





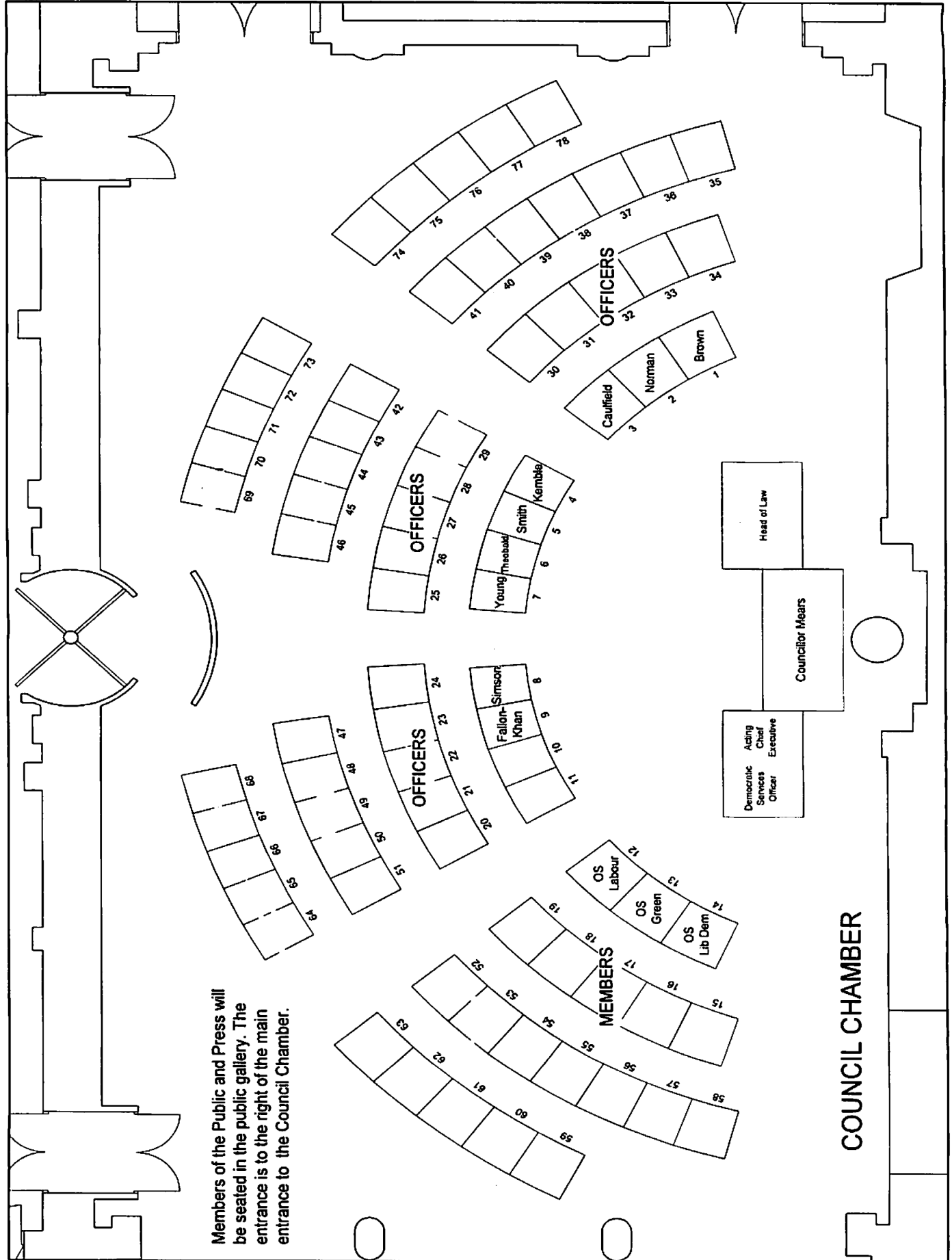
Brighton & Hove
City Council

Cabinet Meeting

Title:	Cabinet
Date:	9 July 2009
Time:	4.00pm
Venue	Council Chamber, Brighton Town Hall
Members:	Councillors: Mears (Chairman) Brown, Caulfield, Fallon-Khan, Kemble, K Norman, Simson, Smith, G Theobald and Young
Contact:	Tanya Massey Acting Senior Democratic Services Officer 01273 291227 tanya.massey@brighton-hove.gov.uk

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COUNCIL CHAMBER

AGENDA

38. PROCEDURAL BUSINESS

- (a) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (b) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading either that it is confidential or the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the categories of exempt information is available for public inspection at Brighton and Hove Town Halls.

39. MINUTES OF THE PREVIOUS MEETING

1 - 16

Minutes of the Meeting held on 11 June 2009 (copy attached).

40. CHAIRMAN'S COMMUNICATIONS

41. ITEMS RESERVED FOR DISCUSSION

- (a) Items reserved by the Cabinet Members
- (b) Items reserved by the Opposition Spokesperson
- (c) Items reserved by Members, with the agreement of the Chairman.

NOTE: Public Questions, Written Questions from Councillors, Petitions, Deputations, Letters from Councillors and Notices of Motion will be reserved automatically.

42. PETITIONS

No petitions received by date of publication.

43. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 2 July 2009)

No public questions received by date of publication.

CABINET

44. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 2 July 2009)

No deputations received by date of publication.

45. LETTERS FROM COUNCILLORS

(The closing date for receipt of letters from Councillors is 10.00am on 29 June 2009)

No letters have been received.

46. WRITTEN QUESTIONS FROM COUNCILLORS

(The closing date for receipt of written questions from Councillors is 10.00am on 29 June 2009)

No written questions have been received.

47. NOTICES OF MOTION

No Notices of Motion have been referred.

REPORTS FROM OVERVIEW & SCRUTINY COMMITTEES

48. Dual Diagnosis

17 - 130

Report of the Director of Adult Social Care & Housing (copy attached).

Contact Officer: Simon Scott

Tel: 545414

Ward Affected: All Wards

CONTRACTUAL MATTERS

49. Agency Contract for Temporary Staffing

Extract from the proceedings of the Central Services Cabinet Member Meeting held on 29 June 2009 (copy to follow)

(a) Report of the Acting Director of Strategy & Governance (copy to follow).

Contact Officer: Lance Richard

Tel: 29-5925

Ward Affected: All Wards

50. Housing Management Repairs, Refurbishment and Improvement Strategic Partnership Procurement Recommendations Report

131 - 154

Extract from the proceedings of the Housing Management Consultative Committee held of 22 June 2009 (copy attached).

(a) Report of the Director of Adult Social Care & Housing (copy attached).

Contact Officer: Nick Hibberd

Tel: 29-3756

Ward Affected: All Wards

CABINET

STRATEGIC & POLICY ISSUES

- 51. Annual progress update on the Local Area Agreement (LAA) 2008/09**
- Report of the Acting Director of Strategy & Governance (copy circulated separately).
- Contact Officer: Barbara Green* *Tel: 29-1081*
Ward Affected: All Wards
- 52. Sustainable Communities Act – Decision on Submission to Local Government Association** **155 - 168**
- Report of the Acting Director of Strategy & Governance (copy attached).
- Contact Officer: Emma McDermott* *Tel: 29-3944*
Ward Affected: All Wards
- 53. Membership of South East England Councils (SEEC)** **169 - 182**
- Report of the Acting Director of Strategy & Governance (copy attached).
- Contact Officer: Anthony Zacharzewski* *Tel: 29-6855*
Ward Affected: All Wards

FINANCIAL MATTERS

- 54. Treasury Management Policy Statement (incorporating the Annual Investment Strategy) 2008/09 - End of year review** **183 - 202**
- Report of the Interim Director of Finance & Resources (copy attached).
- Contact Officer: Peter Sargent* *Tel: 29-1241*
Ward Affected: All Wards
- 55. Capital Investment Programme 2009/10** **203 - 214**
- Report of the Interim Director of Finance & Resources (copy attached).
- Contact Officer: Nigel Manvell* *Tel: 29-3104*
Ward Affected: All Wards
- 56. Budget Update and Budget Process 2010/11** **215 - 232**
- Report of the Interim Director of Finance & Resources (copy attached).
- Contact Officer: James Hengeveld* *Tel: 29-1242*
Ward Affected: All Wards

GENERAL MATTERS

- 57. CIVITAS Update and Work Programme** **233 - 240**
- Report of the Director of Environment (copy attached).
- Contact Officer: Jim Mayor* *Tel: 29-4164*
Ward Affected: All Wards

CABINET

- 58. Closure of Premises Protocols: associated with Persistent Disorder or Nuisance and Class A Drug Premises** 241 - 300

Report of the Director of Environment (copy attached).

Contact Officer: Jenny Knight Tel: 29-2607

Ward Affected: All Wards

Part Two

Page

- 59. PART TWO MINUTES OF THE PREVIOUS MEETING** 301 - 302

Part Two Minutes of the Meeting held on 11 June 2009 (copy circulated to Members only).

- 60. PART TWO ITEMS**

To consider whether or not any of the above items and the decisions thereon should remain exempt from disclosure to the press and public.

CABINET

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For further details and general enquiries about this meeting contact Tanya Massey, (01273 291227, email tanya.massey@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Wednesday, 1 July 2009

BRIGHTON & HOVE CITY COUNCIL**CABINET****4.00PM 11 JUNE 2009****COUNCIL CHAMBER, HOVE TOWN HALL****MINUTES**

Present: Councillors Mears (Chairman), Mrs Brown, Caulfield, Fallon-Khan, Kemble, K Norman, Simson, Smith, G Theobald and Young

Also in attendance: Councillors Elgood (Leader of the Liberal Democrat Group), Kitcat (Opposition Spokesperson, Green Group) and Mitchell (Leader of the Labour Group)

Other Members present: Councillors Allen, Davis and Morgan

PART ONE**16. PROCEDURAL BUSINESS****16a Declarations of Interests**

16.1 There were none.

16b Exclusion of Press and Public

16b.1 In accordance with section 100A of the Local Government Act 1972 ('the Act'), it was considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I(1) of the Act).

16b.2 **RESOLVED** - That the press and public be excluded from the meeting during consideration of items 36 onward.

17. MINUTES OF THE PREVIOUS MEETING

17.1 **RESOLVED** - That the minutes of the meeting held on 21 May 2009 be approved as a correct record.

18. CHAIRMAN'S COMMUNICATIONS

- 18.1 The Chairman noted that the meeting would be web cast.
- 18.2 The Chairman informed colleagues that Mr. Henry Allingham, who had recently been bestowed with the Freedom of the City, entered his second teenage on 6 June. He celebrated his 113th birthday which coincided with the D-Day commemorations. The Chairman wished Henry all the best and many more years of health and happiness.
- 18.3 The Chairman congratulated and thanked the Brighton Festival and Fringe for providing the city with a fantastically diverse series of cultural events and experiences during May. The city attracted varied artists, experts and personalities and it was vitally important to the City's economy.
- 18.4 The Chairman highlighted the City Futures job fair staged during the previous week with JobCentre Plus and the Argus, which was part of the council's ongoing work to help residents through the recession. There had been over 1,500 visitors and it was announced that over 2,000 job vacancies would be advertised in the coming months from the organisations that took part. She added that the Administration was committed to helping residents find work and to helping local businesses thrive.
- 18.5 The Chairman explained that Item 35 Pedestrian Network - Phase 2 had been deferred and would be presented to a future meeting of the Cabinet.
- 18.6 Councillor Norman wished to inform Members that Kim Philpott, manager at Homebase Support for the over 18s, had won the prestigious Registered Home and Care Manager Award at the National Home Care Awards. This was an excellent achievement and welcome recognition of the services provided by Kim and her team.

19. ITEMS RESERVED FOR DISCUSSION

- 19.1 In response to concerns from Councillor Mitchell the Chairman apologised for the number of late reports on the agenda.
- 19.2 **RESOLVED** – That all the items be reserved for discussion.

20. PETITIONS

- 20.1 There were none.

21. PUBLIC QUESTIONS

- 21.1 There were none.

22. DEPUTATIONS

- 22.1 The Cabinet considered a deputation presented by Ms Pamela McKeller (for copy see minute book). Ms McKellar spoke on behalf of parents who had raised concerns about the allocation of primary school places in the Goldsmid Ward area. She explained parents' disappointment at being allocated schools more than 2 miles away from their

homes and the problems caused by this. She asked the Cabinet to commit to providing a new school in Hove, which parents' believed to be the only solution to the current problem.

22.2 Councillor Brown thanked Ms McKellar for her deputation and explained that she was aware of the anxieties and challenges that faced parents with regard to schooling and that she wanted to provide opportunities that enabled children to thrive. It was necessary to balance the desires of parents and children against the operational realities of providing education in such a unique city. Councillor Brown appreciated and recognised the genuine concerns and made the following comments:

- With regard to travel to school, children of reception age directed to a school not of their choice more than two miles from their home would receive assistance with home to school transport.
- With regard to air pollution, Brighton & Hove was fortunate to have an extremely good public transport system; travel was a matter for parents, but in most cases it would be unlikely that travel by car was the only option.
- With regard to the council's pledge in the Children and Young People's Plan 2006-9, to "reduce journeys to school by car...by increasing journeys by foot...", there was a tension between the increasing demand for places in some parts of the city and the ability to provide places within easy walking distance. The council actively promoted healthier lifestyles and alternative transport solutions and encouraged more active lives for children, but there was no duty to legislate here.
- The council accepted that the 60 newly created places in Hove would not solve all the challenges, but the council had to establish that it would be using the limited available capital in the most effective way. In order to provide more places the council had to be satisfied that the trend in population growth in parts of the city would be sustained. Birth and GP registration data was limited to 4 years in advance of school places being required and both national and local longer term forecasting population data did not identified the population growth that had occurred; consequently the council's plans were still taking shape.
- With regard to the creation of new school in Hove, the council agreed that more places were needed and the council was actively investigating options to provide them. The council had made best provision possible this year and would provide transport assistance. The council responded quickly last year with the creation of new places at Davigdor and West Blatchington Infant Schools and further growth proposals for Davigdor Infant and Somerhill Junior Schools.

22.3 Councillor Brown appreciated that council responses could take time, which was not helpful to parents, but hoped that Ms McKellar and her deputation understood that the council took the situation very seriously.

22.4 The Chairman reiterated the Council's commitment to solving the problem and confirmed that Councillor Brown would keep in touch with the deputees.

22.5 **RESOLVED** – That the deputation be noted.

23. LETTERS FROM COUNCILLORS

23.1 There were none.

24. WRITTEN QUESTIONS FROM COUNCILLORS

24.1 The Chairman reported that three written questions had been received.

24.2 Councillor Davis had submitted the following question:

“We welcome the new document on the city’s Cultural Strategy presented at this committee. But, would like to ask what steps the Cabinet Member is taking now to ensure that the N1 11 ie. the participation in the arts indicator will reach its target in 2010?”

24.3 The following response from Councillor Smith had been circulated:

“The data from the Active People survey demonstrates and celebrates our current success in enabling our residents to actively participate in the arts. Brighton & Hove has the highest level of participation outside London and the highest in the south east region and of all the other local authorities that have selected NI 11.

Currently participation stands at 61.2 % and our target is 64 .2% by October 2010.

Our strategy is to recognise and build on our current success. It is a clear indication that our current approach is a good one.

The partnership working between the council and arts and cultural organisations of all sizes in the city is central in delivering the vibrant calendar of cultural events that our residents and visitors enjoy and will continue to be at the heart of the city council’s plans to increase participation in the arts to 2010 and beyond.

The regional and national picture

We are sharing good practice and knowledge around NI 11 with Arts Council England and the 3 other local authorities in the region that have selected NI 11 (Wokingham, Kent and Milton Keynes) through regular planning meetings. We have also participated in a national conference about NI 11.

The local picture

We are consolidating data from local and regional sources about the current opportunities for participation in the arts in the city, who delivers them, who participates and attends and who doesn’t.

We will then share this with our local cultural delivery partners and work with them to establish how we can reach those who are not currently participating.

To this end we are organising an NI 11 meeting working with the audience development agency Audiences South in Brighton for the 3 July. This meeting has been funded by ACE.

The meeting will have 3 main aims:

1. To introduce the cultural delivery partners to the detail of NI 11 including an introduction to the LAA and to the Active People survey
2. To share the ACE produced Propensity to Engage which shows where in the city the pockets of highest and lowest engagement in the arts are.
3. To ascertain what information on their audiences they already hold, identify gaps in participation and to share good practice in audience development.

Alongside this we are making the most of the opportunity of the Festivals Clusters pilot to invest in our festivals recognising that they play a key role in developing participation in the arts particularly at those traditionally non-engaged. An initial audit of the city found there to be 60 annual cultural festivals.

Building on current good practice

We have been focusing our existing investment, support and initiatives more tightly around NI 11 under our 'priority of 'providing excellent cultural opportunities for all'

ACE have identified 3 main types of event and activities that have the greatest potential to increase participation in the arts:

- Flagship outdoor events including initiatives in unexpected places
- Participatory projects with local people culminating in a community event
- Arts activities that people experience as part of everyday life

These are 3 areas in which the city's cultural sector already excel and which the city council will continue to prioritise through our annual and 3 year grant funding and through the Festival Clusters initiative which takes us through to 2010.

Flagship events

The city council and Arts Commission led White Night has participation at its heart and will continue to develop new partnerships in order to provide accessible arts activities in unexpected places and which people will experience as part of everyday life. New plans for 2009 include a programme of work with Sports Development and with Adult Learning Group with a focus on participatory cultural activity.

Our aim is for White Night to reach 20,000 people this year.

In Summary

In summary, our action plan is:

- To raise awareness of the requirements of NI 11 amongst our cultural delivery partners; to celebrate our success and develop a shared action plan
- To collate and share a picture of our current cultural offer and who is and is not participating
- To prioritise NI 11 outcomes through our grants programmes and through our strategic initiatives (such as Festival Clusters) and strategic events (such as White Night) and projects (such as participatory public art projects)
- To work with colleagues in other directorates to help embed NI 11 outcomes in projects and initiatives that are not arts initiated (for example input into Streets for People day, Adult Learning and Sports development)

To develop performance indicators and monitoring and evaluation for this investment that will help demonstrate NI 11 outcomes and provide additional context for the Active People survey."

24.4 Councillor Davis asked the following supplementary question:

“The target increase for participation the arts in only 3% and I have seen the measures proposed before; is there anything new planned?”

24.5 Councillor Smith gave the following response:

“This is all part of our culture audit; we want to aim for a target that we can reach in the current circumstances. It is excellent that we are the top authority for participation in the arts outside of the London Boroughs.”

24.6 Councillor Davis had submitted the following question:

“There is growing concern among parents of young children in my ward of Goldsmid at the shortage of local primary school places. Many parents have been told that they must send their children to schools a considerable distance from their homes, in some cases as much as four miles away. This is unacceptable for many young families.

Please would Cllr Vanessa Brown inform me how many children living in Goldsmid Ward have not been allocated places at primary schools in the recent admissions round that are within a walk of one mile from their homes, as encouraged by Brighton & Hove Council’s own policy?”

24.7 The following response from Councillor Brown had been circulated:

“The Council is investigating options to increase the number of primary school places in Hove and parts of Brighton in response to an unprecedented increase in the number of school age children. This increase is particularly evident in Hove, and Councillor Davis will be aware of the moves already made to permanently increase the size of the Davigdor and Somerhill schools, and the provision of additional places at West Blatchington Primary School.

Of the 136 children in the Goldsmid Ward allocated a Reception place for September, 91 will be attending a school less than a mile from their home.

There are 32 children who will be going to a school between 1 and 2 miles from their home, 15 by choice (10 first preferences, 2 second and 3 third) and 17 directed.

12 children were offered a school further than 2 miles but less than 3 miles, 10 were directed and 2 were by choice (one first preference and one third preference) One child was directed to a school over three miles from home.

Further options of both new build and the extension of existing schools are under evaluation, with the aim of providing two additional forms of entry in Hove beyond the permanent additional places already proposed.”

24.8 Councillor Davis asked the following supplementary question:

“Can more primary places be found in the Goldsmid area by this September?”

24.9 Councillor Brown gave the following response:

“We take this issue very seriously. We have already provided 30 extra places in the Goldsmid area; however, we are unable to find more at the moment because the schools cannot accommodate more children. We are actively looking into this and are considering two sites; an option paper will come to my Cabinet Member Meeting in due course. Since we’ve been in Administration we have put extra places in a number of schools and are committed to addressing parents’ concerns.”

24.10 Councillor Kitcat had submitted the following question:

“Can Cllr [Fallon-Khan] explain why the Regency Square war memorial continues to be in a state of disrepair nearly 8 months after residents, veterans and ward councillors first reported problems and what action is he taking to restore it?”

24.11 The following response from Councillor Fallon-Khan had been circulated:

“In early 2008 at the request of ex Service Associations, T.E.Tilley, the local stonemasons who maintain all the council war memorials were instructed to scaffold out The Royal Sussex Regiment Boer War Memorial at the bottom of Regency Square and undertake a minor refurbishment to include replacement of a number of missing letters, cleaning down of the stonework and treating the metalwork including redecoration of any previously decorated surfaces. Tilleys have maintained this memorial for many years and advised that the metalwork had previously been painted. A specification was consequently agreed with the paint manufacturers and applied to the metal surfaces during the refurbishment.

The works were completed in May 2008. In November it became evident that the repainted surfaces were fading badly, with patchy discoloration although the paint film itself did not appear to be de-bonding. Once this was discovered, Tilleys were recalled to the site and since that time investigations have been undertaken between themselves and the paint manufacturer to establish the cause of the discoloration and identify a remedial procedure. Initial advice from the paint manufacturer in January 09 was to let the new coatings weather in so that the extent of the problem could be established. Since February the Council has had discussions with the Conservation Officer of the War Memorials Trust, Joanna Sanderson and Tilleys to agree the way forward.

Unfortunately we have been unable to establish the cause of the failure but all parties now accept that the new paint film clearly was not suitable. Tilleys have accepted responsibility for resolving the problem and remedial works will be carried out at no cost to the council.

Tilleys are currently on site cleaning the lower parts to see if the discolouration on the paint can be removed. The discolouration may have been caused by a reaction of the metal to the previous paint or between the paint surface and the atmosphere. It is a matter of testing out solutions on trial areas to see the specific results. If this test area proves that the discolouration can be successfully removed and over time remain as such, the advice is that if the discolouration does not return after a few months this may be considered the reasonable solution for the memorial.

However, if this is not the case we would look to remove the paint and see what condition the base bronze underneath is in. On this basis initial instructions have been issued to re-erect the scaffold around the structure so that the paint can be removed from a section of the monument to establish the surface condition of the underlying metal. Based on this investigation a joint group including the council's conservation officer, the War Memorials Trust, Tilleys and Property & Design will meet on site to agree the remedial work specification and the contractor will be instructed accordingly. This meeting will also aim to establish an effective conservation regime for the future.

Property & Design have corresponded with ward councillors and with the Royal Sussex Regimental Association to keep them updated with progress and to reassure them that the necessary action will be taken to rectify this problem. We are fully aware of the sensitive nature, and importance, of the memorial and hope to have an effective solution and way forward within the next few months and anticipate completion of the remedial works this Summer."

24.12 Councillor Kitcat asked the following supplementary question:

Can you provide an update on when work will begin in the West Pier area opposite the memorial where hoarding are currently in place?"

24.13 Councillor Kemble gave the following response:

"You will be aware that a planning application was granted for the I360 project. We have had some problems overcome. The area is boarded up for health and safety reasons and will let you know when work on the site is going to begin."

25. NOTICES OF MOTION

25.1 There were none.

26. CORPORATE PLAN: PROGRESS REPORT

26.1 The Cabinet considered a report of the Acting Director of Strategy & Governance updating Members on the progress made against the five priorities and related actions in the Corporate Plan that was published in June 2008 (for copy see minute book).

26.2 Councillor Smith commented that the 'red' status of target 1.4.5 'Provide new spaces for professional and amateur sport at the Community Stadium and Brighton International Arena' was misleading; lots of work was being done on both developments and residents should be able to see the progress being made.

26.3 Councillor Fallon-Khan confirmed that information was now available for those actions which had been left blank.

26.4 In response to a queries from Councillor Elgood concerning diversity in council's workforce, Councillor Simson and the Acting Director of Strategy and Governance gave the following response respectively:

- Unlike the old Equalities Standard the new Standard only had 3 Levels; the council's recent achievement translated in to Level 2 of the new Standard and it was hoped that the new Level 3 would be reached by March 2010.
- Although progress is currently at 'amber' for percentage of the workforce from BME groups, the council had made good progress and was not far off 'green' status. The Assistant Director for Human Resources would write to Councillor Elgood with more details.

- 26.5 In response to Councillor Mitchell's request for an update on the proposed monorail, the Chairman explained that the Administration was keen to consider all forms of transport; a business plan was being drawn up and the prospect was really exciting for the city.
- 26.6 Councillor Brown explained to Councillor Mitchell that schools now work collaboratively, resulting in a reduction in permanent exclusions. She confirmed that information temporary exclusions would come to the Children & Young People's Cabinet Member Meeting.
- 26.7 Councillor Theobald assured Councillor Kitcat that new plans for cycling would be presented to an upcoming Environment Cabinet Member Meeting to coincide with the award of more funding from Cycle England.
- 26.8 In response to Councillor Kitcat's query regarding actions relating to pollution, the Acting Director of Strategy and Governance confirmed that this was not in the Corporate Plan, but was part of the Local Area Agreement which would be considered at the next meeting of the Cabinet.
- 26.9 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:
- (1) That it be noted that progress against the Corporate Plan outcomes is generally good and that close monitoring of actions is integrated into the organisations' business plans.
 - (2) That Cabinet Members will review any areas of poor performance in greater detail at future Cabinet Member Meetings.

27. CULTURAL STRATEGY

- 27.1 The Cabinet considered a report of the Director of Culture & Enterprise concerning the council's Cultural Strategy for the city (for copy see minute book).
- 27.2 Councillor Elgood commended the strategy and involvement of all political groups in its formation. He requested that Local Community Festivals be included as case studies when the strategy was reviewed.
- 27.3 Councillor Davis welcomed the strategy and the opportunity for another year of consultation and further case studies to be added.
- 27.4 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:

- (1) That the Cultural Strategy set out in the appendix to this report be agreed.
- (2) That the strategy be reviewed in 12 months time and as part of that review further detailed consultation with partners and a full Equalities Impact Assessment be undertaken.

28. MUSEUM PLAN

- 28.1 The Cabinet considered a report of the Director of Culture & Enterprise concerning the council's Strategic Forward Plan for the Royal Pavilion and Museums (for copy see minute book).
- 28.2 Councillor Kitcat commended the strategy and customer satisfaction rates and asked the Museums service was coping in the current economic climate given that 60% of its revenue came from admissions, retail, catering, corporate functions and charges for services.
- 28.3 Councillor Smith was unable to confirm figures, but explained that people were still coming to the city, but that they were more careful with their secondary spending; Brighton and Hove was coping well compared with the rest of the country.
- 28.4 Councillor Simson wished to record her gratitude for the detailed equalities implications contained in the covering report.
- 28.5 Councillor Davis felt that the report was very candid in regard to the financial implications; it was clear that the council needed to invest in basic areas in order to keep up with the market.
- 28.6 The Chairman explained that the council was restricted by the level of funding awarded by central government, but that what had been achieved offered good value for money.
- 28.7 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:
- (1) That the extract from the proceedings of the Culture, Recreation & Tourism Cabinet Member Meeting held on 9 June 2009 be noted.
 - (2) That the Royal Pavilion & Museums Strategic Forward Plan 2009-2012 be agreed.

29. LOCAL DEVELOPMENT FRAMEWORK CORE STRATEGY - AMENDMENTS TO THE SPATIAL STRATEGY

- 29.1 The Cabinet considered a report of the Director of Environment concerning the Core Strategy's 'spatial strategy' regarding the broad location of development in the city and in particular the urban fringe (for copy see minute book).
- 29.2 In response to Councillor Mitchell's concern that the downturn in the housing market had led to a proposed change in policy, Councillor Theobald assured her that the intention

was to protect the urban fringe; he was confident that the council could meet government targets on housing without building on the urban fringe.

29.3 The Assistant Director for City Planning added that it was prudent to include the urban fringe as a last resort for housing development to ensure that the Core Strategy is found to be 'sound' by the Planning Inspector.

29.4 Councillors Kemble and Caulfield agreed that the report sought to protect the urban fringe and provide assurances that the council was actively looking at development sites within the city.

29.5 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:

- (1) That the Spatial Strategy, Urban Fringe and Housing Delivery policy options be agreed for consultation and inclusion in the Council's Core Strategy subject to any minor alterations being made by the Director of Environment in consultation with the Cabinet Member for Environment.

30. TARGETED BUDGET MANAGEMENT (TBM) PROVISIONAL OUTTURN 2008/09

30.1 The Cabinet considered a report of the Interim Director of Finance & Resources concerning the provisional outturn position (Month 12) on the revenue and capital budgets for the financial year 2008/09 (for copy see minute book).

30.2 Councillor Simson was pleased that funding had been found from inside the council to support The Bridge, a community education centre based in Moulsecoomb previously funded under EB4U, in order that it could continue its activities and secure long term funding.

30.3 Councillor Elgood requested more information on the carry forward proposed in respect of the Aiming High programme for disabled children. He requested a written list of the carry forward.

30.4 The Director of Adult Social Care & Housing explained that it was joint funding across Children's and Adult services, which had to be carried forward to develop the services in the next year

30.5 The Director of Children's Services added that the funding was being transferred from the adult budget to the children's budget so it would not be lost; this was accounting mechanism.

30.6 In response to concerns from Councillor Mitchell regarding the increased demands on the Older People and Physical Disability Services, the Director for Adult Social Care & Housing explained that the current trend had not been expected and that future trends were difficult to predict; the financial recovery plans for the next year set out how the pressures will be managed.

30.7 In response to similar concerns from Councillor Mitchell regarding demand on Children's Services, Councillor Brown confirmed that the council had a higher number of looked

after children and a higher number of children on the child protection register due to the national focus on this area. An analysis of figures was currently being done in order to make better predictions in the future with regard to this very sensitive area.

30.8 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:

- (1) That the significantly improved provisional outturn position for the General Fund, which is now forecasting an underspend of £2.441 million be noted.
- (2) That the provisional outturn for the Section 75 Partnerships and Housing Revenue Account (HRA) for 2008/09 be noted.
- (3) That the budget changes and future commitments set out in paragraph 3.5 be approved.
- (4) That the provisional outturn position on the capital programme be noted.
- (5) That the following changes to the capital programme be approved:
 - (i) The budget reprofiling as set out in Appendix 2;
 - (ii) The carry forward of slippage of £2.578 million into the 2009/10 capital programme, to meet on-going commitments on these schemes as set out in Appendix 3;
 - (iii) The new schemes as set out in Appendix 4.

31. HOUSING REVENUE ACCOUNT BUDGET 2009/10 REDUCTION IN RENT INCREASES

31.1 The Cabinet considered a joint report of the Director of Adult Social Care & Housing and the Interim Director of Finance & Resources seeking approval to revise the approved rent increases for 2009/10 in line with the Government's revised Subsidy Determination (for copy see minute book).

31.2 Councillor Caulfield wished to record her apologies to the Housing Management Consultative Committee (HMCC); usually such a report would be considered there first, however if was felt that, given the timing of the next HMCC meeting, it would be better to pass on the reduction in rent increases as soon as possible by bringing the report to Cabinet for approval.

31.3 Councillor Caulfield explained that the original increase could not be retained and invested in Decent Homes; the subsidy calculation would not allow the council to keep any increase in its income, therefore there was no benefit as the council would be paying more money to the government. It was possible that this would be addressed by government in the near future.

31.4 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:

- (1) That the extract from the proceedings of the Housing Cabinet Member Meeting held on 3 June 2009 be noted.

- (2) That the amendments to individual rent increases and decreases in line with rent restructuring principles as determined by the latest Government Subsidy Determination issued in May 2009 be approved.

32. KING ALFRED LEISURE CENTRE – UPDATE ON URGENT WORKS AND POTENTIAL IMPROVEMENTS

- 32.1 The Cabinet considered a joint report of the Director of Environment and the Interim Director of Finance & Resources concerning urgent works being undertaken at the King Alfred Leisure Centre, a request to release further funding and options for further works to improve the building in the medium term prior to redevelopment (for copy see minute book).
- 32.2 Councillor Smith informed Members that paragraph 3.18 should refer to paragraphs 3.22-3.29 of the report rather than paragraph 7.11.
- 32.3 Councillor Mitchell welcomed the investment to keep the King Alfred Leisure Centre open, but was keen to see what was being planned in the long term. She asked if usage figures had risen and whether the total investment achieved value for money.
- 32.4 Councillor Young explained that the King Alfred had maintained its turnover and it was hoped that usage would increase once the gym was moved to a bigger area. Proposals for the long term had not yet been developed yet as officers had been working on the proposals to keep the centre open.
- 32.5 The Director of Environment added that the decline in usage had coincided with the expectation that the centre would close; the proposed investment was expected to increase usage again.
- 32.6 In response to a question from Councillor Kitcat, the Chairman assured him that all options for a long term solution would be investigated and the council would consider any that were viable and deliverable.
- 32.7 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:
 - (1) That the progress on the urgent works undertaken from the initial allocation of £859,000 to the capital programme as agreed at the Cabinet meeting on 20 November 2008 be noted.
 - (2) That an allocation of £641,000 to the capital programme to complete the health and safety and planned maintenance works as identified in the report to Cabinet on 20 November 2008 be approved.
 - (3) That an allocation of £0.75 million to undertake improvement works to benefit the operation of the building in the medium term (3-5 years) be approved.
 - (4) That it be agreed that the Director of Environment and Chief Finance Officer, in consultation with the Cabinet Member for Culture, Recreation and Tourism and the

Cabinet Member for Finance, determine the priority of works referred to in 2.2 and 2.3.

33. UPDATE ON THE FALMER ACADEMY PROJECT

33.1 The Cabinet considered a report of the Director of Children's Services updating Members on the process for the development of an Academy on the Falmer High School site (for copy see minute book).

33.2 The Chairman and councillors from all groups thanked the Project Director, Lorraine O'Reilly, for her hard work on taking the project forward and wished her well in her future career.

33.3 In response to queries from Councillor Kitcat, the Project Director made the following comments:

- The £2 million set aside for ICT would cover ICT systems and equipment for the children and the back office at the school.
- There had been informal meetings with 16 unions on a monthly basis over the last year; now that the TUPE negotiations had commenced, the meetings would become formal. It was hoped that individuals would be approached around Christmas time, but until the new staffing structure was announced in the Autumn, people could not be matched to jobs, but were being kept informed at all times.

33.4 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:

- (1) That progress since the Cabinet Meeting of 16 October 2008 be noted.
- (2) That the outcome of the procurement process undertaken between mid November 2008 and mid May 2009 be considered and Kier be endorsed as the Council's preferred bidder to enter into the next stage of tendering.
- (3) That it be agreed that the preferred bidder undertakes the demolition of the central block and removal of trees as required during the school summer holiday period.
- (4) That the requirement for approval of the Final Business Case in September 2009 be noted.

34. FALMER COMMUNITY STADIUM - SPREADING OF EXCAVATED CHALK ON LAND SOUTH OF VILLAGE WAY

34.1 The Cabinet considered a report of the Interim Director of Finance & Resources concerning approval to grant consent *via* a seven year licence to the Community Stadium Limited to deposit excavated chalk arising from the construction of the Community Stadium onto a field owned by the council (for copy see minute book).

34.2 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:

- (1) That the Club be granted a 7 year licence to deposit chalk on the Land and carry out a programme to restore the Land to agricultural use on substantially the terms set out in the confidential report elsewhere on this agenda and that authority to enter into the licence is granted to the Director of Environment and the Director of Finance and Resources in consultation with the Leader and Cabinet Member for Central Services.
- (2) That the urgency decisions taken by the Director of Finance and Resources in consultation with the Leader and Deputy Leader in respect of the surrender agreement with the tenant farmer and the grant of a temporary licence to allow works on site to continue be noted.

35. PEDESTRIAN NETWORK - PHASE 2

35.1 The item had been deferred until a future meeting of the Cabinet.

PART TWO SUMMARY

36. FALMER COMMUNITY STADIUM - SPREADING OF EXCAVATED CHALK ON LAND SOUTH OF VILLAGE WAY

36.1 The Cabinet considered a report of the Interim Director of Finance & Resources concerning approval to grant consent *via* a seven year licence to the Community Stadium Limited to deposit excavated chalk arising from the construction of the Community Stadium onto a field owned by the council (for copy see minute book).

36.2 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the recommendations as detailed in the Part Two confidential report.

37. PART TWO ITEMS

37.1 The Cabinet considered whether or not any of the above items should remain exempt from disclosure to the press and public.

37.2 **RESOLVED** - That item 36, contained in Part Two of the agenda, remains exempt from disclosure to the press and public.

The meeting concluded at 5.45pm

Signed

Chair

Dated this

day of

Subject:	Dual Diagnosis – Response to Scrutiny Review		
Date of Meeting:	9 July 2009		
Report of:	Director of Adult Social Care & Housing		
Contact Officer:	Name:	Simon Scott	Tel: 545414
	E-mail:	Simon.Scott@bhcpct.nhs.uk	
Key Decision:	No		
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report outlines the initial response from service commissioners from Brighton and Hove Teaching Primary care Trust and Brighton & Hove City council Adult Social Care and Housing to the scrutiny review on dual diagnosis (of mental health and substance misuse problems).
- 1.2 The scrutiny review defined 'dual diagnosis' as individuals diagnosed with both severe mental illness and substance use disorders. However, it is a definition that is not fully recognised by all practitioners in the field and represents an emergent area requiring further intervention and support.
- 1.3 The review was instigated by Councillor Georgia Wrighton. The Scrutiny Panel comprised Councillors David Watkins (Chairman) Pat Hawkes, Keith Taylor and Jan Young (who resigned shortly into the review due to a new appointment). The Panel met five times.
- 1.4 Evidence was sought from and provided by clinicians and managers from Sussex Partnership Foundation NHS Trust, officers of NHS Brighton & Hove, officers of Brighton & Hove City Council, officers of the Children & Young People's Trust; representatives of the main supported housing providers in the city; representatives of the non-statutory services operating in the fields of mental health and substance misuse; and the families and carers of people with a dual diagnosis.
- 1.5 The Panel made twenty three recommendations. These were offered under separate themes namely; 'Supported Housing', 'Women' Services', 'Children and Young People', 'Integrated Working and Care Plans', 'Funding', 'Treatment and Support' and 'Data Collection and Systems'.
- 1.6 The outcome of the scrutiny review will be used to inform the 'Working Age Mental Health Commissioning Strategy'. The strategy is being developed by a working group consisting of Brighton & Hove Teaching Primary Care Trust, Sussex Partnership Foundation Trust, Brighton & Hove City Council Adult Social Care & Housing, MIND, service users, carers and GPs. In recognition of its significance dual diagnosis will be a central theme for the new strategy and the group has made a commitment to consider the recommendations of the scrutiny

review during the development of the strategy. The strategy is due to be completed early in the New Year.

2. RECOMMENDATIONS:

- 2.1 That Cabinet confirms, in principle, support for the review's recommendations as detailed in appendix 1.
- 2.2 That Cabinet endorses the consideration of all the recommendations by the Working Age Mental Health Commissioning Strategy Working Group.
- 2.3 That Cabinet request that the Working Age Mental Health Commissioning Strategy be presented to a future Cabinet meeting and made available to the members of the Scrutiny Review.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The integration of mental health and substance misuse services has been a longstanding matter of concern locally and nationally. The Reducing Inequality Review (2007) identified that over 52% of all people in receipt of Incapacity Benefit in the city receive it as a result of poor mental health, a significantly higher proportion than the South East (41%), England (42%) and other small cities (41%). Furthermore, the City contains an area with the highest level of mental health needs in England. This has significant impact on the health and wellbeing of individuals and communities as well as the overall economic health of the city.
- 3.2 The scrutiny review proposed a number of recommendations to address the challenges of dual diagnosis. Of the twenty three recommendations, four in particular are of specific significance to the city council. These are as follows:
- 3.3 Recommendation (1C – Supported Housing): 'Consideration should be given to commissioning long term supported housing for people with a dual diagnosis who refuse treatment for their condition(s).'
- 3.3.1 Practitioners in both housing and treatment services recognise that successful treatment of dual diagnosis requires stable housing and that stable housing requires successful treatment. However, provision of supported housing for those not in treatment presents an unsustainable cost for both housing and health services. Therefore an alternative for consideration is the provision of long term supported housing as an incentive for those individuals to engage and maintain their treatment. This will be considered as part of the commissioning strategy.
- 3.4 Recommendation (3C – Children and Young People): 'Serious consideration needs to be given to the growing problem of problematic use of alcohol by children and young people (including those who currently have or are likely to develop a dual diagnosis). It is evident that better support and treatment services are required.'

- 3.4.1 This issue is detailed in and concurs broadly with the recommendations from the 'Children and Young Peoples Overview and Scrutiny ad hoc panel on Alcohol and Young People' (May 2009). The implications of this report are due to be circulated imminently; there will be benefit from the perspectives of both pieces of work.
- 3.5 Recommendation (6B – Treatment and Support): 'Treatments commissioned for people with a dual diagnosis need to be readily available at short notice, so that the chance for effective intervention is not lost with clients who may not be consistently willing to present for treatment. Any future city Strategic Needs Assessment for dual diagnosis should focus on the accessibility as well as the provision of services.'
- 3.5.1 The accessibility of services will be a key part of the Working Age Mental Health Commissioning Strategy. Commissioners will work over the summer to give further consideration to the timeliness of intervention.
- 3.6 Recommendation (5A– Funding): 'Better provision for alcohol related problems, both in terms of treatment and Public Health, is a priority and urgent consideration should be given by the commissioners of health and social care to developing these services so that they meet local need.'
- 3.6.1 There is a recognised link between mental well-being and alcohol use. The Annual Report of the Director of Public Health concurs that provision for the better management of alcohol in the city is a key factor in improving the overall health of the city and specifically for those with mental health issues. Better integration of services (both existing and future) is also considered important by the Sussex Partnership Foundation Trust.

4. CONSULTATION

- 4.1 The working age mental health commissioning strategy working group includes practitioners, service users and carers, all of whom will be involved in considering the recommendations of the scrutiny review and their use in the strategy.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no immediate financial implications arising from this report. The impact of the recommendations and development of mental health or housing services will be financially modelled as part of developing the commissioning strategy and subsequent input into future Health and Council budget strategies for consideration.'

Finance Officer Consulted: Anne Silley

Date: 29/06/09

Legal Implications:

- 5.2 At its meeting on 21 April 2009, the Overview & Scrutiny Commission resolved that the Dual Diagnosis Scrutiny Report be endorsed and that its recommendations be referred to Cabinet. The Council's constitution requires Cabinet to consider the report within 6 weeks of it being submitted to the Chief Executive, or at its next scheduled meeting, whichever is the later.

Lawyer Consulted:

Liz Woodley

Date: 29/06/09

Equalities Implications:

- 5.3 As part of the scrutiny review consideration was given to the needs of older and young people with dual diagnosis as well as its prevalence in ethnic minority communities. This information will be helpful in informing the commissioning strategy. Moreover, the strategy will be equality impact assessed.

Sustainability Implications:

- 5.4 Better use and co-ordination of existing resources will deliver a more cost-effective and sustainable service. In addition, support for individuals with dual diagnosis to engage in community and working life will help contribute to the sustainability of the local economy and local communities.

Crime & Disorder Implications:

- 5.5 Improving the quality and co-ordination of treatment for offenders with a dual diagnosis is anticipated to result in increasing the stability of their lifestyles and consequentially a reduction in the likelihood of re-offending.

Risk & Opportunity Management Implications:

- 5.6 As an emergent area it is widely acknowledged that services for individuals with dual diagnosis require review and improvement. The council has a duty of care to vulnerable individuals. The outcome of the scrutiny review presents a prime opportunity to inform the current work on the new commissioning strategy. Moreover, as noted earlier in this report the Reducing Inequality Review (2007) identified over 50% of incapacity benefits claimants claimed on the basis of mental health issues. Therefore there is a substantial risk, if this area of work is not prioritised, to the long-term economic welfare of a large proportion of the working age population.

Corporate / Citywide Implications:

- 5.7 As noted in the scrutiny review and this report dual diagnosis is a complicated disorder and requires a multi-faceted response involving a range of partners. Thus the scrutiny review recommendations have and will be considered by the multi-agency working group.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 An alternative option is to not accept the recommendations of the scrutiny review. However the detailed work and considered opinions of the experts in the field who contributed to the review are held to be accurate and valuable and thus should be considered as part of the development of the new commissioning strategy.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 Cabinet is required to provide a response to scrutiny reviews. Having considered the review and its recommendations Cabinet is keen to ensure that the work of the scrutiny panel and those that gave evidence is made best use of.

SUPPORTING DOCUMENTATION

Appendices:

1. Scrutiny review recommendations and relevant lead organisation
2. Scrutiny Report on Dual Diagnosis (on mental health and substance misuse problems)

Documents in Members' Rooms

None

Background Documents

None

Scrutiny Review Recommendations & Relevant Lead Organisation

	Recommendation	Relevant Lead Organisation			
		NHS B&H / Adult Social Care Commissioning	Children and Young Peoples Trust	BHCC Housing	Sussex Partnership NHS Foundation Trust
1	Supported Housing				
a)	Consideration should be given to the feasibility of commissioning temporary supported housing provision to be used to accommodate people with a Dual Diagnosis in between their discharge from residential psychiatric treatment and the allocation of appropriate longer term housing. Housing people with a Dual Diagnosis in 'Bed & Breakfast' accommodation should only be considered as a last resort			X	
b)	Consideration should be given to the feasibility of commissioning a residential assessment facility to be used to house people with a suspected Dual Diagnosis for a period long enough to ensure a thorough assessment of their mental health and other needs.			X	
c)	Consideration should be given to commissioning long term supported housing for people with a Dual Diagnosis who refuse treatment for their condition(s).			X	

Scrutiny Review Recommendations & Relevant Lead Organisation

d)	Brighton & Hove City Council Housing Strategy and the Sussex Partnership Foundation Trust should seek to agree a protocol requiring statutory providers of mental health services to notify the council's Housing Strategy department when a client has been admitted to residential mental health care (subject to the appropriate approval from clients). This would enable Housing Strategy to assess the risk of an individual being unable to access suitable housing on their discharge from hospital, and to take appropriate action.			X	X
e)	Consideration should be given to establishing a 'Dual Diagnosis pathway' to ensure that people with a Dual Diagnosis can be appropriately housed as quickly and efficiently as possible.	X		X	X
f)	The West Pier Project represents an effective model for supported housing suitable for (some people) with a Dual Diagnosis. Serious consideration should be given to providing more such facilities within the city.			X	

Scrutiny Review Recommendations & Relevant Lead Organisation

2 Women's Services					
a)	Any future Needs Assessment of city-wide Dual Diagnosis services must address the important issue of the potential under-representation of women, and must introduce measures to ameliorate this problem	X (with the Joint Public Health Team)			
b)	The problems highlighted by Brighton Women's Refuge are addressed (point 8.1(d) in the full report), with assurances that local solutions will be found to ensure that an appropriate range of services is made available.	X			
3 Children and Young People					
a)	The integrated services for Dual Diagnosis offered by the CYPT are studied by agencies responsible for co-working to provide adult Dual Diagnosis services. Where agencies are unable to formally integrate, or feel that there would be no value in such a move, they should set out clearly how their services are to be effectively integrated on a less formal basis.	X		X	X
b)	Serious and immediate consideration must be given to introducing a 'transitional' service for young people with a Dual Diagnosis (perhaps covering ages from 14-25). If it is not possible to introduce such a service locally, then service providers must demonstrate that they have made the progression from children's to adult services as smooth as possible, preserving, wherever feasible, a high degree of continuity of care.	X	X		X

Scrutiny Review Recommendations & Relevant Lead Organisation

c)	Serious consideration needs to be given to the growing problem of problematic use of alcohol by children and young people (including those who currently have or are likely to develop a Dual Diagnosis). It is evident that better support and treatment services are required.		X		
d)	The development of a 'pathway' to encourage A&E staff to refer young people attending A&E with apparent substance or alcohol problems should be welcomed. There may need to be targets for referrals to ensure that the pathway is used as efficiently as possible.		X (in conjunction with BSUH)		
e)	Public Health education encouraging abstinence/sensible drugs and alcohol use is vital to reducing the incidence of Dual Diagnosis in the long term. Effective funding for this service must be put in place. Public health education encouraging mental wellness is equally important.	X (Public Health Team)			
f)	Dual Diagnosis can have a profound and ongoing impact upon the families of people with a co-morbidity of mental health and substance misuse issues. It is vital that appropriate support services are available for families and that every effort is taken to identify those in need of such support. Therefore, a protocol should be developed whereby a formal assessment of the support needs of families is undertaken whenever someone is diagnosed with a Dual Diagnosis.		X		

Scrutiny Review Recommendations & Relevant Lead Organisation

4	Integrated Working and Care Plans				
a)	Consideration should be given to adopting an integrated approach to the assessment of people with Dual Diagnosis problems. Such assessments must be outcome focused. If the commissioners are unable/unwilling to move towards such a system, they should indicate why the current assessment regime is considered preferable.	X	X	X	X
b)	A single integrated Care Plan may be neither possible nor desirable, but co-working in devising, maintaining and using Care Plans is essential. Whilst good work has clearly been done in this area, the development of a Care Plan, including clearly expressed 'move-on' plans, which can be accessed by housing support services (and other providers) is a necessary next step in the integration of support services for Dual Diagnosis.	X	X	X	X

Scrutiny Review Recommendations & Relevant Lead Organisation

5 Funding					
a)	Better provision for alcohol related problems, both in terms of treatment and Public Health, is a priority and urgent consideration should be given by the commissioners of health and social care to developing these services so that they meet local need.	X			
b)	The commissioners of Dual Diagnosis services must agree on a level (or levels) of care housing support appropriate for people with a Dual Diagnosis and ensure that there is sufficient funding available for city supported housing providers to deliver this level of care.			X	
6 Treatment and Support					
a)	The provision of detoxification facilities for city residents be reconsidered, with a view to providing more timely access to these services, particularly in light of growing alcohol and drug dependency problems in Brighton & Hove.	X			
b)	Treatments commissioned for people with a Dual Diagnosis need to be readily available at short notice, so that the chance for effective intervention is not lost with clients who may not be consistently willing to present for treatment. Any future city Strategic needs Assessment for Dual Diagnosis should focus on the accessibility as well as the provision of services.	X			

Scrutiny Review Recommendations & Relevant Lead Organisation

c)	The Sussex Partnership Foundation Trust examines its policies relating to detaining people under a section of the Mental Health Act, in order to ensure that the inevitably distressing process of 'sectioning' is as risk free as possible (for patients and also for their families and carers), and that maximum possible therapeutic benefit is extracted from the process. (If the trust has recently undertaken such work/carries out this work on an ongoing basis, it should ensure that it has relevant information on this process available to be accessed on request by patients and their families.)	X			X
d)	Service users should be central to the development of Dual Diagnosis services. When they commission services, the commissioners should ensure that potential service providers take account of the views of service users when designing services and training staff, and should be able to demonstrate how these views have been incorporated into strategies, protocols etc.	X	X	X	
7	Data Collection and Systems				
a)	A new Strategic Needs Assessment for Dual Diagnosis services in Brighton & Hove is undertaken as a matter of urgency.				

Scrutiny Report on Dual Diagnosis

**Report on Dual Diagnosis (of
mental health and substance
misuse problems)**

A Introduction

1. The Scrutiny Review

- 1.1 This Scrutiny Review was instigated by Councillor Georgia Wrighton, who submitted a request for scrutiny to the Brighton & Hove Overview & Scrutiny Organisation Committee (OSOC). Councillor Wrighton suggested that a Scrutiny Panel should:

“investigate and suggest improvements to the provision of health, housing and support services for those in the community, who because of an actual or perceived co-existing substance misuse and mental health problem, fail to receive adequate medical and social care.”¹

- 1.2 OSOC agreed to form a panel to investigate this issue at its 14 January 2008 meeting.
- 1.3 Councillors Pat Hawkes, Keith Taylor, David Watkins and Jan Young agreed to become Panel members. Panel members elected Councillor David Watkins as Chairman of the Scrutiny Panel.
- 1.4 On May 15 2008 Councillor Young was appointed the Brighton & Hove City Council Cabinet Member for Finance. Members of the Council's Executive are not permitted to serve on Scrutiny Committees or Panels. Councillor Young was therefore required to resign her place on this Scrutiny Panel.
- 1.5 The Panel held five evidence gathering meetings in public. The witnesses included clinicians and managers from Sussex Partnership Foundation NHS Trust (the main provider of statutory mental health and substance misuse services in the city); officers of NHS Brighton & Hove² (the commissioners of citywide mental health and substance misuse services); officers of Brighton & Hove City Council (including those responsible for managing the council's housing strategy); officers of the Children & Young People's Trust; representatives of the main supported housing providers in the city; representatives of the non-statutory services operating in the fields of mental health and

¹ Cllr Wrighton's request for Scrutiny is reprinted in **appendix 1** to this report.

² NHS Brighton & Hove was formerly known as Brighton & Hove City Teaching Primary Care Trust and this title is used throughout this report.

substance misuse; and the families and carers of people with a Dual Diagnosis.

- 1.6 The Panel also welcomed evidence in writing and received one written submission³.
- 1.7 In addition to the five meetings in public, the Panel also held several private scoping meetings to determine the structure of the review process and the witnesses to be invited, and to agree a report. In addition, members visited the West Pier Project, a supported housing scheme managed by Brighton & Hove City Council. The West Pier Project provides some accommodation for people with a Dual Diagnosis.

2. The Process of the Review

- 2.1 During the course of the review, Panel members heard a wide range of evidence from witnesses who often had differing perspectives on the problems of Dual Diagnosis. However, it soon became evident that there were a number of themes repeatedly identified as important, and the Panel has therefore chosen to focus on, and make recommendations around, these key themes.
- 2.2 Panel members wish to thank all the witnesses who came forward to give evidence in person or to provide written statements.⁴ Members were most impressed by the knowledge and commitment of all the witnesses they encountered. While serious problems regarding Dual Diagnosis do exist, and while some problems may always exist, it is clear that this is not due to any lack of passion or ability on the part of those who deal professionally with the issue, nor due to any lack of commitment on the part of families and carers.
- 2.3 Panel members are grateful for all the evidence they were presented with, and the Panel has tried to take account of all the views expressed when making its recommendations. At times it may not have been possible to incorporate some evidence into the report recommendations, most commonly because, although a very important problem may have been identified, its solution would have been beyond the scope of the Panel's effective influence (for instance requiring a change in national rather than local government policy).

³ Written evidence is re-printed in **appendix 6** to this report.

⁴ A list of the witnesses who gave evidence in person can be found in **appendix 2** to this report.

3 Definitions of Dual Diagnosis

- 3.1 'Dual Diagnosis' is a term used to refer to people who have a mental health problem and who also use drugs or alcohol in a problematic manner.⁵
- 3.2 However, this definition may not, in itself, be all that useful, as the set of people with some co-existing mental health and substance misuse problems is very large indeed. So large, and potentially so disparate, is this group that it is difficult to see the utility in designating everyone in it as having a 'Dual Diagnosis'.

In consequence, the term tends generally to be reserved for those people who have the most serious problems, either because of the severity of their mental illness or substance misuse problem, or because the combination of the two types of problem presents particular challenges. Department of Health guidance defines Dual Diagnosis as involving "*severe mental health problems and problematic substance misuse*".⁶

- 3.3 The following table illustrates the complex nature of Dual Diagnosis problems⁷. Individuals who fall in the lower right section of this matrix are most likely to be targeted by Dual Diagnosis services.

⁵ The term 'Dual Diagnosis' is sometimes used for other co-morbidities, such as the combination of learning disability and substance misuse problems. However, it is most commonly employed in the context of co-existing mental health and substance misuse issues, and this is how it is used throughout this report.

⁶ Mental Health Policy Implementation Guide: Dual Diagnosis Good Practice Guide, Department of Health, 2002 (p6). Published works referred to in this report are listed in **appendix 4**.

