

# Public Document Pack

## Executive Member Decisions

Friday, 31st January, 2020

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Date Published: 31<sup>st</sup> January 2020

Denise Park, Chief Executive

## EXECUTIVE MEMBER DECISION



**REPORT OF:** Executive Member for Growth and Development

**LEAD OFFICERS:** Director of Environment and Operations

**DATE:** 15 January 2020

**PORTFOLIO/S AFFECTED:** Growth and Development

**WARD/S AFFECTED:** All

### **SUBJECT:**

Progress made on the Management of Highway Drainage Assets

### **1. EXECUTIVE SUMMARY**

To advise the Executive Member on progress made with the implementation of the recommendations of the 2012 HMEP Guidance for the period of April 2018 to March 2019.

### **2. RECOMMENDATIONS**

To note the report.

### **3. BACKGROUND**

Highways Maintenance Efficiency Programme (HMEP) guidance published 12 recommendations in 2012 relating to the management of highway drainage assets. In 2016, UK Roads Liaison Group (UKRLG) published guidance with further recommendations on drainage maintenance. In response of this, Highways published an action plan in 2017, with a gap analysis investigating the asset management position, ensuring compliance and demonstrating improvement.

The implementation of the 2017 action plan demonstrates compliance with the recommendations through adoption of the Highway Gully Cleaning Strategy.

### **4. KEY ISSUES & RISKS**

The biggest challenge facing BwDBC Highways in effectively managing highway drainage and local flood risk was defining and identifying the drainage assets location and condition. Much of this asset data collection has now been undertaken with an ongoing programme to complete.

From April 2018 to March 2019, the UK experienced periods of increased rainfall resulting in serious flooding incidents. Fortunately, Blackburn and Darwen experienced no major disruption, with only short-lived incidents of road closures with low-level impact.

Quantifying improvements is always challenging due to weather differences year on year, below please see a table comparing some key indicators as to drainage network management between the last 2 financial years, i.e. 2017/18 and 2018/19:

	Year 2017/18	Year 2018/19
Total Rainfall ( MM)	1377	1262
Number of Met Office Flood Warnings	19	17
Number of EXOR complaints from members of the public on drainage matter including blocked gullies and flooding incidents	544	452
Highway flooding incidents	3	1
Road closure due to flooding	1	0
Number of gullies being cleaned	6444	5837
Number of Critical gullies being cleaned (twice a year )	400	420
Number of property internal flooding	24	10

From this it can be seen that, despite similar rainfall levels, there has been a reduction in flooding complaints from members of the public, reduced flooding incidents and reduction in the internal flooding of property.

Whilst the number of actual gullies being cleansed dropped in 2018/19 this was due to a conscious decision to focus some effort on the cleansing and maintenance of critical inlet structures adjacent to the highway. Also it should be noted that whilst the overall number of gullies being cleansed dropped, the number of critical gullies cleansed did in fact increase. This is consistent with the decision to target resources more on those critical flood risk areas.

#### **5. POLICY IMPLICATIONS**

This report complements the existing highway management gully cleaning strategy and allows improvements to the Council's management of the adopted highway network.

#### **6. FINANCIAL IMPLICATIONS**

There are no direct financial implications of this report.

#### **7. LEGAL IMPLICATIONS**

None

## 8. RESOURCE IMPLICATIONS

No additional resources are required.

## 9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## 10. CONSULTATIONS

All Councillors are consulted on an annual ward by ward gully cleaning programme and also any drainage maintenance works within their ward. Councillors consult residents through local ward solution meetings.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

<b>VERSION:</b>	<b>1</b>
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<b>CONTACT OFFICER:</b>	Imran Munshi
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<b>DATE:</b>	15 January 2020
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<b>BACKGROUND PAPER:</b>	Highway Maintenance Gully Cleaning Strategy
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## EQUALITY IMPACT ASSESSMENT CHECKLIST

***This checklist is to be used when you are uncertain if your activity requires an EIA or not.***

An Equality Impact Assessment (EIA) is a tool for identifying the potential impact of the organisation's policies, services and functions on its residents and staff. EIAs should be actively looking for negative or adverse impacts of policies, services and functions on any of the nine protected characteristics.

The checklist below contains a number of questions/prompts to assist officers and service managers to assess whether or not the activity proposed requires an EIA. Supporting literature and useful questions are supplied within the [EIA Guidance](#) to assist managers and team leaders to complete all EIAs.

<b>Service area &amp; dept.</b>	Environment and Operation	<b>Date the activity will be implemented</b>	15/01/2020
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<b>Brief description of activity</b>	Progress made on the Management of Highway Drainage Assets
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Answers favouring doing an EIA	Checklist question	Answers favouring not doing an EIA
<input type="checkbox"/> Yes	Does this activity involve any of the following: - Commissioning / decommissioning a service - Change to existing Council policy/strategy - Budget changes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	Does the activity impact negatively on any of the protected characteristics as stated within the Equality Act (2010)?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> No <input type="checkbox"/> Not sure	Is there a sufficient information / intelligence with regards to service uptake and customer profiles to understand the activity's implications?	<input checked="" type="checkbox"/> Yes
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	<b>Does this activity:</b> Contribute towards unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act <i>(i.e. the activity creates or increases disadvantages suffered by people due to their protected characteristic)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Reduce equality of opportunity between those who share a protected characteristic and those who do not <i>(i.e. the activity fail to meet the needs of people from protected groups where these are different from the needs of other people)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Foster poor relations between people who share a protected characteristic and those who do not <i>(i.e. the function prevents people from protected groups to participate in public life or in other activities where their participation is disproportionately low)</i>	<input checked="" type="checkbox"/> No
<b>FOR =0</b>	<b>TOTAL</b>	<b>AGAINST =6</b>

