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Y Rhadyr
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NP15 1GA

County Hall
Rhadyr
Usk
NP15 1GA

Wednesday, 24 February 2016

Notice of meeting / Hysbysiad o gyfarfod:

Economy and Development Select Committee

**Thursday, 3rd March, 2016 at 10.00 am,
Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA**

AGENDA

**THERE WILL BE A PRE MEETING FOR MEMBERS OF THE COMMITTEE 30 MINUTES
PRIOR TO THE START OF THE MEETING**

Item No	Item	Pages
1.	Apologies for Absence.	
2.	Declarations of Interest.	
3.	To confirm and sign the minutes of the previous meeting.	1 - 8
4.	Scrutiny of the Contaminated Land Inspection Strategy.	9 - 168
5.	Monmouthshire Business and Enterprise - Performance Report.	169 - 172
6.	Revenue and Capital Monitoring 2015/16 Month 9 Outturn Forecast Statement.	173 - 276
7.	Update on Monmouthshire's Events.	277 - 286
8.	Work Programming.	287 - 294
9.	To confirm the date and time of the next meeting.	

Paul Matthews

Chief Executive / Prif Weithredwr

MONMOUTHSHIRE COUNTY COUNCIL
CYNGOR SIR FYNWY

THE CONSTITUTION OF THE COMMITTEE IS AS FOLLOWS:

County Councillors:

S. Jones
S. White
D. Dovey
D. Edwards
D. Evans
B. Hayward
J. Prosser
A. Watts
A. Wintle

Public Information

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Welsh Language

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Aims and Values of Monmouthshire County Council

Sustainable and Resilient Communities

Outcomes we are working towards

Nobody Is Left Behind

- Older people are able to live their good life
- People have access to appropriate and affordable housing
- People have good access and mobility

People Are Confident, Capable and Involved

- People's lives are not affected by alcohol and drug misuse
- Families are supported
- People feel safe

Our County Thrives

- Business and enterprise
- People have access to practical and flexible learning
- People protect and enhance the environment

Our priorities

- Schools
- Protection of vulnerable people
- Supporting Business and Job Creation
- Maintaining locally accessible services

Our Values

- **Openness:** we aspire to be open and honest to develop trusting relationships.
- **Fairness:** we aspire to provide fair choice, opportunities and experiences and become an organisation built on mutual respect.
- **Flexibility:** we aspire to be flexible in our thinking and action to become an effective and efficient organisation.
- **Teamwork:** we aspire to work together to share our successes and failures by building on our strengths and supporting one another to achieve our goals.

Nodau a Gwerthoedd Cyngor Sir Fynwy

Cymunedau Cynaliadwy a Chryf

Canlyniadau y gweithiwn i'w cyflawni

Neb yn cael ei adael ar ôl

- Gall pobl hŷn fyw bywyd da
- Pobl â mynediad i dai addas a fforddiadwy
- Pobl â mynediad a symudedd da

Pobl yn hyderus, galluog ac yn cymryd rhan

- Camddefnyddio alcohol a chyffuriau ddim yn effeithio ar fywydau pobl
- Teuluoedd yn cael eu cefnogi
- Pobl yn teimlo'n ddiogel

Ein sir yn ffynnu

- Busnes a menter
- Pobl â mynediad i ddysgu ymarferol a hyblyg
- Pobl yn diogelu ac yn cyfoethogi'r amgylchedd

Ein blaenoriaethau

- Ysgolion
- Diogelu pobl agored i niwed
- Cefnogi busnes a chreu swyddi
- Cynnal gwasanaethau sy'n hygyrch yn lleol

Ein gwerthoedd

- **Bod yn agored:** anelwn fod yn agored ac onest i ddatblygu perthnasoedd ymddiriedus
- **Tegwch:** anelwn ddarparu dewis teg, cyfleoedd a phrofiadau a dod yn sefydliad a adeiladwyd ar barch un at y llall.
- **Hyblygrwydd:** anelwn fod yn hyblyg yn ein syniadau a'n gweithredoedd i ddod yn sefydliad effeithlon ac effeithiol.
- **Gwaith tîm:** anelwn gydweithio i rannu ein llwyddiannau a'n methiannau drwy adeiladu ar ein cryfderau a chefnogi ein gilydd i gyflawni ein nodau.

Public Document Pack Agenda Item 3

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Economy and Development Select Committee held at County Hall, The Rhadyr, Usk, NP15 1GA on Thursday, 11th February, 2016 at 2.00 pm

PRESENT: County Councillor S. Jones (Chairman)
County Councillor S. White (Vice Chairman)

County Councillors: D. Dovey, D. Edwards, D. Evans, B. Hayward, J. Prosser and A. Wintle

OFFICERS IN ATTENDANCE:

Hazel Ilett	Scrutiny Manager
Deb Hill-Howells	Head of Community Led Delivery
Richard Jones	Improvement Support Officer
Sarah King	Senior Democratic Services Officer
Ben Winstanley	Estates Manager

1. Apologies for Absence

There were no apologies for absence.

2. Declarations of Interest

There were no declarations of interest.

3. To confirm and sign the minutes of the previous meeting

We confirmed and signed the minutes of the previous meetings:

a) 16th November 2015 (Special)

We confirmed and signed the minutes of the Special Economy and Development Select Committee meeting held on 16th November 2016.

In doing so, a member requested clarification regarding whether strategic sites attracted CIL and S106 funding. Information would be requested from the Head of Planning.

The Chair advised that an item regarding Skutrade would be included on the committee forward work plan.

a) 26th November 2015

We confirmed and signed the minutes of the Economy and Development Select Committee held on 26th November 2015.

b) 16th December 2015 (Joint Special Budget)

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Economy and Development Select Committee held at County Hall, The Rhadyr, Usk, NP15 1GA on Thursday, 11th February, 2016 at 2.00 pm

We confirmed and signed the minutes of the Special Budget Joint Select Committee meeting held on 16th December 2015.

c) 3rd January 2016 (Special)

We confirmed and signed the minutes of the Special Economy and Development Select Committee meeting held on 5th January 2016.

4. Events Strategy - To provide a performance update on the Eisteddfod and the Velothon. Future events strategy to return to the Committee.

The committee were advised that the update on Eisteddfod and Velothon had not been available for the meeting and we agreed the item be deferred.

Members expressed disappointment that the information was not available and requested it was presented as soon as possible.

The Head of Community Led Delivery updated members on progress to date and members welcomed the information.

A public meeting would be held on 22nd February 2016 at 6.30pm, regarding the Velothon.

5. Investment Property - To conduct pre-decision scrutiny of the business case for the acquisition of investment properties

Context:

We received the Proposed Property Acquisition Policy, the purpose was for the committee to conduct pre-decision scrutiny of the proposed strategy for the acquisition of investment properties.

Key Issues:

The Council has undertaken a rationalisation programme of its operational assets to reduce holding costs. Given the scale of the budget cuts facing the Council during the MTFP, cutting costs alone will not be sufficient to manage the revenue shortfall.

It is proposed that the Council acquire investment properties that will facilitate a function e.g. economic development and or generate a minimum net income of 0.5% above the prevailing gilt rate to develop an additional revenue income stream as well as an appreciating capital asset.

The acquisition and purchase costs would be funded through the Public Works Loan Board, therefore there would be no impact on the Councils capital programme. Any proposed acquisition would need to meet the minimum eligibility criteria as follows:

- i. The acquisition will result in a net annual return of 0.5% above the prevailing government gilt rate for a 20 year investment.
- ii Debt repayment has to be completed within 20 years.

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Minutes of the meeting of Economy and Development Select Committee held at County Hall, The Rhadyr, Usk, NP15 1GA on Thursday, 11th February, 2016 at 2.00 pm

iii Acquisitions should normally be pre-let to a tenant with a strong covenant with a minimum of 10 years unexpired on a commercial lease.

Member scrutiny:

- Members requested reassurance as to why this was the best method of investment and advised that it would have been preferred for a comparable paper to be presented. Officers advised that the level of yield compared to capital value and risk had been considered in types of investment available.
- The committee were informed that, if adopted, the asset strategy would be reviewed in accordance and aligned with the Investment Property Strategy. Members were reassured that Whole Place and Town Centre Regeneration were not in conflict.
- Further information was requested regarding how costs had been factored and whether maintenance charges, management costs and risks were being neglected. Officers clarified that, an initial screen would be undertaken and 4.5% net initial yield. Due diligence would then follow where Maintenance costs, loan repayments and marketplace comparisons would be taken into account. The intention is that the acquisitions would be cost neutral and managed within existing team capacity, however workloads and time would need to be prioritised.
- Officers highlighted that this would be the right way to generate income for front line delivery and each business case would be considered individually.
- A member questioned whether best practice or similar schemes had been operated in other authorities and were advised that practice had been exercised in English authorities and it was utilised to achieve budget.
- Staff within the department would use appropriate skills and knowledge required to acquire relevant properties.
- A member highlighted that the discussion through select committee had enabled members with a fuller understanding of the purpose of the report and was confident in the abilities of the team.
- A member expressed concern regarding the perceived use of public money. We were reassured that appropriate policies, legislation and code of ethics would be adhered to.
- Members expressed some concerns regarding the capacity to fulfil expectations identified within the report. The committee were reassured that initial work would be undertaken to fill voids and would be focused on all business sectors.
- The committee discussed whether it would be more appropriate to look at buildings within or outside Monmouthshire. Positive (e.g. benefits to County, alignment with corporate strategy, Whole Place) and negative (e.g. limited property availability) aspects were considered and we agreed that initially the strategy should be applicable to properties within Monmouthshire, however, this should not restrict other areas in future.

Recommendation:

We resolved to agree recommendations within the report:

That Scrutiny review the proposed acquisition policy for investment properties prior to consideration by Cabinet.

MONMOUTHSHIRE COUNTY COUNCIL

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Committee's Conclusion:

Chair's Summary:

The committee highlighted key information, as follows:

- Recommendations should include that focus should be maintained within Monmouthshire for investment, however, would not close to other areas.
- Scrutiny of business cases was recognised as an important function and should take place
- Valuable contribution through discussion was noted
- Agreed that Members would receive the paper for information, prior to it being presented to Cabinet

We thanked officers for information presented.

6. Quarter 2 Performance Report: Improvement Objectives and Outcome Agreement

Context:

We were presented with the Quarter 2 Performance Report: Improvement Objectives and Outcome Agreement. The purpose was:

1. to present quarter 2 performance data for the Improvement Objectives and Outcome Agreement objectives which are under the remit of Economy and Development Select Committee:
 - **Improvement Objective 3:** We want to enable our county to thrive.
 - **Improvement Objective 4:** Maintaining locally accessible services
 - **Outcome agreement Theme 3:** Poverty and material deprivation
2. To present the latest performance against wider key national performance indicators that are under the committee's remit

Key Issues:

The Outcome Agreement and the Improvement Objectives have a different focus:

Improvement Objectives

- Improvement Objectives are set annually by the Council to deliver on priorities. Despite objectives being focused on the long term the specific activities that support them are particularly focussed for the year ahead.
- Activity that contributes to the delivery of some objectives cross cuts Select Committee remits and these have also been reported to the other relevant committee(s). Therefore it is suggested members particularly focus their scrutiny on the activity relevant to the committee with consideration of its contribution to the objective as a whole.
- This Improvement Objectives will be evaluated at the end of the year (2015/16) based on the council's self-evaluation framework, as set in the Improvement Plan 2015-17. Performance against them will be reported to Select Committee and in the Stage 2 Improvement Plan published in October each year.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Economy and Development Select Committee held at County Hall, The Rhadyr, Usk, NP15 1GA on Thursday, 11th February, 2016 at 2.00 pm

Outcome Agreement

- The Outcome Agreement is an agreement with the Welsh Government for a three year period, where the council needs to deliver on performance activity and associated targets that contribute to the Programme for Government. The current agreement covers the period from 2013 to 2016. The council has previously been awarded full payment each year.
- In the summer of 2015 the Welsh Government announced the final year of funding for performance in 2015-16 would no longer be attached to performance in the Outcome Agreement and would be rolled directly into the Revenue Support Grant for 2016-17. This means that payment for performance against the targets in the agreement for 2015-16, being discussed by members today, is assured. However given the importance placed on the agreement as part of the council's performance framework to contribute to delivering the outcomes set it is important to continue to monitor performance against the agreement for its final year.

Member scrutiny:

- The committee expressed concern that Chief Officers were not in attendance and the Chair highlighted the importance of senior officers being present, this would be raised with Senior Leadership Team.
- Members requested reassurance from Chief Officers regarding underperformance of leisure centres and whether this was expected to improve.
- We recognised the need for an update on business support strategy.
- Members questioned the targets associated with the 'supper connected voucher scheme'. Members noted that this would be considered within the ICounty strategy and broadband update at the next meeting.

Committee's Conclusion:

Chair's Summary:

The Chair reiterated the importance of Senior Officer attendance at scrutiny, in order to address queries relating to performance of service areas.

We thanked officers for information presented.

Recommendations:

We resolved to agree recommendations within the report:

1. That members scrutinise the performance achieved and impact made, particularly in areas that fall under the committee's remit, to assess progress and performance against the objectives.
2. That members identify and explore any areas of underperformance or concerns, and to seek assurance from those responsible for future activity where they conclude that performance needs to improve.

7. Strategic Risk Assessment 2015

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Economy and Development Select Committee held at County Hall, The Rhadyr, Usk, NP15 1GA on Thursday, 11th February, 2016 at 2.00 pm

Context:

We were presented with the Strategic Risk Assessment 2015, which provided members with an overview of the current strategic risks facing the authority.

Key Issues:

1. The risk assessment ensures that:
 - Strategic risks are identified and monitored by the authority.
 - Risk controls are appropriate and proportionate
 - Senior managers and elected members systematically review the strategic risks facing the authority.
2. The existing risks on the Strategic Risk Assessment have been updated based on evidence available in 2015. Changes to the council's risk management policy were approved by Cabinet in March 2015. These are:
 - including pre-mitigation and post-mitigation risk scores, this was also a key recommendation from scrutiny of the 2014 risk assessment
 - ensuring greater clarity to the phrasing of risk so that each statement includes an event, cause and effect.
3. The risk assessment only covers high and medium level risks. Lower level operational risks are not registered unless they are projected to escalate within the three years covered. These need to be managed and monitored through teams' service plans. The pre and post mitigation risk levels are presented separately. In most cases mitigating actions result in a change to the likelihood of the risk rather than the consequences as our actions are generally aimed at reducing the chance of a negative event occurring rather than lessening it's impact. Clearly there will be exceptions.
4. Following presentation to select committees, the risk assessment will be presented to Cabinet for sign off.
5. The risk log is a living document and will evolve over the course of the year as new information comes to light. The risk assessment appended was scrutinised by the other three Council Select Committees in December 2015, since then some risks have been revised as new evidence has become available, while other risks will now need further development in light of new evidence. An up-to-date risk log is available to members on the Council's intranet - The Hub. This will ensure, as well as the ongoing specific scrutiny of the risk assessment annually, that select committees are able to re-visit the information at any point in the year to re-prioritise their work plan as appropriate.

Member scrutiny:

- The Chair highlighted the need for risks to be considered and for members to identify whether these were appropriate, whether any should be added or whether further information was required from the Executive member.
- Reassurance was requested regarding contingencies in place for highway issues, due to recent bad weather. The improvement officer advised that these would be managed through service plans and arrangements would be in place with emergency planning.
- Members highlighted that due consideration was required for future risk assessments.
- We noted that if members requested specific information then the Emergency Planning team could be invited to attend. The purpose of the report presented was an opportunity to look at whether appropriate risks were include.

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Economy and Development Select Committee held at County Hall, The Rhadyr, Usk, NP15 1GA on Thursday, 11th February, 2016 at 2.00 pm

Committee's Conclusion:

Chair's Summary:

The Chair acknowledged concerns expressed regarding ICT issues and that this would be included within a future agenda.

We thanked officers for information presented.

Recommendations:

We resolved to agree recommendations within the report:

1. That members consider the strategic risks presented for the next three years, in particular those of relevance to the committee and scrutinise the extent to which:
 - all relevant risks facing the authority are appropriately captured,
 - the level of risk applied is appropriate based on the matrix in the council's risk management policy and guidance and
 - mitigating actions are proportionate and appropriate
2. That members use the risk assessment on an on-going basis to hold the responsibility holders to account to ensure that risk is being appropriately managed.
3. Use the risk assessment to inform the future work programme of the committee.

8. Work Programming

We received the Economy and Development Select Committee work programme and updated the following:

- Events paper to be presented at next ordinary meeting
- Meeting 3rd March
 - Skutrade report
 - Contaminated land inspection
 - Monmouthshire Business Enterprise
- Meeting 14th April
 - ICounty
 - Broadband

We discussed that a special meeting was required to discuss Circuit of Wales. Timescales were very limited and needed to be aligned with Blanenau Gwent.

9. To confirm the date and time of the next meeting

We agreed that a Special Economy and Development Select Committee would be held on 25th February 2016, in order for Circuit of Wales to be considered.

MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Economy and Development Select Committee held
at County Hall, The Rhadyr, Usk, NP15 1GA on Thursday, 11th February, 2016 at 2.00 pm**

The meeting ended at 4.10 pm

REPORT

SUBJECT: CONTAMINATED LAND INSPECTION STRATEGY
DIRECTORATE: CHIEF EXECUTIVES
MEETING: ECONOMY & DEVELOPMENT SELECT COMMITTEE
DATE: 3rd March 2016
DIVISIONS/WARDS AFFECTED: All Wards

1. PURPOSE:

- 1.1 To comment on the options for revising the Authority's Contaminated Land Inspection Strategy prior to consideration by Cabinet.

2. RECOMMENDATIONS:

- 2.1 Members note the content of the attached report entitled '*Monmouthshire County Council's Contaminated Land Inspection Strategy – Progress Summary*' February 2016, consider the options available and comment accordingly.

3. KEY ISSUES:

- 3.1 The Authority has duties under Part 11A of the Environmental Protection Act 1990 to inspect its area for contaminated land in line with statutory guidance, which includes the development of an inspection strategy. In 2002 the Council approved a Contaminated Land Inspection Strategy setting out its plans for identifying potentially contaminated land and prioritising any identified sites for remediation action.
- 3.2 A report to Cabinet in January 2009 provided a revised and detailed work programme for implementing this strategy. This was followed by a report in February 2012 and the following recommendations agreed:
- To defer progress of the existing strategy and receive a future report, to enable consideration of a revised inspection strategy following the publication of revised statutory guidance.
 - To adopt as formal policy the approach of consultation between Development Control and Environmental Health Sections with respect to developments on potentially contaminated land
- 3.3 The revised statutory guidance was published by Welsh Government in April 2012. The previous guidance was 'fine-tuned' but with no fundamental change to the inspection responsibilities of the Local Authority. The statutory guidance requires Strategies produced in accordance with previous versions to be updated or replaced to reflect current guidance.
- 3.4 The attached report provides a summary of the current position of the work undertaken to date and the options for consideration in revising the Authority's Contaminated Land Inspection Strategy. Members' attention is drawn to the following key points:
- 2480 potentially contaminated sites in the authority have had an initial desk top risk assessment, which has enabled sites to be placed into risk category bands. Of the 2480 identified sites, 44 are categorised as 'very high' or 'high' risk.

- Identifying these potentially contaminated sites enables effective consultation between the Development Control Section and Environmental Health. Since 2012 Environmental Health has consulted on 89 planning applications for developments on or near potentially contaminated land. Public health is therefore being safeguarded by ensuring Contaminated Land sites are not being created and redeveloped sites are being investigated and remediated by developers.
- If a site is identified as contaminated, the land has to be declared as 'Contaminated Land' and placed on public register. The legislation allows for the Council to serve notice on the original polluter to require remediation, but in the quite likely event of the company no longer being in existence, the options remaining would be to serve notice on the current property owners to remediate or for the council to undertake the work. Remediating land is very expensive, although the costs do vary widely according to the nature of the site. Property depreciation and anxiety for the property owner(s) is a likely consequence of a declaration of 'Contaminated Land' until remediation is completed.
- From 2005 to 2011 Welsh Government provided Capital Support to local authorities to fund intrusive investigations at potentially contaminated sites and towards the cost of remediation. This funding stopped in April 2011.
- The Options presented in the attached report for a revised strategy are:
 - Option A. Dealing with land contamination through the planning regime.
 - Option B. Limited intrusive site investigations.
 - Option C. Full site investigations.
 - Option D. Further desktop studies to refine the prioritisation of sites in readiness for limited / full site investigations.

3.5 There are potentially very significant resource implications for the Council for progressing an inspection strategy beyond working within the planning regime. However limiting the strategy to Option A could be challenged as insufficient in meeting the Council's responsibilities for inspection. It should also be noted that this Authority is in a similar position to other Welsh Local Authorities.

3.6 The intention is for the strategy to be revised following consideration of the options by Cabinet. Welsh Government to be consulted (although not a statutory consultee) prior to a further report to Cabinet to agree a revised inspection strategy.

4. REASONS:

4.1 The authority has a duty to inspect its area for contaminated land in line with statutory guidance. The April 2012 guidance requires strategies produced with regard to previous versions of guidance to be updated or replaced.

4.2 The financial implications of some of the options for progressing a strategy are potentially very significant, particularly in the light of Welsh Government having withdrawn funding.

5. RESOURCE IMPLICATIONS:

5.1 Potentially very significant depending on the options progressed following consideration by Cabinet and subsequently incorporated into the Council's Contaminated Land Inspection Strategy (which will be subject to approval by Cabinet).

6 Future Generations Evaluation:

- 6.1 The Future Generations Evaluation, including equalities and sustainable impact assessments, is provided in Appendix 2. The revisions have a positive impact on these issues, for the reasons provided.

7. CONSULTEES:

David Jones, Head of Community Protection
Robert Tranter, Head of Legal Services

8. BACKGROUND PAPERS:

- **MCCs Contaminated Land Inspection Strategy 2002**
- **Report to Cabinet dated 1st February 2012.**
- **Welsh Government Contaminated Land Statutory Guidance 2012**

9. AUTHOR:

Paul White, Specialist Environmental Health Officer
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Public Protection

Environmental Health Department

**Monmouthshire County Council's Contaminated Land Inspection
Strategy – Progress Summary**

10th February 2016

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Report Authors

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Introduction

Monmouthshire County Council's Contaminated Land Inspection Strategy was written in September 2002 to fulfil the Council's legal obligations under Part IIA of the Environmental Protection Act 1990, and the Welsh Assembly Government's Part IIA Statutory Guidance on Contaminated Land.

The Strategy details the arrangements and procedures that the council will use to inspect potentially contaminated land in the County.

The strategy details the aims and objectives of the strategy and provides timescales for achieving priority actions. It also details how the information gathered during the inspection process will be managed and what action would be taken after interpretation of the inspection results.

The 2002 Contaminated Land Inspection Strategy is available on request or on M.C.C's website:

<http://www.monmouthshire.gov.uk/home/for-businesses/advice-and-legislation/contaminated-land>

Progress with the Strategy

In September 2008 Environmental Health undertook a review into progress with the Strategy and concluded that insufficient progress had been made, with a number of timescales for achieving priority actions having been missed.

To make up this lost time an enhanced strategy was approved by Cabinet that allowed Environmental Health to significantly speed up the process by identifying all potentially contaminated land sites based on historical maps dating back to 1800's and digitally mapping all of these (approximately 2,500) onto an integrated GIS/risk assessment software program. Once mapped each of these was prioritised into six levels of risk by undertaking a Phase 1 risk assessment based on potential hazards/harm from the historical or current usages and the sensitivity of the current use. Each site had four risk assessments undertaken to assess potential risk to the four main receptors that Local Authorities have a duty to inspect under Part IIA. These are Human Health, Groundwater, Surface Water and Ecology/property.

This enabled the authority to significantly progress the Strategy by producing a prioritised list of sites to be investigated further based on the basic risk assessment.

This list was then further refined, and additional sites added that were not shown on historical mapping, for example the closed landfill sites and licensed petrol stations.

In addition the forty four highest risk sites (A priority) were subdivided into two categories, A1 (Very high risk) and A2 (High Risk), as there was a clear divide in terms of the final risk score (FRS) as nine of the sites scored 72 (now called A1) and the remaining thirty five scored between 49 and 61 (now called A2). This will enable a more targeted approach to investigation of the 9 top scoring sites.

As such the first two stages of the Contaminated Land Inspection Strategy have been completed, by identifying all (so far as possible) potential contaminated land sites, risk assessing them and prioritising them into a list for further investigation. When further sites are identified they are mapped, risk assessed and prioritised.

The next stage would be to undertake full desktop studies on each of the sites to gain a better understanding of the risk. To date one desktop study has undertaken on one of the highest risk sites currently occupied by eight to ten residential properties.

Prioritisation of Monmouthshire contaminated land sites

The following table shows the Risk Category and the number of sites in the band for the Human Health risk assessment

Risk Category	Category Name	FRS range	Number of sites
A1	Very High	70+	9
A2	High	49 - 69	35
B	Medium-High	36 - 48	87
C	Medium	20 - 35	265
D	Low-Medium	10 - 19	393
E	Low	0 - 9	1691

A closer analysis of the historical nature of the sites and the current land use for the 44 sites in the two High Risk band shows the following detail.

Former Land use	Current Land Use	FRS	No. of sites
Metal manufacturing: Iron and steelworks	Housing with gardens	72	5
Gas works, coke works, coal carbonisation plants	Housing with gardens	72	2
Oil refineries & bulk storage of crude oil and	Housing with gardens	72	1

petroleum products			
Chemical manufacturing general	Housing with gardens	72	1
Waste: Landfills and other waste treatment & disposal sites	Recreation/sports ground	61	2
Pulp and paper manufacturing works	Housing with gardens	60	4
Machinery: engines, building & general industrial [manufacture]	Housing with gardens	60	4
Textile works and dye works	Housing with gardens	60	1
Dry-cleaners	Housing with gardens	60	1
Waste: Landfills and other waste treatment & disposal sites	Grass area (public or private)	49	15
Waste: Landfills and other waste treatment & disposal sites	Woodland	49	6
Waste: Landfills and other waste treatment & disposal sites	Fields/Farm land (unspecified)	49	2
Total			44

Further Stages in the Strategy

As mentioned above, the next stage of the existing strategy would be to:

- Undertake desktop studies to produce a conceptual model and further refine the risk assessment of the highest risk sites to attempt to further identify the hazards;
- Undertake a full intrusive site investigation. This would include carrying out a full sampling regime of soil, ground gas, groundwater, and vapour and undertaking a detailed quantitative risk assessment.
- Once completed this investigation would provide confirmation if a “contaminant linkage” exists or not.

A contamination linkage requires:-

- a contaminant – a substance which has the potential to cause significant harm to a receptor;
- a receptor - something that could be adversely affected by a contaminant; and
- a pathway - a route by which a receptor is or might be affected by a contaminant.

All three elements must exist before the land can be considered potentially to be contaminated under Part 2A of EPA 1990.

Once determined as Contaminated Land, a remediation strategy could be produced and work began to clean the site up to make it suitable for its current use. Following remediation a validation scheme would be required to ensure the remediation had worked.

Contaminated Land Capital Fund

Between 2005 and 2011 the Welsh Government provided Capital Support to Local Authorities for the Intrusive site investigations (which aim to establish the contamination linkage), the remediation strategy and remediation.

Monmouthshire County Council had progressed its inspection Strategy to the point where funding could be applied for to undertake intrusive investigation of its highest risk site, however in April 2011 this Capital Fund was discontinued. This had a major implication for the Council as the 2008 review of the Strategy provided updated timescales to progress the inspection strategy; however these were based on the potential for resources to be obtained by bidding for money from the Capital Fund. Securing this funding would have allowed the Environmental Health Department to progress the inspection strategy by undertaking intrusive site investigation, determining Contaminated Land and then undertaking remediation of high risk contaminated sites, should the Class A person (the original polluter) not be found.

Options for Progressing the Strategy

As a result of the withdrawal of Capital Funding any further progress with the Inspection Strategy now has substantial resource implications for the Council. Without appropriate funding the Environmental Health Department cannot proactively progress the Inspection Strategy. As such a further report was presented to Cabinet in February 2012, to explain this situation, and determine how the Inspection Strategy should be progressed.

It was also noted in the report that the Government were in the process of reviewing their Contaminated Land Statutory Guidance, and as such the recommendations of the report (which were accepted by Cabinet) were to defer progress of the existing inspection strategy until a revised strategy could be developed taking account of the revised Statutory Guidance. The policy of consultation between Environmental Health and Development Control concerning developments on potentially contaminated land was also endorsed by Cabinet to ensure appropriate investigations and if necessary, remediation works, would be undertaken by the developer.

The Statutory Guidance is now available and in addition the results of a study by Welsh Government and the Welsh Contaminated Land Working Group into a review of contaminated land in Wales. This is therefore an appropriate time for Monmouthshire County Council to review the 2002 Contaminated Land Inspection Strategy, and if necessary write a revised strategy.

Revised Statutory Guidance

The Government undertook an Impact Assessment on the simplification and shortening of the Guidance, it was concluded that the original Guidance had major flaws that “undermined the effectiveness of the regime and created considerable regulatory uncertainty”. As a result revised Statutory Guidance was issued in April 2012.

In particular, the Guidance failed to adequately explain how a local authority should decide whether land is contaminated. Other areas of concern were that the determination that a site is low risk took too long; that higher-risk sites were not targeted sufficiently; and that some local authorities set the standard for remediation too high, resulting in the under-use of brownfield sites.

The contaminated land regime was therefore causing results that were inconsistent with the Government policy to “ensure brownfield land is developed first [...] reducing the need for development of greenfield land.”

The new guidance goes some way to remedy these issues. It clarifies for example that where normal levels of contaminants are found in soil this “should not be considered to cause land to qualify as contaminated land” and that land should be considered no further under the Part 2A regime. This clarification should reduce the unnecessary time spent by local authorities investigating small amounts of contamination and should also “reduce potential blight on land with only normal levels of contamination”.

The Guidance sets out a four-category framework for deciding whether land is contaminated, where Category 1 land is the most contaminated and Category 4 land is uncontaminated.

The contaminated land risk assessment/prioritisation software that Environmental Health have, is capable of reclassifying the sites from A-E into the new Category 1-4 system, however to do so would require sampling of sites to determine actual levels of contaminants present (i.e. an intrusive site investigation). If this was undertaken all sites defined as Category 4 could be considered not contaminated. To date the government have produced Category 4 screening Levels (C4SL's) for 6

contaminants. If samples were taken they could be compared to these C4SL's. If levels were below the C4SL's then the site could be considered not contaminated for those 6 contaminants.

Local Authority Inspection Duties

The Local Authority's legal duties under Part 2A remain the same as they were originally written, that is to:-

- Cause its area to be inspected from time to time for the purpose of identifying contaminated land; and
- In performing these functions to act in accordance with statutory guidance.

The Statutory Guidance gives guidance that there are generally two types of inspection:-

- Strategic inspection, for example collecting information to make a broad assessment of land and then identifying priority land for more detailed consideration; and
- Carrying out the detailed inspection of particular land to obtain information on ground conditions and carrying out the risk assessments which support decisions under the Part 2A regime relevant to that land.

Updating the Inspection Strategy

Monmouthshire County Councils' original Contaminated Land Inspection Strategy laid out the strategic approach to carrying out its inspection duty. The council reviewed the Strategy in 2008 and provided updated timescales and a series of required actions to ensure all land in its area had been identified (as far as possible) and prioritised ready for undertaking the detailed inspections.

With the publication of the new Statutory Guidance and the withdrawal of the Capital Funding (which the 2008 review relied upon to progress the inspection strategy into carrying out the detailed inspections) the Strategy should now be reviewed and updated. This is stipulated in the April 2012 Statutory Guidance "Strategies produced in accordance with previous versions of this Guidance should be updated or replaced to reflect this Guidance".

When the Strategy is updated the Statutory Guidance states that the strategy should include:-

- (a) Its aims, objectives and priorities, taking into account the characteristics of its area.
- (b) A description of relevant aspects of its area.
- (c) Its approach to strategic inspection of its area or parts of it.
- (d) Its approach to the prioritisation of detailed inspection and remediation activity.
- (e) How its approach under Part 2A fits with its broader approach to dealing with land contamination. For example, its broader approach may include using the planning system to ensure land is made suitable for use when it is redeveloped; and/or encouraging polluters/owners of land affected by contamination to deal with problems without the need for Part 2A to be used directly; and/or encouraging problematic land to be dealt with as part of wider regeneration work.

- (f) Broadly, how the authority will seek to minimise unnecessary burdens on the taxpayer, businesses and individuals; for example by encouraging voluntary action to deal with land contamination issues as far as it considers reasonable and practicable.

Before the strategy can be updated the costs associated with paragraph (d) above (detailed inspection and remediation activity) need to be considered. Even if a Class A person (original polluter) was identified, and M.C.C. was successful in proving liability and requiring that person to undertake Remediation, the legislation/Statutory Guidance does not make provision for the local authority to recover the potentially high cost of the initial site investigation.

Therefore options need to be considered by Cabinet for their approval of the most appropriate.

Options

Four options are presented below as A-D.

Option A: Keep under review & work within the planning regime.

This is the option that has been followed since the 2012 Cabinet Report where Environmental Health would not progress detailed inspections of the 2,500 sites, unless they are re-developed through the planning regime.

The revised Statutory Guidance places an emphasis on local authorities dealing with land contamination, where ever possible, through the planning regime. In Monmouthshire, Environmental Health work closely with the Planning Authorities (Monmouthshire County Council and Brecon Beacons National Park) to ensure that the contamination legacy of a site is appropriately addressed at the planning stage to make sure the site is fit for the proposed end use. In this way new Contaminated Land sites (requiring action under Part IIa of EPA) are not created and redeveloped sites are investigated and remediated, thereby ensuring public health is safeguarded.

Should a planning application involving the development of a sensitive receptor (e.g. housing, schools etc.) and be located on or near potential contaminated land, the Planning Authority specifically consult with Environmental Health.

The Specialist Environmental Health Officer will then review all available evidence to determine if there is a potential risk for the development and if so recommend planning conditions be attached involving site investigation and (if necessary) remediation and validation. The Environmental Health Officer will then review all submitted site investigations, risk assessments, statistical analysis,

laboratory reports, and remediation and validation reports and provide advice on the discharge of conditions or require further work to be undertaken. In this way a more robust system is now in place to prevent development and re-development on land likely to give risk to harm and prevent future Contaminated Land (i.e. land with a source, pathway and receptor linkage).

Since 2012 Environmental Health has consulted on 89 planning applications for developments on or near potential contaminated land, therefore sites are being considered and where appropriate detailed inspections and remediation undertaken (by the developers). However it is possible that by limiting its approach to this the Council could be open to challenge that its "approach to prioritisation of detailed inspection and remediation activity" is not sufficient and that it is not "inspecting from time to time for the purpose of identifying contaminated land" i.e. by proactively undertaking detailed inspections to determine a contaminate linkage.

Option B: Limited Intrusive Site Investigation

Currently one of the 44 High risk sites has been progressed to the third stage of the Strategy and been subjected to a desktop investigation. It was identified that a potential risk does exist, therefore the next step would involve the afore mentioned limited site investigation. This would include site visits by an Environmental Health Officer and obtaining hand dug soil samples which would be sent to an independent laboratory for analysis.

It would not be possible to undertake a full "detailed inspection" as heavy machinery and specialist equipment is required for deep soil sampling, groundwater monitoring, and to undertake a ground gas/vapour monitoring regime. A detailed inspection is presented as Option C.

Should a contaminant linkage be identified from the hand dug soil samples, further risk assessments would be required to determine if the levels of the contaminants are high enough to satisfy SPOSH (Significant Possibility of Significant Harm). These are known as Detail Quantitative Risk Assessments and require the use of specialised risk assessment software.

Should no contaminants be found, or if it can be shown that SPOSH is not met, and a statistically representative number of samples/monitoring locations were taken/used, the site could be re-risk rated and would be lowered down the prioritisation list. It is unlikely that the site could be considered "not contaminated" however, due to the unavailability of gas, and water sampling and deeper soil samples.

The cost is estimated to be approximately £150 per soil sample analysed to cover the range of potential contaminants associated with the site. The number of samples that would be required could vary depending on how robust the sampling strategy is designed to be. Possible options could range from taking one sample through to designing a strategy that enabled a statistically representative number of samples to be taken.

If the limiting factor is cost a sampling strategy would have to be designed to determining the number and pattern of sampling locations that enabled the least amount of samples to be taken, whilst still providing the required degree of confidence that all hazards have been identified.

As the receptors (houses with gardens) are sensitive and the potential contaminants represent a high hazard, a high degree of confidence is needed in the outcome of the sampling. In addition the nature of the former land use means that the site would probably have heterogeneous contamination; therefore a limited number of samples might not give a true representation of either the type of contamination present or its levels.

While initial sample costs for one limited site investigation may amount to a few thousand pounds, should contamination be identified a full site investigation is likely to be required (See Option C) with costs increasing significantly.

Should this option be progressed, residents would have to be made aware at the outset, thereby potentially causing concern over health and property depreciation/blight. Therefore if begun, it would be vital that a clear route through to full remediation and validation be identified, and funds put in place from the outset.

Option C: Undertake a full detailed site inspection in accordance with BS 10175:2011

BS 10175:2011 is the British Standard and Code of Practice for the investigation of potentially contaminated sites.

When the Capital Fund was available Local Authorities would have been required to fund the cost of Option B themselves and provide the results as evidence within the bidding process to demonstrate risk to health. If successful in the application the fund could then be used to undertake a detailed inspection

A full Site investigation would require installing boreholes and monitoring wells to significant depth and therefore would have to be undertaken by an external company (e.g. contaminated land consultancy). A statistically representative number of samples would be taken from a number of depths at each location and both groundwater and gas/vapour would be monitored.

A Detailed Quantitative Risk Assessment would be produced along with a remediation proposal identifying possible remediation measures. The cost of this is likely to be in the tens of thousands of pounds for one site investigation alone. However a much higher degree of confidence could be placed in the results than from a limited investigation.

Should a contaminate linkage be identified that resulted in the site being Declared Contaminated Land under the legislation, all the properties would be placed on the Public Register and a plan for remediation of the site would be required. This could put a significant financial burden on either the Council or the property owners as well as potentially causing land blight, depreciation of property value and anxiety (and possibly associated health conditions). Typical cost for remediation is approximately £250,000 per hectare, but is very site specific (i.e. level and type of contamination, accessibility to the site, number of pathways etc.).

Under Part 2A there are generally two classes of person responsible for remediation. Class A is the original polluter and Class B is the current owner. Unfortunately there may be a number of Class A persons if the land has had a number of uses and determining liabilities can become legally complex. In addition it is likely that the original polluter no longer exists as an entity. If the Class B person is a home owner requiring them to remediate could present them with very significant financial burdens. Monmouthshire County Council could choose to take the remediation cost on themselves even if they are not the Class A and/or Class B person.

Undertaking one site investigation and remediation would only address one out of nine Very High (A1) risk sites and thirty five High (A2) Risk sites. Therefore should the resources be found to fully investigate and (if necessary) remediate one site; consideration must be made for how the remaining forty three sites are progressed, but at least some progress would have been made through the inspection strategy.

Option D: Undertake further desktop studies

Further desktop studies can be undertaken for the remaining eight A1 and then the thirty five A2 sites to further refine the prioritisation list. This might obtain a better spread of risk over the 44 sites, to ensure that any intrusive investigation undertaken in the future is targeted at the highest risk sites first. It might also allow some of the sites to have their risk rating lowered.

An Environmental Health Officer could progress the desktop studies, however there would be little time to commit to the work, therefore the investigation would be progressed slowly, unless it is determined that the work should take priority over other Environmental Health functions (all of which the council has a legal obligation to undertake). A typical desktop study could be completed in approximately two weeks if undertaken on a full time basis. If fitted in around current workloads it would be unlikely that any more than one study per year could be completed.

Alternatively an additional member of staff to undertake the desktop studies, either full time or part time for quicker progress (i.e. one every two weeks if full time).

Clearly this approach would be contributing to the progression of the Inspection Strategy, however the detailed inspections would not be undertaken. In addition the more evidence available that a site is likely to be causing significant harm or Significant Possibility of Significant Harm (SPOSH), the greater is the weight of responsibility from a public health perspective to further investigate the site. A desktop study, whilst helping improve the knowledge about a site, cannot necessarily prove or disprove harm or SPOSH. As information held about the site is subject to public scrutiny, it is possible that Desktop Studies would increase potential for land blight without being able to provide any firm evidence (i.e. soil/water analysis) to actually confirm if the site is Contaminated or not.

In addition there is an inevitable outcome of completing all high risk desktop studies, in that at some point option B and C will have to be considered again.

Contaminated Land Regime in Wales

Prior to preparing this report for consideration of the above options and revising the Inspection Strategy, it was considered prudent to determine what other local authorities in Wales were doing.

In 2014 a report was commissioned by DEFRA which examined the contaminated land sector in Wales since the withdrawal of the Capital Fund in 2011. In summary the report determined that:-

- Land contamination in Wales is mainly dealt with through planning application (92% of the sites). Around 4% of contaminated sites are dealt with under Part 2A and similarly under voluntary action.
- All local authorities have produced and published their inspection strategy for contaminated land. Eleven local authorities published the most recent version of their strategy pre-2007 and seven published their strategy post 2007.
- The majority of the local authorities (61%) have not changed their priorities within their inspection strategy since it was first drafted. For those that changed their priorities, the main reason invoked was the move towards a greater emphasis via the planning system.
- Seventeen local authorities have established a list of potentially contaminated sites
- By end of December 2013, half of the local authorities reported that they are behind target towards achieving the objectives of their inspection strategy.
- Between 1st April 2001 and 31st December 2013, 788 potentially contaminated sites have had a detailed inspection. The detailed inspections have been funded by central funding (90%) and local authority funding (10%).
- By the end of December 2013, 45 sites had been determined as contaminated land under Part 2A, including 2 designated Special Sites. Of the 43 (non-special) contaminated land sites, local authorities reported that 34 have been completely remediated.
- Twenty-eight (28) sites have been fully remediated by the local authorities and the estimated cost is in the region of £1.9 million. Two Special Sites have been fully remediated at a cost of around £1.2 million.
- Site remediation has been mainly paid for by the Contaminated Land Capital Grants Scheme (74%) prior to its withdrawal, and via other public funding (e.g. local authority funding because no liable party was found).
- No Local Authority has determined a site as Contaminated Land since 1st April 2012



Future Generations Evaluation (includes Equalities and Sustainability Impact Assessments)

<p>Name of the Officer: Huw Owen</p> <p>Phone no: 01873 735433 E-mail: huwowen@monmouthshire.gov.uk</p>	<p>Please give a brief description of the aims of the proposal</p> <p>For members to note progress with regard to the Council's Contaminated Land Inspection strategy and to comment on the options presented for revising the Strategy prior to consideration by Cabinet.</p>
<p>Name of Service: Environmental Health</p>	<p>Date Future Generations Evaluation form completed: 17th February 2016.</p>

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NB. Key strategies and documents that may help you identify your contribution to the wellbeing goals and sustainable development principles include: Single Integrated Plan, Continuance Agreement, Improvement Plan, Local Development Plan, People Strategy, Asset Management Plan, Green Infrastructure SPG, Welsh Language Standards, etc




1. Does your proposal deliver any of the well-being goals below? Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal.



Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
<p>A prosperous Wales Efficient use of resources, skilled, educated people, generates wealth, provides jobs</p>	<p>Positive: An up to date strategy provides direction to the work of officers implementing it. Impact very much depends on the option(s) progressed but at the minimum it reinforces close working with colleagues in Development Control and developers of potentially contaminated land.</p>	

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
A resilient Wales Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)		
A healthier Wales People's physical and mental wellbeing is maximized and health impacts are understood	Positive: Degree of impact depends on the option(s) decided upon but at the minimum will ensure that the contamination legacy of a site is appropriately addressed at the planning stage to make sure the site is fit for the proposed end use. In this way new Contaminated Land sites are not created and redeveloped sites are investigated and remediated, thereby ensuring public health is safeguarded on those sites.	A potential negative impact of revised strategy is that the more progressive options may not be pursued because of potential substantial resource implications. Strategy to be revisited a minimum of every 5 years so a change in financial landscape can be taken into account.
A Wales of cohesive communities Communities are attractive, viable, safe and well connected	Positive: as above for 'a healthier Wales' with regards to safety.	
A globally responsible Wales Taking account of impact on global well-being when considering local social, economic and environmental wellbeing	Positive: setting an example that at a minimum developments are not on contaminated land and protecting the health of future generations.	
A Wales of vibrant culture and thriving Welsh language Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation		
A more equal Wales People can fulfil their potential no		

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
matter what their background or circumstances		

2. How has your proposal embedded and prioritised the sustainable governance principles in its development?

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Long Term</p> <p>Balancing short term need with long term and planning for the future</p>	<p>The Report takes account of legislation and statutory guidance and will enable a revised Contaminated Land Inspection Strategy that is fit for purpose and specific to the issues in Monmouthshire. Strategy is to be revisited at least every 5 years to ensure that it remains current. As a minimum Contaminated Land sites will not be created and redeveloped sites investigated and remediated, so protecting future generations.</p>	<p>Additional actions may develop following members consideration of report.</p>
 <p>Collaboration</p> <p>Working together with other partners to deliver objectives</p>	<p>As a minimum continued working with developers of potentially contaminated land.</p>	
 <p>Involvement</p> <p>Involving those with an interest and seeking their views</p>	<p>Developers of potentially contaminated land will be fully engaged.</p>	

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Prevention</p> <p>Putting resources into preventing problems occurring or getting worse</p>	<p>Working closely with the developers of land through the planning regime aimed at preventing public health issues arising. Remediating existing problems (if any) very much depends on resource available.</p>	
 <p>Integration</p> <p>Considering impact on all wellbeing goals together and on other bodies</p>	<p>A clear defined Strategy will enable the multi faceted implications of dealing with the legacy of potentially contaminated land to be fully considered.</p>	

3. **Are your proposals going to affect any people or groups of people with protected characteristics?** Please explain the impact, the evidence you have used and any action you are taking below. For more detailed information on the protected characteristics, the Equality Act 2010 and the Welsh Language Standards that apply to Monmouthshire Council please follow this link: <http://hub/corporatedocs/Equalities/Forms/AllItems.aspx> or contact Alan Burkitt on 01633 644010 or alanburkitt@monmouthshire.gov.uk

Protected Characteristics	Describe any positive impacts your proposal has on the protected characteristic	Describe any negative impacts your proposal has on the protected characteristic	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?
Age	Strategy will have neutral impact on people or groups of people with protected characteristics.		
Disability			

Protected Characteristics	Describe any positive impacts your proposal has on the protected characteristic	Describe any negative impacts your proposal has on the protected characteristic	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?
Gender reassignment			
Marriage or civil partnership			
Pregnancy or maternity			
Race			
Religion or Belief			
Sex			
Sexual Orientation			
Welsh Language	Bilingual information to be provided on request.		

4. Council has agreed the need to consider the impact its decisions has on important responsibilities of Corporate Parenting and safeguarding. Are your proposals going to affect either of these responsibilities? For more information please see the guidance <http://hub/corporatedocs/Democratic%20Services/Safeguarding%20Guidance.docx> and for more on Monmouthshire's Corporate Parenting Strategy see <http://hub/corporatedocs/SitePages/Corporate%20Parenting%20Strategy.aspx>

	Describe any positive impacts your proposal has on safeguarding and corporate parenting	Describe any negative impacts your proposal has on safeguarding and corporate parenting	What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?
Safeguarding	Having a robust strategy protects the public health of all age groups.		
Corporate Parenting			

5. What evidence and data has informed the development of your proposal?

- **MCCs Contaminated Land Inspection Strategy 2002**
- **Welsh Government Contaminated Land Statutory Guidance 2012**

6. SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?

In 2002 the Council approved a Contaminated Land Inspection Strategy setting out its plans for identifying potentially contaminated land and prioritising any identified sites for remediation action.

Welsh Government provided Capital Support to local authorities to fund intrusive investigations at potentially contaminated sites and towards the cost of remediation. This funding stopped in April 2011.

Revised statutory guidance was published by Welsh Government in April 2012. This requires Strategies produced in accordance with previous versions to be updated or replaced to reflect current guidance.

The revised Strategy will as a minimum continue the approach of consultation between Development Control and Environmental Health Sections with respect to developments on potentially contaminated land ensuring new Contaminated Land sites are not created and remediating redeveloped sites where necessary – safeguarding the health of future generations using the sites. Other impacts will very much depend on the decision of members on how they want the strategy progressed.

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7. ACTIONS: As a result of completing this form are there any further actions you will be undertaking? Please detail them below, if applicable.

What are you going to do	When are you going to do it?	Who is responsible	Progress
Strategy to be revised following reports to Economy and Cabinet and revised Strategy to be brought back to Cabinet for approval.	Revised Strategy to be put before Cabinet for approval within 6 months of Cabinet having considered and commented on options available.	Paul White – EHO Huw Owen Principal EHO	

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8. MONITORING: The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.

The impacts of this proposal will be evaluated on:	Within 5 years of revised Strategy approved by Cabinet
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REPORT

SUBJECT:	CONTAMINATED LAND INSPECTION STRATEGY
DIRECTORATE:	REGENERATION AND CULTURE
MEETING:	CABINET
DATE:	1ST FEBRUARY, 2012
DIVISION/WARDS AFFECTED:	All

1. Purpose:

1.1 To consider the Authority's Contaminated Land Inspection Strategy.

2. Recommendations:

2.1 Note the content of the attached report entitled '*Monmouthshire County Council's Contaminated Land Inspection Strategy – Progress Report*', December 2011

2.2 Defer progress of the existing inspection strategy until a revised strategy is developed.

2.3 To receive a future report, to enable consideration of a revised inspection strategy following the publication of revised statutory guidance.

2.4 Adopt as formal policy the current approach of consultation between Development Control and Environmental Health Sections with respect to developments on potentially contaminated land.

3. Key Issues:

3.1 The authority has duties under Part 11A of the Environmental Protection Act 1990 to inspect its area for contaminated land in line with statutory guidance - which includes the development of an inspection strategy. In 2002 the Council approved a Contaminated Land Inspection Strategy setting out its plans for identifying potentially contaminated land and prioritising any identified sites for remediation action. A report in January 2009 provided a revised and detailed work programme for implementing this strategy. A further report was considered in November 2009 and members requested future updates.

3.2 The attached report provides a summary of progress since that time and members' attention is drawn to the following key points:

- 2480 potentially contaminated sites in the authority have now had an initial desk top risk assessment, which has enabled sites to be placed into risk category bands.
- Identifying these potentially contaminated sites enables effective consultation between the Development Control Section and Environmental Health with respect to potential developments in areas of concern requiring, for example, investigation or remediation works to be undertaken by the developer.
- Since 2005 Welsh Government has provided Capital Support to local authorities to fund intrusive investigations at potentially contaminated sites and towards the cost of remediation. This funding stopped in April 2011.
- There are potentially very significant resource implications for the Council in funding any further progress in the programme of identifying whether or not the high risk sites are contaminated.

- If a site is identified as contaminated, the land would have to be declared as 'Contaminated Land' and placed on public register. The legislation allows for the Council to serve notice on the original polluter to require remediation, but in the quite likely event of the company no longer being in existence, the options remaining would be to serve notice on the current property owners to remediate or for the council to undertake the work. Remediating land is very expensive typically costing around £250,000 per hectare, although the costs do vary widely according to the nature of the site.
- 3.3 In developing its Inspection Strategy the Authority is obliged to follow statutory guidance. Welsh Government has indicated its intention to revise existing Statutory Guidance on contaminated land and published public consultation in December 2010. WG advises that it is not planning major changes to the regime, more a case of fine tuning existing guidance. However, authorities will be expected to update their strategies to ensure they are in line with the revised guidance.
- 3.4 In view of the current resource implications for progressing MCC's Inspection Strategy programme, it would be prudent to await this revised Guidance before consideration of a revised Contaminated Land Strategy.

4. Reasons:

- 4.1 Members previously requested an updated progress report.
- 4.2 The financial implications of the current strategy are potentially significant, particularly in the light of Welsh Government having withdrawn funding.
- 4.3 New statutory guidance to which the authority must have regard is imminent.
- 4.4 It is important that information held by the Council on potentially contaminated land is consulted and acted upon at the time of any planning application.

5. Resource Implications:

- 5.1 The recommendations of this report do not have any financial implications. However, members are asked to note potential implications of options contained within the progress report and these options will need to be considered at a future date, possibly as future budget pressures.

6. Sustainable Development and Equality Impact Implications:

- 6.1 The recommendations within this report are not considered to have any Equality Impact implications.
- 6.2 The development of a contaminated land strategy has implications for sustainable development. In particular, the identification of potentially contaminated sites makes a +ve contribution by helping ensure that such sites are not developed without contamination issues being addressed. The potential impact of future decisions regarding the authority's approach in the light of anticipated revised guidance will need to be considered at that time.

7. Consultees:

Corporate Management Team
 Cabinet Members
 Chairs of Select Committees
 Head of Legal Services
 Head of Finance
 Head of Public Health & Culture
Equality@monmouthshire.gov.uk

8. Results of Consultation:

No adverse comments received.

9: Background Papers:

- Attached Report:- Monmouthshire County Council's Contaminated Land Inspection Strategy – Progress Report December 2011

10. Authors:

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MONMOUTHSHIRE COUNTY COUNCIL

Environment Directorate

Community Protection Section

Contaminated
Land
Inspection
Strategy

September, 2002

18th September, 2002

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This Contaminated Land Inspection Strategy has been prepared by Monmouthshire County Council to fulfil its legal obligations under Part IIA, Environmental Protection Act 1990. It details the arrangements and procedures that the Council will use to inspect potentially contaminated land in the County.

The document, currently in draft form, details the overall aims and objectives of the strategy and provides timescales for achieving priority actions. It also provides for review of the document. The Strategy lays out how the information, gathered during the inspection process, will be managed and what action, if any, would be taken after interpretation of the inspection results. It also provides for liaison with other organisations and communication with the wider community in order to achieve its aims.

In accordance with The Welsh Assembly Government (W.A.G.) guidance it is the Council's intention to take a rational, ordered and efficient approach to the inspection.

A five-year programme of inspection will be undertaken, running from September, 2002 to April, 2007. An inspection programme based on population-density is proposed, with the largest towns being inspected first, followed by the smaller towns and villages. Priority will be given to inspecting land owned by the Council and land scheduled for development. Controlled waters and protected areas of the environment will also be examined and a final prioritisation exercise undertaken to establish the order in which sites found during the inspection process should be remediated.

It is recognised that some sites may be identified outside this general approach to inspection that will require urgent attention. These sites will be dealt with as they arise. The Council will support parties wishing to undertake voluntary remediation and will encourage re-use of brownfield land for development in preference to Greenfield development.

The County Council is the lead regulator on contaminated land but, wherever necessary, the Council will work in partnership with other organisations particularly the Environment Agency. Detailed consultation will be undertaken with Community Councils, the Brecon Beacons National Park (B.B.N.P.) and all statutory consultees. Details are provided of contacts at the County Council who are dealing with the inspection strategy.

The legislation and statutory guidance set clear criteria that must be met before land can be formally designated as contaminated land. The Council must also maintain a public register that must contain certain information.

It is important to note that:

- This document is an inspection strategy to ascertain whether any contaminated land, as defined by the legislation, is to be found in the County and is not a report on the present level, if any, of such land, and
- Within this document the term "contaminated land" means land which has been defined as contaminated land in accordance with the definition contained in Section 78A(2) of the Environmental Protection Act 1990. It does not mean land that might have been considered to be contaminated under any previously held understanding of the term nor necessarily land on which a potentially contaminating process has taken place.

This Contaminated Land Inspection Strategy (usually referred to as the Strategy in this document) has been prepared by Monmouthshire County Council (the Council) to fulfil its obligation under Part IIA of the Environmental Protection Act 1990 (E.P.A. 1990). This requirement came into force on 1st July, 2001 under provisions of the Contaminated Land Regulations (Wales) 2001 (the Regulations).

The Council's approach to dealing with any contaminated land in the County emphasises the need to be open and accountable for its actions. The document was first published as a draft for consultation in July, 2002 and copies circulated to those persons and organisations listed in Appendix III and IV. The responses received from this consultation exercise resulted in the Strategy being amended.

The Strategy details how the inspection of land in the County will be undertaken. The information received as a result of the inspection process will have to be managed and interpreted to ensure appropriate action, if any, is taken under the terms of Part IIA.

It is important to note that this is not a report on the state of contaminated land in Monmouthshire but deals with the strategy to inspect for such land as defined in the Regulations.

Appendix III set out the enforcement policy of the Environmental Health Section. Section 78P (2) of the Act requires that the County Council not only take into account the statutory guidance issued by the Assembly on matters of enforcement but also any hardship which the recovery of costs may cause to a person from whom the cost is recoverable.

Land contamination should be considered more generally in the wider context of Monmouthshire County Council's declared policies and objectives as well as published plans relevant to this topic. Prevention of further contamination is also an important factor in this Strategy.

Public access to information on contaminated land will be secured by provision of a Public Register (paragraph 5.11 refers) and through the consultation procedure carried out in the publication of this Strategy.

A critical aspect of consultation is the involvement of community groups and businesses and details are given in Appendix IV of non-statutory consultees.

1.1 Statutory Guidance and Technical Advice on Contaminated Land

Statutory Guidance (the Guidance) was issued in November 2001 to the Councils in Wales by The Welsh Assembly Government (W.A.G.) in relation to implementation of Part IIA of the E.P.A. 1990 concerning:

The Definition of Contaminated Land - Chapter 1 sets out guidance issued under Section 78A(2) and (5);

The Identification of Contaminated Land - Chapter 2 sets out guidance issued under Section 78B(2);

The Remediation of Contaminated Land - Chapter 3 sets out guidance issued under Section 78E(5);

Exclusion from, and Apportionment of, Liability for Remediation - Chapter 4 sets out guidance issued under Section 78F(6) and (7); and

The Recovery of the Costs of Remediation - Chapter 5 sets out guidance issued under Section 78P(2).

In May, 2001 a local authority guide to councils in England was issued jointly by the previous D.E.T.R. [now D.E.F.R.A.] and the Environment Agency entitled Contaminated Land Inspection Strategies, Technical Advice for Local Authorities.

The guide set out a procedure for the formulation of inspection strategies, and was intended to assist local authorities in fulfilling their statutory obligations and complying with the underlying principles of the Part IIA regime. It was not intended to be mandatory, but provided advice to local authorities on good practice in developing and writing an inspection strategy.

The W.A.G. has suggested that local authorities in Wales utilise the document in writing their Contaminated Land Inspection Strategies. This advice has been followed in compiling Monmouthshire County Council's Strategy.