⁷ Taken from the Brighton & Hove and East Sussex Dual Diagnosis Needs Assessment (2002), p6.

	Low severity substance misuse	High severity substance misuse
Low severity mental illness	e.g. a recreational user of 'dance drugs' who has begun to struggle with low mood after weekend use	e.g. a dependant drinker who experiences increasing anxiety
High severity mental illness	e.g. an individual with bipolar disorder whose occasional binge drinking and experimental use of other substances destabilises their mental health	e.g. an individual with schizophrenia who misuses cannabis on a daily basis to compensate for social isolation

3.4 The set of people with *severe* mental health problems and *problematic* substance misuse (i.e. the set represented in the bottom right of the matrix) is much smaller than the set of people with *any* co-existing mental health and substance misuse problem, but it is nonetheless quite a large group. Some professionals appear content to work with a definition of Dual Diagnosis close to that quoted above, but others prefer to define it even more narrowly, identifying a 'typical' client as being someone with a very severe mental health problem (probably schizophrenia or a bi-polar disorder), plus substance misuse problems which are likely to feature heavy use of opiates and (often) the additional misuse of a wide range of other substances, including alcohol. Furthermore, such people are very likely to be rough sleepers or otherwise homeless, to present regularly to mental health services and to hospital A&E departments, and to be in regular contact with the police (generally for fairly low level offences concerned with anti-social behaviour and/or acquisitive crime).⁸

3.5 There is some potential for confusion here, as it is not always clear whether people who employ the term Dual Diagnosis use it in its very narrow, slightly broader or its very broadest sense. However, for the

⁸ Evidence from Richard Ford, Executive Director (Brighton & Hove Locality), Sussex Partnership Foundation Trust: 29.02.08 (point 4.16 in the minutes to this meeting). Detailed minutes from the Dual Diagnosis Panel evidence gathering meetings are reprinted in **appendix 3 (A-F)** to this report.

Panel to insist on a single definition of Dual Diagnosis might have effectively excluded some interesting and important evidence. Therefore, whilst Panel members are clear that Dual Diagnosis should be taken to refer to severe rather than mild co-morbidities (as indicated in the table at 3.3), they have not sought, in the context of this report, to define it any more narrowly.

- 3.6** It should also be noted that the term ‘Dual Diagnosis’ is not universally accepted as the best phrase to describe this set of problems. Some professionals prefer to refer to a ‘*co-morbidity of mental health and substance misuse problems*’; others reject Dual Diagnosis in favour of terms such as ‘*complex needs*’, arguing that ‘Dual Diagnosis’ implies that a person has only two types of problem, whereas in fact many people have a wide variety of needs, including mental health and substance misuse problems but also potentially encompassing general health needs, problems with criminal behaviour, homelessness and so on.⁹
- 3.7** The Panel recognises that the term ‘Dual Diagnosis’ is not entirely satisfactory, but it is the phrase most widely employed to describe co-existing mental illness and substance misuse problems, and therefore likely to be understood by more people than the alternatives. In consequence, it is the term preferred in this report.

4. Prevalence of Dual Diagnosis Problems

- 4.1** There is no accurate national figure for the number of people with a Dual Diagnosis. However, there seems to be broad agreement that between 30-50% of people with a severe mental health problem have a co-existing substance misuse problem.¹⁰ Nationally, Community Mental Health Teams (CMHTs) report that 8-15% of their clients have a Dual Diagnosis.¹¹
- 4.2** Inner city areas tend to feature very high incidences of Dual Diagnosis, and Dual Diagnosis is particularly prevalent amongst the homeless/rough sleepers and in prison.¹²
- 4.3** The prevalence of Dual Diagnosis within Brighton & Hove is uncertain, but professionals seem to be agreed that it is a major problem, with

⁹ Evidence from Andy Winter, Chief Executive, Brighton Housing Trust: 07.03.08 (point 19.3).

¹⁰ Needs Assessment: services for adults with mental illness and substance misuse problems in Brighton & Hove and East Sussex, Brighton & Hove City teaching Primary Care Trust, 2002 (pp12,13).

¹¹ Mental Health Policy Implementation Guide: Dual Diagnosis Good Practice Guide, Department of Health, 2002 (p7).

¹² Ibid. (p67).

local rates almost certainly at the high end of the national spectrum.¹³ There could well be a very high level of unmet need in the city also, as people with Dual Diagnosis may often be reluctant to present for treatment.¹⁴ However, the nature of the problems associated with Dual Diagnoses means that this is scarcely an 'invisible' group: people with a Dual Diagnosis are generally well known to healthcare services, social care and the police due to their chaotic lifestyles.¹⁵ If these people are not officially designated as having a Dual Diagnosis, this may be indicative of problems with the way in which city agencies record and share data rather than because a large number of people have effectively escaped attention.

- 4.4** The last systematic attempt to estimate the size of this problem in Brighton & Hove was the **2002 Dual Diagnosis Need Assessment for Brighton & Hove and East Sussex**. This assessment forms the basis for current city-wide Dual Diagnosis services.¹⁶
- 4.5** Dual Diagnosis is a city-wide problem, although rates of both substance misuse and of mental illness vary considerably across the city, so one would expect some wards to record lower than average incidences of people with a Dual Diagnosis and other wards to have much higher figures.¹⁷
- 4.6** Dual Diagnosis has traditionally have been associated with people of 'low' social status; but it is increasingly being viewed as a problem affecting all sections of society, particularly as widening drug and alcohol use mean that people from a broad variety of backgrounds begin to present to substance misuse services.¹⁸
- 4.7** It is unclear whether Dual Diagnosis is an equally significant problem for both sexes. It seems to be the case that men are more commonly diagnosed as having a co-morbidity of mental health and substance misuse issues, but it is hard to tell whether this is indicative of a greater male prevalence, or whether men are simply more likely than women to present to services where their condition will be accurately assessed

¹³ Mental Health Needs Assessment for Working Age Adults in Brighton & Hove; Alves, Bernadette; Brighton & Hove City teaching Primary Care Trust, 2007 (p47).

¹⁴ Evidence from Simon Scott, Strategic Commissioner for Mental Health, Brighton & Hove City teaching Primary Care Trust: 07.03.08 (point 4.11 in the minutes of this meeting).

¹⁵ Evidence from Richard Ford: 29.02.08 (point 9.2).

¹⁶ Needs Assessment: services for adults with mental illness and substance misuse problems in Brighton & Hove and East Sussex, Brighton & Hove City teaching Primary Care Trust, 2002.

¹⁷ Evidence from Simon Scott: 07.03.08 (point 4.4).

¹⁸ Evidence from Dr Tim Ojo, Consultant Psychiatrist, Sussex Partnership Foundation Trust: 28.03.08 (point 20.9).

(for instance, presenting as homeless to a local authority).¹⁹ There does seem to be some evidence to suggest that women are less likely to present for treatment than men (particularly for treatment of substance misuse issues); and there also seems to be a consensus that women are likely to manifest particularly severe Dual Diagnosis problems.²⁰ (This issue is addressed at more length in **part 8** of this report.)

- 4.8** There appears to be little evidence as to whether Dual Diagnosis is particularly prevalent in specific ethnic groups, or amongst people of a particular sexual orientation. However, any community with higher than average incidences of either drugs/alcohol use or serious mental illnesses might be assumed to be liable to feature relatively high incidences of Dual Diagnosis.²¹
- 4.9** As noted above (**point 3.4**), Dual Diagnosis is most typically associated with the misuse of opiates and other 'class A' drugs. However, there are also very strong associations with the misuse of alcohol, with problematic cannabis use and with the misuse of prescription drugs such as benzodiazepines.²²

5. Reasons for the High Prevalence of Dual Diagnosis

- 5.1** It is not possible to identify a definitive cause of Dual Diagnosis problems, since this may vary from individual to individual. However, there do seem to be some generally accepted reasons why people with a severe mental illness so frequently have co-existing substance misuse problems.
- 5.1(a)** The use/misuse of some substances may cause or trigger mental health problems. It has long been recognised that the use of some drugs, such as amphetamines and crack cocaine, can lead directly to mental illness. There is also increasing evidence that cannabis has a causal link with mental health problems for some users.
- 5.1(b)** Whilst the misuse of other substances may not *directly* cause mental health problems, the lifestyle typically associated with prolonged drugs or alcohol use may be strongly associated with the development of mental illness. Thus, people engaging in acquisitive crime/prostitution

¹⁹ See evidence from David Allerton, Mental Health Placement Officer, Sussex Partnership Foundation Trust and Mike Byrne, Manager of the West Pier Project (a supported housing project which accepts clients with a Dual Diagnosis), Brighton & Hove City Council: 07.03.08 (point 11.9 in the minutes of this meeting).

²⁰ Mental Health Policy Implementation Guide: Dual Diagnosis Good Practice Guide, Department of Health, 2002 (p19).

²¹ Ibid. (p19).

²² Evidence from Simon Scott: 07.03.08 (point 4.5).

to fund long-term opiate or crack cocaine use are very likely to develop problems such as anxiety and depression as a result of their lifestyles, even if they do not do so as a direct consequence of their substance use.

- 5.1(c)** There is a widespread phenomenon of ‘self medication’ amongst people with mental illnesses, whereby individuals will attempt to ameliorate the symptoms of their illness by using alcohol or non-prescribed drugs.²³ It is evident that some of those self medicating will develop problematic relationships with the substances they opt to use.
- 5.1(d)** While the root causes of mental health problems are very complex and often not yet wholly understood, it is well established that traumatic events such as a history of abuse may cause or trigger mental illness. The experience of this type of event is also strongly linked to the subsequent use of drugs and/or alcohol (as a form of self-medication), and hence to the potential development of problematic substance use. For example, a woman who has experienced domestic violence may well develop some form of Dual Diagnosis, as prolonged abuse is strongly linked to both the development of mental illness and to substance misuse problems. (This may not necessarily be Dual Diagnosis in its most typical form [see **point 3.4** above], as the mental health problems may well be depression and/or anxiety rather than schizophrenic or bi-polar disorders. However, such Dual Diagnoses can be extremely serious, not least because they may be exacerbated by the very unstable environments experienced by women who are in or who have fled an abusive relationship.)²⁴
- 5.1(e)** Since Dual Diagnosis involves a co-morbidity of mental health and substance misuse issues, it obviously ‘requires’ individuals to develop a problematic relationship with drugs or alcohol. Drug use, in particular, is more prevalent in some geographical areas than in others, so it follows that areas with very high drugs use (and a consequently high number of problematic users) are likely to feature a higher than average proportion of people with a Dual Diagnosis. Similarly, if mental health problems can be said to cluster geographically (areas with particularly poor housing stock may, for instance, feature disproportionately high levels of mental illness), one might expect certain areas to produce higher than average rates of Dual Diagnosis.

²³ This may well be due to the stigma still associated with mental health problems, which makes people with these issues more reluctant to present for treatment than those with general health problems. Much work is currently being done to reduce this stigma: for example, via the ‘Time to Change’ initiative.

²⁴ Evidence from Khrys Kyriacou, Brighton Women’s Refuge Project: 28 March 2008 (point 21.2).

6. Problems Associated with Dual Diagnosis

- 6.1** Why is Dual Diagnosis considered such a problem? It has very serious implications, both for individual sufferers and for the broader community.
- 6.1(a)** For individuals with a mental illness, a co-existing substance misuse problem can make the psychiatric condition much harder to treat, as people with substance misuse issues are likely to lead highly chaotic lives, meaning that they may not present for treatment, they may struggle to adhere to therapeutic programmes or to regularly take their prescribed medication, and they may experience problems with the criminal justice system, housing etc. which can make their treatment far more difficult to administer.
- 6.1(b)** There are often also very serious physical results of long term substance and alcohol misuse (including HIV, Hepatitis B and C, Korsikoff's syndrome, emphysema etc). These are problematic in themselves, and they can also make effective treatment of mental health problems more difficult.
- 6.1(c)** The misuse of substances may also have a direct, deleterious impact upon a person's psychiatric condition, worsening the effects of an illness and prolonging episodes of ill health.²⁵
- 6.1(d)** People taking non-prescribed drugs as well as prescribed psychiatric medications may also find that the efficacy of their prescribed medication is compromised or that there are undesirable side-effects produced by combining different substances.
- 6.1(e)** People who use substances problematically may require considerable amounts of money in order to maintain their use (particularly so for users of opiates or crack cocaine). They may seek to obtain this money by criminal means, such as acquisitive crime, or they may become involved in sex-work. Involvement in the former is likely to lead to problems with the criminal justice system; involvement in the latter may well result in serious physical/sexual abuse as well as causing or exacerbating mental health problems.
- 6.1(f)** For individuals with a substance misuse problem, a co-existing mental illness can make abstinence much more difficult, as abstinence programmes typically require a good deal of self-awareness and

²⁵ Mental Health Policy Implementation Guide: Dual Diagnosis Good Practice Guide, Department of Health, 2002 (p9).

insight: abilities which are often significantly compromised by mental health problems.

- 6.1(g)** The behaviour of people with major substance misuse issues, and, to some degree, that of people with severe mental health problems, can pose significant problems for the broader community, particularly in terms of anti-social activity. People with a Dual Diagnosis are very likely to cause problems within their community. Being effectively ostracised from one's community is likely to impact negatively on recovery from mental illness and on attempts to abstain from drugs or alcohol.
- 6.2** As well as impacting upon individual sufferers and, to some degree, on the wider community, Dual Diagnosis may also be profoundly damaging for the families of people with a co-morbidity of mental health and substance misuse problems. Although the 'typical' profile of someone with Dual Diagnosis may well be that of a young, single homeless male, it is important to be aware that by no means all people with a Dual Diagnosis fit this profile: many may have partners or dependant children whose needs must also be taken into account when planning services. Historically, health and social care services have not always been very effective at identifying and responding to the broader impact of Dual Diagnosis.

B Themes and Recommendations

During the course of its investigations, the Scrutiny Panel heard a good deal of evidence from a wide range of sources. However, it quickly became clear that certain themes appeared consistently in much of the evidence. The Panel has therefore focused on, and made recommendations around, these key themes²⁶. The themes are enumerated below.

7. Supported Housing

- 7.1** People with a Dual Diagnosis are likely to experience difficulties with housing, due to problems commonly associated with both serious mental illnesses and problematic substance use. Thus, people may find it hard to obtain or maintain a tenancy due to their chaotic lifestyles, anti-social behaviour, inability/unwillingness to pay rents or claim the appropriate benefits, and so on.
- 7.2** Having an unsettled housing situation is almost bound to impact upon the efficacy of treatments for mental health problems and/or substance

²⁶ A digest of recommendations is included in **appendix 5** to this report.

misuse issues, as all treatments work best when the client is able to focus on them rather than on immediate problems of shelter.

- 7.3** People with a Dual Diagnosis living in general needs housing may evince types of behaviour which impact upon neighbours and the local community. This in turn may lead to these people being effectively ostracised by the community in which they are trying to live. People who cannot maintain tenancies may end up as homeless or rough sleepers, with concomitant costs to the broader community, both in financial and social terms.
- 7.4** There is therefore an obvious need for some kind of Supported Housing provision for many people with a Dual Diagnosis: to allow them to live in the kind of safe and secure environment which will best aid their treatment and recovery, and to ensure that the community does not suffer disproportionately from chaotic and anti-social behaviour.
- 7.5** A number of witnesses identified supported housing provision as a key aspect of problems associated with Dual Diagnosis in the city. More specifically, witnesses identified difficulties which included:

7.5(a) Temporary accommodation for people with a Dual Diagnosis.

Patients discharged from residential healthcare (including people who have been detained in hospital 'under a section' of the Mental Health Act) may sometimes be placed in unsuitable accommodation (i.e. temporary Bed & Breakfast accommodation), with the concomitant risk that their recovery may be compromised by their environment.²⁷ One witness suggested that a possible solution to this problem would be for the Local Health Economy to have access to dedicated supported housing specifically for the purpose of providing a safe temporary living environment whilst suitable long-term accommodation is being arranged.²⁸

People with a Dual Diagnosis accepted as being homeless have historically faced similar problems, with unsuitable Bed & Breakfast accommodation often being used as temporary housing. Brighton & Hove City Council has attempted to address this problem in recent years, procuring private sector rental accommodation to house people presenting as homeless (as well as offering this resource to mental health services seeking to house their clients). Whilst not an ideal solution, the use of this type of resource represents a significant advance on the use of general Bed & Breakfast accommodation for housing homeless people with mental health/Dual Diagnosis needs.²⁹

²⁷ Evidence from Richard Ford: 29.02.08 (point 7.1).

²⁸ Evidence from Sue Baumgardt: 25.04.08 (point 30.9).

²⁹ Evidence from Steve Bulbeck, Head of Single Homelessness and Social Inclusion, Brighton & Hove City Council: 07.03.08 (point 13.3).

Another problem here may concern the co-ordination between statutory mental health and housing services. The Panel heard that the council's Housing Strategy service might be able to provide appropriate housing for many people coming out of residential mental health care, providing it had sufficient notice. This might be in terms of getting advance notice of an intention to discharge an individual (in which case, the more time to arrange appropriate accommodation the better). It might also involve effective systems for alerting Housing Strategy when an individual was detained under a 'section' or was otherwise receiving residential services, since in such circumstances it might be possible to liaise with that individual's landlord in order to maintain their private tenancy for the duration of a stay in residential mental health care.³⁰

7.5(b) An appropriate residential assessment facility to enable accurate evaluation of people who may have a Dual Diagnosis.

Witnesses noted that it was often difficult to make an on the spot assessment of someone's housing and therapeutic needs; particularly so in the case of clients with substance misuse issues, as the effects of drugs/alcohol use can mask the symptoms of mental illness. A facility which would enable people to stay in a safe and supported environment long enough (perhaps two to four weeks) for their real needs, including underlying mental health problems, to be determined, might therefore be of considerable value in terms of ensuring that people were given the right care package and were eventually housed in the most appropriate environment.³¹

7.5(c) Long term accommodation for people who refuse to engage with services.

The Panel was told that there was currently no provision in Brighton & Hove for housing people with a Dual Diagnosis who refused to engage with services. Such accommodation had formerly been available but had been discontinued (in line with recent Government advice). However, although the numbers involved might be small, the service could potentially be very useful, particularly as it would allow the effective segregation of those people who did try and engage with services from those who did not.³²

7.6 Behavioural problems associated with housing people with a Dual Diagnosis.

People with a Dual Diagnosis can be difficult to house because their behaviour is likely to be very challenging. This is particularly so for

³⁰ Evidence from Jugal Sharma, Assistant Director, Housing Strategy, Brighton & Hove City Council: 25.07.08 (point 36.14).

³¹ Evidence from Andy Winter, Chief Executive, Brighton Housing Trust: 28.03.08 (point 19.12).

³² Ibid. (point 19.14).

clients who are actively using drugs and/or alcohol. Housing these people requires very specialist services and a great deal of support (potentially on a 24/7 basis). In consequence, not all supported housing is suitable for people with a Dual Diagnosis, particularly if they are unwilling or unable either to be or to commit to being abstinent.³³

The type of housing suitable for people with a Dual Diagnosis may also vary. Some witnesses noted that there were significant problems associated with housing a number of people with Dual Diagnoses together, since substance/alcohol misuse or anti-social behaviour by one client might effectively trigger similar behaviour from other residents.³⁴ Other witnesses noted that some clients with a Dual Diagnosis may thrive in a busy environment, providing the conditions were carefully controlled to ensure that conduct was monitored and appropriate behaviour encouraged.³⁵ There is no necessary contradiction here: it is clear that a range of supported housing is required to fit with a variety of clients (although there seems general agreement that relatively small scale housing is most useful).³⁶

7.7 'Step Down' Housing.

Successfully housing people in appropriate accommodation is not the end of the story. People with a Dual Diagnosis can find that their condition improves significantly with treatment and a relatively stable environment. In such instances, a very high level of support may no longer be required, and it may make sense to facilitate a process via which clients can 'step down' to less intensively supported housing. Such a progression could free places in the most highly supported environments, would encourage the development of independent living skills and might effectively save money (as less intensively supported housing is liable to be a cheaper option).

Although the process of 'stepping down' may currently take place, there is no formal system to encourage it nor any effective system of monitoring placements to ensure that appropriate step downs are undertaken.³⁷ As there is a potential incentive for housing providers to retain rather than move on relatively trouble-free tenants (such tenants being generally easier to support), this may be an area which requires a more formal system in place. It should however be noted that no

³³ Evidence from 29.02.08 (point 7.3).

³⁴ Evidence from David Allerton, Mental Health Placement Officer, Sussex Partnership Trust: 07.03.08 (point 11.7).

³⁵ Evidence from Mike Byrne, Manager of the West Pier Project: 07.03.08 (point 12.6).

³⁶ Evidence from Dave Dugan, Residential Services Manager, Sussex Partnership Foundation Trust: 29.02.08 (point 7.7).

³⁷ Evidence from David Allerton: 07.03.08 (11.8); evidence from Steve Bulbeck: 07.03.08 (point 13.4).

witness identified any current supported housing provider as disinclined to 'step down' levels of support when appropriate; the problem may therefore currently be potential rather than actual.

7.8 Restrictions caused by 'pathways'.

The Panel also heard that the supported housing supply problem could be exacerbated by the system of 'pathways' employed to assess and house people. For example, clients who present with an urgent housing need due to their mental health problems may formally only be eligible for housing within a limited number of supported housing schemes to which the Mental Health Placement Officer is able to refer. Since the housing options accessible via this pathway include little if any accommodation suitable for people with a Dual Diagnosis who are unwilling to commit to current or future abstinence, it may be very difficult to meet certain clients' housing needs, even though suitable supported housing might actually be available in the city (but only formally accessible via the homeless 'pathway').³⁸

In practice, the Panel learnt, it may be possible for agencies to steer a course around the formal restrictions of the pathways system, by working together on an informal basis to ensure that clients are directed to the most appropriate housing resource. However, a system which needs to be regularly circumvented in order to accommodate clients with as serious (and relatively common) a condition as a Dual Diagnosis is clearly not fully functional; there seems little point in having formal pathways of care if these pathways effectively complicate rather than facilitate the delivery of services. It may therefore be necessary to review the current pathways via which supported housing is accessed, in order to determine whether the pathways need adjustment, or whether a dedicated Dual Diagnosis pathway might be of use.

7.9 Supported Housing for People with a Dual Diagnosis and the issue of abstinence

Aside from the issue of the accessibility of appropriate supported housing via the formal homeless and mental health pathways, the Panel heard a good deal of evidence regarding the provision and type of supported housing in the city. There seemed to be broad agreement that there was an adequate stock of supported housing within Brighton & Hove, but rather less unanimity as to whether there was sufficient housing suitable for people with a Dual Diagnosis.

It seems evident that there are some significant differences of opinion regarding the stress that should be placed on abstinence in the treatment and support of people with a Dual Diagnosis. Some agencies (including Sussex Partnership NHS Trust and Brighton & Hove City Council³⁹) are committed to a policy of 'minimisation', in which clients

³⁸ Evidence from David Allerton: 07.03.08 (points 11.2 and 11.3).

³⁹ Evidence from Steve Bulbeck: 29.02.08 (point 7.5).

are encouraged to use drugs and alcohol in ways which reduce the likely harm to themselves and others.⁴⁰ This may include using sterile needles to inject drugs, and disposing of the used needles responsibly; moving from injecting drugs to taking them in other forms; moving from 'street' drugs to prescribed alternatives (e.g. from heroin to methadone); reducing drugs and/or alcohol use; switching from very hazardous to less hazardous substances (and patterns of use), and so on.⁴¹ Although abstinence is a long term goal of all agencies involved in treating and supporting people with a Dual Diagnosis, clients are not necessarily required to be abstinent or to themselves commit to a goal of abstinence in order to receive treatment or support. It is considered that the imposition of abstinence may not be a realistic option for many people with a Dual Diagnosis, who might be incapable of making such a commitment or who might withdraw entirely from support services if the issue were to be made central to the provision of therapies⁴².

Other agencies (notably Brighton Housing Trust) champion the idea of abstinence, believing that, sensitively handled, it should form the basis of treatment and support. Clients, in some initiatives at least, are actively encouraged to pledge abstinence as a long term goal, although not necessarily to immediately assume an abstinent lifestyle.⁴³ Abstinence may sometimes be defined so as to exclude people who take prescribed substitutes for 'street' drugs (e.g. methadone as a heroin substitute); the argument here is that many methadone users also use heroin and generally associate with current drugs users, so that they are typically not in any real sense themselves abstinent, and may disrupt the recovery of those who have genuinely committed to abstinence if housed alongside them.⁴⁴

Panel members accept that there are valid grounds for adopting either of the above approaches to the support and treatment of people with a Dual Diagnosis, and note that these differences in the theory of treatment may not necessarily result in services which vary all that considerably from each other in practice. Panel members have no wish to make recommendations to clinicians and substance misuse professionals concerning the details of treatment of people with a Dual Diagnosis, but do believe that it is incumbent on all agencies involved to ensure that, whatever their differences in philosophy in terms of treating Dual Diagnoses, their approaches dove-tail sufficiently for the effective integration of services across the city.

⁴⁰ Evidence from Richard Ford: 29.02.08 (point 7.6).

⁴¹ Evidence from Mike Byrne: 07.03.08 (point 12.3).

⁴² See evidence from Jugal Sharma: 25.07.08 (point 36.19).

⁴³ Evidence from Andy Winter: 28.03.08 (points 19.5, 19.8, 19.9).

⁴⁴ Ibid. (points 19.4; 19.5).

7.10 The West Pier Project

During the course of the review, Panel members visited the West Pier Project, a council-run supported housing scheme providing accommodation to a range of clients, some of whom may have a Dual Diagnosis. Although the West Pier Project is housed in period buildings which present significant challenges for running an effective service, Panel members were very impressed by the quality of services provided.

The Project accepts clients with a Dual Diagnosis and does not insist on abstinence, although residents must be willing to commit to minimising the damage that their substance or alcohol use can cause.

Panel members considered that the West Pier Project represents a model of the type of supported housing which should be more widely available for people with a Dual Diagnosis, particularly in terms of successfully integrating such a facility into the local community and of providing expert support for clients.

7.11 Recommendations

The Panel recommends that:

a) Consideration should be given to the feasibility of commissioning temporary supported housing provision to be used to accommodate people with a Dual Diagnosis in between their discharge from residential psychiatric treatment and the allocation of appropriate longer term housing. Housing people with a Dual Diagnosis in 'Bed & Breakfast' accommodation should only be considered as a last resort.

b) Consideration should be given to the feasibility of commissioning a residential assessment facility to be used to house people with a suspected Dual Diagnosis for a period long enough to ensure a thorough assessment of their mental health and other needs.

c) Consideration should be given to commissioning long term supported housing for people with a Dual Diagnosis who refuse treatment for their condition(s).

d) Brighton & Hove City Council Housing Strategy and the Sussex Partnership Foundation Trust should seek to agree a protocol requiring statutory providers of mental health services to notify the council's Housing Strategy department when a client has been admitted to residential mental health care (subject to the appropriate approval from clients). This would enable Housing Strategy to assess the risk of an individual being unable to access

suitable housing on their discharge from hospital, and to take appropriate action.

e) Consideration should be given to establishing a ‘Dual Diagnosis pathway’ to ensure that people with a Dual Diagnosis can be appropriately housed as quickly and efficiently as possible.

f) The West Pier Project represents an effective model for supported housing suitable for (some people) with a Dual Diagnosis. Serious consideration should be given to providing more such facilities within the city.

8. Women’s Services

8.1 National guidance on Dual Diagnosis emphasises that women with a Dual Diagnosis may face particular difficulties and pose particular problems for support and treatment services.⁴⁵ Some of these problems are detailed below.

8.1(a) ‘Under-presentation’

Women with a Dual Diagnosis may be reluctant to present for treatment (particularly women with dependant children, who may feel that their custody will be placed in jeopardy if they are diagnosed as having co-existing mental health and substance misuse problems). This can result in women not being treated at all for their substance misuse and psychological problems, or being treated at an advanced rather than a relatively early stage of the development of their condition – treatment at an early stage is strongly correlated with better and quicker recovery.

8.1(b) Histories of abuse

Women with serious substance misuse problems are very likely to have experienced sexual, physical and/or emotional abuse at some stage of their lives (much more likely than other women or men). This may complicate treatment and support programmes as well as making people less likely to present for treatment.

8.1(c) Women in sex work

Women who misuse some substances, notably heroin and crack cocaine, may engage in sex work to fund their lifestyles (very possibly being coerced into so doing; sex workers are also routinely coerced into taking drugs).⁴⁶ Such work carries a very significant risk of physical

⁴⁵ Mental Health Policy Implementation Guide: Dual Diagnosis Good Practice Guide, Department of Health, 2002 (p18).

⁴⁶ Evidence from Khrys Kyriacou, Brighton Women’s Refuge Project: 28 March 2008 (point 21.7).

health problems and of further abuse which may worsen both mental health and substance misuse problems. (Faced with a similar need for money, men with a substance misuse problem are more likely to engage in acquisitive crime than in sex work. This may cause its own problems, such as involvement with the criminal justice system, but it is perhaps less likely to impact so severely on an individual's physical and mental health.)

8.1(d) Domestic violence

Members heard evidence that many people who have been exposed to domestic violence, either directly as the victim of assaults, or indirectly (as a child witnessing its mother being assaulted, for instance) may well develop problematic substance use and/or mental health problems, either concurrent with the assaults or in later life (see **point 8.1(b)** above). Whilst the types of co-morbidity typically associated with women experiencing domestic violence may not always fit exactly with the 'classic' definition of Dual Diagnosis (see **point 3.4** above), the problems encountered may be just as severe, particularly when the physical danger women and their families may face, likely difficulties with income and with housing etc. are factored in.

The Panel heard evidence that services for women fleeing domestic violence, such as those provided by Brighton Women's Refuge Project, are not necessarily able to cope effectively with Dual Diagnosis problems. This has several aspects:

- The fact that Women's Refuge housing provides accommodation for families escaping abusive situations may mean that it is unsuitable for people whose behaviour is liable to be chaotic and/or aggressive. However, it can prove very difficult to facilitate moving women into more appropriate accommodation as social housing may not be available, and private sector housing is difficult to access without resources for a deposit. Access to grants or loans to provide this deposit money is typically not available to the women supported by the Women's Refuge, even though these women are legitimately entitled to receive dual Housing Benefit payments (both to maintain the tenancy they were forced to flee and to pay for their accommodation in the Women's Refuge). The Panel was told that a more flexible approach to the allocation of housing-related benefits in this instance might improve the situation for women with Dual Diagnoses and their families (and many other families) without necessarily costing any more than the current arrangement.⁴⁷
- The Panel also learnt that the Brighton Women's Refuge Project is largely funded via Supporting People grants, and the conditions attached to this funding mean that the Women's Refuge is unable to provide support services which might benefit women with a Dual

⁴⁷ Ibid. (point 21.5).

Diagnosis and their families, such as services providing emotional support for women and the direct support of client's dependent children.⁴⁸ Better and/or more flexible funding would allow for more effective support of people with a Dual Diagnosis and their families, and might even aid the local authority in fulfilling its duties to families as set out in 'Every Child Matters'.⁴⁹

- The Women's Refuge is, for legislative reasons, unable to house women under certain circumstances. For instance, it cannot offer housing to women receiving prescribed medications to manage substance misuse issues (e.g. women prescribed methadone as a heroin substitute). Whilst there may be no local solution to this type of problem, local agencies should be aware that Women's Refuge services are unable to support certain types of client, and should arrange alternative means of support to ensure there are no gaps in the system.

8.2 There seem, therefore, to be two types of problem specific to women with a Dual Diagnosis: difficulties in identifying and engaging with those in most need of support and treatment; and, even when women with a Dual Diagnosis have been identified, difficulties in providing appropriate services (perhaps necessitating working around inflexible, nationally set targets/funding streams).

8.3 Recommendations

The Panel recommends that

a) Any future Needs Assessment of city-wide Dual Diagnosis services must address the important issue of the potential under-representation of women, and must introduce measures to ameliorate this problem.

b) The problems highlighted by Brighton Women's Refuge are addressed (point 8.1(d) above), with assurances that local solutions will be found to ensure that an appropriate range of services is made available.

9. Children and Young People

9.1 Dual Diagnosis may be a particular problem for children and young people because many mental health problems typically begin to manifest in adolescents. Similarly, many people begin experimenting with drugs and/or alcohol in their teenage years. One might therefore

⁴⁸ Evidence from Khrys Kyriacou, Brighton Women's Refuge Project: 28 March 2008 (point 21.6).

⁴⁹ Ibid. (point 21.6).

anticipate a high rate of Dual Diagnosis amongst teenagers, as both mental health and substance misuse problems are likely to be prevalent within this group.

- 9.2** This problem may be exacerbated by an unwillingness to present to mental health services, which is an issue across mental health care, but may be a particularly acute one in terms of adolescents.
- 9.3** Teenagers and young adults are also, statistically speaking, very likely to appear in other groups associated with Dual Diagnoses, such as homeless/rough sleepers and people in trouble with the criminal justice system.
- 9.4** Children and Young people may also share a home with parents or siblings with a Dual Diagnosis, and are therefore likely to be affected by their family member's behaviour (and how it is managed). Children and Young People may also be responsible for caring for someone with problems including a Dual Diagnosis. The potential impact of living with and/or caring for someone with both a severe mental health problem and substance misuse issues should not be underestimated. It is very likely that children who grow up in such an environment will themselves require a good deal of support, particularly if they are attempting to act as carers.
- 9.5** Although the root causes of a Dual Diagnosis may be very complex, it is widely accepted that childhood trauma and/or abuse are strongly linked with the development of mental health and substance misuse problems in later life. By the same token, effective identification and treatment of both mental health and substance misuse problems in their early stages of development is strongly correlated with much better outcomes and more complete recovery. In seeking to reduce the impact of Dual Diagnosis it is therefore incumbent upon agencies to accurately identify children and young people in need of services and to effectively deliver those services. Intervention at an early age may be much more effective than intervention once a co-morbidity is well established.
- 9.6** The Panel heard evidence from a variety of witnesses on the subject of services for children and young people. These witnesses included officers from the Children and Young People's Trust (CYPT).
- 9.7** Panel members heard that the structure of the CYPT, combining in one organisation functions which had formally been the responsibility of several agencies, has enabled services for children and young people with a Dual Diagnosis to be effectively integrated (although this integration is not yet complete, and work remains to be done to establish the most effective alignment of some services).⁵⁰ Witnesses

⁵⁰ See evidence received at 25.04.08 meeting (points 29.4, 29.5 and 29.9).

and Panel members agreed that the good practice established by the CYPT might usefully be studied by agencies engaged in delivering services for adults with a Dual Diagnosis.⁵¹ However, witnesses stressed that it did not necessarily follow from this that joint working between agencies responsible for adult Dual Diagnosis services was currently poor. On the contrary, Members heard that there was a good deal of effective co-working.⁵² Neither did witnesses necessarily endorse formal integration of adult services.

- 9.8** One problem identified by witnesses concerned the progression of clients from the CYPT to adult services. Since adult services are not formally integrated in the manner of CYPT, there is inevitably quite a noticeable break in the continuity of service and in the client's experience of his or her support and treatment, even when adult services are on a par with CYPT services.

This is particularly problematic because so many people will develop Dual Diagnosis problems whilst they are users of children's services (see **point 9.1** above). Thus, the need to progress from children's into adult services is a normal rather than an exceptional circumstance. This is a nationally recognised problem and work is ongoing to explore the feasibility of offering 'transitional' services (e.g. for people aged 14-25). Other services which cater for both children and adults, such as services for people with Special Needs and services for Pregnant Teenagers, have already sought to mitigate this problem by extending their upper age ranges.⁵³

- 9.9** Another problem associated with Dual Diagnosis in this client group is that clients are often very reluctant to present for treatment or to adhere to therapeutic programmes, particularly if these programmes require a commitment to abstinence. A formal diagnosis of a co-morbidity of mental health and substance misuse issues might consequently be more commonly made when clients are in their mid-twenties (and are typically evincing somewhat less chaotic behaviour).⁵⁴

- 9.10** Members were told that there was a related problem in determining the extent of teenage alcohol and drug related problems, because the recording of such data was often incomplete. This is particularly so in terms of attendance at hospital Accident & Emergency (A&E) Departments: A&E does not always 'code' incidents as drink (or substance) related and does not necessarily alert CYPT services to the attendance of children and young people with possible alcohol or

⁵¹ Ibid. (29.10).

⁵² See evidence received at 25.04.08 meeting (29.12).

⁵³ Ibid. (29.11; 29.16).

⁵⁴ See evidence received at 25.04.08 meeting (29.8).

substance misuse problems. (There are similar problems with the recording of A&E attendances which might potentially relate to mental health problems.) The high turnover of A&E staff due to training requirements means that it is difficult to develop effective informal working relationships between A&E staff and the CYPT. There is ongoing work to develop a Care Pathway via which A&E could refer into the CYPT. This pathway would potentially include target numbers of referrals.⁵⁵

- 9.11** In terms of the substance misuse aspect of Dual Diagnosis amongst younger people, members learnt that a wide variety of substances were used in a problematic way. However, witnesses expressed particular concerns regarding the misuse of alcohol, both because there were specific problems associated with this (including high levels of criminal/anti-social behaviour and the potential of very serious physical side-effects of prolonged use), and because children's services for alcohol are generally poorly funded.⁵⁶
- 9.12** In terms of interventions into families where there might be a parent with a Dual Diagnosis whose actions place dependant children at risk, the Panel heard evidence about a programme called POCAR (Parents Of Children At Risk). POCAR provides interventions and support to parents who are problematic drugs users *and* at risk of having children taken into care. POCAR services for women are run by the Oasis Project, and for men by CRI (Crime Reduction Initiative). To date it seems that many more women than men have agreed to take part in POCAR programmes.⁵⁷ Panel members welcomed the work of the POCAR initiative, but noted that this addressed only one aspect of a the much broader issue of support for the families of people with a Dual Diagnosis. For instance, POCAR focuses on parents who retain formal custody of their children, but there are a number of situations where parents may no longer have custody, but where there is still a strong and potentially problematic relationship with their children. It is important that services are aware of such situations and can offer appropriate levels of support to all families affected by Dual Diagnosis.
- 9.13** Members were also told that there may be an opportunity to 'spend to save' in terms of providing Public Health education which aims to steer young people away from problematic drugs and alcohol use, thereby reducing the long term impact of these problems on individuals and the broader community. The Panel was told that any calculation regarding the funding of Dual Diagnosis services should consider this preventative role rather than simply focusing on the provision of

⁵⁵ Ibid. (29.14).

⁵⁶ See evidence received at 25.04.08 meeting (point 29.14).

⁵⁷ Evidence from Jo-Ann Welsh, Director, The Oasis Project: 28.03.08 (points 22.2, 22.5 and 22.6).

services for people already diagnosed with a co-morbidity of mental health and substance misuse problems.⁵⁸ However, the Panel was informed that recent years had seen a reduction in substance misuse Public Health information specifically targeting young people.⁵⁹

9.14 Recommendations

The Panel recommends that:

a) The integrated services for Dual Diagnosis offered by the CYPT are studied by agencies responsible for co-working to provide adult Dual Diagnosis services. Where agencies are unable to formally integrate, or feel that there would be no value in such a move, they should set out clearly how their services are to be effectively integrated on a less formal basis.

b) Serious and immediate consideration must be given to introducing a 'transitional' service for young people with a Dual Diagnosis (perhaps covering ages from 14-25). If it is not possible to introduce such a service locally, then service providers must demonstrate that they have made the progression from children's to adult services as smooth as possible, preserving, wherever feasible, a high degree of continuity of care.

c) Serious consideration needs to be given to the growing problem of problematic use of alcohol by children and young people (including those who currently have or are likely to develop a Dual Diagnosis). It is evident that better support and treatment services are required.

d) The development of a 'pathway' to encourage A&E staff to refer young people attending A&E with apparent substance or alcohol problems should be welcomed. There may need to be targets for referrals to ensure that the pathway is used as efficiently as possible.

e) Public Health education encouraging abstinence/sensible drugs and alcohol use is vital to reducing the incidence of Dual Diagnosis in the long term. Effective funding for this service must be put in place. Public health education encouraging mental wellness is equally important.

f) Dual Diagnosis can have a profound and ongoing impact upon the families of people with a co-morbidity of mental health and substance misuse issues. It is vital that appropriate support services are available for families and that every effort is taken to identify those in need of such support. Therefore, a protocol

⁵⁸ Evidence from Simon Scott: 07.03.08 (point 9.4).

⁵⁹ Evidence from 29.02.08 (point 5.4).

should be developed whereby a formal assessment of the support needs of families is undertaken whenever someone is diagnosed with a Dual Diagnosis.

10. Integrated Working and Care Plans

- 10.1 One of the problems posed by Dual Diagnosis is that its treatment involves two historically distinct disciplines: psychiatric care and substance misuse services. Successful outcomes for patients will rely, to a large extent, on the effective integration of these services.
- 10.2 There are three basic approaches to co-ordinating treatments for Dual Diagnosis: *sequential*, *parallel* and *integrated* care models.
- **Sequential** care involves the treatment of one aspect of the Dual Diagnosis before the other. Thus, treatment of a substance misuse problem might be attempted before engaging with a client's mental health problems. However, people with a Dual Diagnosis are likely to suffer from mutually interactive conditions, meaning that it may not be practically possible to separate the problems and treat each in isolation.
 - **Parallel** care involves the concurrent, but separate treatment of both conditions (i.e. distinct teams delivering a co-ordinated treatment of both mental health and substance misuse problems). There are obvious potential pitfalls here, as patients may be required to engage with contrasting therapeutic approaches and present for treatment to different agencies: the risk is that treatments are mutually contradictory or that patients 'fall between the gaps' of services. However, there is a broad range of possible parallel configurations, and some may be considerably more effective than others; thus, whilst wholly separate teams working in parallel might struggle to deliver good services; formally discrete, but effectively integrated teams based together on a single site might be able to deliver excellent results.
 - **Integrated** care involves the concurrent treatment of both conditions delivered by a single team. Integration is a popular technique in American healthcare, and US evaluations of this model have tended to show it to be more effective than either sequential or parallel treatment. However, it may be the case that an integrated system of mental health and substance misuse care fits comfortably with American training and working practices, but much less so with UK practices, where a move to formal integration might require considerable changes to the way in which services are organised and training is conducted. Some experts suggest that comprehensively integrated parallel care may produce

similar results to formal integration, without requiring structural changes which might resonate far beyond services for Dual Diagnosis.⁶⁰

- 10.3** Panel members were told that co-working between mental health and substance misuse services in Brighton & Hove was generally very effective. Several witnesses believed that this kind of co-ordinated parallel working was preferable to the formation of a single, multi-disciplinary Dual Diagnosis team.⁶¹ It was pointed out to the Panel that treatment via an integrated mental health and substance misuse team might improve services for some patients, but for many others it would entail receiving a generalist treatment when expert specialist intervention by distinct teams might have provided a better option.⁶²
- 10.4** While integrated treatment for Dual Diagnosis might not be the best way forward, some witnesses did feel that integrated assessment may be desirable. Thus, the Panel was told that an integrated assessment team would allow all agencies to contribute to the assessment process in accordance with their expertise, improving services for clients.⁶³ Brighton & Hove City Teaching Primary Care Trust (PCT) is ultimately responsible for commissioning these services, and so it would be the PCT's decision whether to move to an integrated system of assessment.
- 10.5** City GPs have recently commissioned (working together as 'Practice Based Commissioners') a service from the Sussex Partnership Foundation Trust which will provide a single referral point for people suspected of having Dual Diagnosis problems. Three teams situated within the Community Mental Health Team will be responsible for assessing patients in the East, the West and the Centre of Brighton & Hove. It is hoped that these teams will speed up the assessment process as well as mitigating the danger of people with a Dual Diagnosis being referred to inappropriate services or being 'bounced around' agencies.⁶⁴

⁶⁰ Mental Health Policy Implementation Guide: Dual Diagnosis Good Practice Guide, Department of Health, 2002 (pp22, 23).

⁶¹ See: evidence from Richard Ford: 29.02.08 (9.3); evidence from Andy Winter 28.03.08 (19.11; 19.7). [Mr Winter argued that full integration of the assessment of patients' needs is practically unattainable because different agencies work to differing Performance Indicators (PIs)/targets. Since these PIs are generally nationally established and therefore immutable at a local level, it is very unlikely that a fully integrated local assessment system could ever be established, since it seems unlikely that a single joint assessment could ever satisfy the various requirements of all the agencies involved.]

⁶² Evidence from Dr Tim Ojo: 28.03.08 (point 20.8).

⁶³ Evidence from Joy Hollister, Director of Adult Social Care and Housing, Brighton & Hove City Council (point 1.6 in the evidence notes).

⁶⁴ Evidence from Simon Scott: 29.02.08 (points 4.12; 4.13).

10.6 Integration between NHS services and those dealing with employment and housing has historically been much more problematic, with poor communication often leading to a lack of co-ordination. Current Government initiatives to increase the availability of ‘talking therapies’ may strengthen links between mental health and employment services.⁶⁵ The roll-out of improved access to these therapies is intended, at least in part, to enable people with mental health problems to access appropriate support and therapy in order to remain in employment rather than claiming Incapacity Benefits. (This may not, however, have much of a direct impact upon Dual Diagnosis, as the target group for intervention via talking therapies is likely to feature people with much less severe conditions.)

Integration with housing services is an issue that has been partly addressed at a local level, with the co-location of Sussex Partnership Trust’s Mental Health Placement Officer alongside Brighton & Hove City Council’s Housing Options Team.⁶⁶ However, it is apparent that there is much still to do in terms of the effective integration of mental health, substance misuse and housing services, particularly in terms of relationships between the statutory services and the Registered Social Landlords who provide city-wide supported housing.⁶⁷

10.7 An important aspect of co-ordinated working between agencies involves the creation, maintenance and use of ‘Care Plans’ – regularly updated documents which determine the types of treatment and support an individual client is to receive. There are clear advantages to co-ordinating work in regard to the creation of Care Plans. However, it may not be possible to formally integrate Care Plans as different organisations have differing requirements which could not be easily met by a single joint Care Plan: for such a document to meet all the various requirements of the agencies involved might mean that it was too unwieldy to be of much practical use. Effective co-working may therefore be a better option here than formal integration.⁶⁸ Witnesses were generally positive about Care Plans currently in use within the city.⁶⁹

10.8 Although Care Plans are regularly shared between the statutory agencies, they are not necessarily readily available to other services which might benefit from access to them. For instance, housing support services might usefully refer to Care Plans when determining where a

⁶⁵ See evidence from 29.02.08 (point 8.1).

⁶⁶ Evidence from David Allerton: 07.03.08 (point 11.1).

⁶⁷ See evidence from 29.02.08 (point 7.8).

⁶⁸ Evidence from David Allerton: 07.03.08 (point 11.11).

⁶⁹ Evidence from Mike Byrne: 07.03.08 (point 12.9).

client with Dual Diagnosis should be housed. There is some ongoing work in this area, although progress has been slow.⁷⁰

10.9 Recommendations

That Panel recommends that:

a) Consideration should be given to adopting an integrated approach to the assessment of people with Dual Diagnosis problems. Such assessments must be outcome focused. If the commissioners are unable/unwilling to move towards such a system, they should indicate why the current assessment regime is considered preferable.

b) A single integrated Care Plan may be neither possible nor desirable, but co-working in devising, maintaining and using Care Plans is essential. Whilst good work has clearly been done in this area, the development of a Care Plan, including clearly expressed 'move-on' plans, which can be accessed by housing support services (and other providers) is a necessary next step in the integration of support services for Dual Diagnosis.

11. Funding

11.1 The adequacy of funding is obviously a relevant concern for any study of the effectiveness of aspects of health or social care. In terms of Dual Diagnosis, a number of witnesses commented on the funding situation.

11.2 To a degree, the question of the adequacy of funding for these services hinges on one's definition of Dual Diagnosis. It is, for instance, widely recognised that funding for relatively low level substance misuse problems is rarely wholly adequate, and this is equally so in terms of the treatment of relatively mild mental health problems. (In both instances, treatments or interventions may be available, but with very lengthy waiting lists.) Therefore, it might be argued that people with a fairly low level co-morbidity of mental health and substance misuse problems may not be receiving the best possible services, and almost certainly not services delivered as soon as they are required.

However, as has been noted above, Dual Diagnosis is more typically defined as the co-existence of severe mental health and substance misuse problems. People with conditions such as schizophrenia or bipolar disorders can usually anticipate relatively quick access to therapies and a very high level of treatment, largely because these conditions may be extremely serious in terms of health risks to the

⁷⁰ Evidence from 29.02.08 (point 9.6).

individual, but also because of the impact these illnesses can cause on families, carers and the wider community. A similar point may be made about very severe manifestations of substance misuse problems: their impact is likely to be such that they will be treated as priority issues and accorded appropriate funding.⁷¹

Therefore, whilst general funding for both substance misuse and mental health services may not be wholly adequate, it seems reasonable to assume that funding for Dual Diagnosis (as defined above) is not a very major issue.

11.3 Witnesses identified the funding for services relating to the problematic use of alcohol as being worryingly low, both in national and in local terms. Given the major and growing problems associated with alcohol use in Brighton & Hove this is an obvious worry. Although there are proposals to increase the funding of these services, the planned increases may not be adequate to address this problem.⁷² (See also **point 9.11** above regarding funding for young people's alcohol services.)

11.4 While a number of witnesses expressed concerns regarding the provision of Supported Housing for people with a dual Diagnosis, there seemed to be general agreement that this was not, fundamentally, an issue of funding of supported housing places: adequate supported housing is available, but there may not be enough of it which is appropriate for the particular needs of this client group.

However, additional funding may be needed to commission particular types of supported housing, such as a residential assessment centre, temporary accommodation for people discharged from residential healthcare or housing for people who refuse treatment (see **points 7.6, 7.7 and 7.8** above).

Clearly, funding is not wholly an irrelevance here: providing support services for clients with very complex needs is obviously expensive, and the seeming reluctance of some housing providers to accommodate (non-abstinent) Dual Diagnosis clients may reflect a belief that the available funding does not always cover the levels of support required. There may therefore be a need for some fine-tuning of the allocation of funds for housing support to encourage and enable providers to offer a greater variety of services for people with a Dual Diagnosis.

11.5 All of the above assumes that general funding in this area will remain relatively static. However, this may not be the case, as planned cuts to the Supporting People budget may impact widely upon city services.

⁷¹ Evidence from 29.02.08 meeting (point 6.1).

⁷² Evidence from 29.02.08 meeting (point 6.1).

Whilst there is a general aspiration to protect services for working age adults with mental health problems, the city-wide effects of the cuts, including their impact upon supporting housing providers who offer a variety of other services in addition to Dual Diagnosis services (including services which will see funding reduced), is not yet known.⁷³

While the general climate may be one in which there is little prospect of getting increased funds for health and social care provision, the Panel was informed that it might be possible to re-profile parts of the budget for mental health and substance abuse in order to provide additional funding for supported housing services for Dual Diagnosis if clear benefits could be shown.⁷⁴

11.6 Recommendations

The Panel recommends that:

a) Better provision for alcohol related problems, both in terms of treatment and Public Health, is a priority and urgent consideration should be given by the commissioners of health and social care to developing these services so that they meet local need.

b) The commissioners of Dual Diagnosis services must agree on a level (or levels) of housing support appropriate for people with a Dual Diagnosis and ensure that there is sufficient funding available for city supported housing providers to deliver this level of care.

12. Treatment and Support

12.1 The Panel heard evidence from a number of witnesses concerning ways in which people with a Dual Diagnosis were or should be treated and supported.

12.2 One point made was that effective treatment of Dual Diagnosis should aim to be as personalised as possible; 'Dual Diagnosis' is a blanket term encompassing a very wide range of conditions and a generic treatment is highly unlikely to fit well with the needs of all individuals.⁷⁵

12.3 Since treatment and support services for Dual Diagnosis are often very specialised, it is important that the right services are in place as and when they are needed, including services providing supported housing, 'talking therapies', suicide prevention and professional carers. Ensuring that the correct services are in place can be a considerable challenge,

⁷³ See Evidence from Steve Bulbeck: 07.03.08 (13.8).

⁷⁴ Evidence from Simon Scott: 29.02.08 (point 7.9).

⁷⁵ Evidence from Dr Tim Ojo: 28.03.08 (point 20.3).

and the local implementation of the national Self-Directed Support initiative (giving individuals much more say in aspects of their own care and support) is bound to make this process more complex. Currently, Sussex Partnership Trust takes the lead on this 'micro-commissioning' process, and the Trust's ability to continue to deliver effectively in this area will be key to maintaining and improving Dual Diagnosis services.⁷⁶

- 12.4** The Panel also heard evidence that 'support' services for people with Dual Diagnosis needed to be broadly interpreted, as some services which might be of great value to this client group were not commonly thought of as support services. For instance, the Panel was informed that pharmacists could provide a key resource in helping people with a Dual Diagnosis, building up good relationships with people receiving methadone prescriptions etc. (particularly since pharmacists tend to be seen as independent of the statutory agencies – a potentially important factor for people with a distrust of such agencies).⁷⁷ Similarly, third sector organisations may find that they are able to interact with Dual Diagnosis clients in way which the statutory agencies cannot. It is therefore important for the commissioners of Dual Diagnosis services to ensure that thought is given to which providers are most capable of winning clients' trust, rather than the providers who offer the most obvious value for money.
- 12.5** Brighton & Hove has a limited number of detoxification facilities available, both in terms of adult and children's services.⁷⁸ This means that people presenting with a Dual Diagnosis may not always be offered timely and appropriate treatment.⁷⁹ Relatively rapid access to detoxification facilities is particularly important as people with substance misuse issues (including people with a Dual Diagnosis) may vacillate between being committed to abstinence and having no immediate interest in it. Thus, in some instances there may be a limited window of opportunity to offer detoxification services.
- 12.6** The point on detoxification (**12.5 above**) is almost equally applicable to other therapies. People with a Dual Diagnosis typically live very chaotic lives; someone who is willing to submit to a therapeutic intervention now may not be willing to do so at a later date, or may have ceased presenting to services altogether. Although it seems that assessment of people with a suspected Dual Diagnosis is now very rapid (within 72 hours in urgent cases), there may be a much longer wait before

⁷⁶ Evidence from Joy Hollister (1.3-1.5).

⁷⁷ Evidence from Joy Hollister (1.11).

⁷⁸ Evidence from Sally Wadsworth, Commissioning Manager, Child and Adolescent Mental Health Services (CAMHS), Children & Young People's Trust: 25.04.08 (point 29.5).

⁷⁹ Evidence from Dr Tim Ojo: 28.03.08 (point 20.5).

treatment actually commences⁸⁰. Too long a wait may have an impact upon the efficacy of the services delivered.

- 12.7** People with a Dual Diagnosis, along with other people with severe mental health problems, may potentially need to be temporarily detained in a secure mental health facility 'under a section' of the Mental Health Act. The Panel heard evidence from the parent of someone with Dual Diagnosis concerning aspects of the 'sectioning' process and of the treatment and support locally available to people under a section. Problems identified included:
- An apparent reluctance on the part of NHS Mental Health staff to respond quickly to calls concerning the fragile mental state of a person with a Dual Diagnosis. The witness told the Panel that Trust staff would advise the person's family/carers to call the police should the carers consider that the situation required an urgent response. In the view of the witness, this was inappropriate advice which might have placed families and carers at risk of violence should police officers have interviewed an individual with a Dual Diagnosis at the behest of family members but subsequently decided not to arrest or detain them (police officers may detain someone for assessment under section 136 of the Mental Health Act even though that person has committed no crime).
 - Poor detoxification facilities at Mill View Hospital (*see point 12.3 above*).
 - Poor security at Mill View Hospital, which meant that the witnesses' son was able to obtain alcohol from local shops whilst supposedly being detained in a secure environment.
 - Poor access to therapeutic activities at Mill View Hospital (including Occupational Therapy and Cognitive Behavioural Therapies), and inadequate encouragement of patients to engage with therapies, to take exercise, or to maintain levels of personal hygiene etc.
 - Inadequate attempts to persuade people detained under a section to take their prescribed medication.
 - Inadequate support following discharge (from the local NHS Assertive Outreach Team)⁸¹.
 - 'Leave' inappropriately granted to patients detained under a section of the Mental Health Act.

