April 2004 which allows CASC's to receive 80% mandatory relief thus reducing the amount and cost of discretionary relief the authority can award.
- 1.3 In July 2010, the Council reviewed its policy on discretionary rate relief to encourage sports clubs within the borough to apply for CASC status to reduce the burden on the Council Taxpayer.
- 1.4 WR Sports Ltd (Ashford Tennis club) were advised in September 2010 that their entitlement to discretionary rate relief may be withdrawn from April 2012 and were advised to apply for CASC status.

2. KEY ISSUES

- 2.1 Legislation allows for at least 12 months notice for removal or changes to relief and as such, WR Sports Ltd are due to lose their discretionary rate relief from 1 April 2012 under the Council's new policy.
- 2.2 An application for Discretionary Relief was received as part of the 2012/13 Relief Review. Examination of the accounts confirms that they are a non-profit making organisation.
- 2.3 WR Sports Ltd have applied on two occasions and have been turned down on both due to a clause in their Memorandum and Articles of Association which restricts Voting Rights of member clubs at WR Sports AGM.
- 2.4 The clause is not relevant when considering their eligibility for relief as they fulfil the criteria in respect of 'Membership open to all'
- 2.5 Annex B (A) of the current Discretionary Rate Relief Policy states that 'Where sporting or recreational pursuit clubs have been unable to register as a CASC, 100% discretionary relief will be granted subject to the following six criteria being satisfied :-
 - membership open to all.
 - membership encouraged from children, disabled or other disadvantaged groups.
 - the club facilities are of benefit to all.
 - membership fees are not excessive
- 2.6 As the club continue to fulfil the above and are seeking to amend their rules to obtain CASC status the relief granted should continue.

3. OPTIONS ANALYSIS

- 3.1 In formulating a policy for discretionary rate relief, the Council should take into account the following factors:

- (a) The extent to which the organisation meets the local needs of the community.
- (b) The extent to which the organisation provides a valuable service to the community.
- (c) The extent to which the organisation provides facilities which indirectly reduces the requirement of the Authority to do so such as leisure, sport, recreational, arts facilities.
- (d) If the organisation is a sports club, it will be expected to be or have sought registration as a Community Amateur Sports Club prior to considering relief.
- (e) The extent to which the organisation contributes to the Council's priorities of:
 - i) Activities for youth
 - ii) Safer Spelthorne
 - iii) Elderly services
 - iv) Cleaner Spelthorne
 - v) Value for money

3.2 As WR Sports Ltd meets all of the above, the Council should grant 100% discretionary rate relief to enable the club to continue working with the community.

4. PROPOSALS

4.1 To grant 100% discretionary rate relief to WR Sports Ltd.

4.2 To reject WR Sports Ltd application for charity relief on the grounds that it cannot obtain CASC status despite meeting the Council's overall criteria.

5. BENEFITS AND SUSTAINABILITY

5.1 By reviewing the current application, the Council ensures that the interests of the Council Taxpayer will be balanced against the wider contribution that this organisation makes to the Borough's amenities and its residents lifestyles and well-being.

5.2 By granting relief to this organisation, WR Sports Ltd will be able to continue to provide benefit to the community and residents of Spelthorne.

6. FINANCIAL IMPLICATIONS

6.1 The anticipated cost of awarding discretionary rate relief to WR Sports Ltd for 2012/13 is £2461.75.

7. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS

7.1 The Local Government Finance Act 1988 provides for the granting of Discretionary Rate Relief.

8. RISKS AND HOW THEY WILL BE MITIGATED

8.1 The Council will review Relief on a bi-annual basis and recipients must supply supporting information:

- (a) Organisations constitution and main purpose and objectives including membership numbers.

- (b) A full statement of audited accounts for the last financial year at the application date.
- (c) Any withdrawal or variance of relief is subject to one year's notice by the Council.

9. TIMETABLE FOR IMPLEMENTATION

9.1 100% relief to continue from 1 April 2012.

Report Author: Linda Norman Head of Customer Services 01784 446375

Background Papers:

Discretionary Rate Relief Policy

Spelthorne Borough Council
Discretionary Rate Relief Policy
Cabinet: 24 April 2012
Resolution Required
Report Assistant Chief Executive
REPORT SUMMARY

How does the content of this report improve the quality of life of Borough Residents

The Council recognises that the voluntary and community sector makes a major contribution to the quality of life for the people who live and work in the Borough. Awarding discretionary rate relief to voluntary sector bodies is one way the Council can provide support.