1.2 Monmouthshire County Council Corporate Aims and Key Objectives

The Strategy should be considered in the context of the County Council's Improvement Plan for 2002 - 2003.

The Plan lists the Council's aims and values. One of the Key Corporate aims is "to ensure that people and communities enjoy a good quality of life, now and in the future by protecting, maintaining and using responsibly the natural assets and resources of the area". The aim goes on to state "we will work with others to help create a clean, green and sustainable environment in Monmouthshire".

One of the key values that should run through everything the Council does is the need to promote sustainable development. These Corporate aims and values are promoted by the production and implementation of a Contaminated Land Strategy.

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1.3 Monmouthshire County Council Local Agenda 21 Strategy

As stated above Monmouthshire County Council has sustainable development as one of its core values which should underpin everything we do as a local authority. To help achieve this goal, the first version of Monmouthshire's Local Agenda 21 Strategy was published in

2000, and following consultation with people who live in the County the final version was published in March, 2002. This local action plan sets out how we are going to work towards a more sustainable future for Monmouthshire.

One of the 13 themes is Pollution, and the vision for this theme is as follows:

"Local, national and global pollution is limited to a level which the natural environment can cope with, without damage. Air, soil, water and noise pollution are all decreased, resulting in a cleaner, healthier environment for everyone."

The Council's Contaminated Land Inspection Strategy will play a vital role in working towards this vision.

1.4 Regulation of Contaminated Land

Contaminated land regulation has been under development since the early 1990's. Consultations on a 1993 White Paper : "Paying for our Past" resulted in Part IIA being inserted into the E.P.A. 1990. This amendment introduced a new regulatory regime and the requirement for Councils to produce a contaminated land inspection strategy.

1.5 The Role of Monmouthshire County Council

The prime regulatory role for contaminated land rests with local authorities and complements existing functions under statutory nuisance powers and their role as a planning authority.

The Council has a duty:

- (a) to cause its area to be inspected to identify contaminated land,
- (b) to determine whether any particular site meets the statutory definition of contaminated land,
- (c) to act as enforcing authority for all contaminated land unless the site meets the definition of a "special site" (see paragraph 1.6 below and Appendix 1).

1.6 The Role of the Environment Agency (E.A.)

The E.A. will make an important contribution to the inspection of land in the following manner:

- (a) the provision of information,

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- (b) provision of specific advice where it has particular expertise (i.e. in relation to the pollution of controlled waters, rather than general contaminated land issues), and
- (c) inspection of land on behalf of the County Council, which if determined as contaminated land is anticipated to be designated as a Special Site (i.e. a potential Special Site).

It is important to note that the E.A. does not identify contaminated land sites. This is the role of Monmouthshire County Council.

The E.A. will however act as the enforcing authority for any contaminated land designated as a Special Site and will publish periodic reports on the state of contaminated land in Wales.

1.7 Defining Contaminated Land

A legal definition of contaminated land is given in Section 78A(2) of Part IIA of the E.P.A. as:

"any land which appears to the local authority, in whose area it is situated, to be in such a condition, by reason of substance in, on or under the land, that

- (a) significant harm is being caused or there is a significant possibility of such harm being caused; or
- (b) pollution of controlled waters is being, or is likely to be, caused"

and Section 78A(5) requires that the local authority shall act in accordance with guidance issued by the W.A.G.' (see paragraph 1.2).

1.8 Pollution Linkage

In addition to the requirements set out in the previous sub paragraph, for a site to meet the definition set out in the Act of contaminated land, a pollutant linkage must be established. A pollutant linkage consists of three parts:

- (i) a source of contamination in, on or under the ground,
- (ii) a pathway by which the contaminant is causing significant harm, or presents, a significant possibility of such harm being caused, and
- (iii) a receptor of a type specified in the Regulations.

1.9 Receptors

The receptors recognised in Part IIA as being potentially sensitive to harm are:

- (i) Human beings
- (ii) Ecological systems or living organisms forming part of a system within certain protected locations, including

- Sites of Special Scientific Interest (S.S.S.I.'s)
- National Nature Reserves
- Marine Nature Reserves
- Nature Reserves
- Special Areas of Conservation (S.A.C.'s)
- Special Protection Areas (S.P.A.'s)

- Candidate S.A.C.'s
 - Ramsar Sites
 - Areas of special protection for birds.
- (iii) Property in the form of buildings, including
- Ancient Monuments
- (iv) Property in other forms
- Crops
 - Livestock
 - Home-grown produce
 - Owned or domesticated animals
 - Wild animals subject to shooting or fishing rights
- (v) Controlled Waters
- Surface waters (e.g. rivers, lakes, streams)
 - Drinking water abstractions
 - Source protection zones
 - Groundwater - private abstractions
 - Groundwater - major aquifers

1.10 Harm

It should be noted that the Guidance sets out specific advice on what local authorities should consider as "harm" to a receptor and when such harm should be considered "significant".

1.11 Risk Assessment

If the three components of the pollutant linkage set out in sub paragraph 1.6.2 are shown to exist, a risk assessment will have to be undertaken. In the Guidance the risk is identified as a combination of:-

- (i) the probability, or frequency, of occurrence of a hazard; and
- (ii) the magnitude and seriousness of the consequences if the predicted event actually occurs.

Land can only be designated contaminated land if a significant risk has been proven.

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1.12 Development of the Strategy

In carrying out inspections under Part IIA of the E.P.A. 1990, the Council will adopt a strategic approach. The Guidance says that the approach should:

- (a) be rational, ordered and efficient,

- (b) be proportionate to the seriousness of any actual or potential risk,
- (c) seek to ensure the most pressing and serious problems are located first,
- (d) ensure that resources are concentrated on investigating areas where the local authority is most likely to identify contaminated land,
- (e) ensure that the local authority efficiently identifies requirements for the detailed inspection of particular areas of land.

This Strategy has been developed to meet these requirements.

1.13 Procedure and Timetable for Development of the Contaminated Land Inspection Strategy

- (a) This draft Strategy for consultation has been prepared by the Specialist Environmental Health Officer who is the Council's lead officer on contaminated land in the Community Protection Section of the Environment Directorate. (September, 2001 - January, 2002).
- (b) Other officers of the Council concerned with contaminated land issues have commented on this draft. These include divisions of the Environment Department, including Planning and Building Control, together with Legal Services (Chief Executive's Unit). (May, 2002).
- (c) The agreed draft will be submitted to the Council's Environment Cabinet member in June, 2002.
- (d) The agreed consultation draft arising from (c) above will be circulated inviting comments from consultees. Community Councils are seen as a particularly important source of local information on possible contaminated land in their area. Details of other consultees are in Appendix II
- (e) Any comments received as part of the formal consultation referred to at (d) will be considered. Any accepted corrections or amendments will be made to the draft Strategy. A final version will be presented to Environment Cabinet member in September, 2002 so that the Strategy can be submitted to W.A.G. and copied to the E.A. by end of September, 2002.

2. Characteristics of Monmouthshire

2.1 Geographical Location

Monmouthshire County Council is located in south-east Wales. It lies on the Welsh border and is bounded by the Forest of Dean District Council, Herefordshire County Council, Powys County Council, Blaenau Gwent County Borough Council, Torfaen County Borough

Council and Newport County Borough Council. The landscape is varied and comprises high hill ranges and a predominantly rural area of countryside with market towns. The County covers an area of 852 sq. km. (329 sq. miles). The Brecon Beacons National Park (B.B.N.P.) covering 120 sq. km. (46 sq. miles) and is situated in the north of the County. Much of the Lower Wye Valley within the County is designated as an Area of Outstanding Natural Beauty (A.O.N.B.).

2.2 History of the County

Monmouthshire has a rich a varied history dating back to before Roman times, due to its important geographical position as a border county. The Roman invasion of AD 43 saw the beginning of documented history in Monmouthshire and created several forts at Abegavenny, Monmouth, Usk with an associated garrison at nearby Caerleon.

Following the retreat of the Romans and the Norman invasion the area saw a rise in Christianity in the area.

Conflicts between Welsh rulers and Marcher lords saw the fortification of towns and the development of castles across the County such as major castles at Chepstow, Caldicot, Raglan and Abergavenny with smaller castles throughout the area.

By the Act of Union of England and Wales in 1536, Wales was incorporated into the new system of English shires and Monmouthshire had representation in Parliament for the first time.

With the onset of the industrial revolution, and the expansion of the iron and coal industries in South Wales, infrastructure was continually improving with the construction of the Brecknock and Abergavenny canal and the introduction of Brunel's South Wales railway linked to the Great Western railway which provided a link to England.

2.3 Population Distribution

As at mid 2000 the (estimated) population of the County was at 87,433 with approximately 50% living in the five towns

Town	Population
Caldicot	9,784
Abergavenny	9,493
Chepstow	9,422

Monmouth	7,724
Usk	2,113

based on 1991 Census

2.4 Land owned by the County Council

The Council owns various areas of land within the County including housing estates, sites of some commercial businesses and industrial estates, parks and open spaces. In certain instances where the opportunity arises, and in collaboration with, the Welsh Development Agency, the Council may purchase land for reclamation or development and to improve the quality of the area in which it is situated.

2.5 Current Land Use Characteristics

The main use of land in the County, other than residential, is agriculture and forestry. Current industrial activity is restricted to a number of small to medium sized industrial estates and a limited number of separately established manufacturing companies. The majority of industrial estates and companies are located in or adjacent to the main settlements in the County, i.e. Caldicot, Chepstow, Abergavenny and Monmouth.

Coal mining, previously carried out in the north west part of the County in Llanely Hill, ceased in 1930. The consequences of this activity are mentioned in paragraph 2.10 (h) of the Strategy.

2.6 Protection of the Natural Environment

Increasingly the international importance of the County's habitats, flora and fauna are being recognised. The Rivers Usk and Wye have been put forward to Europe as candidate Special Area of Conservation. In 1995 the Government designated the Severn Estuary as a Special Protection Area (S.P.A.) under the E.C. Birds Directive, and listed the site as a Wetland of International Importance under the Ramsar Convention (a "Ramsar Site"). The site is also a candidate Special Area of Conservation (C.S.A.C.). In addition five additional sites have candidate status: River Usk; River Wye; Wye Valley Bat Roosts; Usk Bat Sites; Sugar Loaf Woodlands; and Cwm Clydach Woodlands. The Wye Valley Woodland is also being considered as a candidate S.A.C. The Council have stated that they will afford the designated area the appropriate protection in accordance with international obligations.

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Work is currently underway to produce the Monmouthshire Biodiversity Action Plan which will identify actions to be carried out by the relevant organisations or groups to protect and enhance priority species in the County.

CADW (the Welsh Historic Monuments Executive Agency) compiles a register of landscapes, parks and gardens and lists 42 in the County. In a register of landscapes of Outstanding Historical Interest, Blaenavon, the Gwent Levels and the Lower Wye Valley are listed.

2.7 Conservation and the Historic Environment

There is much evidence of human occupation from the prehistoric to modern day surviving in the County. Neolithic burial places are among outstanding memorials of the prehistoric period. The County has three examples of these chambered tombs, Thornwell (Chepstow), Gaer Llwyd (four miles north of Caerwent) and Heston Brake (Portskewett). Megaliths set up at this time include standing stones at Trellech and Grey Hill, near Llanfair Discoed, amongst others.

Fortified settlements from the Iron Age or earlier period have been investigated at Llanmelin, near Llanfair Discoed, and Sudbrook. There are also several promontory forts, camps of simple banked enclosures and hill tops barrows.

The four hundred years of Roman occupation left the County with more than a transitory mark; a civil town was set up at Caerwent, the only Roman walled town in the Principality. Other centres were at Abegavenny, Usk and Monmouth and many camps and sites of Roman farmsteads have been found.

The coming of the Normans after the middle of the 11th Century brought the Romanesque style of architecture, apparent in the early castles and many of the County churches. The ruins of Llanthony and Tintern Abbeys are reminders of this period.

Medieval castles in the County exhibit a variety of styles and in most of them original design is still apparent. The fortresses of the greater barons were the first to be constructed, Chepstow or Striguil Castle being the earliest with Monmouth a close second. Abergavenny and Usk followed next with Caldicot being added at a later date.

Up to the late 15th Century most habitations were built of timber, but with a period of peace in the Welsh borderland, the building of many residences of stone occurred. This resulted in many semi-defended habitations of wood being replaced by houses of stone, some of which remain to this day.

There are many mansions of a later period that add to the architectural interest including Mathern Palace, St. Pierre, Itton and Clytha. Some of the industrial heritage of the County can still be seen in many places. Most of the industry of this period was based around water-powered mills, such as those in Whitebrook.

There are thirty Conservation Areas, made under the provisions of the Civic Amenity Act 1977, in the County.

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Buildings of architectural and historic interest, which are considered worthy of preservation, are included in statutory lists compiled by the W.A.G. At the 1st January, 2001 there are a total of 1,767 listed buildings in the County:-

Grade I	49
Grade II*	146
Grade II	1,548

There are also a further 212 locally listed buildings. These are of local architectural importance and may be placed on the statutory list if they are threatened. Ecclesiastical buildings are given the Grade A or B in decreasing order of importance. There are 1 Grade A and 12 Grade B buildings of this description in the County.

2.8 Geological Characteristics of the County

The County's geology is characterised chiefly by the presence of Old Red Sandstone. Of the lithological groups within this system the Red Marl Group is most widespread. It consists of dark red mudstone or marl with subordinate sandstone. The mudstones contain calcareous nodules occurring either as a conglomerate or as thin bands of impure limestone.

Coal measures are present in the north western rim of the County, particularly at Llanelly Hill.

There are large reserves of sand and gravel in the Usk Valley stretching from near Glangrwyney in the North to Tredunnoch in the South, passing near to Gilwern, Govilon, Llanfoist, Abergavenny, Llanellen, The Bryn, Llanfair Kilgeddin, Bettws Newydd, Usk and Llangybi.

An outcrop of carboniferous limestone extends east north eastward from Magor and Penhow to Chepstow and Tintern and hence north eastward across the Wye Valley into Gloucestershire. A large proportion of the limestone is of dolomitic composition and is quarried for aggregate.

The coastal strip, averaging one to two miles, consists of low lying areas of marine alluvium and silt overlying rocks of the Triassic age, red and green marls (Keuper Marl), limestone conglomerates and breccias.

2.9 Information on Land Possibly Affected by Contamination

This part of the Strategy concerning the manner in which the Council will consider information on possibly contaminated land already in its possession or available from previous published sources:

- (i) The Council holds some information on land affected by contamination or land on which a previous potentially contaminating process has taken place. Much of this information has been made available as part of the development control process through planning applications made to the Council in recent years.

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If the development has been proposed on land where past use may have resulted in contamination, the Council has often requested a site investigation as a planning condition. If the development proceeded on such sites, remedial work will often have been carried out to improve site conditions. Conditions may be attached to any planning permission. County Council planning application records will therefore form a valuable resource during the inspection process.

Land possibly affected by contamination is also identified through the development plan process, e.g. when researching the suitability of sites for potential housing or employment uses.

- (ii) In accordance with the Protocol on Land Contamination between the Local Government Association and the E.A., the Council has been provided with a CD Rom that contains detailed environmental information. Table I lists the contents.

Table I

Activities or source of possible contamination which require consideration in the Strategy	Details provided by E.A.
Catchment Plan showing location of water courses, settlements, etc.	LEAP boundaries, available at 1:50,000 scale
Landfill sites	Active Landfill Sites at 1:10,000 Other known Landfill Sites at 1:50,000
Bathing Waters	Bathing Water Quality
Water Abstraction	Licensed Water Abstractions
Discharge Consents	Active Licensed Water Discharges Revoked licences
River Quality Objectives	GQA Biology and GQA Chemistry
Waste Management Licences	Licensed waste disposal/processing sites
IPC & IPPC authorisations	Sites under IPC (Integrated Pollution Control) & IPPC
Licensed Nuclear Sites	Sites under RAS (Radioactive Substances) control
Source Protection Zones	Areas for which Groundwater Protection zones are in force

- Notes:
- 1) Full descriptions of each section are included in a Microsoft Access database on the CD Rom. This database can be used to view information relating to copyright, Version dates, any restrictions on use, data quality (see Note 4 below), column descriptions etc.
 - 2) The data is supplied in G.I.S. format (Arcview Shape Files) and data formats which can be imported into Microsoft Excel or Access if required.

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- 3) The data includes the whole of Wales (political boundary), plus areas that the Environment Agency Wales has operational responsibility. It will be necessary for the Council to retrieve data sets within the County or adjacent to its boundaries if relevant to the inspection strategy.
- 4) The data provided has been collected from E.A. records during December, 2001. Data must be used with some caution as not all the data has been subject to detailed quality assurance. It is the current best data set available to the E.A. and it is important to note that data quality assurance is an ongoing process within the Agency. Some of the data is ~~the~~ variable as new licenses/consents are issued,

surrendered or amended. The E.A. have stated that a revised data set will be made available in the future.

- (iii) The Council's Community Protection section hold records of pollution incidents and reports of land contamination arising from complaints, inspections and environmental monitoring which environmental health staff have been involved in recent years.
- (iv) Sites of past and present petroleum storage tanks in the County have been compiled.
- (v) In August, 1988 the Welsh Office published a report "Survey of Contaminated Land in Wales" (I.S.B.N. 0 86348 828 5) which gave details of some sites in the Council's area, e.g. previous industrial sites using chemicals associated with land contamination, sewage works etc.
- (vi) The previous Monmouth Borough Council received a list of former gas work sites in that district provided by British Gas Properties p.l.c.
- (vii) A report was commissioned jointly between the previous Monmouth Borough Council and the Ministry of Defence in 1994 into the condition of land at R.A.F. Caerwent. The brief was to undertake a study into the dereliction, geological and ecological issues associated with the previous operation at the base, to assess the cost of any remedial work and to evaluate the potential of the site for new uses. Some site investigation and an ecological survey was undertaken at that time. The report was submitted to the joint committee in 1995. The report by Veryards, consulting engineers in Cardiff, detailed contaminating processes carried out at the site and noted certain geological features which could result in pathways for contamination.
- (viii) As previously noted in the section of the Strategy dealing with the geology of the County, coal extraction has historically taken place in the north western section of the County. The Coal Authority Mining Record Office provided in December, 1999 a list of such sites.

2.10 Key Water Resource Protection Issues and Hydrogeological Characteristics

Within Monmouthshire the rivers Usk and Wye represent the major source of water abstraction. From sampling carried out by the Environment Agency, the river quality of both is predominantly categorised as 'very good' or 'good'. Protection of the high standards of river quality from contamination is therefore a major objective of the inspection strategy. The rivers are amongst the premier salmon fishing rivers in England and Wales and both also support a wide variety of the species of fish, plants, invertebrates and mammals that are of European significance. A number of sites of Special Scientific Interest in the County depend to some extent on groundwater seepage and flow. Therefore any contamination of groundwater in this locality could have an impact not only on the groundwater but also possibly on surface water at these protected locations.

Located to the south east of the County, the Carboniferous Limestone is considered to be a major aquifer and is classified as such under Policy & Practice for Protection of groundwater (E.A., 1998) and an important source of industrial and public water supply.

Much of the Gwent Levels is designated in the Adopted Local Plan as a Coastal Protection Zone (aimed at protecting the coastal landscape). A Severn Estuary Strategy has also been drafted to consider the social, economic and nature conservation interests of the estuary and surrounding coastal lands.

There are 15 Source Protection Zones (S.P.Z.) in the County. S.P.Z.'s are areas over which recharge is captured by an abstraction borehole. S.P.Z.'s are designated by the Environment Agency and are delineated to protect potable water supplies against the polluting effects of human activity. Three zones are normally defined around each selected groundwater source, i.e. a borehole, well or spring. The three zones are defined as Zone I - Inner Protection Zone, Zone II - Outer Protection Zone, Zone III - Total Catchment. In addition a fourth zone, a 'Zone of Special Interest' may also be defined.

There are approximately 1,100 private water supplies in the County which are monitored by the Environmental Health section of the Council. There are a total of 629 surface water abstractions licensed by the E.A. in the County.

2.11 Action Already Taken to Deal With Land Contamination

Monmouthshire County Council, which has only been in existence since re-organisation of Local Government in 1996, has not undertaken any remedial action to deal with contaminated land (as determined in the Act). As outlined in the Strategy and in the Council's U.D.P., the Council has encouraged development on derelict land/brownfield sites.

3. The Aims of the Monmouthshire County Council's Inspection Strategy

The reasons for writing this strategy are outlined in Section 1. Details of how the Council will meet its objectives are given in this Section, by prioritising actions, setting specific objectives and identifying milestones.

3.1 Priorities

The Council proposes to prioritise inspection of land in the County according to the degree of potential contamination present and the sensitivity of identified receptors. Prioritisation will be given to towards the protection of human health and a risk-based approach will be used. The Council will also take into account information provided by the E.A. on the vulnerability of controlled waters. **Page 55** Table 4 shows the Council's priorities and will aid decision making in this task.

Table II

<p>The Council's priorities in dealing with contaminated land will be:</p> <ol style="list-style-type: none">1. To protect human health2. To protect controlled waters3. To protect designated eco-systems4. To prevent damage to property5. To prevent any further contamination of land6. To encourage voluntary remediation7. To encourage re-use of brownfield land <p>This list is presented in priority order and in all cases will have regard to significance and likelihood of the land being contaminated with the meaning of Part IIA of the Act.</p>
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3.2 Strategic Approach

In developing and adopting its strategic approach the statutory Guidance (see para. 1.2) requires the County Council to consider the following:

- (a) any available evidence that significant harm or pollution of controlled waters is actually being caused;
 - (b) any receptor listed in Table III;
 - (c) the extent to which any of these receptors is likely to be exposed to a contaminant, for example as a result of the use of the land, or of the geological and hydrogeological features of the area;
 - (d) the extent to which information on land contamination is already available;
 - (e) the history, scale and nature of industrial or other activities which may have in different parts of its district led to contamination of land;
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- (f) the extent to which remedial action has already been taken to deal with land contamination problems, or is likely to be taken as part of an impending re-development; and
 - (g) the extent to which other regulatory authorities are likely to be considering the possibility of harm being caused to particular receptors or the likelihood of any pollution controlled of waters being caused.

3.3 Risk Assessment - Potentially Sensitive Receptors

Table III reproduced from the Guidance shows receptors to be considered when inspecting land for contamination under Part IIA of the Act and can be compared with Table II when considering priorities.

RECEPTOR	LAND USE TYPES
Human Beings	Allotment Residential with garden Residential without gardens Schools or nurseries Recreational/parks, playing fields open spaces Commercial/industrial
Ecological systems or living organisms forming part of a system within protected locations	European sites, SAC's, SPA's National Nature Reserves, SSSI's Ramsar sites, Nature Reserves
Property in the form of buildings	Ancient Monuments, Listed Buildings
Property in other forms, i.e. crops, livestock, home grown produce, owned or domestic animals, wild animals subject to shooting or fishing rights	Agricultural land, Allotments and Gardens, Forestry areas, other open spaces, rivers, lakes, etc.
Controlled Waters	Surface Waters Drinking Water Abstractions Source Protection Zones Groundwaters - Private Abstractions, Major Aquifers

Table III details the type of receptors that the County Council is required to consider and their potential locations. There is no guidance available which gives priority to these receptors, however, the County Council has considered that it is appropriate to rank them as in the Table.

The receptors will be investigated in light of their proximity to any land identified in light of its existing or former potentially contaminative use. The significance of the risk to the receptors will be considered in light of the descriptions of significant harm and the condition for there being a significant possibility of significant harm which are contained in Part C of Chapter I of the statutory Guidance.

This process forms the back bone of the County Council's risk assessment for contaminated land.

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It should be noted that in the event of an incident leading to contamination the initial response will be in accordance with the Council's existing emergency procedures. However any longer term contaminative efforts will be assessed, prioritised and dealt with under this Strategy.

(i) Human Beings

The County Council is required to ensure that its strategic approach is proportionate to the seriousness of any actual or potential risk. The Council considers that risk to human receptors has the highest priority. The human health effects include death, disease, serious injury, genetic mutation, birth defects or the impairment of reproductive functions. Exposure to a contaminant can be via inhalation, ingestion, direct physical contact, or other physical injury, for example from explosion. Such exposures can take place in a variety of situations which can have an influence on the vulnerability of exposed persons, for example in the home, at school, at work, in

hospital or at recreation and is illustrated under "Land Use Types" (column 2) in Table III,

(ii) Ecological Systems

Ecological systems listed in Column 2 of Table III, will be considered for the possible effects of contaminated land. Significant harm to an ecological system is defined as harm which results in an irreversible adverse change, or in some other substantial adverse change, in the functioning of the ecological system within any substantial part of that location; or harm which affects any species of special interest within that location and which endangers the long-term maintenance of the population of that species at that location.

(iii) Ancient Monuments

Ancient monuments are, because of their unique historical interest, irreplaceable. It is therefore appropriate to afford them a higher priority than other buildings/premises. Occupied buildings will be dealt with under 3.4 (i) above. A building effect in relation to a scheduled Ancient Monument is structural failure or substantial damage. The latter is regarded as occurring when the damage significantly impairs the historic, architectural, traditional, artistic or archaeological interest by reason of which the monument was scheduled.

(iv) Livestock and other Owned or Domesticated Animals

In accordance with Table III, the County Council will consider significant harm to be: in respect to domestic pets, death, serious disease or serious physical damage. For other animals in this category, significant harm will be a substantial loss in its value resulting from death, disease or other serious physical damage.

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Monmouthshire County Council will regard a substantial loss in value as occurring only when a substantial proportion of the animals are dead or otherwise no longer fit for their intended purpose. Food should be regarded as being no longer fit for its purpose when it fails to comply with the provisions of the Food Safety Act 1990. Where a diminution in yield or loss in value is caused by a pollutant linkage, a 20% diminution or loss should be regarded as a benchmark for what constitutes a substantial diminution or loss.

(v) Controlled Waters

The Water Resource Act 1991, Section 104 defines what is to be considered as controlled waters. In the case of Monmouthshire this will include inland fresh waters, being the waters of any lake or pond or of so much of a river or watercourse as is above the freshwater limit as well as groundwater which is water contained in an underground strata.

As noted in para. 2.10 there are 15 Source Protection Zones within the County Council's area. The protection of the major aquifer also referred to in that paragraph is of great importance in this Strategy. Other controlled waters will predominantly relate to surface water, e.g. rivers, streams and lakes. The County Council's surface waters are considered to have a generally improving water quality. To assist the continuance of this trend, land adjacent to controlled waters will be considered for the potential of a contaminant in, on, or under the land to cause pollution of waters. The County Council will liaise with the Environment Agency as early as practicably possible in such circumstances.

3.4 Risk Assessment - Sources of Contamination

Land within Monmouthshire will be investigated in light of its former and potential contaminative use. Rankings and risk categories will be based on the perceived risk associated with each land use. This does not necessarily mean that all sites used in the past for such purposes will have suffered from contamination as defined in the Act.

Such rankings will be used in the context of the environmental sensitivity of the individual site in question and its surroundings. For example, land with a former potentially contaminative use sited adjacent to a school, residential area, watercourse or site of nature conservation interest will be given greater priority than similar land which is not in an environmentally sensitive location.

The proximity of receptors, referred to and prioritised in Table III, to the land in question will also be considered to assist the Council to target its resources to deal first with those situations considered to give rise to the greatest risk.

In addition, areas of the County where there is a greater concentration of potential sites will, subject to the environmental sensitivities of the location, be considered as areas of priority for inspection

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The Environment Health section will also review all available information with respect to pollution incidents that have occurred, within available knowledge, and that may have had a residual contaminative effect. Again, the proximity of receptors to the land in question will be considered to assist the Council to target its resources to deal with situations considered to give rise to the greatest risk.

3.5 Work Programme

The Guidance does not detail how quickly the work must be completed, other than requiring the inspection strategy document to be published within 15 months of the Guidance and the W.A.G. has asked that this be 31st September, 2002. It does require each authority to set out what it considers appropriate timescales for inspection of different parts of its area. Consequently the Council has set specific targets for progression of inspection and regulatory action work as outlined in Section 3.7.6.

The inspection timetable sets out a framework for the overall inspection of the Council's area in assessing potentially contaminated land. In developing the timetable the Council has

sought to reflect reasonable targets for completing the preliminary inspection of its area, inspecting priority sub-areas/sites and implementing regulatory actions.

Clearly the programme is dependent upon many factors including:-

- financial and human resources available to the Council;
- availability/provision of information or services from third parties;
- the nature and scale of defined sites or areas subject to detailed inspection and
- progress with regulatory action.

The Council in acknowledging the impact that such uncertainties can have on programmed works, intends to review and, where necessary, publish an up-dated inspection programme. This review process will be undertaken on a regular basis.

The Council also recognises that alongside this timetable, action might commence on urgent sites brought to the County Council's attention outside the inspection programme and also on sites that have been identified as having the pollutant linkage present and which are posing a significant risk or have the possibility to cause significant harm. Resources channelled into the investigation and assessment of these sites may mean that the general inspection programme may be delayed as a result and will require re-assessment. This will be done through the periodic reviews.

The Council has no intention to consider land for which it is currently responsible or has been responsible, through ownership or management, any differently than other land within the Council's area. Any Council owned land will be considered in accordance with the priorities identified in this Section.

3.6 Contaminated Land Inspection Timetable

The inspection process has been broken down into a series of important stages and dates in the process and are described in the Work Programme.

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Stage 1 Examination of Available Data November 2001 - February 2002

To begin the process of investigation the Council has purchased a set of historic ordnance survey maps from the Landmark Information Group Ltd., as which can be used with the Council's Geographical Information System (G.I.S.)

The historic map data has been supplied for four epoch layers covering the periods 1869 - 1943 in Standard Group 4 Tiled Tiff format.

The historical land use data base identifies areas of potentially contaminated land within the meaning of the Act, from analysis of historic ordnance survey maps, following Governmental advice on the identification and classification of potentially contaminative land uses.

It is to be expected that only a small proportion of sites previously subjected to potentially contaminated land use will meet the strict definition of contaminated land. Due to the past uses of the land, many of these sites will contain substances in, on, or under the ground,

which have the potential to cause harm. However It is worth emphasising that in order to be designated as contaminated land, within the meaning of Part IIA of the Act, these sites must have both a pathway by which significant harm may be caused and a receptor on which significant harm can be inflicted. If either the pathway or the receptor is missing from the pollutant linkage, the site may be land in a contaminative site but cannot be designated as contaminated land.

Stage 2 Consultation on Draft Inspection Strategy March 2002 - June 2002

(i) An internal document was drawn up by the officer in the Environment Directorate dealing with the Council's duties for contaminated land in the County. This draft document (CLIS2) was circulated within the Council to all Departments but with particular reference to Sections which would have a role or could advise on specialist aspects of the Inspection Strategy. These included:

(a) within the Resources & Customer Services Directorate;

Contract & Property Services

(b) within the Environment Directorate;

Building Control
Environmental Health
Construction & Projects
Development & Traffic
Highway Maintenance
Countryside
County Farms
Development Control
Development Plans

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(c) within the Lifelong Learning & Leisure Directorate;

Community Learning

(d) within the Chief Executive Unit;

Health & Safety
Policy Unit
Legal Services
Land Charges

(e) within the Social & Housing Services;

Housing Services.

Having completed this internal consultation the advice received was incorporated into the document (CLIS3) and any necessary amendments and/or amendments made.

(ii) Consultations with Outside Organisations.

The data sources cited in Section 2.10 may not identify all potentially contaminated sites. It is feasible that an area of land might be used for a high-risk contaminative activity (e.g. waste disposal) without ever being recorded on a map. Consultation therefore played a major role in identifying the gaps in this data base.

As an integral part of this stage of the consultation, copies of the draft (CLIS3) were circulated to Community Councils in Monmouthshire and the B.B.N.P. and to other consultees listed in Appendices III & IV. In particular the Community Councils and the B.B.N.P. were asked to provide any relevant information or local knowledge they might possess on potentially contaminative land uses that have occurred within their area.

Monmouthshire County Council has adopted a Corporate Consultation Strategy and the consultation undertaken as part of this Contaminated Land Strategy has been carried out in accordance with this policy. Local amenity groups were contacted as another potential sources of information (see Appendix IV). Consultation on the Strategy was also publicised in the local press and it was hoped that residents and other members of the public, persons, organisations or companies operating businesses in the county would come forward with comments or advice including information on past land uses.

The Guidance also requires that the Council should consult with appropriate public bodies such as the Environment Agency, the Welsh Development Agency, the Countryside Council for Wales and CADW and those consultees listed in Appendix III were sent a copy.

Having completed this external consultation, the advice and comments received were incorporated into the document and any necessary additions and/or amendments made.

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Stage 3 Publish the Contaminated Land Strategy (Document CLIS4)
(Sept. 2002)

Provided the previous consultation stages are completed on schedule, the Strategy will be finalised in September 2002 and submitted to the Environment Agency. A copy will also be sent to the W.A.G. and published on the Council's internet web site (www.monmouthshire.gov.uk). Appropriate local publicity will be given to the final document.

Stage 4 Dealing with Urgent Sites (September 2002 and ongoing)

If there is any verifiable report of contaminated land sites causing significant harm that are identified through consultation process, the general approach to the inspection strategy will be secondary to dealing with such sites. The Regulations recognise this possibility and this proposal is in line with the Guidance.

This stage may include declaring some "special sites" and passing the regulatory role for these sites to the Environment Agency.

Stage 5 Inspections (October 2002 - October 2006)

The Council has not yet begun to actively inspect its area for the purposes of identifying contaminated land. Furthermore the development and implementation of the Strategy will be a learning process for all the parties concerned. It is therefore likely that priorities will change as the Council's knowledge and understanding of the scale, if any, of contaminated land issues increase through information acquisition.

It is therefore difficult to accurately predict the amount of work which will have to be undertaken, whether the necessary competency of staff to carry out such work will be available in-house and the time it will take to complete. It is anticipated that the Strategy will be reviewed from time to time and the timescales given in this Section updated accordingly.

The Council's first priority in dealing with contaminated land is to protect human health. (See Table II). Land within the County will therefore be inspected in order of population density.

The County towns have the largest potential number of receptors (in this case human beings) and will be given the highest priority by the Council. Towns also have the highest risk of having all three elements of a pollutant linkage (source, pathway and receptor) which could cause significant harm to human health.

The 5 towns in the County (Chepstow, Abergavenny, Usk, Caldicot and Monmouth) will therefore be inspected first, followed by the villages and smaller settlements, prioritised on the basis of population.

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Stage 6 Council Owned Land (October 2002 - April 2006)

The Council has some land holdings within the County. There are other areas of land within the County that the Council (or its predecessors) have owned at some stage in the past where potentially contaminative activities (e.g. waste disposal) may have occurred. The Council may also have deliberately pursued the acquisition of derelict or "brownfield" land in order to develop this and improve the overall quality of an area.

Within the general population-based approach to investigation, it is appropriate that these types of sites are subjected to investigation and if necessary, remediation, as a priority.

In consequence the Council could be what the Act calls the "appropriate person" who is liable to pay for any remediation process or is a member of a "liability group" for the significant pollutant linkage.

Secondly the Council will be responsible for remediation when no person or group can be found.

Stage 7 Unitary Development Plan Land (November 2002 - April 2006)

As a planning authority the Council must prepare a Unitary Development Plan (U.D.P.). At the time of writing (March 2002) a new U.D.P. has recently been developed and is currently on deposit.

The B.B.N.P. has also published, as a consultation draft, a Unitary Development Plan (April, 2002).

If the Council or the B.B.N.P. is making recommendations about land use, it is logical to undertake investigation of this "development plan land" as a priority within the general population based approach to contaminated land investigation. This land will therefore be specifically considered as each area of the County is investigated.

Stage 8 Threats to controlled waters, protected areas of the environment, ancient monuments and other buildings (April 2006 - April 2007)

It is anticipated that the investigation of towns and villages could bring to light information that would reveal any threats posed by contaminated land to controlled waters, protected areas of the environment, scheduled ancient monument or other buildings. If the evidence demonstrates a need for urgent action, this will be taken as soon as practicable alongside the rolling programme of town-by-town inspection.

If, however, the evidence is not conclusive then these areas will be included in a specific investigation of such hazards, to be undertaken once the investigation of the towns and villages is complete.

The Environment Agency will be informed of any potential pollution of controlled waters but the circumstances of the problem will determine whether the contaminated land is regulated by the E.A. or the Council. Only Special Sites however will be regulated by the E.A. (see paragraph 1.6 and Appendix 1).

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Liaison will also be undertaken with Countryside Council for Wales (C.C.W.) in the case of threats to protected areas of the environment and with CADW in the case of threats to scheduled ancient monuments. The advice of these statutory bodies will also be sought if significant contamination is identified that may impact on areas that do not enjoy statutory protection, recognising the expertise these bodies have in protection of these resources.

Stage 9 Final Prioritisation (October 2006 - April, 2007)

The Regulations require the remediation of contaminated land sites to be prioritised. This prioritisation can only take place once all sites have been identified and this will therefore occur at the end of the investigation stage, currently timetabled for October 2006.

4. Procedures

The Guidance requires that procedures be drawn up to describe how contaminated land issues will be handled within the Council. This Section also details the level of service that businesses and members of the public can expect from the council in dealing with these issues.

4.1 Internal Management Arrangements for Inspection and Identification

Within the County Council, the Environmental Health Section of the Environment Directorate has responsibility for the implementation of Part IIA E.P.A. 1990. As part of the Environmental Health team a Specialist Environmental Health Officer (E.H.O.) is the lead officer for contaminated land, reporting to the Environmental Health Manager.

The E.H.O. will deal with the day-to-day implementation of the Strategy once approved by elected members. The E.H.O. will also be responsible for serving Remediation Notices, subject to consultation with the Environmental Health Manager and the Council's Legal Section.

Elected members will be informed at the earliest opportunity of any plans to designate any contaminated land, any area of Council-owned land or land where the Council would be the "appropriate" person and may be liable for remediation costs.

4.2 Considering Local Authority Interests in Land

As indicated in paragraph 3.5, investigation of Council-owned and will be carried out alongside the town-by-town inspection schedule and such land in Council ownership will be amongst the first investigated in each area.

4.3 Information Collection

Many sources of information will be required to identify potential sources of contamination and potential receptors. Some of the resources are detailed below:

Data Source	Comments	Use
Historic Maps	Digital maps purchased from Ordnance Survey (through Landmark)	To identify sources, pathways and receptors
Geological Maps	1 : 50 000 solid and drift geology maps are available from the British Geological Society	To characterise pathways
Groundwater Vulnerability Maps	The Groundwater Vulnerability Maps produced by the National Rivers Authority and the Soil Survey and Land Research Centre in 1993 can be used to assess the potential for contamination of groundwater (1 : 100 000)	To identify controlled waters as receptors
Soil Maps	A soil map of the Gwent region can be purchased from the Soil Survey and Land Research Centre at Cranfield University	To characterise pathways
Groundwater Protection Zones	Areas of groundwater that receive special protection by the Environment Agency are identified on the E.A. website, and can be used with a G.I.S.	To characterise controlled waters as receptors
Environmental Health Records	The County Council maintains records of complaints, requests for service and investigations	To identify known information on contamination
Planning Records	The County Council holds detailed planning records of development in the area, including information on ground conditions presented in surveys	To identify known information on contamination
LANDMAP	The County Council's landscape assessment	Identifies particular qualities of an area for maintaining,

		protecting and enhancing the landscape
U.D.P.	A new plan has been written to be put on deposit in September 2001 and is a source of up-to-date information on land use	To identify receptors, particularly historic monuments and protected areas of the environment
E.P.A. 1990 Part I Registers	The Council has maintained a Public Register containing details of authorised industrial processes since 1990	To identify sources of contamination
Waste Management Licences	The Environment Agency maintaining a public register of sites licensed for waste management activities and have produced relevant information relating to sites in the County	To identify sources of contamination
Register of Closed Landfill Sites	The Environment Agency has provided details of closed landfill sites	To identify sources of contamination
The County Records Office	The County Records Office have a number of sources describing land-use in the County suitable for researching site histories	To identify sources of contamination
Drainage Network Plans	Held by M.C.C. and Wessex Water p.l.c,	To identify pathways
Air Photos Archive 1945 - to date	Held by W.A.G.	To identify sources and receptors
Council Staff	Many have local knowledge of potential sources	To identify sources, pathways and receptors

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Reference should also be made to paragraph 2.10 of the Strategy concerning information sources.

4.4 Information Management

The Council's Geographical Information System (G.I.S.) will be the primary tool used to manage contaminated land information. This system will be used to correlate all information and determine the proximity of potential receptors (e.g. human beings, controlled waters) to sources of contamination. It is anticipated that as a result of publicity or for other reasons the Council will receive complaints regarding possible contaminated land from members of the public businesses or amenity groups. Information may also be voluntarily supplied relating to land contamination in the County not directly affecting local people or businesses. These complaints or information provision may have an impact on the approach to inspection and so the procedures to be adopted are detailed in this Part of the Strategy.

4.5. Dealing with Complaints or Service Requests

A complaint or service request regarding contaminated land will be dealt with following the same procedure as currently used by the Environmental Health Section to deal with statutory nuisance complaints.

All complainants may expect:

- their complaint or service request to be logged and recorded
- to be contacted by an officer regarding their complaint or service request within three working days of receipt
- to be kept informed of progress towards resolution of the matters raised.

Every effort will be made to resolve complaints or provide service request details quickly and efficiently. However the legislative framework presents a number of prescribed steps which will have to be taken before any remedial action can be implemented:

- (i) there has to be proof of a pollutant linkage before any designation as contaminated land is permissible, which will only be possible following a detailed investigation
- (ii) there is a requirement for the Council to identify "the persons who ... has caused or knowingly permitted a pollutant to be in, on or under the land" (or "Class A" person)
- (iii) it is necessary that there is prior consultation with interested parties before the designation as contaminated land can take place
- (iv) there is a minimum of a three month period between designation and the serving of a Remediation Notice

The Regulations allow conditions (iii) and (iv) to be waived in extreme cases, but not conditions (i) and (ii).

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4.6 Confidentiality

Persons contacting the Council will be asked to supply their names and addresses and, if appropriate, the details of the land, etc., giving rise to the complaint. The identity of the person will however remain confidential if this is requested. The only circumstance in which the information might be made public would be in the case of an appeal against a Remediation Notice where an important reason for the contaminated land designation was an adverse effect on the complainant's health.

4.7 Voluntary Provision of Information

If a person or organisation provides information relating to contaminated land that is not directly affecting their own health, the health of their families or the condition of their property, this will not necessarily be treated as information and will be recorded and may be acted upon. There will, however, be no obligation for the Council to keep the person or organisation informed of progress towards any resolution, although it may choose to do so as general good practice.

4.8 Anonymously Supplied Information

In most circumstances it is the Council's policy not to respond to anonymous complaints from the public. However with regard to information relating to potentially contaminated land, any information received will be recorded and assessed in particular with respect to

existing information on the site in question. Any further action in relation to information from an anonymous complaint will then be made at the discretion of officer concerned.

4.9 Anecdotal Evidence

Any anecdotal evidence provided to the Council relating to contaminated land will be noted but no designation of contaminated land can occur without the scientific evidence and the following of legal procedures set out in the Act. In such cases, the E.H.O. will use knowledge and experience to decide what, if any, further investigation is required following such a complaint or a provision of such information.

4.10 The Environmental Information Regulations 1992

It should be noted that under the provisions of these Regulations, information given to the Council regarding a particular site must be treated as confidential if the information consists of:

- (i) Personal information where an individual has not given consent to its disclosure.
- (ii) Information disclosed voluntarily by a third party who has not given consent.
- (iii) Information which would increase the likelihood of damage to the environment if disclosed.

Other information given to the Council regarding a particular site may be treated as confidential at the Council's discretion if the information consists of:

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- (i) Information affecting national security, public defence or international relations.
- (ii) Information which is or has previously been the subject of an inquiry.
- (iii) Information from internal communications or unfinished documents.
- (iv) Commercially confidential information.

In all other cases the Council will honour any obligations under the Regulations.

4.11 Risk Assessment

For the purpose of identifying contaminated land, all three stages of the pollutant linkage i.e. source, pathway and receptor must be present. During each stage of data acquisition, any risk caused by the possible presence of a pollutant linkage will be identified and evaluated. This focused process is known as risk assessment.

Risk assessment is a systematic process consisting of four key stages:

1. Hazard Identification

Identification of associated problems.

2. Hazard Assessment

Assessment of the extent of the hazard

3. Risk Estimation

Determination of the potential adverse effects which may result from exposure to the hazard.

4. Risk Evaluation

Evaluation of the significance of the estimated risks.

The W.A.G. Guidance defines 'risk' as the combination of:

- (a) the probability, or frequency, or occurrence of a defined hazard (for example, exposure to a property of a substance with the potential to cause harm); and
- (b) the magnitude (including the seriousness) of the consequences.

Risk assessment techniques will be used by the Council in order to prioritise sites for further inspection and to select the most appropriate remediation actions.

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4.12 Risk Assessment Models

There are a number of risk assessment models currently available. These models range from simple tick boxes where site data is measured against fixed standard values for various pollutants to the modelling of more complex site specific characteristics. However, each model has a number of limitations and may not be suitable for use on particular sites in relation to different receptors. The Council's Environmental Health Section will therefore consider each site investigation report it receives, in order to assess whether the most appropriate model has been used.

(i) The C.L.E.A. Model

As part of the preparation to introduce in the U.K. the new contaminated land regime, the (previous) DETR produced its own risk assessment model for use on contaminated land. Following publication in March 2002, due consideration will be given by the Council to the Contaminated Land Reports CLR 7 - 10, the C.L.E.A. (Contaminated Land Exposure Assessment) methodology used to determine direct human health risks resulting from contaminated sites.

The main purpose of preparing the Guideline Values is to establish whether a site poses actual or potential risks to human health, in the context of the existing or intended usage of the site. **Page 70** should be noted that prior to use of the guideline values, due consideration should be given to determine whether the risk assessment

criteria and pathways used to derive the guideline values are appropriate for individual site specific conceptual models.

If contaminant concentration is below the Guideline Value, then the site is considered safe. Conversely if values are higher than the appropriate Guideline Value, then further site investigation will be required.

The advantage of the C.L.E.A. derived Guideline Values are

- they are based on risk assessment
- they specifically provide for uncertainty
- they provide an objective basis for decision making

The first set of Guideline Values cover; arsenic, cadmium, chromium, cyanide, inorganic lead, inorganic mercury, nickel, phenol, Polycyclic Aromatic Hydrocarbons (P.A.H.) and selenium. Reports are also being prepared on other substances as well.

Whilst the use of C.L.E.A. Guideline Values is not mandatory, the Council intends to utilise the model wherever possible. This consistency of approach will result in a high degree of transparency. However, in certain circumstances, for example in the case of groundwater and ecosystem protection, the C.L.E.A. model will not apply and therefore the most appropriate alternative will have to be used.

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- (ii) I.C.R.C.L. (Inter-departmental Committee on Re-development of Contaminated Land) Values

The I.C.R.C.L 'Guidance on the Assessment and Re-development of Contaminated Land', (2nd Edition, July 1987) is currently the most widely used model in the U.K. This document sets 'trigger' and 'action' soil target values for a number of substances, above which remedial action may be required.

4.13 Risk Assessment for other substances

Risk assessments may also be required for substances not covered by I.C.R.C.L. or C.L.E.A. guidelines. In these cases, reference may be made to occupational exposure levels issued by the Health and Safety Executive or to other authoritative sources of information, such as guidelines adopted in other countries. If guidelines from other countries are referred to however it will be important to bear in mind the significant difference in remediation standards between the U.K. and these other countries and the different assumption used in formulating the standards (e.g. lower organic content of the soil in one country compared with another).

4.14 Risk Assessment for Controlled Waters

Advice will be sought from the Environment Agency on risk assessment if controlled waters are the receptor in a particular pollutant linkage. It is anticipated that risk assessments and remediation will be carried out in accordance with Environment Agency guidance as laid

down in "Methodology for the Derivation of Remedial Targets for Soil and Groundwater to Protect Water Resources" (E.A. R. & D. Publication 20, 1999).

5. Liaison and Communication in Dealing with Contaminated Land Issues in the County

Section 3.7 (Stage 2) referred to the internal consultation of the draft Strategy clearly a number of external organisations and individuals will be involved with the County Council in the practical implementation of the Inspection Strategy. The Council has already made links with certain agencies and will be establishing further links to ensure efficient consultation, transfer of information and where relevant to ensure transfer of regulatory control of Special Sites to the Environment Agency.

5.1 Liaison with Statutory Bodies

To fulfil the County Council's statutory duty, the Council will establish formal liaison procedures with:

- (a) the Environment Agency, Wales,
- (b) the Countryside Council for Wales,
- (c) CADW,
- (d) the Welsh Development Agency
- (e) the Food Standards Agency, Wales
- (f) the Health & Safety Executive

Appendix III lists the details of the statutory bodies the Council will liaise with in carrying its duties to deal with contaminated land.

As previously mentioned these organisations will be invited to comment on the consultation draft of the Inspection Strategy and will also be available to advise on any proposed action by the County Council under Part IIA of the Act in dealing with land subsequently found to be contaminated.

It should be noted however that as the Guidance states (Part D paragraph 2.31) "the local authority has the sole responsibility for determining whether any land appears to be contaminated land" (under the terms of Part IIA of the Act).

5.2 Liaison with Other Local Authorities

Co-operation and liaison with other local authorities is important in ensuring a consistent approach to regulation and avoiding duplication of effort in establishing procedures to deal with contaminated land issues.

5.3 Regional Liaison

The Council is participating in meetings of the South East Wales sub-group of the joint Welsh Local Government Association and Environment Agency Wales Contaminated Land Working Group. Officers specialising in pollution control in the previous Gwent and Glamorgan authorities attend to deal with common issues concerning contaminated land.

5.4 Cross-boundary Contaminated Land

Neighbouring local authorities will have to work together on cross border contamination issues where a source of contamination in one local authority's area is causing a significant risk to a receptor in another local authority's area. This is especially true when dealing with controlled waters where contamination can affect receptors over relatively large distances.

The co-operation now established by the sub-group mentioned in the previous paragraph will assist in dealing with neighbouring Welsh authorities. In the case of Herefordshire and the Forest of Dean District Council to the north west of the County, arrangements have been made to ensure that a similar pattern of co-operation is established with the relevant officers.

5.5 Interaction with Other Regulatory Regimes

There are other regulatory actions that can be taken to deal with contamination on land. Overlaps with planning, water pollution and I.P.P.C. legislation are considered the most important. Any issues of land contamination that may previously have been dealt with under the statutory nuisance regime under Part III of the E.P.A. 1990 will now be dealt with through Part IIA of the Act.

5.5 (i) Planning

The majority of contaminated land issues are currently addressed through the planning regime, where contamination can be a material consideration. Whilst the introduction of Part IIA should now deal with the issue of previously contaminated land sites, it is anticipated that the re-development of some brownfield sites, and the associated planning controls will remain the primary mechanism for dealing with contaminated land. It should be noted that any remediation agreed as a planning condition will be dealt with under planning controls and not under Part IIA but should be carried out within a reasonable time frame.

The County's Environmental Health section currently works closely with development control and building control in the Environment Directorate and the B.B.N.P. on all issues relating to pollution and the current arrangements for consultation are considered to be sufficient to deal with contaminated land issues.

(ii) Water Pollution

The Water Resources Act 1991 gives the Environment Agency powers to deal with harm to controlled waters being caused by contaminated land. While Part IIA legislation does not revoke these powers, the W.A.G. have indicated that such problems should now be dealt with under the new contaminated land regime. The following steps will be taken:

- The Council will consult with the Environment Agency before designating any contaminated land resulting in a significant risk to controlled waters and will take into account any comments made with respect to the remediation.
- If the Agency identifies a risk to controlled waters from contaminated land, the Council will be notified to enable designation of the land and take remedial action under Part IIA.

(iii) Integrated Pollution Prevention and Control (I.P.P.C.)

Under new legislation to regulate pollution from certain industrial processes, site operators are required to undertake a site condition survey prior to receiving a permit from the Environment Agency to operate. If the site condition is such that areas of land meet the definition of contaminated land, then submission of a site survey as part of the I.P.P.C. application may trigger action by the Council under Part IIA. Existing processes which require permits will be brought under this legislation in stages over the next seven years, although it will apply immediately to any new processes covered by the legislation or any substantial change to an existing process.

(iv) Waste Management Licensing

Irresponsible practices in the disposal of waste on to or in to land may lead to contamination. A regime of waste management licensing is already in place and is enforced by the Environment Agency. A site cannot be subjected to regulatory action under the contaminated land regime if waste management activities are already licensed by the E.A., unless the contamination is clearly unrelated to the licensed activity on the site.

5.6 Non-statutory Consultees

The consultation exercise to be undertaken with Community Councils has already been described in Section 2. There is also great scope for members of the public, businesses and voluntary organisations to play an important role in dealing with contaminated land in the County. Efforts will therefore be made to encourage full participation in the process of identifying and investigating contaminated land, recognising the valuable contribution of these sectors.

5.7 Communicating with Owners, Occupiers and Other Interested Parties

The County Council's approach to its regulatory duties is to seek voluntary action before taking enforcement action. This approach will be adopted for issues of land

contamination, recognising that in many cases as much or more effective remediation can be achieved by agreement than by enforcement. The Regulations provide an incentive to undertake voluntary action, in that any materials that requires disposal as a result of voluntary remediation can be exempted from Landfill Tax. This exemption does not apply to materials generated as a result of a remediation notice having been served.

This approach requires effective communication with owners, occupiers and other interested parties. The E.H.O. (para. 4.1) will be the central contact point within the Council on contaminated land issues and as such will work to keep owners, occupiers and other interested parties informed at each stage of an investigation, regardless of whether there is a formal designation of contaminated land.

(i) Where formal designation of contaminated land is required, the following actions will be undertaken:

- Write to the owner and/or the occupier of the land at least 5 working days prior to designation, explaining in summary the reason for designation
- Write to owner and/or the occupier explaining the land has been designated as contaminated land and seeking appropriate remediation without service of a notice
- If requested, dispatch a copy of the written risk assessment to the owner and/or occupier of the land within 5 working days of receipt of a request
- Write to the owner/occupier of neighbouring properties and/or the complainant within 5 working days of designation
- Inform the Environment Agency of the designation at the same time as the owner/occupier is informed, using the form supplied by the E.A.

(ii) Serving a Remediation Notice

- Provide a written remediation notice to the owner/occupier specifying action required
- Write to the owner/occupier of neighbouring properties and/or the complainant within 5 working days of notice being served

Should an urgent designation of contaminated land be required, these steps will be observed as far as practicable although some deviation from the timescales specified is to be expected.

5.8 Powers of Entry

Under Section 108(6) of the Environment Act 1995, the Council has been granted power of entry to carry out investigations. At least 7 days notice will be given of proposed entry onto any premises, unless there is an immediate risk to human health or to the environment.

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5.9 Enforcement Action

The Environmental Health Section has adopted an enforcement policy (Appendix III) to ensure consistent, fair and transparent practices are used when taking enforcement action. Contaminated land investigations will be carried out in accordance with this policy.

5.10 Risk Communication

The complex nature of contaminated land issues does not lend itself to easy explanation to the lay-person. Development of effective methods of risk communication is therefore essential.

The Council will treat any concerns raised by a member of the public seriously and with respect, recognising the importance of the issue to the individual. In all instances, the Council will recognise and try to overcome the critical barriers to effective risk communication:

- familiarity - increased concern about unfamiliar issues
- control - increased concern if the individual is unable to exert any control over events
- proximity in space - increased concern about nearby events
- proximity in time - increased concern about immediate consequences rather than long term effects
- scale - particularly in terms of media coverage, where one large incident appears much worse than several small incidents
- "dread factor" - lack of understanding can lead to stress and make further explanation more difficult

These concepts are explained in a publication by the Scotland & Northern Ireland Forum for Environmental Research on communicating risks from contamination land.

The Regulations and Part IIA grant only limited powers to the Council to deal with hazardous or potentially contaminating materials present in, on or under the ground. Members of the public may believe that any material that is not naturally present in the ground should be removed, especially if it is in the vicinity of their homes. It will be important to explain this can only be done under the powers given to the Council in Part IIA where there is a risk of significant harm and it is to be expected that some members of the public will have difficulty accepting this.

It is therefore important to appreciate that the expectations of the public will not always be met by the powers the Council may exercise under contaminated land legislation.

5.11 The Public Register

Under the Regulations, the council is required to maintain a public register of contaminated land. The register will be held by the Environmental Health Section at the Council's head office at County Hall, Cwmbran. It will be paper-based and be accessible

on request by members of the public during office hours, Monday to Friday. Subject to the appropriate technology being available, the Council will make provision for the register to be available in electronic form.

The Regulations clearly specify the information that must be recorded on this register. This register will therefore include:

- Remediation Notices
- details of site reports obtained by the Council relating to Remediation Notices
- Remediation Declarations, Remediation Statements and Notifications of Claimed Remediation
- designation of sites as "special sites"
- any appeals lodged against Remediation and Charging Notices
- convictions

The public register will not include details of historic land use and other records used in the investigation of potentially contaminated land. These are research documents and as such will not necessarily be made available to the public.

5.12 Provision of Information to the Environment Agency

The Environment Agency is required to prepare an Annual Report for the Secretary of State and the W.A.G. on the State of Contaminated Land in England and Wales. This report will include:

- A summary of local authority inspection strategies, including progress by Councils with the strategy and its effectiveness
- The amount of contaminated land and the nature of the contamination
- Measures taken to remediate land

As local authorities are the lead regulators on contaminated land, with the E.A. regulating only some categories of sites, the national survey will clearly be reliant on information provided by local authorities. A memorandum of understanding has been drawn up between the Environment Agency and the Local Government Association that describes how information will be exchanged between the local authority and the Environment Agency. The Council will therefore provide information to the Environment Agency following the guidelines agreed through this forum.

The Council must also provide information to the Environment Agency whenever a site is designated as contaminated land, and whenever a Remediation Notice, Statement or Declaration is issued or agreed. The Environment Agency has provided standard forms, allowing this information to be provided in a consistent format and the Council will adopt these to fulfil its reporting requirements.

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5.13 The Role of the Welsh Development Agency

The County Council aims to work in partnership with other organisations, and their programmes, where there is the potential for overlap with its responsibilities under Part IIA E.P.A. 1990. Of particular relevance is the Welsh Development Agency (W.D.A.)