**Will you now be completing an EIA?**

Yes

No

The EIA toolkit can be found [here](#)

<b>Assessment Lead Signature</b>	Imran Munshi
<b>Checked by departmental E&amp;D Lead</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No      Gwen Kinloch
<b>Date</b>	16/01/2020

# Agenda Item 2

## EXECUTIVE MEMBER DECISION



<b>REPORT OF:</b>	<b>Executive Member for Growth and Development</b> <b>Executive Member for Finance and Governance</b>
<b>LEAD OFFICERS:</b>	<b>Director of Growth and Development</b>
<b>DATE:</b>	9 <sup>th</sup> December 2019

<b>PORTFOLIO/S AFFECTED:</b>	<b>Growth and Development</b>	<b>Finance and Governance</b>
<b>WARD/S AFFECTED:</b>	<b>Ewood</b>	

**SUBJECT: Compulsory Purchase of an Individual Residential Property at 91 Infirmary Street, Blackburn.**

### 1. EXECUTIVE SUMMARY

To seek approval to initiate compulsory purchase action on the above privately owned property as part of the Council's Empty Property Strategy to reduce the numbers of long term empty properties and provide much needed accommodation for the Borough.

### 2. RECOMMENDATIONS

That the Executive Member:

Upon being satisfied that:

- it would contribute to the economic, social and environmental well-being of the borough;
- there is a compelling case in the public interest as the interference with Human Rights involved is proportionate in the interests of bringing empty properties back into use;
- sufficient funds exist for carrying the resolution into effect;
- no impediments exist to the implementation of the scheme to redevelop the property (subject to the making of the order) and there is a reasonable prospect of its implementation, should the order be made;
- the whole of the legal estate could not be acquired by agreement.

- 2.1 Authorise the Director of Growth and Development, in conjunction with the Director of HR, Legal and Governance to prepare and make a Compulsory Purchase Order (CPO) under section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981, for the purpose of acquiring the property to bring about its re-use and to make any modifications to the Order if required.
- 2.2 Authorise the Director of Growth and Development to negotiate terms for the acquisition by agreement of any outstanding interests in the land within the Order prior to its confirmation.
- 2.3 Authorise the Director of HR, Legal and Governance (in the event that the Secretary of State notifies the Council that it has been given the power to confirm the Order) to confirm

the order if he is satisfied that it is appropriate to do so.

- 2.4 Authorise the Director of Growth and Development to approve agreements with the land owner setting out the terms of withdrawal of objections to the Order (including the power to defer implementation post confirmation) and in consultation with the Director of HR, Legal and Governance to make deletions from and/or minor amendments and modifications to the proposed Order and Order plans.

### **3. BACKGROUND**

- 3.1 As part of the Council's commitment to bringing empty properties back into use, this property has been evaluated using the priority scoring matrix (Appendix 1). It scores highly due to the fact that the property has been empty for over 2 years and is currently in a very poor state of repair; the Council has also received a series of complaints in regards to this property.
- 3.2 The proposed CPO site is outlined in red on the attached plan (Appendix 2).
- 3.3 Substantial efforts have been made by the Empty Properties Team to identify and contact the owner to encourage him to bring the property back into use. Despite the owner stating his intention to refurbish the property in February 2018, the property remains in a derelict state.
- 3.4 91 Infirmary Street is situated in the Ewood Ward of the Borough in a predominantly residential area comprising of pre-1919 terraced housing, with new build family housing built in 2011 on the site of a former clearance area.
- 3.5 The property, which has been empty for 3 years, is a mid-terraced two storey house built of red brick, with a blue slate roof. The external condition is poor and neglected; the door and windows to the front and rear of the property are boarded over following anti-social behaviour including vandalism and theft. The rear yard wall is in a dilapidated state, leaving the yard open to access which has resulted in the yard becoming subject to fly tipping. Internally, the property has suffered some water damage resulting in fallen ceilings and the kitchen units have been damaged beyond repair.
- 3.6 Situated in a long terrace of residential properties; this property is having a detrimental impact on the local neighbourhood. There have been 14 complaints made to the Council in relation to the property. These complaints include
- The property being open to access
  - Fly tipping and rubbish build up in the rear yard
  - Rats due to rubbish build up
  - Anti-social behaviour resulting in smashed windows

### **4. KEY ISSUES & RISKS**

- 4.1 Tackling empty properties supports the key priorities in the Council's Corporate Plan and the Empty Property Strategy.
- 4.2 There are currently around 2,914 empty properties (5% of the total stock) in the Borough, of which 2,087 are classified as empty and unfurnished. 390 of those homes have stood empty for over 2 years and are being charged a Premium rate for Council Tax (as at 02.10.19.). Contact has been made with all owners of long term empty properties and as a direct result of

that intervention, 507 empty properties were brought back into use in 2018/19. However, as quickly as properties are removed from the empty property list, others are added to it.