⁸⁰ Evidence from Dr Tim Ojo: 28.03.08 (point 20.7).

⁸¹ This was not a complaint about the performance of the Assertive Outreach Team as such, but rather a view taken that the team's remit was too narrow to enable it to provide truly effective support services for vulnerable people leaving residential psychiatric services.

- The provision of inappropriate accommodation following discharge (Bed & Breakfast accommodation with no cooking facilities).⁸²
- 12.8** The Panel has not sought to elicit detailed responses to these points from the NHS Trusts involved, as it was not considered directly within the Panel's remit to do so, particularly in instances where some other recourse, such as appeal to official NHS complaints procedures, might be more appropriate. The Panel is therefore not in a position to judge whether all of these comments are valid, or whether they refer to historic levels of service or the current levels. The Panel does consider that all of these points should be addressed by the appropriate NHS Trusts. (In some instances, such as the question of the provision of therapeutic activities at Mill View Hospital, it is members' understanding that recent and ongoing initiatives, such as the reconfiguration of the Mill View site, may have effectively ameliorated many of the problems identified.)
- 12.9** Historically, the NHS has a very mixed record of involving families and carers in developing and adapting services for people with a Dual Diagnosis. Although there are legitimate concerns of patient confidentiality to be considered, it is clear that much more should be done in this area. The Panel was assured that Brighton & Hove NHS Trusts, led by Brighton & Hove City teaching Primary Care Trust, were engaged with ongoing work to better involve families and carers in the design, provision and commissioning of Dual Diagnosis services.⁸³
- 12.10** The Panel also received written evidence from someone with a Dual Diagnosis.⁸⁴ This evidence highlighted the gap between presenting for treatment and assessment/treatment commencing as a major problem.

The witness also felt that a support group for people with a Dual Diagnosis would be a valuable addition to city services, enabling people to better understand and cope with their conditions and lessen the inevitable isolation that a Dual Diagnosis can cause.

It was also suggested that there should be greater user involvement in designing city services for Dual Diagnosis. Involving service users in designing systems, recruiting and training staff and so on, may not always be an easy process, but it can have considerable benefits in terms of creating a service that is genuinely responsive to actual client needs.

⁸² Evidence from Sue Baumgardt, parent of someone with a Dual Diagnosis: 28.04.08 (points 30.4; 30.5; 30.6; 30.8).

⁸³ Evidence from Simon Scott: 29.02.08 (point 9.5)

⁸⁴ Evidence from Mr D Curtis (see **Appendix 6** to this report).

12.11 Recommendations

The Panel recommends that:

- a) **The provision of detoxification facilities for city residents be reconsidered, with a view to providing more timely access to these services, particularly in light of growing alcohol and drug dependency problems in Brighton & Hove.**
- b) **Treatments commissioned for people with a Dual Diagnosis need to be readily available at short notice, so that the chance for effective intervention is not lost with clients who may not be consistently willing to present for treatment. Any future city Strategic needs Assessment for Dual Diagnosis should focus on the accessibility as well as the provision of services.**
- c) **The Sussex Partnership Foundation Trust examines its policies relating to detaining people under a section of the Mental Health Act, in order to ensure that the inevitably distressing process of ‘sectioning’ is as risk free as possible (for patients and also for their families and carers), and that maximum possible therapeutic benefit is extracted from the process. If the trust has recently undertaken such work/carries out this work on an ongoing basis, it should ensure that it has relevant information on this process available to be accessed on request by patients and their families.**
- d) **Service users should be central to the development of Dual Diagnosis services. When they commission services, the commissioners should ensure that potential service providers take account of the views of service users when designing services and training staff, and should be able to demonstrate how these views have been incorporated into strategies, protocols etc.**

13. Data Collection and Systems

- 13.1** The last comprehensive Needs Assessment in relation to Dual Diagnosis in Brighton & Hove was undertaken in 2002. Since then much may have changed, but without accurate data it is very hard to be sure what the situation is. The Panel heard from witnesses who recommended that an updated Needs Assessment was urgently required, since without a relatively accurate assessment of demand it was difficult to plan and budget effectively for services.⁸⁵ There are major opportunities here, particularly in terms of the council potentially purchasing properties to be used for the provision of supported housing. Such an initiative might significantly reduce the cost to the local authority of this provision and improve the quality of some

⁸⁵ Evidence from Jugal Sharma: 25.07.08 (36.21, 36.22).

supported accommodation (if, for instance, this housing were to be used instead of privately provided B&B accommodation, which can be expensive and of poor quality).⁸⁶

13.2 Recommendations

The Panel recommends that:

a) A new Strategic Needs Assessment for Dual Diagnosis services in Brighton & Hove is undertaken as a matter of urgency.

C Conclusions

13. Concluding Remarks

- 13.1** Dual Diagnosis presents very serious problems. Some aspects of these problems receive a great deal of publicity: the difficulties caused by people with severe substance misuse and mental health problems in terms of crime, anti-social and chaotic behaviour and pressures upon health, social care and housing services are well known.
- 13.2** The personal impact of Dual Diagnosis is not as well publicised as its public impact, but its effect upon people with a co-morbidity of mental health and substance misuse problems and on their families and carers can be devastating. The Panel heard evidence from Sue Baumgardt, whose son Yannick had a Dual Diagnosis. Yannick died several years ago as a result of heroin poisoning after having lived with a Dual Diagnosis for a number of years. It was clear from Ms Baumgardt's evidence how extraordinarily difficult it can be to live with or to support someone who has a Dual Diagnosis.⁸⁷
- 13.3** It may not be possible to 'cure' people with a Dual Diagnosis: mental health problems are, in general, managed rather than cured; problematic patterns of drug or alcohol use can be replaced with abstinence, but the possibility of relapse is always present. However, this does not necessarily mean that the prognosis is gloomy: very severe mental health problems can be managed with a combination of medicines and psychiatric therapies so as to allow sufferers to live relatively normal lives in the community. Many people with severe substance misuse problems do eventually achieve a goal of abstinence. The process of 'recovery' and effective management of co-existing mental health and substance misuse problems may be a long one, with many false starts, but it is, in many instances, an achievable goal.

⁸⁶ Evidence from Jugal Sharma: 25.07.08 (36.11-36.13).

⁸⁷ Evidence from Sue Baumgardt: 28.04.08 (point 30.).

- 13.4** However, for treatments of Dual Diagnosis to work, they have to be as good as possible. The Panel learnt that city services are often excellent, with highly committed staff and generally very good patterns of co-working. However, it is clear that much more can and must be done in terms of further integrating city services; of ensuring that funding is properly directed; of ensuring that services address the real needs of the local population, including currently unmet need; and of providing enough appropriate supported housing.
- 13.5** The Panel hopes that this report and the recommendations it contains will contribute to improving city services for people with a Dual Diagnosis. However, this is clearly an enormous issue and one which will necessitate a good deal of ongoing work from the City Council, from the local NHS and from other agencies and individuals in Brighton & Hove.

Appendix 1

Cllr Wrighton's Scrutiny Request

Request for Scrutiny of Dual Diagnosis

<p>1. Matter for scrutiny and reason why raised</p>	<p>DUAL DIAGNOSIS SCRUTINY <i>To investigate and suggest improvements to the provision of health, housing and support services for those in the community, who because of an actual or perceived co-existing substance misuse and mental health problem, fail to receive adequate medical and social care</i></p>
<p>2. Importance of the matter and relation to Council's strategic priorities and policies</p>	<p><i>The city is ranked 2nd in the UK in terms of drug related deaths. The Sussex Partnership Trust report there are 2,000 local people registered with mental health conditions and estimate there are 2,500 injecting drug users in the city. Although the people with this kind of dual diagnosis is much smaller, this sector nevertheless represents a significant expense and drain on resources for all the statutory agencies.</i></p>
<p>3. If scrutiny is requested on the basis of a deficiency in the decision making process, evidence that decision not properly made</p>	<p><i>Not applicable</i></p>

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<p>4. Potential benefits of a scrutiny activity</p>	<ul style="list-style-type: none"> • <i>Improved service provision for patients</i> • <i>Better chance of positive patient outcomes</i> • <i>Better chance of less incremental damage/societal cost</i> • <i>More cost effective treatment/support packages</i> • <i>Creation of local centre(s) of excellence</i> • <i>Improved mutual inter-agency understanding of issues affecting shared clients (ie on the whole mental health services tend to be good at mental health problems and struggle when there are co-existing substance misuse problems. Similarly substance misuse services struggle when there are severe mental health problems. This applies across all service type including residential services. Therefore the options for residential services for this client group are limited and they easily become excluded)</i> • <i>Enhanced capacity and better trained practitioners</i> • <i>Improved partnership links between BHCC and other specialist providers links ie the health trusts, Brighton Housing Trust and others.</i>
<p>5. Other avenues tried and extent to which attempts have been made to resolve the matter</p>	<p><i>The informal discussions I've had with SPT, BHCC Housing, BHT and individuals affected by this kind of provision have all suggested that a HOSC-type enquiry will be able to consider evidence across a wide spectrum and be able to make inter-agency recommendations</i></p>
<p>6. Any other considerations or relevant information: (e.g. an indication of the desired outcome, relevant evidence, suggested witnesses etc)</p>	<p><i>I would suggest the Review takes its business in three stages;</i></p> <p>Review</p> <ul style="list-style-type: none"> • <i>Consider context of current provision/policies/practice/demand</i> • <i>Consider agency 'cultures' are we too compartmentalised, how can this be improved?</i> • <i>Examine examples of care from other towns</i> • <i>Consider if there are lessons to be learnt from Willow House (a property set up to cater for this client group which closed)</i> <p>Emerging factors</p>

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	<ul style="list-style-type: none"> • Consider the impacts of the new Mental Health Act, particularly in regard to compulsory administration of medication <p>Recommendations</p> <ul style="list-style-type: none"> • Propose model(s) of housing and support services which provide safe and appropriate protection from harmful influences • Comment on delivery vehicles and possible funding streams for any such new model(s) <p><i>I would imagine the Panel would want to take evidence from senior officers in the Health & Council services. Additionally external evidence from external housing providers could be very useful, especially when considering models from other areas.</i></p>
<p>7. Suggested type of scrutiny/terms of reference for in-depth review</p> <p>* Examples of actions short of a full scrutiny review are set out below. You may want to propose one of these instead of a full review.</p>	<p><i>This is a complicated area, where the client base have many problems - often closely interlinked. To address the client's behaviour is a long term project. This Scrutiny bid sets out to create the space for the sharing of expertise and consideration of alternative housing and support models between (but not necessarily restricted to) the main agencies concerned, Brighton & Hove City Council, Sussex Partnership Trust and housing providers</i></p>

Councillor Wrighton 26 November 2007

Appendix 2

Witnesses who gave evidence in person to the Dual Diagnosis Scrutiny Panel (all job titles were correct at the time evidence was taken)

- David Allerton, Mental Health Placement Officer, Sussex Partnership NHS Foundation Trust
- Sue Baumgardt, parent/carer of someone with a dual diagnosis
- Steve Bulbeck, Head of Housing Needs and Social Inclusion, Brighton & Hove City Council
- Mike Byrne, Manager of the West Pier Project, Brighton & Hove City Council
- Dave Dugan, Residential Services Manager, Sussex Partnership NHS Foundation Trust
- Richard Ford, Executive Director for Brighton & Hove, Sussex Partnership NHS Foundation Trust
- Maggie Gairdner, Associate Director, Children's Services and Substance Misuse, Sussex Partnership NHS Foundation Trust
- Anna Gianfrancesco, Service Manager RU-OK, Brighton & Hove City Council
- Rebecca Hills, Associate Director, Acute Care, Sussex Partnership NHS Foundation Trust
- Joy Hollister, Director of Adult Social Care and Housing, Brighton & Hove City Council
- Khrys Kyriacou, Brighton Women's Refuge
- Dr Tim Ojo, Consultant Psychiatrist, Sussex Partnership NHS Foundation Trust
- Mike Pattinson, Chief Executive, CRI (Crime Reduction Initiative)
- Simon Scott, Lead Commissioner for Mental Health, NHS Brighton & Hove (formerly Brighton & Hove City Teaching Primary Care Trust)
- Jugal Sharma, Assistant Director of Housing, Brighton & Hove City Council
- Sally Wadsworth, Commissioning Manager, Child and Adolescent Mental Health Services (CAMHS)

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- Jo-Anne Welsh, Director, The Oasis Project
- Andy Winter, Chief Executive, Brighton Housing Trust

Appendix 3A

BRIGHTON & HOVE CITY COUNCIL

SCRUTINY PANEL ON DUAL DIAGNOSIS

3:00PM 29 FEBRUARY 2008

HOVE TOWN HALL

MINUTES

Present: Councillor Watkins (Chairman); Councillors Hawkes, Taylor and Young.

Witnesses: Simon Scott (Lead Commissioner for Mental Health, Brighton & Hove City teaching Primary Care Trust); Dr Richard Ford (Executive Director, Sussex Partnership Trust); Dave Dugan (Residential Services Manager, Sussex Partnership Trust); Steve Bulbeck (Head, Single Homelessness and Social Inclusion, Brighton & Hove City Council).

PART ONE

ACTION

1 PROCEDURAL BUSINESS

1A. Declarations of Substitutes

1.1 Substitutes are not permitted on ad-hoc Scrutiny Panels.

1B. Declarations of Interest

1.2 There were none.

1C. Exclusion of Press and Public

1.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Schedule 12A, Part 5A, Section 100A(4) or 100 1 of the Local Government Act

1972 (as amended).

- 1.4 **RESOLVED** - That the press and public be not excluded from the meeting.

2. CHAIRMAN'S COMMUNICATIONS

- 2.1 The Chairman noted that Dual Diagnosis (of mental health and substance misuse problems) was a serious and wide-reaching problem in Brighton & Hove, and one which might require a good deal of involvement, perhaps on an ongoing basis, from Overview & Scrutiny.
- 2.2 The Chairman reminded witnesses that they were entitled to have any part of their evidence considered in private session if they so wished.

3. EVIDENCE FROM WITNESSES

- 3.1 Witnesses at this session were: **Simon Scott**, Strategic Commissioner for Mental Health, Brighton & Hove City teaching Primary Care Trust; **Dr Richard Ford**, Executive Director Brighton & Hove Locality, Sussex partnership Trust; **Dave Dugan**, Residential Services Manager, Sussex Partnership Trust; **Steve Bulbeck**, Head of Single Homelessness and Social Inclusion, Brighton & Hove City Council.
- 3.2 Panel members initially asked the witnesses a series of questions, some of which were answered by a single witness, some by a combination. These responses have been recorded thematically rather than sequentially in the following minutes.

4. BACKGROUND

- 4.1 Mr Scott explained to the Panel that he is responsible for commissioning adult mental health and substance misuse services for Brighton & Hove City teaching Primary Care Trust (PCT) and for Brighton & Hove City Council, under "section 31" arrangements for the pooling of healthcare budgets and of commissioning responsibilities (now section 75 of the National Health Service Act 2006).
- 4.2 Mr Scott does not set the budget for mental health and substance misuse services, but is responsible for commissioning city services within the budget, with reference to the appropriate legislative framework and evidence of national best practice. Dedicated services for children and young people are commissioned separately (by the Children & Young People's

Trust).

- 4.3 City budgets for mental health and substance misuse services are approximately equivalent to spending by comparable PCTs, although there are difficulties in finding exact comparators for Brighton & Hove.
- 4.4 Brighton & Hove has a higher than average incidence of mental health problems: 17 - 31% higher than the national average. The City also has higher than average problematic drugs use: some 17% higher than the national average. Rates of drugs misuse and mental health problems vary considerably across the city, with some wards recording lower than average incidences and others a very high prevalence.
- 4.5 Dual Diagnosis of mental health and substance misuse is not just a problem in terms of the misuse of "class A" drugs (heroin, cocaine, crack cocaine etc), but is also a major issue in terms of the misuse of cannabis, alcohol and prescription drugs, particularly benzodiazepines. (Brighton & Hove has the fifth highest prescription rate for benzodiazepines in England and concomitant problems with improper use of these drugs.)
- 4.6 Brighton & Hove receives some additional funding from the Department of Health in recognition of the city's higher than average incidence of mental health problems. Funding of substance misuse services is linked to the perceived success of existing services, with services which are judged as effective liable to receive additional funds, and ineffective services at risk of having their funding reduced.
- 4.7 There is no central budget for Dual Diagnosis (of mental health and substance misuse problem); funds are allocated from the main mental health and substance misuse budgets in line with estimates of the prevalence of the problem within the city.
- 4.8 In an effort to accurately determine the prevalence of Dual Diagnosis and to ensure that city services reflected national best practice, a Needs Assessment was conducted (for Brighton & Hove and East Sussex) in 2002. This Needs Assessment provides the basis for current city Dual Diagnosis services. (A copy of the 2002 Needs Assessment is included in the background information section of the Dual Diagnosis file).
- 4.9 In compiling the Needs Assessment, PCT officers examined national guidance and published research in an attempt to determine best practice in terms of treating Dual Diagnosis. However, there is rather weak evidence for the effectiveness any particular treatment model.

- 4.10 Brighton & Hove currently operates a “parallel” system of treatment, in which separate mental health and substance misuse teams work with clients who have a Dual Diagnosis. This system has some major strengths, particularly in terms of encouraging the development of specialist expertise in each area of working. However, there is a real danger that, because the treatment of Dual Diagnosis is split between two services, patients run the risk of falling “between the gaps”, with their needs being properly addressed by neither service.
- 4.11 There may also be a major problem in terms of “unmet need” in the city; that is, of people who have both severe mental health problems and problematic substance use, but who have not been formally identified as having a Dual Diagnosis.
- 4.12 The PCT has done some work with city GPs and with city Practice Based Commissioning Groups (i.e. groups of city GPs who have pooled responsibility for the commissioning of certain services under the NHS “Practice Based Commissioning” programme) to increase awareness of Dual Diagnosis.
- GPs have expressed a desire for more responsive services with a single point of access, and have chosen to commission such a service. From April 2009 there will be a single team (run by the Sussex Partnership Trust) responsible for assessing patients with suspected drugs/alcohol/mental health issues based in each Brighton & Hove locality (i.e. West, Central and East).
- 4.13 In the past, people with a Dual Diagnosis have often been “bounced” around between various service providers. The PCT now has powers to “incentivise” providers to ensure that this does not happen. The single locality teams will seek to address this problem.
- 4.14 Once a patient is assessed as having a Dual Diagnosis, a Care Plan will be developed and agreed with the patient and with all the agencies who will be involved in that patient’s care.
- 4.15 Richard Ford noted that mental illness was prevalent in the city as was problematic substance use, and there was inevitably a big cross-over of people with some aspects of both problems. However, the Panel might be best advised to focus more narrowly: on people with severe mental health problems and severe substance misuse issues.

4.16 Richard Ford told Panel Members that there was no absolutely typical profile of a Dual Diagnosis client, although many people with severe co-morbidity problems would suffer from schizophrenia, would misuse a wide range of substances, and would have regular mental health admissions, regular attendances at A&E, frequent episodes of homelessness and frequent encounters with the police (generally for fairly minor offences).

5. CHILDREN'S SERVICES

5.1 Richard Ford told Panel Members that there were currently separate adult and children's services for both mental health and substance misuse problems. This arrangement creates difficulties in terms of clients moving from one service to another, particularly as the age at which the services overlap is also an age at which very many people experience mental health problems and/or problematic substance use. There are therefore plans to introduce a dedicated service for 14 to 25 year olds. However, this is not currently in place.

5.2 In terms of looked-after children, there is a very strong correlation between being in care and having birth parents with problematic drugs or alcohol use issues. A service has been commissioned with 28 intensive treatment places intended for families at risk of having their children taken into care. However, this service is not currently set up to deal with problematic substance users who have concurrent mental health problems.

5.3 Panel members also asked whether, within the process of drawing up a patient's care plan, there was a protocol which would ensure that the relevant authorities were informed of any dependant children (of the patient being assessed) who might be considered to be at-risk.

GR

5.4 The Panel was also informed that there needs to be closer working between adult services and the Children & Young People's Trust, as effective preventative works needs to start with school-age children. Witnesses thought that Panel members would be well-advised to pay attention to this area.

Public Health information on substance misuse which specifically targets young people has seen a reduction in funding in the past few years. This is an area that needs addressing.

5.5 A Panel Member noted that she was encouraged by young people's ability to talk openly and sensibly about mental health issues, and felt that young people would be receptive to

preventative healthcare messages, provided they were couched in the right terms.

6. FUNDING

- 6.1 In answer to questions about funding, Panel members were told that Dual Diagnosis could either be defined quite narrowly or very broadly (either as people with both severe mental illness *and* severe substance misuse issues, or as people with some combination of mental health and substance misuse problem). In terms of the first definition, funding was unlikely to be a major issue as people with a Dual diagnosis of severe mental health and drugs misuse problems are typically a very high priority for treatment and support.

However, in terms of the second definition, funding is certainly an issue, as current services are not successful in identifying or supporting everyone with a mental illness or with problematic substance use issues (for instance, only an estimated one third of intravenous drugs users are currently supported by substance misuse services). Some of this failure to reach out to all potential clients is doubtless due to insufficient funding. GR?

Dual diagnosis involving alcohol presents much more acute funding problems, as treatment for alcohol related problems is poorly funded nationally, with Brighton & Hove expenditure being significantly lower than comparators. There are some plans to increase funding for these services, but it is unlikely that such plans will mean that services are properly funded.

There are also plans to fund a dedicated Dual Diagnosis post at the level of Nurse Consultant.

7. HOUSING

- 7.1 Richard Ford noted that there was a major problem with housing and tenancy support services for people with Dual Diagnosis. Clients were regularly discharged into unsuitable accommodation which impacted upon their chances of recovery. The problem was not so much a paucity of good accommodation for people with mental health problems, but rather that this type of supported housing was not generally set up to deal with clients who also had substance misuse issues.
- 7.2 Dave Dugan noted that the Sussex Partnership Trust employed a placement officer whose role it was to place mental health service users in appropriate supported accommodation, but that there were simply not enough places available, despite there

being a considerable amount of supported housing in the city. There is therefore an urgent need to work closely with housing providers to ensure that the accommodation they offer is appropriate for the clients who need to be placed in a supported environment.

- 7.3 Panel members were told that there were very real difficulties in housing people with Dual Diagnosis, as clients are often confrontational and are typically unable to obey tenancy rules. Housing numbers of people with a Dual Diagnosis together is problematic, as the presence of other substance misusers tends to encourage individuals to use. Having a number of active users with severe mental health problems in one place can also impact on the local community, who can in turn put pressure on housing providers to better control their tenants. Providers may respond to such pressures by evicting active users.
- 7.4 There is currently no supported accommodation in Brighton & Hove for non-abstinent or non-minimising substance misusers with mental health problems. The West Pier Project is the nearest thing the city has to this type of facility.
- 7.5 In answer to a question as to whether people in hostel accommodation were permitted to take drugs, Steve Bulbeck told Panel members that whilst there was certainly a need for some accommodation that imposed a rule of abstinence, the complex needs of many clients were such that abstinence was not a realistic option. Brighton & Hove City Council was therefore committed to working with housing providers to ensure that the available accommodation met actual client need: that is, for providers to recognise that they could and should not insist on total abstinence.
- 7.6 Richard Ford noted that abstinence was very rarely a short term option for people with Dual Diagnosis, as few such clients could cope with the kind of rule-based regime necessary to ensure abstinence. Key to achieving good outcomes for people with Dual Diagnosis was not imposing unrealistic targets or expectations.
- 7.7 Dave Dugan told Panel members that Brighton & Hove needed a number of small residential units with a flexible approach to dealing with Dual Diagnosis clients.
- 7.8 Panel members were told that there were some very good partnerships between the NHS and Adult Social Care and the Registered Social Landlords who provide much of the city's supported accommodation. However, there is certainly a good

deal more that could be done to make these partnerships more effective. This may not involve a great deal of additional expenditure, but rather using existing supported accommodation in a way which better reflects need in the city.

- 7.9 Simon Scott noted that the budget for mental health and substance misuse services could be re-profiled to provide additional funds for supported housing if clear benefits to such a move could be shown. However, the current financial climate is one in which major cuts have been made to the Supporting People budget (although attempts have been made to protect working age mental health services).

8. PARTNERSHIPS

- 8.1 In terms of integrated working between partners, the Panel was told that some partnerships work well, including most partnerships between Brighton & Hove City Council Adult Social Care services and NHS services for city residents.

However, integration between NHS services and those dealing with employment and housing is much less effective. There is currently a major Government initiative to extend the availability of psychological therapies, and this will have a specific focus on helping people with mental health problems to find and maintain employment.

The Panel heard that much more needs to be done in terms of co-ordinating mental health and housing support services.

9. SUPPORT SERVICES

- 9.1 Richard Ford said that having a single point of referral for mental health and substance misuse issues would improve outcomes. However, ensuring that formerly disparate working cultures coalesce effectively will almost certainly take a good deal of time.
- 9.2 Richard Ford stated that an important challenge is to get people with Dual Diagnosis to engage more with support and treatment services. Traditionally, such clients tend not to engage well with services, or with primary care. However, this is not an “invisible” group: people with Dual Diagnosis are generally well known to the NHS, to Adult Social Care and to the police due to their chaotic lifestyles.
- 9.3 Richard Ford said that it was important for mental health professionals to gain skills in dealing with substance misuse issues.

This was ultimately preferable to joint working between mental health and substance misuse professionals.

- 9.4 Simon Scott noted that money might not always be best spent directly addressing the needs of people with severe Dual Diagnoses. There was considerable opportunity to “spend to save” by funding preventative measures in an attempt to shape the culture of Brighton & Hove away from the kind of widespread problematic drugs and alcohol use that was bound to cause many people major problems at a later date.
- 9.5 The Panel was told that carers and supporting families had not, in the past, been accorded a major say in developing services for people with a Dual Diagnosis. However, it was now recognised that carers have an important role to play and the PCT is working to improve the situation. Measures will include ensuring that carers are not excluded on the basis of patient confidentiality without good reason. The PCT also plans to encourage carers to get more involved with the commissioning of services.
- 9.6 In answer to a question regarding Care Plans, Panel Members were told that there was some co-working between partners when developing Care Plans. However, a Care Plan which could be made available to housing support agencies would be very useful. There has been some attempt to develop such a plan, although progress has been slow.
- 9.7 If members wished to learn more about Care Plans it was recommended that they call Dr Rick Clarke, a consultant psychiatrist with Sussex Partnership Trust's Assertive Outreach Team, to give evidence.

10. OTHER ISSUES

- 10.1 In response to questions about Dual Diagnosis and prison services, Panel members were told that people with severe Dual Diagnosis should not typically enter the prison system, but would rather be diverted to mental health care. In both the prison system and secure mental health accommodation, substance misuse issues were relatively straightforward to treat, as access to drugs/alcohol could be restricted (although not with absolute assurance). However, there would be a very high incidence of relapses once people were discharged into the community.
- 10.2 The Chairman noted that he would seek to have the Panel's final report presented to the boards of Brighton & Hove City teaching Primary Care Trust and the Sussex Partnership Trust as well as to

the Brighton & Hove City Council executive.

The meeting concluded at 5:00 pm

Signed

Chairman

Dated this

day of

2008

Appendix 3B

BRIGHTON & HOVE CITY COUNCIL

SCRUTINY PANEL ON DUAL DIAGNOSIS

10AM 07 MARCH 2008

HOVE TOWN HALL

MINUTES

Present: Councillor Watkins (Chairman); Councillors Hawkes, Taylor and Young.

Witnesses: David Allerton (Mental Health Placement Officer, Sussex Partnership NHS Trust); Steve Bulbeck (Head of Single Homelessness and Social Inclusion, Brighton & Hove City Council); Mike Byrne (Manager, The West Pier Project).

PART ONE

ACTION

7 PROCEDURAL BUSINESS

7A. Declarations of Substitutes

7.1 Substitutes are not permitted on ad-hoc Scrutiny Panels.

7B. Declarations of Interest

7.2 There were none.

7C. Exclusion of Press and Public

7.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Schedule 12A, Part 5A, Section 100A(4) or 100 1 of the Local Government Act 1972 (as amended).

7.4 **RESOLVED** - That the press and public be not excluded from the

meeting.

8. MINUTES

8.1 That the minutes of the meeting held on 29.02.08 be approved.

9. CHAIRMAN'S COMMUNICATIONS

9.1 The Chairman welcomed the witnesses giving evidence at this meeting.

10. EVIDENCE FROM WITNESSES

10.1 Witnesses at this session were: **Steve Bulbeck**, Head of Single Homelessness and Social Inclusion, Brighton & Hove City Council; **David Allerton**, Mental Health Placement Officer, Sussex Partnership NHS Trust; **Mike Byrne**, Manager, The West Pier Project.

11. Evidence from David Allerton.

11.1 Mr Allerton explained to the Panel that he is a Mental Health Placement Officer, employed by the Sussex Partnership NHS Trust, but based at Bartholomew House, so as to be co-located with Brighton & Hove City Council Housing Options officers. Mr Allerton seeks to find appropriate accommodation to people with mental health problems referred from Housing services (either referred by Housing Options or directly from another Housing Officer).

11.2 Panel members were told that there were limited referral options for clients with a Dual Diagnosis (of mental health and substance misuse problems) within the Mental Health Pathway, as only a minority of providers offered accommodation for this client group.

11.3 There is supported housing available for people with a Dual Diagnosis at a relatively low level of support (provided by Brighton Housing Trust), at an intermediate support level (provided via the "Route 1" initiative, also run by Brighton Housing Trust), and at a high level (provided by the West Pier Project). However, places are limited, and some of these services may be restricted to clients who have agreed to abstain from the use of drugs or alcohol.

11.4 Mr Allerton told Panel members that the majority of clients he referred had relatively minor substance misuse issues if any at all.

These clients tended to be considerably easier to place in accommodation than people with severe Dual Diagnoses.

- 11.5 Information on clients referred to the Mental Health Placement Officer was variable, but there was generally enough detail about people's history of substance use to make an accurate referral. People who had been in the system a long time tended to have very detailed records, but were often rather hard to place (as they might have a history of being unable to cope with certain types of supported living). Clients new to Brighton & Hove services were generally easier to place.
- 11.6 Clients willing to engage with Mental Health and Substance Misuse services are typically easier to place than those who are more reluctant to engage. Those who tend not to engage are at much greater risk of "falling between the gaps" of the statutory services.
- 11.7 Mr Allerton told Panel members that more supported housing was required for people with Dual Diagnosis who were unwilling or unable to abstain from substance use. Such housing should probably be on a relatively small scale (with units having no more than five residents), as there could be significant problems associated with housing a number of clients with Dual Diagnosis together. There is a current lack of such accommodation in Brighton & Hove.

11.8 Mr Allerton noted that some clients might require very long term support at high levels, although this depended on the degree to which people engaged with support and treatment, so it was impossible to speak generally. Supported Housing provision was not necessarily formally "stepped", with clients automatically moved on to a less intensively supported environment once they were deemed to no longer require a high level of support.

11.9 Mr Allerton told Panel members that it was difficult to estimate the gender split of people with Dual Diagnosis without having a precise definition of Dual Diagnosis itself (i.e at what level a co-morbidity of mental health and substance misuse issues would be termed "Dual Diagnosis"). Mr Allerton also noted that he might not be in the best position to make such an estimate in any case, as those clients he encountered would generally have presented as homeless, and it may be the case that there is a gender imbalance in terms of those presenting to homelessness services (with men more likely to present), which would mean that this client group should not be considered as accurately representing the entirety of the group of people with a Dual Diagnosis.

Mike Byrne, of the West Pier Project, told members that, in his experience, the gender split of people with Dual Diagnosis was approximately 80/20 men to women (but again, with no guarantee that the type of client he encountered was typical of people with a Dual Diagnosis).

11.10 Mr Allerton noted that different providers varied in their definitions of abstinence. However, some providers (including Brighton Housing Trust) would not house clients who were prescribed methadone as a heroin substitute.

11.11 In response to members' queries regarding care assessments, Mr Allerton agreed that assessments and care plans might be better coordinated so that there were fewer assessments for each client. However, there were very significant problems to be faced in any attempt to create a unified assessment, as different services have significantly different needs, even if these needs are not entirely discrete. Thus, mental health services, for obvious reasons, require assessments focused upon clinical matters. Such material may not be useful to or easily understood by other agencies, so it is hard to see how an easily accessible integrated assessment could readily be created.

12. Evidence from Mike Byrne

- 12.1 Mr Byrne told the Panel that he was the manager of the West Pier Project, a Brighton & Hove City Council initiative providing 39 supported housing places. 11 places at the Project are reserved for referrals from the Community Mental Health Teams; the other places are referred into from the Council's Rough Sleeper's Team.
- 12.2 Most clients at the West Pier Project have some substance misuse issues (often featuring a combination of substances). Clients also frequently have underlying mental health problems, although these may be undiagnosed when they are referred to the project.
- 12.3 The West Pier Project does not require residents to be abstinent: it could not effectively engage with its clients if abstinence was required. Residents are required to minimise the risk to themselves and others when they do take substances, by, for instance, being open about their intravenous use of drugs (so that safe disposal of used needles can be arranged). Residents are not permitted to use in communal areas within the Project, nor may they use in the immediate vicinity of the Project.
- 12.4 Mr Byrne told Panel Members that any expansion of the West Pier Project within its current premises was unlikely to be feasible, as the Project is based in converted nineteenth century housing that already poses some major problems which would only be exacerbated by enlargement. (Problems include an inability to cater for people with serious mobility issues as the current premises cannot be adapted. Also, the layout of the current accommodation makes surveillance very difficult.)
- 12.5 Mr Byrne told the Panel that the location of a service such as the West Pier Project was not necessarily vital, but what was very important was ensuring that the service was responsible to the local community, minimising the disruption that residents with often very challenging behaviours could cause. The West Pier Project had been very effective in this area.

- 12.6 There is no absolute optimum size for such a service as clients vary greatly in terms of the kind of environment they thrive in. Some residents respond positively to a busy environment; others would find this overwhelming and are better suited to much smaller services. Therefore the city needs a range of projects to best cater for all service users.
- 12.7 Places at the West Pier Project funded by Supporting People grants are limited to two year's duration. Mental Health placements are not similarly restricted, but a maximum of two years stay is probably the optimum in most instances. However, some clients do stay longer when it is in their best interest to do so.
- 12.8 Many residents of the Project are evicted rather than leaving voluntarily. This is inevitable given the problems which the majority of clients have, and is not necessarily indicative of a failure in any part of the system. Evicted clients are always made aware of their other housing options, and the Community Mental Health Teams are alerted to the potential eviction of clients whom they are supporting well in advance of any actual eviction.
- 12.9 Mr Byrne told Panel members that he thought care plans were usually reasonably effective, with good co-working between healthcare providers, substance misuse services and the criminal justice system. If a care plan was inadequate, this was usually readily apparent at an early stage.
- 12.10 My Byrne informed the Panel that working with 11 Dual Diagnosis residents at any one time (the number referred into the West Pier Project by Community Mental Health Teams) could be very challenging, but that this depended to a great degree on the individual circumstances of the residents, since some clients required far more attention than others. For instance, clients with alcohol misuse issues could be particularly challenging (particularly if a number of residents had drink problems). Clients who refused to take their medication (for mental health problems) could also pose particular difficulties.

In certain instances, the West Pier Project might decline a referral if that referral was likely to lead to an unsustainable client-mix or to exacerbate a current problem. However, this would depend on the mix of other residents; there were no particular conditions which would lead the Project to reject any potential client without reference to the stability of the Project as a whole.

13. Evidence from Steve Bulbeck

- 13.1 Mr Bulbeck informed the Panel that he is the Council's strategic lead officer in terms of dealing with the problem of single homelessness and in co-ordinating the various non-statutory services operating in Brighton & Hove. He also oversees some of Brighton & Hove City Council's supported housing services.
- 13.2 The Council is committed to taking a preventative approach to homelessness. There is a Vulnerable Adults team which operates out of Housing Options where it can link effectively with the Mental Health Placement Officer. Since April 2007 the team has worked with 239 people deemed to be vulnerable due to mental health problems and/or drugs or alcohol issues. In around 80% of cases, homelessness has been avoided, either by enabling clients to maintain their current tenancy or by helping them to find a new tenancy.
- 13.3 The Council has also tried to minimise the use of inappropriate "Bed & Breakfast" accommodation for housing clients with mental health and/or substance misuse problems. This has included procuring private sector rental accommodation which has been offered as a resource to mental health services so that they have less need to refer into the general private rental sector themselves. Some clients are still placed in inappropriate private sector accommodation, but these are generally people such as failed asylum seekers, with no recourse to public funds to defray housing costs.
- 13.4 Mr Bulbeck told Panel members that there was a clear need to establish a formal pathway for the "stepping down" of housing support services for people with mental health problems (including Dual Diagnosis clients), so as to ensure that people received an appropriate level of support rather than continuing to receive the level they were first diagnosed as requiring, even if their circumstances have changed for the better.

David Allerton noted that step down of support did happen, but not in a formal way.

- 13.5 Mr Bulbeck noted that co-working with substance misuse services was not as far advanced as co-working with mental health services. The co-location of the Mental Health Placement Officer with the Housing Options Team had been instrumental in creating an effective partnership.

- 13.6 In response to questions about care plans and assessments, Mr Bulbeck told the Panel that work on a Single Assessment Process had been ongoing for more than two years. The aim of this process was to combine the assessments of all the statutory services. Mr Bulbeck advised the Panel that it should seek expert advice from someone actively engaged with this process. **GR**
- 13.7 Mr Bulbeck told the Panel that the places at the West Pier Project referred into by the Rough Sleepers' Team were funded via Supporting People. The Mental Health beds were funded via the Community care budget. All clients at the West Pier Project were also eligible for Housing Benefit.
- 13.8 Mr Bulbeck noted that recently announced cuts in the Supporting People budget might impact upon city services, particularly as some local providers have had to cope with a number of funding cuts in the past few years, meaning that few of them may have any remaining contingency to draw upon short of actually closing services.
- 13.9 Mr Bulbeck noted that health services should take the lead on supporting people with a Dual Diagnosis: this is clear from national guidance. However, this does not always happen, and more needs to be done to ensure that all city partners act as they should in dealing with this issue.

14. Future Meetings

- 14.1 The meeting had to be adjourned at this point due to a fire alarm sounded in the building. There is a meeting arranged for March 28 (at 10am, Hove Town Hall), and members will make arrangements for further meetings in the near future.

15. Any Other Business

- 15.1 There was none.

The meeting concluded at noon.

Signed

Chairman

Appendix 3C

BRIGHTON & HOVE CITY COUNCIL

SCRUTINY PANEL ON DUAL DIAGNOSIS

10AM 28 MARCH 2008

HOVE TOWN HALL

MINUTES

Present: Councillor Watkins (Chairman); Councillors Hawkes, Taylor and Young.

Witnesses: Andy Winter (Brighton Housing Trust), Dr Tim Ojo (Sussex Partnership NHS Trust), Khrys Kyriacou (Brighton Women's Refuge Project), Jo-Anne Welsh (The Oasis Project), Mike Pattinson (CRI – Crime Reduction Initiative).

PART ONE

ACTION

16 PROCEDURAL BUSINESS

16A. Declarations of Substitutes

16.1 Substitutes are not permitted on ad-hoc Scrutiny Panels.

16B. Declarations of Interest

16.2 There were none.

16C. Exclusion of Press and Public

16.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Schedule 12A, Part 5A, Section 100A(4) or 100 1 of the Local Government Act 1972 (as amended).

16.4 **RESOLVED** - That the press and public be not excluded from the

meeting.

17. MINUTES

- 17.1 That the minutes of the meeting held on 07.03.08 be approved.

18. CHAIRMAN'S COMMUNICATIONS

- 18.1 The Chairman welcomed the witnesses giving evidence at the meeting and reminded all present of the Panel's Terms of Reference.

EVIDENCE FROM WITNESSES

Witnesses at this session were: **Andy Winter**, Chief Executive of Brighton Housing Trust; **Dr Tim Ojo**, Consultant Psychiatrist at Sussex Partnership NHS Trust; **Khrys Kyriacou**, Brighton Women's Refuge Project; **Jo-Anne Welsh**, Director of the Oasis Project; **Mike Pattinson**, Chief Executive of CRI.

19. Evidence from Andy Winter.

- 19.1 Mr Winter told the Panel that he was Chief Executive of Brighton Housing Trust, and had spent his career working with people with substance misuse and mental health problems.
- 19.2 Brighton Housing Trust provides a range of services for people with mental health/substance misuse problems, including the "First Base" Day Centre (for homeless/insecurely housed people with mental health and substance misuse problems); "Phase 1" (52 bed spaces for homeless people, many of whom will have mental health and substance misuse problems); the "Route 1 Project" (63 bed spaces with varying levels of support for people with mental health problems – many of whom may also have substance misuse issues); a three-person flat providing accommodation for (abstinent) clients with a Dual Diagnosis); Addiction Services – a variety of detox and recovery services.
- 19.3 Mr Winter noted that he considered the term "Dual Diagnosis" unsatisfactory as it effectively sought to impose a single definition on a broad continuum of problems which might in actuality be very disparate. (Thus someone with a severe mental health problem who self-medicated with cannabis, and someone with substance misuse issues who developed mild symptoms of anxiety/depression as a result of their drugs use would both potentially be classified as having a Dual Diagnosis, even though the nature of and treatment of their problems might be radically

different.) Mr Winter prefers to use the term “complex needs”.

19.4 Asked to explain his position on the use of methadone in treating people with a problematic history of opiate use, Mr Winter told the Panel that methadone can be very useful in the short term. However, many people who are prescribed methadone either “top-up” with street-acquired opiates, or associate with people who are still using heroin, thus compromising methadone’s long-term effectiveness as an addiction resource.

19.5 The majority of the supported places which are provided by Brighton Housing Trust accept people with a methadone prescription, but a minority do not, as methadone users do tend to socialise with heroin users and/or continue to use heroin with a likely negative impact upon their own recovery and on those with whom they are housed.

Mr Winter stated that he does not believe that there are too many “abstinent” supported housing places in Brighton & Hove, but rather that there are too few.

19.6 Mr Winter explained that all Brighton Housing Trust’s supported housing clients were referred via one of the established pathways (e.g. mental health; homelessness). Most clients’ needs had been competently assessed, although it was often the case that other needs became apparent only once clients had been in settled accommodation for some time.

19.7 In response to a question regarding the integration of Needs Assessments for clients with complex needs, the Panel was told that there was much better co-working currently than had formerly been the case. However, the much improved resources for assessment very often came with specific targets attached to them. This could make co-working problematic, as different agencies often operated to their own Performance Indicators which were not necessarily compatible with those of partner agencies. Since these different Performance Indicators were often effectively immutable (at any rate at a local level), 100% effective co-working was not always a practical possibility.

- 19.8 In answer to a query regarding client motivation to achieving a goal of abstinence, the Panel was told that clients varied greatly in the degree of motivation they demonstrated: some clients evinced no desire to be abstinent, and in such instances, help needed to be focused upon harm minimisation (maintaining the client's health and minimising the impact of their behaviour on the wider community). However, most people presenting for treatment did have a long term aim of being abstinent. Services need to be flexible in order to deliver a rapid response to people who wanted immediate help with their substances misuse problems, but who might not be willing or able to wait any length of time for treatment to commence.
- 19.9 In response to a question regarding the origins of Brighton Housing Trust's interest in abstinence-based treatment programmes, the Panel was told that this arose internally, after staff expressed an interest in this approach. Mr Winter stressed that Brighton Housing Trust was also involved in a number of treatments which featured minimisation of substance use: the organisation by no means followed a rigid "abstinence only" policy.
- 19.10 In answer to a question concerning the percentage of people successfully treated/supported by Housing Brighton Trust who had presented with a Dual Diagnosis, Mr Winter told the Panel that it was impossible to give an accurate estimate of this figure without a stable definition of Dual Diagnosis.

Nearly everyone with severe substance misuse issues that Brighton Housing Trust supported would, at one time or another, have been prescribed therapeutic drugs for some form of mental health problem (although not everyone prescribed such drugs would actually take them: prescription drugs were often sold on to other drugs users). Thus, in theory, almost every person with a long-term substance misuse problem might be categorised as also having a mental health problem. However, the great majority of this group have relatively minor mental health problems (such as mild anxiety and/or depression) caused or greatly exacerbated by their drugs or alcohol use. The percentage of people with substance misuse and unrelated mental health problems is far smaller.

- 19.11 In answer to a question concerning the desirability of a central co-ordinating agency to deal with Dual Diagnosis, the Panel was told that the present system of co-working with the Sussex Partnership NHS Trust as the lead body was an effective one.

- 19.12 In response to a question about what could be done to improve Dual Diagnosis services, Mr Winter told the Panel that a residential assessment centre for people with a possible Dual Diagnosis (with assessment taking 2-4 weeks) would be a valuable asset. This would have to provide very high levels of support.
- 19.13 Mr Winter also argued in favour of more flexibility in terms of referral processes into existing support services, with a particular aim of avoiding the inappropriate use of general B&B accommodation.
- 19.14 In addition, there is currently no provision in the city of long-stay accommodation for people with a Dual Diagnosis who decline to engage with services. This was formerly available, but is no longer supported via Supported People grants (in accordance with recent Government Guidance which discourages its use). However, such a service would be useful and would mean that clients who declined to engage with services could, if necessary, be housed separately from other people with a Dual Diagnosis.
- 19.15 Mr Winter also suggested that Panel members might want to speak directly with service users and offered to arrange a visit to a Brighton Housing Trust recovery project.

GR

20. Evidence from Dr Tim Ojo

- 20.1 Dr Ojo introduced himself to the Panel. He is a consultant psychologist working for the Sussex Partnership NHS Trust and an Associate Medical Director for the Trust's Brighton & Hove locality.
- 20.2 Dr Ojo noted that Dual Diagnosis could be an inaccurate term, as many of the people presenting to mental health services with co-existing mental health and substance misuse problems would not be "classic" Dual Diagnosis cases, being as likely to have a serious mental health problem and a relatively minor substance misuse issue (for instance problematic use of cannabis or "dance drugs"), as to have a serious mental illness coupled with major substance misuse issues such as an addiction to opiates.
- 20.3 In response to a question as to how the treatment of people with a Dual Diagnosis might be improved, Dr Ojo told the Panel that treatment should be as individualised as possible: best results would only be achieved by being responsive to each individual patient's particular problems rather than by offering a generic Dual Diagnosis treatment.

20.4 Whilst people with a severe mental health problem could, under certain circumstances, be detained for treatment under a section of the Mental Health Act, there was no such provision to require people with severe substance misuse problems to undergo treatment. Thus people with a Dual Diagnosis would often only receive treatment if the mental health aspect of their co-morbidity had become so disruptive as to necessitate placing them under a Section.

20.5 City mental health services have a limited number of detox facilities, meaning that patients who do present with a Dual Diagnosis cannot always be treated as swiftly as would be wished.

20.6 In answer to a question regarding the therapeutic value of methadone, the Panel was told that methadone could be of considerable value in treating opiate-dependant patients as it might significantly reduce the problems associated with using "street" drugs, such as varying levels of drug purity, the health risks associated with injecting drugs, and acquisitive crime undertaken to feed a drug habit. However, some other countries do not consider methadone to be useful; preferring, for instance, to prescribe heroin.

If methadone is to be prescribed it is important to ensure that the dosage is appropriate and that a gradual reduction of dosage is encouraged.

20.7 In response to a question about how quickly mental health services could be accessed following a GP referral, Panel members were told that assessment (by the Community Mental Health Team) should take place within 72 hours of referral in urgent cases. However, there might be a much longer wait before the actual commencement of treatment.

Sussex Partnership Trust is working to ensure that equally rapid assessment is available for all patients who present with a Dual Diagnosis, even if people do not enter the system via the normal GP-referral pathway. However, this is work in progress.

20.8 In response to questions regarding the integration of mental health and substance misuse services, Dr Ojo told the Panel that treating a Dual Diagnosis was, in some respects, equivalent to treating a co-morbidity of two physical ailments in that one would expect to have treatment from two distinct teams working in close liaison rather than from a single formally integrated team. This was generally the most logical way to work in treating Dual Diagnosis, as many patients with a mental illness would

have relatively minor substance misuse issues, and would consequently be best dealt with by a specialist mental health team (and vice versa for people with a Dual Diagnosis in which substance use problems predominated).

To treat and support Dual Diagnosis patients via an integrated mental health and substance misuse team might improve services for some patients, but for many others it would likely entail generalist treatment when expert specialist intervention would have been a better option.

- 20.9 In answer to a query as to whether Dual Diagnosis was most prevalent in certain social classes or income groups, the Panel was told that, although the problem was traditionally associated with low incomes, there was an increasing problem amongst “middle-class” people, particularly in terms of the problematic use of cannabis and of “dance drugs” such as ketamine and methamphetamine (“crystal meth”).

21 Evidence from Khrys Kyriacou

- 21.1 Ms Kyriacou introduced herself as representing the Brighton Women's Refuge Project.
- 21.2 Ms Kyriacou told the Panel that many victims of domestic violence also had problems which amounted to a Dual Diagnosis. There was strong evidence to demonstrate that exposure to domestic violence (either directly as the victim of assaults, or indirectly as a child witnessing their mother being assaulted) was very likely to lead to either or both problematic substance misuse and to mental health problems, either concurrent with the abuse or in later life.
- 21.3 Ms Kyriacou stressed that, whilst there was a significant level of female abuse of male partners, and indeed of same-sex abuse, the bulk of domestic violence and certainly the bulk of the most serious cases involved men abusing women. The ways in which statistics were recorded and published did not always make this as clear as it should have been.
- 21.4 The Women's Refuge has a very limited capacity to accept clients with a Dual Diagnosis, and is only equipped to deal with fairly low levels of Dual Diagnosis.
- 21.5 In response to a question concerning the best way to improve services for Dual Diagnosis, Ms Kyriacou told the Panel that the current difficulty of accessing funds to pay for a deposit on private rented accommodation negatively impacted upon

many people being helped by the Women's Refuge, including women with a Dual Diagnosis. Access to deposit money would not only enable women to establish a more settled existence, but it would very likely end up saving money, as many women were entitled to and claimed dual Housing Benefit (for Women's Refuge accommodation and for the tenancies they had been forced to flee due to domestic violence), and had little to choice other than to continue claiming if it was, in practical terms, impossible for them to access private rented housing.

- 21.6 Ms Kyriacou also told Panel members that the Women's Refuge is wholly funded by Supporting People grants. This funding is targeted at particular services, and financial support is not given to important areas that fall outside of the Supporting People Key Performance Indicators (KPIs) such as providing emotional support to clients or directly supporting clients' dependant children. Given the restricted nature of Supporting People's KPIs, and hence of the Women's Refuge funding, Ms Kyriacou felt that it was not always currently possible to provide the best possible treatment for women with a Dual Diagnosis.

Councillor Pat Hawkes noted that this was a very serious problem, particularly with reference to the Council's duties to children and families as set out in "Every Child Matters."

- 21.7 Ms Kyriacou told the Panel that particular problems for women with a Dual Diagnosis included possible involvement in prostitution in order to fund a drugs habit (often involving a degree of coercion) and a reluctance to present for treatment, particularly for women with dependant children who feared their children might consequently be taken into care.
- 21.8 Ms Kyriacou noted that legislative restrictions made helping certain groups of people particularly problematic. For instance, the Women's Refuge is unable to house women who require prescribed medications to manage substance misuse issues. The Women's Refuge may, after conducting a risk assessment, house women who refuse prescribed medication for mental health problems.

22 Evidence from Jo-Anne Welsh

- 22.1 Ms Welsh introduced herself as the Director of the Oasis Project. The Oasis Project provides support services for women with drugs misuse problems and their children. The Oasis Project works closely with Sussex Partnership trust and with CRI (which provides a similar range of support services for men).

- 22.2 The Oasis Project offers a number of services, including open-access support for women with drugs problems (and for their relatives and/or carers); support for people serving Community Sentences; and support for women designated as Parents Of Children At Risk (POCAR) and therefore obliged to seek support.

The Oasis Project also funds outreach workers to engage with sex-workers and a part-time outreach officer to work with drugs users.

- 22.3 Ms Welsh noted that many of the Oasis Project's clients would have some form of Dual Diagnosis as very many long term problematic drugs users/victims of abuse would inevitably have some kind of mental health problem such as mild depression or anxiety. However, these mental health problems, whilst evident to support workers, were often undiagnosed and untreated.

However, relatively few of the Oasis Project's clients could be characterised as having a severe Dual Diagnosis (serious mental health problems and major substance misuse issues).

- 22.4 Councillor Jan Young noted that the Panel should seek to avoid defining Dual Diagnosis so broadly that it would include a diagnosis of relatively mild depression coupled with relatively minor substance use problems, since people with such a diagnosis did not necessarily have a great deal in common with people with more severe Dual Diagnoses.

- 22.5 In answer to a question about the POCAR programme, Ms Welsh told the Panel that the programme was for parents who were problematic drugs users at risk of having their children taken into care.

The support programme included an element of coercion, in that parents who refused to engage were potentially at greater risk of having their children removed.

More women had presented for support via POCAR than had men (men are supported by CRI rather than by the Oasis Project), although the reasons for this imbalance were not clear. The programme seems to have had some success in educating parents and allowing them to remain as families without further endangering their children.

- 22.6 Ms Welsh noted that the Oasis Project is currently reviewing the services it provides in light of the recent publication of National Institute of Clinical Excellence (NICE) and National Treatment Agency (NTA) guidance.

23 Evidence from Mike Pattinson

- 23.1 Mr Pattinson introduced himself as the Chief executive of CRI (Crime Reduction Initiative). CRI provides non-clinical substance misuse services; interventions for clients within the Criminal Justice system; a Priority Offender programme; and a Rough Sleepers programme.
- 23.2 Mr Pattinson noted that a key factor in successfully supporting people with a Dual Diagnosis was ensuring that the right pathways are in place. Current treatment is effective, providing people present with “mainstream” problems; but treatment, and the co-ordination of services, for people with more uncommon problems is often not as good as it might be.
- 23.3 Mr Pattinson also noted that, although there were some very good examples of the increasing co-ordination of city services, more work still needed to be done in this area. In order to effectively support people with a Dual Diagnosis, it was necessary to co-ordinate substance misuse services, mental health services, housing support and criminal justice services.
- 23.4 Mr Pattinson told Panel members that, in his experience, people who presented with a Dual Diagnosis were often problematic users of opiates. However, whilst opiate users can access a prescribed alternative to heroin (methadone) by presenting for treatment, there is no such prescribed substitute for other drugs or for alcohol. This may mean that heroin users tend to present in greater numbers than users of other substances, and thus effectively skew the statistics.
- 23.5 In response to a question regarding the integration of treatment services for substance misuse/mental health issues between prison and the community, Panel members were told that there should be continuity of care for both drugs and mental health programmes. People who did not actively present for (non-mandatory) treatment did risk “falling between the gaps”, although outreach teams would generally attempt to engage with them.

There are fewer facilities, both in prison and in the community, for treating alcohol problems than there are for drugs problems.

- 23.6 In answer to a query concerning how effectively people were assessed as having a Dual Diagnosis, Mr Pattinson told the Panel that the Sussex Partnership Trust had recently employed two specialist nurses to assess and treat Dual Diagnosis clients (Dual

Diagnosis of mental health and *drugs* misuse problems). Assertive Outreach Team clients were currently being assessed to see if they might have previously unidentified Dual Diagnoses. (The Assertive Outreach Team is part of the Sussex Partnership Trust Community Mental Health Team.)

- 23.7 In response to questions regarding the assessment of clients, Mr Pattinson told the Panel that assessment is comprehensive and relatively well integrated; Care Plans are constantly re-assessed to ensure that they remain relevant.

Clients may be provided with a “key worker,” although this system does not work as effectively as it might, particularly when a client’s changing needs necessitate the appointment of a new key worker (for instance, if a client’s problems change from being substantially those of mental illness to being substantially those of substance misuse). Agencies are currently moving towards a system whereby a single key worker is retained even if a client’s needs significantly change.

- 23.8 In response to a query regarding the involvement of carers and families in supporting people with a Dual Diagnosis, the Panel was told that Brighton & Hove had a relatively good record in this respect, but that more could and should be done, although it was important to ensure that facilitating more family involvement was balanced by a patient’s right to confidentiality.