Land Reclamation Programme, which is available to both the public and private sectors where the W.D.A.'s objective is to secure beneficial re-use of derelict land through reclamation. This task is seen by the W.D.A. as central to the regeneration of the Welsh economy. For grant purposes, derelict land is defined as "land so damaged by past industrial or other activity that it is incapable of beneficial use without treatment". The site must, therefore, have had some type of development previously which has ceased and is in need of clearing or reclaiming before any further development or use can take place. The grant does not extend to sites that have dereliction of natural origin or works that are covered by enforceable restoration conditions or statutory requirements, including remediation notices. The W.D.A. will, however, consider grant aiding any additional eligible works necessary to achieve complete reclamation of a contaminated site for a defined new use. The W.D.A. evaluates all applications with a view to local needs, value for money, priority of the project and budget availability for such projects in the financial year in which the grant is paid.

6. Programme for Inspection

6.1 Arrangements for Carrying out Detailed Inspections

The earlier processes within this Strategy will assist the County Council in identifying land where there is a possible pollutant linkage. A detailed inspection of the land will then have to be carried out in order to obtain sufficient information to:-

- (a) to provide evidence of the presence of a pollutant linkage and to determine, in accordance with the Guidance, whether the land is contaminated; and
- (b) to decide whether the land requires designation as a special site within the terms of the Contaminated Land (Wales) Regulations 2001.

The nature of the detailed inspection will vary from site to site. Chapter 2 of the Guidance gives statutory guidance. The inspection may include the following:-

- (a) the collation and assessment of documentary information and other information, from other bodies and organisations relating to the particular site;
- (b) a visual inspection of the site and its environs;
- (c) limited sampling of the site, for example, of surface deposits or sampling of adjacent water courses;
- (d) the intrusive investigation of the land by exploratory excavation, bore-holes, etc., and any associated sampling.

These inspections will be undertaken in accordance with the following code of practice and guidance documents:

- British Standard 10175 : 2000. Investigation of Potentially Contaminated Sites. Code of Practice
- A Framework for Assessing the Impact of Contaminated Land on Groundwater and Surface Water. Contaminated Land Research Report (C.L.R. 1)
- Guidance on Preliminary Site Inspection of Contaminated Land. Contaminated Land Research Report (C.L.R. 2)
- Documentary Research on Industrial Sites. Contaminated Land Research Report (C.L.R. 3)
- Sampling Strategies for Contaminated Land. Contaminated Land Research Report (C.L.R. 4)
- Prioritisation and Categorisation Procedure for Sites which may be Contaminated. Contaminated Land Research Report (C.L.R. 6)
- Model Procedures for the Management of Contaminated Land. Contaminated Land Research Report (C.L.R. 11)

6.2 Health and Safety Requirements

Site investigations will be undertaken in accordance with the County Council's health and safety policies and procedures. Officers involved in site investigation will receive appropriate training and be provided with suitable and sufficient protective clothing. In

addition regard shall be had to the following documents in order to ensure safe working practices when undertaking site investigations.

6.3 Statutory Guidance to be followed when using Statutory Powers of Entry

(i) In undertaking inspections of land, officers of the Council will seek to work with the owners and occupiers of land, "appropriate persons" and other interested parties to facilitate the inspections. However, Section 108 (6) of the Environment Act 1995 gives the County Council the power to authorise a person to exercise specific powers of entry.

(ii) Chapter 2, Part C, Paragraph 2.22 - 2.25 of the Guidance provides statutory guidance to local authorities, which the Council will follow, when exercising powers of entry.

(a) Prior to carrying out an inspection using its statutory powers of entry the Council will satisfy itself, on the basis of information already obtained:

in all cases, that there is a reasonable possibility that a pollutant linkage exists on the land, and

in cases involving intrusive investigation that it is likely that the contaminant is actually present and, given the current use of the land, that the receptor is actually present or is likely to be present.

(b) Special Considerations with Respect to Intrusive Investigations

The County Council will carry out any intrusive investigations in accordance with appropriate technical procedures for such investigations. It undertakes to take all reasonable precautions to avoid harm, water pollution or damage to natural resources or features of historical or archaeological interest.

The Council will not carry any intrusive investigation under its statutory powers of entry if:

it has already been provided with detailed information on the condition of the land which provided an appropriate basis to enable it to determine whether the land is contaminated in accordance with the statutory guidance; or

a person offers to provide such information within a reasonable and specified time and then provides the information within that time period.

(iii) Sites of Special Scientific Interest (S.S.S.I.)

The statutory guidance requires the County Council to consult with Countryside Council for Wales before **Page 81** but any intrusive investigation on any area notified as a site of special scientific interest (S.S.S.I.) The County Council will also

consult with the appropriate organisation, for example Gwent Wildlife Trust as well as the Council's own countryside and biodiversity officers with regard to such sites and other ecologically sensitive area of the County.

(iv) Sites of Historical or Archaeological Interest

Before carrying out any intrusive investigation on any area encompassing a site of historical or archaeological interest the council will consult with CADW.

(v) Controlled Waters

Prior to carrying out any intrusive investigation which may affect controlled waters the County Council will consult with the Environment Agency Wales.

(vi) Special Sites

Where land is determined by the County Council to be contaminated land and it also falls within the description of a special site contained within the Contaminated Land (Wales) Regulations 2001 then it is required to be designated as a special site (Appendix 1). The Environment Agency is the enforcing authority for special sites. In these circumstances it is prudent for the Agency to have a formal role at the earliest stage with regard to such land.

Prior to authorising or carrying out any inspection of land using its statutory powers of entry the County Council will consider whether, if the land is found to be contaminated, it would require designation as a special site. If the Council is already in possession of information indicating this then it will make arrangements for the Environment Agency to carry out the inspection on their behalf.

Where the Council considers that there is a reasonable possibility of the presence of a pollutant linkage which would necessitate designation as a special site then arrangements will be sought for the Environment Agency to carry out the inspection.

Where necessary the Council will authorise a nominated person from the E.A. to exercise the powers of entry under Section 108 of the Environment Act 1995 and carry out inspections on its behalf. Before being provided with this authorisation the E.A. must satisfy the Council that it has met the conditions for use of the statutory powers of entry outlined in 7.3 - 7.4.

6.4 Appointment of Consultants and External Contractors

From time to time the County Council may need to appoint consultants or external contractors to undertake specific work with respect to contaminated land. For example, site investigations, sampling and analysis, supervision and the undertaking of site remediation works or as an expert witness. Any such appointments will be carried out

under the terms of the Council's standing orders and financial regulation for the procurement of such services.

7. Review Mechanisms

This Strategy outlines the general approach to be taken in inspecting land in the County for contamination. This Section will describe instances when inspections will occur outside this general inspection framework, circumstances under which previous inspection decisions should be reviewed and measures to be taken to ensure the Strategy remains effective and up-to-date.

7.1 Triggers for Undertaking Inspection

The Strategy has already recognised there may be occasions where inspections may have to be carried out outside of the general inspection framework.

Triggers for undertaking non-routine inspection will include:

- (a) Unplanned events - e.g. if an incident such as a spill has occurred.
- (b) Introduction of new receptors - e.g. if housing is to be built on a potentially contaminated site, designation of a new protected ecosystem, persistent trespass onto a site by young people.
- (c) Supporting voluntary remediation - e.g. a potentially liable party wishing to undertake clean-up before their land has been inspected by the local authority.
- (d) Identification of localised health effects which appear to relate to a particular area of land.
- (e) Responding to information from other statutory bodies, owners, occupiers, or other interested parties.

While these occurrences may trigger non-routine inspections, if this Strategy is to prove effective they must not be allowed to significantly interfere with the milestones laid down in the contaminated land inspection timetable. (See paragraph 3.7) It will be important to consider this issue in all Strategy reviews.

7.2 Triggers for Reviewing Inspection Decisions

In addition there may be occasions where the findings of previous inspection decisions should be reviewed. This might occur, for example, if there were:

- (a) Significant changes in legislation.
- (b) Establishment of significant case law or other precedent.
- (c) Revision of Guideline Values for exposure assessment. (See paragraph 4.7.2 (i)).

It is important therefore that all decisions are made and recorded in a consistent manner that will allow efficient review.

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7.3 Reviewing the Strategy

As part of the overall quality management of this work, it is important to consider the need to review the Strategy from time to time.

Following consultation the Strategy will be finalised during October 2002 and work will then begin on site inspections. In the Council's opinion it will be appropriate to review progress of the inspection strategy after the first full year of operation. This review will therefore take place in October 2003 and the findings will be reported to the Council's

Environment Executive. If there are significant changes to the Strategy, it may be appropriate to carry out further annual reviews in following years.

If the Strategy is found to be operating satisfactorily throughout the period of the five-year work plan, the next review date will be October 2007 when the first inspection of the County has been completed and any remediation of contaminated sites has been prioritised.

8. Contact Details

8.1 Reporting Contaminated Land

- (i) The Council's Environmental Health Section will deal with any complaints or enquiry concerning contaminated land.

Postal Address: Environmental Health Section,
Environment Directorate,,
Monmouthshire County Council,
County Hall, CWMBRAN. NP44 2XH

Tel: 01633 644112

Fax: 01633 644105

E.mail bernardtyson@monmouthshire.gov.uk

Website: www.monmouthshire.gov.uk

- (ii) While the Environmental Health Section will accept all initial reports, if the matter involves development on a potentially contaminated site, it may be more appropriately dealt with through the planning process. In this case, the matter will be passed on to the Development Control section of either Monmouthshire County Council or the B.B.N.P. and liaison established to ensure the condition of the site is suitable for its intended use.
- (iii) Any provisional information concerning the transfer of ownership of land and property (i.e. local land charges search questionnaires), should be made in the first instance to the Council's Legal Services Section, telephone 01633 644244, fax number 01633 644061 or e.mail brendachandler@monmouthshire.gov.uk.

Legislation and Guidance:

The Environment Act 1995 H.M.S.O. (1995)

The Contaminated Land (Wales) Regulations 2001 H.M.S.O. (2001)

Remediation of Contaminated Land. The Welsh Assembly Government (W.A.G.) Guidance to Enforcing Authorities under Part IIA of the Environmental Protection Act 1990 (November 2001)

Contaminated Land Inspection Strategies, Technical Advice to Local Authorities D.E.T.R./E.A. (April 2000)

References:

Communicating Understanding of Contaminated Land Risks. Scotland and Northern Ireland Forum for Environmental Research (S.N.I.F.F.E.R.) (1999)

Industry Profiles. Department of the Environment, (1995 and 1996)

Inter-departmental Committee on the Redevelopment of Contaminated Land (I.C.R.C.L.). Guidance Note 59/83 (1983)

W.D.A. Manual on the Remediation of Contaminated Land 1993 (under review)

Local Environment Agency Plan (L.E.A.P.)

1. The Wye Area
2. The Rural Usk Area
3. The Eastern Valleys Area. Environment Agency (2000)

Monmouthshire County Council Publications:

Unitary Development Plan (Deposit Version) September, 2001

Performance Plan 2001 - 2002

Monmouthshire Local Agenda 21 2000 Strategy, Second Version, March, 2002

B.B.N.P. Publications:

Local Plan. Adopted 1999

Consultation Draft of Unitary Development Plan April, 2002

Biodiversity Action Plan May 2002

Appendix I

Special Sites

While the Monmouthshire County Council is the lead regulatory authority dealing with contaminated land in its district, there may be some instances when regulation will be passed to the Environment Agency. This will only occur once the Council has designated a site as contaminated land and it meets one of the criteria of a "special site" as laid down in the Regulations.

There are three categories of sites when the E.A. will assume regulation:

1. Water pollution cases.
2. Industrial cases.
3. Defence cases,

Regulation 3 of the Contaminated Land (Wales) Regulations 2001 contains the legal definition of what constitutes Special Sites.

Appendix II

Enforcement Policy of the Environmental Health Section

The Environmental Health Section's aim of protecting the public and the environment from harmful activities and risks in Monmouthshire, is achieved through education, advice and regulating the activities of others to secure compliance with legal requirements.

Our work is transparently open, subject to necessary discretion in gathering evidence and confidentiality given to those seeking our help. Due allowance is made where difficulty with compliance is voiced.

To prevent pollution, help and guidance is given when asked by individuals, businesses, planners and others. All documents name the relevant staff and give full contact details. Where service falls below expectations, staff and the Environmental Health Manager seek to resolve complaints, and where this is not achieved complaints are referred to the Head of Community Protection.

Our requirements and actions are targeted to be proportional to risks, circumstances and attitudes, avoiding unnecessary expense where practicable. Consistency, fairness and equitability are achieved through team meetings, reviews and by focusing on service delivery.

Our procedures are to investigate complaints and programme our visits according to a priority system that targets more severe pollution. The person responsible is informed why remedial work is required, normally by letters inviting response and, when further investigation may lead to action, explaining the consequences. Complainants are asked to assist by keeping a record of non-continuous pollution. We liaise with community organisations, other regulatory agencies and services, and encourage self-regulation by business.

Whenever there is sufficient, admissible and reliable evidence of serious pollution or persistent breaches of regulatory requirements, an enforcement notice is served. Our notices incorporate explanation of both rights of appeal and the reasons for their service. Where there are serious and/or immediate consequences from failure to comply with an enforcement notice we will apply to a magistrate for a warrant to enter premises and undertaken the work in default, such as by seizure of equipment, or seek other legal remedy, such as injunction.

We will prosecute providing there is a realistic prospect of conviction and subject to an assessment of the public interest, to prevent serious pollution recurring, punish wrongdoing and act as a deterrent to others. Before deciding on prosecution we will also take into account the offender's intent, attitude, history, ability to foresee and the effect on the community and environment. Alternatives to prosecution, such as formal caution or warning will also be considered.

Appendix III

Details of Consultation Contacts at Government Agencies

Richard Jones,
Senior Conservation Officer - East,
Countryside Council for Wales,
4 Castleton Court,
Fortran Road,
St. Mellons,
CARDIFF. CF3 0LT

Mr. P. Roche,
CADW,
Ancient Monuments Administration,
Crown Buildings,
Cathays Park,
CARDIFF. CF10 3NQ

The Health and Safety Executive,
Government Buildings,
Phase I,
Ty Glas,
Llanishen,
CARDIFF. CF14 5SH

Mr. G. Griffiths,
Director of Land Reclamation,
Welsh Development Agency,
(South East Division),
Q.E.D. Centre, Treforest Estate,
PONTYPRIDD. CF37 5YR

Sarah Coe,
Area Contaminated Land Officer,
Environment Agency Wales,
Abarus House,
St. Mellons Business Park,
St. Mellons, CARDIFF. CF3 0EY

Dr. Sarah J. Rowles,
C.C.A.F. Division,
Foods Standards Agency,
Aviation House,
125 Kingsway,
WC2B 6NH
Appendix III

Details of Other Persons or Organisations Consulted

Gwent Health Authority,
Mamhilad House,
Mamhilad Park Estate,
PONTYPOOL.
NP4 0YP

Dr. A. Blake,
Wye Valley Area of Outstanding Natural
Beauty Office,
Hadnock Road,
Mayhill,
MONMOUTH,
Monmouthshire. NP25 3NG

K. Blackwell,
Abergavenny Chamber of Commerce
c/o Standby Secretarial Services,
Nevill Street,
ABERGAVENNY.
Monmouthshire. NP7 5AA

A. Barnfarther,
Chepstow Chamber of Commerce,
Stuart House,
The Back,
CHEPSTOW,
Monmouthshire.

H. Hodges,
Chepstow Amenity Society,
3 Mount Pleasant,
CHEPSTOW,
Monmouthshire.
NP6 5PS

Mr. M. Morgan,
The Open Spaces Society,
2 Woodside,
MONMOUTH,
Monmouthshire.
NP5 3RS

S. Hewitt,
Forestry Authority,
Victoria Terrace,
ABERYSTWYTH.
SY23 2DQ

T. Bevan,
Monmouth Chamber of Commerce,
c/o Singleton Court Business Centre,
Wonastow Road,
MONMOUTH,
Monmouthshire.

S. Bayliss,
Caldicot Chamber of Commerce,
c/o Barclays bank,
Beaufort Square,
CHEPSTOW,
Monmouthshire.
NP6 5XL

N. Attewell,
Usk Chamber of Commerce,
c/o Home Electrical Services,
Bridge Street,
USK,
Monmouthshire.

Gwent Consultancy,
Gwent House,
Albany Street,
NEWPORT.
NP9 5GH

Janet Rawlings,
Chepstow Friends of the Earth,
14 The Paddock,
CHEPSTOW,
Monmouthshire.
NP16 5BW

Barry Greenwood,
Abergavenny Crickhowell Friends of the
Earth,
3 Cefn Pendegar,
Old Monmouth Road,
ABERGAVENNY,
Monmouthshire. NP7 8BU

Brecon Beacons National Park Authority
7 Glamorgan Street,
BRECON,
Powys.
LD3 7DP

F.A.O. Scott Webster,
Regulation Scientific Assistant,
Dŵr Cymru/Welsh Water,
Dinas,
Llanwnda,
CAERNARFON,
Gwynedd. LL54 5UD

Glossary

Note: 1 An entry in this glossary is an interpretation of a word, term or phrase provided to assist a lay person reading the Strategy. For any legal definition the Guidance or the Act will be authoritative.

2 References to section numbers refer to sections within the Environmental Protection Act 1990.

A.O.N.B.	Area of Outstanding Natural Beauty
Appropriate Person	"Any person who is an appropriate person, determined in accordance with Section 78F ..., to bear responsibility for any thing which is to be done by way of remediation in any particular case".
Aquifer	A body of underground water
Brownfield Site	A site that has been generally abandoned or under-used where re-development is complicated by actual or perceived environmental contamination. Only a small proportion of brownfield sites will meet the definition of contaminated land.
Building	Any structure or erection and any part of a building including any part below ground, but not including plant or machinery within the building.
CADW	The Welsh Historic Monuments Executive Agency.
C.L.E.A.	Contaminated Land Exposure Assessment, a criteria for determining the risk of chronic human health effects.
Contaminant	A substance which is in, or under the land and which has the potential to cause harm or to cause pollution of controlled waters.
Contaminated Land	Any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances, in, on or under the land that: a) significant harm is being caused or there is a significant possibility of such harm being caused; or b) pollution of controlled waters is being, or is likely to be caused.
Controlled Waters	Defined in Section 79a(9) by reference to Part III of the Water Resources Act 1991, Section 104 and includes: a) inland fresh waters (rivers streams, underground streams, canals, lakes and reservoirs), b) groundwaters (any water contained in underground strata, wells or boreholes), c) territorial waters (the sea within three miles of a baseline), d) coastal waters (the sea within the baseline up to the line of highest tide, and tidal waters up to the fresh water limit.
County Council	Monmouthshire County Council.

Current Use:	Any use which is currently being made, or is likely to be made, of the land and which is consistent with any existing planning permission or is otherwise lawful under town and country planning legislation.
D.E.T.R.	Department of the Environment, Transport and the Regions (now Department of the Environment, Agricultural and Rural Affairs (D.E.F.R.A.))
E.A.	The Environment Agency.
Enforcing Authority	(a) in relation to a special site, the Environment Agency; (b) in relation to contaminated land other than a special site, the local authority in whose area the land is situated.
G.I.S.	Geographical Information System.
Groundwater	Any water contained in underground strata, wells or boreholes.
Harm	Defined in Section 78A(4) as: "harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property".
Hazard	A property (of a substance) or situation with the potential to do harm.
I.C.R.C.L.	Inter-departmental Committee on Remediation of Contaminated Land.
Intrusive Investigation	An investigation of land (for example by exploratory excavations) which involves actions going beyond simple visual inspection of the land, limited sampling or assessment of documentary information.
Local Agenda 21	A local action plan for sustainable development, developed as a response to the Agenda 21 document produced at the 1992 Rio Earth Summit.
Owner	A person (other than a mortgagee not in possession) who either in his own right or a trustee for any other person, is entitled to receive the rack rent of the land, or where the land is not let at a rack rent, would be so entitled if it were so let.
Part IIA	Part IIA of the Environmental Protection Act 1990.
Pathway	One or more routes or means by, or through which a receptor: (a) is being exposed to, or affected by, a contaminant, or (b) could be so exposed or affected.
Pollutant	A contaminant which forms part of a pollutant linkage.
Pollutant Linkage	The relationship between a contaminant (source), a pathway and a receptor.
Pollution of Controlled Waters	Defined in Section 78A(9) as "The entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter".
Possibility of Significant Harm	A measure of the probability, or frequency of the occurrence of circumstances which would lead to significant harm being caused.
Ramsar Site	A site protected under an international convention on protection of wetlands of international importance, especially as habitats for waterfowl.

Receptor	Sometimes referred to as "a target", being the health of a person, controlled waters, ecosystem or a property type that could be affected by contamination
Remediation	Generally the carrying out of works to prevent or minimise effects of contamination. In the case of this legislation the term also encompasses assessment of the condition of the land and subsequent monitoring of the land.
Risk	The combination of: (a) the probability, or frequency of occurrence of a defined hazard (for example, exposure to a property of a substance with the potential to cause harm) and (b) the magnitude (including the seriousness) of the consequences.
Risk Assessment	The study of (a) the probability, or frequency of a hazard occurring; and (b) the magnitude of the consequences.
Sustainable Development	Development which meets the need of the present generation without compromising the ability of future generations to meet their own needs.
S.A.C.	Special Area of Conservation.
Significant Harm	Any harm which is determined to be significant in accordance with the Guidance in Chapter 1, Part C.
Significant Pollutant	A pollutant which forms part of significant pollutant linkage.
Significant Pollutant Linkage	A pollutant linkage which forms the basis for a determination that a piece of land is contaminated land.
Significant Possibility of Significant Harm	A possibility of significant harm being caused which, by virtue of Section 78A(5), is determined to be significant in accordance with the statutory Guidance in Chapter 1, Part C.
S.N.I.F.F.E.R.	Scottish and Northern Ireland Forum for Environmental Research.
Source Protection Zone	Protection zones around certain sources of groundwater used for public water supply. Within these zones, certain activities and processes are prohibited or restricted.
Special Site	Defined by Section 73A(3) as "Any contaminated land ; (a) which has been designated as such a site by virtue of Section 78C(7) or 78D(6) ... , and (b) whose designation as such has not been terminated by the appropriate Agency under 78Q(4)..." (also see Appendix 1).
S.S.S.I.	Site of Special Scientific Interest.
Substance	Any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour.
W.A.G.	Welsh Assembly Government.

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Guidance Document

Contaminated Land Statutory Guidance – 2012

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Introduction

1. This statutory guidance (“this Guidance”) is issued by the Welsh Ministers in accordance with section 78YA of the Environmental Protection Act 1990 (“the 1990 Act”)¹. Section 57 of the Environment Act 1995 created Part 2A of the Environmental Protection Act 1990 (“Part 2A”) which establishes a legal framework for dealing with contaminated land in Wales. This Guidance applies in relation to Wales.
2. This Guidance is intended to explain how local authorities should implement the regime, including how they should go about deciding whether land is contaminated land in the legal sense of the term. It also elaborates on the remediation provisions of Part 2A, such as the goals of remediation, and how enforcing authorities should ensure that remediation requirements are reasonable. This Guidance also explains specific aspects of the Part 2A liability arrangements, and the process by which the enforcing authority may recover the costs of remediation from liable parties in certain circumstances.
3. This Guidance is legally binding on enforcing authorities, and relevant sections of Part 2A which form the basis of this Guidance are mentioned in specific Sections of this Guidance below. This Guidance has been subject to scrutiny by the National Assembly for Wales under the negative resolution procedure, in accordance with section 78YA of the 1990 Act. The Environment Agency and other relevant bodies in the land contamination sector have been consulted in relation to this Guidance, as required by section 78YA(1) of the 1990 Act, and a full public consultation was held between December 2010 and March 2011. This Guidance should be read in accordance with Part 2A.
4. This Guidance replaces the previous statutory guidance, as it relates to non-radioactive contaminated land, which was published by the National Assembly for Wales in 2006², and was issued in accordance with section 78YA of the 1990 Act. The previous statutory guidance, as it relates to non-radioactive contaminated land, is obsolete from the date on which this Guidance is issued.
5. In any statutory provisions recited by this Guidance, references to “the Secretary of State” are to be read as references to “the Welsh Ministers”.

¹ The powers of the Secretary of State to issue guidance under sections 78A(2), (5) and (6), 78B(2), 78E(5), 78F(6) and (7) and 78P(2) of the Environmental Protection Act 1990, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672, article 2, Schedule 1). By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32) those functions were subsequently transferred to the Welsh Ministers.

² “Part 2A Statutory Guidance on Contaminated Land (2006)”

Radioactive contamination of land

6. This Guidance does not apply to radioactive contamination of land. Radioactive contaminated land is covered by separate statutory guidance. In the event that land is affected by both radioactive and non-radioactive contaminants both sets of statutory guidance will apply, and the enforcing authority should decide what is a reasonable course of action having due regard for the relevant primary legislation and advice from the Environment Agency.

Terminology

7. Most of the specific terms used in this Guidance are defined within the text. Some general aspects of terminology are:
 - “contaminated land” is used to mean land which meets the Part 2A definition of contaminated land. Other terms, such as “land affected by contamination” or “land contamination”, are used to describe the much broader categories of land where contaminants are present but usually not at a sufficient level of risk to be contaminated land.
 - “Part 2A” means Part 2A of the Environmental Protection Act 1990 (as amended).
 - The terms “contaminant”, “pollutant” and “substance” as used in this Guidance have the same meaning – i.e. they all mean a substance relevant to the Part 2A regime which is in, on or under the land and which has the potential to cause significant harm to a relevant receptor, or to cause significant pollution of controlled waters. This Guidance mainly uses the term “contaminant” and associated terms such as “contaminant linkage”. However it recognises that some non-statutory technical guidance relevant to land contamination uses alternative terms such as “pollutant”, “substance” and associated terms in effect to mean the same thing.
 - “unacceptable risk” means a risk of such a nature that it would give grounds for land to be considered contaminated land under Part 2A.

Section 1: Objectives of the Part 2A regime

- 1.1 This Guidance should be read and applied with Part 2A and the following points in mind.
- 1.2 Wales has a considerable legacy of historical land contamination involving a very wide range of substances. On all land there are background levels of substances, including substances that are naturally present as a result of our varied and complex geology and substances resulting from diffuse human pollution. On some land there are greater concentrations of contaminants, often associated with industrial use and waste disposal. In a minority of cases there may be sufficient risk to health or the environment for such land to be considered contaminated land.
- 1.3 Part 2A provides a means of dealing with unacceptable risks posed by land contamination to human health and the environment, and enforcing authorities should seek to find and deal with such land. Under Part 2A the starting point should be that land is not contaminated land unless there is reason to consider otherwise. Only land where unacceptable risks are clearly identified, after a risk assessment has been undertaken in accordance with this Guidance, should be considered as meeting the Part 2A definition of contaminated land.
- 1.4 The overarching objectives of the Welsh Government's policy on contaminated land and the Part 2A regime are:
 - (a) To identify and remove unacceptable risks to human health and the environment.
 - (b) To seek to ensure that contaminated land is made suitable for its current use.
 - (c) To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development.
- 1.5 Enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists. The Part 2A regime is one of several ways in which land contamination can be addressed. For example, land contamination can be addressed when land is developed (or redeveloped) under the planning system, during the building control process, or where action is taken independently by landowners. Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations; the regimes for waste, water, and environmental permitting; and the Environmental Damage (Prevention and Remediation) Regulations 2009.
- 1.6 Under Part 2A, the enforcing authority may need to decide whether and how to act in situations where such decisions are not straightforward, and where there may be unavoidable uncertainty underlying some of the facts of each case. In so doing, the authority should use its judgement to strike a reasonable balance between: (a) dealing with risks raised by contaminants in land and the benefits of remediating land to remove or reduce those risks; and (b) the potential impacts of regulatory intervention including financial costs to whoever will pay for remediation (including the taxpayer where relevant), health and environmental impacts of taking action, property blight, and burdens on affected people. The authority

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should take a precautionary approach to the risks raised by contamination, whilst avoiding a disproportionate approach given the circumstances of each case. The aim should be to consider the various benefits and costs of taking action, with a view to ensuring that the regime produces net benefits, taking account of local circumstances.

Section 2: Local authority inspection duties

- 2.1 Part 2A requires that local authorities cause their areas to be inspected with a view to identifying contaminated land, and to do this in accordance with this Guidance. Relevant sections of the Act include:
- (a) Section 78B(1): Every local authority shall cause its area to be inspected from time to time for the purpose – (a) of identifying contaminated land; and (b) of enabling the authority to decide whether any such land is land which is required to be designated as a special site.
 - (b) Section 78B(2): In performing [these] functions a local authority shall act in accordance with any guidance issued for the purpose by the Secretary of State.
- 2.2 This Guidance recognises that there are two broad types of “inspection” likely to be carried out by local authorities: (a) strategic inspection, for example collecting information to make a broad assessment of land within an authority’s area and then identifying priority land for more detailed consideration; and (b) carrying out the detailed inspection of particular land to obtain information on ground conditions and carrying out the risk assessments which support decisions under the Part 2A regime relevant to that land. This Guidance refers to the former as “strategic inspection” and the latter as “detailed inspection”.

Strategic inspection

- 2.3 The local authority should take a strategic approach to carrying out its inspection duty under section 78B(1). This approach should be rational, ordered and efficient, and it should reflect local circumstances. Strategic approaches may vary between local authorities.
- 2.4 The local authority should set out its approach as a written strategy, which it should formally adopt and publish to a timescale to be set by the authority. Strategies produced in accordance with previous versions of this Guidance should be updated or replaced to reflect this Guidance. The authority may choose to have a separate strategy document and/or to include its strategy as part of a wider document.
- 2.5 The local authority should keep its written strategy under periodic review to ensure it remains up to date. It is for the authority to decide when its strategy should be reviewed, although as good practice it should aim to review its strategy at least every five years.
- 2.6 The local authority should include in its strategy:
- (a) Its aims, objectives and priorities, taking into account the characteristics of its area.
 - (b) A description of relevant aspects of its area.
 - (c) Its approach to strategic inspection of its area or parts of it.
 - (d) Its approach to the prioritisation of detailed inspection and remediation activity.
 - (e) How its approach under Part 2A fits with its broader approach to dealing with land contamination. For example, its broader approach may include using the planning system to ensure land is made suitable for use when it is redeveloped; and/or

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encouraging polluters/owners of land affected by contamination to deal with problems without the need for Part 2A to be used directly; and/or encouraging problematic land to be dealt with as part of wider regeneration work.

- (f) Broadly, how the authority will seek to minimise unnecessary burdens on the taxpayer, businesses and individuals; for example by encouraging voluntary action to deal with land contamination issues as far as it considers reasonable and practicable.

Prioritisation of detailed inspection activity

- 2.7 When the local authority is carrying out detailed inspection of land in accordance with Part 2A, it should seek to give priority to particular areas of land that it considers most likely to pose the greatest risk to human health or the environment.
- 2.8 In some cases the process of strategic inspection, including prioritisation of detailed inspection activities, may give rise to property blight issues. The local authority should seek to minimise or reduce such potential blight as far as it considers reasonable. The authority should also be open to moves by the land owner (or some other interested party) to help resolve the status of the land themselves. For example, the authority may decide that the land is, or is not, contaminated land on the basis of information provided by the land owner or other interested party, provided the authority is satisfied with the robustness of the information.

Detailed inspection of particular areas of land

- 2.9 If the local authority identifies land where it considers there is a reasonable possibility that a significant contaminant linkage (as defined in paragraphs 3.8 and 3.9) exists, it should inspect the land to obtain sufficient information to decide whether it is contaminated land, having regard to section 3 of this Guidance. The timing of such inspection should be subject to the authority's approach to prioritisation of detailed inspection.
- 2.10 The authority should consult the landowner before inspecting the land unless there is a particular reason why this is not possible, for example because it has not been possible to identify or locate the landowner. Where the owner refuses access, or the landowner cannot be found, the authority should consider using statutory powers of entry.
- 2.11 If the local authority intends to carry out an inspection using statutory powers of entry under section 108 of the Environment Act 1995 it should first be satisfied that there is a reasonable possibility that a significant contaminant linkage may exist on the land. The authority should not use statutory powers of entry to undertake intrusive investigations, including the taking of sub-surface samples, if:
 - (a) it has already been provided with appropriate, detailed information on the condition of the land (e.g. by the Environment Agency or some other person such as the owner of

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the land) which provides sufficient information for the authority to decide whether or not the land is contaminated land; or

- (b) a relevant person (e.g. the owner of the land, or a person who may be liable for the contamination) offers to provide such information within a reasonable and specified time, and then provides such information within that time.

- 2.12 The local authority should carry out any intrusive investigation in accordance with appropriate good practice technical procedures for such investigations.
- 2.13 If at any stage the local authority considers, on the basis of information obtained from inspection activities, that there is no longer a reasonable possibility that a significant contaminant linkage exists on the land, the authority should not carry out any further inspection in relation to that linkage.
- 2.14 If the local authority identifies land which it considers (if the land were to be determined as contaminated land) would be likely to meet one or more of the descriptions of a special site set out in the Contaminated Land (Wales) Regulations 2006, it should consult the Environment Agency and, subject to the Agency's advice and agreement, arrange for the Agency to carry out any intrusive inspection of the land on behalf of the authority. If the Agency is to carry out such an inspection, the authority should where necessary authorise a person nominated by the Agency to exercise the powers of entry conferred by section 108 of the Environment Act 1995. .
- 2.15 Where the Environment Agency carries out an inspection on behalf of a local authority, the authority's regulatory functions under section 78B and 78C of the 1990 Act (including the inspection duty and the decision as to whether land is contaminated land) and the need to comply with the related provisions of this Guidance remain the sole responsibility of the authority. The Agency should advise the authority of its findings in order to enable the authority to carry out these functions. The Agency should carry out any intrusive investigations in accordance with appropriate good practice technical procedures for such investigations.

Section 3: Risk assessment

- 3.1 Part 2A takes a risk based approach to defining contaminated land. For the purposes of this Guidance, “risk” means the combination of: (a) the likelihood that harm, or pollution of water, will occur as a result of contaminants in, on or under the land; and (b) the scale and seriousness of such harm or pollution if it did occur.
- 3.2 All soils contain substances that could be harmful to human or environmental receptors, although in the very large majority of cases the level of risk is likely to be very low. In conducting risk assessment under the Part 2A regime, the local authority should aim to focus on land which might pose an unacceptable risk.
- 3.3 Local authorities should have regard to good practice guidance on risk assessment and they should ensure they undertake risk assessment in a way which delivers the results needed to make robust decisions in line with Part 2A and this Guidance.
- 3.4 Risk assessments should be based on information which is: (a) scientifically-based; (b) authoritative; (c) relevant to the assessment of risks arising from the presence of contaminants in soil; and (d) appropriate to inform regulatory decisions in accordance with Part 2A and this Guidance.

Current use

- 3.5 Under Part 2A, risks should be considered only in relation to the current use of the land. For the purposes of this Guidance, the “current use” means:
- (a) The use which is being made of the land currently.
 - (b) Reasonable likely future uses of the land that would not require a new or amended grant of planning permission.
 - (c) Any temporary use to which the land is put, or is likely to be put, from time to time within the bounds of current planning permission.
 - (d) Likely informal use of the land, for example children playing on the land, whether authorised by the owners or occupiers, or not.
 - (e) In the case of agricultural land, the current agricultural use should not be taken to extend beyond the growing or rearing of the crops or animals which are habitually grown or reared on the land.
- 3.6 In assessing risks the local authority should disregard any receptors which are not likely to be present given the current use of the land or other land which might be affected. In considering the timescale over which a risk should be assessed the authority should take into account any evidence that the current use of the land will cease in the relevant foreseeable future (e.g. within the period of exposure assumed for relevant receptors in a contaminant linkage).

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- 3.7 When considering risks in relation to any future use or development which falls within the description of a “current use”, the local authority should assume that the future use or development would be carried out in accordance with any existing planning permission. In particular, the authority should assume:
- (a) That any remediation which is the subject of a condition attached to that planning permission, or is the subject of any planning obligation, will be carried out in accordance with that permission or obligation.
 - (b) Where a planning permission has been given subject to conditions which require steps to be taken to prevent problems which might be caused by contamination, and those steps are to be approved by the local planning authority, that the local planning authority will ensure that those steps include adequate remediation.

Contaminant linkages

- 3.8 Under Part 2A, for a relevant risk to exist there needs to be one or more contaminant-pathway-receptor linkages – “contaminant linkage” – by which a relevant receptor might be affected by the contaminants in question. In other words, for a risk to exist there must be contaminants present in, on or under the land in a form and quantity that poses a hazard, and one or more pathway by which they might significantly harm people, the environment, or property; or significantly pollute controlled waters. For the purposes of this Guidance:
- (a) A “contaminant” is a substance which is in, on or under the land and which has the potential to cause significant harm to a relevant receptor, or to cause significant pollution of controlled waters.
 - (b) A “receptor” is something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters. The various types of receptors that are relevant under the Part 2A regime are explained in later sections.
 - (c) A “pathway” is a route by which a receptor is or might be affected by a contaminant.
- 3.9 The term “contaminant linkage” means the relationship between a contaminant, a pathway and a receptor. All three elements of a contaminant linkage must exist in relation to particular land before the land can be considered potentially to be contaminated land under Part2A, including evidence of the actual presence of contaminants. The term “significant contaminant linkage”, as used in this Guidance, means a contaminant linkage which gives rise to a level of risk sufficient to justify a piece of land being determined as contaminated land. The term “significant contaminant” means the contaminant which forms part of a significant contaminant linkage.
- 3.10 In some cases the local authority may encounter land where risks are presented by groups of substances which are likely to behave in the same manner, or a substantially very similar manner, in relation to the risks they may present (e.g. as may be the case with organic substances found in oils). For the purposes of identifying and assessing contaminant linkages and taking regulatory decisions in relation to such linkages, the local authority may treat such groups of contaminants as being in effect a single contaminant and multiple contaminant linkages as being in effect a single contaminant linkage. The authority should only do this if there is a scientifically robust reason for doing so, and it should state clearly why this

approach has been taken in relevant documentation (including the risk summary discussed later in this Section) if the land is later determined as contaminated land.

- 3.11 In considering contaminant linkages, the local authority should consider whether:
- (a) The existence of several different potential pathways linking one or more potential contaminants to a particular receptor, or to a particular class of receptors, may result in a significant contaminant linkage.
 - (b) There is more than one significant contaminant linkage on any land. If there are, the authority should consider whether or not each should be dealt with separately, since different people may be responsible for the remediation of individual contaminant linkages.

The process of risk assessment

- 3.12 The process of risk assessment involves understanding the risks presented by land, and the associated uncertainties. In practice, this understanding is usually developed and communicated in the form of a “conceptual model”. The understanding of the risks is developed through a staged approach to risk assessment, often involving a preliminary risk assessment informed by desk-based study; a site visit and walkover; a generic quantitative risk assessment; and various stages of more detailed quantitative risk assessment. The process should normally continue until it is possible for the local authority to decide: (a) that there is insufficient evidence that the land might be contaminated land to justify further inspection and assessment; and/or (b) whether or not the land is contaminated land.
- 3.13 For land to proceed to the next stage of risk assessment there should be evidence that an unacceptable risk could reasonably exist. If the authority considers there is little reason to consider that the land might pose an unacceptable risk, inspection activities should stop at that point. In such cases the authority should have regard to paragraphs 5.2 – 5.4 of this Guidance.
- 3.14 It may become apparent during the course of detailed inspection of land that the assumptions that led to the prioritisation of the land prove to be incorrect, and that the risks posed by the land are lower than expected. In such cases the authority should consider whether (and if so how) to proceed with its inspection, having regard to the need to prioritise inspection activities in accordance with Section 2. There may be good reason to continue until a decision can be taken on whether or not the land is contaminated land. However, as soon as it becomes clear to the authority that the land is unlikely to be contaminated land, it should bring its inspection and risk assessment to an end, and redirect its efforts to the inspection of other land in line with its approach to prioritisation.
- 3.15 As a general rule, inspections should be conducted as quickly, and with as little disruption, as reasonably possible whilst ensuring that a sufficiently robust assessment is carried out. The local authority should seek to avoid or minimise the impacts of long inspections on affected persons, in particular significant disruption and stress to directly affected members of the public in the case of inspections involving residential land.

- 3.16 The local authority should seek to ensure that its risk assessment is relevant to the land in question, and that it is based on risks that are reasonably likely to exist. In the course of risk assessment the authority may consider possible exposure scenarios or situations which are very unlikely to occur. However, regulatory decisions should be based on what is reasonably likely, not what is hypothetically possible.
- 3.17 In undertaking risk assessments, local authorities should ensure that the time and resource put into assessment is sufficient to provide a robust basis for regulatory decisions. In some cases, there may be a need for detailed and lengthy assessments, particularly in complex cases where regulatory decisions are not straightforward. However, in other cases a less detailed and shorter assessment may be appropriate. For example, if it becomes evident early in risk assessment that there is clearly a high or low risk (to the extent that the decision on whether or not land is contaminated land is straightforward) the authority should normally take the decision on the basis of this evidence alone.

Using external expertise during risk assessment

- 3.18 Developing an understanding of risks in complex cases may raise issues which are beyond the expertise of any one person, and may require the involvement of others to conduct a robust risk assessment. There may be little need to consult others in cases where risks are clearly high or low or where the authority has sufficient internal expertise, but in more complex cases the authority may consider it necessary to bring in external expertise.
- 3.19 The question of who to consult depends largely on the circumstances of the land, and the expertise and gaps in expertise of the person doing the assessment. When choosing specialist consultants, local authorities should strive as far as possible to ensure that they are appropriately qualified and competent to undertake the work. Authorities, or consultants working on their behalf, may also consider seeking advice from other relevant experienced practitioners.
- 3.20 External experts may advise the local authority on regulatory decisions under the Part 2A regime, but the decisions themselves remain the sole responsibility of the local authority.

“Normal” presence of contaminants

- 3.21 The Part 2A regime was introduced to help identify and deal with land which poses unacceptable levels of risk. It is not intended to apply to land with levels of contaminants in soil that are commonplace and widespread throughout Wales or parts of it, and for which in the very large majority of cases there is no reason to consider that there is an unacceptable risk.
- 3.22 Normal levels of contaminants in soil should not be considered to cause land to qualify as contaminated land, unless there is a particular reason to consider otherwise. Therefore, if it

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is established that land is at or close to normal levels of particular contaminants, it should usually not be considered further in relation to the Part 2A regime and the local authority should have regard to paragraphs 5.2 to 5.4 of this Guidance.

- 3.23 For the purpose of this Guidance, “normal” levels of contaminants in soil may result from:
- (a) The natural presence of contaminants (e.g. caused by soil formation processes and underlying geology) at levels that might reasonably be considered typical in a given area and have not been shown to pose an unacceptable risk to health or the environment.
 - (b) The presence of contaminants caused by low level diffuse pollution, and common human activity other than specific industrial processes. For example, this would include diffuse pollution caused by historic use of leaded petrol and the presence of benzo(a)pyrene from vehicle exhausts, and the spreading of domestic ash in gardens at levels that might reasonably be considered typical.
- 3.24 In deciding whether land has normal levels of contaminants, the local authority should consider whether contamination is within the bounds of what might be considered typical or widespread: (a) locally, if there is sufficient information to make a reasonable consideration of what is normal within a local area; and/or (b) regionally or nationally in broadly similar circumstances, having due regard to similarity in terms of land use and other relevant factors such as soil type, hydrogeology, and the form of the contaminants.
- 3.25 The local authority should decide that normal levels of contaminants exist in relation to land where: (a) those levels are not significantly different to those likely to be typical or widespread within the authority’s area, or in other similar areas; and/or (b) those levels are common or usual in similar land use situations across Wales or parts of it; and (c) there is no specific reason to consider that those levels of contaminants are likely to pose an unacceptable risk.
- 3.26 It is possible that specific pieces of land at or slightly above normal levels of contamination with regard to specific substances may pose sufficient risk to be contaminated land, and that remediation of such land may bring significant net benefits. However, such cases are likely to be very unusual and the authority should take particular care to explain why the decision has been taken, and to ensure that it is supported by robust scientifically-based evidence.

Use of generic assessment criteria and other technical tools

- 3.27 It is common practice in contaminated land risk assessment to use “generic assessment criteria” (GACs) as screening tools in generic quantitative human health risk assessment to help assessors decide when land can be excluded from the need for further inspection and assessment, or when further work may be warranted.
- 3.28 Local authorities may use GACs and other technical tools to inform certain decisions under the Part 2A regime, provided: (i) they understand how they were derived and how they can be used appropriately; (ii) they have been produced in an objective, scientifically robust and expert manner by reputable organisations; and (iii) they are only used in a manner that is in accordance with Part 2A and this Guidance.

3.29 GACs³ relating to human health risk assessment represent cautious estimates of levels of contaminants in soil at which there is considered to be no risk to health or, at most, a minimal risk to health. With regard to such GACs:

- (a) They may be used to indicate when land is very unlikely to pose a significant possibility of significant harm to human health. This is on the basis that they are designed to estimate levels of contamination at which risks are likely to be negligible or minimal and far from posing a significant possibility of significant harm to human health.
- (b) They should not be used as direct indicators of whether a significant possibility of significant harm to human health may exist. Also, the local authority should not view the degree by which GACs are exceeded (in itself) as being particularly relevant to this consideration, given that the degree of risk posed by land would normally depend on many factors other than simply the amount of contaminants in soil.⁴
- (c) They should not be seen as screening levels which describe the boundary between Categories 3 and 4 in terms of Section 4 (i.e. the two Categories in which land would not be contaminated land on grounds of risks to human health). In the very large majority of cases, these SGVs/GACs describe levels of contamination from which risks should be considered to be comfortably within Category 4.⁵
- (d) They should not be viewed as indicators of levels of contamination above which detailed risk assessment would automatically be required under Part 2A.
- (e) They should not be used as generic remediation targets under the Part 2A regime. Nor should they be used in this way under the planning system, for example in relation to ensuring that land affected by contamination does not meet the Part 2A definition of contaminated land after it has been developed.

3.30 New technical tools and advice may be developed and used in accordance with paragraph 3.28 above to help regulators and others apply and conform to this Guidance. This may be undertaken by government bodies, regulators or other organisations in the land contamination sector. Tools might be developed to help assessors apply the Category 1-4 approach (as described in Section 4 of this Guidance) in relation to specific substances or

³ Paragraph 3.27 refers specifically to the Soil Guideline Values produced by the Environment Agency, and other published GACs produced on similar basis by LQM/Chartered Institute of Environmental Health and the Environmental Industries Commission using the Agency's Contaminated Land Exposure Assessment methodology as existed when this Guidance was issued.

⁴ The level of risk raised by land contamination will depend on more than simply the amount of contaminants in the soil. For example, it will also depend on what form the contaminants take, where they are in the soil, the efficiency of the pathway by which receptors may be exposed, the sensitivity of receptors, the likely degree and duration of exposure, the dose-response relationship, etc. These factors will vary from case to case, sometimes very substantially.

⁵ The question of how comfortably land at the SGV/GAC levels would fall into Category 4 depends on the specific GAC in question and the site circumstances, given that different GACs have different levels of precaution built into them and that risks will depend on many factors other than merely the amount of contaminants in soil. In some cases it may be that GAC levels can be exceeded by a substantial degree (sometimes by orders of magnitude) and the land might still fall within Category 4, but in other cases there may be a considerably smaller margin and in some cases it may be that GAC levels are exceeded by only a few times and land would fall outside of Category 4.

situations. For example, this might include the development of generic screening levels to help assessors decide when land might be assumed to be in Category 4; or tools to help describe how estimates of risk and/or bodily uptake of a contaminant might indicate that land should be placed within certain Categories.

Recognising and dealing with uncertainty

- 3.31 All risk assessments of potentially contaminated land will involve uncertainty, for example due to scientific uncertainty over the effects of substances, and the assumptions that lie behind predicting what might happen in the future. When building an understanding of the risks relating to land, the local authority should recognise that uncertainty exists. The authority should seek to minimise uncertainty as far as it considers to be relevant, reasonable and practical; and it should recognise remaining uncertainty, which is likely to exist in almost all cases. It should be aware of the assumptions and estimates that underlie the risk assessment, and the effect of these on its conclusions.
- 3.32 The uncertainty underlying risk assessments means there is unlikely to be any single “correct” conclusion on precisely what is the level of risk is posed by land, and it is possible that different suitably qualified people could come to different conclusions when presented with the same information. It is for the local authority to use its judgement to form a reasonable view of what it considers the risks to be on the basis of a robust assessment of available evidence in line with this Guidance.

Risk summaries

- 3.33 Once the local authority has completed its detailed inspection and assessment of particular land it should be satisfied it has sufficient understanding of the risks to take relevant regulatory decisions.
- 3.34 The local authority should produce a risk summary for any land where, on the basis of its risk assessment, the authority considers it is likely that the land in question may be determined as contaminated land. The risk summary should explain the authority’s understanding of the risks and other factors the authority considers to be relevant. The authority should seek to ensure that the risk summary is understandable to the layperson, including the owners of the land and members of the public who may be affected by the decision. The authority should not proceed to formal determination of land as contaminated land unless a risk summary has been prepared.
- 3.35 Risk summaries should as a minimum include:
- (a) A summary of the authority’s understanding of the risks, including a description of: the contaminants involved; the identified contaminant linkage(s), or a summary of such linkages; the potential impact(s); the estimated possibility that the impact(s) may occur; and the timescale over which the risk may become manifest.
 - (b) A description of the authority’s understanding of the uncertainties behind its assessment.

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- (c) A description of the risks in context, for example by setting the risk in local or national context, or describing the risk from land contamination relative to other risks that receptors might be expected to be exposed to in any case. This need not involve a detailed comparison of relative risks, but the authority should aim to explain the risks in a way which is understandable and relevant to the layperson.
 - (d) A description of the authority's initial views on possible remediation. This need not be a detailed appraisal, but it should include a description of broadly what remediation might entail; how long it might take; likely effects of remediation works on local people and businesses; how much difference it might be expected to make to the risks posed by the land; and the authority's initial assessment of whether remediation would be likely to produce a net benefit, having regard to the broad objectives of the regime set out in Section 1. In the case of land which (if it were determined as contaminated land) would be likely to be a special site, the authority should seek the views of the Environment Agency, and take any views provided into account in producing this description.
- 3.36 Local authorities are not required to produce risk summaries:
- (a) For land which will not be determined as contaminated land (e.g. land that would be in Categories 3 and 4 in terms of Section 4 of this Guidance). In such cases the authority should have regard to paragraphs 5.2 – 5.4 of this Guidance.
 - (b) For land which has been prioritised for detailed inspection (in accordance with Section 2 of this Guidance) but which has not yet been subject to risk assessment in accordance with Section 3 above.
 - (c) For land determined as contaminated land before this Guidance came into force.

Section 4: The definition of “contaminated land”

- 4.1 Part 2A of the 1990 Act defines “contaminated land”, and provides for Welsh Ministers to issue guidance (i.e. this Guidance) to on how local authorities should determine which land is contaminated land and which is not.
- 4.2 Relevant sections of the Act include:
- Section 78A(2): “contaminated land” is any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land that – (a) significant harm is being caused or there is a significant possibility of such harm being caused; or (b) significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused;....
 - Section 78A(4): “Harm” means harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property.
 - Section 78A(5): The questions – (a) what harm or pollution of controlled waters is to be regarded as “significant”, (b) whether the possibility of significant harm or of significant pollution of controlled waters being caused is “significant”, shall be determined in accordance with guidance issued for the purpose by the Secretary of State in accordance with section 78YA below.
 - Section 78A(6): Without prejudice to the guidance that may be issued under subsection (5) above, guidance under paragraph (a) of that subsection may make provision for different degrees of importance to be assigned to, or for the disregard of, – (a) different descriptions of living organisms or ecological systems or of poisonous, noxious or polluting matter or solid waste matter; (b) different descriptions of places or controlled waters, or different degrees of pollution; or (c) different descriptions of harm to health or property, or other interference; and guidance under paragraph (b) of that subsection may make provision for different degrees of possibility to be regarded as “significant” (or as not being “significant”) in relation to different descriptions of significant harm or of significant pollution.

Section 4.1: Significant harm to human health

- 4.3 The paragraphs below set out categories of harm that should be considered to be significant harm to human health. In all cases the harm should be directly attributable to the effects of contaminants in, on or under the land on the body(ies) of the person(s) concerned.
- 4.4 Conditions for determining that land is contaminated land on the basis that significant harm is being caused would exist where: (a) the local authority has carried out an appropriate, scientific and technical assessment of all the relevant and available evidence; and (b) on the basis of that assessment, the authority is satisfied on the balance of probabilities that

significant harm is being caused (i.e. that it is more likely than not that such harm is being caused) by a significant contaminant(s).

- 4.5 The following health effects should always be considered to constitute significant harm to human health: death; life threatening diseases (e.g. cancers); other diseases likely to have serious impacts on health; serious injury⁶; birth defects; and impairment of reproductive functions.
- 4.6 Other health effects may be considered by the local authority to constitute significant harm. For example, a wide range of conditions may or may not constitute significant harm (alone or in combination) including: physical injury; gastrointestinal disturbances; respiratory tract effects; cardio-vascular effects; central nervous system effects; skin ailments; effects on organs such as the liver or kidneys; or a wide range of other health impacts. In deciding whether or not a particular form of harm is significant harm, the local authority should consider the seriousness of the harm in question: including the impact on the health, and quality of life, of any person suffering the harm; and the scale of the harm. The authority should only conclude that harm is significant if it considers that treating the land as contaminated land would be in accordance with the broad objectives of the regime as described in Section 1.
- 4.7 If the local authority decides that harm is occurring but it is not significant harm, it should consider whether such harm might be relevant to consideration of whether or not the land poses a significant possibility of significant harm (see sub-section 4.2 below). For example, this might be the case if there is evidence that the harm may be a precursor to, or indicative or symptomatic of, a more serious form of harm, or that repeated episodes of minor harm (e.g. repeated skin ailments) might lead to more serious harm in the longer term.
- 4.8 In cases where the local authority considers that: (i) significant harm may be being caused, or is likely to have been caused in the past; and (ii) there is a significant possibility that it may happen again; the authority may choose to consider whether to determine the land on grounds of significant possibility of significant harm (as an alternative to consideration that significant harm is being caused).

Section 4.2: Significant possibility of significant harm to human health

- 4.9 In deciding whether or not a significant possibility of significant harm to human health exists, the local authority should first understand the possibility of significant harm from the relevant

⁶ Physical injury in relation to significant harm would include injury caused by chemical and biochemical properties of substances, such as injury resulting from explosive or asphyxiating properties of gases. It would not extend to injury caused by only physical properties of substances, such as injury caused by falling onto sharp or hard objects made of relevant substances.

contaminant linkage(s) and the levels of uncertainty attached to that understanding, before it goes on to decide whether or not the possibility of significant harm is significant.

Possibility of significant harm to human health

- 4.10 In assessing the possibility of significant harm to human health from the land and associated issues, the local authority should act in accordance with the advice on risk assessment in Section 3 and the guidance in this section.
- 4.11 The term “possibility of significant harm” as it applies to human health, for the purposes of this guidance, means the risk posed by one or more relevant contaminant linkage(s) relating to the land. It comprises:
- (a) The estimated likelihood that significant harm might occur to an identified receptor, taking account of the current use of the land in question.
 - (b) The estimated impact if the significant harm did occur – i.e. the nature of the harm, the seriousness of the harm to any person who might suffer it, and (where relevant) the extent of the harm in terms of how many people might suffer it.
- 4.12 In estimating the likelihood that a specific form of significant harm might occur the local authority should, among other things, consider:
- (a) The estimated probability that the significant harm might occur: (i) if the land continues to be used as it is currently being used; and (ii) where relevant, if the land were to be used in a different way (or ways) in the future having regard to the guidance on “current use” in Section 3.
 - (b) The strength of evidence underlying the risk estimate. It should also consider the key assumptions on which the estimate of likelihood is based, and the level of uncertainty underlying the estimate.
- 4.13 In some cases the local authority’s assessment of possibility of significant harm may be based, solely or partially, on a possible risk that may exist if circumstances were to change in the future within the bounds of the current use of the land. For example, an assessment may be based on a possible risk if a more sensitive receptor were to move onto the land at some point in the future. In such cases the authority should ensure that the possibility of the future circumstance occurring is taken into account in estimating the overall possibility of significant harm.
- 4.14 The local authority should estimate the timescale over which the significant harm might become manifest, to the extent that this is possible and practicable (and recognising that often it may only be possible and practicable to give a broad indication of the estimated timescale).
- 4.15 Having completed its estimation of the possibility of significant harm, the local authority should produce a risk summary in accordance with Section 3.

Deciding whether a possibility of significant harm is significant (human health)

- 4.16 The decision on whether the possibility of significant harm being caused is significant is a regulatory decision to be taken by the relevant local authority. In deciding whether the possibility of significant harm being caused is significant, the authority is deciding whether the possibility of significant harm posed by contamination in, on or under the land is sufficiently high that regulatory action should be taken to reduce it, with all that would entail. In taking such decisions, the local authority should take account of the broad aims of the regime set out in Section 1 of this Guidance.
- 4.17 In deciding whether or not land is contaminated land on grounds of significant possibility of significant harm to human health, the local authority should use the categorisations described in paragraphs 4.19 – 4.29 below. Categories 1 and 2 would encompass land which is capable of being determined as contaminated land on grounds of significant possibility of significant harm to human health. Categories 3 and 4 would encompass land which is not capable of being determined on such grounds.
- 4.18 In considering whether a significant possibility of significant harm exists, the local authority should consider the number of people who might be exposed to the risk in question and/or the number of people it estimates would be likely to suffer harm. In some cases, the authority may decide that this is not a particularly relevant consideration: it is quite possible that land could be determined as contaminated land on the basis of a significant possibility of significant harm to an individual or a small number of people. However in other cases the authority may consider that the number of people affected is an important consideration, for example if the number of people at risk substantially alters the authority's view of the likelihood of significant harm or the scale and seriousness of such harm if it did occur.

Category 1: Human Health

- 4.19 The local authority should assume that a significant possibility of significant harm exists in any case where it considers there is an unacceptably high probability, supported by robust science-based evidence, that significant harm would occur if no action is taken to stop it. For the purposes of this Guidance, these are referred to as "Category 1: Human Health" cases. Land should be deemed to be a Category 1: Human Health case where:
- (a) the authority is aware that similar land or situations are known, or are strongly suspected on the basis of robust evidence, to have caused such harm before in the United Kingdom or elsewhere; or
 - (b) the authority is aware that similar degrees of exposure (via any medium) to the contaminant(s) in question are known, or strongly suspected on the basis of robust evidence, to have caused such harm before in the United Kingdom or elsewhere;
 - (c) the authority considers that significant harm may already have been caused by contaminants in, on or under the land, and that there is an unacceptable risk that it might continue or occur again if no action is taken. Among other things, the authority may decide to determine the land on these grounds if it considers that it is likely that significant harm is being caused, but it considers either: (i) that there is insufficient

evidence to be sure of meeting the “balance of probability” test for demonstrating that significant harm is being caused; or (ii) that the time needed to demonstrate such a level of probability would cause unreasonable delay, cost, or disruption and stress to affected people particularly in cases involving residential properties.