- 4.3 Continued efforts are required to ensure that properties are empty for a minimum period of time and the Council's message that long term empty properties will not be tolerated continues to be communicated.
- 4.4 There are currently no grant funding opportunities available to support empty homes refurbishment (previous HCA initiatives ended in March 2015). Direct support and signposting is offered to help owners to bring their properties back into use. Where owners are unwilling or unable to bring their properties back into use, enforcement action is considered to be the most appropriate course of action to be taken.
- 4.5 Engagement with the owner of the property, including inviting the owner to take part in the empty homes refurbishment loan scheme, has been exhausted and compulsory purchase action is now considered to be the only course of action left to the Council to bring the property back into use.
- 4.6 Empty properties in the borough can have negative environmental impacts on neighbourhoods in addition to being a wasted housing resource. At neighbourhood level, empty properties attract fly tipping, crime, arson and nuisance. It is a priority to tackle these problems through enforcement as part of the wider effort to improve neighbourhoods and prevent blight.
- 4.7 Bringing empty properties back into use creates extra accommodation for rent or sale and could also generate additional income for the Council via New Homes Bonus (NHB) payment.
- 4.8 The costs will be funded from the Neighbourhood Intervention Fund which is part of the Council's Housing Capital Programme; there are sufficient uncommitted funds available within the programme to support the making of this individual CPO.
- 4.9 Once acquired by CPO, the property will be offered for sale via a local estate agent to the highest bidder with preference given to buyers who intend to own/occupy the property once renovated. A building licence will be granted to the buyer and formal sale is completed once the property has been renovated to the Council's required standard. This approach also encourages the use of local labour and local spend.
- 4.10 To date, 20 properties have been acquired using Neighbourhood Intervention Project funding. Of these, 16 have been successfully refurbished and occupied and 3 are in the process of being refurbished. 1 property is with our legal department awaiting exchange of contracts.

## **5. HUMAN RIGHTS IMPLICATIONS**

- 5.1 A Compulsory Purchase Order should only be made where there is a compelling case in the public interest. Members should be sure that the purposes for which it is making a CPO sufficiently consider the human rights of those with an interest in the land affected. In particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights (which provides that every natural or legal person is entitled to peaceful enjoyment of his possessions) and Article 8 of the European Convention on Human Rights (which provides every person is entitled to respect for his home and private life).



5.2 Notwithstanding the acknowledged impact that the CPO will have with regard to some aspects of the Human Rights Act 1998, the benefits identified in this report present a compelling case in the public interest for making the proposed CPO and compensation will be payable under the statutory compensation code.

5.3 The making of the proposed CPO is in the public interest because:-

- It will promote the social, environmental and economic well-being of the area and increase residents' confidence in the area.
- It will create extra accommodation for sale or rent.
- It will reduce the negative environmental impacts on the neighbourhood as empty properties attract fly-tipping, crime arson and nuisance.

## **6. POLICY IMPLICATIONS**

6.1 The Corporate Plan prioritises new house building and improvement of conditions in older housing. Bringing empty properties back into use is an alternative means of increasing supply and also improves housing conditions and is, therefore, relevant to both of the key corporate objectives.

6.2 Bringing housing back into use would increase housing supply in the borough. Properties may be occupied by owner/occupiers or be available as private rented accommodation. It would also free the local community of the problems created by properties standing empty and derelict for such a long time.

## **7. FINANCIAL IMPLICATIONS**

7.1 The funding for Orders made pursuant to section 17 of the Housing Act 1985 is available in the Neighbourhood Intervention Fund which is part of the Council's Housing Capital Programme.

7.2 The costs will be funded from the Neighbourhood Intervention Fund which is part of the Council's Housing Capital Programme; there are sufficient uncommitted funds available within the programme to support the making of this individual CPO.

7.3 Some revenue budget will be required to fund the CPO action and subsequent sale of the property. The amount required will be approximately £3,000 for the appropriate service of the required legal notices and £1,000 for the estate agent's fees. The total figure of £4,000 will be funded from within existing budgets.

7.4 Capital receipts from sale of assets funded by the Neighbourhood Intervention Fund will be recycled back into the project so that further CPO's can be undertaken as and when required

## **8. LEGAL IMPLICATIONS**

8.1 Under the provisions of section 17 of the Housing Act 1985, the local authority may acquire houses or buildings which may be suitable as houses, together with any land occupied with the houses or buildings. The power is available even if the ownership of the property is to be transferred to someone else.

8.2 Legal challenges to compulsory purchase are always a possibility and can lead to a Public

Local Inquiry which would incur additional costs for the Council. A CPO on an unoccupied single property is likely to have a very limited number of possible statutory objectors.

- 8.3 The making of a CPO does not prevent negotiations with any person holding an interest in land affected by the CPO as these negotiations can proceed in parallel with the statutory process. Indeed, it is advised that where possible, negotiations can continue throughout the process even up to confirmation of the Order.

## 9. RESOURCE IMPLICATIONS

- 9.1 Resources needed to make the CPO and serve the relevant statutory notices will be provided by the Empty Properties Team. Some support will be required from the legal team which will increase if the CPO action results in a Public Local Inquiry.
- 9.2 Some support will be required from the property services team and Capita Symonds to carry out a valuation of the property concerned.