Purpose of Report

To consider the criteria for awarding relief and determine the level of relief awarded to the organisation based upon the contribution that the organisations makes to the local area and to formulate a policy for granting discretionary rate relief on the grounds of hardship.

Key Issues

- The discretionary rate relief policy has not been reviewed by the Council since 1995 and as such, the level of relief granted for old historic cases may no longer be appropriate.
- The Council has no formal policy for considering relief on the grounds of hardship and in the current economic climate, the Council is facing increased applications for this relief.
- From 1 April 2004, registered community amateur sports clubs (CASCs) are able to qualify for mandatory relief which reduces the cost of relief to Spelthorne, yet Spelthorne only has one registered CASC.
- Legislation provides for 12 months notice for removal or changes of relief.
- Under delegated powers, Members only see applications for those organisations where the cost borne by the Local Authority exceeds £2,000.

Financial Implications

Level of relief	Spelthorne Council tax funded	Central Government NNDR pool funded
Mandatory relief of 80%, where applicable	0	100%
Up to 20% additional discretionary relief for charitable organisations	75%	25%
Up to 100% discretionary relief for other eligible organisations	25%	75%
Up to 100% discretionary relief on grounds of "Hardship"	25%	75%

The anticipated cost to the Council of approving discretionary relief under the revised policy is £83,265.94

Corporate Priority * 1. Community Safety, 2. Younger People, 3. Environment, 4. Housing, 5. Independent Living, 6. Economic Development, 7. Healthy Community, 8. Community Engagement, 9. Sustainable Financial Future, 10. Value for Money ,

Officer Recommendations:

The Cabinet is asked to adopt the attached policy and approve the charity relief applications as set out in Appendix A, B & C for 2010/11.

Report Author: Linda Norman, Revenues Manager 01784 446375

Area of Responsibility: Terry Collier Assistant Chief Executive 01784 446296

Cabinet member: Councillor Vivienne Leighton

MAIN REPORT

1. BACKGROUND

- 1.1 The Council has the discretion to grant relief of up to 100% on properties occupied by certain non-profit making bodies, or in the case of registered charities, that are entitled to 80% mandatory relief, to top this relief up to 100%.

2. KEY ISSUES

- 2.1 The policy on discretionary rate relief has not been reviewed by the Council since 1995 and in the current economic climate, it is prudent for the Council to review its criteria for relief and the amount of relief awarded.
- 2.2 From 1 April 2010, the 2010 revaluation of non domestic properties came into force reflecting the changes in rental values of premises in the current economic climate.
- 2.3 There is no formal policy to consider discretionary rate relief on the grounds of hardship and in the current economic climate, the Council should ensure that the policy is transparent and is in the interest's of the Council Tax payer.
- 2.4 A change in legislation for Community Amateur Sports Clubs (CASC) came into force from 1 April 2004 which allows CASC's to receive 80% mandatory relief thus reducing the amount and cost of discretionary relief the authority can award.
- 2.5 The property must be wholly or mainly used for charitable or recreational purposes and is occupied by the charity, club, society or other non-profit making organisation.
- 2.6 Appendix A sets out the criteria the Council has used in recent years for determining discretionary Rate relief.
- 2.7 Appendix B sets out the new criteria the Council should consider for applications from 2011 onwards.
- 2.8 An application for discretionary relief can only be backdated to the beginning of the financial year in which the application was made.

3. OPTIONS ANALYSIS

- 3.1 In formulating a policy for discretionary rate relief, the Council should take into account the following factors:
- (a) The extent to which the organisation meets the local needs of the community.
 - (b) The extent to which the organisation provides a valuable service to the community.
 - (c) The extent to which the organisation provides facilities which indirectly reduces the requirement of the Authority to do so such as leisure, sport, recreational, arts facilities.
 - (d) If the organisation is a sports club, it will be expected to be or have sought registration as a Community Amateur Sports Club prior to considering relief.
 - (e) The extent to which the organisation contributes to the Council's priorities of:
 - i) Activities for youth

- ii) Safer Spelthorne
- iii) Elderly services
- iv) Cleaner Spelthorne
- v) Value for money

3.2 Relief should be reviewed on a bi-annual basis and recipients must supply supporting information:

- (a) Organisations constitution and main purpose and objectives including membership numbers.
- (b) A full statement of audited accounts for the last financial year at the application date.
- (c) Any withdrawal or variance of relief is subject to one year's notice by the Council.

3.3 The policy should be reviewed every five years to coincide with the new valuation list coming into force and take into account any changes in the Council's corporate priorities.