Category 4: Human Health

- 4.20 The local authority should not assume that land poses a significant possibility of significant harm if it considers that there is no risk or that the level of risk posed is low. For the purposes of this Guidance, such land is referred to as a “Category 4: Human Health” case. The authority may decide that the land is a Category 4: Human Health case as soon as it considers it has evidence to this effect, and this may happen at any stage during risk assessment including the early stages.
- 4.21 The local authority should consider that the following types of land should be placed into Category 4: Human Health:
- (a) Land where no relevant contaminant linkage has been established.
 - (b) Land where there are only normal levels of contaminants in soil, as explained in Section 3 of this Guidance.
 - (c) Land that has been excluded from the need for further inspection and assessment because contaminant levels do not exceed relevant generic assessment criteria in accordance with Section 3 of this Guidance, or relevant technical tools or advice that may be developed in accordance with paragraph 3.30 of this Guidance.
 - (d) Land where estimated levels of exposure to contaminants in soil are likely to form only a small proportion of what a receptor might be exposed to anyway through other sources of environmental exposure (e.g. in relation to average estimated national levels of exposure to substances commonly found in the environment, to which receptors are likely to be exposed in the normal course of their lives).
- 4.22 The local authority may consider that land other than the types described in paragraph 4.21 should be placed into Category 4: Human Health if following a detailed quantitative risk assessment it is satisfied that the level of risk posed is sufficiently low.
- 4.23 Local authorities may decide that particular land apparently matching the descriptions of paragraph 4.21 (b) or (d) immediately above poses sufficient risk to human health to fall into Categories other than Category 4. However, such cases are likely to be very unusual and the authority should take particular care to explain why the decision has been taken, and to ensure that it is supported by robust evidence.

Categories 2 and 3: Human Health

- 4.24 For land that cannot be placed into Categories 1 or 4, the local authority should decide whether the land should be placed into either: (a) Category 2: Human Health, in which case the land would be capable of being determined as contaminated land on grounds of

significant possibility of significant harm to human health; or (b) Category 3: Human Health, in which case the land would not be capable of being determined on such grounds.

4.25 The local authority should consider this decision in the context of the broad objectives of the regime and of the Government's policy as set out in Section 1. It should also be mindful of the fact that the decision is a positive legal test, meaning that the starting assumption should be that land does not pose a significant possibility of significant harm unless there is reason to consider otherwise. The authority should then, in accordance with paragraphs 4.26 to 4.29 below, decide which of the following two categories the land falls into:

- (a) Category 2: Human Health. Land should be placed into Category 2 if the authority concludes, on the basis that there is a strong case for considering that the risks from the land are of sufficient concern that the land poses a significant possibility of significant harm, with all that this might involve and having regard to Section 1. Category 2 may include land where there is little or no direct evidence that similar land, situations or levels of exposure have caused harm before, but nonetheless the authority considers on the basis of the available evidence, including expert opinion, that there is a strong case for taking action under Part 2A on a precautionary basis.
- (b) Category 3: Human Health. Land should be placed into Category 3 if the authority concludes that the strong case described in 4.25(a) does not exist, and therefore the legal test for significant possibility of significant harm is not met. Category 3 may include land where the risks are not low, but nonetheless the authority considers that regulatory intervention under Part 2A is not warranted. This recognises that placing land in Category 3 would not stop others, such as the owner or occupier of the land, from taking action to reduce risks outside of the Part 2A regime if they choose. The authority should consider making available the results of its inspection and risk assessment to the owners/occupiers of Category 3 land.

4.26 In making its decision on whether land falls into Category 2 or Category 3, the local authority should first consider its assessment of the possibility of significant harm to human health, including the estimated likelihood of such harm, the estimated impact if it did occur, the timescale over which it might occur, and the levels of certainty attached to these estimates. If the authority considers, on the basis of this consideration alone, that the strong case described in paragraph 4.25(a) does or does not exist, the authority should make its decision on whether the land falls into Category 2 or Category 3 on this basis regardless of the other factors discussed in paragraph 4.27.

4.27 If the authority considers that it cannot make a decision in line with paragraph 4.26, it should consider other factors which it considers are relevant to achieving the objectives set out in Section 1. This should include consideration of:

- (a) The likely direct and indirect health benefits and impacts of regulatory intervention. This would include benefits of reducing or removing the risk posed by contamination. It would also include any risks from contaminants being mobilised during remediation (which would in any case have to be considered under other relevant legislation); and any indirect impacts such as stress related health effects that may be experienced by affected people, particularly local residents. If it is not clear to the authority that the health

benefits of remediation would outweigh the health impacts, the authority should presume the land falls into Category 3 unless there is strong reason to consider otherwise.

- (b) The authority's initial estimate of what remediation would involve; how long it would take; what benefit it would be likely to bring; whether the benefits would outweigh the financial and economic costs; and any impacts on local society or the environment from taking action that the authority considers to be relevant.

- 4.28 In making its consideration in regard to paragraph 4.27(a) and (b), the local authority is not required to make a detailed assessment. For example, the consideration should not necessarily involve quantification of the impacts, particularly if the authority considers it is not possible or reasonable to do so, and the authority is not expected to produce a detailed cost-benefit or sustainability analysis. Rather it is expected to make a broad consideration of factors it considers relevant to achieving the aims of Section 1.
- 4.29 If, having taken the above factors into account, the local authority still cannot decide whether or not a significant possibility of significant harm exists, it should conclude that the legal test has not been met and the land should be placed in Category 3.

Section 4.3: Significant harm and significant possibility of such harm (non-human receptors)

- 4.30 In considering non-human receptors, the local authority should only regard receptors described in Tables 1 and 2 as being relevant for the purposes of Part 2A (e.g. harm to an ecological system outside the description in Table 1 should not be considered to be significant harm). Similarly, in considering whether significant harm is being caused or there is a significant possibility of such harm, the authority should only regard the forms of harm described in Tables 1 and 2 as being relevant.
- 4.31 Tables 1 and 2 below give guidance on how the local authority should go about deciding whether or not: (i) significant harm is being caused; or (ii) there is a significant possibility of such harm; to non-human receptors. In making such decisions the authority should have close regard to Section 1 and should only consider determining land as contaminated land if it is satisfied it would be in accordance with the broad aims set out in Section 1.
- 4.32 In Tables 1 and 2, references to "relevant information" mean information which is: (a) scientifically-based; (b) authoritative; (c) relevant to the assessment of risks arising from the presence of contaminants in soil; and (d) appropriate to inform the determination of whether any land is contaminated land.
- 4.33 In considering "ecological system effects" described in Table 1, the local authority should consult the Countryside Council for Wales and have regard to its comments before deciding whether or not to make a determination.

Table 1: Ecological system effects

Relevant types of receptor	Significant harm	Significant possibility of significant harm
<p>Any ecological system, or living organism forming part of such a system, within a location which is:</p> <ul style="list-style-type: none"> • a site of special scientific interest (under section 28 of the Wildlife and Countryside Act 1981) • a national nature reserve (under s.35 of the 1981 Act) • a marine nature reserve (under s.36 of the 1981 Act)⁷ • an area of special protection for birds (under s.3 of the 1981 Act) • a “European site” within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2010 • any habitat or site afforded policy protection under paragraphs 5.2.2-5 TAN 5 Nature Conservation and Planning (i.e. candidate Special Areas of Conservation, potential Special Protection Areas and listed Ramsar sites); or • any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949. 	<p>The following types of harm should be considered to be significant harm:</p> <ul style="list-style-type: none"> • harm which results in an irreversible adverse change, or in some other substantial adverse change, in the functioning of the ecological system within any substantial part of that location; or • harm which significantly affects any species of special interest within that location and which endangers the long-term maintenance of the population of that species at that location. <p>In the case of European sites, harm should also be considered to be significant harm if it endangers the favourable conservation status of natural habitats at such locations or species typically found there. In deciding what constitutes such harm, the local authority should have regard to the advice of the Countryside Council for Wales and to the requirements of the Conservation of Habitats and Species Regulations 2010</p>	<p>Conditions would exist for considering that a significant possibility of significant harm exists to a relevant ecological receptor where the local authority considers that:</p> <ul style="list-style-type: none"> • significant harm of that description is more likely than not to result from the contaminant linkage in question; or • there is a reasonable possibility of significant harm of that description being caused, and if that harm were to occur, it would result in such a degree of damage to features of special interest at the location in question that they would be beyond any practicable possibility of restoration. <p>Any assessment made for these purposes should take into account relevant information for that type of contaminant linkage, particularly in relation to the ecotoxicological effects of the contaminant.</p>

⁷ Will be superseded by Marine Conservation Zones upon commencement of Part 5 of the Marine and Coastal Access Act 2009.

Table 2: Property effects

Relevant types of receptor	Significant harm	Significant possibility of significant harm
<p>Property in the form of:</p> <ul style="list-style-type: none"> • crops, including timber; • produce grown domestically, or on allotments, for consumption; • livestock; • other owned or domesticated animals; • wild animals which are the subject of shooting or fishing rights. 	<p>For crops, a substantial diminution in yield or other substantial loss in their value resulting from death, disease or other physical damage. For domestic pets, death, serious disease or serious physical damage. For other property in this category, a substantial loss in its value resulting from death, disease or other serious physical damage.</p> <p>The local authority should regard a substantial loss in value as occurring only when a substantial proportion of the animals or crops are dead or otherwise no longer fit for their intended purpose. Food should be regarded as being no longer fit for purpose when it fails to comply with the provisions of the Food Safety Act 1990. Where a diminution in yield or loss in value is caused by a contaminant linkage, a 20% diminution or loss should be regarded as a benchmark for what constitutes a substantial diminution or loss.</p> <p>In this section, this description of significant harm is referred to as an “animal or crop effect”.</p>	<p>Conditions would exist for considering that a significant possibility of significant harm exists to the relevant types of receptor where the local authority considers that significant harm is more likely than not to result from the contaminant linkage in question, taking into account relevant information for that type of contaminant linkage, particularly in relation to the ecotoxicological effects of the contaminant.</p>
<p>Property in the form of buildings. For this purpose, “building” means any structure or erection, and any part of a building including any part below ground level, but does not include plant or machinery comprised in a building, or buried services such as sewers, water pipes or electricity cables.</p>	<p>Structural failure, substantial damage or substantial interference with any right of occupation. The local authority should regard substantial damage or substantial interference as occurring when any part of the building ceases to be capable of being used for the purpose for which it is or was intended.</p> <p>In the case of a scheduled Ancient Monument, substantial damage should also be regarded as occurring when the damage significantly impairs the historic, architectural, traditional, artistic or archaeological interest by reason of which the monument was scheduled.</p> <p>In this Chapter, this description of significant harm is referred to as a “building effect”.</p>	<p>Conditions would exist for considering that a significant possibility of significant harm exists to the relevant types of receptor where the local authority considers that significant harm is more likely than not to result from the contaminant linkage in question during the expected economic life of the building (or in the case of a scheduled Ancient Monument the foreseeable future), taking into account relevant information for that type of contaminant linkage.</p>

Section 4.4: Significant pollution of controlled waters and significant possibility of such pollution

- 4.34 This sub-section gives Guidance on how the local authority should go about deciding whether significant pollution of controlled waters is being caused, or whether there is a significant possibility of such pollution being caused. This sub-section deals with controlled waters as a receptor in contaminant linkages, and not as a pathway.
- 4.35 In establishing whether significant pollution of controlled waters is being caused, or whether there is a significant possibility of such pollution being caused, the local authority should have regard for any technical guidance issued by the Environment Agency to support this Guidance. If the authority considers it likely that land might be contaminated land on such grounds, it should consult the Agency and have strong regard to the Agency's advice.

Pollution of controlled waters

- 4.36 Under section 78A(9) of Part 2A the term "pollution of controlled waters" means the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter. The term "controlled waters" in relation to Wales has the same meaning as in Part 3 of the Water Resources Act 1991, except that "ground waters" does not include waters contained in underground strata but above the saturation zone.
- 4.37 Given that the Part 2A regime seeks to identify and deal with significant pollution (rather than lesser levels of pollution), the local authority should seek to focus on pollution which: (i) may be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems; (ii) which may result in damage to material property; or (iii) which may impair or interfere with amenities and other legitimate uses of the environment.

Significant pollution of controlled waters

- 4.38 The following types of pollution should be considered to constitute significant pollution of controlled waters:
- (a) Pollution equivalent to "environmental damage" to surface water or groundwater as defined by The Environmental Damage (Prevention and Remediation) Regulations 2009, but which cannot be dealt with under those Regulations.
 - (b) Inputs resulting in deterioration of the quality of water abstracted, or intended to be used in the future, for human consumption such that additional treatment would be required to enable that use.
 - (c) A breach of a statutory surface water Environment Quality Standard, either directly or via a groundwater pathway.

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- (d) Input of a substance into groundwater resulting in a significant and sustained upward trend in concentration of contaminants (as defined in Article 2(3) of the Groundwater Daughter Directive (2006/118/EC)⁸).

4.39 In some circumstances, the local authority may consider that the following types of pollution may constitute significant pollution: (a) significant concentrations⁹ of hazardous substances or non-hazardous pollutants in groundwater; or (b) significant concentrations of priority hazardous substances, priority substances or other specific polluting substances in surface water; at an appropriate, risk based compliance point¹⁰. The local authority should only conclude that pollution is significant if it considers that treating the land as contaminated land would be in accordance with the broad objectives of the regime as described in Section 1. This would normally mean that the authority should conclude that less serious forms of pollution are not significant. In such cases the authority should consult the Environment Agency.

- 4.40 The following types of circumstance should not be considered to be contaminated land on water pollution grounds:
- (a) The fact that substances are merely entering water and none of the conditions for considering that significant pollution is being caused set out in paragraphs 4.38 and 4.39 above are being met.
 - (b) The fact that land is causing a discharge that is not discernible at a location immediately downstream or down-gradient of the land (when compared to upstream or up-gradient concentrations).
 - (c) Substances entering water in compliance with a discharge authorised under the Environmental Permitting Regulations.

Significant pollution of controlled waters is being caused

- 4.41 In deciding whether significant pollution of controlled waters is being caused, the local authority should consider that this test is only met where it is satisfied that the substances in question are continuing to enter controlled waters; or that they have already entered the waters and are likely to do so again in such a manner that past and likely future entry in effect constitutes ongoing pollution. For these purposes, the local authority should:
- (a) Regard substances as having entered controlled waters where they are dissolved or suspended in those waters, or (if they are immiscible with water) they have direct contact with those waters on or beneath the surface of the water.
 - (b) Take the term “continuing to enter” to mean any measurable entry of the substance(s) into controlled waters additional to any which has already occurred.
 - (c) Take the term “likely to do so again” to mean more likely than not to occur again.

⁸ Relating to paragraph 4.41(d), Article 2(3) says, “significant and sustained upward trend means any statistically and environmentally significant increase of concentration of a pollutant, group of pollutants, or indicator of pollution in groundwater for which trend reversal is identified as being necessary in accordance with Article 5.”

⁹ significant concentrations must be determined on a site and substance specific basis

¹⁰ Appropriate compliance points must be determined on a site and substance specific basis

- 4.42 Land should not be determined as contaminated land on grounds that significant pollution of controlled waters is being caused where: (a) the relevant substance(s) are already present in controlled waters; (b) entry into controlled waters of the substance(s) from land has ceased; and (c) it is not likely that further entry will take place.

Significant Possibility of Significant Pollution of Controlled Waters

- 4.43 In deciding whether or not a significant possibility of significant pollution of controlled waters exists, the local authority should first understand the possibility of significant pollution of controlled waters posed by the land, and the levels of certainty/uncertainty attached to that understanding, before it goes on to decide whether or not that possibility is significant. The term “possibility of significant pollution of controlled waters” means the estimated likelihood that significant pollution of controlled waters might occur. In assessing the possibility of significant pollution of controlled waters from land, the local authority should act in accordance with the advice on risk assessment in Section 3 and the guidance in this subsection.
- 4.44 In deciding whether the possibility of significant pollution of controlled waters is significant the local authority should bear in mind that Part 2A makes the decision a positive legal test. In other words, for particular land to meet the test the authority needs reasonably to believe that there is a significant possibility of such pollution, rather than to demonstrate that there is not.
- 4.45 Before making its decision on whether a given possibility of significant pollution of controlled waters is significant, the local authority should consider:
- (a) The estimated likelihood that the potential significant pollution of controlled waters would become manifest; the strength of evidence underlying the estimate; and the level of uncertainty underlying the estimate.
 - (b) The estimated impact of the potential significant pollution if it did occur. This should include consideration of whether the pollution would be likely to cause a breach of European water legislation, or make a major contribution to such a breach.
 - (c) The estimated timescale over which the significant pollution might become manifest.
 - (d) The authority’s initial estimate of whether remediation is feasible, and if so what it would involve and the extent to which it might provide a solution to the problem; how long it would take; what benefit it would be likely to bring; and whether the benefits would outweigh the costs and any impacts on local society or the environment from taking action.
- 4.46 The local authority should consider these factors in the context of the broad objectives of the regime as set out in Section 1. It should also consider how the factors interrelate (e.g. likelihood relative to impact). The authority should then decide which of the following categories the land falls into. Categories 1 and 2 would comprise cases where the authority considers that a significant possibility of significant pollution of controlled waters exists.

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Categories 3 and 4 would comprise cases where the authority considers that a significant possibility of such pollution does not exist.

- (a) Category 1 (Water): This covers land where the authority considers that there is a strong and compelling case for considering that a significant possibility of significant pollution of controlled waters exists. In particular this would include cases where there is robust science-based evidence for considering that it is likely that high impact pollution (such as the pollution described in paragraph 4.38) would occur if nothing were done to stop it.
- (b) Category 2 (Water): This covers land where: (i) the authority considers that the strength of evidence to put the land into Category 1 does not exist; but (ii) nonetheless, on the basis of the available scientific evidence and expert opinion, the authority considers that the risks posed by the land are of sufficient concern that the land should be considered to pose a significant possibility of significant pollution of controlled waters on a precautionary basis, with all that this might involve (e.g. likely remediation requirements, and the benefits, costs and other impacts of regulatory intervention). Among other things, this category might include land where there is a relatively low likelihood that the most serious types of significant pollution might occur.
- (c) Category 3 (Water): This covers land where the authority concludes that the risks are such that (whilst the authority and others might prefer they did not exist) the tests set out in Categories 1 and 2 above are not met, and therefore regulatory intervention under Part 2A is not warranted. This category should include land where the authority considers that it is very unlikely that serious pollution would occur; or where there is a low likelihood that less serious types of significant pollution might occur.
- (d) Category 4 (Water): This covers land where the authority concludes that there is no risk, or that the level of risk posed is low. In particular, the authority should consider that this is the case where: (a) no contaminant linkage has been established in which controlled waters are the receptor in the linkage; or (b) the possibility only relates to types of pollution described in paragraph 4.40 above (i.e. types of pollution that should not be considered to be significant pollution); or (c) the possibility of water pollution similar to that which might be caused by “background” contamination as explained in Section 3.

Section 5: Determination of contaminated land

- 5.1 Section 78A(2) of the 1990 Act says that in determining whether any land appears to be contaminated land, a local authority shall, “...act in accordance with guidance issued by the Secretary of State...with respect to the manner in which that determination is to be made.” This section provides such Guidance.

Deciding that land is not contaminated land

- 5.2 In implementing the Part 2A regime, the local authority is likely to inspect land that it then considers is not contaminated land. For example, this will be the case where the authority has ceased its inspection and assessment of land on grounds that there is little or no evidence to suggest that it is contaminated land. In such cases, the authority should issue a written statement to that effect (rather than coming to no formal conclusion) to minimise unwarranted blight. The statement should make clear that on the basis of its assessment, the authority has concluded that the land does not meet the definition of contaminated land under Part 2A. The authority may choose to qualify its statement (e.g. given that its Part 2A risk assessment may only be relevant to the current use of the land).
- 5.3 Paragraph 5.2 recognises that the nature of soil contamination means it is never possible to know the exact contamination status of any land with absolute certainty, and that scientific understanding of risks may evolve over time. However, such a lack of certainty should not stop the authority from deciding that land is not contaminated land. The starting assumption of Part 2A is that land is not contaminated land unless there is reason to consider otherwise.
- 5.4 The local authority should keep a record of its reasons for deciding that land is not contaminated land. The authority should inform the owners of the land of its conclusion and give them a copy of the written statement referred to in paragraph 5.2. The authority should also consider informing other interested parties (for example occupiers of the land and owners and occupiers of neighbouring land) and whether to publish the statement. The statement should be issued within a timescale that the authority considers to be reasonable, having regard to the need to minimise unwarranted burdens to persons likely to be directly affected, in particular the landowner, and occupiers or users of the land where relevant.

Determining that land is contaminated land

- 5.5 The local authority has the sole responsibility for determining whether any land appears to be contaminated land. It cannot delegate this responsibility (except in accordance with section 101 of the Local Government Act 1972). However, in making such decisions the authority may rely on information or advice provided by another body such as the Environment Agency, or a suitably qualified experienced practitioner appointed for that purpose.

- 5.6 There are four possible grounds for the determination of land as contaminated land (with regard to non-radioactive contamination):
- (a) Significant harm is being caused to a human, or relevant non-human, receptor.
 - (b) There is a significant possibility of significant harm being caused to a human, or relevant non-human, receptor.
 - (c) Significant pollution of controlled waters is being caused.
 - (d) There is a significant possibility of significant pollution of controlled waters being caused.
- 5.7 Before making any determination, the local authority should have identified one or more significant contaminant linkage(s), and carried out a robust, appropriate, scientific and technical assessment of all the relevant and available evidence. If the authority considers that conditions for considering land to be contaminated land do not exist it should not decide that the land is contaminated land.
- 5.8 In the case of any land which, following determination as contaminated land, would be likely to meet one or more of the descriptions of a "Special Site" set out in the Contaminated Land Regulations 2006, the local authority should consult the Environment Agency before deciding whether or not to determine the land, providing the Agency with a draft record of the determination that the authority is required to prepare in accordance with paragraphs 5.17 – 5.19 below. The authority should take the Agency's views into full consideration and it should strive to ensure it has the Agency's agreement to its decision (although the decision is for the authority to make subject to the provisions of Part 2A).

Physical extent of land to be determined

- 5.9 It is for the local authority to decide the physical extent of land that should be determined. The authority should strive to ensure that there are grounds to consider that all the land in question can reasonably be considered to be contaminated land. In practice, often it is likely that contamination will not be uniformly spread across land, and it may not be clear precisely where the boundaries of the contamination lie. In such cases the authority should use its judgement on the extent of land it might reasonably consider to be contaminated land.
- 5.10 The local authority should review its decision on the physical extent of the land to be determined (or that has been determined) if at a later date it becomes aware of relevant further information. For example this may be the case if, during remediation, it becomes clear that the extent of contamination is significantly greater or less than was thought when the determination was made.

Sub-division of land for the purposes of determination

- 5.11 The local authority may sub-divide the relevant land for the purposes of determination by issuing separate determinations for smaller areas of land which form part of a larger area of contaminated land. In deciding whether (and if so how) to do this, the authority should take into account: (i) the nature of the contamination; (ii) the degree of risk posed, and whether

this varies across the land; (iii) the nature of the remediation which might be required; (iv) the ownership of the land; and (v) the likely identity of those who may bear responsibility for the remediation.

Making determinations in urgent cases

5.12 If the local authority considers there is an urgent need to determine particular land, it should make the determination in a timescale it considers appropriate to the urgency of the situation.

Informing interested parties

5.13 Before making a determination, the local authority should inform the owners and occupiers of the land and any other person who appears to the authority to be liable to pay for remediation of its intention to determine the land (to the extent that the authority is aware of these parties at the time) unless the authority considers there is an overriding reason for not doing so. The authority should also consider:

- (a) Whether to give such persons time to make representations (for example to seek clarification of the grounds for determination, or to propose a solution that might avoid the need for formal determination) taking into account: the broad aims of regime; the urgency of the situation; any need to avoid unwarranted delay; and any other factor the authority considers to be appropriate.
- (b) Whether to inform other interested parties as it considers necessary, for example owners and occupiers of neighbouring land.

5.14 If the local authority determines land as contaminated land, it shall give notice of that fact to (a) the Environment Agency; (b) the owner of the land; (c) any person who appears to the authority to be in occupation of the whole or any part of the land; and (d) each person who appears to the authority to be an appropriate person; in accordance with section 78B(3) of Part 2A. In respect of point (d) this Guidance recognises that in some cases the authority may not have identified the appropriate person(s) at the time the determination is made, in which case the requirement to give notice to such persons would not apply.

Postponing determination

5.15 The local authority may postpone determination of contaminated land if the land owner or some other person undertakes to deal with the problem without determination, and the authority is satisfied that the remediation will happen to an appropriate standard and timescale. If the authority chooses to do this, any agreement it enters into should not affect its ability to determine the land in future (e.g. if the person fails to carry out the remediation as agreed).

5.16 The local authority may postpone determination of contaminated land if a significant contaminant linkage would only exist if the circumstances of the land were to change in the future within the bounds of the current use of the land as described in paragraph 3.5 of this Guidance (e.g. if a more sensitive receptor were to move onto the land or a temporarily

interrupted pathway were to be reactivated). If the authority chooses to do this, it should keep the status of the land under review and take reasonable measures to ensure that the postponement does not create conditions under which significant risks could go unaddressed in future. Alternatively the authority may decide to determine the land but postpone remediation.

Record of the determination of contaminated land

- 5.17 The local authority should prepare a written record of any determination that land is contaminated land. The record should clearly and accurately identify the location, boundaries and area of the land in question, making appropriate reference to Ordnance Survey grid references and/or Global Positioning coordinates. The record should be made publicly available by means to be decided by the authority.
- 5.18 The record should explain why the determination has been made, including:
- (a) The risk summary required by Section 3 of this Guidance, and where not already covered in the risk summary: (i) a relevant conceptual model comprising text, plans, cross sections, photographs and tables as necessary in the interests of making the description understandable to the layperson; and (ii) a summary of the relevant assessment of this evidence.
 - (b) A summary of why the authority considers that the requirements of relevant sections of this Guidance have been satisfied.
- 5.19 The local authority should seek to ensure (as far as reasonable) that all aspects of the record of determination are understandable to non-specialists, including affected members of the public.

Reconsideration, revocation and variation of determinations

- 5.20 The local authority should reconsider any determination that land is contaminated land if it becomes aware of further information which it considers significantly alters the basis for its original decision. In such cases the authority should decide whether to retain, vary or revoke the determination.
- 5.21 The local authority should reconsider any determination of contaminated land if remediation action has been taken which, in the view of the authority, stops the land being contaminated land. In such cases the authority should issue a statement to this effect, having regard to paragraphs 5.2 to 5.4 above.
- 5.22 If the local authority varies or revokes a determination, or issues a statement in accordance with paragraph 5.21, it should record its reasons for doing so alongside the initial record of determination in a way that ensures the changed status of the land is made clear. If the reconsideration results in relevant documentation, such as a revised determination notice or a statement in accordance with paragraph 5.21, copies of this documentation should also be

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recorded. The authority should ensure that interested parties are informed of the decisions and the reasons for it, including the owner of the land; any person who appears to the authority to be in occupation of the whole or any part of the land; any person who was previously identified by the authority to be an appropriate person; and the Environment Agency.

Section 6: Remediation of Contaminated Land

- 6.1 Once land has been determined as contaminated land, the enforcing authority must consider how it should be remediated and, where appropriate, it must issue a remediation notice to require such remediation. The enforcing authority for the purposes of remediation may be the local authority which determined the land, or the Environment Agency, which takes on responsibility once land has been determined if the land is deemed to be a “special site”. The rules on what land is to be regarded as special sites, and various rules on the issuing of remediation notices, are set out in the Contaminated Land (Wales) Regulations 2006.
- 6.2 Relevant provisions of Part 2A include:
- Section 78A(7): Defines “remediation” as: “(a) the doing of anything for the purpose of assessing the condition of – (i) the contaminated land in question; or (ii) any controlled waters affected by that land; or (iii) any land adjoining or adjacent to that land; (b) the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land for the purpose – (i) of preventing or minimising, or remedying or mitigating the effects of, any significant harm (or significant pollution of controlled waters), by reason of which the contaminated land is such land; or (ii) of restoring the land or waters to their former state; or (c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or waters.”
 - Section 78E(1): “In any case where [the local authority has identified contaminated land]...the enforcing authority shall... serve on each person who is an appropriate person a...“remediation notice”...specifying what that person is to do by way of remediation and the periods within which he is required to do each of the things so specified.”
 - Section 78E(4): “The only things by way of remediation which the enforcing authority may do, or require to be done, under or by virtue of [Part 2A] are things which it considers reasonable, having regard to – (a) the cost which is likely to be involved; and (b) the seriousness of the harm, or pollution of controlled waters, in question.”
 - Section 78E(5): “In determining for any purpose of this Part – (a) what is to be done (whether by an appropriate person, the enforcing authority, or any other person) by way of remediation in any particular case, (b) the standard to which any land is, or waters are, to be remediated pursuant to [a remediation] notice, or (c) what is, or is not, to be regarded as reasonable for the purposes of subsection (4) above, the enforcing authority shall have regard to any guidance issued for the purpose by the Secretary of State.”
- 6.3 The enforcing authority should have regard to this Guidance when it is: (a) deciding what remediation action it should specify in a remediation notice as being required to be carried out; (b) satisfying itself that appropriate remediation is being, or will be, carried out without the service of a notice; or (c) deciding what remediation action it should carry out itself.
- 6.4 The guidance in this Section does not attempt to set out detailed technical procedures or working methods. In considering such matters, the enforcing authority may consult relevant technical documents (e.g. produced by the Environment Agency or other professional and technical organisations). It may also act on the advice of a suitably qualified experienced practitioner.

Section 6(a): Remediation techniques

- 6.5 The broad aim of remediation should be: (a) to remove identified significant contaminant linkages, or permanently to disrupt them to ensure they are no longer significant and that risks are reduced to below an unacceptable level; and/or (b) to take reasonable measures to remedy harm or pollution that has been caused by a significant contaminant linkage.
- 6.6 Remediation may involve a range of treatment, assessment and monitoring actions, sometimes with different remediation actions being used in combination or sequentially to secure the overall remediation of the land.
- 6.7 In cases where the aim of remediation is to remove or permanently disrupt significant contaminant linkages, remediation treatment should involve demonstrable disruption or removal of the significant contaminant linkage(s) that led to land being determined as contaminated land, in order to reduce or remove unacceptable risks to receptors. This might involve one or more of the following:
- (a) Reducing or treating the contaminant part of the linkage (e.g. by physically removing contaminants or contaminated soil or water, or by treating the soil or water to reduce levels of contaminants, or by altering the chemical or physical form of the contaminants).
 - (b) Breaking, removing or disrupting the pathway parts of the linkage (e.g. a pathway could be disrupted by removing or reducing the chance that receptors might be exposed to contaminants, for example by installing gas membranes in a property, or by sealing land with a material such as clay or concrete).
 - (c) Protecting or removing the receptor. For example, by changing the land use or restricting access to land it may be possible to reduce risks to below an unacceptable level.
- 6.8 Assessment or monitoring actions may also be required as part of remediation. For example, assessment actions may be needed to characterise the nature of significant contaminant linkage(s) to help the authority decide what remediation should involve. Assessment may also be needed whilst other remediation actions are being carried out, or after other actions have been carried out (e.g. to assess the effectiveness of the other measures, or to inform the need for possible further remediation actions). Monitoring actions may be needed after remediation has taken place (e.g. to check whether remedial action has been successful, or whether there is a need for further assessment or action).
- 6.9 Assessment and monitoring action should not be required for any purpose other than the remediation of the land in relation to the reason why it was determined as contaminated land.

Phased Remediation

- 6.10 Remediation may require a phased approach, with different remediation actions being carried out in sequence or in parallel.
- 6.11 In some cases, it may not be possible or reasonable for a single remediation notice to specify all the remediation actions which might eventually be needed. In such cases, the enforcing authority should specify in the notice the remediation action(s) which it considers to be appropriate at the time, and further remediation notices may need to be issued later regarding further phases of action.
- 6.12 If a phased approach is taken to remediation, before serving any further remediation notice, the enforcing authority should be satisfied that previous action has not already achieved the remediation of the land (i.e. to a standard to which remediation can reasonably be required, having regard to the advice below), and that further action is still necessary to achieve the remediation of the land in question.

Remediation of multiple significant contaminant linkages

- 6.13 Where more than one significant contaminant linkage has been identified on the land, the enforcing authority should consider whether reasonable actions for addressing each linkage individually would result in the optimum approach for achieving the overall remediation of the land. If a more integrated approach would be more practicable and more cost effective whilst still delivering the same (or a better) overall standard of remediation the enforcing authority should generally favour this approach. However, in cases where more than one party has been found responsible for linkages, the enforcing authority should not impose an approach which is more costly for any responsible party than addressing the linkages separately.

Section 6(b): Securing remediation without a remediation notice

- 6.14 Before serving a remediation notice, the enforcing authority should consider section 78H(5)(a) – (d) of Part 2A. The authority should not serve a remediation notice if it is satisfied that appropriate measures are being taken by way of remediation without the serving of a remediation notice. The authority should assume that appropriate measures are being taken if: (a) it is satisfied that steps are being taken that are likely to achieve a standard of remediation equal to, or better than, what the authority would otherwise have specified in a remediation notice; and (b) the authority is satisfied that the timescale in which remediation is planned to take place is appropriate.
- 6.15 The enforcing authority should actively consider the merits and likelihood of achieving remediation without recourse to a remediation notice before issuing a remediation notice.

Section 6(c): Standard of remediation

- 6.16 Part 2A states that the enforcing authority may only require (or undertake itself in cases where direct enforcing authority intervention is deemed necessary) actions in a remediation notice which are reasonable with regard to the cost and the seriousness of the pollution or harm. This requirement is in addition to the broader responsibility on the enforcing authority, as a public regulator, to act in a reasonable manner.
- 6.17 In cases where the aim of remediation is to remove or permanently to disrupt significant contaminant linkages, the enforcing authority should aim to ensure that remediation achieves a standard sufficient to ensure the land no longer poses sufficient risk to qualify as contaminated land. In using powers under Part 2A, the authority should not require a higher standard of remediation. The appropriate person or some other person might choose to carry out remediation to a higher standard (e.g. to increase the value or utility of the land, or to prepare it for redevelopment) but it should not be required by the authority.
- 6.18 Where the authority considers that it is not practicable or reasonable to remediate land to a degree where it stops being contaminated land, the authority should consider whether it would be reasonable to require remediation to a lesser standard. The broad aim should be to manage or remediate the land in such a way that risks are minimised as far as is reasonably practicable.
- 6.19 In cases where the purpose of remediation is to remedy harm or pollution that has already been caused, the enforcing authority should decide what is a suitable standard of remediation having regard to the guidance on reasonableness below. In some cases it may be reasonable to require land or waters to be restored to their former state. In other cases it may not be practicable and/or reasonable to do this. In such cases the authority should consider whether it would be reasonable to require remediation to a lesser standard.

Section 6(d): Reasonableness of remediation

- 6.20 The enforcing authority may only require remediation action in a remediation notice if it is satisfied that those actions are reasonable. In deciding what is reasonable, the authority must consider various factors, having particular regard to: (a) the practicability, effectiveness and durability of remediation; (b) the health and environmental impacts of the chosen remedial options; (c) the financial cost which is likely to be involved; and (d) the benefits of remediation with regard to the seriousness of the harm or pollution of controlled waters in question.
- 6.21 The paragraphs below explain how the enforcing authority should consider these factors in reaching a judgement on what is reasonable. The enforcing authority should regard a remediation action as being reasonable if it is satisfied that the benefits of remediation are likely to outweigh the costs of remediation
- 6.22 In some cases, it might be that there is more than one potential approach to remediation that would be reasonable. In such cases the authority should choose what it considers to be the “best practicable technique” having regard to the factors above. Unless there are strong

grounds to consider otherwise, the best practicable technique in such circumstances is likely to be the technique that achieves the required standard of remediation to the appropriate timescale, whilst imposing the least cost on the persons who will pay for the remediation.

Practicability, effectiveness and durability of remediation

- 6.23 The enforcing authority should ensure that any requirement it makes in regard to remediation is practicable and effective – i.e. it should be possible, within reasonable limits, for the person to undertake the required actions, and the actions should be effective in addressing the problem at hand. This applies both to the remediation scheme as a whole and the individual remediation actions of which it is comprised.
- 6.24 In assessing the practicability of any remediation, the authority should consider, in particular: (i) technical constraints, such as whether the technical capacity and resources needed to undertake the work exist, and could reasonably be made available; (ii) site constraints, such as access to the relevant land or waters, the presence of buildings or other structures in, on or under the land; (iii) time constraints, such as whether it would be possible to carry out the remediation within the required time period; and (iv) regulatory constraints, such as whether the remediation can be carried out within relevant statutory or similar controls.
- 6.25 The enforcing authority should consider the durability of remediation. In some cases it will be reasonable to require (or otherwise ensure) a permanent solution to the problem. In other cases this may not be possible or reasonable, in which case the authority should consider how to ensure a reasonable standard of durability. The aim should be to ensure (as far as practical and reasonable) that the scheme as a whole would continue to be effective during the time over which the significant contaminant linkage would continue to exist or recur.
- 6.26 In considering durability, the enforcing authority should consider whether it is likely that some other future action (such as redevelopment) will resolve or control the problem. If the authority feels that such action is likely to occur within a reasonable timescale, the authority may consider whether it would be appropriate to require remediation of limited durability, pending a more durable solution later.
- 6.27 Where a remediation scheme cannot reasonably and practicably continue to be effective during the whole of the expected duration of the problem, the enforcing authority should require the remediation to be effective for as long as can reasonably and practicably be achieved. In such circumstances, additional monitoring actions may be required.
- 6.28 Where a remediation method requires on-going management and maintenance in order to continue to be effective (for example, the maintenance of gas venting or alarm systems), these on-going requirements should be specified in any remediation notice (or similar remediation agreement if remediation is being taken forward without such a notice) as well as any monitoring actions necessary to keep the effectiveness of the remediation under review.

Financial cost of remediation

- 6.29 In considering the costs likely to be involved in carrying out any remediation action, the enforcing authority should take into account the direct financial costs likely to be caused by remediation. This would include:
- (a) The cost of preparing for remediation to take place (e.g. feasibility studies, design of remedial actions, management costs, and the cost of relevant assessment actions).
 - (b) The cost of undertaking the remediation actions and making good afterwards, including any tax payable.
 - (c) The cost of managing the land after the main remediation action has taken place (e.g. on-going requirements to manage or maintain the remediation action, and the cost of any monitoring or assessment action).
 - (d) Relevant disruption costs (e.g. depreciation in the value of land or other interests, or other loss or damage, which is likely to result from the carrying out of the remediation action in question).
 - (e) The above costs relative to any estimated increase in the financial value and utility of the land as a result of remediation, and whether such increase in value and utility would accrue to the person(s) bearing the cost of remediation.
- 6.30 The identity or financial standing of any person who may be required to pay for a remediation action are not relevant to the consideration of whether the costs of a remediation action are reasonable (although they may be relevant in deciding whether the cost of remediation can be imposed on such persons).

Benefits of remediation

- 6.31 In considering the benefits of remediation, the enforcing authority should consider: (a) the seriousness of any harm or pollution of controlled waters and the various factors that led the land to be determined (e.g. the scale of harm or pollution that might already be occurring; or the likelihood of potential future harm or pollution and the likely impact if it were to occur); (b) the context in which the effects are occurring or might occur; and (c) any estimated increase in the financial value and utility of the land as a result of remediation, and who would benefit from such an increase. In considering such benefits it is for the authority to decide whether or not to describe such benefits (whether direct or indirect) in terms of monetary value or whether to make a qualitative consideration.
- 6.32 Where the significant harm is an “ecological system effect” (as defined in Table 1 in Section 4) the enforcing authority should take into account any advice received from Countryside Council for Wales. Where the enforcing authority is the local authority, it should take into account any advice received from the Environment Agency when it is considering the significance of any pollution of controlled waters and the benefits of any remediation.

Health and environmental impacts of remediation

- 6.33 In considering the costs of remediation and the seriousness of harm or pollution, the enforcing authority should also consider other costs and impacts that may, directly or

indirectly, result from remediation. This should include consideration of: (a) potential health impacts of remediation; and (b) environmental impacts of remediation. In considering such impacts it is for the authority to decide whether or not to describe such costs in terms of monetary value or whether to make a qualitative consideration.

- 6.34 The enforcing authority's consideration of potential health impacts of remediation should include: (a) direct health effects (e.g. resulting from contaminants being mobilised during remediation, and worker safety); and (b) indirect health effects such as stress related effects that may be experienced by affected people, particularly local residents. In making this consideration the authority should also be mindful of the health benefits of remediation and the potential health impacts of not remediating the land.
- 6.35 With regard to environmental impacts of remediation, the enforcing authority should consider whether remediation can be carried out without disproportionate damage to the environment, and in particular: (a) without significant risk to water, air, soil and plants and animals; (b) without causing a nuisance through noise or odours; (c) without adversely affecting the countryside or places of special interest; and (d) without adversely affecting a building of special architectural or historic interest.
- 6.36 The enforcing authority should strive to minimise impacts of remediation on health and the environment (and comply with any relevant regimes that might require this, for example the health and safety, planning and environmental permitting regimes). If the authority considers that health or environmental impacts of a particular remediation approach are likely to outweigh the likely benefits of dealing with the risk posed by the contamination, it should consider whether an alternative approach to remediation is preferable, even if it may deliver a lower standard of remediation than other techniques.

Section 6(e): Revision of remediation notices

- 6.37 The enforcing authority should consider revising a remediation notice if it considers it is reasonable to do so. In particular this would apply to cases where new information comes to light which calls into question the reasonableness of an existing remediation notice. For example, this might be the case where information that comes to light during remediation shows that some remediation actions are no longer necessary, or that additional or alternative actions are necessary.
- 6.38 If the enforcing authority has issued a remediation notice but the person concerned later proposes an alternative remediation scheme, the authority should consider whether to amend or revoke the remediation notice. It is for the authority to decide the degree of consideration it gives to such a proposal. If the authority decides to do this, it should be satisfied that the standard of remediation and the timescale in which it would take place are in line with the guidance in this section.

Section 6(f): Verification

- 6.39 Any remedial treatment action should include appropriate verification measures. In arranging for such measures, the enforcing authority should ensure that the person responsible for verification is a suitably qualified experienced practitioner.

Section 7: Liability

- 7.1 The main provisions for the establishment of liability are set out in Part 2A, and the enforcing authority (and anyone else interested in liability) should refer directly to Part 2A. This section (as with all of this Guidance) should be read in conjunction with the 1990 Act.
- 7.2 The statutory guidance in this section relates in particular to circumstances where two or more persons are liable to bear the responsibility for any particular thing by way of remediation. It deals with the questions of who should be excluded from liability, and how the cost of each remediation action should be apportioned between those who remain liable after any such exclusion. It is issued under section 78F(6) and (7) of the 1990 Act, which provides that:
- Section 78F(6): Where two or more persons would, apart from this subsection, be appropriate persons in relation to any particular thing which is to be done by way of remediation, the enforcing authority shall determine in accordance with guidance issued for the purpose by the Secretary of State whether any, and if so which, of them is to be treated as not being an appropriate person in relation to that thing.
 - Section 78F(7): Where two or more persons are appropriate persons in relation to any particular thing which is to be done by way of remediation, they shall be liable to bear the cost of doing that thing in proportions determined by the enforcing authority in accordance with guidance issued for the purpose by the Secretary of State.
- 7.3 In summary, this section sets out a process involving:
- (a) **Initial identification of liable persons:** The authority makes an initial identification of persons who may be responsible for paying for remediation actions. In doing this, each significant contaminant linkage is treated separately (unless it is reasonable to treat more than one linkage together because the same parties are liable). The authority first looks for persons who caused or knowingly permitted each linkage in terms of section 78F(2) of Part 2A (who this Guidance refers to as “Class A” persons). If no Class A persons can be found, the authority usually seeks to identify the owners or occupiers of the land in terms of section 78F(4) of Part 2A (who this Guidance refers to as “Class B” persons), although this step does not apply to linkages that relate solely to the pollution of controlled waters. The persons responsible for each linkage make up a “liability group” for that linkage. Liability groups may consist of one or more persons, and this Guidance sometimes uses the terms “Class A liability group” or a “Class B liability group” to reflect the nature of persons in the group.
 - (b) **Orphan linkages:** If no Class A or Class B persons can be found liable for a linkage, that linkage becomes known as an “orphan linkage” for which there are separate procedures set out at the end of this Section.
 - (c) **Remediation actions:** The authority decides what remediation actions relate to which linkages. This Guidance uses the term “remediation action” to mean any individual thing which is being, or is to be, done by way of remediation. A “remediation package” is all the

remediation actions which relate to a particular linkage. A “remediation scheme” is the complete set of remediation actions (relating to one or more linkages) to be carried out with respect to the relevant land or waters.

- (d) **Attribution of liability to liability groups:** The authority attributes responsibility between liability groups. This Guidance uses the term “attribution” to mean the process of apportionment between liability groups.
- (e) **Exclusions:** The authority considers (with regard to any liability group with two or more members) whether members of the group should be excluded, in accordance with the rules for exclusion set out in Section 7(c) with regard to Class A persons, and Section 7(e) with regard to Class B persons. This Guidance uses the term “exclusion” to mean any decision by the enforcing authority that a person is to be treated as not being an appropriate person in accordance with section 78F(6) of Part 2A.
- (f) **Apportioning liability between members of liability groups:** The authority decides how to apportion liability between the members of each liability group who remain after any exclusions have been made. This Guidance uses the term “apportionment” to mean a decision by the authority dividing the costs of carrying out any remediation action between two or more appropriate persons in accordance with section 78F(7) of Part 2A.

Section 7(a): Procedure for determining liabilities

7.4 For some land, the process of determining liabilities will consist simply of identifying either a single person (either an individual or a corporation such as a limited company) who has caused or knowingly permitted the presence of a single significant contaminant, or the owner of the land. The history of other land may be more complex. A succession of different occupiers or of different industries, or a variety of substances may all have contributed to the problems which have made the land “contaminated land” as defined for the purposes of Part 2A. Numerous separate remediation actions may be required, which may not correlate neatly with those who are to bear responsibility for the costs. The degree of responsibility for the state of the land may vary widely. Determining liability for the costs of each remediation action can be correspondingly complex.

Step 1: Identifying potential appropriate persons and liability groups

7.5 As part of the process of determining that the land is “contaminated land” (see Chapters A and B), the enforcing authority will have identified at least one significant contaminant linkage (contaminant, pathway and receptor), resulting from the presence of at least one contaminant.

7.6 Where there is a single significant contaminant linkage:

- (a) The enforcing authority should identify all persons who would be appropriate persons to pay for any remediation action relevant to the contaminant which forms part of the

significant contaminant linkage. These persons constitute the “liability group” for that significant contaminant linkage.

- (b) To achieve this, the enforcing authority should make reasonable enquiries to find all those who have caused or knowingly permitted the contaminant in question to be in, on or under the land. Any such persons constitute a “Class A liability group” for the significant contaminant linkage.
- (c) If no such Class A persons can be found for any significant contaminant, the enforcing authority should consider whether the significant contaminant linkage of which it forms part relates solely to the significant pollution of controlled waters (rather than to any significant harm to human or relevant environmental receptors). If this is the case, there will be no liability group for that significant contaminant linkage, and it should be treated as an “orphan linkage” (see paragraphs 7.92 – 7.98 below).
- (d) In any other case where no Class A persons can be found for a significant contaminant, the enforcing authority should identify all of the current owners or occupiers of the contaminated land in question. These persons then constitute a “Class B liability group” for the significant contaminant linkage.
- (e) If the enforcing authority cannot find any Class A persons or any Class B persons in respect of a significant contaminant linkage, there will be no liability group for that linkage and it should be treated as an “orphan linkage” (see paragraphs 7.92 – 7.98 below).

7.7 Where there are two or more significant contaminant linkages, the enforcing authority should consider each significant contaminant linkage in turn, carrying out the steps set out in paragraph 7.6 above, to identify the liability group (if one exists) for each of the linkages.

7.8 Having identified one or more liability groups, the enforcing authority should consider whether any of the members of those groups are exempted from liability under the provisions in Part 2A. This could apply where:

- (a) A person who would otherwise be a Class A person is exempted from liability arising with respect to water pollution from an abandoned mine (see section 78J(3) of Part 2A).
- (b) A Class B person is exempted from liability arising from the escape of a contaminant from one piece of land to other land (see section 78K of Part 2A).
- (c) A person is exempted from liability by virtue of his being a person “acting in a relevant capacity” (such as acting as an insolvency practitioner) as defined in section 78X(4) of Part 2A.

7.9 If all of the members of any liability group benefit from one or more of these exemptions, the enforcing authority should treat the significant contaminant linkage in question as an orphan linkage (see paragraphs 7.92 – 7.98 below).

7.10 Persons may be members of more than one liability group (e.g. if they caused or knowingly permitted the presence of more than one significant contaminant).

7.11 Where the membership of all of the liability groups is the same, there may be opportunities for the enforcing authority to abbreviate the remaining stages of this procedure. However,

the tests for exclusion and apportionment may produce different results for different significant contaminant linkages, and so the enforcing authority should exercise caution before trying to simplify the procedure in any case.

Step 2: Characterising remediation actions

- 7.12 Each remediation action will be carried out to achieve a particular purpose with respect to one or more defined significant contaminant linkages. Where there is a single significant contaminant linkage on the land in question, all the remediation actions will be referable to that linkage, and there is no need to consider how the different actions relate to different linkages. This step and Step 3 of the procedure therefore do not need to be carried out where there is only a single significant contaminant linkage. However, where there are two or more significant contaminant linkages on the land in question, the enforcing authority should establish whether each remediation action is: (a) referable solely to the significant contaminant in a single significant contaminant linkage (a “single-linkage action”); or (b) referable to the significant contaminant in more than one significant contaminant linkage (a “shared action”).
- 7.13 Where a remediation action is a shared action, there are two possible relationships between it and the significant contaminant linkages to which it is referable. The enforcing authority should establish whether the shared action is:
- (a) a “common action” – i.e. an action which addresses together all of the significant contaminant linkages to which it is referable, and which would have been part of the remediation package for each of those linkages if each of them had been addressed separately.
 - (b) a “collective action” – i.e. an action which addresses together all of the significant contaminant linkages to which it is referable, but which would not have been part of the remediation package for every one of those linkages if each of them had been addressed separately, because: (i) the action would not have been appropriate in that form for one or more of the linkages (since some different solution would have been more appropriate); (ii) the action would not have been needed to the same extent for one or more of the linkages (since a less far-reaching version of that type of action would have sufficed); or (iii) the action represents a more economic way of addressing the linkages together which would not be possible if they were addressed separately.
- 7.14 A collective action replaces actions that would have been appropriate for the individual significant contaminant linkages if they had been addressed separately, as it achieves the purposes which those other actions would have achieved.

Step 3: Attributing responsibility between liability groups

- 7.15 This stage of the procedure does not apply in simpler cases. Where there is only a single significant contaminant linkage, the liability group for that linkage bears the full cost of carrying out any remediation action. Where the linkage is an orphan linkage, the enforcing authority has the power to carry out the remediation action itself, at its own cost.
- 7.16 Similarly, for any single-linkage action, the liability group (i.e. the group that remains after the exclusions in paragraph 7.8 have been applied) for the significant contaminant linkage in question bears the full cost of carrying out that action.
- 7.17 However, the enforcing authority should apply the guidance in Section 7(g) below with respect to each shared action, in order to attribute to each of the different liability groups their share of responsibility for that action.
- 7.18 After the guidance in Section 7(g) has been applied to all shared actions, it may be the case that a Class B liability group which has been identified does not have to bear the costs for any remediation actions. Where this is the case, the enforcing authority does not need to apply any of the rest of the guidance in this Chapter to that liability group.

Step 4: Excluding members of a liability group

- 7.19 The enforcing authority should now consider, for each liability group which has two or more members, whether any of those members should be excluded from liability: (a) for each Class A liability group with two or more members, the enforcing authority should apply the guidance on exclusion in Section 7(c); and (b) for each Class B liability group with two or more members, the enforcing authority should apply the guidance on exclusion in Section 7(e).

Step 5: Apportioning liability between members of a liability group

- 7.20 The enforcing authority should now determine how any costs attributed to each liability group should be apportioned between the members of that group who remain after any exclusions have been made.
- 7.21 For any liability group (after the exclusions in paragraph 7.8 have been applied) which has only a single remaining member, that person bears all of the costs falling to that liability group (i.e. both the cost of any single-linkage action referable to the significant contaminant linkage in question; and the share of the cost of any shared action attributed to the group as a result of the attribution process set out in Section 7(g)).
- 7.22 For any liability group which has two or more remaining members, the enforcing authority should apply the relevant guidance on apportionment between those members. Each of the remaining members of the group will then bear the proportion determined under that guidance of the total costs falling to the group, that is both the cost of any single-linkage

action referable to the significant contaminant linkage in question, and the share of the cost of any shared action attributed to the group as a result of the attribution process set out in Step 3. The relevant apportionment guidance is: (a) for any Class A liability group, the guidance set out in Section 7(d); and (b) for any Class B liability group, the guidance set out in Section 7(f).

Section 7(b): General considerations relating to exclusion, apportionment and attribution procedures

- 7.23 This sub-section sets out general guidance about the application of the exclusion, apportionment and attribution procedures set out in the rest of this Chapter. It is issued under both section 78F(6) and section 78F(7).
- 7.24 The enforcing authority should ensure that any person who might benefit from an exclusion, apportionment or attribution is aware of the guidance in this Chapter, so that they may make appropriate representations to the enforcing authority.
- 7.25 The enforcing authority should apply the tests for exclusion (in Section 7(c) and (e)) with respect to the members of each liability group. If a person, who would otherwise be an appropriate person to bear responsibility for a particular remediation action, has been excluded from the liability groups for all of the significant contaminant linkages to which that action is referable, he should be treated as not being an appropriate person in relation to that remediation action.

Financial circumstances

- 7.26 The financial circumstances of those concerned should have no bearing on the application of the procedures for exclusion, apportionment and attribution in this Chapter, except where the circumstances in paragraph 7.74 below apply (the financial circumstances of those concerned are taken into account in the separate consideration under section 78P(2) on hardship and cost recovery). In particular, it should be irrelevant in the context of decisions on exclusion and apportionment: (a) whether those concerned would benefit from any limitation on the recovery of costs under the provisions on hardship and cost recovery in section 78P(2); or (b) whether those concerned would benefit from any insurance or other means of transferring their responsibilities to another person.

Information and Decisions

- 7.27 The enforcing authority should make reasonable endeavours to consult those who may be affected by any exclusion, apportionment or attribution. In all cases, however, it should seek to obtain only such information as it is reasonable to seek, having regard to: (a) how the information might be obtained; (b) the cost of obtaining the information for all parties involved; and (c) the potential significance of the information for any decision.

7.28 The statutory guidance in this Section should be applied in the light of the circumstances as they appear to the enforcing authority on the basis of the evidence available to it at that time. Where the enforcing authority is presented with conflicting evidence, it should make decisions with regard to the balance of probabilities. The enforcing authority should take into account the information that it has acquired in the light of the guidance in the previous paragraph, but the burden of providing the authority with any further information needed to establish an exclusion or to influence an apportionment or attribution should rest on any person seeking such a benefit. The enforcing authority should consider any relevant information which has been provided by those potentially liable under these provisions. Where any such person provides such information, any other person who may be affected by an exclusion, apportionment or attribution based on that information should be given a reasonable opportunity to comment on that information before the determination is made.

Agreements on Liabilities

7.29 In any case where:

- (a) two or more persons are appropriate persons and thus responsible for all or part of the costs of a remediation action;
- (b) they agree, or have agreed, the basis on which they wish to divide that responsibility; and
- (c) a copy of the agreement is provided to the enforcing authority and none of the parties to the agreement informs the authority that it challenges the application of the agreement;

the enforcing authority should generally make such determinations on exclusion, apportionment and attribution as are needed to give effect to this agreement, and should not apply the remainder of this guidance for exclusion, apportionment or attribution between the parties to the agreement. However, the enforcing authority should apply the guidance to determine any exclusions, apportionments or attributions between any or all of those parties and any other appropriate persons who are not parties to the agreement.

7.30 However, where giving effect to such an agreement would increase the share of the costs theoretically to be borne by a person who would benefit from a limitation on recovery of remediation costs under the provision on hardship in section 78P(2)(a) or under the guidance on cost recovery issued under section 78P(2)(b), the enforcing authority should disregard the agreement.

Section 7(c): Exclusion of Members of a Class A Liability Group

7.31 This sub-section of the Guidance sets out the tests for determining whether to exclude from liability a person who would otherwise be a Class A person. The tests are intended to establish whether, in relation to other members of the liability group, it is fair that relevant persons should bear any part of that responsibility.

7.32 The exclusion tests below are subject to the following overriding guidance:

- (a) the exclusions that the enforcing authority should make are solely in respect of the significant contaminant linkage giving rise to the liability of the liability group in question;

- an exclusion in respect of one significant contaminant linkage has no necessary implication in respect to any other such linkage, and a person who has been excluded with respect to one linkage may still be liable to meet all or part of the cost of carrying out a remediation action by reason of his membership of another liability group;
- (b) the tests should be applied in the sequence in which they are set out; and
 - (c) if the result of applying a test would be to exclude all of the members of the liability group who remain after any exclusions resulting from previous tests, that further test should not be applied, and consequently the related exclusions should not be made.
- 7.33 The effect of any exclusion made under Test 1, or Tests 4 to 6 below should be to remove completely any liability that would otherwise have fallen on the person benefiting from the exclusion. Where the enforcing authority makes any exclusion under one of these tests, it should therefore apply any subsequent exclusion tests, and make any apportionment within the liability group, in the same way as it would have done if the excluded person had never been a member of the liability group.
- 7.34 The effect of any exclusion made under Test 2 (Payments made for remediation) or Test 3 (Sold with information), on the other hand, is intended to be that the person who received the payment or bought the land, as the case may be, (the “payee or buyer”) should bear the liability of the person excluded (the “payer or seller”) in addition to any liability which the person is to bear in respect of their own actions or omissions. To achieve this, the enforcing authority should:
- (a) complete the application of the other exclusion tests and then apportion liability between the members of the liability group, as if the payer or seller were not excluded as a result of Test 2 or Test 3; and
 - (b) then apportion any liability of the payer or seller, calculated on this hypothetical basis, to the payee or buyer, in addition to the liability (if any) that the payee or buyer has in respect of his own actions or omissions; this should be done even if the payee or buyer would otherwise have been excluded from the liability group by one of the other exclusion tests.