- 23.9 In answer to questions regarding patients’ Care Plans, Panel members were told that a Sussex Partnership Trust officer would take the lead on each individual Care Plan. However, it had been mooted that officers of other bodies, including non-statutory agencies, might sometimes be asked to assume this co-ordinating role if doing so would improve the services offered to individual clients.

- 23.10 Asked to identify an aspect of Dual Diagnosis support/treatment which might be improved, Mr Pattinson told the Panel that the treatment pathways for Dual Diagnosis should be as clearly and flexibly defined as possible so as to ensure that people obtained the most appropriate service.

23.11 Suggestions from members of the public

- 23.12 A member of the public attending the meeting, Mr Richard Scott, asked to address the Panel and suggested some topics which he felt might merit further attention. These included: the impact of poverty upon people with a Dual Diagnosis; what affect the split of mental health provision between services for

people of working age and services for older people had on the effectiveness of Dual Diagnosis services; what kind of provision there was to monitor people being treated for a Dual Diagnosis who "fell off the radar" (e.g. people who were presumed to have moved away from the area; were these people recorded as presenting for services in other areas?); whether there would be value in compiling a Directory of city-wide Mental Health services (to mirror or perhaps to be merged with the existing Directory of Substance Misuse services).

24 Future Meetings

24.1 Panel members agreed to hold further meetings on **April 25 2008** and **May 02 2008**.

25 Any Other Business

25.1 There was none.

The meeting concluded at 12:30pm.

Signed

Chairman

Dated this

day of

2008

Appendix 3D

BRIGHTON & HOVE CITY COUNCIL

SCRUTINY PANEL ON DUAL DIAGNOSIS

10AM 25 APRIL 2008

HOVE TOWN HALL

MINUTES

Present: Councillor Watkins (Chairman); Councillors Hawkes and Taylor

Witnesses: Sally Wadsworth (Commissioning Manager, Child and Adolescent Mental Health Services - CAMHS); Anna Gianfrancesco (ru-ok Service Manager); Maggie Gairdner (Associate Director, Children's Services and Substance Misuse, Sussex Partnership Trust); Rebecca Hills (Associate Director, Acute Care, Sussex Partnership Trust); Sue Baumgardt.

PART ONE

ACTION

26. PROCEDURAL BUSINESS

26A. Declarations of Substitutes

26.1 Substitutes are not permitted on ad-hoc Scrutiny Panels.

26B. Declarations of Interest

26.2 There were none.

26C. Exclusion of Press and Public

26.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Schedule 12A, Part 5A, Section 100A(4) or 100 1 of the Local Government Act 1972 (as amended).

26.4 **RESOLVED** - That the press and public be not excluded from the meeting.

27. MINUTES

- 27.1 That the minutes of the meeting held on 07.03.08 be approved.

28. CHAIRMAN'S COMMUNICATIONS

- 28.1 The Chairman welcomed the witnesses giving evidence at this meeting.

29. EVIDENCE FROM WITNESSES

- 29.1 Witnesses at this session were: Sally Wadsworth (Commissioning Manager, Child and Adolescent Mental Health Services - CAMHS); Anna Gianfrancesco (ru-ok Service Manager); Maggie Gairdner (Associate Director, Children's Services and Substance Misuse, Sussex Partnership Trust); Rebecca Hills (Associate Director, Acute Care, Sussex Partnership Trust); Sue Baumgardt (parent of someone with a Dual Diagnosis).

- 29.2 As a number of witnesses represented services for children and young people, it was decided to take their evidence jointly rather than interviewing each witness sequentially. The evidence provided by Sue Baumgardt was taken separately.

29.3 Evidence from Anna Gianfranceso, Sally Wadsworth, Maggie Gairdner and Rebecca Hills.

- 29.4 Sally Wadsworth (SW) explained to the Panel that there are two types of Children and Adolescent Mental Health Services (CAMHS) operating in the city: a "Tier 3" service run by Sussex Partnership Trust, and a "Tier 2" service hosted by the Children and Young People's Trust. There is a good deal of work currently taking place to ensure that these services are effectively integrated.

- 29.5 SW noted that CAMHS services for clients with a Dual Diagnosis had some historical weaknesses, notably in terms of the provision of effective nursing support for detoxification and for general, rather than mental, health needs. There was also a need to ensure that young people with a Dual Diagnosis were able to access a wide range of CAMHS services, rather than just being treated within the Dual Diagnosis team. SW was able to assure members that work was ongoing in all of these areas.

- 29.6 In response to a question concerning the environment in which CAMHS services were delivered, Maggie Gairdner (MG) told Panel members that services were provided in a youth-friendly environment by clinicians who specialised in children's health.

Anna Gianfranceso (AG) noted that young clients would typically be seen at one of the CAMHS facilities by visiting clinicians; clients would only be required to attend adult Substance Misuse Services (SMS) in an emergency situation.

- 29.7 In answer to questions concerning how these services were currently delivered, the Panel was told that services were either available at centres in Hove and Brighton or via outreach, work in schools etc. There is ongoing work aimed at making access to CAMHS services easier and more inclusive. This may include effectively integrating the services rather than having partially discrete Tier 2 and Tier 3 provision.
- 29.8 In response to a query regarding the definition of Dual Diagnosis, members were told that assessing younger people was often very difficult, as they frequently evinced highly chaotic behaviour and could be very tricky to engage with. In consequence, diagnoses of a co-morbidity of mental health and substances misuse problems could often not be made until clients were in their mid twenties.
- 29.9 In answer to a question regarding the success of the Children and Young People's Trust (CYPT), members were informed that CYPT had facilitated much improved co-working between disciplines, both at strategic/management levels and at the "front line" where services are delivered.
- 29.10 Councillor Pat Hawkes stressed that it was very important that Brighton & Hove City Council analysed the performance of CYPT so that other Council services could benefit from this good practice.
- 29.11 AG acknowledged that CYPT services were often considerably more effective than equivalent adult services, and that this could be very problematic when clients needed to transfer across. The feasibility of increasing the upper age range covered by CAMHS to 25 was being considered, as such an extension of the service might ameliorate some of the problems caused by any relative incompatibility between child and adult services.
- 29.12 MG noted, that, although CAMHS was, in some ways, better integrated than adult mental health and SMS, this did not mean that adult services were necessarily poorly integrated. On the contrary, there was a good deal of effective co-working in adult services in terms of initial assessment of clients, in terms of discharge, and throughout treatment. There was also a history of effective partnership between SMS and Community Mental Health services, particularly the Assertive Outreach Team. A nurse consultant would shortly be recruited to co-ordinate this partnership working.

However, there were considerable challenges to more closely integrating services, including incompatible IT systems.

- 29.13 In response to a question regarding the involvement of the legal system in CYPT work, AG told members that ru-ok has a worker in the Youth Offending Team. Young people who have offended and have been identified as having substance misuse problems, or who committed crimes involving substances, will be assessed by ru-ok to

see if they would benefit from intervention.

ru-ok also works with the Community Safety Team to identify young people who use substances problematically before they come to the attention of the courts.

- 29.14 In response to a query regarding the types of substances commonly misused by young people, AG told members that a wide range of substances were encountered, although misuse of solvents was not as prevalent as it had once been.

MG noted that problematic alcohol use was on the rise, and that services relating to this were generally under-funded. This was a particular concern, particularly because of the serious physical problems (liver disease etc.) associated with long-term misuse of alcohol.

SW noted that alcohol related problems were not always accorded the priority that they should be. Although the commissioners were now beginning to direct significant funds into adult drink services, there had to date been relatively little funding for younger people's services.

AG told the Panel that it was very difficult to assess the extent of alcohol related problems, as the recording of this data was often incomplete. This was particularly the case in terms of attendances at hospital Accident & Emergency (A&E) departments; A&E did not typically code attendances as being drink related, and the high turnover of A&E staff made it very difficult for ru-ok to develop effective working relationships with A&E. Current work is ongoing to develop a Care Pathway for A&E referrals to ru-ok (with targets for numbers of referrals).

MG noted that there were similar problems encountered in trying to get A&E staff to identify and record A&E attendees who might have mental health or substance misuse problems, although it was recognised that the pressures of A&E work were considerable.

- 29.15 In response to a question from a member of the public concerning Out Of Hours (OOH) psychiatric cover at the Royal Sussex County Hospital (RSCH) A&E department, Rebecca Hills (RH) told members that Mill View hospital provides 24/7 OOH cover for the RSCH. In addition, improved Mental Health and SMS resources at the RSCH A&E are currently being developed.

- 29.16 In answer to questions about the crossover between children's and adult services, members were told that this was a nationally recognised problem. The notion of "transition" services (covering an age range of 14-25) is being actively considered. (Some services, such as services for Special Needs and for Pregnant Teenagers, already vary their provision on this basis.)

30. Evidence from Sue Baumgardt

- 30.1 Ms Baumgardt introduced herself: her son Yannick had a Dual Diagnosis and died in November 2005 as a result of heroin poisoning. Ms Baumgardt has subsequently been involved in campaigning on issues relating to provision for the treatment and support of people with a Dual Diagnosis.
- 30.2 Ms Baumgardt explained that Yannick had begun displaying psychotic behaviour in his teens (although the family only recognised this in hindsight). He was first detained (under a section of the Mental Health Act) in his early twenties, and was subsequently “sectioned” on several occasions.
- 30.3 Yannick also developed problems with substances. These included heroin, prescription medicines (amphetamines and benzodiazepines) and alcohol. Yannick refused to acknowledge that he had mental health problems, and may have misused these substances in order to “self-medicate”, seeking to ameliorate the effects of his illness with these drugs rather than prescribed psychiatric ones.
- 30.4 Ms Baumgardt explained how she had encountered major difficulties in persuading healthcare professionals that, on occasion, Yannick needed detaining (under a section of the Mental Health Act) for his own safety and the safety of others. Ms Baumgardt described how healthcare professionals were slow to attend in emergency situations, and how they advised her to call the police if she became concerned about Yannick’s behaviour. Ms Baumgardt feels that this was unrealistic advice which threatened to place her family at risk of harm.
- 30.5 Ms Baumgardt also described problems she had encountered with services at Mill View hospital on occasions when Yannick was “sectioned”. These included:
- a lack of security at Mill View (whilst supposedly detained on a locked ward, Yannick was able to access local shops to buy alcohol);
 - no detoxification services offered to Yannick;
 - insufficient Occupational Therapy on offer to people in Pavilion Ward;
 - the effective unavailability of Cognitive Behavioural Therapy (CBT) for people in Yannick’s position;
 - inappropriate granting of leave to sectioned patients;
 - an inappropriately “laissez faire” attitude evinced by ward staff (not encouraging patients to engage with therapies, to be active, to maintain their own appearance etc). Ms Baumgardt

recounted visiting Yannick at 3pm to find him still in bed, surrounded by half eaten food, dirty crockery etc. Ms Baumgardt feels that Yannick should have had more positive intervention to care for him/enable him to care for himself.

- 30.6 Ms Baumgardt also felt that her son's discharge from hospital was poorly handled, with Yannick initially being placed in inappropriate Bed & Breakfast (B&B) with no cooking facilities.
- 30.7 Yannick was then transferred to accommodation in the Royal Promenade Hotel, Percival Terrace, Brighton, which Ms Baumgardt thinks was equally unsuitable, as it was situated in an area where drugs use was prevalent. Ms Baumgardt also considers that hotel staff were insufficiently briefed on the people they were required to house, having neither detailed knowledge of Yannick's medical history, nor his Next Of Kin contacts.
- 30.8 After discharge, Yannick was supported by the Assertive Outreach Team. Ms Baumgardt feels that this support was inadequate; when she called the team with worries about her son's state, their response was inappropriately slow. Ms Baumgardt recognises that the Assertive Outreach Team needs to act so as to gain the confidence of its clients, which may necessitate building relationships slowly; but she feels that the Team ought to be prepared to intervene far more swiftly when necessary, particularly when acting on the advice of people with intimate knowledge of a person's behaviour such as family members/carers.

After Yannick died, Ms Baumgardt told Panel members that hotel staff were only able to contact Next Of Kin after the Assertive Outreach Team had called Yannick's mobile phone, some two days after his death.

- 30.9 Ms Baumgardt was asked to suggest how she thought services for people with a Dual Diagnosis might be improved. She suggested that:
- Appropriate supported housing was a priority. People discharged after being detained under a section should never be placed in B&B accommodation. There should instead be some kind of temporary supported housing provision, so as to allow extremely vulnerable people to live in a safe and appropriate environment whilst suitable long term accommodation was found for them. This might even save money in the long term, as it could reduce the frequency with which people discharged from a section were quickly re-sectioned because they were unable to cope with inappropriate temporary housing.
 - People detained under a section of the Mental Health Act should receive much more encouragement to engage with therapeutic activities whilst in hospital, and should also be encouraged to be active, clean themselves etc.

- People under a section should be compelled to take appropriate psychiatric medication.
- Sussex Partnership Trust officers should re-think their response to families/carers of people with a Dual Diagnosis who contact the trust with severe concerns about their relations' behaviour. Telling people to call the police is inappropriate advice as police officers are not well placed to determine the mental state of someone with a Dual Diagnosis, who may well present as quite rational. Should police officers attend at the behest of families/carers and choose not to intervene (by arresting the person with a Dual Diagnosis/detaining them under Section 136 of the Mental Health Act), the people who called the police may find themselves at risk of attack. A more appropriate response would be for mental health staff to attend in a timely fashion to assess patients.
- Rehabilitation services should be located outside the city, preferably in a rural environment with ready access to therapeutic interventions, arts, gardening etc. Such facilities could well be Sussex wide rather than dedicated to Brighton & Hove patients.

30.10 The Chairman thanked Ms Baumgardt for her evidence.

31. Any Other Business

31.1 There was none.

The meeting concluded at noon.

Signed

Chairman

Dated this

day of

2008

Appendix 3E

BRIGHTON & HOVE CITY COUNCIL

SCRUTINY PANEL ON DUAL DIAGNOSIS

11AM 25 JULY 2008

HOVE TOWN HALL

DRAFT MINUTES

Present: Councillor Watkins (Chairman); Councillor Hawkes

Witnesses: Jugal Sharma, Assistant Director of Housing, Brighton & Hove
City Council

PART ONE

ACTION

33. PROCEDURAL BUSINESS

33A. Declarations of Substitutes

33.1 Substitutes are not permitted on ad-hoc Scrutiny Panels.

33B. Declarations of Interest

33.2 There were none.

33C. Exclusion of Press and Public

33.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Schedule 12A, Part 5A, Section 100A(4) or 100 1 of the Local Government Act 1972 (as amended).

33.4 **RESOLVED - That the press and public be not excluded from the meeting.**

34. MINUTES

34.1 That the minutes of the meeting held on 25.04.08 be approved.

35. CHAIRMAN'S COMMUNICATIONS

- 35.1 The Chairman noted that he had hoped to hear evidence from the Director of Adult Social Care and Housing at this meeting, but that she had been obliged to attend another meeting at short notice. Members will meet with the Director in the near future.

36. EVIDENCE FROM WITNESSES

- 36.1 The witness at this session was Jugal Sharma, Assistant Director of Housing at Brighton & Hove City Council.

- 36.2 Mr Sharma told Panel members that early identification of people with Dual Diagnosis problems was key to delivering effective services. To this end the Council sought to ensure that Housing Officers were present at Community Mental Health Team needs assessments.

Housing Officers also worked closely with the Children and Young People's Trust (CYPT) in order to identify people with a potential Dual Diagnosis coming into the housing system. The Council was committed to keeping 16-17 year olds out of inappropriate "B&B" accommodation, and to working with the families of 13-14 year olds to try and provide effective support at an early stage.

- 36.3 Mr Sharma informed the Panel that Brighton & Hove had a very unusual profile in terms of people presenting as homeless. Whilst the great majority of people presenting for housing in the South East region and London Boroughs were families, in Brighton & Hove the majority of people presenting were young single men (and increasingly women), often with significant alcohol and/or drugs problems.

Effectively, if the South East region and London generally showed a 70/30 split between families and single people presenting as homeless, Brighton & Hove had a profile which was the mirror image of this, with many more single people presenting as homeless than families.

- 36.4 Mr Sharma also pointed out that a very high percentage of people presenting as homeless in the city could be classified as "vulnerable" people, a much higher proportion than was the regional norm or the case in most London Boroughs.

- 36.5 Brighton & Hove does not have a disproportionate number of young single people presenting as homeless due to family breakdown, but we do have very many people coming into the city and presenting as homeless, especially during the summer months. (By contrast, London homeless presentations tend to peak in the winter months.)

- 36.6 The biggest problem the city faces is providing homes with the appropriate level of support. Mr Sharma told the Panel that it was generally easier to support families than single people, particularly as single people presenting as homeless very typically had co-existing mental health and substance misuse problems/ had serious general health problems/ were receiving support from a number of agencies/ were locked in a cycle of using and remission/ were in shared accommodation etc. All these factors can considerably complicate the delivery of support services.
- 36.7 These particular problems with Brighton & Hove's singular client base are typically not recognised in terms of Government funding, which tends to be more generous for families than for single people.
- 36.8 There is also a very high incidence of people with a Learning Disability in the city, and a very significant overlap between this group and the group of people with mental health problems, with the concomitant danger of clients with this type of co-morbidity "falling in the gaps" between services.
- 36.9 Mr Sharma told the Panel that the budget for supporting young, single homeless people was under a great deal of pressure with year on year reductions in Supporting People funding (the main source of funding for this group).
- 36.10 However, Mr Sharma stressed that there was sufficient money in the system to offer appropriate support; problems were centred on how money was allocated rather than any actual inadequacy of funding.
- 36.11 Mr Sharma told Panel members that the Council had recently taken over several hotels which provided accommodation for young single homeless people (for instance, the West Pier Adelphi hotel).
- Often, private providers running these hotels did not deliver an acceptable standard of service, despite charging large amounts of money for their supported housing. This has meant that the council can typically run better services more economically, even when the costs of purchasing properties are factored in (and leaving aside long term opportunities for the appreciation of property values).
- 36.12 Mr Sharma noted that a model in which the Council purchased properties around the city and then used them to offer supported housing had already been enacted in relation to services for some people with Learning Disabilities and/or physical disabilities. There was, in theory, no reason why a similar initiative should not provide high quality supported housing for clients with mental health problems, including Dual Diagnoses.
- 36.13 However, there are practical complications to such an initiative, including the difficulty of convincing local residents that such housing will not impact negatively upon their communities, and persuading the Council's partners that such a move presents the best opportunity to

create a high quality and affordable service.

- 36.14 Mr Sharma told members that a major problem in terms of providing appropriate supported housing to people with a Dual Diagnosis was a lack of co-ordination and information-sharing across the care system.

Thus, the Council's housing services might well be in a position to source suitable housing or to negotiate with current landlords to maintain existing tenancies, should they be aware that a person had been detained under a section and would likely have to spend a considerable period of time receiving acute mental health care.

However, if the Council was unaware of an individual's treatment and potential supported housing requirements until shortly before their re-integration into the community, then the provision of suitable housing was typically much more problematic.

Similarly, if the housing team was unaware that a person had been detained under a section, they could not begin to broker an agreement with that person's landlord which might maintain a tenancy until such time as the individual was capable of resuming it.

- 36.15 Members noted that this kind of poor co-ordination between services was not limited to the NHS: historically, different departments of the council had often struggled to communicate effectively with one another. However, the Council's working practices were much improved in this respect, and there was a clear need to spread this good practice to health partners, particularly in terms of the co-operative working pioneered by children's services (which, although far from perfect, is considerably in advance of the practice within adult services).

- 36.16 Councillor Hawkes stressed the importance of staff in all agencies being trained so that they had a proper understanding of how partner agencies worked (as is already the case in terms of teacher and social worker training).

- 36.17 Mr Sharma pointed out that a key factor in dealing successfully with Dual Diagnosis problems was to identify those in need of immediate intervention, and to ensure that they had rapid access to the most appropriate services (which for most clients would not be the most intensive services such as the West Pier Project). Effective co-operation between agencies was essential in making early identifications of the people in most need of support.

- 36.18 Mr Sharma discussed various approaches to substance misuse problems with Panel members. Mr Sharma noted that there were a number of differing philosophies of treatment, ranging from systems which demanded abstinence to those which assumed the long term continuation of substance use.

- 36.19 Whilst differing approaches can all show good results, systems which aim to manage and minimise substance and/or alcohol use may be more widely applicable than systems based on abstinence, which can sometimes impose unrealistic expectations on clients (e.g. expecting a level of abstinence which many members of the public, care staff etc. might not be willing to adopt).
- 36.20 Mr Sharma also noted that different models of treatment had different definitions of success. Thus, one system might see success in terms of a client achieving abstinence; whilst another system might regard success as reducing a client's substance or alcohol use to the point where they are socially functioning, whether or not this still involves quite significant drug and/or alcohol use.
- 36.21 In response to a question regarding the most important change required for the better functioning of citywide Dual Diagnosis services, the Panel was told that there was a need for a more accurate quantification of demand for Dual Diagnosis services than was currently available. Without a relatively accurate assessment of demand, it was difficult to plan and budget effectively for services, and impossible to deliver consistently excellent levels of care and support as and when it was needed.
- 36.22 The city requires an updated Dual Diagnosis Needs Assessment to provide this information (the last formal Needs Assessment was conducted in 2002). Mr Sharma indicated that he was happy to take the lead in developing this Needs Assessment, as he saw this as a matter of some urgency.
- 36.23 Similarly, Mr Sharma indicated that in areas where Care Packages for people with a Dual Diagnosis were inadequate or took too long to access, the Council might be in a position to take over the provision of such packages, with confidence that they could significantly improve the services available.

37. Any Other Business

- 37.1 There was none.

The meeting concluded at 12:30.

Signed

Chairman

Appendix 3F

Dual Diagnosis Scrutiny Panel

1. Note of meeting between Cllr David Watkins (DW) and Joy Hollister, Director of Adult Social Care and Housing (JH). 04 August 2008

- 1.1 Some Scrutiny Panel members were unable to make this meeting date. JH indicated that she was happy to answer any further questions that members unable to attend this meeting might have.
- 1.2 DW expressed his concern that NHS health and Local Authority (LA) social care services did not always work effectively together (in regard to Dual Diagnosis issues).
- 1.3 JH responded that the core issue was effective co-ordination of care. Agencies had to be aware of the general scope of the Dual Diagnosis problem; but also, much more precisely, of the type and degree of services which needed to be commissioned (services including supported housing, “talking” therapies, suicide prevention, professional carers).
- 1.4 Officers from Sussex Partnership Trust (SPT) Community Mental Health Team (CMHT) have lead responsibility for people with a Dual Diagnosis. JH wondered if there may be scope for SPT to work more effectively in terms of making timely and accurate assessments of clients’ needs and then “micro-commissioning” the appropriate services.
- 1.5 JH noted that the micro-commissioning process is likely to gain in importance as the Self-Directed Care initiative means that individuals have more say in determining how their care and treatment is delivered.
- 1.6 JH wondered if there was merit in moving to an integrated assessment team, allowing all agencies to contribute in accordance with their expertise. Brighton & Hove City Teaching Primary Care Trust (PCT) is lead commissioner of adult mental health services for B&H, and it will ultimately be up to the PCT to decide whether SPT’s CMHT should continue to manage the Dual Diagnosis assessment process in the long term.
- 1.7 DW noted that he thought there was a particular gap in terms of city services addressing alcohol-related issues. JH agreed, further commenting that good services required workers with a holistic approach/knowledge (i.e. workers who were capable of recognising/assessing clinical problems, but who also had a good knowledge of Benefits systems, support networks etc.)

- 1.8** DW mentioned problems with Dual Diagnosis clients accessing GP services and acute hospital services (e.g. A&E). JH responded that the PCT was responsible for commissioning city primary and secondary healthcare services, and therefore could be in a position to incentivise providers to deal appropriately with Dual Diagnosis clients (via specific performance targets etc.)
- 1.9** JH advised that the Scrutiny Panel, in their report, could consider “commissioning” BHCC Adult Social Care and the PCT to come up with a new Dual Diagnosis commissioning plan embodying the Panel’s recommendations.
- 1.10** JH welcomed the idea that the Panel should seek to get partner agreement on the Panel’s recommendations, noting that a Concordat of local partners would be very helpful in terms of forwarding the Dual Diagnosis agenda.
- 1.11** JH advised that pharmacists could be a key resource in helping people with a Dual Diagnosis, as pharmacists frequently established good relationships with people on methadone prescriptions etc. and were well placed to observe deterioration in people’s conditions. Pharmacists may also be more readily trusted by people with a Dual Diagnosis than NHS or LA officers as they are widely perceived to be independent of the statutory agencies. More generally, JH advised that the Panel should consider the key role to be played by 3rd sector organisations in providing Dual Diagnosis services, as these organisations often have particular expertise in areas of Dual Diagnosis and are trusted by clients in ways which representatives of the statutory agencies may never be.
- 1.12** JH noted that one useful way of ensuring that all the agencies who could help with a Dual Diagnosis case were informed of an individual’s needs was to devise systems which encouraged assessors to refer to the appropriate support organisations (e.g. as part of an IT system for GPs which would automatically prompt referral along a particular care/support pathway once a co-morbidity of substance and mental health problems had been identified).
- 1.13** JH also recommended that the Panel might want to speak with the police and probation services, as both had key inputs into the issue of Dual Diagnosis.

Appendix 4

Bibliography

- Drug Misuse and Mental Health: Learning Lessons on Dual Diagnosis; a report of the All Party Parliamentary Drugs Misuse Group, 2000
- Mental Health Needs Assessment for Working Age Adults in Brighton & Hove; Alves, Bernadette; Brighton & Hove City teaching Primary Care Trust, 2007
- Mental Health Policy Implementation Guide: Dual Diagnosis Good Practice Guide, Department of Health, 2002
- Needs Assessment: services for adults with mental illness and substance misuse problems in Brighton & Hove and East Sussex, Brighton & Hove City teaching Primary Care Trust, 2002
- Policy on the Management of People with a Dual Diagnosis of Mental Health and Substance Misuse; Sussex Partnership NHS Trust, 2008
- A Protocol for the Management of People with a Dual Diagnosis of Mental Illness and Problematic Drug or Alcohol Use; Worcestershire Mental Health Partnership NHS Trust, 2007
- Severe Mental Illness and Substance Misuse; Weaver et al; British Medical Journal editorial 16 January 1999

Appendix 5

Dual Diagnosis Scrutiny Panel: Digest of Recommendations

1 Supported Housing:

a) Consideration should be given to the feasibility of commissioning temporary supported housing provision to be used to accommodate people with a Dual Diagnosis in between their discharge from residential psychiatric treatment and the allocation of appropriate longer term housing. Housing people with a Dual Diagnosis in 'Bed & Breakfast' accommodation should only be considered as a last resort.

b) Consideration should be given to the feasibility of commissioning a residential assessment facility to be used to house people with a suspected Dual Diagnosis for a period long enough to ensure a thorough assessment of their mental health and other needs.

c) Consideration should be given to commissioning long term supported housing for people with a Dual Diagnosis who refuse treatment for their condition(s).

d) Brighton & Hove City Council Housing Strategy and the Sussex Partnership Foundation Trust should seek to agree a protocol requiring statutory providers of mental health services to notify the council's Housing Strategy department when a client has been admitted to residential mental health care (subject to the appropriate approval from clients). This would enable Housing Strategy to assess the risk of an individual being unable to access suitable housing on their discharge from hospital, and to take appropriate action.

e) Consideration should be given to establishing a 'Dual Diagnosis pathway' to ensure that people with a Dual Diagnosis can be appropriately housed as quickly and efficiently as possible.

f) The West Pier Project represents an effective model for supported housing suitable for (some people) with a Dual Diagnosis. Serious consideration should be given to providing more such facilities within the city.

2 Women's Services

a) Any future Needs Assessment of city-wide Dual Diagnosis services must address the important issue of the potential under-representation of women, and must introduce measures to ameliorate this problem.

b) The problems highlighted by Brighton Women's Refuge are addressed (point 8.1(d) in the full report), with assurances that local

solutions will be found to ensure that an appropriate range of services is made available.

3 Children and Young People

a) The integrated services for Dual Diagnosis offered by the CYPT are studied by agencies responsible for co-working to provide adult Dual Diagnosis services. Where agencies are unable to formally integrate, or feel that there would be no value in such a move, they should set out clearly how their services are to be effectively integrated on a less formal basis.

b) Serious and immediate consideration must be given to introducing a 'transitional' service for young people with a Dual Diagnosis (perhaps covering ages from 14-25). If it is not possible to introduce such a service locally, then service providers must demonstrate that they have made the progression from children's to adult services as smooth as possible, preserving, wherever feasible, a high degree of continuity of care.

c) Serious consideration needs to be given to the growing problem of problematic use of alcohol by children and young people (including those who currently have or are likely to develop a Dual Diagnosis). It is evident that better support and treatment services are required.

d) The development of a 'pathway' to encourage A&E staff to refer young people attending A&E with apparent substance or alcohol problems should be welcomed. There may need to be targets for referrals to ensure that the pathway is used as efficiently as possible.

e) Public Health education encouraging abstinence/sensible drugs and alcohol use is vital to reducing the incidence of Dual Diagnosis in the long term. Effective funding for this service must be put in place. Public health education encouraging mental wellness is equally important.

f) Dual Diagnosis can have a profound and ongoing impact upon the families of people with a co-morbidity of mental health and substance misuse issues. It is vital that appropriate support services are available for families and that every effort is taken to identify those in need of such support. Therefore, a protocol should be developed whereby a formal assessment of the support needs of families is undertaken whenever someone is diagnosed with a Dual Diagnosis.

4 Integrated Working and Care Plans

a) Consideration should be given to adopting an integrated approach to the assessment of people with Dual Diagnosis problems. Such assessments must be outcome focused. If the commissioners are unable/unwilling to move towards such a system, they should indicate why the current assessment regime is considered preferable.

b) A single integrated Care Plan may be neither possible nor desirable, but co-working in devising, maintaining and using Care Plans is essential. Whilst good work has clearly been done in this area, the development of a Care Plan, including clearly expressed 'move-on' plans, which can be accessed by housing support services (and other providers) is a necessary next step in the integration of support services for Dual Diagnosis.

5 Funding

a) Better provision for alcohol related problems, both in terms of treatment and Public Health, is a priority and urgent consideration should be given by the commissioners of health and social care to developing these services so that they meet local need.

b) The commissioners of Dual Diagnosis services must agree on a level (or levels) of care housing support appropriate for people with a Dual Diagnosis and ensure that there is sufficient funding available for city supported housing providers to deliver this level of care.

6 Treatment and Support

a) The provision of detoxification facilities for city residents be reconsidered, with a view to providing more timely access to these services, particularly in light of growing alcohol and drug dependency problems in Brighton & Hove.

b) Treatments commissioned for people with a Dual Diagnosis need to be readily available at short notice, so that the chance for effective intervention is not lost with clients who may not be consistently willing to present for treatment. Any future city Strategic needs Assessment for Dual Diagnosis should focus on the accessibility as well as the provision of services.

c) The Sussex Partnership Foundation Trust examines its policies relating to detaining people under a section of the Mental Health Act, in order to ensure that the inevitably distressing process of 'sectioning' is as risk free as possible (for patients and also for their families and carers), and that maximum possible therapeutic benefit is extracted from the process. (If the trust has recently undertaken such work/carries out this work on an ongoing basis, it should ensure that it has relevant information on this process available to be accessed on request by patients and their families.)

d) Service users should be central to the development of Dual Diagnosis services. When they commission services, the commissioners should ensure that potential service providers take account of the views of service users when designing services and

training staff, and should be able to demonstrate how these views have been incorporated into strategies, protocols etc.

7 Data Collection and Systems

a) A new Strategic Needs Assessment for Dual Diagnosis services in Brighton & Hove is undertaken as a matter of urgency.

4 Walsingham Road
Hove, East Sussex
BN3 4FF

27 February 2012

Health Overview and Scrutiny Committee
Legal and Democratic Services
Brighton and Hove City Council
Kings House, Grand Avenue
Hove BN3 4LS.

Dear Sir/Madam,

May I first start by welcoming the Council's decision to look into the way in which it helps facilitates Dual Diagnosis Services within the Brighton and Hove City Council area.

I myself have a Dual Diagnosis - I would like to bring it to the attention of the Committee that I was referred to the Dual Diagnosis Worker by the Central Hove Surgery on the 15th January, I got a letter back stating that the nearest date that I could get for an assessment was the 28th February - I think that tells you everything that you need to know.

I would like to suggest a few proposals that may help the Committee to develop the Service,

Dual Diagnosis Group.

I would demand that some kind of group could be piloted and run in conjunction with both Mental Health Services and Drug Service Teams. The group would ensure that nobody would slip the net. I find that people who have a Dual Diagnosis find life incredibly isolating, the group would be a chance to vent feelings and act as an important gateway into other services without slipping the net and causing more problems and more complications.

Dual Diagnosis is much underfunded and much misunderstood, especially within Brighton and Hove. I'm sure some kind of Dual Diagnosis Service would alleviate a lot of problems.

I feel this would also be a greater way of training staff who have no experience in Dual Diagnosis.

I'm pretty sure that Community Base in Brighton or any community mental health setting would allow the Dual Diagnosis Service facilities.

I have researched what is on offer currently within the borough - I have to say that there is not very much, which I'm sure you are quite aware of. It seems that time and time again that mission statements set out by both the National Treatment Agency and local treatment plans are failing to meet the needs of people with a Dual Diagnosis.

I urge the councillors to not let this enquiry be a smokescreen for what is really needed within Brighton and Hove.

If it's true that Brighton is the drug capital of Britain then why are we looking at the Kingston CDAT model as a beacon - Brighton should in real terms be a centre of excellence. Maybe the enthusiasm of staffing should be channelled to see if their expertise should be exercised to the full.

I would also question whether the Council believes in social exclusion, or social inclusion. I have been turned down for a bus pass, just because I'm only entitled to middle rate Disability Living Allowance, because of these new regulations thousands of people with my condition are finding themselves ever more isolated.

And I also feel that Service users could play a role in the long term delivery of recruitment for both staff and new services.

I have recently played a role in the setting up of a Dual Diagnosis Service in a London Borough, and know one though it was possible, but two letters to my MP, one letter to the National Treatment Agency and a meeting with the Chief Executive of the Mental Health Service - and the enthusiasm of the staff at the local Drug team - I'm pleased to say the group is now in its third week of a twelve week pilot - which due to its positivity is securing both more funds and mutual admiration between those staff who set the group up and those working in other mental health services. We already have a football coach and a poet lined up to take a positive role within the group.

I demand the best and would hope that you would concur with the opinion that we need a Dual Diagnosis group/and or service to cope with the demand within Brighton and Hove

If you feel the need to contact me regarding any of the issues that I have raised, then please do not hesitate to get in contact with me

yours truly

MR D. Curtis BSc Hons, Bps, Acp.

British Psychological Society.

EXTRACT FROM THE PROCEEDINGS OF THE HOUSING MANAGEMENT CONSULTATIVE COMMITTEE MEETING HELD ON THE 22 JUNE 2009

Subject:	Housing Management Repairs, Refurbishment and Improvement Strategic Partnership Procurement Recommendations Report		
Date of Meeting:	9 July 2009		
Report of:	Acting Director of Strategy & Governance		
Contact Officer:	Name:	Rowan Sky	Tel: 29-1058
	E-mail:	rowan.sky@brighton-hove.gov.uk	
Wards Affected:	All		

FOR GENERAL RELEASE**HOUSING MANAGEMENT CONSULTATIVE COMMITTEE****3.00PM 22 JUNE 2009****COUNCIL CHAMBER
HOVE TOWN HALL****DRAFT MINUTES**

Present: Councillors Caulfield (Chairman); Barnett, Carden, Fryer, Mears, Pidgeon, Simpson (Opposition Spokesperson), Wells and Randall

Tenant Representatives: Muriel Briault (Leaseholder Action Group), Chris El-Shabba (Brighton East Area Housing Management Panel), Stewart Gover (North & East Area Housing Management Panel), Sue Hansen (Tenant Disability Network), Ted Harman (Brighton East Area Housing Management Panel), Chris Kift (Central Area Housing Management Panel), John Melson (Hi Rise Action Group), Beryl Snelling (Central Area Housing Management Panel) and Tom Whiting (Sheltered Housing Action Group)

10 HOUSING REPAIRS REFURBISHMENT AND IMPROVEMENT STRATEGIC PARTNERSHIP RECOMMENDATIONS REPORT

- 10.1 The Committee considered a report of the Director of Adult Social Care & Housing that detailed the procurement process and outcome for a 10 Year Housing Repairs, Refurbishment and Improvement Strategic Partnership and sought approval to award the contract (for copy see minute book).
- 10.2 The Chairman invited the Asset Management Panel to give a presentation to the Committee on their involvement in the evaluation of the submitted bids.

- 10.3 Councillor Mears clarified that she has no connection with the company Mears Limited.
- 10.4 John Melson commented that the evaluation of bidders should include the conduct of the workmen on site and noted that he had recently witnessed some scaffolders shouting and using offensive language.
- 10.5 Councillor Randall thanked the Panel for their thorough presentation. He noted that there was some still dispute regarding the transfer of staff and asked to be kept informed on this issue. He also suggested that, as a highly important issue and the Council's largest piece of contract work, this decision should go before full Council for consideration, rather than Cabinet.
- 10.6 Stewart Gover congratulated Mears Limited on having built a successful company and, on behalf of the North Area, gave his support for the assessment process and for the recommendation for Mears Limited as the preferred bidder. He also noted that Mears Limited do not employ scaffolders.
- 10.7 Councillor Wells commented that Mears Limited had a proven track record on working in partnership with the Council. He stated that he was impressed by the company's community regeneration work such as the recruitment of apprentices. He thanked officers and the Asset Management Panel for their work on this item.
- 10.8 Councillor Simpson noted that this issue was of huge long-term importance to the Council and fundamental to wellbeing of tenants and congratulated the Asset Management Panel on their hard work. She expressed disappointment that the in-house option had not been successful and expressed concern regarding the TUPE transfer of staff, noting that this must be managed in a sensitive and supportive manner.
- Councillor Simpson went on to comment that the performance of Mears Limited had not always been excellent but that it had improved greatly over the last 12 months. She was pleased to note that the company was proposing to introduce 5 posts for Clerks of Works. She concluded that standards must be maintained over the 10 year term of the contract to ensure a quality service for tenants and value for money for the Council.
- 10.9 Councillor Mears highlighted the importance of the contents and wording of the final contract with the approved partner, including effective break clauses and penalties, to ensure that the Council is in a positive position to maintain continuity in the standard of service for tenant's homes.
- 10.10 John Melson commented that he had no objection to the noise made by workmen but rather the content of their language. He noted that Asset Management Panel had done a very good job in their assessment of the bidders but asked that the Council work to ensure that the approved partner does not become complacent with time. He also commented that he did not think it was necessary for the decision to be put to full Council.
- 10.11 Councillor Fryer reiterated Councillor Randall's suggestion that the recommendation be put to full Council to strengthen the decision. She also expressed disappointment that the in house bidders had not been successful.

10.12 **RESOLVED** – That, having considered the information and the reasons set out in the report, the Housing Management Consultative Committee accepted the following recommendation:

That Housing Management Consultative Committee recommend to Cabinet to:

- (1) Approve the selection of Mears Limited for the Repairs, Refurbishment and Improvement Strategic Partnership contract covering the whole city.
- (2) Authorise the Director of Adult Social Care & Housing in consultation with the Director of Finance & Resources and Cabinet Member for Housing to develop and implement a partnering contract over time to deliver the target pricing framework as outlined in 3.11.4-3.11.9 of this report.
- (3) Authorise the Director of Adult Social Care & Housing in consultation with the Cabinet Member for Housing to take all steps necessary or incidental to the implementation of recommendations 2.1 and 2.2 including those necessary to effect the commencement of this contract on 1 April 2010, to run for up to ten years, and any staffing issues associated with the proposals.

**HOUSING MANAGEMENT
CONSULTATIVE COMMITTEE**

Agenda Item 10

Brighton & Hove City Council

Subject: Housing Repairs, Refurbishment and Improvement Strategic Partnership Recommendations Report

Date of Meeting: 22 June 2009

Report of: Director of Adult Social Care & Housing

Contact Officer: Name: Nick Hibberd Tel: 29-3756
E-mail: nick.hibberd@brighton-hove.gov.uk

Key Decision: Yes Forward Plan No: CAB10165

Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 The Procurement Strategy for Housing Revenue Account housing stock which was approved by Policy & Resources Committee on 03 April 2008 included approval to tender for a 10 year Housing Repairs, Refurbishment and Improvement Strategic Partnership for the delivery of comprehensive repairs, maintenance and associated services to the council's housing stock. This report details the procurement process, the outcome and seeks authority to award this contract.

2. RECOMMENDATIONS:

That Housing Management Consultative Committee recommend that Cabinet:

- 2.1 Approve the selection of Mears Limited for the Repairs, Refurbishment and Improvement Strategic Partnership contract covering the whole city.
- 2.2 Authorise the Director of Adult Social Care & Housing in consultation with the Director of Finance & Resources and Cabinet Member for Housing to develop and implement a partnering contract over time to deliver the target pricing framework as outlined in 3.11.4-3.11.9 of this report.
- 2.3 Authorise the Director of Adult Social Care & Housing in consultation with the Cabinet Member for Housing to take all steps necessary or incidental to the implementation of recommendations 2.1 and 2.2 including those necessary to effect the commencement of this contract on 1 April 2010, to run for up to ten years, and any staffing issues associated with the proposals.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Background

3.1.1 Following the outcome of the tenants' stock transfer ballot, officers reviewed strategic housing options to reflect the decision that the stock will be retained by the council. A strategy was developed to bridge the investment gap to achieve Decent Homes Standard and meet tenant aspirations for improvements to the stock.

3.1.2 A key measure to address this gap was the development of a Housing Revenue Account (HRA) Procurement Strategy that was approved in April 2008. The Strategy focused on the development and benefits of longer term partnering agreements for the repair and maintenance of the council's housing stock. A key element of this strategy was to tender for a Repairs, Refurbishment and Improvement Strategic Partnership which would provide a 10 year agreement for the delivery of a comprehensive maintenance service. The contract for the whole city is for approximately £20 million per annum; £200 million over ten years.

3.1.3 The new contract will deliver the key aims of the Procurement Strategy:

- **Improved Value for Money:** reduce unit repair and planned maintenance costs and consultancy fees delivering significant financial savings
- **Improving residents' homes:** ensuring that residents' homes are well maintained and meet the Brighton & Hove Standard (exceeding the Decent Homes Standard)
- **Improved service delivery:** providing excellent customer service, getting repairs 'right first time' and demonstrating high levels of customer satisfaction
- **Improved sustainability:** a service which has minimal impact on the environment, and improves the energy efficiency and sustainability of the housing stock
- **Community regeneration and added value:** bringing additional benefits for local communities (e.g. apprenticeships & community initiatives) and supporting established local businesses

3.1.4 This contract excludes gas installation and maintenance and service contracts such as lifts, water tanks and pumps, fire safety equipment, ventilation fans, lightning conductors, door entry systems and CCTV which will be tendered separately, although it is an intention to align the duration and key outputs of these contracts with this new contract.

3.2 The Procurement Process

3.2.1 An Official Journal of the European Union (OJEU) advert and pre-qualification questionnaire (PQQ) were published on 03 September 2008. Six Service Providers were selected from those who returned the PQQ to reply to the Invitation to Tender which was released on 18 December 2008. Bidders were required to submit their completed responses on 18 February 2009. Four organisations complied with this request (two withdrew from the process).

3.2.2 The evaluation team comprised of Housing Management Maintenance managers, key support services (e.g. Procurement, Human Resources, Finance, Health & Safety and ICT) and the Project Manager. Expert advice from specialist officers was also sought for the evaluation of, equalities/diversity, sustainability, energy efficiency, waste management and community regeneration.

Resident involvement in the evaluation process

3.2.3 The council has established a resident Asset Management Panel which has met over the course of procurement programme. All residents were invited to express interest in becoming a member and panel members were selected to make the group broadly representative of the demographic profile of all residents.

3.2.4 Residents from the council's Asset Management Panel were trained in evaluation techniques by specialist trainers. They collectively identified areas for focus and developed their own questions for bidders that were then fully integrated into the overall bidder questions. They fully participated in each stage of the evaluation process, playing an active role in the teams who undertook the written evaluation interviews/presentations, site/head office visits and final evaluation workshops.

3.2.5 Residents worked with the trainers to develop a clear definition and understanding of what they considered to be excellence in relation to each of the evaluation criteria listed below. This enabled them to ensure that the preferred bidder met or exceeded their expectations in each of these areas when evaluating the written submissions, questioning bidders at interview, and visiting sites/offices.

Evaluation process

3.2.6 The bids have been evaluated using a framework agreed by the Housing Procurement Programme Board. The evaluation was based on a 60:40 balance between quality and cost. Quality was evaluated using six evaluation criteria. The evaluation team agreed a consensus score for each evaluation criterion for the bidders' written submissions. The six quality criteria were:

- Future service and resourcing
- Quality and value for money
- Partnering
- Diversity & Sustainability
- ICT
- Health & Safety

3.2.7 The financial evaluation was based on the bidders' financial submissions and evaluated the economic cost over the 10 years of the contract, the profit and central office costs and cost sensitivity analysis.

3.2.8 Tenders were also assessed against a combination of the following elements:

- Written Submission, Presentation/interview
- Two site office visits for each of the four final bidders

- One head office visit for each of the four final bidders

3.2.9 The award of this contract is based on the most economically advantageous tender received, based on the above objective quality/cost criteria which were communicated to the bidders.

The Preferred Bidder

3.2.10 The preferred bidder is Mears Limited ('Mears'). Their bid has been judged to be most economically advantageous and offer the best quality of service based on the criteria outlined above.

3.2.11 Mears Limited is a large UK repairs and maintenance company who focus on the social housing sector. Mears sales turnover was in excess of £420M in 2008/9. They have in the region of 5,000 direct employees in the UK. Mears operate the current responsive repairs contract for the east of the city, and the gas maintenance and servicing contract for the same area.

3.3 Meeting residents' aspirations

3.3.1 The award of this contract will bring a number of benefits and innovations to meet resident expectations and deliver an excellent level of service.

3.3.2 The proposals from the preferred bidder are set out in paragraphs 3.4 to 3.8 will be incorporated into the new contract so that the council will be able to monitor realisation of the proposals and benefits. A contractually binding Partnering Timetable will be agreed containing key tasks and milestones for their achievement.

3.4 Future service and resourcing

3.4.1 **What bidders were asked:** Bidders were asked to outline their proposed organisational structure, proposals for co-locating with council staff and how they ensure technical competence.

3.4.2 **What residents' expect:** Residents from the Asset Management Panel said they expect a structure that is clear, understandable and efficient that has 'the right people, with the right skills and experience'. They want staff who are well trained in their trades and customer service, who can get jobs right first time. Residents want high quality and effective supervision that ensures all works are carried out to the highest quality.

3.4.3 **What the new partnership will deliver:** The preferred bidder exceeded the council's requirements in this area and proposed a structure that was felt to be efficient, effective and fit for purpose. The new contract will include the co-location of council officers and contractor staff including fully integrated customer access. They will ensure that all staff have the required skills and experience to undertake their work. All staff will have an individual development plan to ensure their training is continued and skills are kept up to date.

3.4.4 The preferred bidder has promised to ensure that all works are completed to an excellent standard. They have pledged that quality control and assurance will be central to working practices, and are committed to providing effective monitoring structures and processes. There will be a rigorous monitoring and

inspection regime with 100% of jobs being post-inspected for the first 3 months of the contract. They are also committed to using high quality material throughout the contract. They will require all operatives take personal responsibility for quality to ensure that at least 85% of works are completed 'right first time' in line with their contractual obligations.

3.4.5 It is proposed that the new partnership will be based in a 'supercentre' which will enable a fully integrated service to be provided with operatives, customer service and council staff based in the same location. The centre will bring a number of benefits including:

- Onsite training academy
- Kitchen manufacturing workshop
- 'Resident Action Zone' where residents can hold meetings and access resources.
- Onsite supply stores
- White goods recycling facility
- Potential for other services such as the Police and voluntary sector organisations to co-locate

3.5 Quality and value for money

3.5.1 **What bidders were asked:** Bidders were asked to explain their approach to continuous improvement and to demonstrate how they will ensure excellent customer service, how they will meet the council's value for money objectives, and to submit a works in occupation method statement.

3.5.2 **What residents expect:** Residents from the Asset Management Panel 'want to be wowed' by a service that exceeds expectations and improves on current standards. The service should be flexible and efficient offering extended opening and operating hours. They expect high standards of workmanship with a 'right first time' approach and quality outcome. They expect high standards of behaviour from operatives who should respect people's homes, and understand diversity and cultural differences. Residents want an excellent standard of customer service which is accessible, effective and efficient.

3.5.3 **What the new partnership will deliver:** The preferred bidder has exceeded the council's requirements in this area. They have offered to improve on the current service and ensure that all works are carried out efficiently and to the highest standard. This will include at a minimum:

- 8am to 8pm weekday and 8am-12noon Saturday service
- 24 hours reporting including non-emergency repairs
- Appointments offered to all customers (without asking) at first point of contact
- A minimum of 85% of jobs are completed on first visit
- Repairs are completed in accordance with repairs priority timescales (97% of emergency and urgent repairs completed on time, 97% of non-priority repairs)
- Defects identified and remedied within the repairs priority timescales
- High levels of customer satisfaction with the service

- 3.5.4 A new fully integrated repairs desk and 'one stop shop' will be developed in order to provide an excellent standard of customer service. This will be supported by effective Information and Communications Technology (ICT) which will enable the electronic reporting and tracking of repairs, with operatives able to receive 'real time' information whilst in homes. The recent Whitehawk local area office project will be rolled out to other areas of the city to provide local access points.
- 3.5.5 All operatives will work to an agreed code of conduct and strict rules for operating within people's homes. These will ensure that operatives focus on the job, and are polite, courteous and respectful. All staff will be trained in customer service to a minimum of NVQ Level 2 and customer service staff to a minimum of NVQ Level 3.
- 3.6 Partnering
- 3.6.1 **What bidders were asked:** Bidders were asked about their approach to partnering, including how they will contribute to the partnership and involve residents.
- 3.6.2 **What residents expect:** The Asset Management Panel want residents to be at the heart of the partnership, playing an active role in both the strategic and operational management of the service. They want to be seen as equal partners with opportunities to participate in key decisions, service planning and development of the capital programme. The partnership should engage with residents groups and representatives, as well as communicating and consulting with all residents through a variety of channels.
- 3.6.3 **What the new partnership will deliver:** The preferred bidder has promised to build on their existing work with the council to create a flagship partnership which is leading in the UK and seen as national best practice. We want to ensure that the partnership involves residents, the council and the service provider as equal partners, working together to deliver a service which is regarded as excellent by all.
- 3.6.4 The council is committed to ensuring that residents are at the centre of the partnership and participate as equal partners in the management of the contract with the council and service provider. The preferred bidder has demonstrated that they understand the benefit of engaging with residents and are committed to positively responding to their views by adapting practices and systems. They are committed to communicating and consulting with all residents through a variety of channels.
- 3.6.5 Residents will be directly involved in the strategic management of the new contracts. Residents' will also be represented on the operational groups, working collaboratively with the service provider and the council on the performance and quality of the partnerships. Specific short term local Project Panels with residents will also be established as required. The work of the Asset Management Panel and the Repairs and Maintenance Monitoring Group will feed into the wider the tenant participation structure though regular feedback to Area Panels and Housing Management Consultative Committee.

3.6.6 The preferred bidder has a Corporate Social Responsibility policy which enables staff to take two days leave each year to help the local community. They have offered to link this to schemes such as the Estate Development Budget which would enable more to be achieved within the available funds.

3.7 Diversity, Sustainability and Added Value

3.7.1 **What bidders were asked:** Bidders were asked to provide innovative proposals and commitments to the council which would bring 'added value' to the partnership. They were specifically asked for proposals about apprenticeships, training, supporting local businesses, reducing carbon emissions and tackling fuel poverty. Bidders were also asked to demonstrate how they would meet the differing needs of the council's diverse residents.

3.7.2 **What residents expect:** Residents from the Asset Management Panel want a contract of this size to bring significant additional benefits to the city. They would like to see opportunities for local employment and to ensure that local businesses are supported. Residents would like a service which minimises its own impact on the environment, and supports residents to improve the energy efficiency of their homes and to reduce fuel bills. They want a workforce that is representative of the wider profile of the city, and which understands and respects the wide diversity of residents.

3.7.3 **What the new partnership will deliver:**

Community Regeneration

3.7.4 The preferred bidder has offered to bring significant added value benefits in this area. They will provide:

- 200 apprenticeships over the 10 years of the partnership (twice the industry average)
- A variety of other training and work experience opportunities
- A kitchen manufacturing workshop
- A training academy

3.7.5 The partnership will bring additional jobs to Brighton & Hove and these will be targeted at local people. 95% of the preferred bidder's current local workforce lives within the city.

Local Businesses

3.7.6 The council believes that the partnership should benefit as much as possible the local business community, and in particular the wider range of established small and medium size contractors, who, because of their size, would not be able to undertake the role of a principal partnering service provider. The preferred bidder will be required to provide opportunities for small businesses (less than 50 employees) based in Brighton & Hove and they have agreed to support small and medium sized enterprises to ensure their representation within the supply chain.

3.7.7 The preferred bidder has agreed to utilise local companies for specialist sub-contracting and to work closely with smaller companies to ensure they meet the approval criteria for select lists. The council will work with the preferred bidder to ensure they:

- Participate in the Local Labour Scheme and notify them of sub-contracting opportunities
- Work with Business Link to provide workshops and help develop sub contractors capacity to bid for work
- Use local sub-contracting and labour to cover peaks and troughs
- Develop an Employment Plan which includes use of local labour and sub-contractors

Sustainability and Energy Efficiency

- 3.7.8 The preferred bidder have offered innovative proposals in this area and have pledged to exceed the council's own carbon reduction targets, with an aim to be 'carbon neutral' by 2013. They have also offered to work with the council to develop a carbon reduction plan for the housing stock. They have agreed to provide information packs and advice to all residents to help reduce their fuel bills.
- 3.7.9 The preferred bidder will be required to comply with the council's 'Housing Repairs & Maintenance Sustainable Building Guidance' and local regulations in connection with recycling of waste on site. They will be required to produce waste minimisation plans to reduce use of landfill sites and materials waste, and are committed to onsite separation of waste into recycling streams. This will be continually reviewed over time to reduce site waste to an absolute minimum. They have offered to introduce a white goods recycling facility which will enable domestic appliances to be refurbished and provided at low cost to residents.

Diversity

- 3.7.10 Bidders were asked how they will ensure that their services will identify and meet the differing needs of our residents and how they will meet specific needs (e.g. disability and language). The preferred bidder has put forward good proposals in this area and agreed to employ a workforce that reflects the profile of the local community. They actively invest in the marketing of the Women in Construction programme throughout their branches to encourage more women to take up employment in trade and operative roles. They have also pledged to provide diversity training for all their operatives and to provide a flexible service which meets the needs of more vulnerable residents.

3.8 Information & Communication Technology (ICT)

- 3.8.1 The council wishes to maximise the potential of ICT in terms of providing excellent customer service, improving efficiency, and improving the quality of information about our assets. Housing Management's ICT strategy is under review and the service was therefore interested in what innovation service providers could bring to these contracts. It is also essential that the partner's systems are compatible and able to interface with current and future information systems used by the service.
- 3.8.2 The preferred bidder's ICT systems, infrastructure and offer to the council were evaluated by a team of ICT and service professionals. They have effective, fully integrated Information Systems that are capable of successful interface with council systems. They have a fully ICT enabled end to end process with

innovative hand held technology, and electronic management of works, materials and invoicing from day one of the contract.

3.9 Health & Safety

3.9.1 The preferred bidder will be required to maintain compliance status with Contractors Health & Safety Scheme (CHAS) for the duration of the contract. The council will demand that the highest standards of health and safety are implemented and maintained throughout the contract, ensuring compliance with all relevant legislation, particularly the Construction Design Management (CDM) Regulations.