4. PROPOSALS

4.1 To approve the revised policy in Annex B and approve the applicants who have re-applied for relief in Annex C.

5. BENEFITS AND SUSTAINABILITY

5.1 By reviewing the current policy, it ensures that the interests of the Council Taxpayer will be balanced against the wider contribution that these organisations makes to the Borough's amenities and its residents lifestyles and well-being.

5.2 By granting relief, these organisations will be able to continue to provide benefit to the community and residents of Spelthorne.

6. FINANCIAL IMPLICATIONS

6.1 The amount of discretionary rate relief borne by the Council is within budget.

6.2 The anticipated cost for 2010-11 is £83,265.94 :

Appendix C Top up discretionary charitable relief 2010-11 £63,190.75

Appendix C Discretionary rate relief other bodies 2011-11 £20,075.19

7. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS [

7.1 The Local Government Finance Act 1988 provides for the granting of Discretionary Rate Relief.

8. RISKS AND HOW THEY WILL BE MITIGATED

8.1 All reviews are checked against the Charities commission website and against the Council's policy on granting relief.

8.2 All sports clubs are checked against the Her Majesty's Revenues and Customs (HRMC) website.

9. TIMETABLE FOR IMPLEMENTATION

9.1 As soon as practicable so relief continues for 2010/11 and new criteria from 2011/12.

Report Author: Linda Norman 01784 446375

Background Papers:

Annex A, B & C

ANNEX A

DISCRETIONARY RATE RELIEF

Under Sections 43 and 47 of the Local Government Finance Act 1988 an Authority may grant up to 100% relief where either the hereditament is occupied by a non-profit making organisation whose main objects are charitable, philanthropic, religious, or concerned with education, social welfare, science, literature or the fine arts. Alternatively, the hereditament must be wholly or mainly used for purposes of recreation, and all of it occupied for the purposes of a club, society or other non-profit making organisation. Organisations which are a registered charity already receive mandatory relief at 80%.

The cost of discretionary rate relief is borne at a rate of 25% by Spelthorne, the rest is paid out of the business rate pool. Where mandatory relief is already allowed then if any discretionary relief granted over and above the mandatory relief, 75% of the amount granted is paid by Spelthorne.

In recent years the following policy decisions have been made :-

1. To grant the maximum 20% discretionary relief to Day Centres, Community Centres, Citizens advice Bureaux, Red Cross, RSPCA, St. Johns Ambulance, WRVS, Salvation Army and other similar organisations, on top of the 80% mandatory relief.
2. To grant the maximum 20% discretionary relief to all Scout/Brownie and other similar organisations, on top of the 80% mandatory relief.
3. To grant only the mandatory relief to charity shops, not any discretionary element, so that they are not given an unfair advantage against other shops.
4. To grant all sporting/recreational pursuit clubs 100% discretionary relief subject to the following six criteria being satisfied :-
 - membership open to all.
 - membership encouraged from children, disabled or other disadvantaged groups.
 - the club facilities are of benefit to all.
 - membership fees are not excessive.
 - if bar receipts are excessive, further enquiries will be made to ascertain the ratio of playing to non playing members.
 - no payments are made to playing members.

In formulating the policy, regard has been given to the availability and use made of the organisation and facilities by residents of the Borough.

Annex B

DISCRETIONARY RATE RELIEF

The Local Government Finance Act 1988 provides for rate relief for certain sorts of organisations.

The Council can grant discretionary relief to:

1. Charitable organisations (up to 20%, as charitable organisations are already eligible for 80% rate relief). Community Amateur Sports clubs (CASC's) that have registered with the Inland Revenue fall into this category.
2. other organisations or institutions that are not established for profit and whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts (up to 100%).
3. properties occupied by not-for-profit sports or social clubs or society, or other organisations for the purpose of recreation (up to 100%).
4. "Hardship" relief, where the ratepayer is experiencing difficulty paying and it is in the best interest of its council tax payers to grant relief (up to 100%).

Who pays for the scheme?

Some of the cost of rate relief is borne by Central Government from the national non-domestic rate relief (NNDR) pool.