Related Companies

- 7.35 Before applying any of the exclusion tests, the enforcing authority should establish whether two or more of the members of the liability group are “related companies”.
- 7.36 Where the question to be considered in any exclusion test concerns the relationship between, or the relative positions of, two or more related companies, the enforcing authority should not apply the test so as to exclude any of the related companies. For example, in Test 3 (Sold with information), if the “seller” and the “buyer” are related companies, the “seller” would not be excluded by virtue of that Test.
- 7.37 For these purposes, “related companies” are those which are, or were at the “relevant date”, members of a group of companies consisting of a “holding company” and its “subsidiaries”.

The “relevant date” is that on which the enforcing authority first served on anyone a notice under section 78B(3) identifying the land as contaminated land, and the terms “holding company” and “subsidiaries” have the same meaning as in Section 1159 of the Companies Act 2006.

Exclusion tests for Class A persons

Test 1: Excluded activities

- 7.38 The purpose of Test 1 is to exclude persons who have been identified as members of a Class A liability group solely on grounds of having carried out certain activities. The activities are ones which, in the Welsh Government’s view, carry such limited responsibility (if any) that exclusion would be justified even where the activity is held to amount to “causing or knowingly permitting” under Part 2A. This is not intended to imply that the carrying out of such activities necessarily amounts to “causing or knowingly permitting”.
- 7.39 In applying Test 1, the enforcing authority should exclude any appropriate person who is a member of a liability group solely by reason of one or more of the activities listed in (a) to (k) below.
- (a) Providing (or withholding) financial assistance to another person (whether or not that other person is a member of the liability group), in the form of any one or more of the following: (i) making a grant; (ii) making a loan or providing any other form of credit, including instalment credit, leasing arrangements and mortgages; (iii) guaranteeing the performance of a person’s obligations; (iv) indemnifying a person in respect of any loss, liability or damage; (v) investing in the undertaking of a body corporate by acquiring share capital or loan capital of that body without thereby acquiring such control as a “holding company” has over a “subsidiary” as defined in section 1159 of the Companies Act 2006; or (vi) providing a person with any other financial benefit (including the remission in whole or in part of any financial liability or obligation).
 - (b) Underwriting an insurance policy under which another person was insured in respect of any occurrence, condition or omission by reason of which that other person has been held to have caused or knowingly permitted the significant contaminant to be in, on or under the land in question. For the purposes of this sub-paragraph: (i) underwriting an insurance policy is to be taken to include imposing any conditions on the person insured, for example relating to the manner in which he carries out the insured activity; and (ii) it is irrelevant whether or not the insured person can now be found.
 - (c) As a provider of financial assistance or as an underwriter, carrying out any action for the purpose of deciding whether or not to provide such financial assistance or underwrite such an insurance policy as is mentioned above. This sub-paragraph does not apply to the carrying out of any intrusive investigation in respect of the land in question for the purpose of making that decision where: (i) the carrying out of that investigation is itself a cause of the existence, nature or continuance of the significant contaminant linkage in

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- question; and (ii) the person who applied for the financial assistance or insurance is not a member of the liability group.
- (d) Consigning, as waste, to another person the substance which is now a significant contaminant, under a contract under which that other person knowingly took over responsibility for its proper disposal or other management on land not under the control of the person seeking to be excluded from liability. For the purpose of this sub-paragraph, it is irrelevant whether or not the person to whom the waste was consigned can now be found.
 - (e) Creating at any time a tenancy over the land in question in favour of another person who has subsequently caused or knowingly permitted the presence of the significant contaminant linkage in question (whether or not the tenant can now be found).
 - (f) As owner of the land in question, licensing at any time its occupation by another person who has subsequently caused or knowingly permitted the presence of the significant contaminant in question (whether or not the licensee can now be found). This test does not apply in a case where the person granting the licence operated the land as a site for the disposal or storage of waste at the time of the grant of the licence.
 - (g) Issuing any statutory permission, licence or consent required for any action or omission by reason of which some other person appears to the enforcing authority to have caused or knowingly permitted the presence of the significant contaminant in question (whether or not that other person can now be found). This test does not apply in the case of statutory undertakers granting permission for their contractors to carry out works.
 - (h) Taking, or not taking, any statutory enforcement action: (i) with respect to the land, or (ii) against some other person who appears to the enforcing authority to have caused or knowingly permitted the presence of the significant contaminant in question, whether or not that other person can now be found.
 - (i) Providing legal, financial, engineering, scientific or technical advice to (or design, contract management or works management services for) another person (the “client”), whether or not that other person can now be found: (i) in relation to an action or omission (or a series of actions and/or omissions) by reason of which the client has been held to have caused or knowingly permitted the presence of the significant contaminant; (ii) for the purpose of assessing the condition of the land, for example whether it might be contaminated; or (iii) for the purpose of establishing what might be done to the land by way of remediation.
 - (j) As a person providing advice or services as described in sub-paragraph (i) above carrying out any intrusive investigation in respect of the land in question, except where: (i) the investigation is itself a cause of the existence, nature or continuance of the significant contaminant linkage in question; and (ii) the client is not a member of the liability group.
 - (k) Performing any contract by providing a service (whether the contract is a contract of service (employment), or a contract for services) or by supplying goods, where the contract is made with another person who is also a member of the liability group in question. For the purposes of this sub-paragraph the person providing the service or supplying the goods is referred to as the “contractor” and the other party as the “employer”. This sub-paragraph applies to subcontracts where either the ultimate

employer or an intermediate contractor is a member of the liability group. This sub-paragraph does not apply where: (i) the activity under the contract is of a kind referred to in a previous sub-paragraph of this paragraph; (ii) the action or omission by the contractor by virtue of which he has been identified as an appropriate person was not in accordance with the terms of the contract; or (iii) where:

- the employer is a body corporate;
- the contractor was a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, at the time when the contract was performed; and
- the action or omissions by virtue of which the employer has been identified as an appropriate person were carried out or made with the consent or connivance of the contractor, or were attributable to any neglect on his part.

Test 2: Payments for remediation

7.40 The purpose of this test is to exclude from liability those who have already, in effect, met their responsibilities by making certain kinds of payment to some other member of the liability group, which would have been sufficient to pay for adequate remediation.

7.41 In applying this test, the enforcing authority should consider whether all the following circumstances exist: (a) one of the members of the liability group has made a payment to another member of that liability group for the purpose of carrying out particular remediation on the land in question; only payments of the kinds set out in paragraph 7.42 immediately below are to be taken into account; (b) that payment would have been sufficient at the date when it was made to pay for the remediation in question; (c) if the remediation for which the payment was intended had been carried out effectively, the land in question would not now be in such a condition that it has been identified as contaminated land by reason of the significant contaminant linkage in question; and (d) the remediation in question was not carried out or was not carried out effectively.

7.42 Payments of the following kinds alone should be taken into account: (a) a payment made voluntarily, or to meet a contractual obligation, in response to a claim for the cost of the particular remediation; (b) a payment made in the course of a civil legal action, or arbitration, mediation or dispute resolution procedure, covering the cost of the particular remediation, whether paid as part of an out-of-court settlement, or paid under the terms of a court order; or (c) a payment as part of a contract (including a group of interlinked contracts) for the transfer of ownership of the land in question which is either specifically provided for in the contract to meet the cost of carrying out the particular remediation or which consists of a reduction in the contract price explicitly stated in the contract to be for that purpose.

7.43 For the purposes of this test, payments include consideration of any form.

7.44 However, no payment should be taken into account where the person making the payment retained any control after the date of the payment over the condition of the land in question (that is, over whether or not the substances by reason of which the land is regarded as

contaminated land were permitted to be in, on or under the land). For this purpose, neither of the following should be regarded as retaining control over the condition of the land: (a) holding contractual rights to ensure the proper carrying out of the remediation for which the payment was made; nor (b) holding an interest or right of any of the following kinds: (i) easements for the benefit of other land, where the contaminated land in question is the servient tenement, and statutory rights of an equivalent nature; (ii) rights of statutory undertakers to carry out works or install equipment; (iii) reversions upon expiry or termination of a long lease; or (iv) the benefit of restrictive covenants or equivalent statutory agreements.

7.45 If all of the circumstances set out in paragraph 7.41 above apply, the enforcing authority should exclude the person who made the payment in respect of the remediation action in question. (See paragraph 7.34 above for guidance on how this exclusion should be made.)

Test 3: Sold with information

7.46 The purpose of this test is to exclude from liability those who, although they have caused or knowingly permitted the presence of a significant contaminant in, on or under some land, have disposed of that land in circumstances where it is reasonable that another member of the liability group, who has acquired the land from them, should bear the liability for remediation of the land.

7.47 In applying this test, the enforcing authority should consider whether all the following circumstances exist:

- (a) one of the members of the liability group (the “seller”) has sold the land in question to a person who is also a member of the liability group (the “buyer”);
- (b) the sale took place at arms’ length (that is, on terms which could be expected in a sale on the open market between a willing seller and a willing buyer);
- (c) before the sale became binding, the buyer had information that would reasonably allow that particular person to be aware of the presence on the land of the contaminant identified in the significant contaminant linkage in question, and the broad measure of that presence; and the seller did nothing material to misrepresent the implications of that presence; and
- (d) after the date of the sale, the seller did not retain any interest in the land in question or any rights to occupy or use that land.

7.48 In determining whether these circumstances exist:

- (a) a sale of land should be regarded as being either the transfer of the freehold or the grant or assignment of a long lease; for this purpose, a “long lease” means a lease (or sub-lease) granted for a period of more than 21 years under which the lessee satisfies the definition of “owner” set out in section 78A(9);

- (b) the question of whether persons are members of a liability group should be decided on the circumstances as they exist at the time of the determination (and not as they might have been at the time of the sale of the land);
- (c) where there is a group of transactions or a wider agreement (such as the sale of a company or business) including a sale of land, that sale of land should be taken to have been at arms' length where the person seeking to be excluded can show that the net effect of the group of transactions or the agreement as a whole was a sale at arms' length;
- (d) in transactions since the beginning of 1990 where the buyer is a large commercial organisation or public body, permission from the seller for the buyer to carry out his own investigations of the condition of the land should normally be taken as sufficient indication that the buyer had the information referred to in paragraph 7.47(c) above; and
- (e) for the purposes of paragraph 7.47(d) above, the following rights should be disregarded in deciding whether the seller has retained an interest in the contaminated land in question or rights to occupy or use it: (i) easements for the benefit of other land, where the contaminated land in question is the servient tenement, and statutory rights of an equivalent nature, (ii) rights of statutory undertakers to carry out works or install equipment, (iii) reversions upon expiry or termination of a long lease, and (iv) the benefit of restrictive covenants or equivalent statutory agreements.

7.49 If all of the circumstances in paragraph 7.47 above apply, the enforcing authority should exclude the seller. (See paragraph 7.34 above for guidance on how this exclusion should be made.)

7.50 This test does not imply that the receipt by the buyer of the information referred to in paragraph 7.47(c) above necessarily means that the buyer has "caused or knowingly permitted" the presence of the significant contaminant in, on or under the land.

Test 4: Changes to substances

7.51 The purpose of this test is to exclude from liability those who are members of a liability group solely because they caused or knowingly permitted the presence in, on or under the land of a substance which has only led to the creation of a significant contaminant linkage because of its interaction with another substance which was later introduced to the land by another person.

7.52 In applying this test, the enforcing authority should consider whether all the following circumstances exist:

- (a) The substance forming part of the significant contaminant linkage in question is present, or has become a significant contaminant, only as the result of a chemical reaction, biological process, radioactive decay or other change (the "intervening change")

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involving: (i) both a substance (the “earlier substance”) which would not have formed part of the significant contaminant linkage if the intervening change had not occurred; and (ii) one or more other substances (the “later substances”).

- (b) The intervening change would not have occurred in the absence of the later substances;
- (c) A person (the “first person”) is a member of the liability group because he/she caused or knowingly permitted the presence in, on or under the land of the earlier substance, but he/she did not cause or knowingly permit the presence of any of the later substances.
- (d) One or more other persons are members of the liability group because they caused or knowingly permitted the later substances to be in, on or under the land.
- (e) Before the date when the later substances started to be introduced in, on or under the land, the first person: (i) could not reasonably have foreseen that the later substances would be introduced onto the land; (ii) could not reasonably have foreseen that, if they were, the intervening change would be likely to happen; or (iii) took what, at that date, were reasonable precautions to prevent the introduction of the later substances or the occurrence of the intervening change, even though those precautions have, in the event, proved to be inadequate.
- (f) After that date, the first person did not: (i) cause or knowingly permit any more of the earlier substance to be in, on or under the land in question; (ii) do anything which has contributed to the conditions that brought about the intervening change; or (iii) fail to do something which he could reasonably have been expected to do to prevent the intervening change happening.

7.53 If all of the circumstances in paragraph 7.52 above apply, the enforcing authority should exclude the first person (or persons, if more than one member of the liability group meets this description).

Test 5: Escaped substances

7.54 The purpose of this test is to exclude from liability those who would otherwise be liable for the remediation of contaminated land which has become contaminated as a result of the escape of substances from other land, where it can be shown that another member of the liability group was actually responsible for that escape.

7.55 In applying this test, the enforcing authority should consider whether all the following circumstances exist:

- (a) a significant contaminant is present in, on or under the contaminated land in question wholly or partly as a result of its escape from other land;
- (b) a member of the liability group for the significant contaminant linkage of which that contaminant forms part: (i) caused or knowingly permitted the contaminant to be present in, on or under that other land (that is, the person is a member of that liability group by reason of section 78K(1)), and (ii) is a member of that liability group solely for that reason; and
- (c) one or more other members of that liability group caused or knowingly permitted the significant contaminant to escape from that other land and its escape would not have happened but for their actions or omissions.

7.56 If all of the circumstances in paragraph 7.55 above apply, the enforcing authority should exclude any person meeting the description in paragraph 7.55(b) above.

Test 6: Introduction of pathways or receptors

7.57 The purpose of this test is to exclude from liability those who would otherwise be liable solely because of the subsequent introduction by others of the relevant pathways or receptors (as defined in Section 3) in the significant contaminant linkage.

7.58 In applying this test, the enforcing authority should consider whether all the following circumstances exist:

- (a) One or more members of the liability group have carried out a relevant action, and/or made a relevant omission (“the later actions”), either: (i) as part of the series of actions and/or omissions which amount to their having caused or knowingly permitted the presence of the contaminant in a significant contaminant linkage; or (ii) in addition to that series of actions and/or omissions.
- (b) The effect of the later actions has been to introduce the pathway or the receptor which form part of the significant contaminant linkage in question.
- (c) If those later actions had not been carried out or made, the significant contaminant linkage would either not have existed, or would not have been a significant contaminant linkage, because of the absence of a pathway or of a receptor.
- (d) A person is a member of the liability group in question solely by reason of having carried out other actions or making other omissions (“the earlier actions”) which were completed before any of the later actions were carried out or made.

7.59 For the purpose of this test:

- (a) A “relevant action” means: (i) the carrying out at any time of building, engineering, mining or other operations in, on, over or under the land in question; and/or (ii) the making of any material change in the use of the land in question for which a specific application for planning permission was required to be made (as opposed to permission being granted, or deemed to be granted, by general legislation or by virtue of a development order, the adoption of a simplified planning zone or the designation of an enterprise zone) at the time when the change in use was made.
- (b) A “relevant omission” means: (i) in the course of a relevant action, failing to take a step which would have ensured that a significant contaminant linkage was not brought into existence as a result of that action, and/or (ii) unreasonably failing to maintain or operate a system installed for the purpose of reducing or managing the risk associated with the presence on the land in question of the significant contaminant in the significant contaminant linkage in question.

7.60 This test applies only with respect to developments on, or changes in the use of, the contaminated land itself. It does not apply where the relevant acts or omissions take place on other land, even if they have the effect of introducing pathways or receptors.

7.61 If all of the circumstances in paragraph 7.58 above apply, the enforcing authority should exclude any person meeting the description at paragraph 7.58(d) above.

Section 7(d): Apportionment between members of a single Class A liability group

7.62 The statutory guidance in this Part is issued under section 78F(7) and sets out the principles on which liability should be apportioned within each Class A liability group as it stands after any members have been excluded from liability with respect to the relevant significant contaminant linkage as a result of the application of the exclusion tests in Section 7(c).

7.63 The history and circumstances of different areas of contaminated land, and the nature of the responsibility of each of the members of any Class A liability group for a significant contaminant linkage, are likely to vary greatly. It is therefore not possible to prescribe detailed rules for the apportionment of liability between those members which would be fair and appropriate in all cases.

General Principles

7.64 In apportioning costs between the members of a Class A liability group who remain after any exclusions have been made, the enforcing authority should follow the general principle that liability should be apportioned to reflect the relative responsibility of each of those members for creating or continuing the risk now being caused by the significant contaminant linkage in question. In applying this principle, the enforcing authority should follow, where appropriate, the specific approaches set out in paragraphs 7.66-7.75 below.

7.65 If appropriate information is not available to enable the enforcing authority to make such an assessment of relative responsibility (and, following the guidance at paragraph 7.27 above, such information cannot reasonably be obtained) the authority should apportion liability in equal shares among the remaining members of the liability group for any significant contaminant linkage, subject to the specific guidance in paragraph 7.74 below.

Specific Approaches

Partial applicability of an exclusion test

7.66 If, for any member of the liability group, the circumstances set out in any of the exclusion tests in Section 7(c) above apply to some extent, but not sufficiently to mean that the an exclusion should be made, the enforcing authority should assess that person's degree of responsibility as being reduced to the extent which is appropriate in the light of all the circumstances and the purpose of the test in question. For example, in considering Test 2, a payment may have been made which was sufficient to pay for only half of the necessary remediation at that time – the authority could therefore reduce the payer's responsibility by half.

Entry of a substance vs. its continued presence

7.67 In assessing the relative responsibility of a person who has caused or knowingly permitted the entry of a significant contaminant into, onto or under land (the “first person”) and another person who has knowingly permitted the continued presence of that same contaminant in, on or under that land (the “second person”), the enforcing authority should consider the extent to which the second person had the means and a reasonable opportunity to deal with the presence of the contaminant in question or to reduce the seriousness of the implications of that presence. The authority should then assess the relative responsibilities on the following basis: (a) if the second person had the necessary means and opportunity, they should bear the same responsibility as the first person; (b) if the second person did not have the means and opportunity, their responsibility relative to that of the first person should be substantially reduced; and (c) if the second person had some, but insufficient, means or opportunity, their responsibility relative to that of the first person should be reduced to an appropriate extent.

Persons who have caused or knowingly permitted the entry of a significant contaminant

7.68 Where the enforcing authority is determining the relative responsibilities of members of the liability group who have caused or knowingly permitted the entry of the significant contaminant into, onto or under the land, it should follow the approach set out in paragraphs 7.69 to 7.72 below.

7.69 If the nature of the remediation action points clearly to different members of the liability group being responsible for particular circumstances at which the action is aimed, the enforcing authority should apportion responsibility in accordance with that indication. In particular, where different persons were in control of different areas of the land in question, and there is no interrelationship between those areas, the enforcing authority should regard the persons in control of the different areas as being separately responsible for the events which make necessary the remediation actions or parts of actions referable to those areas of land.

7.70 If the circumstances in paragraph 7.69 above do not apply, but the quantity of the significant contaminant present is a major influence on the cost of remediation, the enforcing authority should regard the relative amounts of that contaminant which are referable to the different persons as an appropriate basis for apportioning responsibility.

7.71 If it is deciding the relative quantities of contaminant which are referable to different persons, the enforcing authority should consider first whether there is direct evidence of the relative quantities referable to each person. If there is such evidence, it should be used. In the absence of direct evidence, the enforcing authority should see whether an appropriate surrogate measure is available. Such surrogate measures can include: (a) the relative periods during which the different persons carried out broadly equivalent operations on the land; (b) the relative scale of such operations carried out on the land by the different persons (a measure of such scale may be the quantities of a product that were produced); (c) the relative

areas of land on which different persons carried out their operations; and (d) combinations of the foregoing measures.

- 7.72 In cases where the circumstances in neither paragraph 7.69 nor 7.70 above apply, the enforcing authority should consider the nature of the activities carried out by the appropriate persons concerned from which the significant contaminant arose. Where these activities were broadly equivalent, the enforcing authority should apportion responsibility in proportion to the periods of time over which the different persons were in control of those activities. It would be appropriate to adjust this apportionment to reflect circumstances where the persons concerned carried out activities which were not broadly equivalent, for example where they were on a different scale.

Persons who have knowingly permitted the continued presence of a contaminant

- 7.73 Where the enforcing authority is determining the relative responsibilities of members of the liability group who have knowingly permitted the continued presence, over a period of time, of a significant contaminant in, on or under land, it should apportion that responsibility in proportion to: (a) the length of time during which each person controlled the land; (b) the area of land which each person controlled; (c) the extent to which each person had the means and a reasonable opportunity to deal with the presence of the contaminant in question or to reduce the seriousness of the implications of that presence; or (d) a combination of the foregoing factors.

Companies and officers

- 7.74 If, following the application of the exclusion tests (and in particular the specific guidance at paragraph 7.39(k)(iii)) both a company and one or more of its relevant officers remain as members of the liability group, the enforcing authority should apportion liability on the following bases:
- (a) the enforcing authority should treat the company and its relevant officers as a single unit for the purposes of: (i) applying the general principle in paragraph 7.64 above (i.e. it should consider the responsibilities of the company and its relevant officers as a whole, in comparison with the responsibilities of other members of the liability group), and (ii) making any apportionment required by paragraph 7.65 above; and
 - (b) having determined the share of liability falling to the company and its relevant officers together, the enforcing authority should apportion responsibility between the company and its relevant officers on a basis which takes into account the degree of personal responsibility of those officers, and the relative levels of resources which may be available to them and to the company to meet the liability.
- 7.75 For the purposes of paragraph 7.74 immediately above, the “relevant officers” of a company are any director, manager, secretary or other similar officer of the company, or any other person purporting to act in any such capacity.

Section 7(e): Exclusion of members of a Class B liability group

- 7.76 The guidance in this sub-section is issued under section 78F(6) and sets out the test which should be applied in determining whether to exclude from liability a person who would otherwise be a Class B person (that is, a person liable to meet remediation costs solely by reason of ownership or occupation of the land in question). The purpose of the test is to exclude from liability those who do not have an interest in the capital value of the land in question.
- 7.77 The test applies where two or more persons have been identified as Class B persons for a significant contaminant linkage.
- 7.78 In such circumstances, the enforcing authority should exclude any Class B person who either:
- (a) occupies the land under a licence, or other agreement, of a kind which has no marketable value or which he is not legally able to assign or transfer to another person (for these purposes the actual marketable value, or the fact that a particular licence or agreement may not actually attract a buyer in the market, are irrelevant); or
 - (b) is liable to pay a rent which is equivalent to the rack rent for such of the land in question as he occupies and holds no beneficial interest in that land other than any tenancy to which such rent relates; where the rent is subject to periodic review, the rent should be considered to be equivalent to the rack rent if, at the latest review, it was set at the full market rent at that date.
- 7.79 However, the test should not be applied, and consequently no exclusion should be made, if it would result in the exclusion of all of the members of the liability group.

Section 7(f): Apportionment Between the Members of a Single Class B Liability Group

- 7.80 The statutory guidance in this Part is issued under section 78F(7) and sets out the principles on which liability should be apportioned within each Class B liability group as it stands after any members have been excluded from liability with respect to the relevant significant contaminant linkage as a result of the application of the exclusion test in Section 7(e) above.
- 7.81 Where the whole or part of a remediation action for which a Class B liability group is responsible clearly relates to a particular area within the land to which the significant contaminant linkage as a whole relates, liability for the whole, or the relevant part, of that action should be apportioned amongst those members of the liability group who own or occupy that particular area of land.
- 7.82 Where those circumstances do not apply, the enforcing authority should apportion liability for the remediation actions necessary for the significant contaminant linkage in question amongst all of the members of the liability group.

- 7.83 Where the enforcing authority is apportioning liability amongst some or all of the members of a Class B liability group, it should do so in proportion to the capital values of the interests in the land in question, which include those of any buildings or structures on the land:
- (a) where different members of the liability group own or occupy different areas of land, each such member should bear responsibility in the proportion that the capital value of their area of land bears to the aggregate of the capital values of all the areas of land; and
 - (b) where different members of the liability group have an interest in the same area of land, each such member should bear responsibility in the proportion which the capital value of their interest bears to the aggregate of the capital values of all those interests; and
 - (c) where both the ownership or occupation of different areas of land and the holding of different interests come into the question, the overall liability should first be apportioned between the different areas of land and then between the interests within each of those areas of land, in each case in accordance with the last two sub-paragraphs.
- 7.84 The capital value used for these purposes should be that estimated by the enforcing authority, on the basis of the available information, disregarding the existence of any contamination. The value should be estimated in relation to the date immediately before the enforcing authority first served a notice under section 78B(3) in relation to that land. Where the land in question is reasonably uniform in nature and amenity and is divided among a number of owner-occupiers, it can be an acceptable approximation of this basis of apportionment to make the apportionment on the basis of the area occupied by each.
- 7.85 Where part of the land in question is land for which no owner or occupier can be found, the enforcing authority should deduct the share of costs attributable to that land on the basis of the respective capital values of that land and the other land in question before making a determination of liability.
- 7.86 If appropriate information is not available to enable the enforcing authority to make an assessment of relative capital values (and, following the guidance at paragraph 7.27 above, such information cannot reasonably be obtained), the enforcing authority should apportion liability in equal shares among all the members of the liability group.

Section 7(g): Attribution of responsibility between liability groups

- 7.87 The statutory guidance in this sub-section is issued under section 78F(7) and applies where one remediation action is referable to two or more significant contaminant linkages (i.e. it is a “shared action”). This can occur either where both linkages require the same action (that is, it is a “common action”) or where a particular action is part of the best combined remediation scheme for two or more linkages (that is, it is a “collective action”). This Part provides statutory guidance on the attribution of responsibility for the costs of any shared action between the liability groups for the linkages to which it is referable.

Attributing Responsibility for the Cost of Shared Actions between Liability Groups

- 7.88 The enforcing authority should attribute responsibility for the costs of any common action among the liability groups for the significant contaminant linkages to which it is referable on the following basis:
- (a) If there is a single Class A liability group, then the full cost of carrying out the common action should be attributed to that group, and no cost should be attributed to any Class B liability group).
 - (b) If there are two or more Class A liability groups, then an equal share of the cost of carrying out the common action should be attributed to each of those groups, and no cost should be attributed to any Class B liability group).
 - (c) If there is no Class A liability group and there are two or more Class B liability groups, then the enforcing authority should treat those liability groups as if they formed a single liability group, attributing the cost of carrying out the common action to that combined group, and applying the guidance on exclusion and apportionment set out in sub-sections 7(e) and 7(f) above as between all of the members of that combined group.
- 7.89 The enforcing authority should attribute responsibility for the cost of any collective action among the liability groups for the significant contaminant linkages to which it is referable on the same basis as for the costs of a common action, except that where the costs fall to be divided among several Class A liability groups, instead of being divided equally, they should be attributed on the following basis:
- (a) Having estimated the costs of the collective action, the enforcing authority should also estimate the hypothetical cost for each of the liability groups of carrying out the actions which are subsumed by the collective action and which would be necessary if the significant contaminant linkage for which that liability group is responsible were to be addressed separately; these estimates are the “hypothetical estimates” of each of the liability groups.
 - (b) The enforcing authority should then attribute responsibility for the cost of the collective action between the liability groups in the proportions which the hypothetical estimates of each liability group bear to the aggregate of the hypothetical estimates of all the groups.

Confirming the attribution of responsibility

- 7.90 If any appropriate person demonstrates, before the service of a remediation notice, to the satisfaction of the enforcing authority that the result of an attribution made on the basis set out in paragraphs 7.88 and 7.89 above would have the effect of the liability group of which they are a member having to bear a liability which is so disproportionate (taking into account the overall relative responsibilities of the persons or groups concerned for the condition of the land) as to make the attribution of responsibility between all the liability groups concerned unjust when considered as a whole, the enforcing authority should reconsider the attribution. In doing so, the enforcing authority should consult the other appropriate persons concerned.

7.91 If the enforcing authority then agrees that the original attribution would be unjust it should adjust the attribution between the liability groups so that it is just and fair in the light of all the circumstances. An adjustment under this paragraph should be necessary only in very exceptional cases.

Orphan Linkages

7.92 As explained above (e.g. in paragraphs 7.6 and 7.9), an “orphan linkage” may arise where: (a) the significant contaminant linkage relates solely to the significant pollution of controlled waters (and not to significant harm) and no Class A person can be found; (b) no Class A or Class B persons can be found; or (c) those who would otherwise be liable are exempted by one of the relevant statutory provisions (i.e. sections 78J(3), 78K or 78X(3)).

7.93 In any case where only one significant contaminant linkage has been identified, and that is an orphan linkage, the enforcing authority should itself bear the cost of any remediation which is carried out.

7.94 In more complicated cases, there may be two or more significant contaminant linkages, of which some are orphan linkages. Where this applies, the enforcing authority will need to consider each remediation action separately.

7.95 For any remediation action which is referable to an orphan linkage, and is not referable to any other linkage for which there is a liability group, the enforcing authority should itself bear the cost of carrying out that action.

7.96 For any shared action which is referable to an orphan linkage and also to a single significant contaminant linkage for which there is a Class A liability group, the enforcing authority should attribute all of the cost of carrying out that action to that Class A liability group.

7.97 For any shared action which is referable to an orphan linkage and also to two or more significant contaminant linkages for which there are Class A liability groups, the enforcing authority should attribute the costs of carrying out that action between those liability groups in the same way as it would do if the orphan linkage did not exist.

7.98 For any shared action which is referable to an orphan linkage and also to a significant contaminant linkage for which there is a Class B liability group (and not to any significant contaminant linkage for which there is a Class A liability group) the enforcing authority should adopt the following approach:

- (a) where the remediation action is a common action the enforcing authority should attribute all of the cost of carrying out that action to the Class B liability group; and
- (b) where the remediation action is a collective action, the enforcing authority should estimate the hypothetical cost of the action which would be needed to remediate separately the effects of the linkage for which that group is liable. The enforcing authority should then attribute the costs of carrying out the collective action between itself and the Class B liability group so that the expected liability of that group does not exceed that hypothetical cost.

Section 8: The Recovery of the Costs of Remediation

8.1 The statutory guidance in this section is issued under section 78P(2) of the 1990 Act. It provides guidance on the extent to which the enforcing authority should seek to recover the costs of remediation which it has carried out and which it is entitled to recover.

8.2 The main relevant sections of the Act are:

- Section 78P(1): “Where, by virtue of section 78N(3)(a), (c), (e) or (f) ... the enforcing authority does any particular thing by way of remediation, it shall be entitled, subject to sections 78J(7) and 78K(6)... , to recover the reasonable cost incurred in doing it from the appropriate person or, if there are two or more appropriate persons in relation to the thing in question, from those persons in proportions determined pursuant to section 78F(7)....”
- Section 78P(2): “In deciding whether to recover the cost, and, if so, how much of the cost, which it is entitled to recover under subsection (1) above, the enforcing authority shall have regard – (a) to any hardship which the recovery may cause to the person from whom the cost is recoverable; and (b) to any guidance issued by the Secretary of State for the purposes of this subsection.”

8.3 This section also explains when the enforcing authority is prevented from serving a remediation notice under section 78H(5), under which the authority may not serve a remediation notice if the authority has the power to carry out remediation itself, by virtue of section 78N. Under that latter section, the authority asks the hypothetical question of whether it would seek to recover all of the reasonable costs it would incur if it carried out the remediation itself. The authority then has the power to carry out that remediation itself if it concludes that, having regard to hardship and the guidance in this chapter, it would either not seek to recover its costs, or seek to recover only a part of its costs. The relevant sections of the 1990 Act are:

- Section 78H(5): “The enforcing authority shall not serve a remediation notice on a person if and so long as ... (d) the authority is satisfied that the powers conferred on it by section 78 below to do what is appropriate by way of remediation are exercisable...”
- Section 78N(3) provides that the enforcing authority has the power to carry out remediation: “(e) where the enforcing authority considers that, were it to do some particular thing by way of remediation, it would decide, by virtue of subsection (2) of section 78P ... or any guidance issued under that subsection, - (i) not to seek to recover under subsection (1) of that section any of the reasonable cost incurred by it in doing that thing; or (ii) to seek so to recover only a portion of that cost;...”

Section 8(a): Cost Recovery Decisions

8.4 This section sets out considerations to which the enforcing authority should have regard when making any cost recovery decision. In view of the wide variation in situations which are likely

to arise (e.g. due to variations in the history and ownership of land, and liability for its remediation) the guidance in this section sets out principles and approaches, rather than detailed rules. The enforcing authority should have regard to the circumstances of each individual case.

- 8.5 In making any cost recovery decision, the enforcing authority should have regard to the following general principles:
- (a) The authority should aim for an overall result which is as fair and equitable as possible to all who may have to meet the costs of remediation, including national and local taxpayers.
 - (b) The “polluter pays” principle should be applied with a view that, where possible, the costs of remediating pollution should be borne by the polluter. The authority should therefore consider the degree and nature of responsibility of the relevant appropriate person(s) for the creation, or continued existence, of the circumstances which lead to the land in question being identified as contaminated land.
- 8.6 In general the enforcing authority should seek to recover all of its reasonable costs. However, the authority should waive or reduce the recovery of costs to the extent that it considers this appropriate and reasonable, either: (i) to avoid any undue hardship which the recovery may cause to the appropriate person; or (ii) to reflect one or more of the specific considerations set out in the statutory guidance in subsections 8(b), 8(c) and 8(d) below. In making such decisions, the authority should bear in mind that recovery is not necessarily an “all or nothing” matter (i.e. where reasonable, appropriate persons can be made to pay part of the authority’s costs even if they cannot reasonably be made to pay all of the costs).
- 8.7 In deciding how much of its costs it should recover, the enforcing authority should consider whether it could recover more of the costs by deferring recovery and securing them by a charge on the land in question under section 78P. Such deferral may lead to payment from the appropriate person either in instalments (see section 78P(12)) or when the land is next sold.

Information for Making Decisions

- 8.8 In general, the enforcing authority should expect anyone who is seeking a waiver or reduction in the recovery of remediation costs to present any information needed to support such a request.
- 8.9 In making any cost recovery decision, the enforcing authority should consider any relevant information provided by the appropriate person(s). The authority should also seek to obtain such information as is reasonable, having regard to: (i) accessibility of the information; (ii) the cost, for any of the parties involved, of obtaining the information; and (iii) the likely significance of the information for any decision.
- 8.10 The enforcing authority should, in all cases, inform the appropriate person of any cost recovery decisions taken, explaining the reasons for those decisions.

Cost Recovery Policies

- 8.11 The enforcing authority may choose to adopt and make available a policy statement about the general approach it intends to take in making cost recovery decisions.

Section 8(b): Considerations Applying both to Class A & Class B Persons

- 8.12 Paragraphs 8.13 – 8.22 below set out considerations to which the enforcing authority should have regard when making any cost recovery decisions, irrespective of whether the appropriate person is a Class A person or a Class B person. They apply in addition to the general issue of the “hardship” which the cost recovery may cause to the appropriate person.

Commercial Enterprises

- 8.13 Subject to the specific circumstances set out below, the enforcing authority should adopt the same approach to all types of commercial or industrial enterprises which are identified as appropriate persons. This applies whether the appropriate person is a public corporation, a limited company (whether public or private), a partnership (whether limited or not) or an individual operating as a sole trader.

Threat of business closure or insolvency

- 8.14 In cases where a small or medium-sized enterprise is the appropriate person, or is run by the appropriate person, the enforcing authority should consider: (i) whether recovery of the full cost attributable to that person would mean that the enterprise is likely to become insolvent and thus cease to exist; and (ii) if so, the cost to the local economy of such a closure.
- 8.15 Where the cost of that closure to the local economy appears to be greater than the costs of remediation which the enforcing authority would have to bear itself, the authority should consider waiving or reducing its costs recovery to the extent needed to avoid making the enterprise insolvent.
- 8.16 However, the enforcing authority should not waive or reduce its costs recovery where: (a) it is satisfied that an enterprise has deliberately arranged matters so as to avoid responsibility for the costs of remediation; (b) it appears that the enterprise would be likely to become insolvent whether or not recovery of the full cost takes place; or (c) it appears that the enterprise could be kept in, or returned to, business even if it does become insolvent under its current ownership.
- 8.17 For these purposes, a “small or medium-sized enterprise” should be taken to mean an independent enterprise which matches the definition of a “micro, small and medium-sized enterprise” as established by the European Commission Recommendation of 6 May 2003, and any updates of that definition as may happen in future. (Under the 2003 definition this would

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cover any such enterprise with fewer than 250 employees, and either an annual turnover less than or equal to €50 million, or an annual balance sheet total less than or equal to €43 million).

- 8.18 Local authorities may wish to take account in cost recovery decisions of any relevant policy on assisting enterprise or promoting economic development. In cases where the Environment Agency is the enforcing authority, it should seek to be consistent with the policy of the local authority in whose area the contaminated land is situated (if such a policy exists). The Agency should consult the local authority and take its views into consideration in making its own cost recovery decisions.

Trusts

- 8.19 Where the appropriate persons include persons acting as trustees, the enforcing authority should assume that such trustees will exercise all the powers which they have, or may reasonably obtain, to make funds available from the trust, or from borrowing that can be made on behalf of the trust, for the purpose of paying for remediation. The authority should, nevertheless, consider waiving or reducing your costs recovery to the extent that the costs of remediation to be recovered from the trustees would otherwise exceed the amount that can be made available from the trust to cover those costs.
- 8.20 However, the enforcing authority should not waive or reduce its costs recovery: (a) where it is satisfied that the trust was formed for the purpose of avoiding paying the costs of remediation; or (b) to the extent that trustees have personally benefited, or will personally benefit, from the trust.

Charities

- 8.21 Since charities are intended to operate for the benefit of the community, the enforcing authority should consider the extent to which any recovery of costs from a charity would detrimentally impact that charity's activities. Where this is the case, the authority should consider waiving or reducing its costs recovery to the extent needed to avoid such a consequence. This approach applies equally to charitable trusts and to charitable companies.

Social Housing Landlords

- 8.22 The enforcing authority should consider waiving or reducing its costs recovery if: (a) the appropriate person is a body eligible for registration as a social housing landlord under section 2 of the Housing Act 1996 (for example, a housing association); (b) its liability relates to land used for social housing; and (c) full recovery would lead to significant financial difficulties for the appropriate person, such that the provision or upkeep of the social housing would be jeopardised significantly. The extent of the waiver or reduction should be sufficient to avoid any such financial difficulties.

Section 8(c): Specific Considerations Applying to Class A Persons

- 8.23 This sub-section sets out specific considerations to which the enforcing authority should have regard in cost recovery decisions where the appropriate person is a Class A person.
- 8.24 In applying the approach in this sub-section, the enforcing authority should consider whether or not the Class A person is likely to have profited financially from the activity which led to the land being determined to be contaminated land (e.g. as might be the case if the contamination resulted from a business activity). If the person did profit, the authority should generally be less willing to waive or reduce costs recovery than if no such profits were made.

Where other potentially appropriate persons have not been found

- 8.25 In some cases where a Class A person has been found, it may be possible to identify another person who caused or knowingly permitted the presence of the significant contaminant in question, but who cannot now be found for the purposes of treating that person as an appropriate person (as might be the case if a company has been dissolved). In such cases, the enforcing authority should consider waiving or reducing its costs recovery from a Class A person if that person demonstrates that:
- (a) another identified person, who cannot now be found, also caused or knowingly permitted the significant contaminant to be in, on or under the land; and
 - (b) if that other person could be found, the Class A person seeking the waiver or reduction of the authority's costs recovery would either: (i) be excluded from liability by virtue of one or more of the exclusion tests set out in the Section 7 of this Guidance; or (ii) the proportion of the cost of remediation which the appropriate person has to bear would have been significantly less, by virtue of the guidance on apportionment set out in Section 7.
- 8.26 Where an appropriate person is making a case for the enforcing authority's costs recovery to be waived or reduced by virtue of paragraph 8.25 above, that person should provide evidence to the authority that a particular person, who cannot now be found, caused or knowingly permitted the significant contaminant to be in, on or under the land. The authority should not regard it as sufficient for the appropriate person concerned merely to state that such a person must have existed.

Section 8(d): Specific Considerations Applying to Class B Persons

- 8.27 This sub-section sets out specific considerations relating to cost recovery decisions where the appropriate person is a Class B person.

Costs in Relation to Land Values

- 8.28 In some cases, the costs of remediation may exceed the likely value of the land in its current use (as defined in Section 3 of this Guidance) after the required remediation has been carried out. In such cases, the enforcing authority should consider waiving or reducing its costs recovery from a Class B person if that person demonstrates that the costs of remediation are likely to exceed the value of the land. In this context, the “value” should be taken to be the value that the remediated land would have on the open market, at the time the cost recovery decision is made, disregarding any possible blight arising from the contamination.
- 8.29 In general, the extent of the waiver or reduction in costs recovery should be sufficient to ensure that the costs of remediation borne by the Class B person do not exceed the value of the land. However, the enforcing authority should seek to recover more of its costs to the extent that the remediation would result in an increase in the value of any other land from which the Class B person would benefit.

Precautions taken before acquiring a freehold or a leasehold interest

- 8.30 In some cases, the Class B person may have been unaware that the land in question may be contaminated land when they acquired it. Alternatively, the person may have taken a risk that the land was not contaminated, or they may have taken some precautions to reduce the risk of acquiring land which is contaminated.
- 8.31 The enforcing authority should consider reducing its costs recovery where a Class B person who is the owner of the land demonstrates that:
- (a) the person took such steps (prior to acquiring the freehold or accepting the grant of assignment of a leasehold) as would have been reasonable at that time to establish the presence of any contaminants;
 - (b) when the person acquired the land (or accepted the grant of assignment of the leasehold) they were nonetheless unaware of the presence of the significant contaminant now identified, and could not reasonably have been expected to have been aware of its presence; and
 - (c) the authority considers it would be reasonable, taking into account the interests of national and local taxpayers, that the person should not bear the whole cost of remediation.
- 8.32 The enforcing authority should bear in mind that the safeguards which might reasonably be expected to be taken will be different in different types of transaction (for example, acquisition of recreational land as compared with commercial land transactions) and as between buyers of different types (for example, private individuals as compared with major commercial undertakings).

Owner-occupiers of Dwellings

- 8.33 Where a Class B person owns and occupies a dwelling on the contaminated land in question, the enforcing authority should consider waiving or reducing its costs recovery if the person satisfies the authority that, at the time the person purchased the dwelling, the person did not know, and could not reasonably have been expected to have known, that the land was adversely affected by presence of the contaminant(s) in question. Any such waiver or reduction should be to the extent needed to ensure that the Class B person in question bears no more of the cost of remediation than it appears reasonable to impose, having regard to the person's income, capital and outgoings. Where the person has inherited the dwelling or received it as a gift, the authority should consider the situation at the time when the person received the property.
- 8.34 Where the contaminated land in question extends beyond the dwelling and its curtilage, and is owned or occupied by the same appropriate person, the approach in paragraph 8.33 above should be applied only to the dwelling and its curtilage.

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SUBJECT: MONMOUTHSHIRE BUSINESS AND ENTERPRISE – PERFORMANCE REPORT

MEETING: Economy Select Committee

DATE: 3rd March 2016

DIVISION/WARDS AFFECTED: All

1. PURPOSE:

- 1.1 To provide a performance update on the activities of Monmouthshire Business and Enterprise (MBE).

2. RECOMMENDATIONS:

- 2.1 To receive the report in evidence of activities detailed in the Monmouthshire Business Growth and Enterprise Strategy Action Plan, as reflected in the Chief Officer's Annual report for Enterprise. To receive a more comprehensive assessment of progress against the Monmouthshire Business Growth and Enterprise Strategy and the Vale of Usk Local Development Strategy in June 2016 following outturn.

3. KEY ISSUES:

- 3.1 In line with one of the Council's four priorities of 'Supporting Enterprise, Entrepreneurship and Job Creation', Cabinet approved the [Monmouthshire Business Growth and Enterprise Strategy](#) in November 2014 and endorsed the associated Action Plan. The Strategy hinges on three pillars namely '*Supporting Business Growth*', '*Enabling Inward Investment*' and '*Growing Entrepreneurs*' and addresses customer needs through the provision of a programme of business support, networking and facilitation to help unlock the potential for growth in the County. In 2015/16 activities are targeted towards achieving these key priorities and maximising funding opportunities to reduce the financial burden on the Council.
- 3.2 Further to this the [Vale of Usk Local Development Strategy](#) approved by Cabinet in June 2015, is a key tool in drawing down £2.79M from the new 2014-2020 Rural Development Programme (RDP), expanded to include the rural wards of Newport. This Council is the Administrative Body for the programme holding overall responsibility and activities are directed through the Vale of Usk Local Action Group (LAG) – a local partnership based on the three thirds principle of representatives from the community, private and public sector.
- 3.3 In addition MBE also delivers the external strand of the Council's [iCounty Strategy](#) which includes the coordination of broadband infrastructure and ICT exploitation activities.

4. REASONS:

- 4.1 A summary of MBE's activities during 2015/16 to 17th February 2016 are detailed below, targets are set in accordance with annual target at year end date of 31st March 2016.

4.2 Update on '*Supporting Business Growth*' and '*Encouraging Inward Investment*' objectives

MBE continue to offer a bespoke package of business development services tailored to individual needs:

- **Business enquiry numbers are on target 82** received against an annual target of 90;
 - **New business start up numbers are on track 59¹** against an annual target of 75;
 - **Jobs created are currently 110.5 against an annual target of 200¹**. However, pipeline projects which include the creation of roadside service area at Raglan, a 61 bed hotel, restaurant and a drive in restaurant in Llanfoist and a further 60 bed hotel and restaurant in Monmouth, indicate that the target should be met, subject to any construction delays;
 - **Jobs safeguarded figures have already exceeded target, with 121 safeguarded** against a target of 60 due to support provided to companies in relation to finance and premises; and
 - **Five inward investment enquiries have been received and two investment projects secured** against a target of five, with a further three enquiries in train.
- 4.3 MBE has recently undergone a rebranding exercise which included the launch of a new dedicated on line business support web portal www.monmouthshire.biz at the Monmouthshire Business Awards on 23rd October 2015. To date there have been 1657 users of the web portal with 75% classified as new users. A series of marketing activities are planned to increase traffic to the site which include an enhanced social media campaign, a 'Linked In' campaign and a bespoke media campaign via Business New Wales.
- 4.4 Following a ballot taken by businesses in Abergavenny in July 2015 not to support the development of a Business Improvement District (BID), our Business Insights Manager, James Woodcock, has been working with interested parties to consider how they might address some of the needs identified in the BID business plan going forward. Following a meeting with a small number of former BID steering group members and a representative of the 'No' campaign in December, a further meeting was held in February to discuss the promotion of Abergavenny, a key element of the BID Business Plan. Representatives from Team Abergavenny, Love Abergavenny, Abergavenny & District Tourism Association, the Town Council and the TIC attended to explore ways in which they might work more closely together both in relation to the run up to the Eisteddfod and beyond. Next steps and further progress will be reported in due course.
- 4.5 In March 2015 Cabinet approved the [Broadband in Monmouthshire report](#) recommending access to ICT transformation funding to undertake digital access and ICT exploitation activities. The following outcomes have since been achieved:
- A [Digital Monmouthshire](#) web portal has been developed which is hosted as part of the www.monmouthshire.biz offer and also includes a database of tech and digital businesses in the county;
 - A **SMART Communities and Digital Access Manager** has been appointed to drive forward activities associated with the external strand of iCounty until May 2016;
 - An £850,000 UK Government funded **infrastructure pilot offering innovative broadband solutions** for 1600 hard to reach Monmouthshire premises will be

¹ ***Please note** – Our Partner organisation is currently unable to provide data on business start ups and jobs created due to a contract ending and resulting transition to a new contract provider. Discussion is taking place with our Partner organisation re: provision of data under the new contract however this may have a consequential impact on 2015/16 Key Performance Indicators due to a drop-off in data being available. Further discussion regarding the datasets will take place with our Partner organisation in March 2016 the results of which will be reported to this Select following outturn in June 2016.

completed in March 2016. Rural properties in targeted areas that can now access a superfast broadband service for the first time have been direct mailed by AB Internet with a short term promotional offer which includes free connections and three months free service.

- **36,400 premises are now able to access Superfast Broadband** connections and there is an increased uptake with Monmouthshire's figures now standing at 15%;
- The UK Government's Super-Connected Cities Voucher scheme was closed in October 2015. 60 Expressions of Interest were supported from local businesses and 27 vouchers were awarded. In January 2016 the Welsh Government extended its [Ultrafast Broadband Connection scheme](#) for businesses into Monmouthshire and this grant opportunity is now being promoted to local businesses.
- A web page promoting a free trail for local businesses of [Skutrade](#) has also been launched. Skutrade is a pre-trade cloud based software that enables businesses to know the real-time full costs and profitability of selling products in international markets. Skutrade is being supported by MCC further to a [Cabinet report](#) presented in July 2015 which stipulates how Skutrade will help deliver the Council's iCounty and Monmouthshire Business Growth and Enterprise strategies by enabling Monmouthshire businesses to have reduced fee access to the platform. A progress update will be provided to this Select Committee at the April 2016 meeting.

4.6 Following the approval of the [Vale of Usk Rural Development Programme](#) significant progress has been made. The coordinating LAG now has 21 members with equal representation from the public, private and voluntary sector. **Five funding applications have been received with a further ten in development.** Other activities include three community workshops which will take place throughout March; a supply chain event in February at the Big Pit promoting social media opportunities for small producers and development of a cooperation project across S E Wales to map, coordinate and shorten supply chains across the region.

4.7 Our new **Strategic Investment and Funding Manager**, Andy Smith, is part funded via the RDP to identify mainstream funding opportunities for RDP pilot projects and via the Council's Invest to Redesign funding to identify funding gaps within the Council's Pyramid of Plans. To date Andy has received 18 requests for funding and/or project advice. Current projects include:

- An **EU funded AGRI-URBAN project with Team Abergavenny** consisting of ten European member state partners sharing information and best practice in the field of Agri food production and digital innovation;
- Refocusing the Team Abergavenny's Town Centre Partnership funding to provide **free Wi-Fi to the town** with presence analytics functionality in association with the Whole Place team;
- Maximising the £1.8million ESD grant for 2016 / 2017 with the Commercial and Operations department; and
- The establishment of a **Grant Coordination group** to pool resources, share experience and expertise, and take a strategic approach to funding opportunities.

Pipeline projects include an application to the Rural Community Development Fund to Wi-Fi enable community halls in the Abergavenny area;

- **Support for three large scale European Social Fund projects** covering the four S E Wales competitiveness authorities of Monmouthshire, Newport, Cardiff and Vale of Glamorgan. Inspire2Work and Inspire2Achieve aim to improve the educational attainment and employment prospects for young people (Applications submitted and approval pending). Skills@Work aims to increase the education attainment level for those already in work (report being prepared for cabinet to request permission to begin discussions with WEFO);

- **Scoping a project brief for the EU funded Urban Innovative Actions fund** offering up to 5million euro to improve jobs and skills in the local economy;
- **Supporting two applications to the BIG Lottery** funded Create your Space programme with the Youth Service and Community services; and
- **Supporting five community based applications** to improve community facilities in Severnside, Tintern, Monmouth, Abergavenny and Penallt.

4.8 Growing Entrepreneurs

Since joining us in June 2015 our Business and Enterprise Manager, Vanessa Janes-Evans, has established an [Investing in Young Enterprise](#) programme. Activities include;

- Development of a pilot **Student Enterprise Ambassador programme for Monmouthshire schools** to include support with events, establishment of enterprise zone areas and social media activities, summer work experience programme (piloted with Caldicot School) and a potential summer project with King Henry VIII School in Abergavenny for disengaged students;
- Attendance of **Student Ambassadors at the Monmouthshire Business Awards**. In its fourth year in 2015, the event attracted over 100 entrants and 350 attendees;
- **'Interview with an Entrepreneur'** event with Monmouthshire Business Awards at the Shire Hall on the 30th November 2015 which provided students with an informal opportunity to question high profile entrepreneurs;
- A **Global Enterprise Challenge** in three Monmouthshire secondary schools during the week of the 16th November 2015 which resulted in a High Impact Host award;
- **Big Ideas Wales Roadshow in Monmouth Comprehensive** where students showcased their welsh BAC projects;
- A sponsored **'Monmouthshire 2040' Investing in Young Enterprise Challenge** on the 15th March 2016 in the Council Chamber providing students with an opportunity to pitch their future business ideas to parents, teachers and local businesses;
- Facilitation of a South East Wales Welsh Bac Competition on 20th April;
- Investigation of an International ERASMUS funding application; and
- Development of a **Monmouthshire Mentors Programme**.

5. RESOURCE IMPLICATIONS:

There are no additional resource implications associated with this report.

6. SUSTAINABLE DEVELOPMENT AND EQUALITY IMPLICATIONS:

As this is a performance report there are no significant equality impacts identified for members' consideration.

7. SAFEGUARDING AND CORPORATE PARENTING IMPLICATIONS

There are no safeguarding or corporate parenting implications associated with this report.

8. **CONSULTEES:** Senior Leadership Team

9. **BACKGROUND PAPERS:** N/A

10. **AUTHOR:** Cath Fallon – Head of Economy and Enterprise

11. **CONTACT DETAILS:** Tel: 01633 648316/ 07557 190969
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REPORT

SUBJECT	REVENUE & CAPITAL MONITORING 2015/16 MONTH 9 OUTTURN FORECAST STATEMENT
DIRECTORATE	Chief Executive's Unit
MEETING	Economy & Development Select Committee
DATE	3rd March 2016
DIVISIONS/ WARD AFFECTED	All Authority

PURPOSE

The purpose of this report is to provide Members with information on the forecast revenue outturn position of the Authority at the end of reporting period 3 which represents month 9 financial information for the 2015/16 financial year.

This report will also be considered by Select Committees as part of their responsibility to,

- assess whether effective budget monitoring is taking place,
- monitor the extent to which budgets are spent in accordance with agreed budget and policy framework,
- challenge the reasonableness of projected over or underspends, and
- monitor the achievement of predicted efficiency gains or progress in relation to savings proposals.

2. RECOMMENDATIONS PROPOSED TO CABINET

- 2.1 That Members consider the position concerning the third period of revenue monitoring in 2015/16 (£162,000 overspend), and seek assurance that Chief Officers will continue to work on delivering the £1.6 million Recovery Plan reported to December 2015 Cabinet.
- 2.2 That Senior officers follow the requirement of the Protection of Employment Policy which requires that all redundancy and pension costs must be reported to and agreed by Cabinet before final approval.

- 2.3 Members consider the position concerning period 3 (Month 9) Capital Monitoring 2015/16 of an estimated £23.8million spend against a net budget of £23.9million, after proposed slippage of £37.7 million, notes the improvement in a need for slippage reported by managers (after excluding 21c schools), and the reservation that this necessitates managers incurring £12.5million expense during the last quarter, when collective they only spent £11.3 million in preceding periods this year.
- 2.4 Requests the addition of two wholly funded section 106 funded capital schemes to the capital programme, which managers report will be fully utilised by the end of March 2016:
- A capital budget of £40,000 to allow for the construction of a Puffin crossing in the vicinity of the development at Saw Mill house funded from S106 contributions from the development at Saw Mill house, Little Mill.
 - A capital budget of £6,800 to continue the implementation of the Monmouth Links Connect 2 walking and cycling network funded from Section 106 contributions received from the development at the Almshouses, St James' square Monmouth.

3. MONITORING ANALYSIS

3.1 Revenue Position

3.1.1 Revenue budget monitoring information for each directorate's directly managed budgets is provided together with information on corporate areas.

3.1.2 Responsible Financial Officer's Summary of Overall Position Period 3

Table 1: Council Fund 2015/16 Outturn Forecast Summary Statement at Period 3 (Month 9)	Annual Forecast @ Month 9	Revised Annual Budget @ Month 9	Forecast Over/(Under) Spend @ Month 9	Forecast Over/(Under) Spend @ Month 6	Forecast Variance Month 6 to Month 9	Forecast Over/(Under) Spend @ Month 2	Forecast Variance Month 2 to Month 6
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Social Care & Health	39,475	38,247	1,228	1,101	127	519	582
Children & Young People	51,491	51,351	140	197	(57)	274	(77)
Enterprise	10,162	10,140	22	601	(579)	338	263
Operations	16,148	16,308	(160)	339	(499)	634	(295)
Chief Executives Unit	6,810	7,002	(192)	(31)	(161)	(120)	89
Corporate Costs & Levies	18,115	18,215	(100)	(61)	(39)	63	(124)
Net Cost of Services	142,201	141,264	937	2,146	(1,209)	1,708	438
Attributable Costs – Fixed Asset Disposal	150	233	(82)	(51)	(31)	0	(51)
Interest & Investment Income	(100)	(51)	(49)	(33)	(16)	(30)	(3)
Interest Payable & Similar Charges	3,275	3,662	(387)	(382)	(5)	(202)	(180)
Charges Required Under Regulation	5,536	5,776	(241)	30	(271)	74	(44)
Contributions to Reserves	90	95	(5)	0	(5)	0	0
Contributions from Reserves	(1,862)	(2,773)	911	108	803	(90)	198

Capital Expenditure financed from reserves	210	210	0	0	0	0	0
Amounts to be met from Government Grants and Local Taxation	149,500	148,416	1,084	1,818	(734)	1,460	358
General Government Grants	(67,642)	(67,642)	0	0	0	0	0
Non-Domestic Rates	(26,737)	(26,737)	0	0	0	0	0
Council Tax	(60,844)	(60,094)	(750)	(600)	(150)	(500)	(100)
Council Tax Benefits Support	5,925	6,097	(172)	(152)	(20)	(93)	(59)
Net Council Fund (Surplus) / Deficit	202	40	162	1,066	(904)	867	199
Budgeted contribution from Council Fund	-40	(40)	0	0	0	0	0
	162	0	162	1,066	(904)	867	199

3.1.3 The bottom line situation, a £162k potential overspend needs some further analysis to understand the underlying position. This overspend includes £620k overspend in relation to non school redundancy costs (which are still subject to member approval). Setting these one off costs aside would reduce the overspend to an underspend of £458k.