## 10. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## 11. CONSULTATIONS

- 11.1 Comprehensive consultation has been undertaken to understand the impacts of empty properties on local communities. The Strategic Housing Market Assessment (SHMA) supports bringing empty properties back into use. This has also been reflected in the Council's Local Plan which treats empty properties as a valuable resource towards meeting housing need within the borough.
- 11.2 The further development of the Council's Empty Property Strategy has also consulted stakeholders and agencies prior to consideration of further tools to tackle empty properties.

## 12. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.


### 13. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

<b>VERSION:</b>	<b>0.01</b>
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<b>CONTACT OFFICER:</b>	<b>Nicola Fox – Project Manager (Empty Housing)</b>
<b>DATE:</b>	<b>9<sup>th</sup> December 2019</b>
<b>BACKGROUND PAPER:</b>	<b>Empty Property Strategy</b>

## PRIORITY SCORING MATRIX

Maximum Points: 38 (must score 26 or over)

<b>Address: 91 Infirmary Street</b>	<b>Score</b>	<b>34</b>
How long has the property been Empty?	Less than 6 months	0
	6 months to 2 years	1
	2 – 5 years	2
	Over 5 years	4
Is the property in disrepair?	No	0
	Minor disrepair	1
	Serious disrepair	2
	Severe disrepair	4
Have complaints been received in Respect of this property?	No complaints	0
	Under 3 complaints	1
	5 to 9 complaints	2
	10 complaints or over	4
Is the property within an Intervention area?	No	0
	Yes	2
Is the property within an Investment area?	No	0
	Yes	2
Is the property within a selective Licensing area?	No	0
	Yes	2
Adequate evidence of attempted previous contact with owner?	No	0
	Yes	20
<b>TOTAL SCORE</b>		<b>34</b>

# 91 INFIRMARY STREET, BLACKBURN



# Health Impact Assessment Screening Tool

Toolkit produced by: Public Health  
Toolkit version: 1.2  
HIA version: 1.0  
Date HIA completed: 31<sup>st</sup> January 2017

***Health is not merely the absence of disease or infirmity but a state of complete physical, mental, social and spiritual well-being.  
(modified by M. Birley (2013) from World Health Organisation's definition – 1948)***

**Title of policy, programme or project ("activity") to be assessed:**

**Compulsory Purchase of individual empty properties within Blackburn with Darwen Borough**

**What is the activity about? What is the context outlined for the activity? (e.g. policy context, history, background)**

Tackling empty properties supports the key priorities of the council's corporate plan and the Empty Property Strategy. Empty properties in the borough can have a negative environmental impact on neighbourhoods in addition to being a wasted housing resource. At neighbourhood level, empty properties attract fly-tipping, crime, arson and nuisance. It is a priority to tackle these problems by agreement or enforcement as part of the wider effort to improve neighbourhoods and preventing blight.

**Does this activity have the potential to impact on health? Explain**

*(please consult appropriate Public Health colleague if you are unsure or require further information)*

Bringing empty properties back into use through the Empty Property Strategy enables the authority to ensure the removal of category 1 and 2 hazards from properties prior to occupation as defined by the Housing Health and Safety Rating System 2004. This will have a positive impact upon health for the residents by contributing to the improvement of housing conditions in the Borough.

Re-occupation of these empty properties will also deter fly-tipping, reduce crime, arson and nuisance which contribute to the improvement of health and safety in homes and neighbourhoods.

Whilst no negative impacts have been identified for the compulsory purchase of empty properties, we will continue to complete the full HIA screening as the reasons surrounding the need for a Compulsory purchase Order (CPO) may vary between each individual property. As a result of this it would be wise to further explore this activity to ensure that all aspects have been considered.

***\*If no health impacts are identified then the screening does not need to continue, but please ensure that this has been discussed with the appropriate Public Health colleague prior to discontinuation\****

**Does this activity relate to / impact on any of the Health & Wellbeing Strategy objectives?**

- Best start for children and young people**
- Health & Work**
- Safe & healthy homes & neighbourhoods**
- Promoting health and supporting people when they are unwell**
- Older people's independence and social inclusion**

<b>Does the activity concern any of the following determinants?</b>	
Lifestyle	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Physical environment	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Social / economic environment	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Other, please specify	

<b>What are the potential positive impacts?</b>
<p>Bringing this long term empty property back into use enables the authority to ensure the removal of category 1 and 2 hazards from the property prior to re-occupation as defined by the Housing health and Safety Rating System 2004. This will have a positive impact upon health for the residents by contributing to the improvement of housing conditions in the Borough.</p> <p>Re-occupation of this empty property will also deter fly-tipping, reduce crime, arson and nuisance in the area which will contribute to the improvement of safe and healthy homes in this neighbourhood. Which in turn will offer children and younger people a much better setting to grow up in.</p>

<b>What are the potential negative impacts?</b>
No negative impacts on health have been identified in association with this activity. The activity seeks to ensure that a greater number of houses are used for their purpose.

<b>What are the assumptions/risks embedded in or underpinning the activity?</b>
No assumptions or risks have been identified with this activity.