The cost to the Council of granting rate relief varies according to circumstance, as set out in the following table:

Level of relief	Spelthorne Council tax funded	Central Government NNDR pool funded
Mandatory relief of 80%, where applicable	0	100%
Up to 20% additional discretionary relief for charitable organisations	75%	25%
Up to 100% discretionary relief for other eligible organisations	25%	75%
Up to 100% discretionary relief on grounds of "Hardship"	25%	75%

Policy for granting relief

In formulating its policy for discretionary rate relief the Council has taken into account the following factors:

The extent to which the organisation:

- Meets local needs in the community, and either
- Provides a valuable service to the community, or
- Provides facilities which indirectly relieves the Authority of the need to do so subject to the conditions that:
 1. Membership, where appropriate, or facilities, are available to the general public and not unduly restricted; and
 2. Premises are not used for sales of a commercial nature on more than ten occasions in any one year

It also reflects the Council's Vision, Values and Key Corporate Objectives and Priorities, most significantly in relation to meeting the needs of the vulnerable

(A) Organisations that WILL normally eligible for discretionary rate relief

The following categories of organisations will be eligible for maximum relief,

- Official Scout and Guide Organisations, Boys Brigade and Youth Clubs shall be granted discretionary rate relief from the remaining rate liability (20%), provided they can demonstrate that their premises are used solely or mainly by them, or by them and other non-profit making services, for the benefit of the Community.
- Organisations whose main objectives are charitable, philanthropic, religious, or concerned with education, social welfare, science, literature or the fine arts. Eg; CAB, Red Cross, RSPCA, St John's Ambulance, Salvation Army and other similar organisations.
- Village/Parish Halls and Community Centres to qualify for 100% of relief.
- Day Centres for the elderly and for special needs groups to qualify for 100% of relief.
- Non profit making organisations will receive 100% discretionary relief if they provide facilities which indirectly reduces the requirement of the Authority to do so such as leisure, sport, recreational, arts facilities.
- To grant all CASC 20% discretionary relief subject to the following six criteria being satisfied :-
 - membership open to all.
 - membership encouraged from children, disabled or other disadvantaged groups.
 - the club facilities are of benefit to all.
 - membership fees are not excessive.
 - if bar receipts are excessive, further enquiries will be made to ascertain the ratio of playing to non playing members.
 - no payments are made to playing members.
- Where sporting or recreational pursuit clubs have been unable to register as a CASC, 100% discretionary relief will be granted subject to the following six criteria being satisfied :-
 - membership open to all.
 - membership encouraged from children, disabled or other disadvantaged groups.
 - the club facilities are of benefit to all.
 - membership fees are not excessive.

- if bar receipts are excessive, further enquiries will be made to ascertain the ratio of playing to non playing members.
- no payments are made to playing members.

(B) Organisations NOT normally eligible for discretionary rate relief

1. National or regional offices of a charitable organisation. However, the administrative offices of charitable organisations providing wholly or predominantly for the community of Spelthorne will be considered for full relief.
2. No organisation having a permanent bar serving alcohol will be given rate relief where the bar receipts are not excessive (less than 50% of total income).
3. No discretionary relief will be granted to voluntary aided, voluntary controlled or grant-aided schools
4. To grant only the mandatory relief to charity shops, not any discretionary element, so that they are not given an unfair advantage against other shops.

(C) Hardship relief

Hardship should only be granted if the authority is satisfied that:

- (a) The ratepayer would sustain financial hardship if the authority did not do so
- (b) It is reasonable for the authority to do so, having regard to the interests of the persons subject to Council Tax

To qualify for hardship relief, a business will:

- generally be that of a general store, a post office, the only service provider or large employer in the area ;
- generally be the only business of that nature within the settlement area;
- provide evidence to support the application;
- provide a copy of the latest set of audited accounts for the business.

The following conditions will also apply:

- before reaching a decision the views of port folio members will be sought;
- the maximum amount of the relief that will be permitted will be 100% of the net rate liability
- applications will be reviewed annually

The interests of the individual ratepayer will be balanced against the wider interest of the taxpayers and the potential impact on the local community. The 'interests' of council taxpayers in an area go wider than direct financial interests. For example, where the employment prospects in the area would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the only provider of a service in the area.

The hardship caused may be, for example where a business has been affected by severe loss of trade due to external factors such as natural disasters. However, the Council will wish to consider how the business can demonstrate such loss of trade or business. For example, do accounts, order books, till receipts or VAT returns show a marked decline in trade compared to corresponding periods in previous years?