3.1.4 However the position reported above also includes £778k of underspends relating to reserve funded projects which are now going to be deferred to 2016/17. Taking this into account results in an **overspend of £320k overall and a £1.096 million overspend in net cost of services.**

3.1.5 The analysis in the table below takes the “simple” outturn prediction for services and adjusts for the unbudgeted redundancy costs that Directorates are forecasting, and the extent of reserve usage planned that instead Directorates request is deferred to a later year:

Directorate Cost	Outturn Reported based on month 9 data	Redundancy costs not budgeted for not falling to schools	Adjusted Outturn	Reserve funded expenditure requested deferred	Adjusted budget	“Real” variance against budget
Social Care & health	39,475	(11)	39,464	(97)	38,150	1,314
Children and young people	51,491		51,491		51,351	140
Enterprise	10,162	(557)	9,605	(662)	9,478	127
Operations	16,148	(52)	16,096		16,308	(212)
Chief Executives	6,810		6,810	(19)	6,983	(173)
Corporate Costs & levies	18,115		18,115		18,215	(100)
Net Cost of Services	142,201	(620)	141,581	(778)	140,485	1,096

3.1.6 The main overspending areas are:

- Social Care and Health (£1.3m), although the main pressure continues to exhibit in Childrens Services (£1.5m) and is compensated in part by the beneficial situation in Adult, Commissioning and Community Care
- CYP Directorate exhibits a slightly worsening position (£140k overspend) relating to the Primary Schools, CYP Management and the Youth Service
- Enterprise overspend of £127k relating to recovery plan savings not met and further pressures in some service areas
- Operations, Chief Executive’s and Corporate are all now exhibiting an underspend forecast which in part offsets the overspends above.

3.1.7 The expectation of the Recovery Plan approved by Cabinet in December was to reduce the net cost of service overspend at month 6 from £2.146 million to £800k with the remaining overspend being met from Treasury and Council tax surplus. The above analysis shows that progress is being made to deliver on the plan.

3.1.8 Given the financial challenges that will continue to face the Authority for the foreseeable future, Chief Officers continue to be tasked with ensuring that services live within the budgets and savings targets set for the current financial year and deliver on the recovery plan agreed by Cabinet. The outturn report will contain information on what has been done to manage the over spends identified and the positive action that has been undertaken to ensure that the outturn comes in on budget.

3.1.9 Slippage on Reserve funded projects

The following table indicates the extent of budgeted reserve funding anticipated utilised by Directorates and that element of approved expenditure they request to be deferred.. These include,

Directorate	Project	Reserve Source	Reserve funding utilised in 2015-16	Reserve funding deferred to 2016-17
Enterprise	Superfast Broadband facilitation	IT transformation	53,200	20,000
	Centre of Innovation funding for Magor 2 building	Invest to Redesign	90,000	40,000
	Reserve funding to facilitate 14-15 mandates	Invest to Redesign	0	49,000
	Eisteddfod	Priority Investment	145,000	430,455
	Local development plan	Priority Investment	0	100,000
	HR restructure	Invest to Redesign	0	22,500
	Innovation and marketing assistance to deliver mandates	Invest to Redesign	105,000	0
	Informing the future of Cultural services	Invest to Redesign	24,000	0
	City Deal Contribution	Priority Investment	30,300	
	CMC2 shortfall 14-15	Priority Investment	140,000	
Sub Total Enterprise			587,500	661,955
Social Care & Health	Service Transformation Adult Social Care	Invest to Redesign	103,000	57,125
	Childrens Services Temporary Staff	Priority Investment	113,347	40,000
Sub Total Social Care			216,347	97,125
Children & Young People	Innovation and marketing assistance to deliver mandates	Invest to Redesign	60,000	0
	CYP development fund	Priority Investment	273,422	
	Restorative Approaches	Priority Investment	61,000	
	Raising Education standards	Priority Investment	56,000	
Sub Total Children & Young People			450,422	0
Sub Total Operations	Bus lease repayments	Grass Routes Buses	25,913	0

Chief Executives	Council Tax Recovery	Invest to Redesign	28,817	0
	Innovation and marketing assistance to deliver mandates	Invest to Redesign	26,000	19,000
	Reserve funding to facilitate 14-15 mandates	Invest to Redesign	13,000	0
	NNDR hardship case	Priority Investment	18,750	
Sub Total Chief Executive's			86,567	19,000
Sub Total Corporate	Redundancy Strain Costs	Redundancy & pension	325,434	0
Appropriations	Fixed asset disposal	Capital receipts generation reserve	100,369	132,988
	Vehicle leasing	Invest to Save Advances	8,583	
	Prudentially borrowed vehicle repayments	Invest to Redesign	60,737	0
Sub Total Appropriations			169,689	132,988
Total			1,861,872	911,068

3.1.10 Redundancy costs

In support of the summary table redundancy column included in para 3.1.5 above, the following provides greater detail for members of the redundancy costs incurred by Sections during the year.

Directorate	Service	Redundancy Costs 2015-16 to date
Enterprise	Strategic Management	85,279
	Community Hubs	300,973
	Community Education	96,317
	Leisure	18,081
	Markets	24,519
	Whole Place	31,392
	Sub total	556,561
Operations	Transport	9,131

	Building Cleaning	1,091
	Resources	7,271
	Grounds	30,752
	Highways	3,978
	Sub total	52,223
Social Care & Health	Supporting People	1,932
	My Day	8,783
	Sub total	10,715
Children & Young People	Schools	465,742
Total		1,085,241

30 Page 180 .11 When managers initially highlight the re-engineering of services, there is often a potential for redundancy payments, but it is not possible to quantify the extent of these costs without prejudicing the outcome of the interview process or the success of redeployment. A second report is required to quantify these costs prior to being incurred for member approval. The Protection of Employment Policy states that:

All redundancy and Pension costs must be reported to and agreed by Cabinet before final approval. All costs associated from redundancy and/or re-deployment will be borne by the service budget.

3.1.12 A summary of main pressures and under spends within the Net Cost of Services Directorates are presented here:

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Social Care & Health (SCH)					
ADULT SERVICES					
Severn View DC & My Day DC	(13)	0	(13)	12	Increased use of temporary staff to cover long term sickness has led to reduction in savings.
Mardy Park Rehabilitation Unit	(12)	0	(12)	0	Section 33 income is running ahead of budget but has reduced
MardyPark	60	0	60	12	Due to low level of income as a result of falling long term clients. A recently approved transformation model will look to readdress this position.
Severn View Residential	93	0	93	32	Combination of mandate savings not being achieved plus lower income charges from less full paying clients.
Direct Care	(71)	0	(71)	8	Reflects increased income from client referrals and Management vacancy
Transition Co-operative	(24)	0	(24)	0	Relates to income from staff seconded to an external agency.
Adult Services Man/Support	(103)	0	(103)	(4)	Current Disabilities team manager vacancy plus ICF grant meeting costs of the Direct Care team manager.
CHILDREN SERVICES					
Fostering Allowances and Payments For Skills	144	0	144	(12)	Reflects financial support to the current number and age mix of children in foster care and skills payments to carers with SGO's
Younger People's Accommodation	(66)	0	(66)	30	This budget is prone to volatility and since month 6 we are supporting two more placements costing £1,600 per week.

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Ty'r Enfys	(52)	0	(52)	0	This facility with now remain closed for the entire year.
Counsel Costs	18	0	18	0	This service has received extra budget provision during the period of reporting
Therapeutic Service	(28)	0	(28)	0	Under spend due to vacant Play Therapist post being filled on a part time basis from 07/09/15
External Placements – LAC	1,094	0	1,094	174	Current activity is 70 placements (64 at M6) and we are seeing a full year effect of placements that only entered the system in the latter part of last year.
External Placement - Non-LAC	(96)	0	(96)	1	This cost centre is generally used to fund the over spend within S026.
GWICES (Gwent Wide Integrated Community Equip Services	(26)	0	(26)	0	Forecast based on GWICES report for November 2015 received from the host Torfaen CBC
Other Children's Services –appendix 6	(4)	0	(4)	(8)	
SCYP - Placement & Support Team	122	0	122	(6)	Over spend due to use of agency staff, contact and assessment costs and home to school transport. More recently this budget has funded building work to create in house contact centres.
Children Services Safeguarding Unit	(27)	0	(27)	(6)	Under spend relates to a vacant part time Independent Reviewing Officer post not expected to be filled until 2016/17.
SCYP - Supporting Children & Young People Team	233	0	233	35	Overspend relates to the employment of 7 agency workers to cover staff sickness and capacity issues and a 77% increase in transport costs since last year.
Disabled Children	91	0	91	3	Large part of overspend relates to the continued use of agency staff to cover sickness and the employment of a Student Placement Social Worker.
FRS – Family Support Team	42	0	42	15	This budget is currently employing the services of 12 social workers to cover for various staff absences.

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Bus Cases / Temp Funding - Cabinet 06/05/15	(77)	0	83	(161)	Underspend relates to delayed appointment to social worker posts connected with approved business cases
COMMUNITY CARE					
Aids for Daily Living	(9)	0	(99)	22	Forecast based on GWICES report for August 2015 received from the host Torfaen CBC
Adult Transformation	(57)	0	(57)	0	Delay reserve funding by £57K into 2015/16. Head of Service to make formal reserve slippage request.
Other Social Care	9	n/a	9	(16)	See appendix 6
COMMISSIONING	(15)	0	(15)	(7)	See appendix 6
RESOURCES	2	0	2	3	See appendix 6
Total SCH at Month 9	1,228	0	1,228	127	Total SCH Outturn at Month 9

89
183

Children & Young People (CYP)					
ISB	115	0	115	87	Additional costs of protection at schools, adverse school rateable value change and additional professional fees
Management	24	n/a	24	(12)	Professional fees relating to schools moved to ISB
Financial Management Services	30	n/a	30	14	vacancy has been temporarily filled earlier than previously anticipated at M6

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Support Services	19	n/a	19	(18)	Legal costs incurred by the Authority offset by saving in H&S assessments in transport.
Additional Learning needs	(152)	n/a	(152)	(50)	Recoupment income increased due to price increase w.e.f. from January and vacancy left open. The departmental recovery plan stated that £60,000 extra would be recovered in relation to recoupment charges. This has been received, however there is an overspend on the contingency budget which has offset some of this. We are still anticipating a further £20,000 saving on our collaborative arrangements. This will not be known until year end.
Early Years	(45)	0	(45)	(45)	Due to the establishment of a new LA nursery there are less children attending a non-maintained setting.
Primary Breakfast Initiative Grant	55	n/a	55	0	Take up continues to increase and therefore resulting in additional staffing requirements.
Community Education Youth General	(26)	137	111	(26)	Funding from Torfaen Training has since reduced in 15-16, however the ESF grant will now start on the 1 st February allowing this grant to be claimed for two months of 15-16 The departmental recovery plan anticipated a further £60,000 in grant income, notification has been received that this has been delayed until 2016-17 financial year.
Other CYP	(17)	n/a	(17)	(7)	See Appendix 7. The departmental recovery plan indicated a saving of £44,000. While a proportion of this will have been made, some vacancies were filled earlier than anticipated. All budget holders are ensuring that no non-essential spend it being made.

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Total CYP at Month 9	3	137	140	(57)	Total CYP Outturn at Month 9

Enterprise (ENT)					
Sustainability	65	33	98	15	Sections' inability to achieve the expected income targets. Therefore, recovery plan target unlikely to be met
Strategic Property Management	(50)	0	(50)	7	Under spend relates partly to a staff vacancy, and a reduction in budgeted professional fee's. The departmental recovery plan included a £33,000 saving on asset rentals and maintenance, at month 9 only £6,000 has been achieved.
Cemeteries	(76)	n/a	(76)	(33)	Continuing increase in budgeted income along with lower than anticipated expenditure,
County Farms Unit	(15)	n/a	(15)	(24)	Variance from month 6 to month 9 is a reduction is expected maintenance along with higher than anticipated income from recovered outstanding rentals. The departmental recovery plan set at month 6 included a reduction in maintenance spend of £50,000, currently £25,000 has been achieved
Markets	105	33	138	30	Overspend on employee costs due to delayed implementation of restructure along with unbudgeted overtime. The section is also forecasting an inability to meet the increase income target (Mandate £50k Markets Income) Redundancy cost increased
Community Education	178	0	178	88	£50,262 relates to one off redundancy costs which the section requests reserve funding. The remaining £40,000 due to the reduction in franchise income. M6 to M9 increase due to unbudgeted Hanbury House costs and delayed restructure
Community Hubs	261	125	386	71	due to £328k one off redundancy costs which have already been incurred at month 9 and £58k of redundancy costs which will be incurred by year end,
Eisteddfod	(430)	0	(430)	(430)	This years spend is likely to be around £145k but there is still uncertainty around these costs with the remaining £330k needing to be rolled forward into 16-17 as the agreed project runs over two financial years.

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Homelessness	(46)	0	(46)	3	Funding of the Financial Inclusion Officer coming from the Implementing the Housing Act Grant £28,000 and a reduction in expenditure against B&B accommodation offset by bad debt write offs since M6
Renovation Grants	18	0	18	18	Overspend relates to unbudgeted overheads on DFG grant income
Lodgings Scheme	(40)	0	(40)	5	Occupancy levels being forecast at a fairly high level therefore increasing the amount of rental income and HB benefit.
Spend to Save	(27)	0	(27)	2	Saving due to unexpected one-off grant funding
Whole Place	(20)	n/a	(20)	22	Staff vacancies - Delayed appointment, reduction since M6 due to redundancy costs
People Services, Innovation & Business	(201)	0	(201)	(201)	Savings due to reduced budgeted calls on reserves
General Overheads	1	112	113	3	The 100k savings that were to be achieved through in-house software development and the sale of products will not occur. This formed part of the departmental recovery plan set at month 6 and it is currently anticipated that none of these savings will be achieved. Other options to look for alternative savings are being actively sought.
Development Plans	(150)	0	(150)	0	LDP savings as scheme unlikely to be implemented in 2015-16
Leisure Services	(20)	30	10	(85)	20k over spend from Children's Services. 30k relates to a learning Co-ordinator post that is not grant funded anymore, 15k 3G pitch income issues with the lighting and electricity supply. The £35,000 saving built into the departmental recovery plan from increased income has not materialised see Appendix 8 for further detailed comments
Museums, Shirehall, Caldicot Castle & Country Parks	99	45	144	(6)	Budget does not reflect the cost to run the service. Historic budget assumptions along with 24k savings from 13-14 carried forward will not be made. Income on target for 15-16 but spend to achieve this income will be over budget. Of the £30,000 built into the recovery plan £8,000 has been achieved through the winter closure of Chepstow TIC, the remaining £22,000 is yet to be found.

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Other Enterprise	(8)	0	(8)	(64)	See Appendix 8
Total ENT at Month 9	(356)	378	22	(579)	Total ENT Outturn at Month 9

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Operations (OPS)					
Transport Policy	(19)	0	(19)	(14)	Increase in income due to favourable winter weather conditions
Highways	(360)	50	(310)	(295)	Highways is forecasting to underspend by £310,000 due to SWTRA income £250k, Operations savings £40k and increase in Fixed Penalty notices on street works £20k. The advertising income target is now unachievable this financial year due to approval delays. Currently the section has achieved £140,000 of the £215,000 targeted savings included in the month 6 Recovery Plan. It is now anticipated that certain income targets set in the plan will not be met, in particular road closure and pre-app planning fees and also advertising.
Public Transport Subsidy LTSG Grant	37	0	37	32	Un-budgeted staff costs, mainly on salaries and overtime and an increase in transport costs.

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Public Transport Subsidy Grant	(44)	0	(44)	4	Administering the Bus Services Support Grant is claimable against the grant £50,000, this has been off set by small over spend on vehicle and transport costs of £5,000 in quarter 3.
Home To School Transport	335	0	335	0	The over spend against budget is due to similar issues to that in 2014-15, in particular the assumed ALN transport savings have proven unachievable, budgeted increased income levels were not made whilst at the same time corporate budget decisions regarding reductions in overtime costs were imposed. A mandate has been put forward to highlight the fact that the service cannot operate within its existing budget and has requested further funding via the MTFP in 2016-17.
School Transport – external	(92)	0	(92)	(92)	Vacant post £11,000 and reductions in transportation costs and season tickets £81,000. The £15k listed in the departmental recovery plan at month 6 is expected to be achieved by year end.
Special Educational Needs	(32)	0	(32)	(32)	Vacant post £11,000 and reductions in transportation costs and season tickets £21,000.
Building Cleaning	25		25	0	Overspend due to delayed implementation of the mandate saving - transferring public conveniences to town councils.
Schools Catering	42	n/a	42	7	Increased costs due to the councils need to comply with Healthy Eating In Schools agenda, M6 to M9 relates to additional staffing costs to cover sick absence.
Resources	119	n/a	119	16	Forecasted deficit position is due to a reduction in income as a result of a shortfall in capital fees.
Accommodation	(159)	n/a	(159)	(9)	Underspend due to a continued reduction in premises and supplies and services costs on all accommodation
Grounds Maintenance	(75)	0	(75)	(75)	Increase in external income. A target of £70,000 was included in the departmental recovery plan, the unit is expected to exceed this by £5k.
Refuse & Cleansing Operations	(25)	25	0	(20)	pressures of the budget mandates are still real, however have been mitigated by a reduction in fuel costs (£80k benefit from budget) and a reduction in Superannuation as about 20 staff have opted out of the Council provided pension (£96k). Managers are to engage with staff to ensure that their decision to opt out of the pension is what they want to do, so

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
					this may not be a recurring saving. All of the £30k listed in the departmental recovery plan is expected to be found by year end.
RAG Training	46	0	46	0	Has seen demand fall due to both increasing competition from other training providers and Council's facing major budget pressures only undertaking mandatory training.
Other Operations	(33)	0	(33)	(11)	See Appendix 9 – A £10,000 building maintenance saving included in the recovery plan will be achieved by year end.
Total OPS at Month 9	(235)	75	(160)	(499)	Total OPS Outturn at Month 9

Chief Executive's Office (CEO)					
Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Customer Relations	12	0	12	0	Professional fees incurred during a complaint investigation.

Members Costs	17	0	17	17	Mainly inability to make vacancy factor savings
Democratic Services	(43)	0	(43)	(43)	Savings in supplies & services and unfilled staff vacancy
Legal	(25)	0	(25)	(25)	Savings in supplies & services and unfilled staff vacancy
Public Protection	(36)	0	(36)	(30)	Savings in supplies & services and unfilled staff vacancy
Benefits	(67)	n/a	(67)	(37)	Savings in Housing Benefit expenditure and reduced administration costs.
Council Tax & NNDR Administration	55	0	55	(10)	Forecast shortfall in income from court fees slightly improved from M6, includes potential redundancy costs for Officer
Cashiers	14	0	14	(2)	Overspend is largely attributable to estimated annual card fees
Revenues Systems Administration	(33)	0	(33)	10	Vacant post, reduced petrol costs and reduced system costs as proportion now charged to Housing Benefits. Decrease due to service costs for CIVICA system
Financial Systems Support and VAT	(5)	0	(5)	2	additional income from Schools following the renegotiation of contract costs
Communications	30	0	30	30	due to an under recovery of costs for the post of Digital Media Designer
Policy and Partnership Management	(43)	0	(43)	(14)	Mainly £32,000 of one off LSB grant attributable to a post which is currently vacant. £10k for other vacant post.
Other CEO	(68)	0	(68)	(59)	See Appendix 10
Total CEO at Month 9	(192)	0	(192)	(161)	Total CEO Outturn at Month 9

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Corporate (COL)					
Audit Commission Fees (Certification Grant Claims)	(36)	n/a	(36)	14	Forecasted saving in relation to the auditing of grant claims
Drainage Levies	10	0	10	10	Drainage Levy original budget insufficient for service cost
Coroner Fees	16	0	16	0	Original budget insufficient for service costs

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
HMRC Rate Reimbursements	(29)	0	(29)	7	VAT rebates exercise
Early Retirement Pension Costs	161	n/a	161	11	Additional cost of redundancies notified in latter part of 2014/15 & during 2015/16
Insurance Premium Payment(Direct)	(67)	n/a	(67)	(7)	Based on reduction in premium costs as a result of the tender completed in September 2015.
Insurance Settlement Expenditure	(65)	0	(65)	(65)	Insurance settlement claims predicted to be lower due to reduced claims activity
Indirect Revenue Gains Reserve	(97)	0	(97)	17	Rate rebates from MCC Properties
Other Corporate	7	0	7	1	See appendix 11
Total COL at Month 9	(100)	0	(100)	(40)	Total COL Outturn at Month 9

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Appropriations (APP)					
Attributable Costs - Fixed Asset Disposal	(82)	0	(82)	(31)	12 Schemes delayed mainly due to a rethink of disposal strategy to optimise receipts
Interest and Investment Income	(49)	0	(49)	(16)	Increased cash income due to increased cash balances - in turn due to temporary borrowing taken out when rates were advantageous to prevent concentrated borrowing at difficult times.
Interest Payable and Similar Charges	(387)	n/a	(387)	(5)	saving against budget due to long term debt not being taken out and temporary borrowing being at a lower rate than budgeted
Charges Required Under Regulation	(241)	n/a	(241)	(271)	Consistent with recovery plan intentions, a planned set aside of £6m of capital receipts in 2016/17 will be brought forward a year from 16/17 as there is a balance of receipts available to do this and this will achieve a saving on MRP payments due.
Earmarked Contributions Reserves (Revenue)	906	n/a	906	799	£911k of budgeted spend expected to be slipped to 16/17; offset by additional reimbursement (£5k)

Directorate / Service area	Forecast Outturn Position exclusive of savings not yet achieved £'000	Targeted 2015-16 Savings not yet realised £'000	Forecast Outturn Position <u>net</u> of savings not achieved £'000	Movement since Period 2 Red= Adverse (Green) = Favourable	Headline Comment
Other Appropriations	0	0	0	0	
Total APP at Month 9	147	0	147	528	App Outturn at Month 9

Financing (FIN)					
Council Tax	(750)	n/a	(750)	(150)	Surplus due to projected better Council Tax Collection rates as a result of increasing Council Tax base.
Benefit Support	(172)	n/a	(172)	(20)	The forecast reflects the current commitments within the system. Caseloads continue to reduce, a trend that is expected to continue through to year end.
Total Financing	(922)	0	(922)	(170)	
Grand Total @ Month 9	(325)	590	265	(801)	

3.1.13 More detailed monitoring information together with a narrative of more significant variance over £25,000 is provided in the Select Appendices 2 to 5.

3.2 SCHOOLS

3.2.1 Each of the Authority's Schools is directly governed by a Board of Governors, which is responsible for managing the school's finances. However, the Authority also holds a key responsibility for monitoring the overall financial performance of schools. Below is a table showing the outturn forecast Schools' balances position based on month 9 projections.

Draft Council Fund Outturn 2015/16– Schools Summary outturn position at Month 9 (Period 3)	(A) Opening Reserves (Surplus) / Deficit Position 2015/16 £'000	(B) Budgeted Draw on School Balances 2015-16 £'000	(C) Variance on Budgeted Reserve Draw £'000	(D) Draw Forecasted on School Balances @ Month 9 £'000	Forecasted Reserve Balances at 2015-16 Outturn (A+D) £'000	(D) Draw Forecasted on School Balances @ Month 6 £'000	Variance Month 6 To Month 9 £'000	Draw Forecasted on School Balances @ Month 2 £'000	Variance Month 2 To Month 6 £'000
Clusters									
Abergavenny	(412)	124	(24)	46	(366)	(19)	63	(312)	(119)
Caldicot	(426)	275	(23)	112	(314)	153	(41)	(174)	(99)
Chepstow	98	36	9	80	178	63	17	143	18
Monmouth	(424)	166	27	138	(286)	154	(16)	(231)	(39)
Special	24	(18)	(10)	116	140	105	11	(4)	133
Total	(1,140)	583	(21)	491	(649)	457	(34)	(578)	105

3.2.2 School balances at the beginning of the financial year amount to £1,140,000. The Schools budgeted draw upon balances is forecasted to be £491,000 for 2015/16, therefore leaving £649,000 as forecasted closing reserve balances.

3.2.3 Within these summary figures, of particular note, is the deficit reserve position forecasted for the Chepstow Cluster, Chepstow Comprehensive school have a recovery plan in place, the latest forecast indicates an increase in the deficit for the school. This is due to the contribution to redundancy costs that the school has incurred. The recovery plan is currently being reviewed and given the number of pupils on roll this deficit will still be met over the duration of the plan.

3.2.4 5 schools exhibited a deficit position at the start of 2015/16; Llanvihangel Crocorney (£15,039), Castle Park (£39,730), Chepstow Comprehensive (£388,687) Llandogo (£12,347) and Mounton House Special School (£25,955). Of these five schools the following three have seen an increase in their deficit balance at month 9, Llanvihangel Crocorney (£30,947), this is due to the pupil numbers in the school increasing and therefore an additional teacher needed to be employed, Mounton House Special School (£142,391) due to significant staffing changes and a delay in grant funding through the ESF project and Chepstow Comprehensive (£399,926). Overmonnow are now projected to have a surplus closing school balance after the implementation of a recovery plan since month 6.

- 3.2.5 An increase in Chepstow’s deficit is inconsistent with Governors recovery plan aspirations that the Council had endorsed, which continues to be monitored closely in consideration of whether the Council continues to endorse such proposals. The situation has been adversely affected by “catch up” water charges which had historically been estimated and the payment of 2 compromise agreements for staff affected by the redundancy exercise. Colleagues in CYP are currently modelling changes in post 16 apportionments between the 4 secondary schools, to establish whether this will have an unanticipated positive effect on the balance position. Irrespective of this, Governors remain confident that recovery will still take place in the original year set.
- 3.2.6 Schools balances are exhibiting a fluctuating trend with some schools showing a continuing reduction in schools balances which is of concern and others a more balanced trend.

Financial Year-end	Net level of School Balances
2011-12	(965)
2012-13	(1,240)
2013-14	(988)
2014-15	(1,140)
2015-16 (Forecast)	(649)

3.2.7 There has been a significant reliance on reserve balances to supplement school spending plans in the last 4 years across individual schools with a certain amount of replenishment. As a rough guide, prior to 2010, Welsh Government advocated that school balance levels equated to no more than £50,000 for a primary school and £100,000 for a secondary school. Members may wish to seek a comfort that balances aren’t being used to subsidise and sustain core costs such as staffing.

3.2.8 Further information on Schools is provided in Children & Young People Select Appendix 5.

3.3 **2015/16 Savings Progress**

3.3.1 This section monitors the specific savings initiatives and the progress made in delivering them in full by the end of 2015/16 financial year as part of the MTFP budgeting process.

In summary they are as follows:

2015/16 Mandated Budgeted Savings Progress at Month 9

DIRECTORATE	Specific Savings Initiatives 2015/16 £'s	Savings Identified @ Month 9 £'s	Percentage Progress In Savings Achieved %	Delayed Savings to 2016/17 £'s	Savings Unachievable in 2015/16 £'s
Children & Young People	1,514,000	1,377,000	91%	0	137,000
Social Care & Health	274,000	274,000	100%	0	0
Enterprise	1,392,983	1,015,983	73%	125,000	253,000
Operations	1,513,000	1,438,000	95%	50,000	25,000
Chief Executives Office	85,000	85,000	100%	0	0
Total Budgeted Savings	4,778,983	4,189,983	88%	175,000	415,000

- 3.3.2 Forecasted mandated savings are currently running at 88%, with £415,000 being deemed unachievable at the end of month 9, and a further £175,000 unlikely to crystallise in 2015-16.
- 3.3.3 The emphasis of reporting savings has changed from previously where savings were reported when they were manifest, however the judgement is now whether saving is forecast to be achieved.
- 3.3.4 The savings appendix also has a traffic light system to indicate whether savings are likely to be achieved or have reasons explaining the mandates delayed implementation against the original and revised delivery recovery plans. The following savings mandates are still reported to be high or medium risk.

Operations (OPS)

- Highways advertising income is forecasting a £50,000 delayed saving due to planning issues in regard to the implementation of the scheme.

- Trade Waste are indicating that the sale of extra trade waste re-cycling bags (£25,000) is likely to be unachievable within the remainder of the financial year.

Enterprise (ENT)

- Utility supply issues at the Caldicot 3G sports pitch has resulted in reduced income of £15,000 and £15,000 for caretaker charges at Abergavenny Leisure Centre. Delayed Lighting installed at the 3G pitch resulted in only partial income being reached against alternative delivery plans amounting to £5K.
- Sustainable Energy Initiatives is reporting £33,000 of unachievable income targets
- Museums, Shirehall & Castles and Tourism – £15,000 shortfall due extra staffing requirements at Chepstow TIC and unattainable green screen savings (£10,000) and conservation income (£20,000). There has been no positive impact as a result of the alternative delivery plan as at month 9.
- In House development of ICT systems and associated income generation estimated at £100,000 will not occur with additional savings of £12,000 still be found from software contracts.
- MCC Markets are indicating that the extra income of £33,000 from the Markets and associated activities is unachievable due to budget pressures relating to the Borough theatre. The service is forecasting to achieve 37k against the alternative delivery plan of ceasing all repair and maintenance work to the asset portfolio.
- The delayed implementation of the Community Hubs project has led to a £125,000 savings shortfall.

Children and Young People (CYP)

- The Youth Service are forecasting to achieve £63,000 of the mandated savings (£200,000) and have identified the shortfall as being two grants that have been delayed until 2016/17 that were also part of the alternative delivery plan agreed in December by Cabinet

Social Care & Health (SCH)

- The Mandates for Adult Social Care Service re-design and the transfer of SCH Transition project staff to Bright New Futures are forecast to be fully achieved.

Chief Executive's Office

- All current financial year savings have been identified within the Chief Executive's section of responsibility.

3.4 Capital Position

3.4.1 The summary Capital position as at month 9 is as follows

MCC CAPITAL BUDGET MONITORING 2015-16 AT MONTH 9 by SELECT COMMITTEE						
CAPITAL BUDGET SELECT PORTFOLIO	Annual Forecast	Slippage Brought Forward	Total Approved Budget 2015/16	Provisional Capital Slippage to 2016/17	Revised Capital Budget 2015/16	Forecasted Capital Expenditure Variance
	£'000	£'000	£'000	£'000	£'000	£'000
Children & Young People	15,200	7,267	51,351	(36,041)	15,310	(110)
Adult	337	35	353	(15)	337	0
Economic & Development	758	531	1,186	(458)	728	30
Strong Communities	7,531	2,940	8,723	(1,197)	7,527	4
Capital Schemes Total	23,826	10,773	61,613	(37,713)	23,900	(76)

MCC CAPITAL BUDGET MONITORING 2015-16 AT MONTH 9 BY SCHEME CATEGORY

CAPITAL BUDGET SCHEME	Annual Forecast £'000	Slippage Brought Forward £'000	Total Approved Budget 2015/16 £'000	Provisional Capital Slippage to 2016/17 £'000	Revised Capital Budget 2015/16 £'000	Forecaste d Capital Expendit ure Variance £'000
Asset Management Schemes	3,751	889	4,079	(338)	3,741	10
Future Schools	13,551	6,699	48,896	(35,235)	13,661	(110)
Other School development Schemes	269	219	1,075	(806)	269	0
Infrastructure & Transport	3,174	670	3,242	(68)	3,174	0
Regeneration Schemes	936	947	1,554	(644)	910	26
Sustainability Schemes	94	81	126	(29)	96	(2)
County Farm Schemes	226	152	352	(123)	230	(4)
Inclusion Schemes	1,354	348	1,354	0	1,354	0
ICT Schemes	277	188	288	(11)	277	0
Other Schemes	193	581	646	(457)	189	4
Capital Schemes Total	23,825	10,773	61,612	(37,711)	23,901	(76)

3.5 Proposed Slippage to 2016-17

- 3.5.1 The only major proposed slippage apparent at month 9 relates to 21c schools initiative, a further £1.585 million in addition to that reported at month 6 and reflects the latest cashflow profile provided by CYP colleagues.
- 3.5.2 So ignoring the slippage which pertains to 21c schools, this means that service managers have requested far lower slippage levels £2,433,000 and £38,000 for services managers and property services respectively in comparison to the outturn levels last year of £4,031,000 and £532,000.

The risk associated with reporting far lower slippage levels is the pressure this puts on managers to convert their commitments during the last quarter into actual expenditure. Indicatively actual expenditure incurred is £11.3m and will require managers to convert £5.1m commitments and incur a further £7.4m in the last quarter, combined £12.5m, which is more than they incurred in the previous 8 months.

The more significant areas have been reminded of this, and that there will be no automatic right to slippage at year end. However all are intent to stand by their predictions. The same discipline will be applied at outturn to consider whether to recommend slippage to Members, i.e.

- whether there has been little or no progress in 12 month,
- the level of expenditure incurred this year has been less than in year budget and slippage b/fwd., to consider any opportunity to realign the budget to more realistic levels or reprofile budget more accurately over multiple years,
- or where there are identified problems/barriers to progress e.g. no agreement over scheme, archaeological considerations, planning considerations not yet satisfied or where the manager hasn't clearly evidenced why this should be slippage in the request made.

- 3.5.3 Potentially the Council has costs to incur in remediating the ex-community education building in Usk. This situation is still being quantified, but officers have suggested utilising the slippage associated with County Farms maintenance should it prove necessary rather than create further pressures on the capital programme. This change, should it be necessary, wouldn't be made without future report to members for consideration.

3.6 Capital Outturn

- 3.6.1 After allowing for the indicative slippage volunteered by services, the capital programme for 2015-16 is forecasting to be £76,000 under spent at Month 9. This is predominantly a saving on the Raglan element of 21c schools programme, and shouldn't be viewed as available for redistribution as members may recall agreeing a call upon this underspend to part afford the ICT schools refresh during 2016-17. Tenders have been received in respect of the two main secondary school builds and evaluation and benchmarking being undertaken before contracts can be agreed.
- 3.6.2 The other net underspend refers to sc106 resources which are presumed to return to sc106 pot for re-allocation should the outturn prove as forecast.
- 3.6.3 This leaves potentially £40,000 worth of net overspends to be afforded, and in being consistent with previous treatment it is recommended these be capital receipt funded at outturn if there are no additional underspends manifest at outturn.

3.6.4 Members have been considering a pressure to increase the disabled facilities budget that has remained pretty static over the years. It was hoped that underspends apparent at month 6 would be able to be directed to DFGs to mitigate the extent of forward commitments that potentially carry forward to 2016-17 (the service forecasts this to be circa £428,000). However service managers indicate no significant capital underspends likely at outturn from this month 9 activity, but this will require them to convert significant levels of uncommitted expenditure by the end of March 16 as mentioned in para 3.5.2 above. That hasn't been the reality in past years, and any increase in slippage reported at outturn not already identified in this report will be reviewed particularly closely.

3.6.5 During monitoring the addition of 2 section 106 schemes was requested by service managers. The expenditure associated with such would be complete by the end of 2015-16, therefore it is proposed to recommend their approval. The two schemes are,

- A capital budget of £40,000 to allow for the construction of a Puffin crossing in the vicinity of the development at Saw Mill house. The Puffin crossing was a requirement of the Section 106 agreement relating to the approval of planning permission at the site. The budget of £40,000 will be funded from S106 contributions from the development at Saw Mill house, Little Mill.
- A capital budget of £6,800 funded from Section 106 contributions received from the development at the Almshouses, St James' square Monmouth. The Section 106 agreement specifies the funding is to be used for 'Continuing implementation of the Monmouth Links Connect 2 walking and cycling network'. The expenditure proposed is consistent with that aim.

Capital Financing and Receipts

3.6.5.1 Given the anticipated capital spending profile reported in para 3.4.1, the following financing mechanisms are expected to be utilised.

MCC CAPITAL FINANCING BUDGET MONITORING 2015-16 AT MONTH 9 BY FINANCING CATEGORY								
CAPITAL FINANCING SCHEME	Annual Forecast Financing	Slippage Brought Forward	Original Budget	Budget Revisions	Total Approved Financing Budget 2015/16	Provisional Budget Slippage to 2016/17	Revised Financing Budget 2015/16	Forecasted 2015/16 Capital Financing
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Supported Borrowing	2,420	0	2,420	0	2,420	0	2,420	0
General Capital Grant	1,462	0	1,462	0	1,462	0	1,462	0
Grants and Contributions	8,897	3,952	16,816	477	21,246	(12,349)	8,897	0
S106 Contributions	643	690	0	602	1,292	(647)	646	(3)
Unsupported borrowing	320	1,274	15,311	(5,411)	11,174	(10,854)	320	0
Earmarked reserve & Revenue Funding	837	409	489	350	1,248	(411)	837	0

Capital Receipts	9,015	4,414	11,134	7,032	22,581	(13,453)	9,128	(113)
Low cost home ownership receipts	189	33	0	156	189	0	189	0
Unfinanced	40	0	0	0	0		0	40
Capital Financing Total	23,825	10,773	47,633	3,206	61,613	(37,711)	23,901	(76)

3.8 Useable Capital Receipts Available

3.8.1 In the table below, the effect of the changes to the forecast capital receipts on the useable capital receipts balances available to meet future capital commitments is shown. This is also compared to the balances forecast within the 2015/19 MTFP capital budget proposals.

Movement in Available Useable Capital Receipts Forecast

TOTAL RECEIPTS	2015/16	2016/17	2017/18	2018/19
	£'000	£'000	£'000	£'000
Balance b/f 1 st April	17,440	5,536	16,354	4,655
Receipts forecast to be received in year as 2015/19 MTFP	10,235	25,220	2,150	0
Increase / (decrease) in forecast receipts forecast at month 6	(6,877)	(149)	6,050	2,000
Deferred Capital Receipts	4	4	4	4
Less: Set aside Capital Receipts	(6,250)	(7,274)	(1,732)	0
Less: Receipts to be applied - General	(2,092)	(1,373)	(509)	(509)
Less : Receipts to be applied - 21C Schools	(6,923)	(5,908)	(17,662)	(3,962)
TOTAL Actual / Estimated balance c/f 31st March	5,536	16,354	4,655	2,188
TOTAL Estimated balance reported in 2015/19 MTFP Capital Budget proposals	11,660	21,104	11,542	10,388
Increase / (Decrease) compared to MTFP Capital Receipts Forecast	(6,124)	(4,751)	(6,888)	(8,200)

Points to note:

- The reduction in the capital receipts forecast in 15/16 is due to the delay in an LDP receipt & the Coed Glas receipt from 15/16 to 16/17 (£7.9m) offset by early collection of the Abergavenny cattle market receipt **deposit** (£1.6m). The increase in forecast receipts in 17/18 is due to slippage of a second LDP receipt from 16/17 to 17/18 (£6.2m).
- The decrease in the Capital receipts balance of £6.1m compared to the MTFP at 31/3/2016 is due to: the reduction in forecast receipts (£6.9m); an early application of capital receipts in respect of those being actively stockpiled for the 21C schools program (£6.2m) and corresponding decrease in borrowing - approved in the 1617 capital mtfp; and a set aside of capital receipts to reduce MRP payments (£6.2m) approved by Cabinet; offset by forecast slippage of capital receipt funded budgets (mainly 21C schools) to 1617 (£13.5m).
- The balance of receipts forecast to be available at the end of the mtfp window at 31/3/2019 (£2,2m) is reduced against the forecast in the 15/16 MTFP by £8.2m mainly due to the increase in total set aside of capital receipts from £10.5m to £15.2m and an increase in budgets funded by capital receipts, including virements from borrowing within the 21C schools program (£5.0m).

3.8.2 The Council has agreed to the inclusion of 21c schools initiative within the Capital Program and this relies on utilising £29.7 million of capital receipts during this next 4 year MTFP period. Consequently the balance of capital receipts available for other schemes during this MTFP window has considerably reduced.

Reserve Usage

3.8.1 Revenue and capital monitoring reflects an approved use of reserves. Building upon the inclusion of a reserve summary provided as part of 2014-15 the following table indicates the anticipated position both at the end of 2015-16 but also the predicted position for 2016-17 based on decisions already made.

SUMMARY EARMARKED RESERVES POSITION 2015-16 AT MONTH 9

Earmarked Reserves	2014-15	Revenue Approved Usage		Capital Usage	2015-16	Revenue Approved Usage		Capital Usage	2016-17
	b/fwd	Replenishment of Reserves	Draw on Reserves			Replenishment of Reserves	Draw on Reserves		c/fwd
Invest to Redesign	(1,483,522)	(49,396)	519,138	261,278	(752,502)	(72,508)	465,067	150,000	(209,943)
IT Transformation	(639,840)		53,200	97,341	(489,299)		20,000	250,000	(219,299)
Insurance & Risk Management	(2,250,388)				(2,250,388)				(2,250,388)
Capital Receipt Regeneration	(460,342)		100,369		(359,973)		132,988		(226,985)
Treasury Equalisation	(990,024)				(990,024)				(990,024)
Redundancy & Pensions	(599,936)		325,434		(274,502)		192,126		(82,376)
Capital Investment	(1,620,945)	(15,500)		489,541	(1,146,904)			489,541	(657,363)
Priority Investment	(1,973,294)		837,819		(1,135,475)		639,316		(496,159)
Museums Acquisitions	(59,798)				(59,798)				(59,798)
Sections	(83,183)	(25,000)			(108,183)	(25,000)	100,000		(33,183)
Grass Routes Buses	(160,615)		25,913		(134,702)	(5,000)			(139,702)
Total	(10,321,888)	(89,896)	1,861,872	848,160	(7,702,750)	(102,508)	1,549,497	889,541	(5,365,220)
Restricted Use Reserves									
Chairman's	(36,754)				(36,754)				(36,754)
Youth Offending Team	(382,226)				(382,226)				(382,226)
Building Control Trading	(490)				(490)				(490)
Outdoor Education Centres	(190,280)				(190,280)				(190,280)
I Learn Wales	(48,674)				(48,674)				(48,674)
Total Earmarked Reserves	(10,980,311)	(89,896)	1,861,872	848,160	(8,360,174)	(102,508)	1,549,497	889,541	(6,023,644)

3.9.2 This indicates that by the end of 2016-17 the Council is likely to utilise over 45% of the useable earmarked reserves brought forward from 2014-15, based on approvals to use reserves so far. No assumption has been made concerning the reserve funding of redundancy costs identified in para 3.1.10 above as yet.

3.9.3 Given the forecast use of earmarked reserves, Cabinet approved the following change in practice to ensure adequacy of reserves for the MTFP:

- Increase workforce planning and redeployment to reduce the need for reserves to cover redundancies
- Any request for reserve funding must first explore whether existing budgets, or external funding sources can be used for the proposal accepting this may require a change in priorities if existing budget are used
- Use of reserves to implement budget savings must use the saving first to repay the reserve
- IT investment bids will need to be considered in the core capital programme when the IT investment reserve is extinguished, this may necessitate displacing some of the core capital programme allocations depending on the priorities agreed

3.9.4 A revaluation of the insurance reserve requirement has been commissioned and the work is being undertaken so that the figures will be current and available for 2015/16 closure. This may give scope to re-designate some of this reserve but this is subject to the outcome of the work outlined.

3.9.5 If action is not taken to slow down the use of ear marked reserves through the above mechanisms, consideration would need to be given to budgeting to replenish reserves or including in the base budget, requests that would normally have been funded by reserves, both of which will increase the resource gap in the MTFP.

4 REASONS

To improve budget monitoring and forecasting information being provided to Senior Officers and Members.

RESOURCE IMPLICATIONS

The forecast overspend and use of earmarked reserves, requires action to be taken to ensure that the budget is kept on track and earmarked reserves are maintained at an adequate level for the MTFP.

6 WELL BEING OF FUTURE GENERATIONS IMPLICATIONS

6.1 The decisions highlighted in this report have no future generations and sustainability implications.

7 CONSULTEES

Strategic Leadership Team
 All Cabinet Members
 All Select Committee Chairman
 Head of Legal Services
 Head of Finance

8 BACKGROUND PAPERS

8.1 Month 9 monitoring reports, as per the hyperlinks provided in the Appendices

9 AUTHOR

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10 CONTACT DETAILS

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Appendices (attached below)

- Appendix 1 Mandated Savings Progress Report
- Appendix 2 Strong Communities Select Committee portfolio position statement
- Appendix 3 Economy and Development Select Committee portfolio position statement
- Appendix 4 Adult Select Committee portfolio position statement
- Appendix 5 Children and Young People Select Committee portfolio position statement

[Appendix 2C to 5C \(click link to reports page on Hub\)](#)

[Appendix 2C M9 Capital Monitoring Strong Communities Select 2015-16](#)

[Appendix 3C M9 Capital Monitoring Economic & Development Select 2015-16](#)

[Appendix 4C M9 Capital Monitoring Adult Social Care & Health Select 2015-16](#)

[Appendix 5C M9 Capital Monitoring Children & Young People Select 2015-16](#)

[Appendix 6 to 14 \(click link to reports page on Hub\)](#)

[Appendix 6 M9 Social Care & Health Revenue Budget Monitoring 2015-16](#)

[Appendix 7 M9 Children & Young People Revenue Budget Monitoring 2015-16](#)

[Appendix 8 M9 Enterprise Revenue Budget Monitoring 2015-16](#)

[Appendix 9 M9 Operations Revenue Budget Monitoring 2015-16](#)

[Appendix 10 M9 Chief Executive Office Revenue Budget Monitoring 2015-16](#)

[Appendix 11 M9 Corporate Revenue Budget Monitoring 2015-16](#)

[Appendix 12 M9 Appropriations Revenue Budget Monitoring 2015-16](#)

[Appendix 13 M9 Financing Revenue Budget Monitoring 2015-16](#)

[Appendix 14 M9 School Movement on Reserves 2015-16](#)

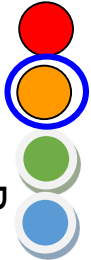
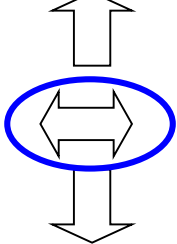
[Appendix SM M9 Savings Mandates 2015-16](#)

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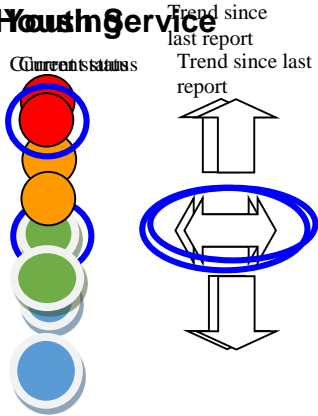
Budget Mandates

Progress and Next Steps at Month 9 –

(including Recovery Plan actions agreed by Cabinet 2nd December 2015)

Mandate RAG	Progress up to month 9	Next Steps	Type	Year-end target	Forecasted to achieve	Variance	Owner
Mandate 1 Leisure. Current status  Trend since last report 	<p>Leisure centre staffing remodelled £115k, admin and clerical review £66k, support services review £20k, reduction caretaking Abergavenny £15k, outdoor education reduction £25k, leisure supplies and service £25k, increased income through fitness and sport offer £155k.</p> <p>Restructure process complete. All departments have individual service plans. All plans tracked and monitored by the individual service area. Full ownership of delivery by individual teams. 15k Caretaker savings will not be achieved as the school failed to invoice until 15-16. Consequently the full years charge in this year.</p>	<p>Continue to review the 3 G pitch project and review its income generation targets.</p> <p>Review business plans for swimming and fitness to ensure mitigating pressures for 16/17 onwards.</p>	Income	155,000	135,000	15,000	Ian Sanders
			Savings	265,983	250,983	15,000	
			Total	420,983	385,983	30,000	
		<p>Alternative Delivery Plan (agreed by cabinet 2nd Dec*) - £35K achievable</p> <p>Delayed Lighting installed at the 3G pitch resulted in only partial income being reached against alternative delivery plans amounting to £5K. Increase income against swimming and fitness not achieved. This has resulted in a £5K improvement since month 6.</p>	<p>Alternative Delivery Plan based on variance reported against original mandate at Month 6</p>	Total	,420,983	385,983	

**Mandate 2
Mandate 42
Youth Service**



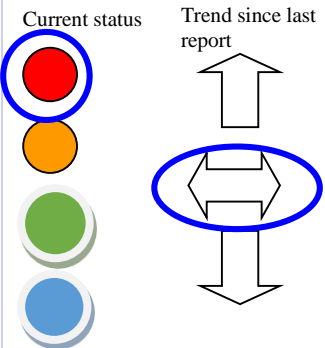
Replace Commercialisation of the core line services.
 The Youth Service is exploring new ways of working with the YBC.
 Expansion of smaller housing scheme & G&B reduction.
 Management restructure.
 Detailed plans in place for all projects to ensure they remain on track.
 The long term average ECF funding is to be reversed up to a period of 3 years and is definitely a pressure and if maintained over so much 70k will be the growth of 300 clients.
 Projections indicate the service will generate £600k across supporting the people's programme to assist with Post 16 support for 1 year
 Community Kitchen in Abergavenny has been awarded 5 star rating by Environmental Health and is now operational. Taking bookings for buffets; children's parties and lunches for community members

Meetings with val res about into park and bespoke for staffing and outages require developed with YBC
 Team of staff in training of income festival courses to be substituted link with key dates
 Events eg engagement for young people
 Core in to work with YBC to develop project solutions
 Project in July 2015
 Evaluation work undertaken during Oct to Nov
 In order to be available for in the period of Sept to Dec 2015 for March/April
 Set income targets once steady business flow is established.
 Shop to be operational by September 2015
 Additional revenue streams for 2015/16 are lower than forecast due to a combination of delays and changes to funding, FIT and RHI tariff reductions will affect existing installations
 Meeting with staffing team to look at where time can be found in order to free staff up
 Cuts have rendered new projects unviable until further review
 Review on going expenditure on repairs and maintenance.

Income	25,000	25,000	0
Savings	30,000	30,000	0
Income	200,000	63,000	137,000
Total	55,000	55,000	0
Savings	0	0	0
Total	200,000	63,000	137,000

Ian Bakewell
 Tracey Thomas

**Mandate 5 *
Sustainable Energy Initiatives**

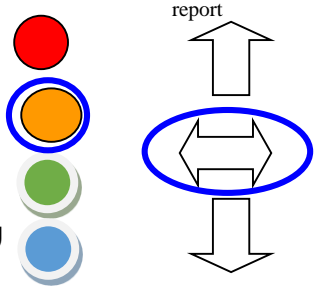


2014/15 & 2015/16 - Abergavenny is near opening
 Investing in biomass boilers, solar farms and reductions in Carbon Commitment.
 Audit and accounts have been set up
 Marketing ready targets not achieved.
 Solar Farm Cahill project approved 15 July 2015
 Courses ready to advertise
 Staffing New Refurb solar projects have generated additional revenue in line with our projections
 Wellbeing of our employees
 Government policy changes to the Staff who have expertise in this area are finding installations unlikely as well as impact of tariff changes on a Solar Farm are the priority.
 Biomass installed at Cross Ash operational and generating heat.

Set income targets once steady business flow is established.
 Shop to be operational by September 2015
 Additional revenue streams for 2015/16 are lower than forecast due to a combination of delays and changes to funding, FIT and RHI tariff reductions will affect existing installations
 Meeting with staffing team to look at where time can be found in order to free staff up
 Cuts have rendered new projects unviable until further review
 Review on going expenditure on repairs and maintenance.

Income	0	0	0
Savings	33,000	0	33,000
Total	33,000	0	33,000

Ben Winstanley

	<p>£63,000 the savings have been met, but the Alternative Delivery Plan (agreed by cabinet 6th Dec) - £33K achievable Aim to increase income target on rental portfolio and reduce expenditure on repairs and maintenance. At month 9 these savings have not been realised and therefore the £33,000 budget pressure remains. Alternative Delivery Plan (agreed by cabinet 2nd Dec) - 60k achievable Combination of increase in Grant income and savings on staff vacancies.</p>	<p>Alternative Delivery Plan – based on variance reported against original mandate at month 6.</p> <p>Amendment to delivery plan.</p>	<p>Total</p> <p>Total</p>	<p>33,000</p> <p>200,000</p>	<p>0</p> <p>63,000</p>	<p>33,000</p> <p>137,000</p>	
<p>Mandate 6</p> <p>Museums & Castles</p>	<p>Grant income delayed to new financial year Fully integrate cultural services, tourism services and attractions within tourism, leisure and culture section. Maximise synergies & achieve a sustainable long term business footing.</p>	<p>Museums - 30,000 of savings will not be achieved. Green Screen income of 10,000 and 20,000 conservation income.</p>	<p>Income</p> <p>Savings</p>	<p>81,000</p> <p>109,000</p>	<p>51,000</p> <p>94,000</p>	<p>30,000</p> <p>15,000</p>	<p>Ian Saunders</p>
<p>Current status</p> <p>Trend since last report</p> 	<p>Income generation target for 15/16 10K shortfall. Weddings – Amber Countryside savings – Green Savings from Volunteers – Red Income made by fundraiser – Green. Fundraiser in place. Income from learning – Green. Savings from shared service model at Chepstow TIC – Red, Income from green screen – Red Income from rental of Abergavenny Red Square window - Green TIC at Chepstow has had considerable lone working pressure which is why the budget is overspent.</p> <p>Alternative Delivery Plan (agreed by cabinet 2nd Dec*) - £30k achievable Winter closure of Chepstow TIC and application of museums acquisition reserve for purchases made in year.</p>	<p>The Green Screens have yet to be utilised. The conservation income in the mandate was higher than agreed the total income from conservation was initially agreed as 30,000 not 50,000, the museums are looking at other ways to raise this income but the additional 20,000 will not be achieved this year. Castle - Achieving in year savings of 9k but reporting total overspend of 100k due to historic budget assumptions and savings from 14-15 of 20,000. Tourism - 15,000 savings not achievable. The use of volunteers is not available at the moment.</p> <p>Alternative Delivery Plan</p>	<p>Total</p> <p>Total</p>	<p>190,000</p> <p>190,000</p>	<p>145,000</p> <p>145,000</p>	<p>45,000</p> <p>45,000</p>	

Mandate 14

Home to School Transport

Current status Trend since last report

The current staffing budget runs until the end of October 2015, the TIC has been closed for December and planned for January. Income amounting to £5k has been secured from the Town Council. Following legal advice the acquisition reserve can only be used to fund the purchase of artefacts and not to off-set operational expenditure.

At month 9 these savings have not been realised and therefore the £30,000 budget pressure remains.

Continuation of 2014-15 mandate. Fundamental policy review to nearest school, and more zealous application of free school travel criteria.
 Post 16 travel grant removed. - Green
 Removal of the non-statutory element of travel grants to post 16 students by July – Green

Increase in post 16 charging – achieved increase in costs in 14/15 and will sustain however the 29k target for 15/16 will not be delivered as already realised.

Transport Policy on hold.

There is currently no progress on change of policy on statutory distances and pick up points due to members exploring other options.

**Alternative Delivery Plan (agreed by cabinet 2nd Dec) - £30k achievable
 A reduction in the fuel budget to reflect reduced diesel prices.**

Consultation on the transport policy is currently on hold and consequently the current budget was insufficient to operate the current 'home to school transport policy'.

A pressure mandate has been submitted to address current underfunded budget for 16/17.

Alternative Delivery Plan revised budget –based on variance reported mandate at month 6.

Income	0	0	0
Savings	101,000	72,000	29,000
Total	101,000	72,000	29,000

Revised Total* (101k + 1k)	102,000	102,000	0
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Roger Hoggins/
Richard Cope

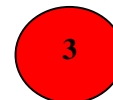
Summary Month 10

Summary – Month 2

Summary – Month 6

Summary - Month 9

Key



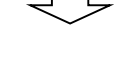
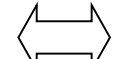
The savings are on target to be realised in line with the alternative delivery plan as at month 9.

Mandate 15 *

Facilities - transfer functions to other providers

Current status

Trend sin



2014/15 mandate*

Building Cleaning / Community Services Engaging with town and community councils, 'friends of' and clubs to take on service related costs. Considerable work has already been undertaken e.g Linda Vista, Bailey Park, public conveniences. 15/16

Activities during 2015/16 have been challenging. We will not achieve full year savings on this for 2015/16.
PC Cleaning - Overspend mainly due to delayed implementation of the mandate saving - transferring public conveniences to town councils".

**Alternative Delivery Plan (agreed by cabinet 2nd Dec) - £90k achievable
A reduction in grounds and highways, fuel and manpower budget (45k/45k split respectively)**

Mandate B21 has been included in the budget proposals for the financial year 2016/17.

Engagement with the community and town councils commenced on October 2015 and further consultation is scheduled.

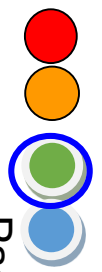
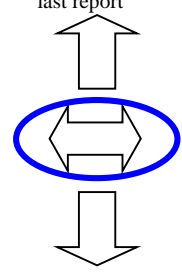
Will remain red with the limited savings until end of the year.

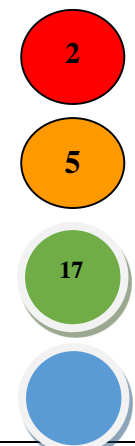
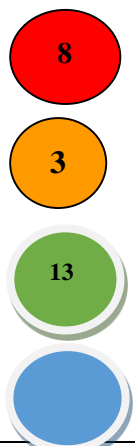
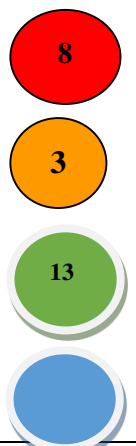
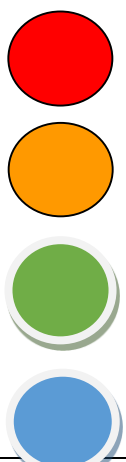
Alternative Delivery Plan – based on variance reported against original mandate at month 6.

Income	100,000	10,000	90,000
Savings	0	0	0
Total	100,000	10,000	90,000

Total	100,000	100,000	0
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Roger Hoggins

	<p>The alternative delivery plan is forecast to achieve the mandate budget shortfalls at month 9 within the service.</p>						
<p>Mandate 16</p> <p>schools delegated budgets</p> <p>Current status</p>  <p>Trend since last report</p> 	<p>Schools budgets will be protected at cash limit, this means no pay inflation and or non-pay inflation is provided for in funding, This is about finding opportunities to reduce costs in schools.</p> <p>Schools continue to be supported to seek opportunities for savings. Cluster led meetings. Schools being supported with performance management. Training needs have been identified for Head Teachers to address any skill gaps when managing their budgets. All schools continue to engage. Schools who need more significant support have been identified and support delivered action to mitigate any financial challenges. 'Quick wins' have been developed and continue to be published, shared and evaluated throughout all schools. Mandate savings delivered.</p>	<p>Continue to review resource impact for foundation phase.</p> <p>Monitor schools closely to ensure they follow their budget plans and more schools do not fall into a deficit.</p>	<p>Income</p> <p>Savings</p> <p>Total</p>	<p>0</p> <p>1124,000</p> <p>1124,000</p>	<p>0</p> <p>1124,000</p> <p>1124,000</p>	<p>0</p> <p>0</p> <p>0</p>	<p>Nikki Wellington</p>

<p>Current status</p> 	<p>Current status</p> 	<p>Current status</p> 		 <p>Not on target Concerns identified with delivery of target. Continue to closely review & monitor.</p> <p>Monitoring & required to keep on track</p> <p>On target to achieve budget and action Plans.</p> <p>On target and over achieve.</p>
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Mandate 18 *

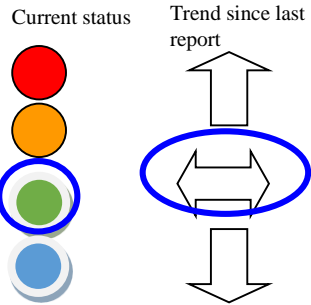
School library service - combine with general library service

2014/15 mandate with 2015/16 savings*
Savings achieved – mandate delivered

No next steps necessary

Income	0	0	0
Savings	20,000	20,000	0
Total	20,000	20,000	0

Sharon Randall - Smith



Mandate 20 Gwent Music

Gwent Music is a joint service hosted by Newport. The plan is to refocus the service to make them more efficient and increase the value by :-
Increase charging to parents per term to bring it in line with other LA's delivering the same service i.e Newport.
Introduce an instrument charge.
Not fill the vacant post.
Music access fund agreed as of 19th June by cabinet.