<b>Are there any external factors which identify the nature and extent of the impacts on health for this type of proposal (e.g. research; policy changes etc.)</b>
<p>Local Government Association, action to tackle empty homes - <a href="http://www.local.gov.uk/c/document_library/get_file?uuid=5416e10f-218a-4994-811f-0e96ce93227c&amp;groupId=10180">http://www.local.gov.uk/c/document_library/get_file?uuid=5416e10f-218a-4994-811f-0e96ce93227c&amp;groupId=10180</a></p> <p>House of Commons, Empty Housing Briefing Paper - <a href="http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN03012#fullreport">http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN03012#fullreport</a></p> <p>Housing Health and Safety rating System – <a href="https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-guidance-for-landlords-and-property-related-professionals">https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-guidance-for-landlords-and-property-related-professionals</a></p>

<b>List the groups most likely to be affected by this proposal</b>
This proposal will contribute positively to the overall health and safety off all members of the community and neighbourhood affected.

<b>What are some of the potential equity issues?</b>
The re-occupation of these empty, and potentially problematic properties, will contribute to the reduction of nuisance, crime, arson and fly-tipping resulting in an overall improvement to the social and physical environment of the neighbourhood. This will be to the benefit of all residents regardless of any individual characteristics.



## CHECKLIST

Answers favouring doing an HIA	To your knowledge	Answers favouring not doing a HIA
<b>Health impacts</b>		
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Does the initiative affect health directly?	<input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Not sure	Does the initiative affect health indirectly?	<input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Are there any potential serious negative health impacts that you currently know of?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Is further investigation necessary because more information is required on the potential health impacts?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> No	Are the potential health impacts well known and is it straightforward to identify effective ways in which beneficial effects can be maximised and harmful effects minimised?	<input checked="" type="checkbox"/> Yes
<b>Community</b>		
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Is a large proportion of the population likely to be affected by the initiative ( <i>over 25% of the resident population</i> )?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Are there any socially excluded, vulnerable, disadvantaged groups likely to be affected?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Are there any community concerns about any potential health impacts?	<input checked="" type="checkbox"/> No
<b>Initiative</b>		
<input type="checkbox"/> Yes <input type="checkbox"/> Maybe	Is there some reason to suspect that health issues not considered in the planning process of this initiative might become more visible by doing an HIA?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Maybe	Is the cost of the initiative high ( <i>over £100,000</i> )?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Maybe	Is the nature and extent of the disruption to the affected population likely to be major?	<input checked="" type="checkbox"/> No
<b>Organisation</b>		
<input checked="" type="checkbox"/> Yes	Is the initiative a high priority/important for the organisation/partnership?	<input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Maybe	Are the individuals and organisations with a stake in this initiative likely to buy into the HIA process?	<input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Maybe	Is there potential to change the proposal? Will there be any other similar proposals in the future?	<input type="checkbox"/> No
<b>FOR = 3</b>	<b>TOTAL</b>	<b>AGAINST = 11</b>

## Choosing which HIA to do

Health Impact Statement	Type of HIA	Comprehensive
<input checked="" type="checkbox"/> Yes	Is there only limited time in which to conduct the HIA?	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Yes	Is there only limited opportunity to influence the decision?	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Yes	Is the timeframe for the decision-making process set by external factors beyond your control?	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Yes	Are there only very limited resources available to conduct the HIA?	<input type="checkbox"/> No

## Deciding who should do the HIA

External	Assessors	Internal
<input type="checkbox"/> No	Do personnel in the organisation or partnership have the necessary skills and expertise to conduct the HIA?	<input checked="" type="checkbox"/> Yes
<input checked="" type="checkbox"/> No	Do personnel in the organisation or partnership have the time to conduct the HIA?	<input type="checkbox"/> Yes

<b>Is an HIA appropriate?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Why or why not?</b>	
No negative impacts to health have been identified. All impacts on health will be positive ones including the removal of category 1 and 2 hazards from houses and the reduction of fly-tipping, crime, arson and nuisance to neighbourhoods.	
<b>If yes, what type and how?</b>	
N/A	
<b>Recommendations / comments</b>	
none	

Completed by: \_\_\_\_\_


Date: 16<sup>th</sup> January 2017

Approved by

(Head of Service/Director):


Date: 16<sup>th</sup> January 2017

*This signature signifies the acceptance of the responsibility and ownership of the HIA and the resulting action plan (if applicable).*

Approved by

(Public Health):



Date: 31/01/2017

*This signature signifies the acceptance of the responsibility to publish the completed HIA.*

**\*Once this form has been completed and approved, this document should be saved as the Health Impact Statement for the specified activity, any actions should be monitored appropriately\***

## EQUALITY IMPACT ASSESSMENT CHECKLIST

***This checklist is to be used when you are uncertain if your activity requires an EIA or not.***

An Equality Impact Assessment (EIA) is a tool for identifying the potential impact of the organisation's policies, services and functions on its residents and staff. EIAs should be actively looking for negative or adverse impacts of policies, services and functions on any of the nine protected characteristics.

The checklist below contains a number of questions/prompts to assist officers and service managers to assess whether or not the activity proposed requires an EIA. Supporting literature and useful questions are supplied within the [EIA Guidance](#) to assist managers and team leaders to complete all EIAs.