3.9.2 A council Health & Safety Officer has attended sites run by the bidders to test the application and recording of health & safety as part of the evaluation process. The preferred bidder was found to have good and effective systems that are put into practiced on site. They have won the ROSPA Gold Award for 7 consecutive years and have a health and safety record that is 40% better than industry average.

3.10 Improved Contract Management

3.10.1 The council recognises that there is a need to improve on current standard of service delivery and increase levels of resident satisfaction. Strong contract management is essential to ensuring that the new contract is to be effective and efficient, and delivers the service that residents deserve.

Improving the service and managing quality

3.10.2 The new contract will embrace collaborative partnership working which will deliver a leaner staff structure that is focused upon managing the performance, customer service, and quality of work. Frontline services will be delivered more efficiently through a more streamlined process.

3.10.3 Extensive analysis of the client and contract side functions under the new partnering arrangements was undertaken to establish which existing client functions should transfer to the selected service provider, under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) arrangements. This has resulted in the proposed transfer of some staff in surveying and customer service functions from the council.

3.10.4 The transfer of these functions will enable the successful bidder to provide a fully integrated service, both reducing duplication and improving service delivery. This will include fully integrated customer service and surveying functions which will create an end to end repairs service, with work no longer being passed between the council and contractor. The council's Performance and Quality Team (see below) will focus on monitoring customer service, quality and finances to ensure that the service is to a high standard and only legitimate charges are made. If problems do arise the team's dedicated focus on these areas will enable them to investigate and resolve issues quickly and effectively.

3.10.5 The retained Repairs and Maintenance service will be restructured to ensure that staff roles and responsibilities enable effective management and monitoring of the new contracts. The service will strengthen contract

management skills during the mobilisation period to ensure that the partnership gets off to the best possible start. The council will be working with a leading workforce development service (Impart Links) in order to ensure that officers' skills are developed to support the improved service.

Clerk of Works

- 3.10.6 The new Quality and Performance Team will focus on monitoring works and ensuring that repairs are carried out to an excellent standard. This team will include Clerk of Works whose role will focus on ensuring that quality standards for the new contract exceed expectations.
- 3.10.7 The Clerk of Works role will make a difference in how we manage the contract overall, improve the service, interact with residents and manage the preferred bidder. Clerk of Works will have delegated powers to make operational decisions to change things that are not working and to instruct our partnered contractor to do things differently. The role will have the following attributes:
- strip out bureaucracy and get directly to what is important to residents
 - be trained to a high level of surveying competency and certification, as well as having good strong managerial/supervisory skills and experience
 - establish clear and simple communication lines with both the contractor and residents
 - manage, monitor and control repair trends, ensuring that objectives and goals are met
 - allow the council to act quickly to put things right
 - police the quality and usage of material by contractors
 - making it clear to the contractor that only excellent quality is acceptable

Mystery Shoppers

- 3.10.8 Residents are currently being trained to be 'mystery shoppers'. They will play a key role in rigorously testing performance and customer service to ensure that they are of an excellent standard.

Performance penalties

- 3.10.9 The preferred bidder will be measured against Key performance indicators (KPIs) (see appendix 1) that have been prepared in consultation with the Asset Management Panel. Where appropriate these KPIs will be included with the contracts to ensure the performance requirements are converted into contractually binding commitments. There will be penalties should the preferred bidder not meet the targets we have set. In addition to these we will introduce a range of other performance indicators for the council's function as a client, such as service provider satisfaction with the client services.

Contract Termination

- 3.10.10 The contract provides for swift termination of the contract for default/breach of the agreements, as well as for other 'standard' reasons (bankruptcy, collusion, etc.) In addition, the term partnering contract is to be drafted to allow for a 'no fault' termination of six months' notice on either side.

Continuous Improvement

- 3.10.11 The preferred bidder will be required to work collaboratively to deliver efficiency and service improvements. Linking profit to efficiency and performance provides a greater incentive to service providers and the council to work together to deliver an improved service to customers. Cost savings will not be achieved at the expense of quality with processes to be implemented to ensure quality is maintained. These will include:
- The benchmarking of costs and performance data with other providers of social housing. Benchmarking will be carried out annually and will involve repairs service providers of a 2 or 3 star-standard
 - The sharing of risks and financial rewards linked to performance
 - The ability to demonstrate value for money viewed from the perspective of reduced cost and creating service improvements to for the council
 - Close monitoring of the contract KPIs to ensure proactive contract management
- 3.10.12 The council intends to embark upon work to gain Construction Client's Charter (CCC) status as a means to drive forward the measures to improve performance and effectiveness. Working towards CCC status:
- Provides the methodology to create an improvement programme
 - Forms a framework for improving the council's management of projects
 - Forms a framework for creating a rigorous partnering relationship with the service providers which will ensure they continuously improve their performance
 - Allows external auditing of the council's progress against an agreed programme with increasingly demanding targets.

3.11 Financial Management and Pricing Framework

- 3.11.1 The preferred bidder will be required to provide robust monthly capital and revenue financial forecasts in line with the council's corporate Targeted Budget Management timetable which will be open to scrutiny and verification by council officers. The annual capital and revenue budgets will be agreed with them before the start of the financial year, with the opportunity to revise the programmes as required during the year.
- 3.11.2 In line with the long term collaborative working arrangement embedded in the partnering arrangement it is envisaged that there will be a move to a target pricing framework, based on either a fixed cost or target price in years two or three of the contract.

Initial Pricing Framework

- 3.11.3 The partnering contract has been tendered on fixed prices for capital elements and using the NHF (National Housing Federation) Schedule of Rates for Repairs. These fixed prices are likely to contain risk amounts as the preferred bidder will need to ensure that the project is viable (profitable). Further, whilst the contract remains on fixed pricing the council is less able to share in efficiencies made by the service provider and limited routes will be available for reducing costs i.e. through reducing volumes of work or the specification of repairs.
- 3.11.4 The timing of any move to a target pricing framework will be at the council's discretion and this is envisaged as being in the second or third year of the

contract. The methodology for the target pricing framework has been detailed within the Invitation to Tender. The target pricing framework is a methodology that will allow the partnership to deliver the key aspirations of performance and efficiency. If implemented and managed successfully this will assist in the delivery of a true value for money service. This form of pricing framework also fosters the true spirit of partnership between the council, residents and the preferred bidder.

Target Pricing Framework

- 3.11.5 Bidders were asked to tender profit and overhead amounts which will be ring-fenced and paid annually for the duration of the contract and has been considered in the evaluation,
- 3.11.6 The preferred bidder's actual costs for responsive repairs will be compared to the target rates and adjusted on an annual basis. The reward model will support the aims of high satisfaction, cost effectiveness and reducing volume.
- 3.11.7 The proposed pricing framework for programmed works will be based upon annually setting a target cost for elements (kitchens, bathrooms etc.) based on the actual cost of those elements in the previous year. Overruns (costs above target) are shared on a decreasing basis up to 20% thereafter the service provider bears all the cost. The preferred bidder is therefore incentivised to both save money and to manage the process to prevent over spending.
- 3.11.8 The preferred bidder's share of any saving will be linked to the achievement of agreed KPI benchmark targets. These will be weighted in conjunction with the Asset Management Panel to ensure that resident priorities are represented. Where the targets for these performance indicators are not met, the service provider's savings share will be reduced.
- 3.11.9 Non achievement of performance targets will reduce any savings apportioned to the preferred bidder.

3.12 Next Steps

- 3.12.1 Subject to Cabinet approval, it is anticipated that a contract will be entered into with the preferred bidder at the as soon as is reasonably practical, with work commencing under the new contract from 1 April 2010. This allows for a maximum mobilisation period so the preferred bidder has sufficient time to set up local offices, staff, ICT systems etc. to be able to successfully deliver their obligations under the partnering agreements of this scale from 2010. This timetable would also give the council the time to comply with any obligations under the TUPE Regulations, complete the necessary training of staff, embed new processes, produce new tenants' guides etc.

4. CONSULTATION

Residents

- 4.1 The Housing Procurement Strategy was considered by tenant Area Panels and Housing Management Sub-Committee prior to approval.
- 4.2 Residents have been actively involved through the Asset Management Panel as detailed in paragraph 3.2.3. Asset Management Panel members have

presented to Area Panels and Housing Management Consultative Committee to update them on progress with the procurement. This resident involvement was highlighted as best practice by the Audit Commission in their 'Advice and Assistance' visit in March 2009.

Staff and Trade Unions

- 4.3 Briefings have been held with staff and trade unions in October 2008 and June 2009. Officers will be supported through the changes outlined in the report and it is the council's aim to have open and honest communications with staff and their trade union representatives throughout this period. Prior to the conclusion of the procurement process, staff were provided with information regarding the process and the potential changes envisaged.
- 4.4 Subject to Cabinet approval of the recommendations, formal consultation will begin with staff and unions.

Leaseholders

- 4.5 It is a legal requirement under Section 20 of the Landlord & Tenant Act 1985 that Leaseholders are consulted on new contracts. A notice has been sent to all leaseholders and details of the successful bid have been placed in council offices. The consultation period will close on 7 July.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

- 5.1.1 The Repairs, Refurbishment and Improvement Strategic Partnership contract for the whole city is for approximately £20 million per annum; £200 million over ten years.
- 5.1.2 Approximately 65%, (£13 million p.a.) of the contract covers capital works and the remainder covers responsive repairs, cyclical maintenance and voids works. An analysis of the preferred bidder's tender shows that they will overachieve by £7 million, the required level of savings to capital works unit costs, as set out in the HRA Business Plan 2009-2038. The projected savings over 30 years on capital works compared to current costs is £46 million.
- 5.1.3 In addition, the preferred bidder's proposal includes a consultancy rate of 5% (which is a combination of their profit and the central office overheads) which exceeds the target reductions in consultancy fees from contracts from 9.75% to 5.5% as set out in HRA Business Plan.
- 5.1.4 The HRA Business Plan also includes target reductions in unit rates for responsive repairs, voids and cyclical maintenance. The preferred bidder's commitment to continuous improvement and Value for Money evidenced during the evaluation should enable the council to meet the target reductions in the Business Plan, delivering at least 4% efficiency savings annually, as required by central Government. Also, the preferred bidder's tender provided the greatest level of discounts to the schedule of rates used for responsive repair works.
- 5.1.5 The preferred bidder's has committed to providing a comparable pension via Admitted Body Status for all transferring staff. This means that these staff will have access to the same legislative pension benefits as they do now. The

preferred bidder will be required to enter into a bond or indemnity to protect the Pension Fund against any permanent financial loss which may arise on early termination of the contract (if for example the business ceases).

- 5.1.6 The council will need to fund any deficit which exists in the Pension Fund in respect of accrued benefits of the transferring staff at the date of contract commencement (1 April 2010). The potential liability is unknown at present, as it is dependant on the individual's pension circumstances and value of the fund at that time. A provision has been included in the HRA general reserves to cover this

Finance Officer Consulted: Sue Chapman Date: 26/05/2009

Legal Implications:

- 5.2 The contract to which this report relates is well in excess of the relevant thresholds over which such contracts are subject to the EU Procurement Directive and corresponding UK Regulations. The method of procurement undertaken and outlined in this report accords with both. In addition, the requirements to formally consult with staff and residents about the new contract are referred to in the body of the report. Contracts over £75,000 must be in a form approved by the Head of Law. The Council must take the Human Rights Act into account in respect of its actions but it is not considered that any individual's Human Rights Act rights would be adversely affected by the recommendations in this report.

Lawyer Consulted: Alison Leitch Date: 24/05/2009

Equalities Implications:

- 5.3 Equalities and diversity proposals are included in the winning bid and have been assessed by the council's Head of Equalities & Inclusion (see under point 3.7).
- 5.4 An equalities impact assessment (EIA) workshop has been carried out with staff as part of the preparatory work prior to the procurement process. A further EIA will be undertaken during the mobilisation process.

Sustainability Implications:

- 5.5 A new contract of this size has potential to impact on the city's environment and carbon emissions. Proposals on energy efficiency, sustainability and waste management are included in the bid and have been assessed by council officers with an expertise in each of these areas (see under point 3.7).

Crime & Disorder Implications:

- 5.6 None

Risk and Opportunity Management Implications:

- 5.7 A comprehensive risk register is maintained for this project by the project manager. The successful bidder has submitted a draft Risk Register as part of

their written submission and this will be developed in the mobilisation period for inclusion in the contract.

Corporate / Citywide Implications:

- 5.8 The contract has the potential to bring significant benefits to the city and its residents. It is also important that a contract of this size does not have a negative impact on established local businesses. The bidder has provided proposals addressing these issues and offering added value benefits to the city (see section 3.7). These have been evaluated by officers from the council's Economic Development team.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Alternative options including frameworks, consortia and supply chain clubs were considered as part of the development of the Procurement Strategy. The outcome of the procurement process has been assessed against the costs of keeping contracting arrangements as they are now (i.e. doing nothing) and establishing an in-house Direct Labour Organisation.

Do nothing

- 6.2 Continuation of current contracting arrangements will not enable the HRA to have a sustainable Business Plan and meet Decent Homes requirements. Current repairs and maintenance procurement arrangements include:

- annual tendering of capital contracts with specified supply chains;
- two responsive and empty properties revenue repairs partnering contracts of 5 years with an option to extend for a two further years;
- two gas install and maintenance contracts for 5 years with optional extension;
- with the exception of gas servicing and repair, repairs to services such as lightning conductors and water tanks are on an ad hoc basis.

- 6.3 Annual re-tendering of capital contracts is relatively costly and inefficient and gives service providers no incentive to invest in additional benefits. Supply chains specified by the council do not allow access to service providers' own supply chains, which can be of the same standard but more cost effective. This also leads to inconsistent customer service, materials and levels quality.

Direct Labour Organisation (DLO)

- 6.4 An analysis of the costs of setting up and running a DLO have been produced by independent consultants in order to provide a comparison with the bidders proposals. A direct comparison of the economic cost over 10 years shows that the DLO option would significantly more expensive than the preferred bid. The following factors make it difficult for the DLO to be competitive:

- The salaries for council staff are generally higher due to employer's pension contributions.
- The DLO has the disadvantage compared to the established bidders, of incurring set up costs for establishing a new organisation, as well as the mobilisation of the contract.

- Programmed works, which represent approximately 60% of the contract, materials costs are generally higher due to the council not achieving economies of scale for purchasing that national companies can achieve.

These factors are partly offset by savings from:

- The DLO option does not include an allowance for profit. Any under-spend is automatically reinvested within the HRA Budget.
- The DLO seeks to maximise directly employed staff and therefore reduce costs for specialist sub contractors.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The award of this contract will enable Housing Management to meet the key objectives of the Procurement Strategy which was agreed in April 2008. The new contract is key to enabling the council to have a sustainable 30 year Business Plan for the housing stock and bring the maximum number of homes to the Brighton & Hove Standard (exceeding the Decent Homes standard).

SUPPORTING DOCUMENTATION

Appendices:

1. Key Performance Indicators
2. Comparison of Lots

Documents In Members' Rooms

None

Background Documents

1. Invitation to Tender Housing Repairs, Refurbishment and Improvement Strategic Partnership
2. Housing Revenue Account Procurement Strategy 2008

Appendix 1

Key Performance Indicators

Indicator	Description	Year 1
Programme Work		
P1*	Works started and completed in line with agreed plan	95
P2*	Resident satisfaction with programme work	95
P3*	Post inspection pass rate for programmed work (defects)	97
Responsive Repairs		
R1*	% of urgent (right to repair) repairs completed within target	97
R2*	Number of days to complete non-urgent repairs	15
R3	% of emergency (1 day or less) repairs completed within target time	97
R4	% of urgent (3 working days or less) repairs completed within target time	97
R5	% of routine (20 working days or less) repairs completed within target time	97
R6*	Resident satisfaction with responsive repairs service	95
R7*	Post inspection pass rate for responsive repairs (defects)	95
R8	% of repairs completed right first time	85
R9	% of appoint-able responsive repairs where appointments are made and kept	95
Empty Property Repairs		
E1*	Average construction time (days) in re-let process (excluding major empty property repairs)	12
E2	Post inspection pass rate for empty property repairs (defects)	97

Appendix 2

Comparison of Lots

To enable the council to come to an objective decision as to which is the most economically advantageous tender a comparison needed to be made between bids for individual lots and bids for combined lots. In addition to this, options where the council provided functions relating to surveying and customer service (‘the Functions’) were evaluated against options where the bidder provided the Functions.

For the Purposes of the contract the city was split into two (Lot 1 and Lot 2) this was geographically based East/West although the individual Lots were not allocated in the tender document.

Table 1 below shows the final whole city comparison where the internal costs for the various options have been added in. The highest score is the most economically advantageous.

Table 1

Option	Lot 1 + Lot 2 (no TUPE)	Lot 1 + Lot 2 (TUPE)	Whole city (no TUPE)	Whole city (TUPE)
Contractor	Contractor A	Contractor A	Mears	Mears
Total	66.85	67.40	73.52	73.88*

*Most economically advantageous

Subject:	Sustainable Communities Act – Decision on Submission to Local Government Association		
Date of Meeting:	9 July 2009		
Report of:	Acting Director of Strategy & Governance		
Contact Officer:	Name:	Emma McDermott	Tel: 29-3944
	E-mail:	emma.mcdermott@brighton-hove.gov.uk	
Key Decision:	Yes	Forward Plan No: CAB9286	
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 Brighton & Hove City Council made the decision to opt into the Sustainable Communities Act in October 2008. The Act places a legal duty on national Government to 'assist local authorities in promoting the sustainability of local communities'. Government is required to meet this duty through holding periodic calls for ideas from communities and individuals via their local councils and from local councils.
- 1.2 Following the process as set by the Act and detailed in section 3 of this report the Brighton and Hove submission for the first round has been produced.
- 1.3 The submission is required to have formal approval by Cabinet and must be submitted to the Government's selector – the Local Government Association (LGA) by 31 July 2009. The role of the LGA is to short-list from all the proposals submitted potentially from all 111 councils that opted into the Act and negotiate this short-list with the Secretary of State for Communities and Local Government. The Minister and the LGA must try to reach agreement about which of the short-listed proposals to implement. No timescale has been announced for this national level negotiation and implementation.

2. RECOMMENDATIONS:

- 2.1 That Cabinet approves the city council's submission under the first round of the Sustainable Communities Act as detailed in appendix A.
- 2.2 That Cabinet agree that the ineligible proposals (appendix D) received in this process are tabled at the relevant Cabinet Member meeting for consideration and response.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Sustainable Communities Act is unique in that perhaps for the first time it gives councils the opportunity to bypass 'top-down' decision-making from Government and put real power in the hands of local communities. The Act was introduced to Parliament as a Private Members' Bill by Nick Hurd MP following a lengthy and widespread grassroots campaign by Local Works, which was supported by over 120 organisations, ranging from the Women's Institute to the Campaign for Real Ale.
- 3.2 The driving force behind the grassroots campaign was a frustration amongst many local communities over feeling powerless to affect change for the better in their neighbourhoods.

Submission of proposals

- 3.3 The Act gives the Government a legal duty to 'assist local authorities in promoting the sustainability of local communities.' Individuals, community groups and councils can put forward proposals on how they feel that the Government could carry out this duty.
- 3.4 The meaning of sustainability under the Act has 4 strands: (i) improvement of the local economy, (ii) protection of the environment; (iii) promotion of social inclusion, and (iv) participation in civic and political activity. Proposals must fall into one or more of these categories. The Act also sets out a 'schedule' of matters to which people must have regard when putting forward proposals.
- 3.5 Those wishing to put forward proposals are assisted by the production of Local Spending Reports by national government. The reports provide a breakdown of all public spending within a local authority area (not just council spending). For the first round the Department for Communities and Local Government produced the first local spending reports on-line on 29th April 2009.
- 3.6 The council launched its publicity for the Act on 6th March. A page was created on the council website and organisations, groups and partnerships were contacted alerting them to the opportunity to generate proposals.

Local assessment of proposals

- 3.7 A basic criterion is that proposals must require some form of central Government action (e.g. change in primary legislation, transfer of function between public bodies etc.) and which cannot currently be carried out under existing freedoms and flexibilities. As such, it represents an extension of local authorities' current 'well-being' powers¹.

¹ The Local Government Act 2000 gave local authorities a discretionary power to promote or improve the social, economic and environmental well-being of their area.

- 3.8 Submitted proposals were first checked by the council's Legal Team to ensure that they satisfied the conditions of the Act before being passed to the local panel for consideration, as stipulated by the Act.
- 3.9 The local panel was convened under the framework of the Stronger Communities Partnership (SCP). On behalf of the SCP, the Brighton & Hove Community & Voluntary Sector Forum (CVSF) ran a call for expressions of interest to seek wider involvement from the community and voluntary sector in the local panel to ensure it meets the requirements of the Act. The local panel consisted of 12 individuals covering communities of interest/identify and communities of place as well the four political groups of the city council.
- 3.10 Support for groups to discuss and develop their ideas was made available from the city council. The council was keen to encourage a dialogue at an early stage to make sure that groups' ideas met the criteria.
- 3.11 The local panel was convened, following a period of induction and training delivered jointly by the CVSF and the Council, to consider the eligible proposals. The proposals were considered against the criteria of the Act as well as local priorities for the city as determined in the cross-sector Local Area Agreement. The legislation does not restrict the number of proposals a council can submit.
- 3.12 23 proposals were submitted to the council. 16 of the 23 were assessed as eligible under the terms of the Act in that they required national government action and were not actions the council could already take. The eligible 16 proposals were considered by the panel. During their deliberation it became apparent that one proposal actually sought two separate outcomes from national government. Therefore the panel agreed to separate this one proposal into two. Thus the panel consider 17 proposals in total. Of the 17 proposals the panel short-listed 13 and rejected 4 (details of the rejected proposals in appendix C).
- 3.13 The panel's short-list was considered by the Leadership and three amendments were negotiated and agreed with the panel. Two of these amendments are detailed in appendix B and the other was an amendment to proposal 9 in appendix A. In addition, the panel recommended that three similar proposals on business rates be combined to produce proposal no. 1 appendix A.
- 3.14 Therefore the proposed city council's submission as negotiated and agreed with the local panel is as detailed in appendix A and consists of nine proposals.
- 3.15 Following the Cabinet's decision in relation to this report feedback about the final submission will be given locally through a range of means including directly to those who submitted ideas that were considered by the panel.
- 3.16 Furthermore, at the start of the local process the council made a commitment that public proposals which didn't meet the criteria of the Act in terms of requiring national government action, would be referred to either the appropriate city council Cabinet Member or to the organisation that would be most affected by the proposal (e.g. Primary Care Trust, Police etc.) for consideration and feedback. Appendix D details the proposals submitted that were ineligible and the Cabinet Member to whom they are being referred.

4. CONSULTATION

- 4.1 The Stronger Communities Partnership was consulted about the local process to promote the Act and develop the local panel. As the lead partnership in the city for improvement of community engagement it has the relevant expertise, knowledge and experience to advise on the most appropriate process for the opportunity. In addition, council officers discussed differences of approach with other councils that has opted into the process.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The proposals set out in Appendix A if implemented by the Government and used by the Council would in some cases result in additional costs falling on the Council for which it currently has no budget provision. Before deciding to use any of the new powers the costs would need to be fully identified and an appropriate and affordable budget provision agreed. In submitting the proposals an indicative financial impact will be completed. The Local Government Association is likely to assess the financial impact on all councils of the short-listed proposals that are recommended to implement.
- 5.2 The financial implications of each of the ineligible proposals set out in Appendix D will need to be considered by the relevant Cabinet Member'

Finance Officer Consulted: Anne Silley

Date: 10/06/09

Legal Implications:

- 5.3 The council complied with all requirements under the Sustainable Communities Act with regard to establishing a panel of local representatives, and consulting them and seeking to reach agreement with them about the proposals.
- 5.4 The final decision as to which proposals from Brighton & Hove go forward to the LGA rests with the council; this is an executive decision which the Cabinet has authority to make.

Lawyer Consulted:

Oliver Dixon

Date: 26/05/09

Equalities Implications:

- 5.5 The meaning of sustainability under the Act has 4 strands: (i) improvement of the local economy, (ii) protection of the environment; (iii) promotion of social inclusion, and (iv) participation in civic and political activity. Proposals must fall into one or more of these categories. During their deliberations the local panel consider any potential unintended negative impact the proposals could have in terms of sustainability, for example promoting economic sustainability at the expense of social inclusion or civic participation.

Sustainability Implications:

- 5.6 The primary aim of the legislation is to enhance and promote the sustainability of local communities. All the eligible proposals were considered against the criteria of the Act as well local priorities as detailed in the Local Area Agreement. The Head of Sustainability was in attendance at the panel meeting to advise on sustainability implications for each of the considered proposals.

Crime & Disorder Implications:

- 5.7 The meaning of sustainability under the Act has 4 strands: (i) improvement of the local economy, (ii) protection of the environment; (iii) promotion of social inclusion, and (iv) participation in civic and political activity. Proposals must fall into one or more of these categories. Therefore within this definition proposals had the potential to include action to reduce crime and disorder.

Risk & Opportunity Management Implications:

- 5.8 The Act has introduced for the first time a co-operative element to decision making between local communities and national government with all decisions negotiated between relevant parties. However, as there are several tiers of negotiation there is an element of risk in terms of managing communities' expectation. Moreover, proposals are only eligible under the Act if they require action by national government. If the council can already carry out the desired action the proposal is not eligible for consideration under this process. In light of this the council has made a commitment to respond to all proposals submitted but which may not be eligible under the Act.

Corporate / Citywide Implications:

- 5.9 As the Act allows for proposals that request the transfer of power from national to local government and from one public agency to another the implications of the Act had the potential to be relevant to all key public agencies in the city. The majority of proposals received were related to the function of the council with implications for schools, businesses, Police and local communities.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The process by which proposals are to be submitted under the Act was defined in the legislation and associated guidance. Opportunity for an alternative approach was limited. Lessons learnt locally and by other local authorities that opted into the Act will be incorporated into delivery of the next round.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 Cabinet is required to formally agree its submission to the Local Government Association as required by the Sustainable Communities Act.

SUPPORTING DOCUMENTATION

Appendices:

1. A. Proposed Brighton & Hove City Council submission to the Local Government Association under the first round of the Sustainable Communities Act as agreed with the local panel.
2. B. Eligible proposals short-listed by the local panel, negotiated with the Administration and alternative action agreed.
3. C. Eligible proposals not short-listed by the local panel.
4. D. Ineligible proposals received by the city council.

Documents in Members' Rooms

None

Background Documents

None

Appendix A

Brighton and Hove City Council Submission to the LGA under first round of Sustainable Communities Act includes the following proposals:

Proposals
<p>1. That councils been given authority to offer discretionary business rate relief to encourage and sustain small and medium local businesses</p> <p>Rate relief could be offered in the form of:</p> <ol style="list-style-type: none"> 1. Increasing the threshold for small business rate relief 2. Disaggregating rate relief when businesses own more than two properties in a local area and offer a percentage reduction over three years on a second property (50% 1st year, 25% 2nd year, 10% third year) 3. Allow for 3 month deferral of part or all of the rates <p>That any discretionary rate proposed be consulted on with the business community via the relevant business forums in the city.</p> <p>That the power be considered for use to encourage key existing or emerging sectors to the local economy for example creative sector or the environmental industries sector.</p> <p>That local be defined as either locally-owned, independent businesses or businesses where a significant percentage of their profits/turnover is considered to remain in the locality.</p>
<p>2. That legislation is changed to allow allotment holders to sell their surplus produce to local businesses.</p> <p>Onus is on the purchaser to verify safety and origin of the food.</p>
<p>3. That food growing be introduced as part of the national curriculum either on or off school sites.</p>
<p>4. That national planning policy, specifically planning policy statement 1 is changed to explicitly support localised food systems.</p> <p>Specifically the planning policy should encourage the provision of food infrastructure including urban and peri-urban abattoirs, bakeries, dairies and food hubs.</p>
<p>5. That the legal restriction that prevents councils which own housing to borrow against the Housing Revenue Account (rent) is removed.</p>
<p>6. That legislation is amended to release existing and accumulated capital receipts from the sale of council housing to councils to build new affordable housing or invest in existing affordable housing.</p>

7. That the installation and use of renewable energy by households is made more accessible and affordable by:

1. requiring all energy companies to make the process by which households can sell surplus energy from their renewable sources to energy companies simpler
2. Dividing the national grant fund for supporting residential installation of renewables between local council for administration locally.

8. That councils are given the power to set vehicle speed limits on public roads at any maximum below existing regulations, according to local needs.

Use of power would require consultation with communities likely to be affected, with Police and other appropriate public agencies for example health authority.

9. That legislation is introduced that requires supermarkets –

- (i) To reduce its use of food packing that is non-recyclable
- (ii) To provide recycling facilities for plastic not recycled by the council;
- (iii) To ensure that the plastic is recycled or, where this is not practicable, to bear the cost of treating it as landfill waste.

Appendix B

The following two proposals were recommended by the panel. However the Administration felt there were alternative ways of actioning these suggestions. Therefore the two proposals were renegotiated with the panel and agreement was reached with the majority of the panel in favour of the alternative approach.

Original Proposal	Alternative Action
<p>That as part of the regulation of social housing providers by the Tenants Service Agency a requirement is introduced that the providers must demonstrate a commitment to supporting food growing by their tenants</p>	<p>The Tenants Services Authority (the new regulator for social housing) is required by law to perform its functions with a view to achieving a number of objectives, one of which is to encourage registered providers of social housing to contribute to the environmental, social and economic well-being of the areas in which the housing is situated.</p> <p>It follows that the TSA already has authority to encourage social housing providers to promote food growing by their tenants. Therefore this proposal is unlikely to be considered by the LGA or the Secretary of State.</p> <p>As an alternative, and in order not to lose the principle of encouraging food growing, the council proposes to lobby the TSA to introduce new guidance/code of practice for social housing landlords on food growing with tenants.</p> <p>Specifically Housing working with the Food Partnership to generate a case to put to the TSA.</p>
<p>That national planning regulations are changed to ensure that all new build and redevelopment of housing and business included space for growing food</p>	<p>Cabinet shares concerns raised by some of the panel members during their debate of the proposal. In particular it shares concerns over the potential negative impact of the proposal on the quantity and quality of new homes built. In addition, it is concerned about the possibly constraints it would introduce to the growth of businesses in the city.</p> <p>Cabinet is of the opinion that planning policy should be flexible and appropriate to the needs of the</p>

	<p>locality. Moreover, under current national planning policy there is the potential to develop a local policy response to promoting health and well-being in the city which could include food growing.</p> <p>Therefore, as an alternative, and to maintain momentum around promoting food growing in the city, Cabinet commits to including this proposal in the Core Strategy (a document which states how land should be used and developed in the city). The Core Strategy is scheduled for submission to the Planning Inspectorate in late 2009. This would introduce a local planning policy position on food growing in the city regardless of any national planning policy changes.</p>
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Appendix C

Eligible proposals considered and not short-listed by the panel:

Proposal	Panel View
Change national planning policy to introduce a requirement for 20% of the total of all public space in the city to be used for community food growing	Proposal was considered too prescriptive and that it should be at local discretion where and how best to promote food growing in an area in order to manage competing demands for space.
That councils be given the power to intervene on private property that is in disrepair	Councils have sufficient power and providing further powers would be excessive.
That councils identify and use private land that has not been used for five or more years and has no realistic prospect of being used for another five years or more; to establish a temporary village community of accommodation built from recycled materials; and of allotment gardens; together with green power production, market places and community centres. For the benefit of city residents who are (for economic reasons) confined to basic accommodation that they cannot improve, and without access to a garden or allotment to produce their own food.	Support for the idea of making better use of under-used land however panel was disconcerted with the notion of temporary communities and felt this would not contribute to social sustainability. In addition, the panel felt that this proposal was not as applicable to Brighton and hove compared with other areas due to the shortage of land in the city.
That the council has the power to reduce the traffic speed on St. James street to 4 mph	Support the principle of having the power to set local speed limit below the national minimum speed limit (see submission above) but inappropriate for the panel to determine appropriateness of 4 mph speed limit for St. James street. This requires wider consultation and technical assessment beyond the scope of the panel.

Appendix D

Ineligible proposals received by city council and the Cabinet Member to whom they are being referred for consideration and response.

Proposal	Cabinet Member referred to for response
Provide more activities for older people and in particular provide the elderly with affordable gardening services	Cabinet Member for Adult Social Care & Health
Use the space in the Old Market as a community garden until start of redevelopment	Cabinet Member for Culture and Enterprise
Provide monthly doorstep collection of bulky items for recycling	Cabinet Member for Environment
Allocate more land for allotment use and provide a large community allotment for those on the allotment waiting list	Cabinet Member for Environment
Provision of fruit trees to households in family housing	Cabinet Member for Housing
Give local residents the authority to tend green areas around their homes (council)	Cabinet Member for Housing

Subject:	Membership of South East England Councils (SEEC)		
Date of Meeting:	7 July 2009	Governance Committee	
	9 July 2009	Cabinet	
Report of:	Acting Director of Strategy & Governance		
Contact Officer:	Name: Anthony Zacharzewski	Tel: 29-1295	
	E-mail: anthony.zacharzewski@brighton-hove.gov.uk		
Key Decision:	No		
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report recommends that Brighton & Hove City Council joins the new regional body "South East England Councils" following the discontinuation of the South East England Regional Assembly (SEERA) at the end of March 2009.
- 1.2 This is an opportunity for the city council to maintain a high level of involvement with the South East England Development Agency (SEEDA) in the economic development of the South East region through the production of a new Single Regional Strategy.

2. RECOMMENDATIONS:

- 2.1 That the **Governance Committee** approve Councillor Mary Mears as the representative for Brighton & Hove City Council, subject to the Cabinet approving recommendation 2.3 below.
- 2.2 That **Cabinet** note the extract of the proceedings of the Governance Committee held on 7 July 2009.
- 2.3 That **Cabinet** approve that Brighton & Hove City Council become a member of South East England Councils (SEEC).

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Brighton & Hove City Council has been invited to join the South East England Councils (SEEC). This is the representative body of councils in the South East of England which, working with SEEDA, will replace the former South East England Regional Assembly (SEERA) that was discontinued in March 2009.
- 3.2 Joining SEEC represents a significant opportunity for councils to influence economic development in the South East through the creation of a Single

Regional Strategy, on which work will begin in the autumn of 2009. The draft 2009/10 business plan and objectives for SEEC is found in Appendix 1.

- 3.3 Subscription costs will be no more than 25% of the membership costs formerly paid by council to SEERA due to lighter support arrangements. Technical support and guidance will be provided to SEEC by the Local Authority Chief Executives (LACE) support group, which includes colleagues from county, unitary and district councils.
- 3.4 It is noted that a General Election may impact on these arrangements, but that this should not deter us from joining this regional forum, particularly given the current regional, national and international economic context.
- 3.5 It is therefore recommended to Cabinet that we confirm the request to join SEEC and attend the first AGM on 15 July where the draft business plan will be considered.
- 3.6 Governance Committee are asked to approve that the Leader, Councillor Mary Mears, represent Brighton & Hove City Council on SEEC, subject to approval of membership by Cabinet.

4. CONSULTATION

- 4.1 The Management Team and Leadership have been consulted.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The cost to Brighton & Hove City Council to join SEEC is £5,082 for 2009/10. The scale of charges used by SEEC is proportionate to the size of the local authority. As stated in the report, costs are 25% of previous SEERA subscription (£20,328 for Brighton & Hove City Council in 08/09) which is within the budget provision held by the Culture & Enterprise directorate.

Finance Officer Consulted: Nigel Manvell

Date: 16/06/09

Legal Implications:

- 5.2 Under the Council's Constitution the decision to join is made by Cabinet but the issue of in year external appointments is made by Council or the Governance Committee.

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 16/06/09

Equalities Implications:

- 5.3 SEEC has been established to represent and promote the views and interests of local government in the region. Through SEEC, Brighton & Hove will have

opportunity to raise equality and inequality issues at a sub-regional and regional level.

Sustainability Implications:

- 5.4 Involvement in SEEC will allow Brighton & Hove to influence sustainable economic and social development within the wider region.

Crime & Disorder Implications:

- 5.5 The work programme for SEEC in 2009/10 includes the production of a report to inform councils of current and emerging crime and disorder issues in the South East in order to formulate an appropriate response. This may impact on the city's current approach.

Risk and Opportunity Management Implications:

- 5.6 Joining SEEC presents an opportunity to share best practice and influence regional policy for economic and social development. This is particularly important given the affects of the current recession.

Corporate / Citywide Implications:

- 5.7 Joining SEEC will provide an opportunity to represent the best interests of Brighton & Hove City Council and the city as a whole through regional discussion in order to influence national and European policies and resource allocation.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S)

- 6.1 Not applicable.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 Not applicable.

SUPPORTING DOCUMENTATION

Appendices:

1. South East England Councils, Draft Business Plan 2009/10
2. Extract from the proceedings of the Governance Committee held on 7 July 2009 (to follow).

Documents In Members' Rooms

None

Background Documents

None

SOUTH EAST ENGLAND COUNCILS

DRAFT BUSINESS PLAN 2009/10

APRIL 2009

(Updated 27.4.09)

INTRODUCTION

The Role and Status of South East England Councils (SEEC)

As a result of the Government's Sub National Review of Economic Development and Regeneration (SNR), changes have been made to the regional architecture, and in particular to the way in which regional planning, transport, housing and economic development functions are carried out across the English regions. The most significant changes are a new 'joint responsibility' between the Regional Development Agencies and a new body of local authority Leaders from the region to develop and sign off a single Regional Strategy. This new single strategy will replace the existing regional spatial and regional economic strategies. As a consequence of the new arrangements, the existing Regional Assemblies are also being abolished.

In the South East, the Regional Assembly (SEERA) has already been wound up and replaced by the South East England Councils (SEEC). The Development Agency and the new South East England Leaders' Board (SEELB) are working together to establish new arrangements to discharge their joint responsibilities. A new South East England Strategy Board and South East England Partnership Board form the major governance arrangements to deliver the new joint responsibilities.

SEEC has been established to represent and promote the views and interests of local government in the region. It has a wide remit, not just to provide an input into the development and implementation of the Single Regional Strategy. It will, amongst other things, ensure effective representation of local authority interests on regional, national and international bodies, will scrutinise the activities of other agencies at the regional level and will provide a forum for the consideration and determination of regional issues including strategic policies and investment priorities.

There were significant objections to the original Government consultation on SNR which proposed that unelected Regional Development Agencies should alone be responsible for signing off the strategy. Now that changes have been incorporated to make this a joint responsibility, SEEC will be able to provide the vital democratic input which properly represents all communities and residents across South East England.

The Status of this Business Plan

This draft Business Plan has been prepared by the SEEC Executive Board. It will be considered for adoption at the Plenary meeting of all councils in South East on 15th July 2009.

In drawing up this Business Plan the Executive Board has recognised that the recently established arrangements for regional planning may change in the not too distant future. It has therefore endeavoured to "future proof" the work of SEEC. The Business Plan will therefore be kept under review throughout 2009/10 and may be subject to change.

SEEC Objectives

1. To be the democratically representative voice of South East England.
 - a. To arrange meetings of the Plenary of Member Councils in the South East; its Leaders' Board* and appropriate sub-committees and working groups.
 - b. To nominate members to serve on appropriate national and regional boards, committees and working groups.
 - c. To influence national and European policies and resource allocation.
2. To provide a framework for co-ordinated action by South East England Councils, or groups of councils, on issues of regional or sub-regional significance.
3. To receive regular reports on the "state of the region" and to formulate an appropriate response by Councils.
4. To contribute to the development, implementation and monitoring of regional strategic policies, which at present are represented by the single Regional Strategy.
 - a. To ensure that the views of the Councils are established as the guiding principles in the development of the Strategy through its representation on the Partnership and Strategy Boards.
 - b. To ensure that the agreed strategy is implemented through the Planning 'Panel', Regional Transport, Housing and Regeneration, Economic Development and Skills Boards and any other such boards as may be established.

The relationship of SEEC with the Partnership and Strategy Boards, and the various regional boards so far established is set out in Appendix 1.

5. a. To communicate the work of SEEC and its various boards, sub-committees and working groups to all member councils to enable individual councils to provide input as appropriate to issues under consideration and to be kept informed of decisions taken.
- b. To communicate the work of SEEC to appropriate outside bodies (including national Government and the Government Office for the South East (GOSE) and to the general public.

* including a representative of the National Parks

KEY ACTIVITIES FOR 2009/10

	ACTIVITY	DESIRED OUTCOME
Objective 1: The democratically representative voice of South East England		
1.1	Establish the basis of a relationship with the LGA	The LGA is better able to represent the views of South East England Councils
1.2	Support members who are nominated to serve on national and regional boards and to receive timely feedback on issues considered and decided	The views of SEEC members are influential in shaping policies and decisions.
1.3	Establish an appropriate mechanism to monitor and influence European policies and funding	SEEC is better able to influence emerging European policies and European funding for the South East is maximised.
1.4	Review the structure and membership of Improvement and Efficiency South East (IESE)	The funding available from the Regional Improvement and Efficiency Partnership is directed to the issues of highest priority in the South East.
1.5	Establish appropriate scrutiny of SEEDA	The wider activities of SEEDA are better understood by SEEC members and SEEC's views are taken into account.
Objective 2: Provide a framework for co-ordinated action		
2.1	Increase involvement in the Inter-Regional Forum, the English Regions Network and in meetings of the GLA and ERA	Views of SEEC are better understood by surrounding areas and there is greater co-ordination across the greater South East.
2.2	Establish an appropriate mechanism for handling migration issues at the regional level	There is better understanding of the implications of migration and skills, training, workforce planning, housing, social cohesion and child protection. Opportunities for external funding are maximised.
2.3	Co-ordinate action by groups of councils to maximise the benefits of London Olympics 2012	The benefits to the South East are maximised and problems minimised.
Objective 3: Monitoring the state of the region		
3.1	Consider an annual report on the state of the region prepared by the South East England Strategy Unit (SEESU)	SEEC is better informed of the latest trends and developments in the South East and formulates an appropriate response.

3.2	Consider a report on health and well being issues in the South East	SEEC is better informed of current and emerging issues and formulates an appropriate response.
3.3	Consider a report on crime and disorder issues in the South East	SEEC is better informed of current and emerging issues and formulates an appropriate response.
Objective 4: The development and implementation of regional strategic policies		
4.1	Respond to the final version of the South East Plan	If appropriate, SEEC develops a collective response to the Government's plans.
4.2	Establish with SEEDA the Partnership and Strategy Boards	Organisational arrangements for the preparation of the Single Regional Strategy are established and members briefed on their respective roles.
4.3	Respond to Government consultation on the Reviews of Aggregates and Gypsies and Travellers	Opportunity for SEEC to make its views known to the public and secure an invitation to the EiPs.
4.4	Participate in the Examinations in Public into Aggregates and Gypsies and Travellers	The submitted policies are tested for robustness in a formal examination.
4.5	Commence work on the preparation of a single Regional Strategy	SEEC establishes the guiding principles for the development of the Strategy.
4.6	Contribute to a Regional Planning 'Panel'	SEEC provides advice to the Strategy Board on spatial planning issues and to members on the preparation and co-ordination of LDFs in the region.
4.7	Agree a prioritised programme of transport investment through the Regional Transport Board.	SEEC's views are reflected in transport priorities.
4.8	Agree a prioritised programme of housing and regeneration investment through the Regional Housing and Regeneration Board.	SEEC's views are reflected in housing and regeneration priorities.
4.9	Contribute to a Regional Economic Development and Skills Board	SEEC's views are reflected in the work of the Board.
Objective 5: Communicate the work of SEEC with its members, partners and the public		
5.1	Develop and implement a Communication Strategy	SEEC members are better informed and have an opportunity to contribute to the work of SEEC partners and the public are better informed of the value of SEEC.

FINANCIAL PLAN

This financial plan has been drawn up on the following assumptions:

1. Funding for the preparation of the Single Regional Strategy will be provided by CLG and managed by SEESU.
2. Subscription levels for SEEC will be no more than 25% of the subscription levels formerly paid by councils to SEERA.
3. The support arrangements for SEEC will be “light touch” and separate from those of SEESU, although may be accommodated alongside them. They will comprise an office manager (part-time?), a policy officer, a communications officer (part-time) and administrative support.
4. Additional support will be provided by the Local Authority Chief Executives across the region supported by appropriate Directors drawn from Counties, Unitaries and Districts. The Directors can draw on their technical support as necessary.

Income	Indicative Budget (£000's)
Subscriptions (74 Councils)	150,000
Expenditure	Indicative Budget (£000's)
Staff	
- Communications Manager (p/t)	20,000
- Policy Officer (f/t)?	35,000
- Office Manager (p/t)?	20,000
- Office Support (p/t)?	15,000
Meeting and Conference costs	10,000
Accommodation	10,000
Post and Printing	2,500
Office Overheads	5,000
Research/Commissions	20,000
Contingencies	12,500
Total Spend	£150,000

Appendix 1

RELATIONSHIP BETWEEN SEEC AND SEEDA IN THE PREPARATION OF A REGIONAL STRATEGY FOR SOUTH EAST ENGLAND

The South East England Regional Assembly was dissolved on 31 March 2009. This resulted from the Government's plans to streamline regional working arrangements as part of its Sub-national Review (SNR) of Economic Development and Regeneration. Responsibility for regional planning now rests with a new model of joint governance by local government - in the shape of **South East England Councils (SEEC)** – and the **South East England Development Agency (SEEDA)**.

There will be a joint body to prepare a Single Regional Strategy – joining up, and building on, the Assembly's South East Plan and SEEDA's Regional Economic Strategy. SEEC and SEEDA will work closely with delivery agencies, such as the Highways Agency, and stakeholder groups.

There will be **two decision-making boards**:

- The high-level **South East England Partnership Board** comprising four SEEDA board members and eight members of South East England Leaders' Board (SEELB) – the executive committee of SEEC.

This Board will be responsible for:

- Commissioning and signing-off the Single Regional Strategy
- Signing-off the regional delivery plan
- Signing-off the annual monitoring report

This Board becomes the regional planning body until the SNR legislation is passed. During this interim period (whilst the Partnership Board is the RPB) a representative of the National Parks will be co-opted on to the Board

- The **Strategy Board** comprising:
Members - four SEEDA Board members and eight SEELB members
Observers - four Delivery Partners (statutory agents such as the Environment Agency) and two Stakeholders

This Board will be responsible for:

- High level steering of the Regional Strategy process and content
- The allocation of CLG funding for the regional strategy and signing-off the business plan/budget
- Integrating investment priorities
- Ensuring alignment between strategy and delivery
- Ensuring sustainable growth is at the heart of the regional strategy
- Developing a single evidence base
- Ensuring effective engagement with stakeholders and public
- Overseeing any continuing work required on implementing the South East plan

Supporting the decision-making Boards, there will be **Delivery Boards** (eg Transport Board), together with a small number of '**Working Groups**' to help steer specific aspects of the Regional Strategy and support the Strategy Board.

A group is currently considering the detail around the roles and membership of the delivery boards and the working groups, and the relationship between them.

Stakeholders have played an important part in the development of current regional strategies in the South East. They will continue to play an important role in the new regional strategy process at both the 'member' and 'technical' levels, but won't be part of the formal decision-making process.

The exact details of Stakeholder involvement will be agreed in the near future.

Subject:	Treasury Management Policy Statement (incorporating the Annual Investment Strategy) 2008/09 - End of year review		
Date of Meeting:	9 July 2009		
Report of:	Director of Finance & Resources		
Contact Officer:	Name: Peter Sargent	Tel: 29-1241	
	E-mail: peter.sargent@brighton-hove.gov.uk		
Key Decision:	No		
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The Treasury Management Policy Statement (TMPS) and the Treasury Management Practices (including the schedules) for the year 2008/09 were approved by Policy & Resources Committee on 6 March 2008. The TMPS sets out the key role for treasury management, whilst the practices and schedules set out the annual targets for treasury management and the methods by which these targets shall be met.
- 1.2 The TMPS includes an annual investment strategy, which sets out the key investment parameters for council cash funds. Full Council approved the investment strategy on 13 March 2008.
- 1.3 The purpose of this report is to advise of the action taken during the second half of the financial year 2008/2009 on the TMPS, including the investment strategy (the action for the first half year was reported to Cabinet on 20 November 2008).

2. RECOMMENDATIONS:

- 2.1 That Cabinet:
 - (a) endorse the action taken during the second half year to meet the treasury management policy statement and practices (including the annual investment strategy);
 - (b) note the authorised limit and operational boundary set by the Council have not been exceeded; and
 - (c) note that all Members will be offered training on the risks involved in borrowing and investments on an annual basis.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Overview of markets

- 3.1 The crisis in the financial markets continued throughout the second half year.
- 3.2 The announcement about the collapse of Icelandic Banks and the impact on local authority investments attracted a number of high profile reviews and investigations.
- 3.3 The economic cycle also took a turn for the worse as recession hit the global economy. Several major central banks took unprecedented action to prevent the recession turning into a depression. Several thousands of billions of pounds, dollars and euros were released into the markets. Almost all major UK banks were supported by HM Treasury guarantees.
- 3.4 An overview of the market is set out in Appendix 1 to this report.

Treasury Management Strategy

- 3.5 A summary of the action taken in the period October 2008 to March 2009 is provided in Appendix 2 to this report.
- 3.6 Treasury management is one of the criteria used in the comprehensive performance assessment to judge use of resources. The criteria require that “the council has a treasury management strategy that reflects the requirements of the CIPFA Code of Practice for Treasury Management in the Public Services.” In 2008/09 this criteria was satisfied.
- 3.7 To counter the increased risk to the council’s investment portfolio the Director of Finance & Resources introduced a programme of debt repayment. In the period November 2008 to March 2009 some £45 million of debt was prematurely repaid. In addition the limits set out in the investment strategy were reviewed with most investment periods limited to a maximum of one month.
- 3.8 The action taken has reduced the cost of the debt portfolio in 2008/09 from a budgeted £11.6 million to £10.9 million. In addition investment returns for the year have been at or around those budgeted for, even though the investment parameters were tightened in the latter part of the financial year. Investment performance is shown in the following table.

	In-house – core investments	In-house – cash flow investments	Cash manager investments
Budget 2008/09	5.47%	5.34%	5.73%
Benchmark rate (i.e. average market rate)	3.56%	3.56%	3.66%
Actual rate	5.59%	5.32%	5.32%

- 3.9 The above performance, together with better than expected cash flow balances, has contributed towards an underspend on the financing costs budget of circa £1.4m in 2008/09. The following table summarises the areas of major underspend.

Budget 2008/09		£7.946m
Treasury management activity		
○ Reduction in the cost of borrowing	-£0.607m	
○ Higher investment income	-£0.595m	-£1.202m
Impact of action taken by external cash manager		+£0.057m
Other changes not directed related to treasury management activity (e.g. reduction in interest payable on interest reserves & provisions)		-£0.273m
Actual 2008/09		£6.528m

- 3.10 The two borrowing limits approved by full Council in March 2008 – the ‘authorised limit’ and ‘operational boundary’ – have not been exceeded during the year.

Socially responsible investments

- 3.11 The council continues to promote its’ ethical investment statement with institutions within which it deposits money. Investment counterparties are advised of the following statement each and every time a deposit is placed with them:

“Brighton & Hove City Council, in making investments through its treasury management function, fully supports the ethos of socially responsible investments. We will actively seek to communicate this support to those institutions we invest in as well as those we are considering investing in by:

- *encouraging those institutions to adopt and publicise policies on socially responsible investments;*
- *requesting those institutions to apply council deposits in a socially responsible manner.”*

Security of investments

- 3.12 A summary of investments made by the in-house treasury team and outstanding as at 31 March 2009 is tabled below. The table shows that a substantial proportion of investments are covered by the guarantees and financial support offered by the UK and Irish Governments. Money market funds offer low risk investment opportunities as the underlying investment portfolio is invested in a diverse range of high quality, short-term and negotiable instruments.

Banks subject to HM Treasury Support	£5.0m	15%
Banks subject to Irish Government guarantee	£8.2m	25%
Banks eligible for HM Treasury support	£5.7m	17%
Building societies eligible for HM Treasury support	£13.5m	41%
Money market funds	£0.8m	2%
	£33.2m	100%

Outcome of independent reviews on local authority investments

3.13 A number of high profile reviews were initiated in response to the failure of the Icelandic Banks in October 2008 and the investments made by local authorities in these banks. The following table sets out the main conclusions of each:

▪ **Communities & Local Government (CLG) Select Committee**

The Select Committee has received both written and oral evidence from a number of local authorities, treasury management advisors and local authority bodies such as the Chartered Institute for Public Finance & Accountancy (CIPFA) and the Local Government Association. The report from the Select Committee concluded “...that it would be inappropriate to seek to restrict local authorities’ investment options.” The report further concluded that investment strategies should continue to concentrate on security and liquidity but that “...yield should not be neglected. The risk involved in seeking yield should be mitigated by robust and responsive Codes, guidelines and best practice.”

The report outlines a number of recommendations, including:

- (a) the sharing of information between local authorities,
- (b) an Audit Committee with specific responsibility for the scrutiny of the treasury management function. Members of the committee will need to properly trained. The Select Committee encourage the appointment of a person with relevant experience either to serve or to chair the committee,
- (c) changes to investment guidance and codes to emphasis that local authorities should view investment decisions within the context of wider financial and economic information rather than over reliance on credit ratings,
- (d) a review of the terms of using external advisors, and
- (e) the Audit Commission to review its own auditing procedures to ensure local authorities are adhering to codes and guidance on treasury management.

▪ **CIPFA**

CIPFA issued a treasury management bulletin in March 2009. The bulletin indicates that a revised treasury management code and guidance will be issued in the Summer. Changes to be included in the revised code include:

- (a) greater emphasis on diversification of investments,
- (b) improved information and regular reviews by councillors in both executive and scrutiny functions,
- (c) enhanced skills and training for local authority staff involved in the treasury management function, and
- (d) the use of the main three rating agencies in selecting counterparties for investment.

▪ **Audit Commission**

The Audit Commission made 4 main recommendations:

- (a) central government to review the statutory investment framework within which local authorities operate;
- (b) CIPFA to tighten its code of practice, to promote the sharing of information amongst local authorities and to develop appropriate training and qualifications;
- (c) local authorities to improve reporting to elected members, offering training where appropriate, to ensure full compliance with treasury management codes of practice, to be explicit about the risks involved and for elected

members to confirm the level of risk that is acceptable to the organisation and ensure the treasury management function is properly resourced; and
(d) the Commission to work with CIPFA and other organisations to develop guidance and tools to help manage risk and to instruct auditors to review treasury management as part of their 2008/09 Audit for use of resources.

- 3.14 The treasury management policy statement and annual investment strategy approved by Cabinet contain much of what is now being recommended.
- 3.15 One of the recommendations in this report is for Cabinet to note the provision of training for all members involved in approving the annual treasury management policy statement and investment strategy.

4. CONSULTATION

- 4.1 The council's external treasury advisor has contributed to this report.

5. FINANCIAL & OTHER IMPLICATIONS

Financial Implications:

- 5.1 The financial implications arising from the action taken under the TMPS are included in Financing Costs. Details of the 2008/09 outturn for financing costs are included under Section 3.9 above.
- 5.2 Cabinet agreed at its meeting on 20 November 2008 to earmark the underspend on Financing Costs to offset the lower investment returns in 2009/10 and subsequent years. In addition Council approved as part of the Budget Strategy to earmark further sums to supplement the underspend. The current reserve stands at £2.881m. This reserve will be kept under review and any changes reported back to Cabinet.

Finance Officer consulted: Peter Sargent

Date: 10/06/09

Legal Implications:

- 5.3 The TMPS and action under it must be in accordance with Part I of the Local Government Act 2003 and regulations issued thereunder. Relevant guidance also needs to be taken into account.
- 5.4 This report is for information purposes only and as such it is not considered that anyone's rights under the Human Rights Act will be adversely affected by it.

Lawyer consulted:

Neil Weeks

Date: 22/06/09

Equalities Implications:

- 5.5 No equalities impact assessment is required for this report.

Sustainability Implications:

- 5.6 None arising from this report.

Crime & Disorder Implications:

- 5.7 None arising from this report.