Access fund launched from September 2015.

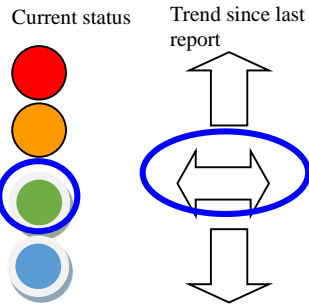
To continue to work with Gwent music to develop the music provision for Monmouthshire schools in light of the reductions.

Gwent music have worked very successfully on income generation and very closely with Monmouthshire to achieve this.
Gwent music continues to work with MCC to ensure the finding is used to support the need.

Income	0	0	0
Savings	50,000	50,000	0
Total	50,000	50,000	0

Nicky Wellington

Mandate 24 *
Transition - Bright
New Futures (
SC&H)



2014/15 mandate*

In 2014 we combined our Transitions Project Team within Bright New Futures Project. (based in Bridges)

This has established a shared service model.

No action necessary in relation to the mandate savings.

We continue to deliver savings with this partnership working.

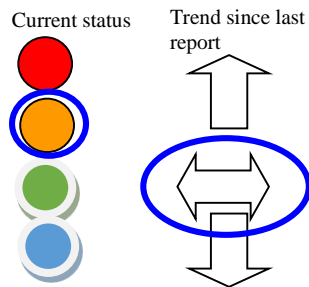
Plan to review near the end of the five year project.
 Review to include :-
 Budgets
 Service
 Resource / secondments.
 Etc...

Income	0	0	0
Savings	14,000	14,000	0
Total	14,000	14,000	0

Julie Boothroyd

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Mandate 25
Fleet
Rationalisation



The savings for this mandate were being achieved from the reduction of fleet vehicles across the authority.

This fleet reduction has been achieved therefore the budget mandate is on target to be achieved by year end.
 The restructure element due to protection of employment policy did not achieve 100% however shortfalls will be made from other savings within the service.

There are other operational opportunities currently being considered :-
 ICT 22 – the connected worker has made progress, this is at the trailing stage,
 ICT 13– the pool car booking system – this has not progressed due to no funding for the ICT project.

No next steps for fleet reduction as complete.


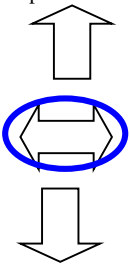

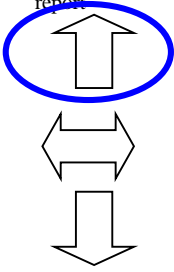
Continue to review the 2 ICT projects and report progress.

The shortfall in restructure savings are met within service area.

Income	0	0	0
Savings	62,000	62,000	0
Total	62,000	62,000	0

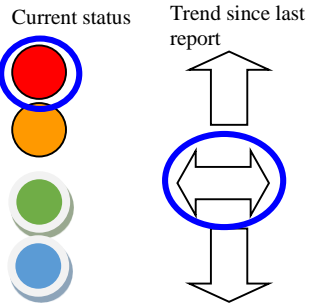
Debbie Jackson

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<p>Mandate 26</p> <p>Property rationalisation</p> <p>Current status </p> <p>Trend since last report </p>	<p>These savings are predicted on the need to reduce our operational portfolio and maximise revenue streams from our investment holdings. Revenue savings are largely accrued through the reduction in utilities costs, rates, repairs and maintenance. The Accommodation Working Group is charged with reviewing all property usage with the aim of minimising the costs and releasing any property that can be made surplus.</p> <p>Rental of buildings – Green Rates Savings on vacant buildings - Green Rental Grant reductions – Dedicated member of staff now responsible for this.</p>	<p>The Accommodation Working Group continues to review all property usage and the delivery of the rationalisation plan. Permissions for any disposal will continue through the usual council process. Work alongside agile working policy owner to explore further opportunities for greater agile working. The overall Service area has achieved its target at month 9 and is tracking to Green for year end on its overall financials.</p>	<p>Income</p> <p>Savings</p> <p>Total</p>	<p>20,000</p> <p>80,000</p> <p>100,000</p>	<p>20,000</p> <p>80,000</p> <p>100,000</p>	<p>0</p> <p>0</p> <p>0</p>	<p>Ben Winstanley</p>
<p>Mandate 28</p> <p>Community Hubs</p> <p>Current status </p> <p>Trend since last report </p>	<p>It's about delivering services in a different way and aligning them with the Whole Place philosophy. This will introduce major changes to how the library and one stop shop services are delivered. We will create a hub in each town where face to face services will be delivered. The contact centre will sustain a reliable and informed first point of contact for people contacting us other than face to face.</p> <p>Increase staffing costs are due to the delayed implementation of the of the Community Hubs restructure. The mandate savings of £250k related to a full year saving and it was only possible to achieve 6 months of reduced costs as the community Hubs opened on the 5th October 2015." Delays were as a result of in internal processes. This outturn includes £125k of mitigating underspends including keeping a post vacant until April 2016 to help offsets the delayed mandate saving.</p>	<p>15/16 No next steps</p> <p>16/17 – (50K) The Abergavenny Hub Project plan requires continuous monitoring, updating and adjusting to reflect the project developments.</p>	<p>Income</p> <p>Savings</p> <p>Total</p>	<p>0</p> <p>250,000</p> <p>250,000</p>	<p>0</p> <p>125,000</p> <p>125,000</p>	<p>0</p> <p>125,000</p> <p>125,000</p>	<p>Deborah Hill-Howells</p>

Mandate 31

ICT Savings (SRS & custom built software solutions)



The mandate's aim was to :- Drive cost efficiencies and income generation opportunities within the Shared Resource Service (SRS). This will subsequently result in MCC benefiting from reduced budget without any significant impact to service. And generate ongoing savings and user benefit from custom built software solutions being generated, then productised and sold commercially.

SRS have made 138k of their proposed 150k saving - still 20k saving to be found on software contracts however further savings of 20k have been found from vacancies.

The 100k savings that were to be achieved through in-house software development and the sale of products will not occur in 2016/17. Work continues to generate commercial returns from the sale or licencing of FLO, the Authority's social care app, though the app will only be marketable from Q1 in 2016/17 based on the most recent updates.

Alternative Delivery Plan (agreed by cabinet 2nd Dec*) – £110k achievable Continue to do work that is required to support the sale/licencing and commercialisation of FLO.

Work continues at month 9. The service is currently reviewing all budget areas and update on savings achievable will be known at Month 11.

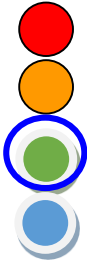
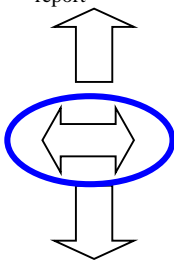

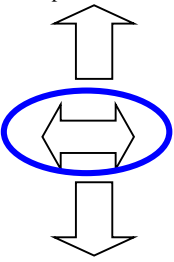
Restriction of non-essential spend across the People and Commercial Development division, together with a further review of ICT capital and revenue budgets, aims to identify scope to mitigate the existing £112k pressure.

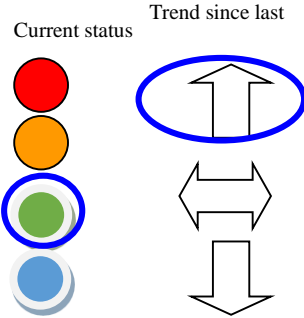
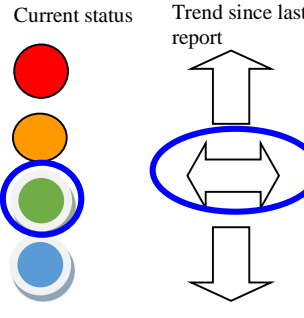
Alternative Delivery Plan – based on variance reported against original mandate at month 6.

Income	0	0	0
Savings	250,000	138,000	112,000
Total	250,000	138,000	112,000
Total	250,000	138,000	112,000

Peter Davies

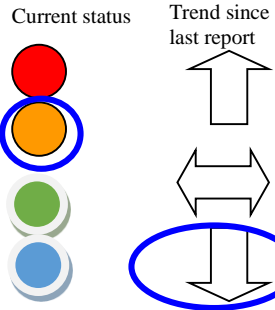
Mandate Summary		RAG Month 10	RAG Month 2	RAG Month 6	RAG Month 9
1	Leisure				

<p>Mandate 33&34</p> <p>Adult Social Care</p> <p>Current status  Trend since last report </p>	<p>The service is continuing its journey on practice change and restructuring itself to meet future mandate savings with community links and innovative approaches to domiciliary care, coupled with less reliance on admissions to residential care.</p> <p>The size of the saving is challenging however the service is working together as a whole team in order to continue to review its performance in order to meet the targets. Change in practice will need to continue at pace and be significant, this will continue to take time.</p> <p>All targets currently on track to deliver. Dementia care matters training roll out continues with vigour and there is full commitment that this training will support the changes in practice required.</p>	<p>Continue to review the structures and workforce to establish the resource, knowledge and skills moving forward.</p> <p>Service transformation will continue to evolve and approval sought as the programme develops.</p> <p>Continue to deliver and ongoing evaluation of the DCM training and other training that supports the workforce to change practice.</p> <p>Continue to capture and work with teams to further develop ideas and drive practice change.</p> <p>IT build continues further development (i.e reporting) and there remains positive feedback from users of FLO.</p>	<p>Income</p> <p>Savings</p> <p>Total</p>	<p>0</p> <p>260,000</p> <p>260,000</p>	<p>0</p> <p>260,000</p> <p>260,000</p>	<p>0</p> <p>0</p> <p>0</p>	<p>Julie Boothroyd</p>
<p>Mandate 35</p> <p>Transformation of ALN</p> <p> Trend since last report </p>	<p>We are undertaking a review of Additional Learning Needs. Its forms a 3 stage process.</p> <p>Savings fully met for this year. Stages 1 and 2 are complete.</p> <p>The team have commenced consultation with families as part of the stage 3. (Mandate B20 for 16/17).</p>	<p>All timescales of delivery of the mandate to stay in line with the 'complete review' timetable.</p> <p>All future stages of the ALN review will be monitored via the future mandates.</p>	<p>Income</p> <p>Savings</p> <p>Total</p>	<p>0</p> <p>120,000</p> <p>120,000</p>	<p>0</p> <p>120,000</p> <p>120,000</p>	<p>0</p> <p>0</p> <p>0</p>	<p>Sharon Randall-Smith</p>

<p>Mandate 36 * Route Optimisation</p> <p>Current status Trend since last report</p> 	<p>Mandate from 2014/15</p> <p>Due to the changing to routes the mandate related to the reduction in fleet and staff.</p> <p>£86k of the £250K will not be achieved on this mandate. Leasing costs were built into the saving yet the vehicles to be removed from the fleet were owned and therefore no revenue savings from leasing could be delivered. In addition the project established that the £250 was too ambitious and we were unable to release the number of vehicles and staff as initially projected.</p> <p>Alternative Delivery Plan (agreed by cabinet 2nd Dec) – 86k achievable Reduced fuel and labour budget to reflect reduced diesel prices and staff not joining the Local Government Pension Scheme. The alternative plan is on target to achieve revised savings at month 9.</p>	<p>Review the on-going operation and budgets and re-align in line with service needs. The pressure from this mandate has been mitigated by suppressed fuel process and savings in superann (pension) within the department and this is reflected in the month 6 and 9 financial monitoring reports. The route optimisation pressure will not be carried into 2016-17 as the pressure mandate rectifies this position.</p> <p>Alternative Delivery Plan – based on variance reported against original mandate at month 6</p>					
			Income	0	0	0	Rachel Jowitt
			Savings	270,000	184,000	86,000	
			Total	270,000	184,000	86,000	
			Total	270,000	270,000	0	
<p>Mandate 37a Waste Services</p> <p>Current status Trend since last report</p> 	<p>The mandate is about re-aligning the service in order to be as customer focused and efficient as possible. To reduce duplication of services which provide clarity on responsibility and service delivery. To remove duplication and harmonise working practices.</p> <p>Vacancies have been deleted therefore savings have been achieved.</p>	<p>No relevant Next Steps</p>					<p>Rachel Jowitt</p>
			Income	0	0	0	
			Savings	50,000	50,000	0	
			Total	50,000	50,000	0	

2	Housing				
5	Sustainable Energy Initiatives				

**Mandate 37b
Trade Waste**



Modernising Trade Waste Services
This has 2 elements:-
The introduction of trade waste recycling and realignment of 2 schedule changes.

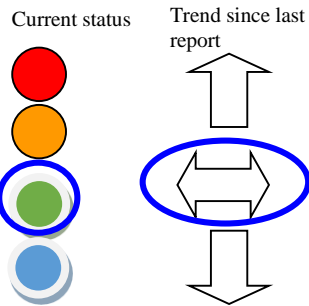
To date £10K has been generated through the sale of trade recycling bags yet it is anticipated that further income will be forthcoming as business replenish stock. At month 9 £15K has been forecasted as total income. .

Continue to review operational impact.

Income	40,000	25,000	15,000
Savings	10,000	0	10,000
Total	50,000	25,000	25,000

Rachel Jowitt

**Mandate 37c
Grey bag & nappy collection.**



This mandate relates to the removal of the free supply of grey refuse bags and the removal of the hygiene/ nappy collection.

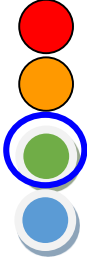
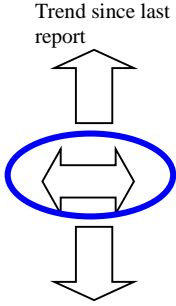

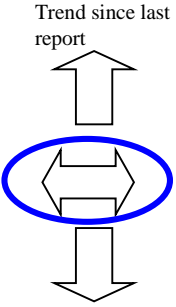
The mandate has been delivered the savings have been achieved.

Continue to review as still early stages. No other next steps relevant.

Income	0	0	0
Savings	180,000	180,000	0
Total	180,000	180,000	0

Rachel Jowitt

6	Museums & Castles				
14	Home to School Transport				
15	Facilities				
16	Schools Delegated budgets				
18	School Library Service				
20	Gwent Music				
24	Transition – Bright New Futures				
25	Fleet Rationalisation				
26	Property Rationalisation				
28	Community Hubs				
31	ICT savings				

<p>Mandate 40a Democracy</p> <p>Current status  Trend since last report </p>	<p>This mandate purpose was to reduce the budget requirement in a number of areas through a range of actions including :- Management restructure – Green. Increased income generation – Green Removal of a vacant post – Green Reduction in mileage budget – Green All action plans delivered in order to achieve the savings.</p>	<p>In relation to budget delivery no next steps</p> <p>Non budget Service improvements.</p>	<p>Income</p> <p>Savings</p> <p>Total</p>	<p>24,000</p> <p>85,000</p> <p>109,000</p>	<p>24,000</p> <p>85,000</p> <p>109,000</p>	<p>0</p> <p>0</p> <p>0</p>	<p>Tracy Harry</p>
<p>Mandate 41 Highways</p> <p>Current status  Trend since last report </p>	<p>This mandate was made up of both savings and income generation :-</p> <p>Employee restructure – Green Material savings – Green Plant saving – Green. Re-negotiating with sub-contractors – Green Additional income from skips & scaffolding – green. Operational fuel, stores & procurement savings - Green. Commercial advertising – Red.</p>	<p>Savings - on target to be delivered.</p> <p>Income - Advertising scheme has been put on hold whilst a planning issue around advertising signs is resolved so it is assumed that the remaining will not be achieved this year.</p>	<p>Income</p> <p>Savings</p> <p>Total</p>	<p>55,000</p> <p>395,000</p> <p>450,000</p>	<p>5,000</p> <p>395,000</p> <p>425,000</p>	<p>50,000</p> <p>0</p> <p>50,000</p>	<p>Roger Hoggins</p>

33	Adult Social Care (&34)				
35	Transformation of ALN				
36	Route Optimisation				
37a	Waste Services				
37b	Trade Waste				
37c	Grey Bag & Nappy Collection				
40a	Democracy				
41	Highways				
41a	Abergavenny Markets				
42	Youth Service				

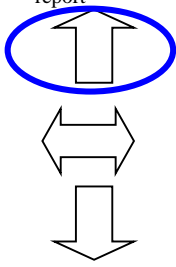
Mandate 41a

Abergavenny Markets

Current status



Trend since last report



The objective was to run additional market stalls on existing market days in Neville street and St Johns Square, Abergavenny. Expansion of flea markets and boot sales and to hold special markets/events in Cross Street Abergavenny.

The service has been unable to generate the additional income. This mainly due to operational, resource and PR challenges. New Structure in place for January 2016.

**Alternative Delivery Plan (agreed by cabinet 2nd Dec) – 50k achievable
Cease all repair and maintenance work to asset portfolio.**

The service is forecasting achieving 37k against the alternative delivery plan.

To build an income generation plan for future years.

Alternative Delivery Plan – based on variance reported on original mandate at month 6.

Income	70,000	0	70,000	Ben Winstanley
Savings	0	0	0	
Total	70,000	0	70,000	
Total	70,000	37,000	33,000	

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Strong Communities Select Committee Portfolio Position Statement Month 9 (2015/16)

Head of Operations Commentary

Obviously as the report moves into the second half of the financial year we become increasingly confident in the forecasting. The forecast at the 3rd quarter indicates the Operations department overall moving to a small underspend of £10,000. The recovery plan included various actions of which major items such as SWTRA and external trading (grounds/landscaping) are improving and the generic benefit of lower fuel prices is now making a material difference to the out turn. Waste modelling is now benefiting from clarity on recycling costs (post tender) and again fuel savings are contributing. The PTU position has also improved as the outcome of tendering in September is reflected in the out turn rather than the estimates used previously. County Highways is on budget and with the exception of gales and flooding over Christmas and new year the winter weather has been quite mild. However we will respond to bad weather and floods so the potential for extra spending remains. Overall officers are increasingly confident that Operations will return a balanced budget in 2016/17

1. Revenue Outturn Forecast

1.1 The combined budget and outturn forecast for this portfolio is

Strong Communities Service Area	Budget @ Month 6	Budget Revision Virements	Budget @ Month 9	Forecast Outturn	Variance @ Month 9	Variance @ Month 6	Variance @ Month 2	Forecast Movement Months 6 to 9
	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's
Chief Executive's	6,856	146	7,002	6,810	(192)	(31)	(120)	(160)
Operations	16,384	(76)	16,308	16,148	(160)	339	634	(499)
Corporate	18,251	(36)	18,215	18,115	(100)	(61)	63	(39)
Appropriation	8,260	(1,108)	7,152	7,352	200	(328)	(248)	618
Financing	(148,376)	0	(148,376)	(149,298)	(922)	(752)	(593)	(170)
Total Strong Communities Select	(98,625)	(1,074)	(99,699)	(100,873)	(1,174)	(833)	(264)	(251)

1.2 The most significant over and under spends are

Strong Communities Service Area	Overspend Predicted £000's	Underspend Predicted £000's	Forecast Movement Mth's 6 to 9 (Positive)/ Negative £000's	Commentary on forecasted outturn
CEO				
Benefits		67	37	The underspend is a combination of a £37,000 saving against the HB budget plus a £30,000 in year saving for administration costs
Council Tax	48		12	Shortfall in income from court fees and potential redundancy costs
Systems and Exchequer		24	10	Staff vacancies of 50k offset by increase in annual card fees of 15k
Audit		10	10	Savings from vacancies
Democracy and Regulatory Services		84	82	Savings from vacancies and from spending restrictions to assist with the recovery plan
Policy & Partnerships		55	29	19k of the underspend relates to reserve funding for a Communications post as the appointment was delayed and additional one off grants from LSB and Home Office offset by unbudgeted additional staff

OPERATIONS				
Service	Overspend Predicted £000's	Underspend Predicted £000's	Forecast Movement Mth's 6 to 9 (Positive)/ Negative £000's	Commentary on forecasted outturn
Operations – Highways		310	295	Restrictions placed on essential spend to meet the target set by the departmental recovery plan, additional income from SWTRA for non-scheduled works and increased income from fixed penalty notices on street works
Operations – Fleet Transport		19	14	Additional car parking income through increased usage
Operations – Passenger Transport Unit	187		106	Assumed ALN transport savings have proven unachievable (335k) budgeted increased income levels were not made whilst at the same time corporate budget decisions regarding reductions in overtime costs were imposed. A mandate has been put forward to highlight the fact that the service cannot operate within its existing budget and has requested further funding via the MTFP in 2016-17. Offsetting savings have been achieved through holding vacancies, reduction in transportation costs and season tickets.
Operations – Building Cleaning	27		7	Delayed implementation of mandate saving of transferring public conveniences to Town Councils.
Operations – School Catering	42		7	Increased costs to comply with Healthy Eating in Schools Agenda and a reduction in budgeted meals

Operations – Property Services	101		6	A reduction in fee income generated from capital projects. The change from month 6 relates to increase in fees that are chargeable to the 21 st Century schools programme offset by a reduction in third party expenditure on procurement
Operations – Accommodation costs		159	9	Maintenance costs for Magor and Usk are underspent mainly due to reduced costs as buildings are relatively new.
Operations – Waste and street scene		29	95	46k over spend in Raglan Training Centre, where there has been a fall in demand, Grounds maintenance is forecasting a 75k under spend because income expectations, as listed in the recovery plan have now materialised. Waste is forecasting a balanced budget, but the pressures on Waste are still real as they have been mitigated by a reduction in fuel costs and a reduction in superannuation costs as about 20 staff have opted out of the Council provided pension (96k).

Corporate Services	Overspend Predicted	Underspend Predicted	Forecast Movement Mth's 6 to 9 (Positive) / Negative	Commentary on forecasted outturn
	£000's	£000's	£000's	
CORPORATE				
Audit Commission Fees (Certification Grant Claims)		(36)		Forecasted saving in relation to the auditing of grant claims
HMRC Reimbursements		(29)		MCC Vat rebates exercise

Early Retirement Pension Costs	161			Additional cost of redundancies notified in latter part of 2014/15 & during 2015/16
Indirect revenue Gains		(97)		Rate rebates on MCC properties
Insurance Settlement Expenditure		(65)		Insurance settlement claims predicted to be lower due to reduced claims activity
Insurance Premium Payment(Direct)		(67)		Based on reduction in premium costs as a result of the tender completed in September 2015.
APPROPRIATIONS				
Attributable Costs - Fixed Asset Disposal		(82)		12 Schemes delayed mainly due to a rethink of disposal strategy to optimise receipts
Interest Payable and Similar Charges		(387)		saving against budget due to long term debt not being taken out and temporary borrowing being at a lower rate than budgeted
Charges Required Under Regulation		(241)		A planned set aside of £6m of capital receipts in 2016/17 will be brought forward a year from 16/17 as there is a balance of receipts available to do this and this will achieve a saving on MRP payments due.
Interest and Investment Income		(49)		Increased cash income due to increased cash balances - in turn due to temporary borrowing taken out when rates were advantageous to prevent concentrated borrowing at difficult times.
Net Contribution from Reserves	906			£911k of budgeted spend expected to be slipped to 1617; compensated by small reimbursement
FINANCING				
Council Tax		(750)		Surplus due to projected actual CT Collection rate of 99.3% over budgeted 98% and increased CT recovery

Benefit Support		(170)		Forecast extrapolated from CT Benefits system based upon benefits awarded to date. Caseloads continue to reduce, a trend that is expected to continue through to year end
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1.2 Please see Appendix 9,10,11,12 and 13 for further analysis of the directorate expenditure at month 9.

2. 2015-16 Savings Progress

2.1 The savings required by the 2015-16 budget mandates have not yet been fully secured.

Operations Budgeted savings were £1,513,000 and at month 9, £1,438,000 have been identified. Of the remaining savings, £50,000 are delayed until the 2016/17 financial year and currently £25,000 are deemed to be unachievable.

Chief Executives budgeted savings were £85,000. These have all been achieved.

Man. No.	Mandate Description	Target Savings £'s	Forecast Savings Identified £'s	Delayed Till 2016/17 £'s	Unachievable £'s	Forecasted Savings Variance Since Month 6 £'s
	STRONG COMMUNITIES					
14	Home to School Policy Changes	101,000	101,000	0	0	(29,000)
15	Facilities - Transfer functions to other providers	100,000	100,000	0	0	(90,000)
25	Transport Review and Rationalisation	62,000	62,000	0	0	0

36	Cost Neutral Waste Service	270,000	270,000	0	0	(86,000)
37	Project Gwyrdd	250,000	250,000	0	0	0
37a	Waste Mgt - Efficiency & Realignment	50,000	50,000	0	0	0
37b	Waste Mgt - Modernising Trade Waste Services	50,000	25,000	0	25,000	0
37c	Waste Mgt - Collection changes, Grey bags and nappies	180,000	180,000	0	0	0
41	Highways	450,000	425,000	50,000	0	0
	Total Operations	1,513,000	1,438,000	50,000	25,000	205,000
	CHIEF EXECUTIVES'					
40a	Democracy & Regulation	85,000	85,000	0	0	0
	Total CEO	85,000	85,000	0	0	0

2.1.1 Please see Savings Mandate Appendix SM for further details on savings

Budget Mandates

Progress and Next Steps at Month 9

Mandate RAG	Progress up to month 9	Next Steps	Type	Year-end target	Forecasted to achieve	Variance	Owner
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Mandate 14

Home to School Transport

Current status



Trend since last report



Continuation of 2014-15 mandate. Fundamental policy review to nearest school, and more zealous application of free school travel criteria.

Post 16 travel grant removed. - Green
Removal of the non-statutory element of travel grants to post 16 students by July – Green

Increase in post 16 charging – achieved increase in costs in 14/15 and will sustain however the 29k target for 15/16 will not be delivered as already realised.

Transport Policy on hold.

There is currently no progress on change of policy on statutory distances and pick up points due to members exploring other options.

**Alternative Delivery Plan (agreed by cabinet 2nd Dec) - £30k achievable
A reduction in the fuel budget to reflect reduced diesel prices.**

The savings are on target to be realised in line with the alternative delivery plan as at month 9.

Consultation on the transport policy is currently on hold and consequently the current budget was insufficient to operate the current 'home to school transport policy'.

A pressure mandate has been submitted to address current underfunded budget for 16/17.

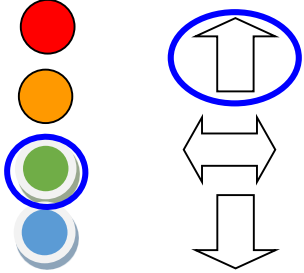
Alternative Delivery Plan revised budget – based on variance reported mandate at month 6.

Income	0	0	0	Roger Hoggins/ Richard Cope
Savings	101,000	72,000	29,000	
Total	101,000	72,000	29,000	
Revised Total* (101k + 1k)	102,000	102,000	0	

Mandate 15 *

Facilities - transfer functions to other providers

Current status



2014/15 mandate*

Building Cleaning / Community Services
Engaging with town and community councils, 'friends of' and clubs to take on service related costs. Considerable work has already been undertaken e.g Linda Vista, Bailey Park, public conveniences.

15/16

Activities during 2015/16 have been challenging. We will not achieve full year savings on this for 2015/16. PC Cleaning - Overspend mainly due to delayed implementation of the mandate saving - transferring public conveniences to town councils".

Alternative Delivery Plan (agreed by cabinet 2nd Dec) - £90k achievable
A reduction in grounds and highways, fuel and manpower budget (45k/45k split respectively)

The alternative delivery plan is forecast to achieve the mandate budget shortfalls at month 9 within the service.

Mandate B21 has been included in the budget proposals for the financial year 2016/17.

Engagement with the community and town councils commenced on October 2015 and further consultation is scheduled.

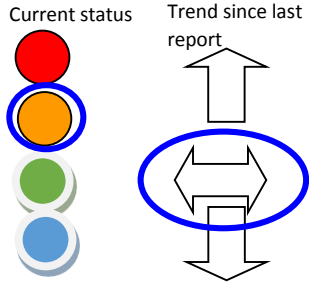
Will remain red with the limited savings until end of the year.

Alternative Delivery Plan –based on variance reported against original mandate at month 6.

Income	100,000	10,000	90,000	Roger Hoggins
Savings	0	0	0	
Total	100,000	10,000	90,000	
Total	100,000	100,000	0	

Mandate 25

Fleet Rationalisation



The savings for this mandate were being achieved from the reduction of fleet vehicles across the authority.

This fleet reduction has been achieved therefore the budget mandate is on target to be achieved by year end.
 The restructure element due to protection of employment policy did not achieve 100% however shortfalls will be made from other savings within the service.

There are other operational opportunities currently being considered :-
 ICT 22 – the connected worker has made progress, this is at the trailing stage,
 ICT 13– the pool car booking system – this has not progressed due to no funding for the ICT project.

No next steps for fleet reduction as complete.

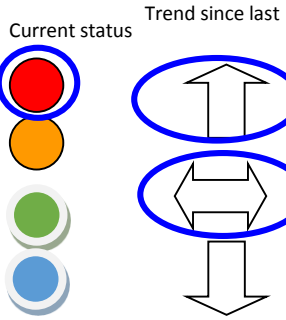
Continue to review the 2 ICT projects and report progress.

The shortfall in restructure savings are met within service area.

Income	0	0	0
Savings	62,000	62,000	0
Total	62,000	62,000	0

Debbie Jackson

Mandate 36 *
Route Optimisation



Mandate from 2014/15

Due to the changing to routes the mandate related to the reduction in fleet and staff.

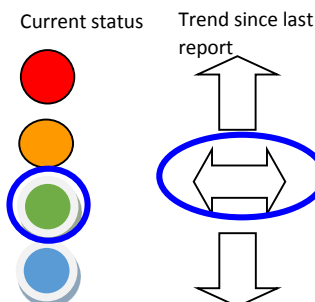
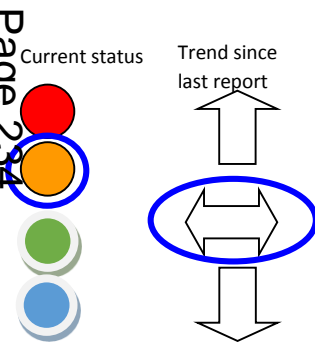
£86k of the £250K will not be achieved on this mandate. Leasing costs were built into the saving yet the vehicles to be removed from the fleet were owned and therefore no revenue savings from leasing could be delivered. In addition the project established that the £250 was too ambitious and we were unable to release the number of vehicles and staff as initially projected.

Alternative Delivery Plan (agreed by cabinet 2nd Dec) – 86k achievable
Reduced fuel and labour budget to reflect reduced diesel prices and staff not joining the Local Government Pension Scheme. The alternative plan is on target to achieve revised savings at month 9.

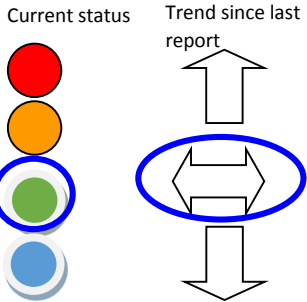
Review the on-going operation and budgets and re-align in line with service needs. The pressure from this mandate has been mitigated by suppressed fuel process and savings in superann (pension) within the department and this is reflected in the month 6 and 9 financial monitoring reports. The route optimisation pressure will not be carried into 2016-17 as the pressure mandate rectifies this position.

Alternative Delivery Plan –based on variance reported against original mandate at month 6

Income	0	0	0	Rachel Jowitt
Savings	270,000	184,000	86,000	
Total	270,000	184,000	86,000	
Total	270,000	270,000	0	

<p>Mandate 37a Waste Services</p> <p>Current status Trend since last report</p> 	<p>The mandate is about re-aligning the service in order to be as customer focused and efficient as possible. To reduce duplication of services which provide clarity on responsibility and service delivery. To remove duplication and harmonise working practices.</p> <p>Vacancies have been deleted therefore savings have been achieved.</p>	<p>No relevant Next Steps</p>		<p>Income 0</p> <p>Savings 50,000</p> <p>Total 50,000</p>	<p>0</p> <p>50,000</p> <p>50,000</p>	<p>0</p> <p>0</p> <p>0</p>	<p>Rachel Jowitt</p>
<p>Mandate 37b Trade Waste</p> <p>Current status Trend since last report</p> 	<p>Modernising Trade Waste Services This has 2 elements:- The introduction of trade waste recycling and realignment of 2 schedule changes.</p> <p>To date £10K has been generated through the sale of trade recycling bags yet it is anticipated that further income will be forthcoming as business replenish stock. At month 9 £15K has been forecasted as total income. The £25K has been mitigated through fuel and superann contributions.</p>	<p>Continue to review operational impact.</p>	<p>Income 40,000</p> <p>Savings 10,000</p> <p>Total 50,000</p>	<p>15,000</p> <p>10,000</p> <p>25,000</p>	<p>25,000</p> <p>0</p> <p>25,000</p>		<p>Rachel Jowitt</p>

**Mandate 37c
Grey bag & nappy collection.**



This mandate relates to the removal of the free supply of grey refuse bags and the removal of the hygiene/ nappy collection.

The mandate has been delivered the savings have been achieved.

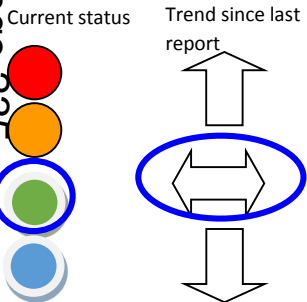
Continue to review as still early stages. No other next steps relevant.

Income	0	0	0
Savings	180,000	180,000	0
Total	180,000	180,000	0

Rachel Jowitt

**Mandate 40a
Democracy**

Page 235



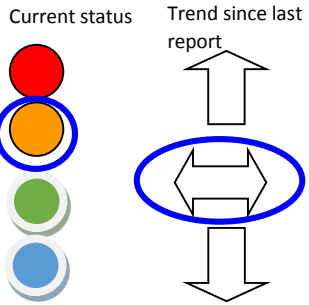
This mandate purpose was to reduce the budget requirement in a number of areas through a range of actions including :-
Management restructure – Green.
Increased income generation – Green
Removal of a vacant post – Green
Reduction in mileage budget – Green
All action plans delivered in order to achieve the savings.

In relation to budget delivery no next steps
Non budget Service improvements.

Income	24,000	24,000	0
Savings	85,000	85,000	0
Total	109,000	109,000	0

Tracy Harry

**Mandate 41
Highways**



This mandate was made up of both savings and income generation :-

- Employee restructure – Green
- Material savings – Green
- Plant saving – Green.
- Re-negotiating with sub-contractors – Green
- Additional income from skips & scaffolding – green.
- Operational fuel, stores & procurement savings - Green.
- Commercial advertising – Red.

Savings - on target to be delivered.
Income - Advertising scheme has been put on hold whilst a planning issue around advertising signs is resolved so it is assumed that the remaining will not be achieved this year.

Income	55,000	5,000	50,000	Roger Hoggins
Savings	395,000	395,000	0	
Total	450,000	425,000	50,000	

Summary - Month 10 Current status	Summary - Month 2	Summary - Month 6	Summary - Month 9	Traffic Light Key
				Not on target Concerns identified with delivery of target. Closely review & monitor.
				Monitoring & required to keep on track
				On target to achieve budget and action Plans.
				On target and over achieve.

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Mandate Summary	RAG Month 10	RAG Month 2	RAG Month 6	RAG Month 9
14 Home to School Transport	Red	Red	Green	Green
15 Facilities	Yellow	Red	Red	Green
25 Fleet Rationalisation	Yellow	Yellow	Yellow	Yellow
36 Route Optimisation	Green	Red	Red	Green
37a Waste Services	Yellow	Green	Green	Green
37b Trade Waste	Green	Yellow	Green	Yellow
37c Grey Bag & Nappy Collection	Green	Green	Green	Green
40a Democracy	Green	Green	Green	Green
41 Highways	Green	Green	Yellow	Yellow

3. Capital Outturn Forecast

The capital budget of £4,485,758 had been increased by slippage from 2014/15 of £2,939,759 to a new total of £7,425,517. The budget is separated under the following headings

Strong Communities	Annual Forecast	Original Budget	Slippage from 2014/15	Budget	Total Approved Budget	Provisional Slippage carried Forward 2016/17	Adjusted Budget	Forecast	Variance
				Virement or Revision	@ Month 9		@ Month 9	Over / (Under) Outturn @ Month 9	Reported @ Month 6
	£000's	£000's	£000's	£000's	£000's	£000's	£'000's	£'000's	£000's
Asset Mgt Schemes	688	365	38	275	678	0	678	10	0
Infrastructure and Transport	3,174	2,112	671	460	3,242	(68)	3,174	0	0
Regeneration Schemes	629	0	717	402	1,119	(486)	632	(4)	0
Sustainability Schemes	94	0	81	45	126	(29)	96	(3)	0
County Farms Schemes	226	201	152	0	352	(123)	230	(4)	0
Inclusion Schemes	1,354	850	348	156	1,354	0	1,354	(0)	0
ICT Schemes	142	0	153	0	153	(11)	142	0	0
Other Schemes	193	65	581	0	646	(457)	189	4	0
Maintenance Schemes – Property	1,030	893	200	(40)	1,053	(23)	1,030	0	0
Total Strong Communities	7,531	4,486	2,940	1,298	8,723	(1,197)	7,527	4	0

Further details of all the schemes are contained in the appendix 2C. A small net variance is indicated on the basis of present activity, caused primarily by the progression of Ifton Common sewerage works despite it being decommitted from the Capital Programme at the end of 2014-15. As is common with minor overspends they will be assessed against underspends apparent at end of year and any net cost borne in the first instance by capital receipts.

Appendix (links to Hub)

[Appendix2C M9 Capital Monitoring Strong Communities Select 2015-16.xlsx](#)

[M9 Chief Executive Office Revenue Budget Monitoring 2015-16 Appendix 10.xls](#)

[M9 Operations Revenue Budget Monitoring 2015-16 Appendix 9.xls](#)

[M9 Savings Mandates Appendix SM 2015-16.xls](#)

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**Economy & Development Select Committee
Portfolio Position Statement Month 9 (2015-16)**

APPENDIX 3

DIRECTOR'S COMMENTARY

The current position of an over spend of 22k is increased by reserve cover being delayed into the next financial year such as the LDP and reduced by the use of reserves to cover redundancies. This results in a net overspending of 217k.

This reflects continued pressures on income targets. In areas such as markets, leisure, museums and culture, we are generating more income than ever - but it is insufficient to meet annually uplifted targets. This reflects some of the issues we're experiencing whereby the current service formats, mean we have saturated the markets available to us and without considerable capital investment - it is not feasible to charge premium rates. This position which will not change as things currently stand, this is now part of the reason behind why we are having to explore alternative delivery vehicles which provide different freedoms and flexibilities & access to new investment.

Reflecting on the other huge changes in the section, Community Learning has undergone a large-scale restructure following the franchise changes, Community Hubs are going live and Housing is undergoing further transformation with the introduction of significant legislation and Planning changes are also in the melting pot.

Despite this - many areas are showing signs of strength and potential. The job of work continues to mitigate these pressures through holding vacant posts open, freezing non-essential spend, closing winter season TIC and continuing work to optimise income potential in the few areas where we believe some potential still exists.

1.1 The combined budget and outturn forecast for this portfolio is

E&D Service Area	Budget @ Month 6	Budget Revision Virements	Budget @ Month 9	Forecast Outturn	Variance @ Month 9	Variance @ Month 6	Variance @ Month 2	Forecast Movement Months 6 to 9
	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's
Community led Delivery	1,813	575	2,388	2,485	97	340	138	(243)
Commercial and People Development	3,674	358	4,032	3,914	(117)	127	100	(244)
Enterprise Management	397	0	397	402	5	10	0	(5)
Development Planning	911	0	911	761	(150)	(150)	0	0
Tourism, life and Culture	2,504	(92)	2,412	2,600	187	274	100	(87)
ENT Select	9,299	841	10,140	10,162	22	601	338	(579)

1.2 The most significant over and underspends are:

E&D Service Area	Overspend Predicted	Underspend Predicted	Forecast Movement Mth's 6 to 9 (Positive) / Negative	Commentary on forecasted outturn
	£000's	£000's	£000's	
Asset Management	96		(12)	Redundancy costs of 28k, inability to achieve income targets for PV schemes 98k, inability to meet increased income targets for Markets 140k offset by increased Cemeteries income 76k and savings on reduced maintenance, professional fees and vacancies of 94k
Community Education	178		88	Redundancy costs of 96k, additional costs to the delay in implementing the restructure of 82k
Community Hubs	386		71	Redundancy costs of 386k
Eisteddfod		430	(430)	Reserve funding not required until 2016/17 financial year
Housing		113	18	Savings from one off grant funding, a reduction in expenditure against B&B accommodation and through increasing occupancy levels
Whole Place		20	22	Redundancy costs of 31k offset by vacancies
BusinessGrowth & Enterprise		23	(23)	20k reserve funding for Broadband will not be used in 2015/16 and other minor savings
Innovation		154	(154)	130k reserve funding will not be called on in 15/16 and vacancy savings
People Services		24	(24)	23k reserve funding will not be called on in 15/16
ICT Technology	84		(43)	49k reserve funding will not be called on in 15/16 offset by Inability to achieve 100k savings that were to be achieved through in-house software development and the sale of products and other minor overspend on software contracts.
Enterprise Management	4		(5)	Inability to find vacancy factor and full year impact of 15/16 pay award
Development Plans		150	0	Additional income 50k, reduced call on reserves £100k
Museums and Cultural services	33		4	Green screen savings will not occur and the additional budget mandate for savings of 20k from conservation income will not occur.

1.2 Further analysis of Economic and Development Select Expenditure can be found in Appendix 8

Leisure Services	10		(85)	Budget included pressure arising from closure of Monmouth Pool of 150k which will not be required in 15/16 offset by 20k budget vired to children's service but could not be found, caretaking costs of 15k, 3G pitch issues of 45k income on 3G pitch of 30k, loss of free swimming grant of 30k and additional staff costs of 30k
Tourism	144		(6)	100k historic underfunding of Caldicot castle, overspend due to staff costs of 34k. Efforts are being made to reduce this further by use of volunteers. Budget included additional income from the Town Council of 15k but only 5k secured
TOTAL	935	914	(579)	Net Total 21

2015-16 Savings Progress

The savings required by the 2015-16 have not yet been secured.

Enterprise budgeted savings were £1,392,983 and at month 9, £1,015,983 have been identified. Of the remaining savings £125,000 are delayed and currently £253,000 are deemed to be unachievable.

Man. No.	Mandate Description	Target Savings £'s	Forecast Savings Identified £'s	Delayed Till 2016/17 £'s	Unachievable £'s	Forecasted Savings Variance Since Month 6 £'s
	ECONOMY & DEVELOPEMNT					
1	Dev of Leisure & Outdoor services	420,983	390,983	0	30,000	(5,000)

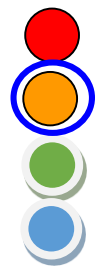
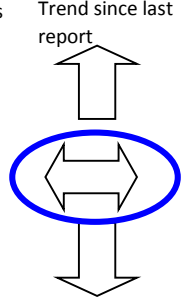
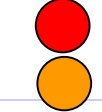
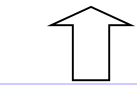
2	Collaboration of Housing services	55,000	55,000	0	0	0
5	Sustainable Energy Initiatives	33,000	0	0	33,000	0
6	Museums, Shirehall, Castles & Tourism	190,000	145,000	0	45,000	0
26	Property Review	100,000	100,000	0	0	0
28	Community Hubs & Contact Centre	250,000	125,000	125,000	0	0
31	ICT Savings	250,000	138,000	0	112,000	(2,000)
40	Planning income	24,000	24,000	0	0	0
41a	Market Income	70,000	37,000	0	33,000	(37,000)
	TOTAL ENTERPRISE	1,392,983	1,015,983	125,000	253,000	(42,000)

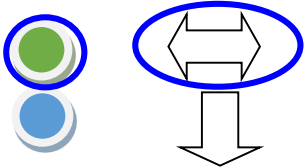
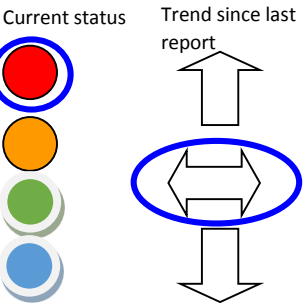
1.3 Further detailed analysis of Savings mandates are contained with Appendix SM

Budget Mandates

Progress and Next Steps at Month 9

Mandate RAG	Progress up to month 9	Next Steps	Type	Year-end target	Forecasted to achieve	Variance	Owner
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<p>Mandate 1 Leisure.</p> <p>Current status </p> <p>Trend since last report </p>	<p>Leisure centre staffing remodelled £115k, admin and clerical review £66k, support services review £20k, reduction caretaking Abergavenny £15k, outdoor education reduction £25k, leisure supplies and service £25k, increased income through fitness and sport offer £155k.</p> <p>Restructure process complete. All departments have individual service plans. All plans tracked and monitored by the individual service area. Full ownership of delivery by individual teams. 15k Caretaker savings will not be achieved as the school failed to invoice until 15-16. Consequently the full years charge in this year.</p> <p>Alternative Delivery Plan (agreed by cabinet 2nd Dec*) - £35K achievable</p> <p>Delayed Lighting installed at the 3G pitch resulted in only partial income being reached against alternative delivery plans amounting to £5K.</p> <p>Increase income against swimming and fitness not achieved. This has resulted in a £5K improvement since month 6.</p>	<p>Continue to review the 3 G pitch project and review its income generation targets.</p> <p>Review business plans for swimming and fitness to ensure mitigating pressures for 16/17 onwards.</p> <p>Alternative Delivery Plan based on variance reported against original mandate at Month 6</p>	<table border="1"> <tr><td>Income</td><td>155,000</td><td>140,000</td><td>15,000</td></tr> <tr><td>Savings</td><td>265,983</td><td>250,983</td><td>15,000</td></tr> <tr><td>Total</td><td>420,983</td><td>385,983</td><td>30,000</td></tr> </table>	Income	155,000	140,000	15,000	Savings	265,983	250,983	15,000	Total	420,983	385,983	30,000	<table border="1"> <tr><td>Total</td><td>420,983</td><td>385,983</td><td>30,000</td></tr> </table>	Total	420,983	385,983	30,000		<p>Ian Sanders</p>
Income	155,000	140,000	15,000																			
Savings	265,983	250,983	15,000																			
Total	420,983	385,983	30,000																			
Total	420,983	385,983	30,000																			
<p>Mandate 2 Housing</p> <p>Current status </p> <p>Trend since last report </p>	<ul style="list-style-type: none"> Commercialisation of the care line service. One housing solutions service with TCBC. Expansion of shared housing scheme & B&B reduction. Management restructure. 	<p>Continue to drive marketing plan and bespoke marketing campaign being developed with Communications Team. Future intentions include further develop website and link in with key dates/events eg engagement</p>	<table border="1"> <tr><td>Income</td><td>25,000</td><td>25,000</td><td>0</td></tr> <tr><td>Savings</td><td>30,000</td><td>30,000</td><td>0</td></tr> <tr><td>Total</td><td>55,000</td><td>55,000</td><td>0</td></tr> </table>	Income	25,000	25,000	0	Savings	30,000	30,000	0	Total	55,000	55,000	0			<p>Ian Bakewell</p>				
Income	25,000	25,000	0																			
Savings	30,000	30,000	0																			
Total	55,000	55,000	0																			

	<p>Detailed plans in place for all projects to ensure they remain on track. The long term average trend continues to be reversed up to month 9 and the trend is definitely positive and if maintained would result in us hitting our target of 800 clients. Projections indicate the service will generate the income necessary to meet the budget.</p>	<p>forums; legislation. Continue to work with Social Care teams to raise awareness of care line's benefits and functionality. Continue to work with TCBC to develop joint Solutions Service. Interim review and evaluation valuation work undertaken during Q3 to inform development and clarify benefits. Joint review of pilot scheduled for March/April</p>					
<p>Mandate 5 *</p> <p>Sustainable Energy Initiatives</p> 	<p>2014/15 & 2015/16 – savings*</p> <p>Investing in biomass boilers, solar farms and reduction in Carbon Commitment.</p> <p>Expected income targets not achieved.</p> <p>Solar Farm Cabinet report approved 15 July 2015</p> <ul style="list-style-type: none"> - New Rooftop solar projects have generated additional revenue in line with our projections. - Government policy changes to the tariff render further rooftop installations unlikely. - Impact of Tariff changes upon Solar Farm project is being reviewed. - Biomass installed at Cross Ash operational and generating heat. <p>Alternative Delivery Plan (agreed by cabinet 2nd Dec) - £33K achievable</p>	<p>Additional revenue streams for 2015/16 are lower than forecast due to a combination of delays and changes to funding. FIT and RHI tariff reductions will affect existing installations yet to be completed and / or registered, while impending cuts have rendered new projects unviable until further review.</p> <p>Review on going expenditure on repairs and maintenance.</p>	<p>Income</p> <p>Savings</p> <p>Total</p>	<p>0</p> <p>33,000</p> <p>33,000</p>	<p>0</p> <p>0</p> <p>0</p>	<p>0</p> <p>33,000</p> <p>33,000</p>	<p>Ben Winstanley</p>

Aim to increase income target on rental portfolio and reduce expenditure on repairs and maintenance. At month 9 these savings have not been realised and therefore the £33,000 budget pressure remains.

Alternative Delivery Plan – based on variance reported against original mandate at month 6.

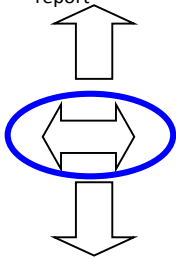
Mandate 6

Museums & Castles

Current status



Trend since last report



Fully integrate cultural services, tourism services and attractions within tourism, leisure and culture section. Maximise synergies & achieve a sustainable long term business footing.

Income generation target for 15/16 10K shortfall.
 Weddings – Amber
 Countryside savings – Green
 Savings from Volunteers – Red
 Income made by fundraiser – Green.
 Fundraiser in place.
 Income from learning – Green.

Museums - 30,000 of savings will not be achieved. Green Screen income of 10,000 and 20,000 conservation income. The Green Screens have yet to be utilised. The conservation income in the mandate was higher than agreed the total income from conservation was initially agreed as 30,000 not 50,000, the museums are looking at other ways to raise this income but the additional 20,000 will not be achieved

Income	81,000	51,000	30,000
Savings	109,000	94,000	15,000
Total	190,000	145,000	45,000

Ian Saunders

	<p>Savings from shared service model at Chepstow TIC – Red, Income from green screen – Red Income from rental of Abergavenny Red Square window - Green TIC at Chepstow has had considerable lone working pressure which is why the budget is overspent.</p>	<p>this year. Castle - Achieving in year savings of 9k but reporting total overspend of 100k due to historic budget assumptions and savings from 14-15 of 20,000. Tourism - 15,000 savings not achievable. The use of volunteers is not available at the moment. The current staffing budget only runs until the end of October but as a decision has not been made on the future of the TIC has been closed in December and January. 5,000 has been secured from the Town Council.</p>					
	<p>Alternative Delivery Plan (agreed by cabinet 2nd Dec*) - £30k achievable Winter closure of Chepstow TIC and application of museums acquisition reserve for purchases made in year. The current staffing budget runs until the end of October 2015, the TIC has been closed for December and planned for January. Income amounting to £5k has been secured from the Town Council. Following legal advice the acquisition reserve can only be used to fund the purchase of artefacts and not to off-set operational expenditure.</p>	<p>Alternative Delivery Plan</p>	<p>Total</p>	<p>190,000</p>	<p>145,000</p>	<p>45,000</p>	

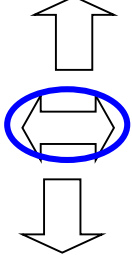
Mandate 26

Property rationalisation

Current status



Trend since last report



At month 9 these savings have not been realised and therefore the £30,000 budget pressure remains.

These savings are predicted on the need to reduce our operational portfolio and maximise revenue streams from our investment holdings. Revenue savings are largely accrued through the reduction in utilities costs, rates, repairs and maintenance. The Accommodation Working Group is charged with reviewing all property usage with the aim of minimising the costs and releasing any property that can be made surplus.

Rental of buildings – Green
 Rates Savings on vacant buildings - Green
 Rental Grant reductions – Dedicated member of staff now responsible for this.

The Accommodation Working Group continues to review all property usage and the delivery of the rationalisation plan. Permissions for any disposal will continue through the usual council process. Work alongside agile working policy owner to explore further opportunities for greater agile working. The overall Service area has achieved its target at month 9 and is tracking to Green for year end on its overall financials.

Income	20,000	20,000	0
Savings	80,000	80,000	0
Total	100,000	100,000	0

Ben Winstanley

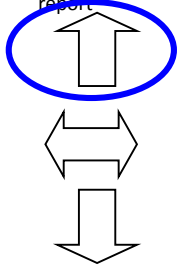
Mandate 28

Community Hubs

Current status



Trend since last report



It's about delivering services in a different way and aligning them with the Whole Place philosophy. This will introduce major changes to how the library and one stop shop services are delivered. We will create a hub in each town where face to face services will be delivered. The contact centre will sustain a reliable and informed first point of contact for people contacting us other than face to face.

Increase staffing costs are due to the delayed implementation of the of the Community Hubs restructure. The mandate savings of £250k related to a full year saving and it was only possible to achieve 6 months of reduced costs as the community Hubs opened on the 5th October 2015." Delays were as a result of in internal processes.

This outturn includes £125k of mitigating underspends including keeping a post vacant until April 2016 to help offsets the delayed mandate saving.

15/16
No next steps

16/17 – (50K)
The Abergavenny Hub Project plan requires continuous monitoring, updating and adjusting to reflect the project developments.

Income	0	0	0	
Savings	250,000	125,000	125,000	Deborah Hill-Howells
Total	250,000	125,000	125,000	

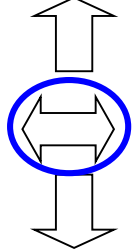
Mandate 31

ICT Savings (SRS & custom built software solutions)

Current status



Trend since last report



The mandate's aim was to :- Drive cost efficiencies and income generation opportunities within the Shared Resource Service (SRS). This will subsequently result in MCC benefiting from reduced budget without any significant impact to service. And generate ongoing savings and user benefit from custom built software solutions being generated, then productised and sold commercially.

SRS have made 138k of their proposed 150k saving - still 20k saving to be found on software contracts however further savings of 20k have been found from vacancies.

The 100k savings that were to be achieved through in-house software development and the sale of products will not occur in 2016/17. Work continues to generate commercial returns from the sale or licencing of FLO, the Authority's social care app, though the app will only be marketable from Q1 in 2016/17 based on the most recent updates.


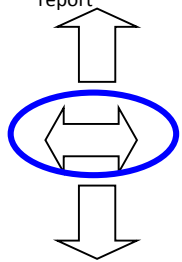

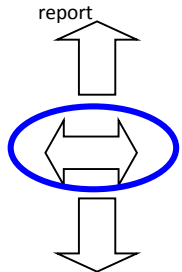
Alternative Delivery Plan (agreed by cabinet 2nd Dec*) – £110k achievable Continue to do work that is required to support the sale/licencing and commercialisation of FLO.

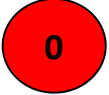



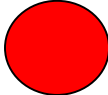




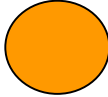










Work continues at month 9. The service is currently reviewing all budget areas and update on savings achievable will be known at Month 11.






















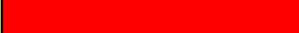
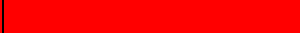
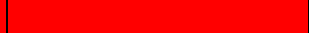

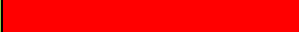
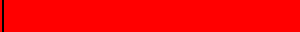
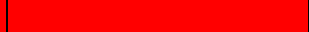








Restriction of non-essential spend across the People and Commercial Development division, together with a further review of ICT capital and revenue budgets, aims to identify scope to mitigate the existing £112k pressure.

Alternative Delivery Plan – based on variance reported against original mandate at month 6.

Income	0	0	0	Peter Davies
Savings	250,000	138,000	112,000	
Total	250,000	138,000	112,000	
Total	250,000	138,000	112,000	

<p>Mandate 40a Democracy</p> <p>Current status </p> <p>Trend since last report </p>	<p>This mandate purpose was to reduce the budget requirement in a number of areas through a range of actions including :- Management restructure – Green. Increased income generation – Green Removal of a vacant post – Green Reduction in mileage budget – Green All action plans delivered in order to achieve the savings.</p>	<p>In relation to budget delivery no next steps</p> <p>Non budget Service improvements.</p>	<p>Income</p> <p>Savings</p> <p>Total</p>	<p>24,000</p> <p>85,000</p> <p>109,000</p>	<p>24,000</p> <p>85,000</p> <p>109,000</p>	<p>0</p> <p>0</p> <p>0</p>	<p>Tracy Harry</p>
<p>Mandate 41a Abergavenny Markets</p> <p>Current status </p> <p>Trend since last report </p>	<p>The objective was to run additional market stalls on existing market days in Neville street and St Johns Square, Abergavenny. Expansion of flea markets and boot sales and to hold special markets/events in Cross Street Abergavenny.</p> <p>The service has been unable to generate the additional income. This mainly due to operational, resource and PR challenges. New Structure in place for January 2016.</p> <p>Alternative Delivery Plan (agreed by cabinet 2nd Dec) – 50k achievable Cease all repair and maintenance work to asset portfolio. The service is forecasting achieving 37k against the alternative delivery plan.</p>	<p>To build an income generation plan for future years.</p> <p>Alternative Delivery Plan – based on variance reported on original mandate at month</p>	<p>Income</p> <p>Savings</p> <p>Total</p> <p>Total</p>	<p>70,000</p> <p>0</p> <p>70,000</p> <p>70,000</p>	<p>0</p> <p>0</p> <p>0</p> <p>37,000</p>	<p>70,000</p> <p>0</p> <p>70,000</p> <p>33,000</p>	<p>Ben Winstanley</p>

Summary - Month 10 Current status	Summary – Month 2	Summary – Month 6	Summary – Month 9	Key
				 Not on target Concerns identified with delivery of target. Closely review & monitor.
				 Monitoring & required to keep on track
				 On target to achieve budget and action Plans.
				 On target and over achieve.