Decision making process

- 1.1 All applications must be made on a standard form
- 1.2 In addition, ratepayers will be required to submit supporting information such as audited accounts and articles of association
- 1.3 The Council will not consider applications where the ratepayer has failed to supply the requested information.
- 1.4 All applications will be considered on an individual basis and in line with the Council's policy and corporate priorities.
- 1.5 Consideration will be given to the financial impact on the Council and the local community in making awards. Relief may be refused or capped, if it is considered that the financial cost to the Council or the community outweighs the benefits generated through the award of the relief.
- 1.6 The decision will be notified to the applicant in writing and where less than the maximum amount of relief is granted an explanation of the reasons why full relief was not granted will be given.
- 1.7 In the interests of efficiency, the authority to consider applications is delegated as set out below:
 - i) To grant application for discretionary rate relief for properties in accordance with Council policies provided that element of the relief recoverable from local taxpayers does not exceed £2100 in any one case;
(1) Revenues Manager or Chief Finance Officer
 - ii) To grant application for discretionary rate relief for properties in accordance with Council policies provided that element of the relief recoverable from local taxpayers does not exceed £2100 in any one case;
(1) Members
 - iii) To review hardship relief cases;
(1) Members
- 1.8 Details of the recipients and the amount of awards will be reported to Cabinet annually.

Right of appeal

- 1.1. There is no statutory right of appeal against a decision regarding discretionary rate relief made by the Council. However, the Council recognises that ratepayers should be entitled to have a decision reviewed objectively if they are dissatisfied with the outcome.
- 1.2. Appeals against decisions will be considered by the Cabinet and decisions made by the Cabinet will be final.
- 1.3. Applicants must make an appeal within four weeks of the issue of the letter notifying them of the Council's decision.
- 1.4. Applicants may appeal against the decision to award or not award relief, or against the level of relief awarded.
- 1.5. Appeals must be in writing giving the reasons why it is believed the decision should be amended. New or additional information may be included but only if it is relevant to the decision making process.
- 1.6. The applicant will be informed of the final decision and the reasons for the decision within four weeks of the hearing. The appellant does not have the right to appear in person at the hearing.

Backdating of relief

- 1.1 The law allows claims for discretionary relief received between 1 April and 30 September in any year to be backdated to 1 April of the previous year.
- 1.2 Applications received after 30 September can only be backdated to 1 April of the year in which it is awarded.
- 1.3 Mandatory relief can be backdated to the date the organisation became a charity.

Spelthorne Single Equality Scheme (Fairness and Respect)

Cabinet: 24 April 2012

Resolution required

Report of the Assistant Chief Executive

REPORT SUMMARY

How does the content of this report improve the quality of life of Borough Residents

The Council has a statutory duty to ensure that our staff have equal employment opportunities and that the community are able to participate in the services that we provide.

Purpose of Report

To present to Members the updated Single Equality Scheme 2012-2015 which satisfied the public sector duties of the Equality Act 2010.

Key Issues

- Statutory responsibility to comply
- Under the Equality Act 2010, the Council has a legal duty to advance equality for all residents and service users.
- Equality Act 2010 extends the Council's duty to include age, disability, gender, gender reassignment, pregnancy, race, religion/belief, sexual orientation, marriage and civil partnership.

Financial Implications

There are no financial implications arising from this report. Any training is funded by the corporate training budget.

Corporate Priority 1.A Safer Spelthorne, 2.Supporting Housing Needs, 3.Supporting Younger People,4.Help for Older People in Need, 5.A Cleaner and Greener Environment, 6. Economic Development

Officer Recommendations

The Cabinet is asked to agree the updated Single Equality Scheme (Fairness and Respect). A copy of the Single Equality Scheme is available in the Member's room.

Report Author: Liz Borthwick, Assistant Chief Executive, 01784 446376.