<b>Service area &amp; dept.</b>	Growth Team, Growth and Development.	<b>Date the activity will be implemented</b>	03/02/2020
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<b>Brief description of activity</b>	Compulsory Purchase of an Individual Residential Property at 91 Infirmary Street, Blackburn.
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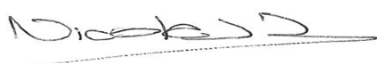
Answers favouring doing an EIA	Checklist question	Answers favouring not doing an EIA
<input type="checkbox"/> Yes	Does this activity involve any of the following: - Commissioning / decommissioning a service - Change to existing Council policy/strategy - Budget changes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	Does the activity impact negatively on any of the protected characteristics as stated within the Equality Act (2010)?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> No <input type="checkbox"/> Not sure	Is there a sufficient information / intelligence with regards to service uptake and customer profiles to understand the activity's implications?	<input checked="" type="checkbox"/> Yes
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	<b>Does this activity:</b> Contribute towards unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act <i>(i.e. the activity creates or increases disadvantages suffered by people due to their protected characteristic)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Reduce equality of opportunity between those who share a protected characteristic and those who do not <i>(i.e. the activity fail to meet the needs of people from protected groups where these are different from the needs of other people)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Foster poor relations between people who share a protected characteristic and those who do not <i>(i.e. the function prevents people from protected groups to participate in public life or in other activities where their participation is disproportionately low)</i>	<input checked="" type="checkbox"/> No
<b>FOR =0</b>	<b>TOTAL</b>	<b>AGAINST =6</b>

**Will you now be completing an EIA?**

Yes

No

The EIA toolkit can be found [here](#)

<b>Assessment Lead Signature</b>	
<b>E&amp;D Lead Signature</b>	Gwen Kinloch
<b>Date</b>	09/12/2019

## EXECUTIVE MEMBER DECISION



**REPORT OF:** Executive Member for Health and Wellbeing

**LEAD OFFICERS:** Director of Public Health

**DATE:** 17th December 2019

**PORTFOLIO/S AFFECTED:** Health and Wellbeing (Please Select...)

**WARD/S AFFECTED:** All

**SUBJECT: Updated Policy on 'Out of Area Tariff' sexual health service payments and cross charging arrangements.**

### 1. EXECUTIVE SUMMARY

Local authorities have a statutory duty to ensure that comprehensive, open access, confidential sexual health services are available to all people, including non-residents. The Council meets this requirement through a block contract with Lancashire and South Cumbria Foundation Trust (LSCFT). Department of Health guidance states that arrangements for payments to providers outside a local authority's area are for local determination. On 30<sup>th</sup> September 2016, a decision was made by the Executive Member for Health to pay sexual health providers from out of the borough for Genitourinary Medicine (GUM) activity only, where activity has taken place within the Lancashire and South Cumbria Integrated Care System (ICS) geographical area. The agreement was effective from 1<sup>st</sup> April 2016 and was reviewed in October 2016 with an agreed extension to 31<sup>st</sup> March 2017. This arrangement has continued and now needs to be reviewed.

Commissioners and providers across the ICS footprint agreed that primary attendances for GUM would be paid using the tariff obtained from Pathway Analytics (a data collection system which considers activity and patient flow). Any additional tariffs including contraception and psychosexual services were excluded from the agreement. The ambition was that all data and activity would be shared across the geographical footprint and monitored monthly from 1<sup>st</sup> April 2016. However, this has only been recently facilitated by commissioning partners from Lancashire County Council.

As the local provider, Lancashire and South Cumbria Foundation Trust (LSCFT) has continued to shadow and monitor the tariff-based payment model even though Blackburn with Darwen (BwD) commissioners have maintained a block contract arrangement. This has enabled a more transparent understanding between commissioners and providers with regards to the efficiency of the contract delivery based on a block payment. It has also enabled an accurate understanding of the costs associated with outside residents coming into the local service in BwD which has remained in line with the mandated open access requirements.

The Council has regularly received requests for payments from providers outside the ICS which have not been paid in accordance with the local policy. A number of providers have questioned this policy and accordingly the Council obtained independent legal advice from a Queen's Counsel (Barrister).

That advice concluded that the Council is entitled to have reached its current position in relation to these payments. Having considered the advice the Council has decided to review its position in relation to payments in the areas of Lancashire and South Cumbria to ensure a consistent approach.

The current sexual health service contractual arrangements ensure the open access provision will remain subject to the block contract arrangement until 31<sup>st</sup> March 2021. A contract variation will be issued to LSCFT to reflect the changes in expectations for cross charging of the sexual health provision.

## **2. RECOMMENDATIONS**

That the Executive Member approves the revised policy which is as follows:-

- Continue to meet the requirements of the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 through the Council's block contract with LSCFT.
- Not to pay 'out of area sexual health tariff payments' for sexual health service activity (including within the local ICS geographical area)
- Keep the intelligence under review so that any emerging issues or risks can be escalated via the Public Health Senior Leadership Team.
- Ensure that commissioners continue to review activity and cost on an ongoing basis.
- Take into account any revised legislation or national guidance from Public Health England and / or the Department of Health and Social Care.
- Issue a contract variation to LSCFT to reflect the changes in expectations for charging arrangements within the ICS footprint.

## **3. BACKGROUND**

Since 1 April 2013, Local Authorities have been mandated to ensure that comprehensive, open access, confidential sexual health services are available to all people, including non-residents. When the allocations in respect of the ring fenced public health budgets were announced in January 2013, the Advisory Committee on Resource Allocation recommended the development and agreement of charging where 'out of area' services are provided to other authorities' residents. The Department of Health supported this recommendation as a system of cross-charging but have confirmed that arrangements are for local determination. Local Authorities are not mandated to pay cross charges, and any policy on such payments should not impact on the local funding formula.