Risk and Opportunity Management Implications:

- 5.8 Action taken in the six months to March 2009 is consistent with the risks identified within the TMPS and associated schedules.

Corporate / Citywide Implications:

- 5.9 None arising from this report.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 This report sets out action taken in the six months to March 2009. No alternative options are therefore considered necessary.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 Treasury management is governed by a code that is recognised as 'best and proper practice' under the Local Government Act 2003. The Code requires a minimum of two reports per year, one of which is a report looking back at the closing year. This report fulfils this requirement.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix 1 – Economic background
2. Appendix 2 – A summary of the action taken in the period October 2008 to March 2009
3. Appendix 3 – Performance and balances
4. Appendix 4 – Prudential indicators 2008/09 Actual

Documents In Members' Rooms

None

Background Documents

1. Part I of the Local Government Act 2003 and associated regulations
2. "The Treasury Management Policy Statement and associated schedules 2008/09" approved by Policy & Resources Committee on 6 March 2008
3. The "Annual Investment Strategy 2008/09" approved by full Council on 13 March 2008
4. Papers held within Strategic Finance, Finance & Resources
 - "The Prudential Code for Capital Finance in Local Authorities" published by CIPFA 2003
 - Bulletin issued by CIPFA – "Treasury Management in Local Authorities: Post Icelandic Banks collapse" – March 2009
 - Report issued by the Audit Commission – "Risk and Return: English Local Authorities and the Icelandic Banks" – March 2009
 - Communities & Local Government: Seventh report of Session 2008-09 – Local authority investments – published June 2009

Economic Background for 2008/09

(Courtesy of Butlers)

The 2008/09 financial year has featured one of the most testing and difficult economic and investment environments since the 1930s. It has featured a number of very significant changes in the performance of the UK as well as global economy. And beneath all of this has been the undercurrent of uncertainty and mistrust in the financial markets. This was not an easy backdrop in which to manage an investment portfolio.

The year opened on an uncertain note. The ongoing effects of the “credit crunch” which had started in 2007, prompted a bout of monetary policy easing in early April when the Bank of England cut its Bank Rate by $\frac{1}{4}\%$ to 5%.

But inflation was rising sharply, courtesy of the strength of global commodity and food prices and the very steep rise in oil prices. The CPI inflation measure breached the 3% upper limit of the Governments’ target range in April. The Bank was concerned that these external cost pressures could eventually transform into a domestic wage/price spiral and kick start a bout of damaging inflation.

Rates were left on hold through the summer months and there seemed to be some signs of a gradual return to slightly more normal conditions in the money markets. But this was not to last. Mid-September saw a “sea change” in financial markets and economic policies. The collapse of US investment bank, Lehman Brothers, dealt a devastating blow to the markets. Liquidity dried up almost completely making it extremely difficult for banks to function normally. These developments culminated in the failure of the entire Icelandic banking system in early October.

The failure of the Icelandic banking system had a major impact on local authority investments. A number of local authorities had deposits with Icelandic institutions and these investments are still at risk. At this point in time recovery rates have not been fully disclosed by the respective institutions, although early indicators suggest a good, albeit not 100% recovery.

The crisis in the financial markets deepened and threatened a complete ‘melt-down’ of the world financial system. This, together with evidence that economies had entered recession prompted a number of significant policy changes. In the UK these featured the following:

- a major rescue package totalling as much as £400bn to recapitalise the banking system
- a series of interest rate cuts down to 2% in early December
- a fiscal expansion package, including a $2\frac{1}{2}\%$ cut in VAT.

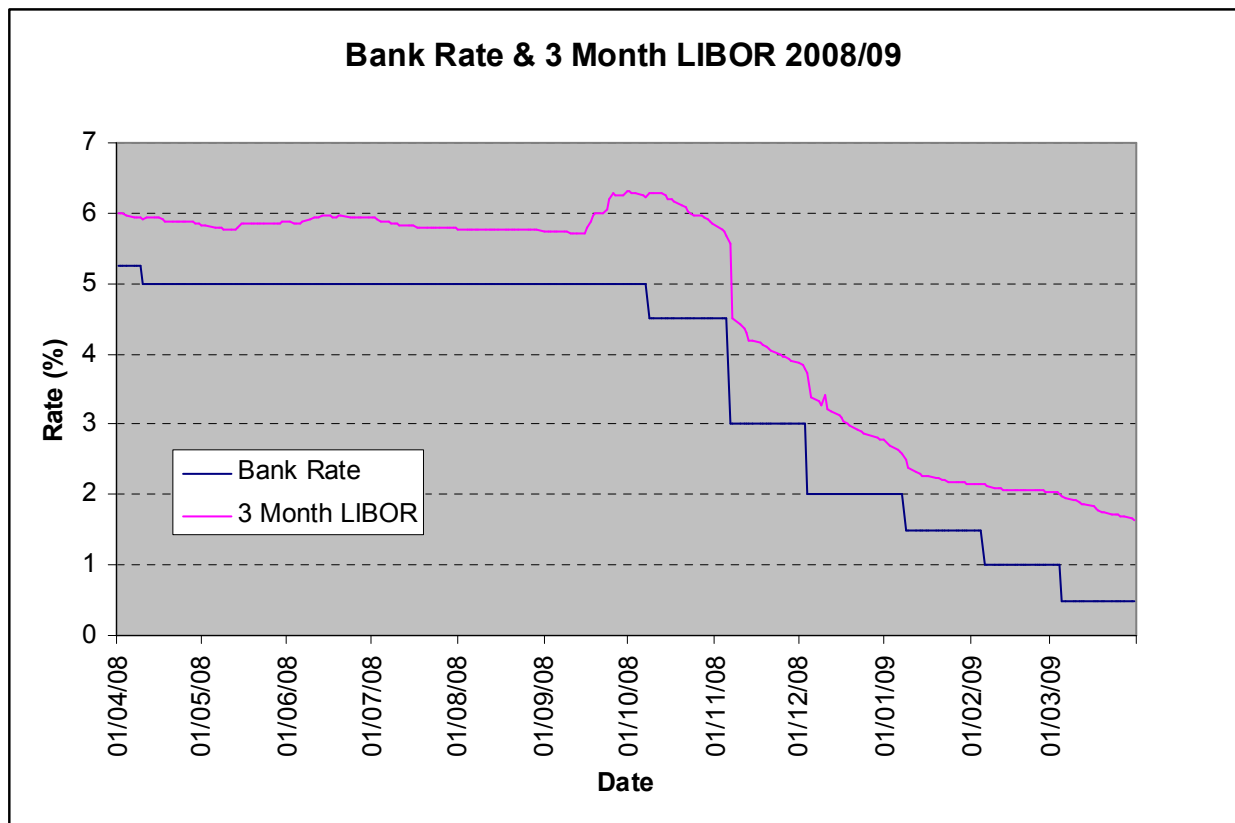
The New Year failed to herald a change in the fortunes of the banking sector. Central banks continued to ease monetary policies in an attempt to reduce borrowing rates and hence alleviate some of the cost pressures being experienced by financial institutions and, more to the point, the corporate and household sectors.

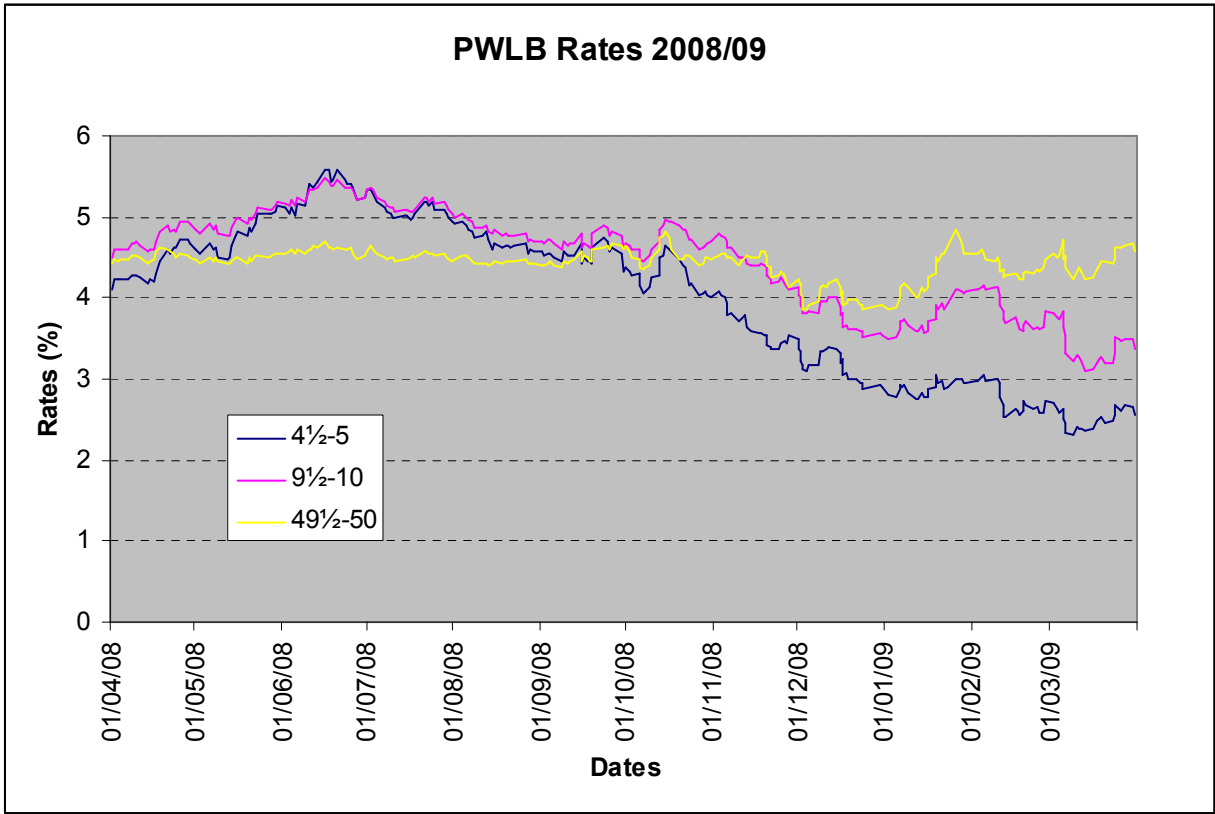
With official interest rates in the US already at close to zero at end-2008, the Bank of England was at the forefront of policy easing. Bank Rate was cut in successive monthly moves from 2% at the outset of the year to the historically low level of $\frac{1}{2}\%$ in March 2009. Thereafter, the Bank resorted to the quantitative easing of monetary policy via a mechanism of buying securities from investment institutions in exchange for cash. This commenced in early March and is expected ultimately to amount to £150bn.

Aside from Bank of England assistance, the central government launched the second phase of its support operations for the banking industry during the second half of January. This failed to allay fears that even more aid might have to be extended to the banking industry before the crisis is over. During the course of the quarter, two major banks, RBS and Lloyds Group, needed substantial cash injections; action that led the public sector to assume near-full ownership. In addition to this, the Dunfermline Building Society was rescued from bankruptcy.

The problems of the financial markets since late 2007 had clearly spread to other parts of the economy. Economic data confirmed that the UK was in deep recession and the latest Bank of England Inflation Report (published in mid-February) registered a marked change in official forecasts for 2009 and 2010. Economic activity was expected to decline sharply (GDP was forecast to contract by more than 4% in 2009) and inflation was projected to fall into negative territory

The generally uncertain backdrop to the UK and the financial markets prevented a marked easing in overall money market liquidity. While the situation did show some signs of improving as the financial year drew to a close, the margin between official interest rates and those quoted in the inter-bank market for periods longer than 1-month remained very wide.





A summary of the action taken in the period October 2008 to March 2009

Treasury Management Strategy

New long-term borrowing

Long-term borrowing to fund capital investment was limited to £3m. This is consistent with the strategy to reduce investment levels, and hence investment risk, following the collapse of the Icelandic Banks (Table 1).

Table 1 – New long-term borrowing October 2008 to March 2009

<u>Date raised</u>	Amount	Rate	Period
PWLB – 8 October 2008	£3.000m	3.99%	3 yrs

Debt maturity

Debt maturing during the 2nd half-year totalled £2 million. In addition a further £45 million of PWLB loans were repaid early at a net discount of £64k (Table 2).

Table 2 – Debt maturity / repaid October 2008 to March 2009

<u>Date repaid</u>	Amount	Premium / (discount)
<u>Debt maturing</u>		
27 January 2009 – 1 Market loan	£2.000m	-
<u>Debt prematurely repaid</u>		
14 November 2008 – 5 PWLB loans	£17.123m	(£0.076m)
23 January 2009 – 6 PWLB loans	£27.894m	£0.012m
Sub total – Premature repayments	£45.017m	(£0.064m)
	£47.017m	(£0.064m)

Weighted average maturity of debt portfolio

The weighted average maturity period of the debt portfolio has decreased marginally during the 2nd half-year as a consequence of prematurely repaying debt (Table 3).

Table 3 – Weighted average maturity profile – debt portfolio

<u>Date raised</u>	Oct 2008	Oct 2008 balance as at Mar 2009 (*)	Mar 2009 (**)
Weighted average maturity period	37.8 yrs	37.6 yrs	36.3 yrs

(*) the 'Oct 2008 balance as at Mar 2009' figure reflects the natural 'time elapse' reduction in the average period of the debt portfolio

(**) the weighted average maturity period as at 1 April 2008 was 38.3 years

Debt rescheduling

No debt rescheduling was taken during the 2nd half-year.

Capital financing requirement

The prudential code introduces a number of indicators that compare 'net' borrowing (i.e. borrowing less investment) with the capital financing requirement (the capital financing requirement being amount of capital investment met from borrowing). Table 4 compares the capital financing requirement with net borrowing but equally as important to actual borrowing.

Table 4 – Capital financing requirement compared to debt outstanding

	31 Mar 2008	31 Mar 2009	Movement in year
Capital financing requirement (CFR)	£235.8m	£255.9m	+£20.1m
Outstanding debt	£239.9m ^(*)	£195.9m	-£44.0m
Investments	£116.7m	£56.5m	+£60.2m
Net debt	£123.2m	£139.4m	+£16.2m
O/s debt to CFR	101.7%	76.6%	-25.1%
Net debt to CFR	52.3%	54.5%	+2.2%

^(*) includes £3m borrowed in advance of 2008/09 CFR requirements. 'O/s debt to CFR' reduces to 100.5% if this sum excluded.

Prior to the crisis in the financial markets, advice received from the council's external advisor suggested that borrowing should be at or near the maximum permitted in order to reduce the risk that demand for capital investment (and hence resources) will fall in years of high interest rates. However, as part of the strategy to reduce investment risk, borrowing has been prematurely repaid by using investments.

Cash flow debt / investments

The TMPS states the profile of any short-term cash flow investments will be determined by the need to balance daily cash flow surpluses with cash flow shortages. An analysis of the cash flows reveals a net shortfall for the 2nd half-year of £46m (Table 5).

Table 5 – Cash flow October 2008 to March 2009

	Payments	Receipts	Net cash
Total for period	£386.1m	£340.1m	-£46.0m
Decrease in long-term borrowing			-£44.0m
Net movement in short term position			-£90.0m

Taking into account the decrease in net long-term borrowing the total cash shortfall amounted to £90m for the 2nd half-year. After adjusting for the movement on the council's bank accounts (+£0.3m) the net shortfall is reduced to £89.7m. The shortfall has been funded by reducing the level of investments (Chart 2, Appendix 3).

Short-term borrowing totalling £21.4m was raised in the second half of the year to part fund the programme of premature repayments in advance of investments being redeemed. These loans were fully repaid by 31 March 2009.

Overall the cash position for the financial year is a net deficit of £17.4m. This deficit is

not unexpected following the decision by the council to make an offer to settle the equal pay issue and make payments in line with the offer.

Prudential indicators

Full Council approved a series of prudential indicators for 2008/09 at its meeting in March 2008. Taken together the indicators demonstrate that the council's capital investment plans are affordable, prudent and sustainable. Full details are set out in appendix 4.

In terms of treasury management the main indicators are the 'authorised limit' and 'operational boundary'. The authorised limit is the maximum level of borrowing that can be outstanding at any one time. The limit is a statutory requirement as set out in the Local Government Act 2003. The limit includes 'headroom' for unexpected borrowing resulting from adverse cash flow.

The operational boundary represents the level of borrowing needed to meet the capital investment plans approved by the council. Effectively it is the authorised limit minus the headroom and is used as an in-year monitoring indicator to measure actual borrowing requirements against budgeted forecasts.

Table 6 compares both indicators with the maximum debt outstanding in the 2nd half-year.

Table 6 – Comparison of outstanding debt with Authorised Limit and Operational Boundary 2008/09

	Authorised limit	Operational boundary
Indicator set	£276.0m	£254.0m
Maximum amount o/s during the year	£242.9m	£242.9m
Variance	£33.1m ^(*)	£11.1m

(*) can not be less than zero

Performance

The series of charts in Appendix 3 provide a summary of the performance for both the debt and investment portfolios.

In summary the key performance is as follows:

- Chart 1 shows the average cost of the long-term debt portfolio increasing to 4.83%, from the 4.75% at the beginning of the year. The increase is a direct consequence of repaying debt early.
- Chart 2 shows the level of investment managed by the cash manager and the in-house treasury team.
 - The sum invested by the cash manager increases as investment income is reinvested. The increase in the amount invested in the year totals £0.6m.
 - The amount invested by the in-house treasury team is analysed between cash flow investments (that are invested to meet short-term cash commitments) and core investment (that have a longer investment profile to match the spending profile for both the revenue & capital investment programmes). The chart shows a fall of £89.7m in investments made by the in-house team to cover the cash flow shortage in the second half year and the programme of repaying debt early.

- Chart 3 compares the returns achieved on external investments with the benchmark rate of 7-day LIBID rate for the in-house treasury team and 7-day LIBID rate (compounded) for the cash manager. The chart confirms that the investment performance of both the cash manager and in-house treasury team has substantially exceeded the target rate of 7-Day LIBID (compounded) and 7-Day rate respectively.

Approved organisations – investments

There were no breaches of the investment criteria during the second half-year.

No new financial institutions were added to the list of investment counterparties approved in the AIS 2008/09.

Changes to investment criteria

No changes have been made to the investment criteria over and above that reported to Cabinet in November 2008. Risk on the investment portfolio has been managed through repaying debt early, thereby reducing the amount invested.

Performance and balances

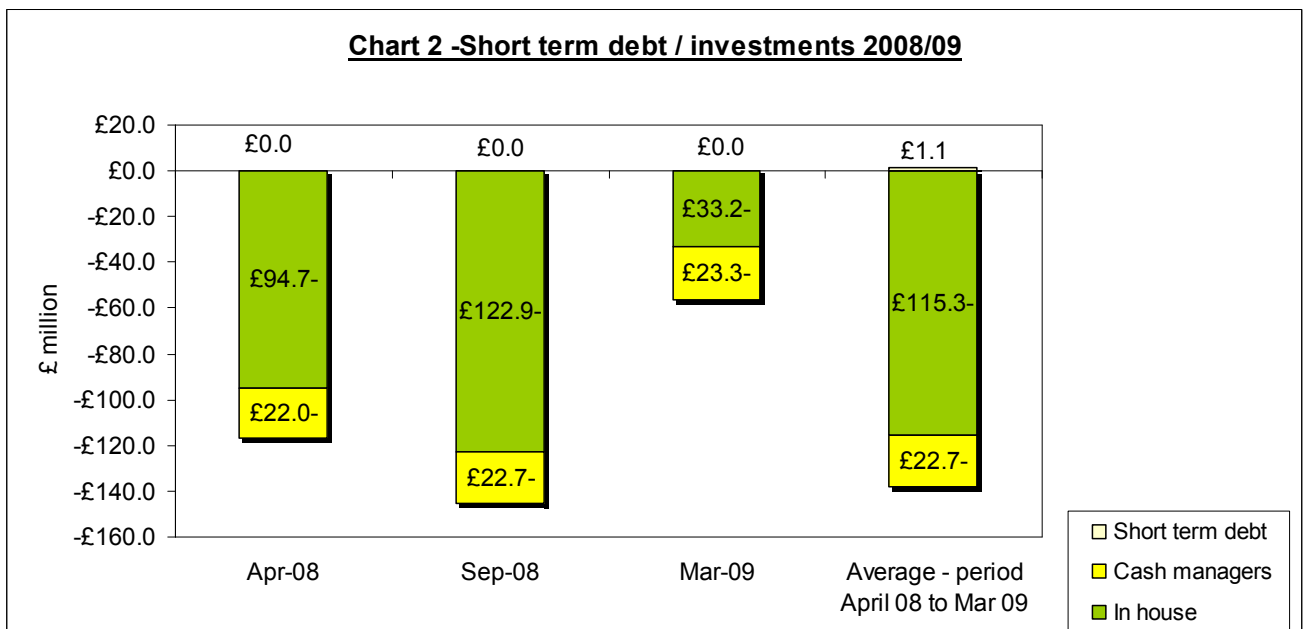
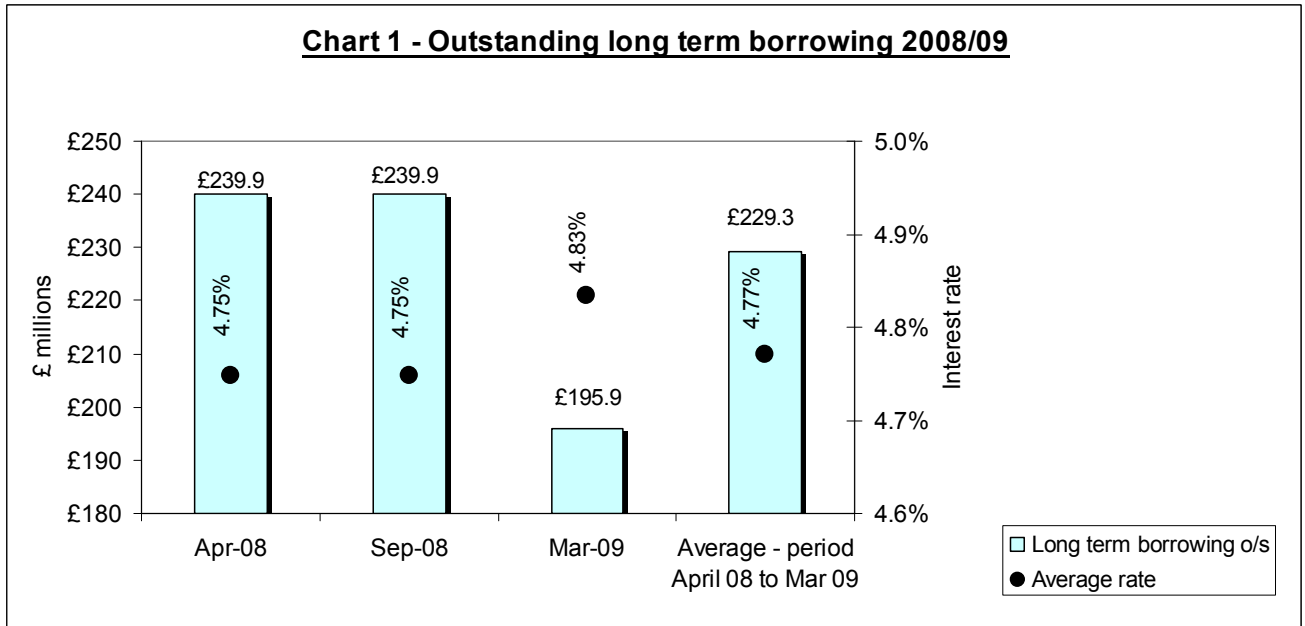
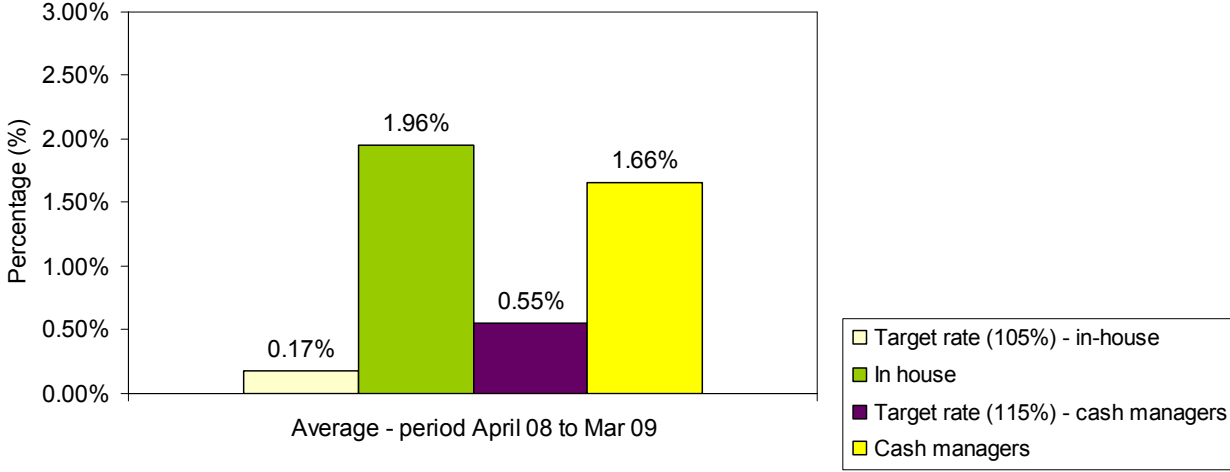


Chart 3 - Performance indicators (annualised) 2008/09: variation from benchmark (x axis) and target rate (105% / 115% times benchmark)



Prudential indicators 2008/09 Actual

The following prudential indicators are required to be reported under the Prudential Code for Capital Finance in Local Authorities (published by CIPFA).

<u>Prudential indicator</u>	<u>Actual indicator 2008/09</u>
Actual ratio of financing costs to net revenue stream 2008/09	
- Non HRA	2.1%
- HRA	30.9%
Actual capital financing requirement as at 31 March 2009	
- Non HRA	£164.564m
- HRA	£91.378m
- Total	£255.942m
Actual external debt as at 31 March 2009	
- Actual borrowing	£195.897m
- Actual other long term liabilities	£0.000m
- Total	£195.897m

Subject:	Capital Investment Programme 2009/10		
Date of Meeting:	9 July 2009		
Report of:	Interim Director of Finance & Resources		
Contact Officer:	Name:	Nigel Manvell	Tel: 29-3104
	E-mail:	nigel.manvell@brighton-hove.gov.uk	
Key Decision:	Yes	Forward Plan No: CAB11354	
Wards Affected:	All		

FOR GENERAL RELEASE

This report has been included as a late item in the council's forward plan. The reason for the urgency is to seek approval to the schemes in order to start or procure the relevant works. The next meeting of the Cabinet is not until September which would delay the works. Such approvals would normally be sought as part of a Targeted Budget Management report but given the early stage in the financial year this will not be considered formally until September.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report provides further details of capital schemes previously approved by Full Council as part of the Capital Investment Programme 2009/10 which now require the Cabinet's approval to proceed in accordance with Financial Regulations. The report also contains a new capital scheme for approval and a variation request for one capital scheme.

2. RECOMMENDATIONS:

- 2.1 That Cabinet approve the capital schemes detailed at Appendix 1.
- 2.2 That Cabinet approve the capital variation requested at Appendix 2.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Fully financed General Fund and Housing Revenue Account (HRA) Capital Investment Programmes have been approved for 2009/10 assuming that existing approved capital projects spend in-line with their budget. The capital programme is funded through a combination of government grants, supported and unsupported borrowing, capital receipts and reserves and revenue contributions.
- 3.2 The General Fund and HRA Capital Investment Programmes for 2009/10 were approved by Full Council on 26 February 2009. This approval covered the capital investment framework, including anticipated schemes, estimated payment profiles, expected sources of funding and capital reserves and contingencies. During the year, for schemes over £100,000, Financial Regulations require that

full details of each scheme are drawn up and approved by the Cabinet including confirmation of costs, funding and payment profiles together with any potential revenue implications. A number of schemes are included at Appendix 1 for the Cabinet's consideration. Appendix 1 also contains proposals for the conversion of properties with shared facilities and represents an expansion of a programme of similar works to be funded from HRA capital reserves.

- 3.3 Financial Regulations also require the Cabinet to approve variations to capital schemes where these exceed £50,000 or 10% of the original estimated cost, whichever is the lesser. A scheme variation is included at Appendix 2 for the Cabinet's consideration.

4. CONSULTATION

- 4.1 No specific consultation was undertaken in relation to this report.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The financial implications are covered in the body of the report and Appendices 1 and 2.

Finance Officer Consulted: Nigel Manvell Date: 29/06/09

Legal Implications:

- 5.2 The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the council.
- 5.3 When authorising capital schemes and capital variation, the Cabinet must be assured of compliance with the council's Financial Regulations (set out in part 8.2 of the constitution), which are a framework of control, responsibility and accountability for the proper administration of the council's financial affairs.
- 5.4 For the purposes of this report, the relevant Financial Regulations are B.2.6.9 (in relation to recommendation 2.1) and B.2.6.18 (in relation to recommendation 2.2). This report complies with both these Regulations.

Lawyer Consulted: Oliver Dixon Date: 29/06/09

Equalities Implications:

- 5.5 There are no direct equalities implications arising from this report.

Sustainability Implications:

- 5.6 The replacement of lifts at Walter May House and Rosehill Court will reduce maintenance and energy requirements while the significant investment in Private

Sector Housing will have considerable energy efficiency benefits as described in Appendix 1.

Crime & Disorder Implications:

- 5.7 The non-replacement of door entry systems described in Appendix 1 could have implications for tenant safety and may encourage anti-social behaviours.

Risk & Opportunity Management Implications:

- 5.8 The council's revenue budget and Medium Term Financial Strategy contain risk provisions to accommodate emergency spending, even out cash flow movements and/or meet exceptional items. The council maintains a working balance of £9 million to mitigate these risks as recommended by the Audit Commission and Chartered Institute of Public Finance & Accountancy (CIPFA). The council also maintains other general and earmarked reserves and contingencies to cover specific project or contractual risks and commitments.

Corporate / Citywide Implications:

- 5.9 The Council's financial position impacts on levels of Council Tax and service levels and therefore has citywide implications.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The capital investments detailed in Appendix 1 and 2 have been approved in principle by Full Council as part of the Capital Investment Programme 2009/10. Appendix 1 sets out the rationale for investing in each scheme and details any options considered in drawing up final scheme details. Appendix 2 sets out the reasons for the variation and the method of funding the increase.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 For capital schemes in excess of £100,000, Financial Regulations require the Cabinet's approval before schemes can proceed and any expenditure is incurred.

SUPPORTING DOCUMENTATION

Appendices:

1. New Capital Schemes
2. Variation Request

Documents in Members' Rooms

None

Background Documents

None

Appendix 1: Capital Schemes for Approval

Capital project approval	
Project title: Door Entry Systems 2009/10	Total project cost: £120,000
Project Manager: Steve Cooper	Directorate: Adult Social Care & Housing

Purpose, benefits and risks	
The following Door Entry Systems have failed or have been identified as deteriorating with failure imminent and replacement parts being obsolete and unavailable:	
Address/Project	Amount (£)
Goldstone House	60,000
Swallow Court	60,000
Total	120,000
There is currently a contingent sum which includes Door Entry Systems/Alarms in the HRA capital reserves and this form seeks to release £0.120 million of that sum.	
Existing Blocks' Replacements	
The strategic priorities supported include the safety and security of our tenants and leaseholders.	
BHCC installed the original systems which are part of the general amenity of the blocks and therefore has an obligation to maintain/replace the systems when failure occurs.	
Options:	
Do nothing: doors will be left without locks. This will leave buildings insecure although this does meet our Insurer's requirements. Alternatively, the doors could be made to lock securely but without a door entry system. This will present difficulty to any visitors to the block, especially to carers attending their clients. Both of these options are likely to encourage anti-social behaviours. Replacement Door Entry Systems are therefore recommended.	

Capital expenditure profile				
	2009/10	2010/110	2010/11	TOTAL
Funding source	£120,000	£0	£0	£120,000
A - Approved contingency in General reserves				
	£120,000	£ 0	£ 0	£120,000

Financial implications	
A proportion of the capital expenditure will be reimbursed via Leaseholder charges.	
Whole Life Costing – Running costs will be similar to existing equipment apart from 6 months defects saving after installation.	

New capital project approval	
Project title: Conversion of Properties with Shared Facilities	Total project cost: £508,000
Project Manager: Peter Matthews	Directorate: Adult Social Care & Housing

Purpose, benefits and risks
<p>There are a number of properties currently used for temporary accommodation that have shared bathroom/toilet facilities. Proposals have been drawn up and planning permission has been sought to convert these properties into modern self contained units. The conversion works will also include general refurbishment and improvements both internally and externally which will enable these properties to meet the decent homes standards and other health & safety requirements on completion. This sum will be funded from HRA capital reserves and will cover the conversion of 23 properties into 16 units.</p> <p>These properties have also been identified for leasing after refurbishment, to the local delivery vehicle. Upon leasing the HRA would receive a capital receipt which will cover the costs of the conversion works and provide additional funding for Decent Homes works to other tenanted properties. Alternatively, if the properties are not leased, the works to the properties would still be required. Detailed proposals will be brought to the Housing Management Consultative Committee.</p>

Capital expenditure profile				
Year	2009/10	2010/11	2011/12	TOTAL
Estimated costs and fees	508,000	£0	£0	£508,000

Financial implications
This scheme will be funded from HRA capital reserves.

Capital project approval	
Project title: Full Refurbishment of Lifts and Installation of Stair Lifts at Walter May House and Rosehill Court	Total project cost: £240,000
Project Manager: Steve Cooper	Directorate: Adult Social Care & Housing

Purpose, benefits and risks									
<p>The following Lifts are of an obsolete design with parts no longer available. Both blocks are sheltered schemes and have only one lift to reach all floors. The stair lifts will be installed first to allow access to floors during refurbishment and will remain in place for future maintenance shut-downs of the main lifts.</p> <p>Both lifts already have regular breakdowns and have been identified as high-risk by our specialist lift consultant, Frankhams.</p>									
<table border="1"> <thead> <tr> <th>Address/Project</th> <th>Amount (£)</th> </tr> </thead> <tbody> <tr> <td>Walter May House</td> <td>120,000</td> </tr> <tr> <td>Rosehill Court</td> <td>120,000</td> </tr> <tr> <td>Total</td> <td>240,000</td> </tr> </tbody> </table>		Address/Project	Amount (£)	Walter May House	120,000	Rosehill Court	120,000	Total	240,000
Address/Project	Amount (£)								
Walter May House	120,000								
Rosehill Court	120,000								
Total	240,000								
<p>This form seeks funding from the capital reserves of £240,000.</p> <p>The strategic priorities supported include the safety and security of our tenants and sustainability due to reduced energy consumption.</p> <p>The systems have been examined by the M&E Section and our specialist lift consultant and found to be non-reparable and obsolete.</p> <p>The replacement of these lifts will reduce future breakdowns and provide tenants with accessible controls that comply with DDA requirements. The new controls will reduce energy consumption as well as reducing down-time during site visits.</p>									

Capital expenditure profile				
	2009/10	2010/11	2011/12	TOTAL
Funding source - General reserve	£240,000	£0	£0	£240,000
		£0	£0	
	£240,000	£0	£0	£240,000

Financial implications
There will be reduced breakdown repair costs as well as lower energy costs. The scheme will be financed from HRA capital reserves.

Capital project approval	
Project title: Disabled Facilities	Total project cost: £1,100,000
Project Manager: Martin Reid	Directorate: Adult Social Care & Housing

Purpose, benefits and risks
<p>Disabled Facilities Grant (DFG) is a mandatory entitlement administered by local housing authorities to help fund the provision of adaptations to enable disabled people to live as comfortably and independently as possible in their homes.</p> <p>Eligible work is wide-ranging, providing for access to the home and basic facilities within it, for example: providing ramps, door widening, stair lifts and level access showers. The grant is subject to an assessment of need and a financial means test.</p> <p>The Council makes a 40% contribution of £0.440 million to match fund the government's 60% (£0.660 million) contribution toward Disabled Facilities Grants. This 40% match funding is provided by the Council's Private Sector Housing Renewal Grant allocation via the Housing Renewal Assistance Policy and enables the Council to attract considerable additional funding by way of Disabled Facilities Grant.</p> <p>In 2008/09 115 grants were made with total expenditure of £0.820 million.</p>

Capital expenditure profile				
Year	2009/10	2010/11	2011/12	TOTAL
Estimated costs and fees	1,100,000	£0	£0	1,100,000

Financial implications
<p>Funding is from Disabled Facilities Grant aided expenditure of £0.660 million (60%) and Council match funding of £0.440 million (40%) from Private Sector Housing Renewal Grant</p>

Capital project approval	
Project title: Private Sector Housing Renewal	Total project cost: £4,209,600
Project Manager: Martin Reid	Directorate: Adult Social Care & Housing

Purpose, benefits and risks
<p>The value of this scheme is £4,209,600, being the Council's share of the 2009/10 Private Housing Renewal Grant allocation from the Regional Housing Board to the Brighton & Hove and East Sussex Together (BEST) local authority consortium in accordance with the provisions of the Regularity Reform (Housing Assistance) Order 2002. At a total of £8 million, BEST receive the highest allocations of funds in the South East. This is the second year of the grant, in 2008/09 the Council spent grant of £2,722,032.</p> <p>Distribution of the remainder of this allocation, £3,790,400 will be committed in accordance with the agreed distribution profile to the council's BEST partner authorities in East Sussex.</p> <p>The renewal programme for BEST covers energy efficiency/fuel poverty, decent homes, empty homes and other interventions such as landlord accreditation. Disabled Facilities Grant (DFG) is a mandatory entitlement administered by local housing authorities to help fund the provision of adaptations to enable disabled people to live as comfortably and independently as possible in their homes.</p> <p>Through BEST the Council makes a 40% contribution of £440,000 to match-fund the government's 60% (£660,000) contribution toward Disabled Facilities Grants. This 40% match funding and considerable additional funding by way of additional Disabled Facilities Assistance is provided by the Council's Private Sector Housing Renewal Grant allocation via the Housing Renewal Assistance Policy. This expenditure is included elsewhere in this report for approval.</p> <p>In 2008/09 115 grants were made with total expenditure of £820,000.</p> <p>Progress in Brighton & Hove 2008/9 was good, and the Private Sector Housing Team delivered £2.7 million of measures, improving the living conditions of 1000 households living in poor quality private housing in the City. 800 energy efficiency measures were installed, saving 436 tonnes of CO₂. As a result of excellent progress in year one, the BEST consortium received an additional £1.245 million on the expected grant for 2009/10 (Brighton & Hove received £655,119). More funding may be available later in the year if progress continues for 2009/10.</p> <p>A detailed report to the Cabinet Member for Housing is planned which will set out the progress made to date, the plans for the future application of the grant, and the links with corporate strategies.</p>

Capital expenditure profile				
Year	2009/10	2010/11	2011/12	TOTAL
Estimated costs and fees	4,209,600	£0	£0	4,209,600

Financial implications

The scheme is financed from grant aided expenditure of £4,209,600 from the BEST Housing Renewal Grant allocation
--

Appendix 2: Capital Variation Request

Capital project variation form	
Project title: Major Voids (4HR14C/D)	Approved budget: £500,000
Project Manager: Peter Matthews	Forecast outturn: £640,000
Directorate: Adult Social Care & Housing	Variation: £140,000 In 2009/10

Variation details
<p>The current budget covers routine works to empty properties such as replacing Kitchens, Bathrooms, rewiring etc, which due to the nature of the works fall under the category of capital expenditure.</p> <p>A review of major voids has identified six properties that it would be economically viable in the long term, to bring back into use. These properties require repairs and improvements to meet the Decent Homes Standard and other requirements such as health & safety. The majority of these properties are 2 bed family houses which are in high demand in the city. The average refurbishment cost is £23,300 per property.</p>

Financial implications
<p>The additional £140,000 resources will be funded from projected underspending within the 2009/10 HRA Revenue Budget. The funding will be reported as an increase in 'revenue contributions to capital' in the HRA Revenue TBM Forecast Outturn.</p> <p>Bringing these major void properties back into use will generate rental income.</p>

Subject:	Budget Update & Budget Process 2010/11		
Date of Meeting:	9 July 2009		
Report of:	Interim Director of Finance & Resources		
Contact Officer:	Name:	Mark Ireland	Tel: 29-1240
		James Hengeveld	29-1242
	E-mail:	mark.ireland@brighton-hove.gov.uk	
		james.hengeveld@brighton-hove.gov.uk	
Key Decision:	Yes	Forward Plan No: CAB10525	
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The budget setting process for 2010/11 is recommended in the context of having reasonable certainty over the finance settlement as it is the final year of the 3 year settlement and the current government has confirmed that it does not propose to revise this settlement. However the council's resource position will continue to be significantly affected by the recession and the uncertainties in the financial markets, in terms of needing to provide additional services in response to increasing demand, reductions in income from fees, charges and investment interest.
- 1.2 The council's resource position from 2011/12 onwards is highly uncertain. The government's overall financial position means there will be significant reductions in national spending to meet projected budget deficits and this will impact upon the next spending round and the resources available for local government. There will also be a general election before the next spending round and the current review of grant distribution is due to be completed. This adds further uncertainty to both the timing of the settlement and the financial assumptions on general and specific grants.

2. RECOMMENDATIONS:

- 2.1 That Cabinet notes the resource and expenditure projections for 2010/11 to 2012/13 set out in table 3 in paragraph 3.19.
- 2.2 That Cabinet agrees that the provision for future pay awards becomes a joint provision for both future pay awards and increased pension contributions.
- 2.3 That Cabinet notes the further development of the Value for Money programme set out in paragraphs 3.31 to 3.35.
- 2.4 That Cabinet instructs Directors and relevant Cabinet Members to produce budget strategies to provide their services within the indicative cash limits as set out in appendix 1.

- 2.5 That Cabinet instructs Directors to demonstrate 4% efficiency savings for each year within their budget strategies.
- 2.6 That Cabinet notes the resource projections for the capital investment programme as shown in appendix 2 of this report.
- 2.7 That Cabinet agrees the timetable for budget reports set out in paragraph 3.48.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

2009/10 Council Tax

- 3.1 The increase in the overall council tax for residents of Brighton & Hove was 3.6% for 2009/10 compared to an average 3.8% for existing unitary councils and a 3.0% overall average across the country. Whilst the level of council tax at band D is marginally above the national average it is significantly lower than most other councils in Sussex except Chichester and Horsham.
- 3.2 The 2009/10 budget increase for the city council was 1.1%, lower than any other unitary, county or metropolitan council and the fourth lowest in the country for councils providing education and social services. The average budget increase for unitary councils was 3.7%.

Capping Announcement

- 3.3 The Minister for Local Government, John Healey, confirmed on 13 May that 2 police authorities would be subject to capping. Derbyshire Police whose council tax increase was 8.7% have had their budget and council tax increases restricted for future years. Surrey Police whose council tax increase was 7.1% but also had their budget capped the previous year, were ordered to reduce their 2009/10 council tax and incur the substantial costs of re-billing as well as having to make significant additional savings to balance their budget.

2008/09 Outturn

- 3.4 The 2008/09 provisional outturn was presented to cabinet on 11th June 2009. The report showed an underspend of £4.1m, £1.7m had been allocated as part of the 2009/10 budget and a further £2.4m was allocated within the report. The most significant allocation was £1.5m to support the Building Schools for the Future (BSF) programme.

General reserves position and working balance

- 3.5 The working balance is currently £9m and is planned to remain at this level over the next 3 years. The following table shows the projected general reserves position to 2012/13 assuming spending is in line with budget and all risk provisions are allocated to support each years budget. The table reflects the improved collection fund performance in 2008/09 and also includes a planned contribution to BSF. At this time the balance on general reserves should be kept as a 'shock absorber' against the risk of pressure on income during the recession and rising demand for services.

Table 1 - General Reserves	2009/10	2010/11	2011/12	2012/13
	£'000	£'000	£'000	£'000
B/fwd	2,309	114	923	583
Budgeted collection fund deficit	-2,515			
2008/09 improved collection fund		1,009		
Projected under-spend on insurance premia	380	380		
Contribution to energy costs	-60	-30		
Contribution to BSF		-550		
Local Elections funding			-340	
C/fwd	114	923	583	583

Medium Term Financial Strategy 2010/11 – 2012/13

Resources

Formula Grant

- 3.6 The projection of grant increases beyond 2010/11 is highly speculative because 2011/12 and 2012/13 fall into the next government spending round which will be determined after the next General Election. It is absolutely clear from the prevailing economic conditions that spending will be very tightly constrained and the national focus will be on providing additional resources for those budgets such as benefits and debt repayments that are rising due to the recession whilst the national political priority spending areas are likely to remain education and health. This is likely to leave little funding for other local government services.
- 3.7 Whatever changes are made to the grant distribution formulae the council will remain at the grant floor over the period. A commitment was given by the Government to honour the provisional grant settlement figures for 2010/11. Looking at the information given in the March national budget it would seem prudent to reduce the forecast grant floor increase of 1% in 2011/12 to a cash freeze and to plan for a similar cash freeze in 2012/13. However, there remains a significant risk that there could be cash reductions in both these years. The forecast reduction in resources in 2011/12 by reducing the grant floor increase by 1% is £1.1m.

Table 2: Grant Floor assumptions					
Year	2008/09 Actual	2009/10 Actual	2010/11 Provisional	2011/12 Projection	2012/13 Projection
Change	+2.0%	+1.75%	+1.5%	0%	0%

Specific Grants and Area Based Grants (ABG)

- 3.8 The level of most specific grants and ABG is known for 2010/11. The transitional funding for Stronger Safer Communities and the Working Neighbourhoods Fund ceases in 2010/11 resulting in a reduction of £0.762m compared with 2009/10. A corporate commitment of £0.25m funding on a recurrent basis has been put in place to cover part of this loss. The Supporting People Grant is combined with ABG from 2010/11 however this element of ABG will see a reduction of £0.6m or 5% compared to 2009/10. A 2 year package of support for grant ending during

2009/10 and 2010/11 was put in place which included using LPSA reward grant and the £0.25m corporate recurrent funding in each year. There is potential to receive further reward grant beyond 2010/11 for the achievement of certain Local Area Agreement targets which could be used to provide continued temporary funding but the amount of the reward will only become clearer towards the end of 2010.

- 3.9 The level of specific grants is not known for 2011/12 onwards however the government's latest estimates of funding for public services included in the budget statement suggest this funding is at risk of being reduced and in some cases might come to an end. The council receives approximately £80m in specific grants (excluding Dedicated Schools Grant and Housing Benefit & Council Tax Benefit grant), of which £24m of the £80m are Area Based Grants. If there are no inflationary increases to these grants it will add about £1.6m to council funding pressures, and each further 1% reduction in grants will add £0.8m to funding pressures. The assumption within the MTFS is an overall grant freeze and therefore there will be approximately £1.6m additional pressures from 2011/12.

Dedicated Schools Grant (DSG)

- 3.10 The level of DSG is planned to increase by 4.1% per pupil in 2010/11, this is higher than the 3.6% per pupil increase in 2009/10. The position beyond 2010/11 is unknown although funding for education is likely to have a higher priority in the next spending round compared to other local government services. The other uncertainty is the major review of DSG distribution which is described in more detail below.
- 3.11 In his statement to the House on 31 January 2008, Jim Knight, Minister for Schools and 14-19 Learners, launched the review of the formula for distributing DSG. The aim is to develop a single, transparent formula that will be available for use in distributing the DSG to local authorities from 2011/12. The development phase of the review started in February 2008 and will continue until late 2009, with consultation on specific proposals in early 2010. Ministers will announce broad decisions from the review in summer 2010. The Formula Review Group has met on 9 occasions to date covering a wide range of topics such as reflecting the higher costs of providing services in different parts of the country, streamlining grants into DSG, the timing of pupil counts, issues associated with small schools, the funding of academies and many more issues. The Department of Children, Schools and Families (DCSF) and PricewaterhouseCoopers are about to launch a major survey into the incidence and costs of additional educational needs to support the DSG Review.

Concessionary Fares Funding

- 3.12 The concessionary fares special grant was originally announced for 3 years 2008/09 to 2010/11, however, following lobbying from authorities (including Brighton & Hove) who felt they have not received sufficient additional funding to cover the extra costs of the national statutory scheme, transport ministers are reviewing the distribution arrangements for 2010/11. A consultation on options to revise these arrangements is now expected in the autumn.

- 3.13 A consultation paper has been issued by the Department of Transport looking only at options for the future administration of concessionary fares. All of these options will have potentially significant implications for the future allocation and distribution of concessionary fares funding for 2011/12 onwards. The council already budgets for a shortfall in Government funding of about £1.85m and at this stage it would be prudent to maintain this position. The consultation ends on 21st July but there are likely to be subsequent consultations on funding arrangements as part of the work of the grant Settlement Working Group.

Local Authority Business Growth Incentive (LABGI)

- 3.14 The LABGI scheme allows local authorities to retain a proportion of the growth in business rates income in their area above an individual threshold. The Department of Communities and Local Government consulted last year on proposals to extend the LABGI scheme for at least 2 years (2009/10 to 2010/11) and to extensively amend the distribution of a significantly reduced amount of cash. The council has allocated all the resources it derived from the original scheme to a range of projects largely designed to help the local economy in the current downturn. There has not yet been an announcement about the final shape of the new scheme but early indications are that the council's share of a regional allocation could amount to about £0.2m for 2009/10.

Fees and Charges

- 3.15 Fees and charges are assumed to increase by a standard inflation of 2% each year. Details of fees and charges for 2010/11 will be presented to the relevant Cabinet Member Meetings and onto Council where appropriate prior to Budget Council.

Council Tax Strategy, Tax Base and the Collection Fund

- 3.16 Earlier projections of a £2.9m deficit for the collection fund, the account into which all council tax and council tax benefit is paid, assumed that the recession would have a negative impact on collection rates and require higher levels of bad debt provisions. Actual collection performance to date has been maintained and slightly improved and the closure of the 2008/09 accounts has shown that bad debt provisions can in fact be reduced. The overall impact is a significant reduction of £1.2m in the previously projected deficit of which the city council share is £1m. Early indications show that there could be a surplus on the collection fund for 2009/10 which together with the reduction in the 2008/09 deficit will be factored into the calculation of the 2010/11 council tax in January 2010.
- 3.17 Initially the downturn in the housing market was assumed to suppress the council tax base. It was assumed that there would be no growth in the tax base with any new properties being offset by increases in student exemptions. Since November 2008 the position has improved and the tax base is now expected to grow by 1% by the end of 2009/10 generating an additional £1.2m in a full year. With limited new developments in future years the prudent assumption that the taxbase will not increase beyond 2009/10 will be maintained.
- 3.18 For the future resource estimates in this report the indicative council tax strategy showing increases of 2.5% for 2010/11 and 2011/12 as set out in the 2009/10

budget report have been assumed but it will be up to all Members at Budget Council in February 2010 to agree the final level of the council tax. If a Conservative government is elected it has pledged that any council setting a council tax increase of 2.5% or less will receive sufficient additional funding to enable the council to freeze its council tax for 2 years. The same indicative increase has also been assumed for 2012/13.

Budget Estimates and Budget Process

MTFS summary expenditure estimates

3.19 The following table shows the budget estimates over the next 3 years.

Table 3. Budget Estimates	2010/11	2011/12	2012/13
	£m	£m	£m
Budget b/fwd	219.0	227.1	230.1
Inflation	4.2	4.3	4.4
Risk Provision	1.2	0.5	0.5
Commitments	0.3	0.8	0
Service pressures	7.5	8.5	8.5
Service pressures – specific Grants		1.6	1.6
Efficiency Savings	-8.4	-8.4	-8.4
Other savings	-0.3	-2.8	-2.8
Total	223.5	231.6	233.9
Change in contribution to / from reserves	3.6	-1.5	-0.8
Budget Requirement	227.1	230.1	233.1
Funding Projections:			
Formula Grant	109.2	109.2	109.2
Council Tax	117.9	120.9	123.9
Total	227.1	230.1	233.1

Pay award and Inflation assumptions

- 3.20 The pay award assumption built into the budget estimates is 2% each year for the next 3 years. The figure of 2.3% shown in the budget report for 2009/10 allows for the higher final settlement of the 2008/09 pay award of 2.75% over the earlier 2.45% offer. The national employers have made an initial offer to the unions and staff of 0.5% for 2009/10 so it is possible that the final settlement will be below the 2% provision. However, as set out later in this report it is also likely that additional resources will be needed to fund increased pension fund contributions from 2011/12, therefore, it is recommended that any surplus pay award provision in any future year is transferred into a pension fund contribution provision.
- 3.21 The provision for general inflation on both expenditure and income is 2% per annum. Compared to current levels of inflation in the economy this is high but inflation is expected to increase after this year. Services could choose to use any additional resources created by the higher provision to keep fees and charges increases down. Some budgets such as fuel and energy have been extremely volatile in recent times and a separate analysis will be carried out in these areas

prior to the renewal of key contracts with appropriate adjustments made to the risk provision in the budget.

Commitments and the Risk Provision

- 3.22 A risk provision to cover uncertainties within the budget is incorporated into the budget projections; £1.2m in 2010/11 and a £0.5m recurrent budget has been included in each subsequent year and added to contingency.
- 3.23 A number of commitments have been included to cover the planned changes in budgets from previous decisions. In 2010/11 these include £0.25m replacement funding for grants that have come to an end and part of the financing costs to provide a £5m contribution towards a new Historic Records Centre known as The Keep.

Single Status (Back pay & future pay)

- 3.24 Full Council in February set the budget and in doing so provided the financial framework for future pay and ensured funding was available to meet the estimated equal pay back pay liability.
- 3.25 The 2009/10 budget contains an ongoing Equal Pay Provision of £3.43m per annum including a contribution of £1m per annum from the Schools Formula Budget. In settling the back dated pay liability the council made use of a capitalisation direction available last year. £1.8m of the £3.43m has been transferred to the financing costs budget to meet the borrowing costs of using the £14.05m capitalisation. The balance of £1.63m remains in contingency to meet the ongoing costs of future pay and allowances. This provision was based on the estimated impact of job evaluation at the time of setting the budget. No further resources are planned for future years.
- 3.26 Total resources of £37.5m were identified in a specific reserve to meet the substantial one-off cost of the equal pay back pay settlement together with other one-off equal pay liabilities. Most of the back pay settlements have now been paid but there are other potential equal pay liabilities and financial risks that must be met from this reserve:
- Potential cost of settling collective or individual grievances.
 - Contingency for pension contributions on back pay offers.
 - The possible cost of resolving back dated Housing Benefit issues resulting from back pay offers.
 - Contingency for new back pay liability building up should Single Status (Future Pay) not be implemented by 1st January 2010; this is estimated to be up to £0.5m per month.
 - 2009/10 and 2010/11 administrative costs of implementing future pay.
 - Contingency for Business Continuity costs.
 - Any potential equal pay claims (back pay) and future pay costs arising in Faith Schools, which the council has guaranteed to meet as a condition of the Schools Forum decision to contribute £1m per annum.
- 3.27 These potential liabilities and costs could be very substantial and will need to be monitored and re-evaluated regularly to ensure that financial risk provisions are maintained at appropriate levels.

Pension fund triennial review

- 3.28 Work by the Actuary will start shortly on the review of the East Sussex pension fund for implementation from 1st April 2011. Although the East Sussex pension fund has been one of the stronger performers market conditions are likely to mean that there will be a significant deficit identified on the fund and increased employers contributions will be required from 2011/12 onwards. It is purely speculative what this increase might be but as a guide the triennial review in 2004, which also identified a substantial deficit on the fund, required contribution rates to go up by 4.2% over the 3 years 2005/06 to 2007/08 to eliminate the deficit. If the pay award averages 0.5% for the next 3 years then the council would have a 4.5% provision to meet any increases or less if the pay awards are higher. Early indications of the outcome of the review will be known in Autumn 2010.

Cash Limits (% change in Budgets)

- 3.29 The 2009/10 adjusted budget is the basis from which percentage changes are proposed for the main service areas to generate cash limits for future years. These percentage changes are net of savings, service pressures and areas of growth and are designed to provide allocations that directorates are expected to manage within to deliver a balanced budget. Directorates are instructed to provide budget strategies for their services covering 2010/11 & 2011/12 with high level information for 2012/13. The indicative percentage changes for service areas are included in appendix 1.