Cabinet member: Councillor Gething

MAIN REPORT

1. BACKGROUND

- 1.1 Spelthorne Borough Council developed a Single Equality Scheme in 2009 (SES). The SES sets out the direction in which the Council meets its duties under the Race Relations Act 2000, the Discrimination Act 1995 and the Sex Discrimination Act as amended by the Equality Act 2006.2
- 1.2 The SES framework is to ensure discrimination on the grounds of race, gender, disability, age, religion/belief or sexuality does not occur, whether it is direct, indirect, intentional or unintentional. The SES also positively promoted equality of opportunities and redresses inequalities of service provision.
- 1.3 Spelthorne Borough Council Single Equality Scheme was externally reviewed in 2009 and was successful in achieving level 3 (old standards) of the Governments Equality Standards (second authority in Surrey).
- 1.4 Following this achievement it was agreed that the Council would continue to improve but would not formally try to achieve excellence.
- 1.5 Due to financial pressures the budget for Equality and Diversity has been reduced by incorporating the responsibility to the Assistant Chief Executive (Liz Borthwick) who is supported by an Officers Steering Group who meet bi-monthly which is now complemented by support from senior officers from Bronzefield Prison.
- 1.6 The Equality Act 2010 came into effect 1 October 2010. The Coalition Government have a commitment to Equality and Diversity which is to “tear down barriers to social mobility and equal opportunities to help build a fairer society.”
- 1.7 The Equality Act 2010 strengthens, harmonises and streamlines 40 years of equality legislation. It brings together a number of acts in including Race Relations (Amendment) Act 2010, Disability Discrimination Act 1995 & Amendment Act 2005 and the Sex Discrimination Act as amended by the Equality Act 2006
- 1.8 The Equality Act includes the following nine “protected characteristics”
 - Age
 - Disability
 - Gender
 - Gender Reassignment
 - Marriage and civil partnership
 - Pregnancy
 - Race
 - Religion/belief
 - Sexual Orientation
- 1.9 There is the duty to publish data, assess impact on decisions, set equality objectives and report progress at least annually.

1.10 The phases of the work have been as follows

- October 2010 Employment, equal pay and services, public functions
- April 2011 public sector equality duties
- January 2012 duty to publish what information is available.
- April 2012 updated Single Equality Scheme

2. KEY ISSUES

2.1 The Council has updated its SES to comply with the Equality Act 2010. The SES (a copy of which is available in the Members room) includes an updated action plan.

2.2 Within the plan there is the proposal to brand the work that the Council does to promote equality and diversity as “Fairness and Respect”. Officers feel that this is how most people would wish to be treated and that the language is more relevant.

2.3 A further key detail is the development of a residents’ Equality Group with representatives from the characteristics identified in paragraph 1.8.

2.4 The purpose of this group would be to engage with and to seek views/comments about our to ensure that the Council is treating its residents and staff with fairness and respect.

2.5 It is not proposed that there would be regular meetings of this group but that the group is available to consult with on any mayor service changes. It is proposed the group will have a Terms of Reference which will be developed as part of the action plan.

2.6 The Council will be consulting on the draft with relevant stakeholders over the next few weeks and any further comments if appropriate will be incorporated into the action plan.

2.7 Other actions identified with the plan are as follows.

- Refresher training. Officers / elected Members.
- Equality Impact Assessment to be part of the flagship project if appropriate.
- [Integration into the performance management regime?] Performance monitoring process.
- Any updating /future review by Overview and Scrutiny?

3. OPTIONS ANALYSIS

3.1 To adopt the updated Single Equality Scheme or not to adopt the Single Equality Scheme.

4. PROPOSALS

4.1 The proposal is to agree the updated Single Equality Plan and to receive an annual update on the plan and to publish data on equality in the workforce to the relevant committee.

5. BENEFITS AND SUSTAINABILITY

- 5.1 A SES provides a framework for the Council to ensure that it complies with legislation. The SES will help support equality of opportunities in the workforce and the services we provide to the public.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications arising directly in this report. As identified in paragraph 1.5 the policy development and implementation is managed by the Assistant Chief Executive and an officers steering board.
- 6.2 Training that will take place is within the existing training budget.

7. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS

- 7.1 If the Council fails to comply with the duties as set out in the Equality Act 2010 it can be fined by the Equality and Human Rights Commission. This may not only be a financial penalty but also poor publicity and intervention.

8. RISKS AND HOW THEY WILL BE MITIGATED

- 8.1 With the Council having an updated SES framework it is anticipated this should prevent the authority not complying with the Equality Act 2010 and the public sector duties within the act.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 April 2012

Report Author: Liz Borthwick, Assistant Chief Executive

Background Papers:

Single Equality Scheme 2012 - 2015

Appointment to Outside Bodies

Cabinet: 24 April 2012

Resolution required

Report of the Chief Executive

1. Purpose of report

- 1.1 To appoint a replacement representative to serve on the River Thames Alliance (RTA) partnership.

2. Background

- 2.1 The Cabinet appointed Councillor Davis to serve on the RTA partnership at its meeting on 21 June 2011.
- 2.2 Councillor Davis has stood down and Councillor Mrs. Vivienne Leighton has been nominated to replace him.

3. Recommendations

The Cabinet is asked to appoint Councillor Mrs. V. J. Leighton as Council representative on the River Thames Alliance partnership.

Report author: Greg Halliwell, Principal Committee Manager, (01784) 446267

Area of responsibility: Roberto Tambini, Chief Executive, (01784) 446250

Cabinet member: Councillor Frank Ayers