The Department of Health published a cross charging document in August 2013. This document outlined the key principles to assist commissioners and providers to develop fair payment systems for sexual health services. The 'key principles' of cross charging were originally endorsed by the Local Government Association, the Association of Directors of Public Health and Public Health England (PHE). These 'key principles' have been reviewed more recently by the Department Of Health and Social Care in 2018, and a further guidance document has been published. The published version continued to state that these arrangements are subject to local determination, and although seen as good practice they are not mandated.

PHE also carried out a national review of commissioning in 2017 and the findings did demonstrate that this payment method has; 'generated an administrative burden that can lead to disputes between commissioners' and that 'cross boundary flows remain a major contractual issue, with different tariffs, data sets and specifications leading to disputes between commissioners and providers'. In response, PHE advised that guidance in this area should be reviewed but this has not yet been actioned.

The monitoring of tariff activity and the corresponding payment processes are currently resource intensive within the ICS geography. If this arrangement was to be continued or indeed expanded to a wider geographical area this would put additional pressure on an already stretched team and a progressively shrinking public health budget. This policy change will reduce the payment processes, but will still maintain scrutiny of the activity.

## **4. KEY ISSUES & RISKS**

As the use of cross-charging arrangements and 'out of area' tariff prices are not mandatory for Local Authorities, some of the following key issues continue to be debated locally, regionally and nationally:

- There is no standardised approach for cross charging and therefore the process is being managed differently by various Local Authorities, both regionally and nationally.
- A revised integrated sexual health tariff monitored via 'Pathway Analytics' has been developed for both GUM and SRH (Sexual Reproductive Health) services leading to some 'out of area' providers now claiming for additional interventions with the potential to create double funding and an additional financial burden on Local Authorities.
- Where a service provider is commissioned within a block contract arrangement for open access provision then cross charging should not be used as activity is already funded regardless of the area of residence of the patient.
- The local agreement from April 2016 has enabled the positive relationships between ICS area commissioners to continue to develop. This will be continued via the Pan Lancashire and South Cumbria Sexual Health Commissioner's Network and also the Commissioner/Provider meeting for the same footprint.
- Blackpool Council and Lancashire County Council have commissioned their services on a tariff basis rather than via a block contract. Under the changes, the neighbouring local authorities would experience a financial saving by not paying for their residents to be seen in BwD clinics. However, the new policy change may have an impact on their provider. Financially Blackpool and Lancashire County Council may want to consider if this saving could compensate their provider, Blackpool Teaching Hospitals (BTH) for both Local Authorities.
- Through the block contracted commissioning arrangement, as opposed to tariff, there is the opportunity to develop more preventative provision. Where the provision is tariff based there is a risk that the service becomes disproportionately focussed on clinical interventions, which may not reflect the local sexual health strategy, or needs of the patients, which could be seen as a perverse incentive for providers.
- As services are provided anonymously it is often impossible to verify whether users of services are from a particular area, which means that payment of out of area charges creates a risk of double payments and in a worst-case scenario fraud.

The primary GUM tariff costs involved across the ICS footprint have been monitored by the Council over the last three years and there is a good understanding of the financial implications on our local service provider should the current arrangement be withdrawn.

### **ICS Commissioner awareness**

It is also acknowledged that the providers commissioned by Blackpool Council and Lancashire County Council will now not receive payment from BwD Council when seeing BwD residents. However, Blackpool and Lancashire County Council commissioners will not be expected to pay BwD Council's provider LSCFT for their residents coming into BwD clinics. A contract variation will involve agreement that the BwD provider (LSCFT) does not re-charge commissioners from across the ICS geographical footprint. Lancashire County Council and Blackpool Council commissioners have been consulted on the proposed local policy and the rationale, and understand that they will be expected to discuss any potential financial pressures with their contracted providers.

## **5. POLICY IMPLICATIONS**

This practice relates to historic health systems of payment. Currently, there is no national policy or legislation, which mandates the payment of these tariffs. The recommendations in this paper constitute a local policy arrangement, which is in line with the national mandate to provide open access services.

## **6. FINANCIAL IMPLICATIONS**

The tariff costs have been monitored by the Council over the last three years and there is a good understanding of the patient flow and financial implications on our local service provider should the current arrangement be withdrawn.

In 2018-19, BwD council paid a total of £50,796 to providers for BwD residents who presented at non BwD sexual health services within the ICS footprint.

In 2018-19, Lancashire County Council paid a total of £50,995 to the BwD provider for their residents who presented at BwD sexual health services. Patient flow between Blackpool and BwD is minimal.

The net difference of cross charging within the ICS footprint in 2018-19 was £199.53. As part of this recommended local policy change, we will review contract funding to our provider based on actual activity to ensure they are not financially disadvantaged by not cross charging (ICS and national footprint). Therefore, based on analysis of patient flow and tariff activity costs, it is proposed that approximately £50,000 is paid directly to the BwD provider, which will form part of the block contract, and cross charging will cease. This is still to be finalised and agreed with LSCFT.

All the above will be funded from within the PH grant.