Service Pressures

- 3.30 The cash limits are set to incorporate spending pressures. The directorates will identify their pressures over a 3 year period and base their financial strategies on managing these pressures within the allocated funding.

Savings

- 3.31 Directorates are required to identify savings to manage within their cash limit allocations. The government announced the requirement to identify 4% rather than 3% efficiency savings from 2010/11 onwards in the budget report. Directorates are tasked with identifying 4% efficiency savings within their financial strategies as well as any further savings required to manage within their cash limit. The overall efficiency savings target is therefore £8.4m.
- 3.32 Although the Council has achieved a score of 3 in value for money on the (outgoing) Comprehensive Performance Assessment Use of Resources, the council will need to maintain and step up its efforts to continue improving value for money for customers and taxpayers.
- 3.33 This is consistent with the corporate objective of achieving a better use of public money in two ways:
- improving the customer experience while reducing costs; and
 - a clear view of what is a priority and, equally if not more important, what is not a priority.

- 3.34 At the same time it is important to recognise the efficiency improvements already achieved in previous years and through the initial value for money programme which includes:
- £11.8m of efficiency savings over 2 years.
 - The cost of support services has been frozen, in cash terms, to maximise budgets for front line services and council priorities. This means that the council will continue to be one of the lowest spending (per head) of all unitary councils on its central support services such as human resources, legal and finance.
 - The Access Point for Adult Social Care was opened to provide support and assistance to a wider range of people. It is also improving value for money by making access to things like grab rails and luncheon clubs much simpler. This has and will continue to improve customer service and reduces the need for costly assessments for smaller needs that make a difference to peoples' lives.
 - The council has absorbed the loss of £650,000 in central government grant support in relation to community safety and crime reduction with the help of temporary funding from the successful implementation of the Local Public Services Agreement. All priority services will be able to continue. This includes the work with the council's partners on the Crime and Disorder Reduction Partnership to reduce crime and the causes and consequences of drugs abuse.
 - Improving value for money of Cityclean by 17% or just under £1m by introducing new recycling and collection rounds.
 - Improving value for money in Cultural Services through activities such as sharing functions, for example in marketing, web services and through cross-selling in the tourism and venues services. This includes making better use of technology; the latest example of this is the new VisitBrighton website.
 - The award of a new Housing Procurement contract which has followed a long procurement process is imminent and will deliver the savings required by the service in order to enable investment in council housing improvements.
- 3.35 The medium to long term value for money programme includes:
- Continuing to implement actions from the initial value for money programme. This element remains the accountability of the relevant Director working in conjunction with the relevant Cabinet Member.
 - Building on current on targeted intervention that better co-ordinates interventions and realigns services to preventive work and community support.
 - A structured programme of fundamental service reviews and corporate capability workstreams to better support business improvement.

Central Budgets

Financing Costs

- 3.36 The unprecedented level of short term interest rates has meant that investment returns will continue to be very low. As agreed in the 2009/10 budget report £2.9m reserves have been earmarked to meet expected shortfalls in this budget over the next 3 years. Opportunities have arisen to repay debt on a temporary basis to both minimise investment risk and improve investment returns. Latest projections show the interest rates are not likely to return to normal levels until 2013/14 at the earliest, so investment returns are likely to be below budget levels in 2012/13 as well.

Concessionary Fares Budget

- 3.37 The council has successfully set up a new scheme for Brighton & Hove based on data solely relating to bus operations within the City. This was published by the statutory deadline of 3rd March 2009. Discussions have been taking place with all 8 of the bus operators within the City to determine reimbursement levels for 2009/10. However, of the total reimbursement 96.7% goes to Brighton & Hove Bus Company and 1.8% to Stagecoach South so the rest are very small.
- 3.38 Based on all the reimbursement calculations made to date and making an allowance for more journeys assuming better overall weather conditions and more people holidaying at home, the projected spend is £8.9m for 2009/10 delivers a saving of £0.75m on the budget agreed at Budget Council. The allocation of the £0.75m was agreed at Cabinet on 11th June 2009.
- 3.39 Monitoring of journey numbers and average fares will be expanded so that it is carried out on a monthly and route by route basis. Payments to the bus operators will only be made if relevant data has been received by the council by the due dates.

Insurance Premia

- 3.40 The council entered into long-term agreements for most insurance cover for the period up to 31 March 2011. The insurance companies can increase rates in the interim if market conditions change but there is limited evidence to date to suggest this will occur. Insurance companies are having to make additional payments due to the recession and could be faced with significant business continuity compensation payments should a global flu pandemic have a serious widespread health impact in the future. Projections for the budget for 2011/12 and beyond have been set at higher levels to reflect potential increased pressures on insurance companies but risk management work is designed to reduce claims locally. The biennial review of the Insurance Fund has recently been completed and the fund has been increased as recommended by the actuary.

Capital Programme 2010/11 to 2012/13

- 3.41 The projected capital programme and resources are included in the table in appendix 2. The council has already received the settlement for 2010/11 and therefore the government resources available are reasonably certain, however beyond 2010/11 the resources are dependant on the outcome of the spending review and reductions in capital resources are likely to be greater than revenue. The next sections go into more detail about potential resources.
- 3.42 Over the 3 years the projections show there is a potential deficit of £1m based on current investment plans and capital receipts projections. There are additional pressures potentially facing the council including building schools for the future, maintenance to operational buildings, investment in schemes to reduce the council's carbon footprint and the seafront which could add to this deficit.

- 3.43 The potential deficit could, depending on circumstances and other priorities, be met from contributions from reserves generated by unused risk provisions and underspends in the revenue budget.

Capital Receipts

- 3.44 The capital programme in future years relies on certain receipts being generated over the 3 year period. If these do not materialise then the capital expenditure plans will need to be reviewed or alternative sources of funding identified. The capital investment plans for the HRA assume significant capital receipts generated through the LDV and these have been included within the 3 year projections.

Capital Grants

- 3.45 As with the revenue grants, capital grants have been announced for 2010/11 as part of the 3 year settlement but there is no certainty over the level of grants from 2011/12 onwards and it anticipated capital grants will reduce as the government reduces its expenditure in future years. It has been assumed within our projections the reduction will be 5% per annum. In 2010/11 the most significant grants include funding for the Falmer Academy as well as the Primary Capital programme and the Targeted Capital Fund within the CYPT programme. The 3 year capital projections assume certain capital grants will continue but at a reduced level.

Borrowing

- 3.46 The MTFs assumes the council will take up the supported borrowing allocations from government although the council receives no resources to support the financing costs of this borrowing. The government has announced supported borrowing allocations for 2010/11. The projections assume there will be no supported borrowing allocations beyond 2010/11. The council will also undertake unsupported borrowing to finance capital expenditure plans. This includes continued annual investment in social services buildings and replacement of vehicles and plant. The programme also includes borrowing £5m over 3 years to support the development of a new Historic Records Centre (The Keep) with East Sussex County Council.

Corporate Investment Funds

- 3.47 The table in appendix 2 includes the projected resources available to the Strategic Investment, Asset Management and ICT funds.

Timetable

3.48 Timetable for budget papers

Budget Strategies	Cabinet	3 Dec 2009
Council Taxbase	Cabinet	14 Jan 2010
General Fund Revenue Budget and Council Tax	Cabinet	11 Feb 2010
Capital Resources and Capital Investment	Cabinet	11 Feb 2010

Budget Council will be held on 25 Feb 2010.

4. CONSULTATION

- 4.1 The budget and council tax consultation process will be discussed by the cross party Budget Review Group during the summer. The conclusions from consultation will be circulated to all Members.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 These are contained in the main body of the report.

Finance Officer Consulted: Mark Ireland Date: 11/06/09

Legal Implications:

- 5.2 The process of formulating a plan or strategy for the control of the council's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue position is an executive function and thus falls to the Cabinet to discharge. The recommendations at paragraph 2 above are proper to be considered and, if appropriate, approved by the Cabinet

Lawyer Consulted: Oliver Dixon Date: 16/06/09

Equalities Implications:

- 5.3 The budget includes provisions to meet both equal pay compensation and address inequalities in pay through the implementation of job evaluation including changes to allowances package. Equalities issues will be taken into account throughout the budget setting process and the development of budget strategies for individual services.

Sustainability Implications:

- 5.4 Sustainability issues will be taken into account throughout the council's budget setting process.

Crime & Disorder Implications:

- 5.5 The budget projections identify resources to help replace the reduction in government grants funding of certain crime and disorder initiatives.

Risk & Opportunity Management Implications:

- 5.6 There are considerable risks to the council's short and medium term budget strategy including the impact of the recession and changes in the national economy, spending exceeding budgets, pressures on existing budgets, further reductions in grant, legislative change demands for new spend. The budget process includes the recognition of these risks in determining the 2010/11 budget

Corporate / Citywide Implications:

- 5.7 The report is relevant to the whole of the city.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S)

- 6.1 The budget process allows all parties to put forward viable alternative budget and council tax proposals to Budget Council on 25 February. Budget Council has the opportunity to debate both the proposals put forward by Cabinet at the same time as any viable alternative proposals.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The council is under a statutory duty to set its council tax and budget before 11 March each year. This report sets out the budget assumptions, process and timetable to meet its statutory duty.

SUPPORTING DOCUMENTATION

Appendices:

- | | | |
|----|------------|---|
| 1. | Appendix 1 | Service cash limit changes |
| 2. | Appendix 2 | Projected capital programme 2010/11 – 2012/13 |

Documents in Members' Rooms

None

Background Documents

1. Files held within Strategic Finance section
2. Government Budget Report
3. Brighton & Hove City Council Budget report, Feb 2009.

Indicative service cash limits

The cash limits are at the level to deliver a balanced budget based on the assumptions set out in the report.

	2010/11	2011/12
Planned Maintenance	3.00%	3.00%
Finance & Resources	-0.25%	-0.25%
Members allowances	2.00%	2.00%
Strategy & Governance	-0.25%	-0.25%
Culture & Enterprise	1.75%	1.75%
Waste Disposal	0.00%	0.00%
City Clean	-0.50%	-0.50%
Parking income	0.00%	-1.00%
Environment other	1.15%	1.15%
CYPT – LEA functions	-0.25%	-0.25%
CYPT Children's & other services	3.25%	3.25%
Adult Learning Disabilities	3.00%	3.00%
Adult Social Care & Housing	0.50%	0.50%
Health Led services	0.50%	0.50%

Projected Capital Investment Programme

Capital Programme	2010/11	2011/12	2012/13
	£'000	£'000	£'000
Strategic Investment Fund	750	1,000	1,000
Asset Management Fund	1,000	1,000	1,000
ICT Fund	685	750	750
Brighton Centre Redevelopment	500	1,000	1,000
Children & Young Peoples Trust	21,769	5,860	5,600
Culture & Enterprise	500	4,000	500
Environment	6,299	1,689	1,350
Finance & Resources	3,399	3,250	1,750
Strategy & Governance	495	140	-
Adult Social Care & housing	17,636	15,484	15,096
Total	53,033	34,173	28,046

Resources			
Supported Borrowing	7,375	-	-
Unsupported Borrowing	3,085	6,270	2,250
Government Capital Grants	36,057	19,113	18,126
Capital receipts & Reserves	1,484	3,750	2,750
Direct Revenue Funding	5,032	5,040	3,920
Total	53,033	34,173	27,046
Projected Shortfall			1,000

Note: The above programme excludes the Falmer Academy, any investment funded through receipts from the LDV and the Building Schools for the future programme.

Subject:	CIVITAS Update and Work Programme		
Date of Meeting:	9 July 2009		
Report of:	Director of Environment		
Contact Officer:	Name:	Jim Mayor	Tel: 294164
	E-mail:	jim.Mayor@brighton-hove.gov.uk	
Key Decision:	Yes	Forward Plan No: CAB10939	
Wards Affected:	All		

FOR GENERAL RELEASE

This CIVITAS update and progress report has been added to the Cabinet cycle as a late item to enable the early formal decision making that will ensure projects such as Electric Vehicle Charging infrastructure are progressed and implemented at the earliest opportunity.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Cabinet formally accepted grant funding through the CIVITAS programme on 16 October 2008. The grant of £2.2 million provides Brighton & Hove City Council with funds to research and implement a number of innovative small-scale transport projects over a four-year period. Involvement in the CIVITAS process provides an excellent opportunity for the council to undertake additional investment in the city's transport infrastructure and services. The aim is to position the council as a leader in offering sustainable transport opportunities and giving people the choice to determine what is best for them.
- 1.2 CIVITAS helps deliver a number of the key transport drivers that support delivery of the Administration's wider commitments and objectives. These include helping to get people to work, improving air quality and public spaces, and ensuring the city's traffic flow is as efficient as possible – all of which are enabled by increasing transport choice and opportunities for residents and visitors. As well as providing funding that will enable many existing projects to be enhanced, CIVITAS provides an opportunity to develop new schemes such as Electric Vehicle Charging infrastructure and the city's Transport Model.
- 1.3 The projects funded within the four year CIVITAS programme will not result in longer term LTP (or other funding mechanism) commitments for the council.

2. RECOMMENDATIONS:

- 2.1 That Cabinet notes progress to date, and approves recommendations relating to individual projects, outlined in the body of the main report.

- 2.2 That Cabinet agrees a revised reporting process to ensure a more appropriate method of sharing information and enabling formal decision making (as set out in 3.2 and 3.3).

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Project Updates

- 3.1 This section of the report comprises updates on specific projects (Cabinet has already agreed the general programme and projects within), and the city's Transport Model. In most instances the information is provided as an update only. However, where project progress requires a decision from cabinet, this is indicated in bold at the end of the project's individual summary.

3.1.1 Transport Model

In line with the Administration's objectives, the council has secured a contribution through the CIVITAS programme to support development of a city-wide Transport Model. In the long term, the model will enable the effect of any proposed schemes on the transport network to be fully tested prior to any works commencing. In the short term, where appropriate the model will help assess the success of some of the projects delivered through CIVITAS.

3.1.2 Electric Vehicle Charging Points

Provision of Electric Vehicle infrastructure is a key objective at local and national level. The project team are aware of Member desire to implement the scheme at sites across the city at the earliest opportunity. To this end progress is currently exceeding timescales set out in the CIVITAS programme (which targeted May 2010 implementation).

Recommendation:

That support is given for bringing forward implementation of the project under the guidance of the Cabinet Member for Environment.

3.1.3 School Travel Plans

An extension of this ongoing project has enabled officers to work with a number of new schools in the Civitas area. So far, 4 new schools have completed Travel Plans, and an initiative called 'Golden Flip Flop' (which encourages children to travel to school as sustainably and healthily as possible) has been completed and is currently being evaluated. A web-based route planner, based on JourneyOn.co.uk, is now live and is being promoted through a competition and mail-out to 34,000 school children.

3.1.4 Road Safety Campaign

The project is aimed at helping vulnerable members of the community who may be more at risk than others of becoming a road casualty. Research has been carried out to identify the city's most 'at risk' road users. This information will be used to inform a targeted safety campaign, along with physical measures to make high risk sites safer. The project enables us to tackle an increased number of sites in the city with higher levels of road accidents at the

earliest opportunity, in doing so making progress in tackling Local Area Agreement targets for reducing numbers of road injuries and deaths.

Recommendation:

That Cabinet agrees that the Cabinet Member for Environment should approve the delivery of future stages of the project.

3.1.5 Public Transport Information for the Visually Impaired

This project sees an extension of the successful accessibility / equalities focussed 'Talking Bus Stop' project, which enables visually impaired people to use a key fob to activate an audio announcement of bus stop information. The CIVITAS element of the project will enable an additional 12 talking bus stops to be implemented, improving a service already used by more than 200 residents.

3.1.6 Emissions Variable Message Signing

The project, which seeks to increase awareness of air quality issues through messages shown on three Variable Messaging Signs, is also proceeding ahead of schedule (installation in November 2009). A number of sites have been identified in areas with poor air quality as potential locations for the project. Officers are speaking to technology providers and universities who may be able to support delivery of the project. It is intended to provide more detail on the specific elements of the project in the next update paper. After the project is complete, the Variable Message Signs will be incorporated into the wider traffic management information network to provide drivers with information on potential delays, car parking availability etc.

3.1.7 Freight Quality Partnership

The project objective is to establish a Freight Quality Partnership. Freight Quality Partnerships provide a mechanism through which the freight industry and Local Authority can work together to identify ways to make local goods distribution as efficient, safe and clean as possible. The project approach will be informed by a Best Practice Review of existing Freight Quality Partnerships and discussions with local freight operators with a view to establishing an operational Freight Quality Partnership in August 2009.

Recommendation:

That progress is noted, and the delivery approach is supported

3.1.8 Personalised Travel Plans

The project sees an extension of the existing Personalised Travel Plan (PTP) project which has been running successfully in the city for three years. PTP seeks to work closely with local residents to make them aware of all the transport choices on offer in the city, and ensure those choices are accessible to all. The CIVITAS funded element of the work will see new approaches utilised to increase the effectiveness with which the community is engaged. Enhancements include engaging with members of the community who will act as 'Travel Champions'. These Travel Champions promote the project objectives within the communities in which they live and work.

Recommendation:

That progress is noted, and the delivery approach is supported

3.1.9 Commuter Travel Plans

CIVITAS funding has enabled this existing project, which works with local businesses to identify ways to improve transport opportunities and choice for staff, to continue and expand. Amongst other things, CIVITAS funding helps pay for specialist software that enables businesses to monitor the success of their travel plans.

Recommendation:

That progress is noted, and the delivery approach is supported

3.1.10 Bike-Off

The project, an extension of an ongoing Local Transport plan and Cycling Towns funded scheme, will trial different ways of reducing cycle theft in the city with a view to identifying the most successful in partnership with the police and other partners. A consultant has been appointed to undertake research that will inform the most suitable local locations and approaches. The outcome of the research will inform a delivery approach, with implementation of measures is due to commence in November 2009.

Recommendation:

That progress is noted, and Cabinet agrees that the Cabinet Member for Environment should approve the delivery of measures identified through the research.

3.1.11 Car Sharing

An internal review of best practice in car clubs throughout the United Kingdom has been carried out, and work has commenced on a review of European best practise, with a view to informing an implementation approach. This will be reported to Cabinet in a future report.

3.1.12 Personalised Travel Information website

The project involves enhancement of the council's existing JourneyOn.co.uk website. Objectives include enabling access to the website from mobile devices. The new features of the website are due to be available in September 2009.

Recommendation:

That progress is noted, and Cabinet agrees that the Cabinet Member for Environment should approve the approach identified by the project team and appoint a contractor to develop the website.

3.1.13 Cyclist Counter Display

The project sees three cycle counters installed on popular cycle routes in the city. The cycle counters record and display the number of people cycling in each location to increase awareness of this mode as a transport choice. A feasibility study to assess the suitability of potential sites and types of displays has been carried out, and potential sites for the cycle counters have been identified. Work is currently taking place with technology providers and the

council's public art team to identify an appropriate method of counting cycle numbers. A possible approach will be reported to Cabinet in a future report.

3.1.14 **Clear Zone**

The project focuses on monitoring and understanding the extent to which improvements to the public realm can benefit the economy, environment etc.

Research to date shows that "Clear Zone" is a general term that has been applied to a range of different types of project in other UK cities. The common theme is improving the management of traffic to improve the city for all, with the ultimate aim of enhancing the economy, city environment and air quality.

In Brighton & Hove, it makes sense to pull existing, agreed work together under the "Clear Zone" name rather than create a new scheme (especially given the limited CIVITAS budget for this scheme). The proposal is to focus on existing projects in the Lanes, where the Walking Network and Ship Street project, along with improvements identified by the Freight Quality Partnership outlined above, can come together to enhance the overall quality of the area. In addition, a survey will be undertaken to assess how many vehicles in the area are there accidentally (as a result of confusing signing etc) so that any causes can be remedied to reduce accidental traffic. Research will also be undertaken to assess how successful existing traffic management systems are – which may lead to enhanced measures being identified.

By combining these elements, Clear Zone objectives can be delivered without significant interventions. There is also some confusion around the 'Clear Zone' term and it may not accurately represent the work that is being proposed. Therefore, a more appropriate local name for the project would be "Lanes Improvement project".

Recommendation:

That progress is noted, and the delivery approach is supported

3.1.15 **Environmental Zone**

Like "Clear Zone", research has shown that the "Environmental Zone" is a general term that has previously been applied to a range of differing projects. The common theme is that Environmental Zones aim to improve air quality through better management of transport.

It is suggested that in Brighton & Hove, the area in the Lanes benefiting from improvements to Freight facilities agreed through the Freight Quality Partnership project are identified as the city's Environmental Zone, rather than employing "restrictive" measures. Improvements to Air Quality can be assessed through measuring numbers of Freight Vehicles and the time they spend in the area rather than direct analysis of Air Quality. Any attempt to measure the latter would be meaningless due to the impact time of year, weather etc have on Air Quality on any given day.

Recommendation:

That progress is noted, and the delivery approach is supported

3.1.16 **Multi-modal Ticketing**

This project, which improves links between bus and train ticketing, is being delivered by the Brighton & Hove Bus Company, and so the council has limited involvement. The bus company report a slight delay in identifying suitable technology, but this is not expected to impact significantly on project delivery.

Reporting Process

3.2 In accepting the CIVITAS funding in October 2008, Cabinet requested that a report be presented to “a future Cabinet for an update and further approval to progress to Stage 3” (stage 3 being implementation of schemes).

3.3 All projects within the CIVITAS programme have different implementation dates. For this reason, it is proposed to provide Cabinet with a regular (six monthly) update on progress, rather than attempt to provide all information required in a single report. As well as ensuring Members are kept up to date with project progress on a regular and manageable basis, this approach will also enable any key decisions due over the following 6 months to be made formally at Cabinet. On occasions, timings may dictate that some decisions are required outside this cycle – in which instance it is recommended that the Cabinet Member for Environment will use his discretion to make key decisions outside the Cabinet reporting cycle, seeking advice from the Leader of the Council where he deems necessary. This will ensure projects can be delivered in line with wider council and CIVITAS objectives and timescales.

4. CONSULTATION

4.1 Most consultation associated with CIVITAS will be undertaken on a project by project basis at appropriate times in each project lifecycle. Appropriate methodology will be identified with the support of the Environmental Initiatives, Corporate Research and Communications teams.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 The council will receive £2.2 million in grant funding if it participates in the four year CIVITAS project. Detailed costings covering the four years have been prepared for the individual schemes, in £'s sterling and converted into Euros. The funding will cover both the capital works and associated scheme design and on-costs meaning there are no additional cost implications for the council in accepting the funding. Much of the work undertaken will be supporting existing LTP schemes or transport policy. There is no requirement for the council to provide any additional funding on top of this.

Finance Officer Consulted: Patrick Rice

Date: 01/06/09

Legal Implications:

5.2 The Council continues to have a legal obligation to utilise funding in the manner and for the purposes set out in the grant agreement. The Council must take the

Human Rights Act into account in respect of its actions but it is not considered that any individual's Human Rights Act rights would be adversely affected by the recommendations in this report.

Lawyer Consulted:

Sonia Likhari

Date: 29/05/09

Equalities Implications:

- 5.3 Equalities implications will be assessed on a project-by-project basis, as project details are refined. The projects will also undergo an Equalities Impact Assessment (EQIA) in line with council policy. As a general principle, the programme will seek to reinforce equitable accessibility for all.

Sustainability Implications:

- 5.4 Sustainability implications will be assessed on a project-by-project basis, as project details are refined. As a general principle, the programme will seek to improve opportunity of access to, and awareness of, sustainable transport choice. All the projects in the bid will assist in contributing the councils' sustainability objectives and assist in reducing the cities carbon footprint. Specifically all projects will directly contribute to the Local Area Agreement target of reducing citywide CO2 levels by 4% per year.

Crime & Disorder Implications:

- 5.5 The "Bike Off" project seeks to reduce bike theft in the city. Other projects do not have direct links to crime and disorder.

Risk & Opportunity Management Implications:

- 5.6 If the council fails to deliver its projects or uses the funding for other uses without the EU's agreement the funding could be recalled along with a penalty sum. However, the likelihood of this is considered low, as the council does not intend to use funding for purposes other than for those intended, and the projects are relatively easy to deliver. The "learning" nature of the programme gives the council and other partners flexibility to trial unusual approaches – for example putting Electric Vehicle Charging point infrastructure in place to stimulate and "pump prime" demand.

Corporate / Citywide Implications:

- 5.7 CIVITAS helps deliver a number of the key transport drivers that support delivery of the Administration's wider commitments and objectives. These include helping to get people to work, improving air quality and public spaces, and ensuring the city's traffic flow is as efficient as possible – all of which are enabled by increasing transport choice and opportunities for residents and visitors. As well as providing funding that will enable many existing projects to be enhanced, CIVITAS provides an opportunity to develop new schemes such as Electric Vehicle Charging infrastructure and the city's Transport Model.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The best way to achieve the objectives of each project will be informed by best practise research and option appraisal at project level. The suggested reporting process (a six monthly report to Cabinet with the Cabinet Member for Environment using his discretion to make any decisions that fall outside that timetable) provides an appropriate balance of regular reporting. More or less frequent reports would provide Cabinet with too little or too much information. Projects within the programme have been agreed through CIVITAS and council (Cabinet) processes.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 Individual project recommendations are designed to ensure Cabinet have transparent and clear awareness and influence over the progress of each project, or formally delegate this influence to the Cabinet Member for Environment where this will beneficially enhance project delivery in line with wider council and CIVITAS objectives and timescales.
- 7.2 The suggested reporting process (a six monthly report to Cabinet with the Cabinet Member for Environment using his discretion to make any decisions that fall outside that timetable) provides an appropriate balance of regular reporting. More or less frequent reports would provide Cabinet with too little or too much information.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None

Background Documents

None

Subject:	Closure of Premises Protocols: associated with Persistent Disorder or Nuisance and Class A Drug Premises		
Date of Meeting:	9 July 2009		
Report of:	Director of Environment		
Contact Officer:	Name:	Jenny Knight	Tel: 29-2607
	E-mail:	jenny.knight@brighton-hove.gov.uk	
Key Decision:	Yes	Forward Plan No: CAB11023	
Wards Affected:	All		

FOR GENERAL RELEASE

The need for the new protocol for nuisance closure orders and an updated Class A Closure protocol only became apparent in March 2009. These protocols were then written and consulted upon with various partner agencies across the city; this process took a number of months and it was not until after this process had been completed that it became clear that they needed to be submitted to Cabinet. These procedures utilise legislation which is designed to be used rapidly for the protection of the local community and it was felt that submitting it late to the Forward Plan was preferable to delaying the agreement of the protocol.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To inform Cabinet of the updated protocol for the Closure of Class A Premises and the new protocol for the Closure of Premises Associated with Persistent Disorder and Nuisance.

2. RECOMMENDATIONS:

- 2.1 That Cabinet formally approve the protocols for use within Brighton & Hove.
- 2.2 That Cabinet approve the recommended delegated authorities for the use of these powers.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The closure of class A premises legislation was introduced in the Anti Social Behaviour Act 2003 and came into effect on 20 January 2004. The legislation allows the Police in consultation with the Local Authority to close a property for a period of three months where there can be shown to have been the use or supply of class A drugs in conjunction with serious nuisance.
- 3.2 In 2004 the Anti Social Behaviour Co-ordinator within the Partnership Community Safety Team developed a city wide protocol for the use of the class A closure

legislation. The decision has been made to refresh this protocol following developments in the way the city tackles anti social behaviour over the past 5 years.

- 3.3. In 2008 part 1a of the anti social behaviour act was amended by part 8, section 118 of the Criminal Justice and Immigration Act 2008. This legislation introduced the power to close premises associated with persistent disorder or nuisance. This allows the police or local authority in consultation with one another to apply to court to close a property for three months where there is evidence of 'significant and persistent disorder or persistent serious nuisance to members of the public'
- 3.4 Following the introduction of this legislation a city wide protocol has been developed to provide a route for agencies to consult on and apply for orders.
- 3.5 The City of Brighton & Hove has as yet not needed to apply for a Closure Order for persistent nuisance and disorder however Sussex Police with the support of Brighton & Hove City Council have successfully applied for two class A closure orders in 2008/09.

The Aims of the Protocols

- 3.6 There are two main aims of these protocols. The first is to enable Brighton & Hove City Council and its partner agencies to act rapidly to tackle issues of anti social behaviour and class A drug use and to prevent a deterioration in the quality of life for local residents and communities. The second is to create a city wide mechanism for consultation which enables all relevant agencies to input into the discussion around closure and ensures that the powers are used consistently across the city.

The Contents of the Protocols

- 3.7 The protocols follow the guidance laid down by the Government for the use of the legislation and allow agencies in Brighton & Hove to determine whether a case is appropriate for a closure order, whether it meets the evidential requirements and explains how to go about obtaining an order.
- 3.8 The protocols contain the following:
 - (i) Contact details of all the relevant partner agencies.
 - (ii) Details of the relevant legislation and details of who has the power to enact a closure order.
 - (iii) The evidential requirements for obtaining an order.
 - (iv) The process for dealing with vulnerable occupants of the property and the steps that need to be taken to ensure that the relevant agencies for example social services or mental health services are involved and that the individual/s will be adequately accommodated if a closure order goes ahead.
 - (v) The process of referring a case into the monthly multi agency planning meeting for consultation and a decision on Closure or other forms of action.

- (vi) The formal signed consultation procedure between Sussex Police and Brighton & Hove City Council.
- (vii) The legal and court process including the service of notices, referral to court and the court hearing.
- (viii) The post hearing tasks including removing people from the property and securing it.
- (ix) The process of compulsory notification to partner agencies after an order has been awarded by the court.

The multi agency planning meeting

- 3.9 The process for consultation for closure orders is through a monthly multi agency planning meeting. This forum exists to act as vehicle for consultation on anti social behaviour orders and the group is to extend the meeting to include closure orders. The group is chaired by the Anti Social Behaviour Co-ordinator and the following agencies are represented at each meeting, the Youth Offending Team, Council Housing, a representative for the Social Landlords Forum, the Targeted Youth Support Service, Sussex Police and the Partnership Community Safety Team. Other agencies such as the Probation Service and Social Services attend where relevant.
- 3.10 In order to comply with the legislation the agency applying for the closure order needs to demonstrate that they have considered the following issues in conjunction with partner agencies:
- (i) The vulnerability of the Individual/s residing in the property and their housing needs while the property is closed.
 - (ii) The implications on the resources of other services of the closure of the property i.e housing, social services.
 - (iii) That all other avenues to resolve the issue been attempted or considered prior to the application for a closure order.
 - (iv) That formal consultation between the police and the local authority has taken place.
- 3.11 As well as complying with the legislation it is good practice for the multi agency planning meeting to develop a strategy to deal with the reopening of a property and to address the behaviour of those individuals who were resident. This will help to ensure that the community does not face the same problems again and that the action being taken is not just responsible for moving the problem around the city.

Delegated Authority

- 3.12 The legislation requires that prior to a closure order being applied for the local authority and a representative of Sussex Police must sign a statement to confirm that they have consulted on the application for the closure order.
- 3.13 The protocol recommends that the following council employees have the delegated authority to act as a signatory to the consultation.

- (i) The Anti Social Behaviour Co-ordinator
- (ii) The Head of Community Safety
- (iii) Assistant Director of Public Safety
- (iv) Director of Environment or Adult Social Care & Housing
- (v) Assistant Director of Housing
- (vi) Assistant Director of Housing Management

4. CONSULTATION

- 4.1 The protocols were issued to the following partner agencies for consultation: Sussex Police, Brighton & Hove City Council Homeless Services, Brighton & Hove City Council Housing Management, Registered Social Landlords through the RSL forum, Youth Offending Team, Children & Young Peoples Trust, Community Mental Health Team, Brighton & Hove City Council Adult Social Care, Brighton & Hove City Council Learning Disability Team and Crime Reduction Initiatives.
- 4.2 These protocols were presented to and approved by the Operational Crime and Disorder Reduction Partnership Meeting on 1 May 2009.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no direct financial implications arising from the recommendations contained within this report. The gaining of a Closure Order requires use of internal staff time mainly in Legal Services and the payment of a small court fee. If the council is asked to pursue a Closure Order on behalf of an external agency (e.g. Housing Association), any cost incurred by the council would be recharged accordingly.

Finance Officer Consulted: Patrick Rice

Date: 09/06/09

Legal Implications:

- 5.2 All statutory requirements are met by the protocols and currently published home office guidelines are incorporated within the protocol. The current protocol should protect the local authority when using these powers.
- 5.3 The protocols have implications arising from the Human Rights Act 1998 specifically the right to enjoyment of ones own home and the right to privacy contained in convention right article 8 and article 1 of the 1st protocol. However each case will be considered on its own merits and there will be consideration of the human rights act prior to any decision being made. The individual is protected by the requirement for a court hearing and council officers and the court will balance the needs of the person concerned with the needs of the wider community. An order will only be made if it is considered proportionate.

Lawyer Consulted:

Simon Court

Date: 05/06/09

Equalities Implications:

- 5.4 No equalities impact statement has been carried out however it is the duty of the multi agency planning meeting to ensure that an application will not be made against any individual or individuals simply because they are different from their neighbours or engage in activities which are different, for example they belong to a different religion or race.
- 5.5 The Planning meeting must be satisfied that the agency presenting the case has investigated the complaints about anti social behaviour and that these complaints are not motivated by discrimination/victimisation on the grounds of, for example, race, disability, sex, sexual orientation, age, religion or creed.

Sustainability Implications:

- 5.6 These protocols will bring positive benefits to the community. Premises where closure orders are used are often associated with forms of nuisance such as litter, fly tipping and general disrepair which can be dealt with while the property is empty. The use of these powers will also have an impact on the sustainability of communities by tackling and reducing anti social behaviour which will reduce environmental degeneration.

Crime & Disorder Implications:

- 5.7 This protocol directly impacts on the tackling of crime and disorder within Brighton & Hove and these issues are addressed throughout the report.

Risk & Opportunity Management Implications:

- 5.8 All risks and opportunities are carefully considered at the multi agency planning meeting and prior to decisions to apply the protocols.

Corporate / Citywide Implications:

- 5.9 There are corporate and city wide implications to the use of Closure orders. However these will be managed through the process of consultation with partner agencies which will ensure that the powers are used proportionately and to protect the wider community.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The development of city wide protocols complies with government good practice and therefore no alternative options are being proposed.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 To provide information on and seek approval for the protocols governing the use of closure orders within Brighton & Hove
- 7.2 To inform Cabinet of the new powers to close premises associated with serious and persistent nuisance and disorder.

SUPPORTING DOCUMENTATION

Appendices:

1. Closure of Class A Premises Protocol
2. Closure of Premises Associated with Persistent Disorder or Nuisance Protocol

Documents in Members' Rooms

1. Closure of Class A Premises Protocol
2. Closure of Premises Associated with Persistent Disorder or Nuisance Protocol

Background Documents

1. Home Office Part 1A Anti Social Behaviour Act 2003: Notes of Guidance: Closure Orders: Premises Associated with Persistent Disorder or Nuisance.
2. Anti Social Behaviour Act 2003: Notes of Guidance Part 1, sections 1-11: Closure of premises used in connection with the production, supply or use of Class A drugs and associated with the occurrence of disorder or serious nuisance.

Both documents are available at www.respect.gov.uk



CLOSURE OF CLASS A DRUG PREMISES

Brighton & Hove

RAPID REACTION PROTOCOL

UPDATED APRIL 2009

SECTIONS

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7. APPENDICES

- | | |
|-------------|---|
| Appendix A. | Other potential powers/remedies/procedures |
| Appendix B. | Certain sensitive types of premises on which it may not be suitable to issue a closure notice |
| Appendix C. | Senior Officer Checklist |
| Appendix D. | Procedure for pursuing Class A premises closure order |

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1. THE PURPOSE OF THIS DOCUMENT

1.1 Purpose

The purpose of this partnership protocol is to;

- Provide clear and agreed guidance for key partner agency staff when considering the enactment of the Closure of 'Class A Drugs' Premises legislation.
- Identify the key issues and stages in the 'Closure' process.

1.2 Aims and Objectives

The aims and objectives of this partnership protocol are to;

- Achieve consistency in practice across the city, to ensure rapid response from the relevant partner agencies and to set out clear procedures in relation to 'vulnerable' tenants/occupants.
- Enable partnership agencies to act rapidly to prevent deterioration in the quality of life for local residents and communities.

1.3 Partnership Responsibilities

Key partners as highlighted above have between them a range of 'statutory' duties and functions to enable them to effectively tackle the problem of supply and misuse of drugs in residential premises. In addition there are partners who may not be under a statutory duty, but who bring added value to the 'Closure' of premises procedure.

The statutory duties as summarised;

- Prevention of crime & disorder
- Prevention of misuse of drugs
- Prevention of anti-social behaviour
- Homelessness duty
- Protection from nuisance and harassment
- Child protection and 'Child in need' duty
- Protection of vulnerable clients duty
- Protection of environment in a safe and clean city

2. WHAT IS A 'CLASS A' DRUGS PREMISES

2.1 Definition

For the purposes of this Protocol, a 'class A premises or crack house' is defined as

"A premises typically characterised by a combination of the following indicators",

- The supply of crack cocaine, heroin or other 'Class A' drugs
- The consumption of 'Class A drugs' within the premises or within the vicinity of the address concerned.
- The 'frequenting' of the premises by identified sex workers; combined with the use of the premises or its vicinity for paid sex work.
- Premises visited by a substantial number (greater than 10) of people on a daily basis in connection with the intended supply, purchase or consumption of 'Class A' drugs.
- The criminal damage of surrounding property or the structure of an estate.
- An increase in acquisitive and violent crime in the vicinity of the premises, linked to the funding of personal drug consumption.
- Requests for Police to respond to firearm incidents and violent assaults either inside the premises or in its vicinity.
- A series of complaints by local residents, detailing severe or violent anti-social behaviour by the tenant or the tenant's visitors.
- The intimidation of local residents, housing officers and local employers.

The Anti-Social Behaviour Act 2003 refers to 'premises', but this term should not be restricted to residential premises, it can also cover commercial and licensed premises.

2.2 The Legislation – Anti-Social Behaviour Act 2003

With effect from 20th January 2004 a Class A Closure Order can only be implemented by an officer above the rank of Police Superintendent the requirements for implementing the Act are as follows:-

Reasonable grounds for believing

a.) that at any time during the previous 3 months the premises have been used in connection with the unlawful use, production or supply of a class A controlled drug

and

b.) that the use of the premises is associated with the occurrence of disorder or serious nuisance to the public

Police may authorise the issue of a closure notice providing they are satisfied that;

a.) the local authority for the area in which the premises is located have been consulted

and

b.) that reasonable steps have been taken to establish the identity of any person who lives on the premises, or has control of, or responsibility for, or an interest in the premises.

2.3 The drugs covered

This power covers Class A drugs as defined by the Misuse of Drugs Act 1971. For the purposes of this power some examples and how it could be used against them are listed below:

Principal Drugs involved	Classification under the MDA	How the power could be applied
Cocaine Crack Cocaine Heroin Ecstasy	Class A	Against Production, Supply or Use.
Amphetamines	Class B	No power under this Act where only these drugs are involved but MDA powers may be used to act against, production, supply or possession.
Cannabis	Class C	No power where only cannabis is involved – Cannabis is however specifically included in Section 8 of the Misuse of Drugs Act; and other MSD action for production, supply or possession offences may be applied.

It should be noted that whilst simultaneous charges against persons for the production, supply or possession of Class A drugs are desirable, they are not a precondition for the use of this power. It is not a requirement for the Police to demonstrate that a specific individual is producing, supplying or is in possession of drugs. The power requires the Police to have a reasonable suspicion that such activities are occurring from a residential premises. This power is significantly different from the MDA powers as it applies to the premises itself as oppose to a person(s).

2.4 Drug production

The closure power will potentially be available where residential premises are being used for the production of any Class A controlled drug. This will be particularly relevant in using the power against Crack Cocaine, and synthetic

drugs such as Ecstasy, both of which are commonly produced in the UK in residential premises. The intention behind the Closure Power is to enable the Police to take rapid action in stopping residential premises being used for the commercial production of Class A drugs.

2.5 Drug supply

The closure power will potentially be available where a premises is used for the supply of any Class A controlled drug. Gathering sufficient evidence to prosecute individuals for supply in closed settings such as 'crack houses' can be very difficult to achieve. Therefore this power can be used to close the premises on the basis of reasonable suspicion of supply, confirmed by the presence of drugs and drug paraphernalia amongst other evidence providing, however, that there is disorder or serious nuisance being caused.

These powers are intended to be used in respect of premises that are being used in the production, supply and use of Class A controlled drugs and not against specific individuals. It is not necessary to demonstrate that a specific individual is producing, supplying or is in the possession of drugs. The issuing officer needs to have a reasonable suspicion that such activities are occurring from the premises. An individual found to be on such premises can be arrested under existing law.

2.6 Disorder or Serious Nuisance

Premises cannot be closed simply because drug production, supply or use is taking place. There must also be evidence of disorder or serious nuisance. It does not need to be demonstrated that the disorder or serious nuisance is associated or resultant from the drug use, production or supply, simply that both are present.

Disorder or serious nuisance is not currently defined in law therefore it is up to the courts to define these terms.

2.7 Evidence of Disorder or Serious Nuisance

Behaviour that can constitute disorder or serious nuisance related to the premises are outlined below. The following suggestions should act as guidelines as to the level of nuisance to be considered serious in this context:

- Intimidating and threatening behaviour towards residents
- A significant increase in crime in the immediate area surrounding the accommodation
- The presence or discharge of a firearm in or adjacent to the premises
- Significant problems with prostitution
- Sexual acts being committed in public
- Consistent need to collect and dispose of drugs paraphernalia and other dangerous items
- Violent Offences and Crime being committed on or in the vicinity of the premises
- High number of people entering and leaving the premises over a 24 hour period and the resultant disruption they cause to residents

- Noise - constant/intrusive noise - excessive noise at all hours associated with visitors to the property

Serious nuisance is often demonstrated by accounts from neighbours and/or professional witnesses of the distress caused to the community by the activities at the premises. The accurate recording of events, over time, will also be very important to prove the sustained and intrusive nature of the disorder and serious nuisance.

Evidence of disorder or serious nuisance in statements provided by residents/occupants affected by the behaviour as well as evidence obtained from professional witnesses can be used in proceedings brought by the Police. The partner agencies need to be mindful of needs of witnesses who may suffer acts of recrimination from individuals associated with the behaviour.

2.8 Evidence requirements

The evidence requirements have to meet the threshold as set down by the Anti social Behaviour Act 2003, s1, Part 1.(see section 2.2)

The Police are under a legal duty to consult with the Local Authority before service of a Closure Notice.

Although there is no obligation for the local authority to assist it is the role of Social Landlords to work with the Police to help provide evidence that gives rise to a reasonable suspicion to enable the Police to obtain a Closure Notice.

The police will obtain Class A drugs intelligence including seizures, warrants history and arrests made in and around the premises. While the council or RSL may be in a position to provide information by way of complaints received from residents and occupants, independent witnesses, evidence of housing officers in the form of diary sheets and tenancy file history.

In this context a partnership approach to evidence gathering needs to be clear and unambiguous from the outset and with review timescales put in place with the close involvement of a solicitor.

Likely sources of evidence;

- resident diary sheets
- letters of complaint
- Council Housing tenancy file correspondence (if applicable)
- Registered Social Landlord or Housing Association file correspondence
- Environmental Health information, evidence and attendance at premises
- Police Offender profiles
- Police arrest history at premises
- Specific offender arrest history
- Witness statements
- Record of Police incident history in and around premises address

- Map indicating incidents of anti-social behaviour, offences and complaints linked to the premises address

2.9 Who has the legislative power to serve Closure Notice?

The legislative power is with the Police. Upon an application by the Police to the Magistrates' Court a Closure Order is sought that can then be served on anyone identified as an interested party. However, in Brighton & Hove levels of partnership working are such that although the power to obtain Closure Orders is with the Police, other Partner agencies play a vital role in the process.

A shared problem solving approach is a clear advantage in sharing resources, intelligence and pooling evidence to effectively tackle the problem and prevent it from re-occurring.

2.10 Practical arrangements

Due to the very nature of drug supply, production, consumption and general culture the community is likely to be extremely apprehensive about providing evidence to assist the 'Closure' process.

Having identified potential premises at an early stage, key local officers should agree a strategy to tackle this and to reassure residents and the community that they are tackling the issue proactively. Partners need to be very clear with each other about potential difficulties and should agree to meet regularly and keep channels of communication open to ensure information sharing and the ability to react rapidly.

3. VULNERABLE OCCUPANTS

Key consideration must be given to vulnerable status at early planning stage.

3.1 Identifying vulnerability

In Brighton & Hove there is fairly frequent incidence of drug suppliers becoming involved with a tenant or occupant and then over time the property or premises becomes associated with drug supply, misuse and other criminal activity. In these circumstances the original tenant/occupant effectively loses control of their home and becomes a victim of circumstance. The perpetrators target vulnerable individuals they can manipulate through supply of drugs, intimidation, threats of violence and actual violence. In a small number of cases there may be children living on such premises. It is essential that the Police or the Local Authority advise Social Services immediately if vulnerable adults or children are identified in the property.

- Vulnerable individuals in this circumstance are as much a victim as the wider community and if they meet certain criteria they should be treated as such.

- Criteria are set out below as a guide, however vulnerability should not be decided on the basis of how many criteria they meet, it should be a multi agency decision based on individual circumstances.

3.2 Vulnerability guidelines

These categories should be used to guide the decision making process and establish vulnerable status.

Look not only at current status but to try to ascertain historical circumstance.

- Child Protection concerns, Duty & Assessment Team (D&AT) involvement
- Abusive relationship
- Domestic Violence
- Learning difficulties
- Physical disability
- Mental health concerns
- High support needs through floating support, Special Needs Housing Officer, key-worker or other
- Tenancy history (priority transfer history)

The above criteria are not an exhaustive list, but they are guidelines to be used as a starting point in making the vulnerability assessment.

- A comprehensive and objective decision at the earliest stage will have a decisive impact on how to proceed with the case.

For example, it may become clear that the occupant has lost control of the premises and is regularly confronted with violence within the home. A priority transfer may be appropriate. Where a tenant is excluded from their secure tenancy they should be referred to the Local Authority Homeless Persons Unit where they will be assessed to establish whether or not there is a statutory duty for re-housing assistance. The Police and Local Authority officers involved in the process will need to immediately refer information to the Homeless Persons Unit to assist them in assessing the individual's status.

Where the Police have issued a closure notice in respect of privately owned/managed accommodation the tenant/occupant concerned should be referred to the Local Authority for appropriate advice and or assistance in respect of services that may be available to them including a referral to the Authority Homeless Persons Unit.

If in doubt, discuss with your line manager for guidance.

If the premises does not to the best of your knowledge involve any vulnerable clients, record and substantiate this decision and proceed. The Authority should consider immediately issuing possession proceedings to recover the property following a closure notice in cases where the tenant is not vulnerable and is involved in the behaviour.

In cases involving a vulnerable tenant they may be assisted to surrender the original tenancy and be re-housed in other alternative accommodation.

4. THE PROTOCOL IN ACTION

4.1 How to get started

The Protocol will be instigated on the basis of a build up of information provided by a wide range of sources. Primarily, those providing the supporting intelligence will be one of the following:

- Sussex Police
- RSL or Council Housing Manager
- Brighton & Hove Environmental Health Manager
- Partnership Community Safety, Anti-social Behaviour Team Caseworker
- Anti Social Behaviour Housing Officer
- Social Work Manager

Following the decision by the lead officers that a Closure order is necessary the case will be referred to the ASB Co-ordinator.

Following the referral the ASB Co-ordinator will do the following:

- Identify the relevant social landlord (with the assistance of the anti social behaviour team caseworkers)
- Contact the appropriate District Police Inspector and Housing Manager to discuss whether the Closure Protocol should be implemented.
- If the Closure Protocol is agreed upon the ASB Co-ordinator and District Inspector will dependent on timescales either add the property to the agenda for the monthly ASB Multi Agency Planning Meeting or call a separate planning meeting. In the case of an emergency situation, as long as there is consultation, the aim for a planning meeting can be set aside, but all agencies should be informed as a matter of some urgency. If felt appropriate it can be taken to the next available planning meeting for information sharing.
- Request an offender profile of any known residents and a profile of the disorder associated with the property from the ASB Co-ordinator for Sussex Police.
- Invite all relevant parties to the meeting and request that they bring the evidence that they have accumulated of disorder and details of the attempted interventions.
- The District Inspector will continue to monitor the situation, if there is insufficient intelligence to implement the Protocol.

4.2 The Planning Meeting Objectives

The Multi Agency ASB Planning Meeting is a monthly inter-agency meeting which will review whether a tenant should be targeted for intervention under the Protocol. The meeting will decide whether the tenant will be considered as 'Vulnerable' or 'Non-Vulnerable' for the purpose of the Protocol. The assessment will be based upon the information available to the partnership agencies. Normally, each agency should be prepared at the meeting to disclose the information, which would be necessary to take an informed decision. The Planning Meeting decision is not a fixed decision and the Protocol will allow this decision to be changed as the process develops.

The Multi Agency ASB Planning Meeting is chaired by the ASB Co-ordinator however if this meeting is not appropriate because of timescales then a planning meeting can be chaired by either the ASB Co-ordinator or Police District Inspector. The meeting will consist of the lead managers from relevant services, the ASB Team solicitor and the Caseworkers / Officers directly working with the household.

The planning meeting should:

- Consider whether the closure is appropriate given the nature of the problem identified
- Consider whether there are alternative or more appropriate tools and powers which could be used to alleviate the problem
- Consider whether all alternative tools, powers and support services have been attempted or considered.
- Agree long term strategies for the resolution of the problem
- Look at how the proposed closure will effect vulnerable people
- Agree a strategy for protecting vulnerable people and preventing them from homelessness
- Obtain intelligence on property ownership / management where the property is not social housing.
- If it is appropriate and safe to do so then ensure that the allocated caseworker informs those who may be subject to the closure order that it is being considered and the possible consequences for them.
- Provide advanced notification to homeless services or social services of the proposed action as it may place additional demands on their service.
- Agree the notification of relevant local authority department directors and local councillors who lead on relevant issues i.e. anti social behaviour, housing, children and young people.

If the decision of the meeting is that a closure order will not be applied for and the Police agree to this then the meeting will agree further actions for example:

- Where there is not enough evidence to proceed with a closure order an agreement will be made about how much evidence is required and who will monitor the situation in the future.
- Where the meeting decides that a closure order is not appropriate other interventions will be agreed within the meeting.

It should be noted that the Police only need to consult. There is no obligation on them to accept the views of the local authority when a closure order is not felt to be the appropriate action after consultation.

4.3 Consultation:

Section 11a 2-3 of the Anti Social Behaviour Act requires consultation between a police representative of superintendent level or above and one of the following local authority staff

- Anti Social Behaviour Co-ordinator
- Head of Community Safety
- Assistant Director of Public Safety
- Director of Environment or Adult Social Care & Housing
- Assistant Director of Housing
- Assistant Director of Housing Management

This consultation has to be documented on the certificate of consultation for closure of premises and should be undertaken prior to contact being made with the court. The signed certificate of consultation should be supplied to the solicitor handing the case.

5. THE LEGAL & COURT PROCESSES

5.1 The purpose of the Closure Notice

The Closure Notice alerts those using the property, those resident, the owner and any others with an interest who can be identified, of the intention to apply to the court for a Closure Order. It sends a clear message to the community that action is being taken against the premises, and informs drug dealers that their activities will no longer be tolerated. It gives notice that impending closure of the premises is being sought and details of what this entails. In many cases persons in these premises involved in drug related offending will have been previously warned of impending action, in an attempt to reform their behaviour, or may have been the subject of other law enforcement activity before any notice is served. It is however still essential that when the Closure Notice is served persons in or associated with the premises understand its meaning and that even at this point they have a chance to reform the behaviour associated with the premises. The notice is intended to encourage those who are not habitually resident to leave, or they may be arrested.

5.2 The effect of the Notice

It should be remembered that the Closure Notice in itself may on its own achieve the intended outcome of stopping the premises being used for the production, supply or use of Class A drugs and related disorder or serious nuisance. For this reason Closure Notices should be considered as part of strategic and tactical action against drug supply overseen at a senior level.

For the initial 48-hour period before the Court considers the application it may provide immediate relief to the community. Attention should be paid to the timing of the notice to ensure that the community needs are balance against the needs for a fair trial. Serving a notice on a Saturday with a return date on Monday leaves no time for legal advice to be sought. Wherever possible there should be at least one clear day – to allow legal advice to be obtained.

It also creates offences, backed with the power of arrest, for any persons who do not habitually reside in the property, who enter or remain in the premises. The intention is to encourage all those not properly resident to leave at this point and relief to be obtained during the notice period. However it allows for the tenant to stay whilst they arrange alternative accommodation.

Some persons occupying the property may need alternative accommodation and may seek housing advice. These enquiries need to be directed to the Housing Advice Centre at Bartholomew House, Brighton

5.3 The contents of the Notice

The Closure Notice must contain the following information:

- A Closure Order is being sought
- Only the owner or persons who are habitually resident at the premises may now enter the building, but no one else
- The date, time and place at which the Closure Order will be considered
- An explanation of what will happen should a Closure Order be granted- in particular that there will be no further entry to the premises and it will be will be totally sealed. If the premises are residential then the occupier will be forced to find alternate accommodation.
- An explanation that any person who does enter the premises who is not the owner or persons or habitually resident there commits an offence and can be arrested.
- Information on relevant advice providers who will be able to assist in relation to housing and legal matters and information on help with drug treatment options and leaving sex work.

Once an agreement has been reached to serve a Closure Notice the solicitor should approach court staff to fix a hearing date. The date, time and place of the hearing will then be placed on the face of the Closure Notice, which will be served no more than 48 hours prior to the hearing date.

5.4 Serving the notice

The police are not required to ensure that all persons, who may have an interest in the premises and who may suffer financial loss as a result of the closure, are notified prior to the Notice being issued. The Act requires 'reasonable steps' to have been taken to identify such people. It may be the case that these people are difficult to trace and the delay required to identify them would remove the benefits of the Power. However the Closure Notice must be served on any person who is identifiable at the property or who appears to have an interest or to be affected by potential closure.

Identifying these persons need not delay the service of the Notice, for instance on the electoral register or council tax record held by the local authority in the area in which the premises are situated should identify the owner or occupier. If this simply identifies a letting agent, serving notice on them is acceptable.

Service of the Closure Notice can be effected by the affixing of the Notice to the premises, but effort should also be made to give a copy of the Notice to any interested persons. Posting a notice is not desirable, due to the speed and effects of the Notice. However if the owner or letting agent identified is not local posting the Notice may be considered sufficient as the only practicable means.

It may be that the police may apply for a warrant to search the property and seek to bring charges against persons involved in the manufacture, supply or possession of drugs, at the same time as serving the Closure Notice. This may be entirely appropriate. However it is not a requirement. The Closure Notice may be served by a police officer of any rank.

It will be for the police and the relevant local authority to decide the level of joint working on the service of the Closure Notice. In some areas, where it is considered safe to do so, it may be appropriate for the police to be accompanied by the relevant local authority or RSL officer.

5.5 Dealing with those in the premises

Once served, those at a premises affected by the Closure Notice may well choose to leave voluntarily. Those who habitually reside there should be advised to seek alternative accommodation. If they have failed to do so themselves, they should be referred to the Closure Notice or the advice providers referred to in the Closure Notice, regarding help with accommodation, drug problems, leaving the sex trade, and obtaining legal assistance. It may still be possible for those resident to change the way the premises are used. However it is an arrestable offence for a person who does not normally live at the premises or is not the owner to continue to reside at or enter the property during the Closure Notice period. If convicted the individual is liable to imprisonment or a £5000 fine.

The extent to which this power of arrest is used is the decision of the officer in charge based on an assessment of the likelihood of continued disorder or serious nuisance. The application of this power is useful if by it, drug users, where their gathering together has caused nuisance, are removed from the house. If arrest serves this purpose it should be used. Use of the power may be appropriate as a tool in acting against persons identified through service of notice where intelligence suggests they have engagement in supply or other criminal matters.