## **7. LEGAL IMPLICATIONS**

Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 requires that:

“each local authority shall provide, or shall make arrangements to secure the provision of, open access sexual health services in its area”

And explains:

“references to the provision of open access services shall be construed to mean services that are available for the benefit of all people present in the local authority’s area”

The Department of Health’s ‘Sexual Health Services: Key Principles for Cross Charging’ document (published in August 2013), suggests that Department of Health endorses the concept of cross charging for sexual health services provided by authorities where the service user is not a resident. Earlier guidance “Commissioning Sexual Health Services and Interventions – Best practice guidance for local authorities” (March 2013), and “Sexual Health Commissioning – Frequently Asked Questions” (February 2013) both appear to be clear that it is for local authorities themselves to decide whether they wish to use a system of cross charging, and that the use of cross charging arrangements is not mandatory for local authorities.

The Council has received a number of requests for payment from providers of services to BwD residents outside of the Borough which the Council has refused to pay. As a number of providers have questioned this position the Council commissioned counsel’s advice from Sam Karim QC. That advice concluded that the Council is entitled to have reached its current position in relation to these payments. Having considered the advice the Council has decided to review its position in relation to payments in the areas of Lancashire and South Cumbria to ensure a consistent approach.

## **8. RESOURCE IMPLICATIONS**

The administration processes for managing the ‘out of area’ payments historically has been provided by the Public Health team. There is an ongoing resource pressure resulting from processing ‘out of area’ payments, which involves considerable administration, finance and commissioning lead time and resource.

Commissioners have historically considered individual payment requests and have ratified them after requesting and checking the backing data (relating to partial postcodes). Since the introduction of the policy as of April 2016 this process has continued to be time consuming and resource intensive as pathway analytics has to be checked with regards to all invoiced activity.

The recommendation to discontinue all Out of Area payments will significantly reduce the administrative burden, and this will enable the Council to communicate a clear and consistent policy to all.

## 9. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## 10. CONSULTATIONS

The Council provided feedback to PHE for the review of commissioning arrangements in 2017. The Council also presented evidence to PHE and NHS England as to why the commissioning guidance needs to be reviewed.

The outcome of the Council's initial Executive Member decision was fed back to the Pan Lancashire and Cumbria Sexual Health Commissioning Network. This network includes membership from Public Health England and NHS England. Updates have been provided at the quarterly network meetings on an ongoing basis and the current proposal to discontinue tariff payments to ICS providers has been acknowledged as potentially a challenging way forward. BwD are proposing to mitigate this challenge by continuing to monitor activity and patient flow between areas, and maintaining appropriate investment to the relevant sexual health service providers.

Commissioners have continued to involve the current sexual health service provider in ongoing consultation relating to this matter and formal discussions continue to take place at quarterly contract review meetings.

Members of the Public Health team have been approached by numerous providers and commissioners from across the country over the last three years who have questioned and objected to the rationale for non-payment of out of area tariffs. Although letters of challenge have been produced these have not resulted in any further action being taken.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.



**12. DECLARATION OF INTEREST**

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

<b>VERSION:</b>	<b>4.0</b>
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<b>CONTACT OFFICER:</b>	Lee Girvan, Public Health Specialist Cathy Fisk, Public Health Development Manager
<b>DATE:</b>	17 <sup>th</sup> December 2019
<b>BACKGROUND PAPER:</b>	Please see below the link to the latest version (2018) of the national guidance 'key principles for cross charging' <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/731134/sexual-health-services-cross-charging-guidance.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/731134/sexual-health-services-cross-charging-guidance.pdf</a>

## EQUALITY IMPACT ASSESSMENT CHECKLIST

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<b>Service area &amp; dept.</b>	Public Health	<b>Date the activity will be implemented</b>	01/04/2020
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<b>Brief description of activity</b>	To stop paying for 'out of area sexual health tariff payments' for sexual health service activity, including within the local Integrated Care System geographical area
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<b>Answers favouring doing an EIA</b>	<b>Checklist question</b>	<b>Answers favouring not doing an EIA</b>
<input checked="" type="checkbox"/> Yes	Does this activity involve any of the following: - Commissioning / decommissioning a service - Change to existing Council policy/strategy - Budget changes	<input type="checkbox"/> No
<input type="checkbox"/> Yes	Does the activity impact negatively on any of the protected characteristics as stated within the Equality Act (2010)?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> No <input type="checkbox"/> Not sure	Is there a sufficient information / intelligence with regards to service uptake and customer profiles to understand the activity's implications?	<input checked="" type="checkbox"/> Yes
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	<b>Does this activity:</b> Contribute towards unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act <i>(i.e. the activity creates or increases disadvantages suffered by people due to their protected characteristic)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Reduce equality of opportunity between those who share a protected characteristic and those who do not <i>(i.e. the activity fail to meet the needs of people from protected groups where these are different from the needs of other people)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Foster poor relations between people who share a protected characteristic and those who do not <i>(i.e. the function prevents people from protected groups to participate in public life or in other activities where their participation is disproportionately low)</i>	<input checked="" type="checkbox"/> No
<b>FOR = 1</b>	<b>TOTAL</b>	<b>AGAINST = 5</b>

**Will you now be completing an EIA?**

Yes

No

The EIA toolkit can be found [here](#)

<b>Assessment Lead Signature</b>	<i>Cathy Free</i>
<b>Checked by departmental E&amp;D Lead</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Date</b>	04/12/2019