It is also an arrestable offence to obstruct the police officer serving the Closure Notice.

5.6 The Magistrates Hearing

The key issue that will need to be demonstrated is that disorder or serious nuisance and the use, production or supply of drugs are both present; so care should be undertaken to ensure that convincing evidence of this is presented to the court. Where possible this should also have been served on the occupants of the property at the time of the notice.

Prior to the hearing the police and partner agencies should ensure that the evidence to be presented is in good order and support for community witnesses at the court is in place to enable them to give evidence.

At the court hearing the evidence should be presented by the police and, if requested by the Police and it is appropriate, the local authority or housing provider, to establish the grounds for believing that the house is associated with disorder or serious nuisance related to Class A drugs. As indicated, this need be no more than reasonable suspicion. It is not required that there are charges relating to drugs offences; however witness testimonies that drugs are being sold in the house, or that the house is frequented actively by drug users are appropriate.

The court will be asked to decide whether the making of a closure order is necessary to prevent further disorder or serious nuisance. The court may therefore wish to consider whether alternative methods would be more appropriate. For this reason it is important that evidence of the other actions that have been considered or attempted are provided to the court.

The court is not required to have forensic proof that the drugs being sold, used or produced are Class A drugs; simply that there is reasonable suspicion that they are. A forensic test that would be required for determining criminal responsibility for such drugs under the MDA may take longer than 48 hours to complete. Given that this criminal level of proof is not required it is undesirable that the court adjourns proceedings until forensic tests are completed. Simpler tests are available which will give an indication of the drug involved. Whilst such tests are not considered sufficient proof of the drug involved for the purposes of conviction under the MDA, they have been considered suitable by courts for the purposes of assessing bail under that legislation. Accordingly, whilst such tests are not required by the court in handling these cases, Police may feel that they add some weight in preparing evidence for the court, and so could be considered.

The court is not asked to decide whether making a Closure Order is in the public good. Therefore the relative merits of applying the power to certain types of premises rather than others is not to be decided by the court. The court is simply asked to decide whether the use of the power in the specific circumstances involved is necessary to prevent the occurrence of the behaviour (Clause 2, subsection 3). No property is exempt unless it has been made exempt by order of the Secretary of State.

5.7 Potential arguments in defence of closure

The owner of the premises or any person(s) who has an interest or is affected, may contest the making of an Order. The court can defer the making of the Order by adjournment for 14 days to allow those persons to prepare their case.

It is not the intention that all cases should be routinely adjourned. This would defeat the object of the power, which is speed. The court must decide whether an adjournment is needed. Anyone seeking an adjournment must demonstrate reasonable grounds why it is needed.

The court will wish to hear why the order should not be made. The Act does not specify what reasons there should be for not making the order. This will be for the court to decide in each case. Possible reasons include:

- The landlord, owner or tenant has just been appraised of the situation, and can demonstrate that effective action is being taken to deal with it; or -
- There is evidence that disputes the evidence presented by the police, or evidence that cannot be presented at this time but which will be presented subsequently, thus presenting a case for adjournment

The court operates on a civil rather than a criminal standard of proof (i.e. balance of probabilities). It is not required to have demonstrated the same burden of proof required under the Misuse of Drugs Act to enable conviction of persons for relevant drugs offences.

The court can of course decide that notwithstanding the owner or landlords contention that they will address the problem, that a closure order should still be made whilst they attempt to do so. If they can then subsequently demonstrate sooner than the specified order period that the problem has been successfully addressed then the order can be revoked.

Hence whilst the court has nominally three options, denial of the application, adjournment or closure. In practice the ability to vary the length of the order gives the court flexibility to deal with different circumstances where a shorter order may be appropriate, bring immediate relief whilst the landlord and police deal with the problem, but not leading to extended and costly closure.

The maximum length of an order is 3 months with possibility of further extension to not more than 6. The length of the order should reflect the circumstances above and the desire to bring the property back into management as quickly as possible.

5.8 Extensions:

The powers to extend a closure order for a further 3 months are expected to be used only on rare occasions. There are many disadvantages to leaving properties empty for extended periods and only when there are real concerns that the property will return to its former use should an extension be made.

If an extension is considered necessary then the lead officer needs to refer this matter to the ASB Multi Agency Planning Meeting so that the process of consultation can take place again. The procedure for the authorisation of the extension is the same as with the application and the tests are the same as for the original closure.

The application for an extension may be made at any time prior to the date on which the original order would have expired. This is done by way of complaint by the Police, which fixes a date for hearing.

5.9 Appeals:

The act entitles any persons on whom a Closure Notice was served, as well as any person who has an interest in the premises but on whom the closure notice was not served, to appeal against the making or extension of a closure order.

An appeal may also be made by the Police or Local Authority against the refusal to grant or extend an order.

An appeal against the order or decision not to grant it must be brought to the Crown Court within 21 days, starting on the day on which the order or decision was made.

5.10 Discharge of a Closure Order:

It is important that the property remains empty for as short a time as possible therefore if the nuisance has been addressed satisfactorily before the end date of the closure order, for example where a tenant has surrendered their tenancy, an application should be made to the court to discharge the order. The court will wish to be reassured that the same pattern of behaviour will not reoccur and where a vulnerable person is due to return to the property the court may want to see that an adequate level of support is in place.

Those with a legal right to occupy (or those connected with) the premises or the owner may seek the discharge of the order themselves however the court should give careful consideration to the likelihood of the original problems returning. If the court is satisfied that the owner or landlord is capable and willing to get the problem under control then the order should be discharged.

6. POST HEARING TASKS

6.1 The effect of the Closure Order

The closure order gives a power to close a property completely and remove access by any persons, even those with rights of abode or ownership, except where they are allowed to enter the property under the supervision or direction or permission of the police or the court. The order allows for a property to be sealed, closed, and removed from public use for the period of the order. The Closure Order comes into force immediately the court makes the order.

Breach of the Closure Order is an offence and persons can be arrested if they break it.

6.2 Enforcing a Closure Order

As soon as a Closure Order is granted by the courts it should be enforced. This means the premises in question can be cleared of all persons present including residents and those with an interest in the property who may have remained after the service of the Closure Notice.

The police can use reasonable force to enter and seal a property. This is to allow removal of defences that are often built into such premises and to seal the premises with the required temporary building work or shutters.

The process of entering the property to enforce the Order should be treated with extreme caution. Whilst in many cases the occupants will already have left, in others they may be resistant to leaving. They may also be armed. Therefore the operation should be undertaken following a risk assessment, but reflecting the strong linkage between Class A drugs, guns and violence. On occasion, firearms support may be required. If this is the case, and bearing in mind that obtaining evidence for charges related to supply could be possible, the serving of the Order could require a substantial operational support. Authorised persons such as local authority workers, maintenance staff, utility persons or Housing Officers should not be present until any safety issues have been addressed and the property cleared.

Large quantities of drugs or money may be securely hidden in the premises and that sometimes dealers may return to gather these possessions or to re-commence their business. Both a thorough search should be undertaken and subsequently, strong means of property sealing applied.

6.3 Dealing with those still occupying the premises

Those found contravening the Closure Order can be arrested as officers on the scene feel is appropriate on the basis of the evidence available. Those inside or residing are likely to fall into these groups:

- The tenant/owner, who may be the dealer, but is more likely to be a vulnerable person, who may have social care and housing needs, related to drug misuse, mental health, age or some other vulnerability
- Dependents of the dealer/tenant, including children, all of whom will have housing need, and some of whom may need to be taken into care
- Drug users who happen to be there, some of whom may have nowhere to go, and have profound drug needs
- Sex workers, who could have problems of vulnerability, dependency and lack of shelter
- Other criminal associates of those involved in the production, supply or use of Class A drugs

These are only examples of persons likely to be found. The only people who are able to enter the premises following the Closure Order are police officers or persons authorised by the chief police officer or those persons granted access by the court.

6.4 Immediate COMPULSORY notification to partners

Once the Closure Order has been served as described above, telephone or e-mail notification should be made to key partners by the lead officer (i.e. ASB Caseworker, ASB Housing Officer, Police Officer) to the following;

- **Children, Families & Schools-Duty & Assessment Team where children are directly affected by the Closure Order.**
- **Homelessness Team and Housing Advice Centre.**
- **Local Council Housing Office.**
- **Emergency boarding up service to make the property secure**
- **Anti-social Behaviour Co-ordinator**

When notifying the above key partners, you **MUST** provide the following details:

- **Address of premises**
- **Date of Closure Order served at property**
- **Name(s) of persons resident (legally or otherwise) and who will be displaced through Closure Notice enforcement.**
- **Highlighting any Child Protection Issues**
- **Potential intelligence in relation to displacement to other addresses.**

6.5 Securing the property

Once the Closure Order has been served and the property has no occupants within, it is necessary and appropriate that the premises are made secure as a matter of urgency.

Plans should be made to secure the property prior to the hearing so that they can be executed immediately to prevent any occupants regaining entry to the premises.

An emergency boarding or property securing company arrangement should be made. One of the best methods available in the city is Orbis Property Management who can supply and install metal screens to all windows and doors on the premises. The cost associated with this service is for initial fitting, followed by hire charge dependant on length of time in use and finally a further charge once screens are removed.

If the property is Council or RSL it is entirely reasonable that the cost should be borne by them as the landlord or owner of the premises.

If the property is privately owned or rented then it is entirely appropriate for the owner or landlord of the property to make comprehensive arrangements in partnership with the Police and key partner officers. However if the owner is unwilling to engage in this process then the Police or Local Authority will arrange for the property to be sealed. The Police or Local Authority may then apply to the magistrates court for costs against the owner for any expenses incurred in enforcing the closure order, we should notify all landlords of this position.

7. APPENDICES

Appendix A. Other potential powers / remedies / procedures

Powers to control landlords who tolerate drug use and dealing

It is possible that any landlord or owner with responsibility for the property may be complicit in the dealing occurring. It may be that the landlord has been warned already by the police that the premises have been used for this purpose and has not taken action to redress the offending behaviour.

There are other powers, the threat or actual use of which can be used to encourage a landlord or owner to act in these circumstances - Section 8b of the Misuse of Drugs Act 1971, which makes it a criminal offence to knowingly allow the use of cannabis or opium on premises or Section 8d knowingly allowing the supply of any controlled drug on a premises. If the cessation of the behaviour can be achieved by threat of action using this power rather than closure, then this is an alternative course of action that could be used. This could also be used additionally to the closure powers to act against landlords or owners of this type.

Powers to charge those selling or producing drugs for offences under various drugs legislation.

The Powers contained in this Act are not designed to replace the power available to act against individuals for drug manufacture, supply or possession offences. However they are designed to add to those powers to close places where such behaviour occurs. Where possible, it is still desirable to proceed against individuals using criminal charges of drugs offences. However it is recognised that there are circumstances where the evidence is not available to use these powers and yet the nuisance and harm associated with drugs continues. Therefore it is not a requirement on the senior officer to bring charges under the criminal law for production, supply or possession before the Powers of Closure are applied for. It is simply sufficient for them to have reasonable suspicion that the premises are being used for these purposes and that there is evidence of disorder or serious nuisance being involved. Ideally charges will be brought against specific individuals operating from the premises which are involved; but it is not a requirement.

The Police should consider whether there are more appropriate powers contained in the Misuse of Drugs Act first and whether the use of the powers in this Act would compromise the use of the alternative powers. Both may have an impact on the closure of the property.

Circumstances of simple use of drugs

As covered above, under definition of use, this power is intended to allow for closure related to the simple use of drugs only where there is disorder or serious nuisance associated with that use. The Misuse of Drugs Act is the primary legal machinery for control and regulation of simple possession of drugs. This power is concerned to address various forms of Anti-Social behaviour associated with such use. Therefore use of this power should be predicated firstly by the scale of nuisance involved rather than use on its own. It is not the intention of this power to allow for further criminalisation of personal drug use, but to create powers appropriate to disorder or serious nuisance that occur in connection with the use of drugs

Other powers to control nuisance

It is similarly not a requirement to apply other powers to control behaviour before using the Powers of Closure, such as ASBOs. Such powers may be suitable and may be adequate to control certain types of anti social behaviour but it is not a requirement for such other methods to have been used previously. Where there is disorder or serious nuisance on its own, not associated with drugs, or minor nuisance, perhaps associated with the simple use of drugs, then other means of controlling the behaviour may be more appropriate. However, where disorder or serious nuisance is clearly and demonstrably involved alongside Class A drug misuse it may be appropriate to use this Power to provide immediate relief to the community. It is a requirement that there is disorder or serious nuisance present before proceeding to use these powers. There is a three month set time limit on when such behaviour must be shown to have occurred within to enable a Closure Notice to be served.

Powers to exclude persons from an area

Section 222 of the Local Government Act 1972 grants the power to a Local Authority to bring an order excluding persons from an area entirely. This injunction has been used successfully against suspected operators of 'crack houses'. An ASBO has a similar function but this power may be more flexible and easier to obtain. The court is likely to require a similar set of evidence as would be required for a Closure Order. Both sets of orders can be applied together to give closure of the property and exclusion of the perpetrators, and could be added to with prosecution for supply or intent to supply under the Misuse of Drugs Act. Action in this manner would be seen as part of a concerted effort to control the supply and use of Class A drugs in a community.

Where the premises are owned by a Registered Social Landlord, or by a local authority, Part 2 of the Anti-social Behaviour Act amends s.153 of the 1996 Housing Act to also allow for a power of exclusion to be attached to injunctions.

Appendix B. Certain sensitive types of premises on which it may not be suitable to issue a Closure Notice.

The senior authorising officer must take into account the potential harm that may result in the closure of some types of properties and consider the overall social good in doing so. Whilst no specific types of premises are exempt from these powers, the appropriateness of their use in some circumstances should be considered. Ultimately it is for the court to decide whether the closure of any specific premises on a specific occasion is justified, but the authorising officer should also be mindful of the implications and whether other methods of control may be more appropriate.

These circumstances may include:

- Properties where closure cannot be effected without removing access to large numbers of persons who would be made homeless, have no right of re-housing, or would otherwise be caused harm through closure. Examples might include hostels with many residents (although not smaller units), bed and breakfast hotels and long term supported accommodation such as sheltered schemes.
- Hospitals
- Schools
- Children's homes
- Drug treatment services

The court is not asked to decide whether it is in the public good whether such premises are closed; simply whether the criteria for closure are met and the making of the order will prevent the occurrence. Hence the officer making the decision must be mindful of the implications of closure when they seek to apply the power to premises where many persons, many vulnerable, will be displaced, and which provide valuable services to many others. This risk must be balanced against the risk arising from allowing the behaviour to continue, and the other powers that may be available. It is likely however that in the vast majority of cases such behaviour will not occur in places of this type.

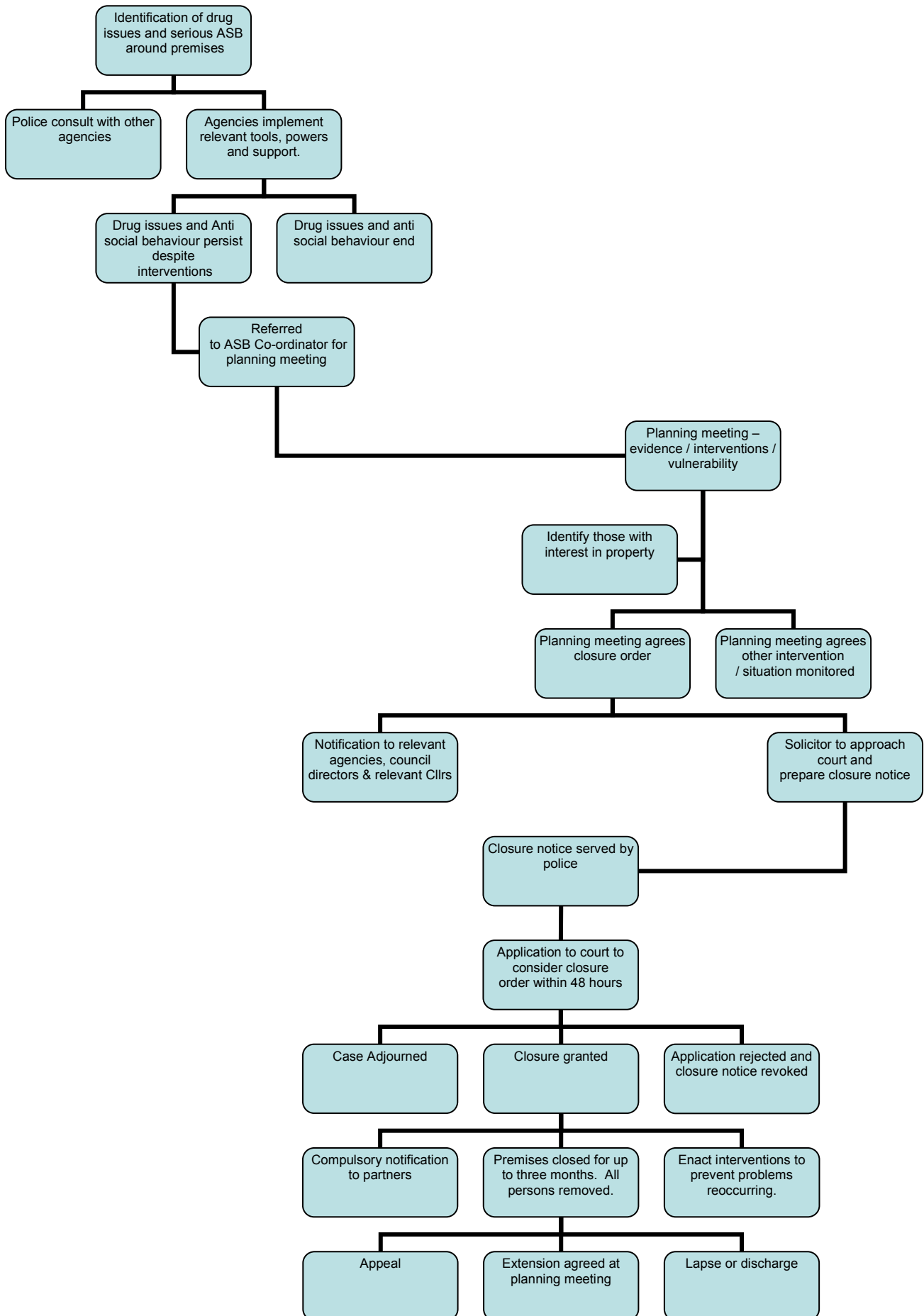
The consultation requirement is crucial here. Whilst the opposition of the Local Authority is not a bar to closure, it should be crucial in the process of making a decision. The Secretary of State also has the ability to exempt by Statutory Instrument certain types of premises from the scope of the power. Any such exemption will prevent the issue of a Closure Notice or Order against any such defined premises.

Appendix C Senior Officer Checklist

Closure Notice Approval Check List for Senior Officer

- Is there disorder or serious nuisance from the premises?
- Is there suspicion of production use or supply of Class A drugs?
- Has evidence of this been appropriately collated?
- Is this within the previous 3 months of the authorisation of the Closure Notice (today)?
- Has the Local Authority been consulted?
- Has this involved an exchange of information and have their views been taken into account where desirable?
- Have those who live, control, own or have responsibility or an interest in the premises been identified?
- Have Notices been prepared to be served upon them?
- Have other options been considered or tried where possible?
- Has a Magistrates Court Hearing been secured within 48 hours of the intended date and time of service?
- Does the Closure Notice contain the information required by the Act?
- Notice of the application for a Closure Order
 - Give notice of the application for a closure order
 - State the date, time and place where this will be heard
 - Inform all persons that access to the premises by those other than the habitual resident or owner is prohibited.
 - Explain that access by any other person is considered an offence
 - Detail the effects of the closure order if issued by the court
 - Provide information on how to contact advice providers such as housing or legal advisors.
- Have partner agencies been notified as appropriate?
- Has a risk assessment been made against the premises?
- Has appropriate back up therefore been provided and other policing tactics to be used alongside this action been considered?
- Has the nature of the premises and possible vulnerable persons or children been considered?
- Have appropriate services been advised of the potential demand upon services by these groups and drug users?
- Has the social good of closure been considered?
- Have arrangements been made for the secure sealing of the premises and the isolation of utilities?
- Has the Secretary of State granted any exemptions to types of premises?
- If so does the premises fall within that exemption?
- Have appropriate structures been put in place to ensure witnesses can be contacted for the case and will be kept informed of developments?
- Is there a plan to follow up the closure with renewed efforts to combat drugs and crime in the area?

Appendix D. Procedure for pursuing a Class A premises Closure Order





**CLOSURE OF
PREMISES
ASSOCIATED WITH
PERSISTENT
DISORDER OR
NUISANCE
Brighton & Hove**

**PROTOCOL
March 2009**

SECTIONS

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7. APPENDICES

- Appendix A. Certain sensitive types of premises in which it may not be suitable to issue a Closure Notice
- Appendix B. Senior Officer Checklist
- Appendix C. Procedure for pursuing a premises Closure Order

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1. THE PURPOSE OF THIS DOCUMENT

1.1 Purpose:

The purpose of this partnership protocol is to;

- Provide clear and agreed guidance for key partner agency staff when considering use of the powers to close premises associated with persistent disorder or nuisance.
- Identify the key issues and stages in the 'Closure' process.

1.2 Aims and Objectives:

The aims and objectives of this partnership protocol are to;

- Achieve consistency in practice to ensure a rapid response from the relevant partner agencies and to set out clear procedures in relation to 'vulnerable' tenants/occupants.
- Enable partner agencies to act rapidly to prevent deterioration in quality of life for local residents and communities.

1.3 Partnership Responsibilities:

Key partners as identified at the beginning of this document, have between them a range of 'statutory' duties and functions to enable them to effectively tackle the problem of anti social behaviour in residential premises. In addition there are partners who may not be under a statutory duty, but who need to be consulted when these agencies are considering applying for a premises closure order.

The statutory duties as summarised;

- Prevention of crime & disorder
- Prevention of anti-social behaviour
- Homelessness duty
- Protection from nuisance and harassment
- Child protection and 'Child in need' duty
- Protection of vulnerable clients duty
- Protection of environment in a safe and clean city

2. WHAT IS A CLOSURE ORDER

2.1 Definition of Premises:

For the purposes of this Partnership Protocol, a 'premises associated with persistent disorder or persistent serious nuisance' has been defined as follows:

Any land or other place (whether enclosed or not); and any outbuildings that are used as part of the premises. Any of the following are therefore included:

- Houses
- Flats
- Apartments
- Sheds
- Common areas adjacent to houses / flats
- Garages
- Factories
- Shops
- Pubs
- Clubs
- Public Buildings
- Community Centres or halls
- Car parks

The premises can also be a subsection of a larger building such as a flat within a block or a room within a hostel or bed and breakfast.

The powers do cover licensed premises however it may be more appropriate for these premises to be dealt with under current licensing legislation.

2.2 Definition of 'Significant and Persistent Disorder or Persistent Serious Nuisance':

There is no legal definition of what constitutes significant and persistent disorder or persistent serious nuisance and it is for the courts to define these terms. However Home Office guidance provides a list of the types of problems that may constitute significant and persistent disorder or persistent serious nuisance; this list should be taken by partner agencies as a guide to the level of nuisance that is considered to be serious in the context of the legislation.

- Intimidating and threatening behaviour towards residents.
- A significant increase in crime in the immediate area surrounding the premises.
- The discharge of a firearm in, or adjacent to, the premises
- Significant problems with prostitution or sexual acts being committed in the vicinity of the premises
- Violent offences and crime being committed on or in the vicinity of the premises.
- Serious disorder associated with alcohol abuse, for example in and around drinking dens.

- High number of people entering and leaving the premises at all times of the day or night and the resultant disruption they cause to residents.
- Noise (constant / intrusive) – excessive noise at all hours associated with visitors to the property.

2.3 The Legislation – Part 1A of the Anti Social Behaviour Act 2003 as amended by Part 8, Section 118 of the Criminal Justice and Immigration Act 2008:

The issuing of a closure notice can be authorised by a senior police officer of the rank of superintendent or above or the local authority. In order to assess the need for the notice they must have reasonable grounds for believing that

- a.) **At any time in the preceding three months a person has engaged in anti social behaviour in the premises;**

and

- b.) **that the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public.**

The Police or local authority may authorise the issue of a closure notice providing they are satisfied that;

- a.) **The appropriate chief officer of police or the local authority for the area in which the premises is situated has been consulted**

and

- b.) ***that reasonable steps have been taken to establish the identity of any person who lives on the premises, or has control of, or responsibility for, or an interest in the premises.***

2.4 The decision to issue a Closure Notice

The police or local authority ‘**should only authorise a Closure Notice once all other avenues have been pursued and have failed to stop the disorder in the premises**’. Therefore the authorising officer will need to ensure that the following has been taken into account:

- whether the proposed actions will have the intended impact on the problem at hand
- the suitability of the powers with all their implications
- the evidence about the level of disorder, nuisance and anti social behaviour associated with the premises
- how this action is to be followed up, ensuring that the premises do not become reoccupied for similar purposes, and how the closure can be followed up as part of the anti social behaviour strategy for the area
- the views of the relevant local authority or police

- any other powers – such as anti social behaviour orders (ASBO's) that may be more suitable and achieve the same result, without the need for the implications that the closure power contains
- the availability of other powers and supportive interventions, that can be used alongside the closure power to support the overall aim of reduction of nuisance.

The authorising officer must ensure that all partner agencies have been involved in dealing with the underlying anti social behaviour from the beginning rather than just taking the approach of tackling the property itself. These agencies include among others the police, council housing management and RSL's, social services, youth offending team, education and mental health services.

The authorising officer is required to demonstrate that all other anti social behaviour tools and powers have been considered before making the decision to apply for a closure order this includes mediation, referrals to support services such as the family intervention project, acceptable behaviour contracts, parenting orders, ASBO's, tenancy enforcement, injunctions etc.

2.5 Evidence of disorder or serious nuisance:

Serious nuisance is often demonstrated by accounts from neighbours and/or professional witnesses of the distress caused to the community by the activities of the premises. The accounts should provide an objective basis for an assessment of the gravity of the problem. The accurate recording of events, over time, will also be very important to prove the sustained and intrusive nature of the disorder and serious nuisance.

Evidence of disorder or serious nuisance in statements provided by residents/occupants affected by the behaviour as well as evidence obtained from professional witnesses can be used in proceedings brought by the Police or Local Authority. The partnership agencies need to be mindful of needs of witnesses who may suffer acts of recrimination from individuals associated with the behaviour.

2.6 Who has the legislative power to serve Closure Notice?:

The legislative power is with the Police and Local Authority. Upon an application by the Police or Local Authority to the Magistrates' Court a Closure Order is sought that can then be served on anyone identified as an interested party. However, in Brighton & Hove levels of partnership working are such that although the power to obtain Closure Notices is with the Police and Local Authority, other Partner agencies will play a vital role in the process.

A shared problem solving approach is a clear advantage in sharing resources, intelligence and pooling evidence to effectively tackle the problem and prevent it from re-occurring.

2.7 Evidence requirements:

The evidence requirements have to meet the threshold as set down by the legislation. (see section 2.3)

The police can collect evidence of nuisance, disorder and criminal offences made in and around the premises. While the council or RSL may be in a position to provide information regarding complaints received from residents and evidence from housing officers in the form of diary sheets and tenancy file history.

In this context a partnership approach to evidence gathering needs to be clear and unambiguous from the outset and with review timescales put in place with the close involvement of a solicitor.

Likely sources of evidence;

- resident diary sheets
- letters of complaint
- Council Housing tenancy file correspondence (if applicable)
- Registered Social Landlord or Housing Association file correspondence
- Environmental Health information, evidence and attendance at premises
- Police Offender profiles
- Police arrest history at premises
- Specific offender arrest history
- Witness statements
- Record of Police incident history in and around premises
- Map indicating incidents of anti-social behaviour, offences and complaints linked to the premises address

2.8 Practical arrangements:

Due to the very nature of serious anti social behaviour the community is likely to be extremely apprehensive about providing evidence to assist the 'Closure' process.

Having identified potential premises at an early stage, key local officers should agree a local strategy to tackle this and to reassure residents and the community that they are tackling the issue proactively. Partners need to be very clear with each other about potential difficulties and should agree to meet regularly and keep channels of communication open to ensure information sharing and the ability to react rapidly.

3. VULNERABLE OCCUPANTS

Key consideration must be given to vulnerable status at early planning stage.

3.1 Identifying vulnerability:

In Brighton & Hove there is fairly frequent incidence of anti social people becoming involved with a tenant or occupant and then over time the premises becomes associated with serious nuisance and other criminal activity. In

these circumstances the original tenant/occupant effectively loses control of their home and becomes a victim of circumstance. The perpetrators target vulnerable individuals they can manipulate through intimidation, threats of violence and actual violence. In a small number of cases there may be children living on such premises. It is essential that the Police or the Local Authority advise Social Services and other relevant agencies immediately if children or vulnerable adults are identified in the property.

- Vulnerable individuals in this circumstance are as much a victim as the wider community and if they meet certain criteria they should be treated as such.
- It is essential that robust contingency planning is put into place to ensure that homelessness is prevented for anyone who is vulnerable or has children.
- Criteria are set out below as a guide, but vulnerability should not be decided on the basis of how many criteria they meet it should be a multi agency decision based on individual circumstances.

3.2 Vulnerability guidelines:

These categories should be used to guide decision building process and establishing a profile of the case and vulnerable status.

Look not only at current status but to try to ascertain historical circumstance.

- Child Protection concerns, Duty & Assessment Team (D&AT) involvement
- Abusive relationship
- Domestic Violence
- Learning difficulties
- Physical disability
- Mental health concerns
- High support needs through floating support, Special Needs Housing Officer, key-worker or other
- Tenancy history (priority transfer history)
- Substance misuse

The above criteria is not an exhaustive list, but it can be used as a starting point when making the vulnerability assessment.

- A comprehensive and objective decision at the earliest stage will have a decisive impact on how to proceed with the case.

For example, it may become clear that the occupant has lost control of the premises and is regularly confronted with violence within the home. A priority transfer may be appropriate. Where a tenant is excluded from their secure tenancy they should be referred to the Local Authority Homeless Persons Unit where they will be assessed to establish whether or not there is a statutory duty for re-housing assistance. The Police and Local Authority officers involved in the process will need to immediately refer information to the Homeless Persons Unit to assist them in assessing the individual's status.

Where the Police have issued a closure notice in respect of privately owned/managed accommodation the tenant/occupant concerned should be referred to the Local Authority for appropriate advice and or assistance in respect of services that may be available to them including a referral to the Authority Homeless Persons Unit.

If in doubt, discuss with your line manager for guidance.

If the premises does not to the best of your knowledge involve any vulnerable clients, record and substantiate this decision and proceed. The Authority should consider issuing possession proceedings to recover the property following a closure notice in cases where the tenant is not vulnerable and is involved in the behaviour.

In cases involving a vulnerable tenant other action can be taken alongside a closure order in order to prevent further problems examples of this are:

- Assisting the tenant to surrender the original tenancy and be re-housed in alternative accommodation or supported accommodation.
- Tenant to sign an acceptable behaviour contract in new accommodation or on return to closed accommodation.
- A care / support package to be put in place by relevant service providers as soon as a new tenancy commences or they return to the closed property.

4. THE PROTOCOL IN ACTION

4.1 How to get started:

Prior to the protocol being put in place the lead officer in the case i.e. anti social behaviour (ASB) caseworker, ASB Housing Officer, RSL Housing Officer or Police Officer will have, in conjunction, with partner agencies attempted a series of interventions with the household concerned. This should include where appropriate referrals to support services and engagement with partner agencies such as social services, mental health services, substance misuse services, youth offending team, integrated youth support services and domestic abuse services. Interventions such as home visits, acceptable behaviour contracts, parenting contracts, warning letters, injunctions and ASBO's should have been considered or attempted.

If these interventions have been unsuccessful and serious and persistent nuisance continues and there is a build up of information provided by a wide range of sources then the protocol will be instigated.

Primarily, those providing the supporting intelligence will be one or more of the following:

- Sussex Police
- Registered Social Landlord
- Brighton & Hove Environmental Health Manager
- Council Housing Anti Social Behaviour Housing Officer

- Partnership Community Safety Team, Anti-social Behaviour Team Caseworker
- Social Work Manager

Following the decision by the lead officers that a Closure order is necessary the case will be referred to the ASB Co-ordinator.

Following the referral the ASB Co-ordinator will do the following

- Identify the relevant social landlord (with the assistance of the anti social behaviour team caseworkers)
- Contact the appropriate District Police Inspector and Housing Manager to discuss whether the Closure Protocol should be implemented.
- If the Closure Protocol is agreed the ASB Co-ordinator and District Inspector will dependent on timescales either add the property to the agenda for the monthly ASB Multi Agency Planning Meeting or call a separate planning meeting.
- Request an offender profile of any known residents and a profile of the disorder associated with the property from the ASB Co-ordinator for Sussex Police.
- Invite all relevant parties to the meeting and request that they bring the evidence that they have accumulated of disorder and details of the attempted interventions.

4.2 The Planning Meeting Objectives:

The Planning Meeting is an inter-agency meeting called to review whether a tenant should be targeted for intervention under the Protocol. The meeting will decide whether the tenant will be considered as 'Vulnerable' or 'Non-Vulnerable' for the purpose of the Protocol. The assessment will be based upon the information available to the partnership agencies. Normally, each agency should be prepared at the meeting to disclose the information, which would be necessary to take an informed decision. The Planning Meeting decision is not a fixed decision and the Protocol will allow this decision to be changed as the process develops.

The Planning Meeting will be an inter-agency meeting chaired by the ASB Co-ordinator or Police District Inspector. The meeting will consist of the lead managers from relevant services, the ASB Team solicitor and the Caseworkers / Officers directly working with the household.

The planning meeting should:

- Consider whether the closure is appropriate given the nature of the problem identified
- Consider whether there are alternative or more appropriate tools and powers which could be used to alleviate the nuisance

- Consider whether all alternative tools, powers and support services have been attempted or considered.
- Agree long term strategies for the resolution of the nuisance
- Look at how the proposed closure will effect vulnerable people
- Agree a strategy for protecting vulnerable people and preventing them from homelessness
- Obtain intelligence on property ownership / management where the property is not social housing.
- Ensure that the allocated caseworker informs those who may be subject to the closure order that it is being considered and the possible consequences for them.
- Provide advanced notification to homeless services or social services of the proposed action as it may place additional demands on their service.
- Agree the notification, which is required in the legislation, of the Chief Executive of Brighton & Hove City Council, relevant local authority department directors and local councillors who lead on relevant issues i.e. anti social behaviour, housing, children and young people.

If the decision of the meeting is that a closure order will not be applied for then the meeting will agree further actions for example:

- Where there is not enough evidence to proceed with a closure order an agreement will be made about how much evidence is required and who will monitor the situation in the future.
- Where the meeting decides that a closure order is not appropriate other interventions will be agreed within the meeting.

4.3 Consultation:

Section 11a 2-3 of the Anti Social Behaviour Act requires consultation between a police representative of superintendent level or above and one of the following local authority staff

- Anti Social Behaviour Co-ordinator
- Head of Community Safety
- Assistant Director of Public Safety
- Director of Environment or Adult Social Care & Housing
- Assistant Director of Housing
- Assistant Director of Housing Management

This consultation has to be documented on the certificate of consultation for closure of premises and should be undertaken prior to contact being made with the court. The signed certificate of consultation should be supplied to the solicitor handing the case.

5. THE LEGAL & COURT PROCESSES

5.1 The purpose of the Closure Notice:

The Closure Notice alerts those using the property including residents, the owner and any others with an interest who can be identified, of the intention to apply to the court for a Closure Order. It sends a clear message to the community that action is being taken against the premises, and informs those involved in nuisance that their activities will no longer be tolerated. It gives notice that impending closure of the premises is being sought and details of what this entails. The persons in these premises who are involved in the nuisance will have been previously warned of impending action, in an attempt to reform their behaviour and may have been the subject of other law enforcement activity before any notice is served. However it is still essential that when the Closure Notice is served persons in or associated with the premises understand its meaning and that even at this point they have a chance to reform the behaviour associated with the premises. The notice is intended to encourage those who are not habitually resident to leave, or they may be arrested.

5.2 Requirements for the serving of the Notice:

There is a requirement in the Act for the Police and Local Authority to take reasonable steps to identify those with an interest, control or responsibility or who live in the premises before the notice can be authorised.

The Police and Local Authority are not required to ensure that all such persons, who may have an interest in the premises and who may suffer financial loss as a result of the closure, are notified prior to the Notice being issued. The Act requires 'reasonable steps' to have been taken to identify such people. It may be the case that all such persons are difficult to trace and the delay required to identify them would remove the benefits of the Power.

A closure notice once served must be in court within 48 hours therefore prior to the notice being served the Solicitor will need to contact the court to establish a date and time for the hearing.

Following authorisation the Closure Notice must be served on any such person who is identifiable at the property or who appears to have an interest or to be affected by potential closure. These persons should be easily identified by immediate enquiries to the tenant or those resident, or neighbours; or through local authority records.

The fixing of the Notice to the building, to each normal means of access to it and any outbuildings are also intended to ensure the closure is publicised to anyone with an interest.

5.3 The effect of the Notice:

It should be remembered that the Closure Notice in itself may on its own achieve the intended outcome of stopping the disorder and nuisance associated with the premises. For the initial 48-hour period before the Court considers the application it may provide immediate relief to the community.

It also creates offences, backed with the power of arrest, for any persons who do not habitually reside in the property who enter or remain in the premises. The intention is to encourage all those not properly resident to leave at this

point and relief to be obtained during the notice period. However it allows for the tenant to stay whilst they arrange alternative accommodation.

Some persons occupying the property may need alternative accommodation and may need to seek housing advice. These enquiries need to be directed to the Housing Advice Centre at Bartholomew House, Brighton and the Housing Options Duty Manager should be informed that the notice has been served and that these people will be approaching them for assistance.

5.4 The contents of the Notice:

The Closure Notice must contain the following information:

- A Closure Order is being sought and the address it is being sought on
- Only the owner or persons who are habitually resident at the premises may now enter the building, but no one else
- The date, time and place at which the Closure Order will be considered
- An explanation of what will happen should a Closure Order be granted- in particular that there will be no further entry to the premises and it will be totally sealed. If the premises are residential then the occupier will be forced to find alternate accommodation.
- An explanation that any person who enters the premises who is not the owner or a person who is habitually resident there commits an offence and can be arrested.
- Information on relevant support and advice providers who will be able to assist in relation to housing and legal matters. This will depend on the particular arrangements in place for the area, and should be agreed with the relevant local authority as part of the consultation. Advice providers are likely to be the Housing Advice Centre or point of contact for applications for homeless persons, the Citizens Advice Bureaux and the Local Law Centre. Information on help with drug treatment options and leaving sex work exit options is also desirable.

5.5 Serving the Notice:

The notice must be served on all those with an interest in the property, including residents (who may not be tenants but who live there nonetheless), the tenant and their dependants at the property; the owner or their representative; and persons affected through access to their property.

Identifying these persons need not delay the service of the Notice, for instance the electoral register or council tax records held by the local authority should identify the owner or occupier. If this simply identifies a letting agent, serving notice on them is acceptable.

Service of the Closure Notice can be effected by the affixing of the Notice to the premises, but effort should also be made to give a copy of the Notice to any interested persons. Posting a notice is not desirable, due to the speed and effects of the Notice. However if the owner or letting agent identified is not local posting the Notice may be considered sufficient as the only practicable means.

The closure notice may be served by a police officer or a representative of the local authority.

Entry to the property is not required to serve the Notice; it can be affixed outside or handed to the residents at the door with clear explanation of its nature and effect

It will be for the police and the relevant local authority to decide the level of joint working on the service of the Closure Notice. In some areas, where it is considered safe to do so, it may be appropriate for the police to be accompanied by the relevant local authority or RSL representative.

5.6 Dealing with those in the premises:

Once served, those at a premises affected by the Closure Notice may well choose to leave voluntarily. Those who habitually reside there should be advised to seek alternative accommodation. If they have failed to do so themselves, they should be referred to the Closure Notice or the advice/support providers referred to in the Closure Notice, regarding help with accommodation, other support needs, and obtaining legal assistance. It may still be possible for those resident to change the way the premises are used. However it is an arrestable offence for a person who does not normally live at the premises or is not the owner to continue to reside at or enter the property during the Closure Notice period. If convicted the individual could be liable to imprisonment or a £5000 fine.

The extent to which this power of arrest is used is the decision of the district inspector based on an assessment of the likelihood of continued disorder or serious nuisance. The application of this power is useful if by it, those continuing to cause persistent nuisance, are removed from the house. If arrest serves this purpose it should be used. Use of the power may be appropriate as a tool in acting against persons identified through service of notice where intelligence suggests they have engagement in other criminal matters.

It is also an arrestable offence to obstruct a police officer serving the Closure Notice.

5.7 The Magistrates Hearing:

Prior to the service of the notice the ASB Solicitor will notify the court of the intention to apply for a closure order and agree with them the time date and location of the hearing which will then be included on the notice. Once the notice has been served the ASB Solicitor will issue an application to the magistrates court for a closure order.

Prior to the hearing the police and local authority in conjunction with the ASB Solicitor should ensure that the evidence to be presented is in good order and that support for community witnesses at the court is in place to enable them to give evidence.

At the court hearing the evidence should be presented by the police or a local authority employees and supported if appropriate by evidence from victims and witnesses.

To issue a closure order the court must be satisfied that:

- A person has engaged in anti social behaviour on the premises in respect of which the closure notice was issued
- The use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public; and
- An order is necessary to prevent further such disorder or nuisance for the period specified in the order.

The court is asked to decide whether a closure order is necessary to prevent further serious disorder or nuisance and therefore it may wish to consider whether alternative methods are more appropriate and what other action might have been attempted. For this reason it is important that a history of the action that has been taken and considered against the premises and the residents is provided to the court.

The court may also, in determining whether to make a closure order have regard to

- The ability of any person who habitually resides in the premises to find alternative accommodation; and
- Any vulnerability of that person

The court is also asked to consider the implications on the tenant of the continued accruing of rent on the closed property. Dependent on their circumstances they may find themselves being responsible for rent on two properties. It is therefore important that the Police or Local Authority has liaised with housing and housing benefits officers on the options available for the tenant and the advice they should be given.

The court is not asked to decide on the relative merits of applying the power to certain types of premises rather than others. The court is simply asked to decide whether the use of the power in the specific circumstances involved is necessary to prevent the occurrence of the behaviour.

5.8 Potential arguments in defence of closure:

The owner of the premises, a person who has control or responsibility for the premises and any other person who has an interest in the premises may contest the application to make an order. The court can defer the making of the Order by adjournment for 14 days to allow those persons to prepare their case.

It is not the intention that all cases should be routinely adjourned. This would defeat the object of the power, which is speed. The court must decide whether an adjournment is needed. Anyone seeking an adjournment must demonstrate reasonable grounds why it is needed.

The court will wish to hear why the order should not be made. The Act does not specify what reasons there should be for not making the order. This will be for the court to decide in each case. Possible reasons include:

- The landlord, owner or tenant has just been appraised of the situation, and can demonstrate that effective action is being taken to deal with it; or -
- There is evidence that contradicts the evidence presented by the police, or evidence that cannot be presented at this time but which will be presented subsequently, thus presenting a case for adjournment

The court operates on a civil rather than a criminal standard of proof (i.e. balance of probabilities).

The court can of course decide that notwithstanding the owner or landlords contention that they will address the problem, that a closure order should still be made whilst they attempt to do so. If they can then subsequently demonstrate sooner than the specified order period that the problem has been successfully addressed then an application can be made for the order to be discharged.

Hence whilst the court has nominally three options, denial of the application, adjournment or closure. In practice the ability to vary the length of the order gives the court flexibility to deal with different circumstances where a shorter order may be appropriate, bring immediate relief whilst the landlord and police deal with the problem, but not leading to extended and costly closure.

The maximum length of an order is 3 months with possibility of further extension to not more than 6. The length of the order should reflect the circumstances above and the desire to bring the property back into management as quickly as possible.

5.9 Extensions:

The powers to extend a closure order for a further 3 months are expected to be used only on rare occasions. There are many disadvantages to leaving properties empty for extended periods and only when there are real concerns that the property will return to its former use should an extension be made.

If an extension is considered necessary then the lead officer needs to refer this matter to the ASB Multi Agency Planning Meeting so that the process of consultation can take place again. The procedure for the authorisation of the extension is the same as with the application and the tests are the same as for the original closure.

The application for an extension may be made at any time prior to the date on which the original order would have expired.

5.10 Appeals:

The act entitles any persons on whom a Closure Notice was served, as well as any person who has an interest in the premises but on whom the closure notice was not served, to appeal against the making or extension of a closure order.

An appeal may also be made by the Police or Local Authority against the refusal to grant or extend an order.

An appeal against the order or decision not to grant it must be brought to the Crown Court within 21 days, starting on the day on which the order or decision was made.

5.11 Discharge of a Closure Order:

It is important that the property remains empty for as short a time as possible therefore if the nuisance has been addressed satisfactorily before the end date of the closure order, for example where a tenant has surrendered their tenancy, an application should be made to the court to discharge the order. The court will wish to be reassured that the same pattern of behaviour will not reoccur and where a vulnerable person is due to return to the property the court may want to see that an adequate level of support is in place.

Those with a legal right to occupy (or those connected with) the premises or the owner may seek the discharge of the order themselves however the court should give careful consideration to the likelihood of the original problems returning. If the court is satisfied that the owner or landlord is capable and willing to get the problem under control then the order should be discharged.

6. POST HEARING TASKS

6.1 The effect of the Closure Order:

The closure order gives a power to close a property completely and remove access by any persons, even those with rights of abode or ownership, except where they are allowed to enter the property under the supervision or direction or permission of the police or the court. The order allows for a property to be sealed, closed, and removed from public use for the period of the order. The Closure Order comes into force immediately the court makes the order.

Breach of the Closure Order is an offence and persons can be arrested if they break it.

6.2 Enforcing a Closure Order:

As soon as a Closure Order is granted by the courts it should be enforced. This means the premises in question can be cleared of all persons present including residents and those with an interest in the property who may have remained after the service of the Closure Notice.

The police can use reasonable force to enter and seal a property. This is to allow removal of defences that are often built into such premises and to seal the premises with the required temporary building work or shutters.

It may be that the service of the Notice did not involve entering the premises. The process of entering to enforce the Order should be treated with extreme

caution. Whilst in many cases the occupants will already have left, in others they may be resistant to leaving. Therefore the operation should be undertaken following a risk assessment. Authorised persons such as local authority workers, maintenance staff, utility persons or Housing Officers should not be present until any safety issues have been addressed and the property cleared.

6.3 Dealing with those still occupying the premises:

Those found contravening the Closure Order can be arrested if officers on the scene feel it is appropriate on the basis of the evidence available. Those inside or residing are likely to fall into these groups:

- The tenant/owner who may be involved in serious anti social behaviour but who may also be a vulnerable person, who may have social care and housing needs, related to substance misuse, mental health, age or some other cause
- Dependents of the tenant/owner, including children, all of whom will have housing need, and some of whom may have welfare needs that require action and support from the local authority.
- Residents who happen to be there, some of whom may have nowhere to go and may have particular health needs.

These are only examples of persons likely to be found. The only persons who are able to enter the premises following the Closure Order are police officers or persons authorised by the chief police officer or the local authority for statutory purposes i.e. maintenance or those persons granted access by the court.

6.4 Immediate COMPULSORY notification to partners:

Once the Closure Order has been served as described above, telephone or e-mail notification should be made to key partners by the lead officer (i.e. ASB Caseworker, ASB Housing Officer, Police Officer) to the following;

- **Children, Families & Schools-Duty & Assessment Team where children are directly affected by the Closure Order.**
- **Homelessness Team and Housing Advice Centre.**
- **Local Council Housing Office.**
- **Emergency boarding up service to make the property secure**
- **ASB Co-ordinator**
- **Other agencies where appropriate i.e adult social services, learning disability team, mental health team**

When notifying the above key partners, you **MUST** provide the following details:

- **Address of premises**
- **Date of Closure Order served at property**
- **Name(s) of persons resident (legally or otherwise) and who will be displaced through Closure Notice enforcement.**

- **Highlighting any Child Protection Issues**
- **Potential intelligence in relation to displacement to other addresses.**

All appropriate contact details for partner agencies are available at the beginning of this document.

6.5 Securing the property:

Once the closure Order has been served and the property has no occupants within, it is necessary and appropriate that the premises are made secure as a matter of urgency.

Plans should be made to secure the property prior to the hearing so that they can be executed immediately to prevent any occupants regaining entry to the premises.

An emergency boarding or property securing company arrangement should be made. One of the best methods available in the city is Orbis Property Management who can supply and install metal screens to all windows and doors on the premises. The cost associated with this service is for initial fitting, followed by hire charge dependant on length of time in use and finally a further charge once screens are removed.

If the property is Council or RSL it is entirely reasonable that the cost should be borne by them as the landlord or owner of the premises.

If the property is privately owned or rented then it is entirely appropriate for the owner or landlord of the property to make comprehensive arrangements in partnership with the Police and key partner officers. However if the owner is unwilling to engage in this process then the Police or Local Authority will arrange for the property to be sealed. The Police or Local Authority may then apply to the magistrates court for costs against the owner for any expenses incurred in enforcing the closure order, we should notify all landlords of this position.

6.6 Breach of a Closure Order:

Section 11D of the act creates offences of remaining in or entering a property that is subject to a closure notice or closure order without reasonable excuse or of obstructing a constable or authorised person carrying out certain functions under these provisions. The maximum penalty for breaching a Closure Order is a fine of £5000, imprisonment for 51 weeks or both.

7. APPENDICES

Appendix A. Certain sensitive types of premises on which it may not be suitable to issue a Closure Notice.

The senior authorising officer must take into account the potential harm that may result in the closure of some types of properties and consider the overall social good in doing so. Whilst no specific types of premises are exempt from these powers, the appropriateness of their use in some circumstances should be considered. Ultimately it is for the court to decide whether the closure of any specific premises on a specific occasion is justified, but the authorising officer should also be mindful of the implications and whether other methods of control may be more appropriate.

These circumstances may include:

- Properties where closure cannot be effected without removing access to large numbers of persons who would be made homeless, have no right of re-housing, or would otherwise be caused harm through closure. Examples might include hostels with many residents (although not smaller units), bed and breakfast hotels and long term supported accommodation such as sheltered schemes.
- Hospitals
- Schools
- Children's homes
- Drug treatment services

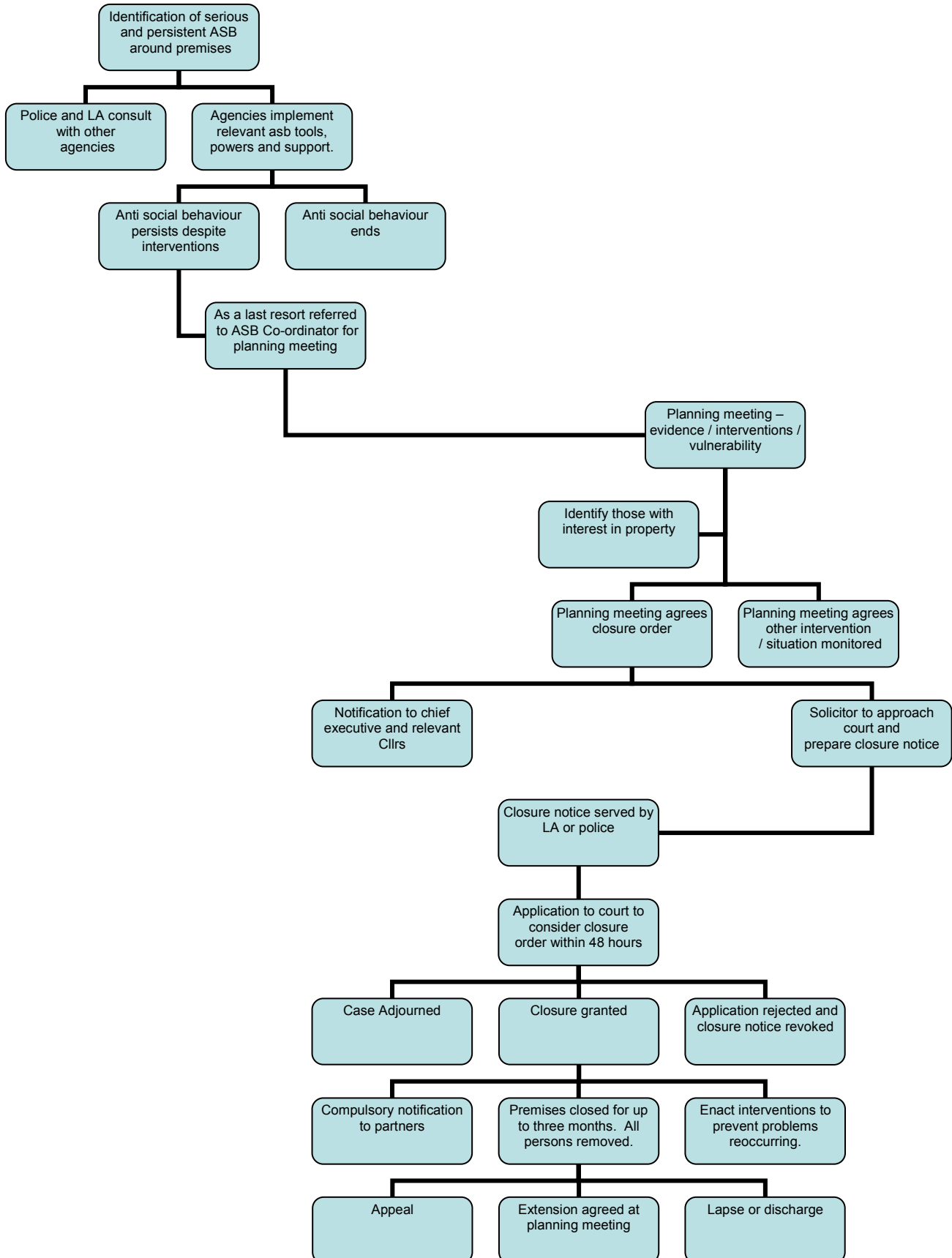
The court is not asked to decide whether it is in the public good whether such premises are closed; simply whether the criteria for closure are met and the making of the order will prevent the occurrence. Hence the authorising officer making the decision must be mindful of the implications of closure when he seeks to apply the power to premises where many persons, many vulnerable, will be displaced, and which provide valuable services to many others. This risk must be balanced against the risk arising from allowing the behaviour to continue, and the other powers that may be available. It is likely however that in the vast majority of cases such behaviour will not occur in places of this type.

Appendix B. Senior Officer Checklist

Closure Notice Approval Check List for Senior Officer

- Is there persistent and significant disorder or persistent nuisance from the premises?
- Has a person engaged in ASB on the premises in the three-month period ending with authorisation of the closure notice (today)?
- Have other interventions been used or considered and rejected for good reasons?
- Have other options being considered or tried where possible?
- Have the police or local authority been consulted?
- Have all partner agencies been consulted?
- Has the evidence of this consultation being documented?
- Has this consultation involved an exchange of information and have their views been taken into account were desirable?
- Have those who live, control, own or have responsibility or an interest in the premises been identified?
- Have notices been prepared to serve on them?
- Does the closure notice contain the information required by the act?
 - Give notice of the application for a closure order
 - State the date, time and place where this will be heard
 - Inform all persons that access to the premises by those other than the habitual resident or owner is prohibited.
 - Explain that access by any other person is considered an offence
 - Detail the effects of the closure order if issued by the court
 - Provide information on how to contact advice providers such as housing or legal advisors.
- Has the magistrates court been secured for no later than 48 hours after the intended date and time of service?
- Has the nature of the premises been considered?
- Have any vulnerable persons or children been identified and taken into account?
- Has the social good of a closure been considered?
- Has a risk assessment been carried out prior to entering the premises to enforce a closure order?
- Have arrangements been made for the secure sealing of the premises and the isolation of utilities?
- Have appropriate structures been put in place to ensure that witnesses can be contacted for the case and will be kept informed of developments?
- Is there a plan to follow up the closure with renewed efforts to combat persistent disorder in the area?

Appendix C. Procedure for pursuing a premises Closure Order



Document is Restricted