Mandate Summary	RAG Month 10	RAG Month 2	RAG Month 6	RAG Month 9
1 Leisure				
2 Housing				
5 Sustainable Energy Initiatives				
6 Museums & Castles				
26 Property Rationalisation				
28 Community Hubs				
31 ICT savings				
40a Democracy				
41a Abergavenny Markets				

2. Capital Outturn Forecast

There was no original budget for capital schemes within this portfolio however capital slippage from 2014/15 of £530,735 has been allowed into 2015/16. The budget is separated under the following headings

Economy & Development	Annual Forecast	Original Budget	Slippage from 2014/15	Budget	Total Approved Budget	Provisional Slippage carried Forward 2016/17	Adjusted Budget	Forecast	Variance
				Virement or Revision	@ Month 9		@ Month 9	Over / (Under) Outturn @ Month 9	Reported @ Month 6
	£000's	£000's	£000's	£000's	£000's	£000's	£'000's	£'000's	£000's
Asset Mgt Schemes	450		300	450	750	(300)	450	0	0
Regeneration Schemes	308		231	205	436	(158)	278	30	30
Grand Total E&D	758		531	655	1,186	(458)	728	30	30

Further details of all the schemes are contained in the appendices. Overrun in costs are noted to the replacement cattle market and extra solicitor costs anticipated in regard of Abergavenny regeneration scheme. As is common with minor overspends they will be assessed against underspends apparent at end of year and any net cost borne in the first instance by capital receipts.

Appendices (click link to Hub)

[M9 Enterprise Revenue Budget Monitoring 2015-16 Appendix 8.xls](#)

[Appendix 3C M9 Capital Monitoring Economic and Development Select 2015-16.xlsx](#)

[M9 Savings Mandates Appendix SM 2015-16.xls](#)

Adult Select Committee Portfolio Position Statement Month 9 (2015-16)

DIRECTOR'S COMMENTARY

APPENDIX 4

In terms of adult services, we are confident in achieving a balanced budget position by year end resulting from the practice led transformation. This is helping to offset the pressures on budgets which are a consequence of the demographics and cost pressures in commissioned providers. It is important that we are well positioned by year end given the significant budget mandated savings due in 2016/17, which will continue to build on the success of the changing practice, changing lives programme. The pressure in the cost of providing community care services is being seen both within in-house services, and by external providers, with particular issues for the latter in retaining and recruiting workforce. There are a number of priorities for commissioning including new models of provision in learning disabilities to respond to a progression in practice, and the implementation of turning the world upside down in the independent care at home market.

1. Revenue Outturn Forecast

1.1 The combined budget and outturn forecast for this portfolio is

Adult Service Area	Budget @ Month 6	Budget Revision Virements	Budget @ Month 9	Forecast Outturn	Variance @ Month 9	Variance @ Month 6	Variance @ Month 2	Forecast Movement Months 6 to 9
	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's
Adult Services	6,332	50	6,382	6,312	(70)	(131)	(18)	61
Community Care	20,370	(50)	20,320	20,268	(52)	(56)	(107)	4
Commissioning	1,984	0	1,984	1,969	(15)	(7)	(4)	(8)
Resources & Performance	906	(42)	864	866	2	(1)	(28)	3
SCH Directorate	29,592	(42)	29,550	29,415	(135)	(195)	(157)	60

1.2 The most significant over and underspends are

Adult Select Service Area	Overspend Predicted £000's	Underspend Predicted £000's	Forecast Movement Mth's 6 to 9 (Positive) / Negative £000's	Commentary on forecasted outturn
Disability Equipment (GWICES)		(9)	22	Advanced stock purchases in 2014/15 by the Intermediate Care Fund
Adult Transformation		(48)	9	This scheme refers to Community co-ordination and subject to reserve budget. A formal slippage request has been made to carry forward into 2016/17.
Management team		(100)	(4)	Current Disabilities team manager vacancy plus ICF grant meeting costs of the Direct Care team manager.
Direct Care		(71)	8	Team manager vacancy and additional income from client referrals.
Direct Residential Care	140		44	Employee efficiency and previous mandate savings not deliverable, additional staffing to cover sickness and falling client numbers resulting in lower income
Transition co-operative		(24)	0	Income from employee secondment
TOTAL ADULT SELECT	140	(252)	79	Net Total (112)

Further analysis of the Costs centres contained within the Adult Select Service areas can be obtained in Appendix 6.

1 2015-16 Savings Progress


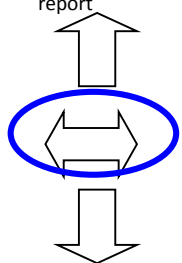
As at month 9, SCH are on track to meet our mandated savings as illustrated below: -

Man. No.	Mandate Description	Target Savings £'s	Forecast Savings Identified £'s	Delayed Till 2016/17 £'s	Unachievable £'s	Forecasted Savings Variance Since Month 6 £'s
	SOCIAL CARE & HEALTH					
24	Bright new futures	14,000	14,000	0	0	0
33	Sustaining Independent Lives in the Community	260,000	260,000	0	0	0
	TOTAL SCH	274,000	274,000	0	0	0

1.1 Further details on the savings mandates can be found in Appendix SM

Budget Mandates

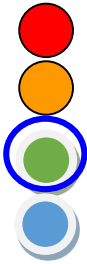
Progress and Next Steps at Month 9

Mandate RAG	Progress up to month 9	Next Steps	Type	Year-end target	Forecasted to achieve	Variance	Owner
<p>Mandate 24 * Transition - Bright New Futures (SC&H)</p> <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <p>Current status</p>  </div> <div> <p>Trend since last report</p>  </div> </div>	<p>2014/15 mandate*</p> <p>In 2014 we combined our Transitions Project Team within Bright New Futures Project. (based in Bridges)</p> <p>This has established a shared service model.</p> <p>No action necessary in relation to the mandate savings.</p> <p>We continue to deliver savings with this partnership working.</p>	<p>Plan to review near the end of the five year project. Review to include :- Budgets Service Resource / secondments. Etc...</p>	<p>Income</p> <p>Savings</p> <p>Total</p>	<p>0</p> <p>14,000</p> <p>14,000</p>	<p>0</p> <p>14,000</p> <p>14,000</p>	<p>0</p> <p>0</p> <p>0</p>	<p>Julie Boothroyd</p>

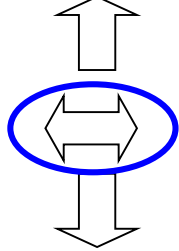
Mandate 33&34

Adult Social Care

Current status



Trend since last report



The service is continuing its journey on practice change and restructuring itself to meet future mandate savings with community links and innovative approaches to domiciliary care, coupled with less reliance on admissions to residential care.

The size of the saving is challenging however the service is working together as a whole team in order to continue to review its performance in order to meet the targets. Change in practice will need to continue at pace and be significant, this will continue to take time. All targets currently on track to deliver. Dementia care matters training roll out continues with vigour and there is full commitment that this training will support the changes in practice required.

Continue to review the structures and workforce to establish the resource, knowledge and skills moving forward.

Service transformation will continue to evolve and approval sought as the programme develops.

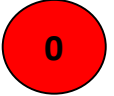
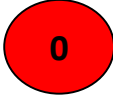
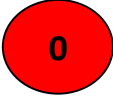
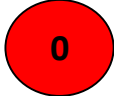
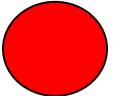
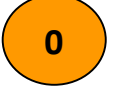
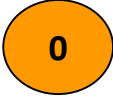
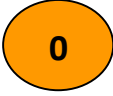
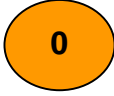
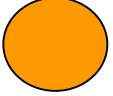










Continue to deliver and ongoing evaluation of the DCM training and other training that supports the workforce to change practice.









Continue to capture and work with teams to further develop ideas and drive practice change.

IT build continues further development (i.e reporting) and there remains positive feedback from users of FLO.

Income	0	0	0
Savings	260,000	260,000	0
Total	260,000	260,000	0

Julie Boothroyd

Summary - Month 10 Current status	Summary – Month 2	Summary – Month 6	Summary – Month 9	Traffic Light Key
				 Not on target Concerns identified with delivery of target. Closely review & monitor.
				 Monitoring & required to keep on track
				 On target to achieve budget and action Plans.
				 On target and over achieve.

Mandate Summary	RAG Month 10	RAG Month 2	RAG Month 6	RAG Month 9
24 Transition – Bright New Futures				
33 Adult Social Care (&34)				

2 Capital Outturn Forecast

A summary of this year's capital schemes are shown below: -

Social Care & Health	Annual Forecast	Original Budget	Slippage from 2014/15	Budget	Total Approved Budget	Provisional Slippage carried Forward 2016/17	Adjusted Budget	Forecast	Variance
				Virement or Revision	@ Month 9		@ Month 9	Over / (Under) Outturn @ Month 9	Reported @ Month 6
	£000's	£000's	£000's	£000's	£000's	£000's	£'000's	£'000's	£000's
Asset Mgt Schemes	202	47		171	218	(15)	202	0	0
ICT Schemes	135		35	100	135		135	0	0
Grand Total SCH	337	47	35	271	353	(15)	337	0	0

Further details of all the schemes are contained in the appendix 4C. Currently no variation has been reported and so the budgets are presented here for information only.

APPENDIX (Links to Hub)

[M9 Social Care and Health Revenue Budget Monitoring 2015-16 Appendix 6.xls](#)

[Appendix 4C M9 Capital Monitoring Adult Social Care and Health Select 2015-16.xlsx](#)

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**Children & Young People Select Committee
Portfolio Position Statement Month 9 (2015-16)**

APPENDIX 5

CYP DIRECTOR'S COMMENTARY

The Directorate's month 9 position is a forecasted overspend of £242,000, this is £45,000 higher than anticipated at Quarter 2. The youth service remains a volatile area having been subject to a £200,000 savings mandate. The current forecast over spend for the youth service is £139,000. It is pleasing to note that the Additional Learning Needs service is underspent by £132,000, again an improvement of £30,000 since Quarter 2.

SCH DIRECTOR'S COMMENTARY

In terms of children's services, there are 2 key pressures: firstly, the pressure due to continued use of agency workforce resulting from vacancies in the permanent workforce. Recruitment campaigns have not been successful so alternative workforce plans are being developed including a scheme to recruit newly qualified social workers, linked to peer mentoring. The biggest cost pressure in children's services is the placement budgets. There has been an increase in the number of looked after children currently at 119, but there have also been an increase within that number of high cost residential placements, increasing the average weekly unit cost by £3,000 per placement. There are a number of strategies being employed to address this issue namely the fostering and SGO business cases, investment in commissioning capacity, and review of early intervention and prevention model and services.

1 Revenue Outturn Forecast

1.1 The combined budget and outturn forecast for this portfolio is

Children & Young People Service Area	Budget @ Month 6 £000's	Budget Revision Virements £000's	Budget @ Month 9 £000's	Forecast Outturn £000's	Variance @ Month 9 £000's	Variance @ Month 6 £000's	Variance @ Month 2 £000's	Forecast Movement Months 6 to 9 £000's
21st Century Schools	0	0	0	0	0	0	0	0
Individual School Budget	43,797	121	43,918	44,033	115	28	0	87
Resources	1,402	0	1,402	1,451	49	74	61	(25)
Standards	5,434	0	5,434	5,298	(136)	(42)	99	(94)
Youth	597	0	597	708	111	137	114	(26)
CYP Directorate	51,230	0	51,351	51,491	140	197	274	(57)
Children's Services	8,543	153	8,696	10,060	1,364	1,297	675	67
Total C&YP Select	59,426	274	60,047	61,551	1,504	1,494	949	10

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The most significant over and underspends are

Children & Young People Service Area	Overspend Predicted £000's	Underspend Predicted £000's	Forecast Movement Mth's 6 to 9 (Positive) / Negative £000's	Commentary on forecasted outturn
STANDARDS				
Additional Learning Needs		152	(50)	Staff vacancy and higher than anticipated recoupment income.
Primary Breakfast Initiative Grant	55		0	Take up continues to increase and therefore resulting in additional staffing requirements.
Early Years		45	(45)	Due to the establishment of a new LA nursery there are less children attending a non-maintained setting
ISB				

ISB	115		87	Increased costs of protection at schools, changes in rateable value of a secondary school has incurred increased rates charge, also professional fees have been incurred by the directorate
RESOURCES				
Support Services	66		(11)	Efficiency savings for directorate to be identified. Directorate legal costs and a small saving now slightly higher than anticipated at Q2 due to a vacancy continuing to be held open.
Service Level Agreements		10	(10)	WJEC contributions less than anticipated.
YOUTH				
Community Education Youth General	111		(26)	Delay in the start of the ESF project will result in less income in this financial year.
CHILDRENS SERVICES				
Fostering Allowances and Payments For Skills	144		(12)	Reflects financial support to the current number and age mix of children in foster care and skills payments to carers with SGO's
Younger People's Accommodation		(66)	30	A vast amount of work has been undertaken in this budget over the past two years to deliver, at present, an underspend. This budget is prone to volatility and since month 6 we are supporting two more placements costing £1,600 per week.
1y'r Enfys		(52)	0	This facility will remain closed for the entire year.
Therapeutic Service		(28)	0	Under spend due to part vacant Play Therapist post.
External Placements - LAC	1,094		174	Current activity is 70 placements compared to 64 at month 6. We are seeing a full year effect of placements that only entered the system in the latter part of last year.
External Placement - Non-LAC		(96)	0	This budget is generally used to fund the over spend within LAC.
SCYP - Placement & Support Team	122		(5)	There is a mixture of reasons for the overspend such as use of agency staff, contact and assessment costs and home to school transport. More recently this budget has funded building work to create in house contact centres.
SCYP - Supporting Children & Young People Team	233		35	Overspend relates to the employment of 7 agency workers to cover staff sickness and capacity issues and a 77% increase in transport costs since last year.
Children's Services Safeguarding Unit		(27)	(6)	Under spend relates to a vacant part time Independent Reviewing Officer post not expected to be filled until 2016/17.
Disabled Children	91		3	Large part of overspend relates to the continued use of agency staff to cover sickness.

FRS – Family Support Team	42		15	This budget has utilised the services of numerous agency social workers to cover for various staff absences.
Bus Cases / Temp Funding - Cabinet 06/05/15		(77)	(161)	Underspend relates to delayed appointment to social worker posts connected with approved business cases

Further analysis of the Service Areas contained within CYP Select can be found in Appendix 7 and Appendix 6 for Children’s Services

2 2015-16 Savings Progress

The savings required by the 2015-16 have not yet been secured.


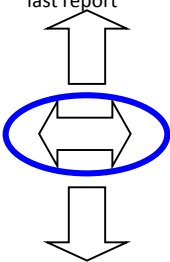
Children & Young People’s budgeted savings were £1,514,000 and at month 9 £1,377,000 have been identified. Of the remaining savings £137,000 are currently deemed to be unachievable.

Man. No.	Mandate Description	Target Savings £'s	Forecast Savings Identified £'s	Delayed In year £'s	Unachievable £'s	Forecasted Savings Variance Since Month 6 £'s
	Children & Young People					
16	Delegated Schools Budget	1,124,000	1,124,000	0	0	0
18	School Library Service	20,000	20,000	0	0	0
20	School Music Service	50,000	50,000	0	0	0
35	CYP / Additional Needs / Mounton House	120,000	120,000	0	0	0
42	Youth Service	200,000	63,000	0	137,000	0
	TOTAL C&YP	1,514,000	1,377,000	0	137,000	0

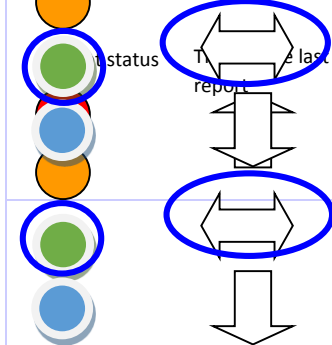
2.1 Further analysis of the Savings mandates can be found in Appendix SM.

Budget Mandates

Progress and Next Steps at Month 9

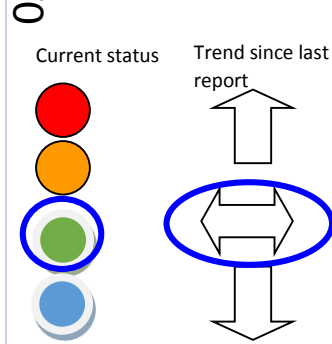
Mandate RAG	Progress up to month 9	Next Steps	Type	Year-end target	Forecasted to achieve	Variance	Owner
<p>Mandate 16</p> <p>schools delegated budgets</p> <p>Current status </p> <p>Trend since last report </p> <p>Page 269</p>	<p>Schools budgets will be protected at cash limit, this means no pay inflation and or non-pay inflation is provided for in funding, This is about finding opportunities to reduce costs in schools.</p> <p>Schools continue to be supported to seek opportunities for savings. Cluster led meetings. Schools being supported with performance management. Training needs have been identified for Head Teachers to address any skill gaps when managing their budgets. All schools continue to engage. Schools who need more significant support have been identified and support delivered action to mitigate any financial challenges. 'Quick wins' have been developed and continue to be published, shared and evaluated throughout all schools. Mandate savings delivered.</p>	<p>Continue to review resource impact for foundation phase.</p> <p>Monitor schools closely to ensure they follow their budget plans and more schools do not fall into a deficit.</p>	<p>Income</p> <p>Savings</p> <p>Total</p>	<p>0</p> <p>1124,000</p> <p>1124,000</p>	<p>0</p> <p>1124,000</p> <p>1124,000</p>	<p>0</p> <p>0</p> <p>0</p>	<p>Nikki Wellington</p>

Mandate 35 *
Transformation of School library service - combine with general library service



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Mandate 20
Gwent Music



We are undertaking a review of Additional Learning Needs. Its forms a 3 stage process.
 2017/18 fully done with 2016/17 savings*
 Stages 1 and 2 are complete.
 The team have done mandate consultation with families as part of the stage 3. (Mandate B20 for 16/17).

Gwent Music is a joint service hosted by Newport. The plan is to refocus the service to make them more efficient and increase the value by :-
 Increase charging to parents per term to bring it in line with other LA's delivering the same service i.e Newport.
 Introduce an instrument charge.
 Not fill the vacant post.
 Music access fund agreed as of 19th June by cabinet.
 Access fund launched from September 2015.

All timescales of delivery of the mandate to stay in line with the complete review timetable.
 No complete review necessary.
 All future stages of the ALN review will be monitored via the future mandates.

To continue to work with Gwent music to develop the music provision for Monmouthshire schools in light of the reductions.
 Gwent music have worked very successfully on income generation and very closely with Monmouthshire to achieve this.
 Gwent music continues to work with MCC to ensure the finding is used to support the need.

Income	0	0	0
Savings	20,000	20,000	0
Total	20,000	20,000	0

Income	0	0	0
Savings	50,000	50,000	0
Total	50,000	50,000	0

Sharon Randall-Smith
 Sharon Randall-Smith

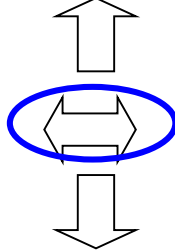
Nicky Wellington

**Mandate 42
Youth Service**

Current status



Trend since last report



Replace core funding with other income sources.
The Youth Service is exploring new ways of working. They are embracing this opportunity in an innovative way. Small groups are exploring ideas to generate income streams and savings whilst ensuring quality service is maintained.

Sourced and secured ESF funding for pre and post 16 for a period of 3 years. 130k per year secured and runs an academic year so circa 70k will be in this financial year.

Secured 10k from Supporting People's Programme to assist with Post 16 support for 1 year

Community Kitchen in Abergavenny has been awarded 5 star rating by Environmental Health and is now operational. Taking bookings for buffets; children's parties and lunches for community members

Skate Park Shop in Abergavenny is near opening
Finalising details with Legal on contract with local business
Audit and accounts have been set up
Marketing ready to go out

Propel is steadily progressing
Courses ready to advertise
Staffing being trained currently to deliver

Wellbeing is steadily progressing
Courses being written
Staff who have expertise in this area are finding it difficult to fit in this as well as working with young people on their case load as these are the priority.

Meetings with all schools to look at new roles for staff and outcomes required to meet funding criteria.
Planning and writing of resources and courses to be completed over summer period
Programme to start delivery on 2nd September 2015

Meet with SPP to finalise grant.
Case load young people to be supported. Commence project in July 2015.

Market and promote menus and packages available
Community Kitchen opened September 2015.

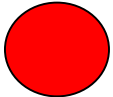
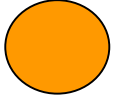


Set income targets once steady business flow is established.
Shop to be operational by September 2015
Set income targets once steady business flow is established

Still awaiting for HUB section to promote courses
Meeting with staffing team to look at where time can be found in order to free staff up to deliver specialised courses and offer more packages to families and young people

Income	200,000	63,000	137,000
Savings	0	0	0
Total	200,000	63,000	137,000

Tracey Thomas

	<p>£63,000 the savings have been met, but the service are reporting an £137k overspend at month 6.</p> <p>Alternative Delivery Plan (agreed by cabinet 2nd Dec) – 60k achievable Combination of increase in Grant Income and savings on staff vacancies. Grant income delayed to new financial year</p>	Amendment to delivery plan.	Total	200,000	63,000	137,000	
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<p>Summary - Month 10 Current status</p> <p>1</p> <p>1</p> <p>3</p> <p></p>	<p>Summary – Month 2</p> <p>1</p> <p>0</p> <p>4</p> <p></p>	<p>Summary – Month 6</p> <p>1</p> <p>0</p> <p>4</p> <p></p>	<p>Summary – Month 9</p> <p>1</p> <p>0</p> <p>4</p> <p></p>	<p>Key</p> <p> Not on target Concerns identified with delivery of target. Closely review & monitor.</p> <p> Monitoring & required to keep on track</p> <p> On target to achieve budget and action Plans.</p> <p> On target and over achieve.</p>
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Mandate Summary	RAG Month 10	RAG Month 2	RAG Month 6	RAG Month 9
16 Schools Delegated budgets				
18 School Library Service				
20 Gwent Music				
35 Transformation of ALN				
42 Youth Service				

3. SCHOOLS

3.1 Each of the Authority's Schools is directly governed by a Board of Governors, which is responsible for managing the school's finances. However, the Authority also holds a key responsibility for monitoring the overall financial performance of schools. Below is a table showing the outturn forecast Schools' balances position based on month 9 projections.

Draft Council Fund Outturn 2015/16– Schools Summary outturn position at Month 9 (Period 3)	(A) Opening Reserves (Surplus) / Deficit Position 2015/16 £'000	(B) Month 6 Draw on School Balances 2015-16 £'000	(C) Variance on Month 6 Reserve Draw £'000	(D) Draw Forecasted on School Balances @ Month 9 £'000	Forecasted Reserve Balances at 2015-16 Outturn (A+D) £'000	Forecasted Reserve Balances @ Month 6 £'000	Forecasted Reserve Balances @ Month 2 £'000
Clusters							
Abergavenny	(412)	(19)	65	46	(366)	(431)	(312)
Caldicot	(426)	153	(41)	112	(314)	(273)	(174)
Chepstow	98	63	17	80	178	161	143
Monmouth	(424)	154	(17)	137	(287)	(270)	(231)
Special	24	105	11	116	140	129	(4)
	(1,140)	456	35	491	(649)	(683)	(578)

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3.1.2 School balances at the beginning of the financial year amount to £1,140,000. The Schools budgeted draw upon balances is forecasted to be £491,000 for 2015/16, therefore leaving £649,000 as forecasted closing reserve balances.

3.1.3 Within these summary figures, of particular note, is the deficit reserve position forecasted for the Chepstow Cluster, Chepstow Comprehensive school have a recovery plan in place, the latest forecast indicates an increase in the deficit for the school. This is due to the contribution to redundancy costs that the school has incurred and additional water rate. The recovery plan is currently being reviewed and given the predicted increase in number of pupils on roll this deficit will still be met over the duration of the plan.

3.1.4 5 schools exhibited a deficit position at the start of 2015/16; Llanvihangel Crocorney (£30,947), Castle Park (£36,380), Chepstow Comprehensive (£399,926) Llandogo (£11,391) and Mounton House Special School (£142,391). Of these five schools the following four have seen an increase in their deficit balance at month 9, Llandogo (£1,770), this is due to the sickness absence at the school, Chepstow School (£24,478) due to water charges and increase in exam fees, Castle Park (£6,168) due to changes in staffing, and Mounton House Special School (£6,247), due to significant staffing changes and a delay in grant funding through the ESF project.

3.1.5. Schools balances are exhibiting a fluctuating trend with some schools showing a continuing reduction in schools balances which is of concern and others a more balanced trend.

Financial Year-end	Net level of School Balances
2011-12	(965)
2012-13	(1,240)
2013-14	(988)
2014-15	(1,140)
2015-16 (Forecast)	(649)

3.1.6 There has been a significant reliance on reserve balances to supplement school spending plans in the last 4 years across individual schools with a certain amount of replenishment. As a rough guide, prior to 2010, Welsh Government advocated that school balance levels equated to no more than £50,000 for a primary school and £100,000 for a secondary school. Members may wish to seek a comfort that balances aren't being used to subsidise and sustain core costs such as staffing.

3.1.7 Individual School Balances are available in Appendix 14 CYP School Select.

Capital Outturn Forecast

The total budget for Capital Schemes within the Children & Young People portfolio is £51,350,996 comprising an original budget of £43,100,948 together with authorised capital slippage from 2014/15 of £7,267,647 and virements or revisions of £982,401. The budget is separated under the following headings

CHILDREN & YOUNG PEOPLE	Annual Forecast	Original Budget	Slippage from 2014/15	Budget	Total Approved Budget	Provisional Slippage carried Forward 2016/17	Adjusted Budget	Forecast	Variance
				Virement or Revision	@ Month 9		@ Month 9	Over / (Under) Outturn @ Month 9	Reported @ Month 6
	£000's	£000's	£000's		£000's	£000's	£'000's	£'000's	£000's
Asset Mgt Schemes	19	0	19	0	19	0	19	(0)	0
Future Schools	13,552	42,197	6,699	0	48,896	(35,235)	13,661	(110)	(92)
School Development Schemes	269	50	219	806	1,075	(806)	269	0	0
Maintenance Schemes – Property	1,361	853	331	176	1,361	0	1,361	0	0
Grand Total	15,200	43,101	7,268	982	51,351	(36,041)	15,310	(110)	(92)

Further details of all the schemes are contained in the appendix 5C. There is an underspend anticipated in respect of Raglan 21c schools scheme, This is not available for redistribution at this stage, as there is a prior commitment to utilise this source to assist with IT capital replacement in schools during 2016-17.

APPENDIX (links to Hub)

[M9 School Movement on Reserves 2015-16 Appendix 14.xls](#)

[M9 Social Care and Health Revenue Budget Monitoring 2015-16 Appendix 6.xls](#)

[M9 CYP Revenue Budget Monitoring 2015-16 Appendix 7.xls](#)

Appendix [5C M9 Capital Monitoring Children and Young People Select 2015-16.xlsx](#)

SUBJECT: Monmouthshire's Events Update
MEETING: Economy & Development Select Committee
DATE:
DIVISIONS/WARDS AFFECTED: All

1 PURPOSE

- 1.1 To provide members with an update on the work and achievements of the Events team for 2015-2016 and on the progress of plans for events within 2016-2017.

2 RECOMMENDATIONS

- 2.1 To note the contents of the report and provide views and feedback as to how the function can further develop its outputs and outcomes in ways that aim to deliver financial and added value returns to the county and council.

3 KEY ISSUES

General

- 3.1 The Council's events strategy aligns us to Welsh Government's event strategy, enabling Monmouthshire County Council to make progress in ways which help optimise potential of everything our county has to offer. This paper outlines Monmouthshire's current position on events within the county and recognises in particular, the exceptional contributions of its communities in enabling the staging of well-operated events.
- 3.2 The Council's event team consists of two full-time roles; Event Manager and Event Facilitator. The roles operate across the Tourism, Leisure and Culture department, wider across the Enterprise Directorate and the rest of the organisation to coordinate and support the Council's resources in securing, staging and optimising the value of events.
- 3.3 The event team is forecast to achieve its target of a break-even position at the end of its first financial year of operation and this stands the team in good stead to generate a profit for 2016 to 2017.
- 3.4 From April 2015, the team has hosted work placements for fourteen students from Monmouthshire schools, the Royal Welsh College of Music and Drama and Cross Keys College; totalling 195 hours of placement time.
- 3.5 From April 2015, the team has hosted seven long-term volunteers (those who have volunteered 50 hours or more over the 12 month period) and 244 short-term volunteers (those who have volunteered for individual or a couple of events).
- 3.6 From April 2015, the team has successfully delivered Fortress Wales, the Eisteddfod Proclamation, Monmouthshire's presence at the Royal Welsh Show, Monmouthshire's presence at the National Eisteddfod 2015, Abergavenny's Festival of Cycling 2015, An Evening with Jethro, Monmouthshire Sport Awards, a Staff Conference and Fireworks at Caldicot Castle.
- 3.7 From April 2015, the team has supported Monmouthshire Food Festival, Christmas Lights at Caldicot Town Centre, school productions and Gwent Music concerts.
- 3.8 From April 2015, the team has out-sourced its services and staff to projects such as Music for Youth at the Royal Albert Hall, Glastonbury Festival, the Welsh National Opera, BBC Wales, BBC National Orchestra of Wales, St David's Hall and Gwent Music.

- 3.9 To date, the team holds a marketing database of 12,563 email addresses of people who have attended events within the county.

Monmouthshire's National Eisteddfod 2016

- 3.10 Wales' leading festival will visit Monmouthshire and the surrounding areas from 29 July to 6 August 2016 with the Maes located at Castle Meadows, close to the town of Abergavenny. The county can expect to welcome around 155,000 visitors to the area.
- 3.11 The Council has established an internal Task and Finish Group, chaired by the Leader of the Council, which meets regularly to oversee the planning of the festival. Representatives of the group also meet separately with the Eisteddfod organisers frequently to oversee operational matters.
- 3.12 The Eisteddfod's Head of Technical Services is in regular contact with Monmouthshire's Event Safety Advisory Group to communicate plans to relevant agencies and emergency services. A number of subgroups have been established to develop more detailed plans for areas such as noise management and traffic management.
- 3.13 Planning permission has been granted for the temporary change of use of Castle Meadows, Abergavenny from agricultural grazing to outdoor leisure as a venue to host to the festival.
- 3.14 Sites are currently being contracted to serve as car parks for the park and ride provision. Byfield Lane car park will be used as the drop-off point for buses and required works to make the area fit for purpose will start imminently.
- 3.15 Monmouthshire County Council is working with Team Abergavenny, Abergavenny Town Council and other community groups to prepare the town and rest of the county to welcome visitors. We held a well-attended community working session on Thursday 14 January to discuss: Dressing the town, recruiting support and volunteers, leaving a legacy and supporting local businesses. Many of the ideas raised by the groups are being worked on and implemented, such as training evenings for volunteers, signposting from the Maes to the town, developing support packs for local businesses and drafting business cases to dress the town with the Team Abergavenny.
- 3.16 All communication in relation to the Eisteddfod is currently promoting the 'Year of the Eisteddfod'. Our 'Go Red for Eisteddfod' campaign engaged 28 schools, local businesses, youth groups, adult learning students, Male Voice Choirs, the Eisteddfod Choir and received a good response across local, regional and national publications and television.
- 3.17 Current forecasts show that this project is being delivered to allocated budgets. A copy of the current budget position is attached as Appendix 1.
- 3.18 At the time of writing this report, the fundraising appeals committee have currently raised £112,000 against their £300,000 target and progress is being made. Monmouthshire County Council agreed to underwrite the Community fund at a Full Council meeting in May 2014. Reserves have been allocated to facilitate the Eisteddfod project and will be called upon in the event that the £300k target is not met and this will not have any impact on service delivery.
- 3.19 A host of additional fundraising activities are being planned including events for St David's Day, Easter, a race day at Chepstow race course and 'Choirs in the Castle' concert at Caldicot Castle where Caldicot, Chepstow and Monmouth choirs are joining forces on 18th June for an evening of entertainment, with all proceeds being donated to the cause. Studies to determine the exact nature of the Return on Investment will be conducted in conjunction with the National eisteddfod after the event.

Monmouthshire's area at the National Eisteddfod 2016

- 3.20 Monmouthshire County Council are planning to develop an area of activity which is an engaging, exciting, hands-on experience for visitors of the 2016 Monmouthshire Eisteddfod. The space is found at a prominent area of the Maes and is designed to be a flexible and attractive hive of activity.

It will promote Monmouthshire's tourism offer that is perfect for celebrating and appreciating Welsh culture. The space showcases everything that is great about the county - from food to drink, cycling to walking, exploring castles to archery.

- 3.21 The space will consist of six main zones of activity:
- Welcome entrance: Provide a visual welcome that entices visitors into the Monmouthshire area and features BeeFriendly Monmouthshire.
 - Stalls: A space for teams, partners and businesses to promote to and inform visitors with a focus on experiential, hands-on activities.
 - Performance area: A flexible, focal space where musical acts and speakers can entertain visitors.
 - Country Kitchen: An exciting food experience which showcases the county's producers, produce and recipes.
 - Indoor activity and play: Activities that provide a hands-on flavour of the county's tourism offer to include dressing up as a knight, cycling simulators, sandpits and interactive maps.
 - Leisure and Sport: A sport-focussed space that encourages participation, challenge and leisure.
4. An internal group has been set up to coordinate the operation and planning of Monmouthshire's area on the Maes. Teams and partners who wish to work with us on the area will need to apply to ensure that their objectives meet our brief.
- 4.1. £80,000 has been allocated to this project and it is currently forecasted to be delivered on budget. The budget will cover the presence on the Maes, tickets for staff and suppliers and the leisure area.

Status Quo live at Caldicot Castle

- 4.2 Status Quo are an English rock band whose music is characterized by their distinctive brand of boogie rock. They have had over 60 chart hits in the UK which is more than any other rock group. 22 of these reached the Top 10 in the UK Singles Chart. In 1991, Status Quo received a Brit Award for Outstanding Contribution to Music.
- 4.3 The band will headline an outdoor concert within Caldicot Castle's picturesque surroundings on Saturday 6 August, supported by Steve Harley & Cockney Rebel. Two local bands are to be sought to complete the line-up. The project is currently operating on budget. At the time of writing this report, two-thirds of tickets have been sold from outlets such as Monmouthshire leisure centres, Hubs.
- 4.4 Analysis of the current sales data shows that 44% of the sales are from postcodes within Monmouthshire, 40% are from postcodes requiring an hour's drive or more. 3% are from international addresses to include Belgium, France, Germany and Ireland.

Velothon 2016

- 5 On Thursday 19 November 2015, Council agreed to support the 2016 Velothon to enable the route to travel through Monmouthshire having received assurances that the route would be amended and that extensive consultation and communication with those affected will be at the centre of their work leading up to the event.
- 5.1 The independent debrief from 2015's event recommended that:
- More detailed and documented planning was required;
 - Involve local agency in planning phase;
 - Earlier finalisation of the route;
 - Earlier and effective communication of the road closures;
 - Greater oversight by Welsh Government
 - Integrated and coordinated response from agencies;
 - A greater focus on risk;
 - Identification of locations for public viewing;

- Work with communities to overcome negative views from 2015.
- 5.2 An operational delivery steering group has been established to oversee the planning of this year's event. The group has representation from all five Local Authorities, emergency services, Welsh Government, British Cycling, Run4Wales and key delivery partners. Additional subgroups have been established to look specifically at Marketing and Communication, Race Logistics and Event Logistics.
 - 5.3 Each Local Authority has an internal group to address event delivery. Monmouthshire also has an additional 'Internal Service Disruption' group that will develop arrangements for use by MCC representatives at Velothon 2016 Event Control. The document will detail the MCC services disrupted by the Velothon, arrangements agreed in relation to service continuity, event 'Command and Control' structures, ELAPS points, key contact details and how these would dovetail into existing major incident arrangements if a significant event occurred.
 - 5.4 Run4Wales has reported that 105,891 letters will be posted out this month, 17,000 of which will be directed to Monmouthshire addresses. A copy of the letter and the road closure map has been attached to this report as Appendix 2. The letter is also available electronically on Monmouthshire County Council's website and the Velothon 2016 website. A second letter drop is expected to take place at the end of April, but exact timings are to be confirmed.
 - 5.5 Jacbee, an Event Management and Marketing Specialist, has been appointed to work with Run4Wales to deliver the business element of the communication. Engagement with Monmouthshire businesses will start on Monday 29 February. A contact from Monmouthshire Business and Enterprise team has been provided to the team and we hope to provide a list of licenced premises affected by the route.
 - 5.6 Nigel Russell, from Run4Wales, attended a meeting for community and town council members and elected members on Monday 22 February at County Hall to answer questions and share information about the route. Community council and elected members expressed thanks for Nigel coming to talk them and many expressed interest in Nigel visiting their individual meetings so that their members could hear more.
 - 5.7 The route was released on Monday 22 February and is available to view on the Velothon website. Communications will increase now the route has been released.
 - 5.8 Residents and businesses are encouraged to contact the organisers with any queries. A dedicated helpline with increased capacity has been set up, a general enquiries email and a dedicated route enquiry email. MCC's contact centre and Community Hubs have been advised to direct enquiries to these channels of communication.

Future Projects

- 6 The Events team intend to scope the feasibility of the following proposals, whilst maintaining and developing its current commitments, for 2016 to 2017 and further:
 - 6.1 Broadening Monmouthshire Sports Awards to establish a 'Pride of Monmouthshire Awards' brand to include sport achievements, volunteers and young people.
 - 6.2 Installing a temporary real ice rink in Abergavenny Market Hall to coincide with a travelling European Christmas market from November 2016 to January 2017.
 - 6.3 Extending its fireworks offer to another town in Monmouthshire.
 - 6.4 Staging a large scale concert with a major, mainstream touring artist in a venue such as Bailey Park, Abergavenny or Castle Meadows, Abergavenny in the summer of 2017.

7 REASONS

- 7.1 The measurement of return of investment both economic and social across the events that currently operate inside of the County go largely unrecognised and it is important these are measured and their true value understood.
- 7.2 Events encourage growth and economic opportunities in tourism, business and enterprise and are an important tool in building resilience and community spirit
- 7.3 The Council is committed to delivering high quality events. The Eisteddfod is already planned into the timetable and there is a need to develop a supported timetable of growth and signature events in line with Monmouthshire priorities and Welsh Government Events Strategy.

8 RESOURCES

- 8.1 The events strategy is delivered and implemented by a core events team supported by the county's network of volunteers, community groups, town teams and local businesses.
- 8.2 Any major events that require investment from the Council will carry a separate report for consideration as and when required.
- 8.3 The Events team works in synchrony with teams across the organisation such as Communications and Engagement, Leisure Services, Tourism and Attractions to ensure a coordinated and consistent approach to planning.

9. SUSTAINABILITY AND EQUALITIES IMPLICATIONS:

- 9.1 The significant equality impacts identified in the assessment are summarised below for members' consideration .
- 9.2 As with delivery of any event there will be some unavoidable disruption to community life which could include transport, parking, noise and environmental factors. At all times the service will think about reducing impact to community life especially the vulnerable and where possible reduce disruption.
- 9.3 The team will do its best to identify and consult with communities well in advance to prepare them and help.

10. CONSULTEES

Strategic Leadership Team
Cabinet Members

11. BACKGROUND PAPERS

Events Strategy

AUTHOR

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Budget Position 14.01.16**Eisteddfod Costs****Infra structure**

			Spent to date	Budget remaining
Planning , TIA	20,000		16555.44	3,445
Signage	30,000		0	30,000
Access ramp	30,000		0	30,000
Adjustments to Byefield Lane Car park	10,000		0	10,000
Castle Meadows Infrastructure works	10,000		0	10,000
Potential disabled shuttle service from train station	10,000		0	10,000
		110,000	16555.44	93,445

Proclamation Ceremony

22,000	22,000	17870.66	4,129
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Previous Eisteddfod presence (2104 & 2015)

5,000	5,000	5830.83	-831
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Project Management Fees

25,000	25,000	0	25,000
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2016 Eisteddfod

Eisteddfod Presence	60,000		0	60,000
Tickets staff & members	10,000		0	10,000
Sports presence	10,000		0	10,000
Marketing	30,000		10949	19,051
		110,000	10949	99,051

272,000

280,000

Community Fund Raising

Underwriting	300,000	300,000	51205.93	220,794
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Contingency

5,500	5,500		
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agreed by Full Council 23.05.14

577,500

51205.93

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Velothon Wales
Run 4 Wales – Pod 1
Capital Retail Park
Leckwith Road
Cardiff
CF11 8EG

029 2166 0790
route@velothonwales.co.uk

Annwyl Preswylydd,

GWYBODAETH BWYSIG – VELOTHON CYMRU 22AIN O FAI 2016

Yr ddydd Sul yr 22ain o Fai 2016, bydd Velothon Cymru yn dychwelyd i ffyrdd De Cymru. Bydd y digwyddiad yn brosesawu tua 15,000 o feicwyr hamdden, gyda llawer yn codi arian i elusen yn ogystal â rhai o feicwyr gorau'r byd fel rhan o ras ffyrdd proffesiynol UCI.

Bydd y ffyrdd caeedig o 140km yn cymryd cyfranogwyr ar daith trwy galon Caerdydd i Gasnewydd, Caerllion, Wysg ag i fyny'r Tymbl cyn teithio i'r De trwy Flaenafon, Pont-y-pŵl, Caerffili â nôl i Gaerdydd dros y llinell derfyn. Rhagwelwn bydd dros £1 miliwn yn cael eu codi i amrywiaeth o elusennau ac achosion da.

Mae'n angenrheidiol i ni gau'r ffyrdd oherwydd graddfa'r digwyddiad ac i diogelu'r beicwyr.

RHYBUDD: MAE'R FFYRDD CAEEDIG YN EFFEITHIO AR EICH ARDAL CHI

Bwriad y llythyr yma yw i'ch rhybuddio am y digwyddiad ac i arddangos y llwybr awgrymedig gyda manylion penodol ar y llwybr sy'n mynd trwy eich awdurdod lleol. Bydd manylion pellach gan gynnwys map o ffyrdd caeedig manwl, yn cael ei ddosbarthu i chi o leiaf 6 wythnos cyn y digwyddiad. Mae map rhyngweithiol ar gael ar wefan y digwyddiad sef www.velothon-wales.co.uk

Os ydych oes unrhyw gyfrifoldebau neu ddigwyddiadau wedi'i threfnu ar y 22ain o Fai megis digwyddiadau ffurfiol, dyletswyddau gofal neu deithio i'ch gwyliau, gofynnwn i chi rhoi gwybod i ni cyn gynted ag sy'n bosib. Byddwn yn gwneud y gorau gallwn i ddarparu gwybodaeth ar y ffyrdd gorau o gwmpas y ffyrdd caeedig.

Rydym eisiau ymddiheuro o flaen llaw am unrhyw drafferth achoswyd. Byddwn yn ceisio cadw unrhyw amhariad i leiafswm. Hoffwn ddiolch am eich dealltwriaeth, cefnogaeth a chydweithrediad yn ystod yr amser yma.

Beth am ymuno â ni?

I ddiolch i chi am eich cydweithrediad rydym yn falch i gynnig 10% o fynediad y ras, od hoffech chi gymryd rhan yn Velothon Cymru 2016. I hawlio'r cynnig unigryw yma, ewch i www.velothon-wales.co.uk a defnyddiwch y côd **RESIDENT** ar y dudalen taliad wrth gofrestru.

Os nad ydych am gymryd rhan, rydym yn annog i chi ymuno â'r miloedd o gystadleuwyr i gefnogi'r beicwyr.

Am unrhyw ymholiadau am y llwybr neu'r ffyrdd caeedig, e-bostiwch route@velothonwales.co.uk neu ffoniwch 029 21 660 790. Am wybodaeth gyffredinol am Velothon Cymru, ewch i www.velothon-wales.co.uk neu e-bostiwch helpdesk@velothonwales.co.uk.

MAP O'R LLWYBR DROSODD

SIR FYNWY

Velothon Wales
Run 4 Wales – Pod 1
Capital Retail Park
Leckwith Road
Cardiff
CF11 8EG

029 2166 0790
route@velothonwales.co.uk

Dear Resident,

IMPORTANT INFORMATION - VELOTHON WALES SUNDAY 22ND OF MAY 2016

On **Sunday the 22nd of May 2016**, Velothon Wales will return to the roads of South Wales. The event will once again welcome up to 15,000 recreational cyclists and charity fundraisers as well as some of the world best cyclists as part of the UCI sanctioned professional road race.

The completely closed road 140km route will take participants on a journey from the heart of Cardiff through to Newport, Caerleon, Usk and up the Tumble before heading south through Blaenavon, Pontypool, Caerphilly and back into Cardiff where cyclists will cross the finish line. Many will be fundraising, and in line with 2015 it's predicted that over £1 million will be raised for charities and good causes.

Due to the scale of the event, it will be necessary to implement road closures along the route to facilitate the safe passage of the participants.

PLEASE NOTE: THE PLANNED ROAD CLOSURES FOR THE EVENT WILL AFFECT YOUR AREA

The aim of this letter is to give you advance notice of the event and showcase the proposed route, with specific detail on the part of the route which goes through your local authority. Further details, including the precise road closure times will be circulated **at least six weeks before** the event. More detailed maps, including a detailed Interactive Map, are available on the event website www.velothon-wales.co.uk.

If you are already aware of anything that will impact you on the **22nd May** such as formal events, carer responsibilities and holiday travel, please let us know as early as possible and we will do all we can to provide more information on how you can best navigate your way around the road closures.

We apologise in advance for any inconvenience this may cause and assure you that we will try to keep any disruption to a minimum. We wish to thank you for your understanding and we are grateful of your support and cooperation.

WHY NOT JOIN US?

To thank you for your cooperation we are delighted to offer you 10% off entry should you wish to take part in Velothon Wales 2016. To claim this exclusive offer, simply visit www.velothon-wales.co.uk and enter the code **RESIDENT** on the payment page of the registration process.

If you are not taking part, we encourage you to turn out on the day to join the thousands of spectators who will be cheering on the cyclists.

Email route@velothonwales.co.uk with queries regarding the route and subsequent road closures or call 029 21 660 790. For general information visit www.velothon-wales.co.uk or email helpdesk@velothonwales.co.uk.

ROUTE MAP OVERLEAF

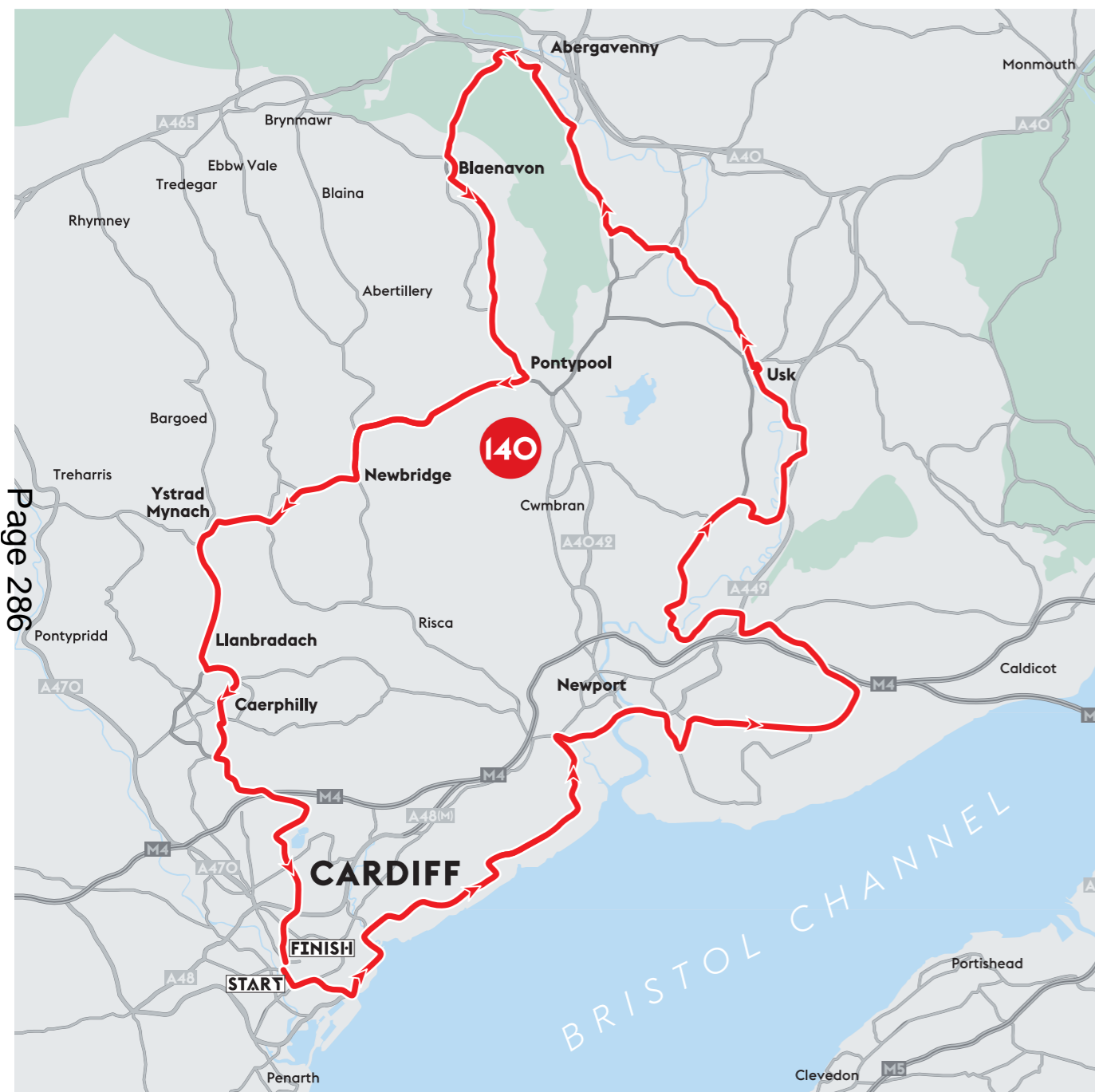
MONMOUTHSHIRE

Velothon Wales 2016 Route

Road closure details and timings will be communicated to you 6 weeks before the event.

Velothon Cymru

Bydd manylion pellach yn cael ei ddosbarthu i chi o leiaf 6 wythnos cyn y digwyddiad.

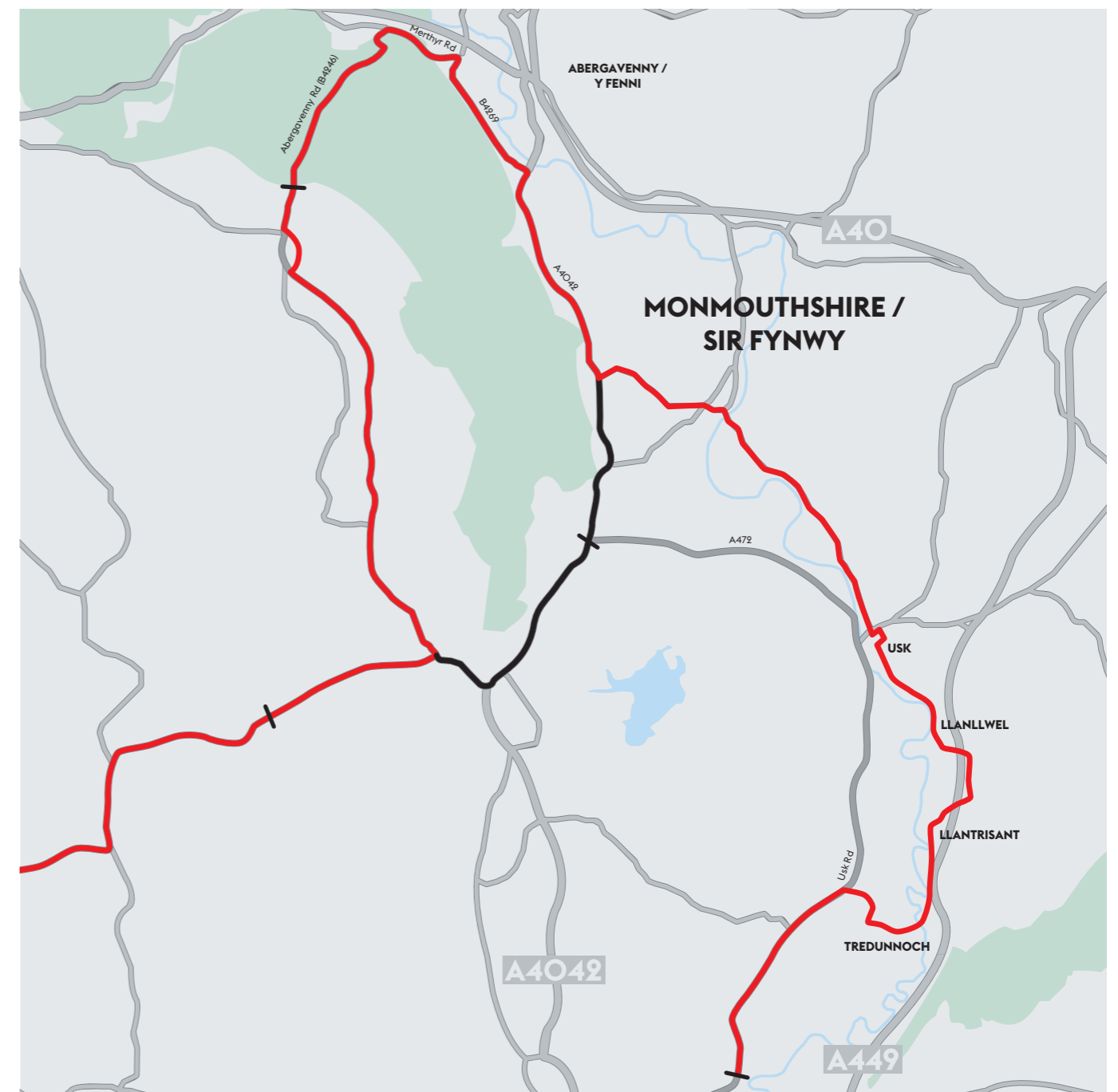


Velothon Wales 2016 Route in your area

Road closure details and timings will be communicated to you 6 weeks before the event.

Velothon Cymru

Bydd manylion pellach yn cael ei ddosbarthu i chi o leiaf 6 wythnos cyn y digwyddiad.



Monmouthshire's Scrutiny Forward Work Programme 2016

Economy Select Committee				
Meeting Date	Subject	Purpose of Scrutiny	Responsibility	Type of Scrutiny
3rd March 2016	Contaminated Land Inspection Strategy	Invite Strong Communities ~ consider the strategy ahead of Cabinet in May.	Dave Jones	Pre-decision Scrutiny
	Monmouthshire Business Enterprise Strategy	To review performance in line with the Business Enterprise Strategy.	Cath Fallon	Performance Monitoring
	Month 9 Budget Monitoring	To scrutinise the financial position of the directorate at month 9.	Mark Howcroft	Budget Monitoring
	Events Strategy	Scrutiny of The Events Strategy and to provide an update on the Eisteddfod and the Velethon.	Dan Davies	Policy Development

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Council and Cabinet Business – Forward Plan

Monmouthshire County Council is required to publish a Forward Plan of all key decisions to be taken in the following four months in advance and to update quarterly. The Council has decided to extend the plan to twelve months in advance, and to update it on a monthly basis.

Council and Cabinet agendas will only consider decisions that have been placed on the planner by the beginning of the preceding month, unless the item can be demonstrated to be urgent business

Subject	Purpose	Consultees	Author
22ND JANUARY 2016 – COUNCIL			
Final Budget Proposals			Joy Robson
Council Tax Reduction Scheme 2016/17			Ruth Donovan
Affordable Housing SPG			Mark Hand
Community Infrastructure Levy			Mark Hand
27TH JANUARY 2016 – INDIVIDUAL CABINET MEMBER DECISIONS			
Allocation Policy – Amendment – Syrian Relocation			Ian Bakewell
3RD FEBRUARY 2016 - CABINET			
Budget Monitoring report – month 9	The purpose of this report is to provide Members with information on the forecast outturn position of the Authority at end of month reporting for 2015/16 financial year.		Joy Robson/Mark Howcroft
Changes to school funding formula	To approve changes to the school funding formula for: Threshold payments, primary school		Nikki Wellington

Subject	Purpose	Consultees	Author
	top up and free school meal funding for primary schools.		
New Monmouthshire Carers Strategy			Deborah Saunders
10TH FEBRUARY 2016 – INDIVIDUAL CABINET MEMBER DECISIONS			
23rd FEBRUARY 2016 – SPECIAL COUNCIL			
SRS			Peter Davies
City Deal			Peter Davies
24TH FEBRUARY 2016 – INDIVIDUAL CABINET MEMBER DECISIONS			
Usk Play Lottery bid			Tim Bradfield
Poplars Road			Peter Woodrow
Proposed traffic regulation Tory St & Agincourt			Phaedra Cleary
Transfer of Post from Aneurin Bevan University Health Board to MCC			Bernard Boniface
Redundancy report			Ruth Donovan
Childcare Development Worker			Sue Hall
JAFF Project coordinator			Andrew Kirby
2nd MARCH 2016 – CABINET			
NEET strategy			Tracey Thomas
Welsh Church Fund Working Group	The purpose of this report is to make recommendations to Cabinet on the Schedule of Applications 2015/16 meeting 5 held on the 21 st January 2016		Dave Jarrett
2015/16 Education & Welsh Church Trust Funds Investment & Fund Strategy	The purpose of this report is to present to Cabinet for approval the 2016/17 Investment and Fund strategy for Trust Funds for which the Authority acts as sole or custodian trustee for adoption and to approve the 2015/16 grant allocation to Local Authority beneficiaries of the Welsh Church Fund.		Dave Jarrett

Subject	Purpose	Consultees	Author
New Monmouthshire Carers Strategy (Adults)			Deb Saunders
Mounton House Formula Change			Nikki Wellington
Proposed closure of Llanfair Kilgeddin CIW VA Primary School (23 rd March)			Debbie Morgan
Proposed establishment of an ALN facility and reduction in the capacity at Monmouth Comprehensive School (23 rd March 2016)			
Mardy Park			Colin Richings
Proposed closure of Deri View			Debbie Morgan
Removal of post from CYP			Sharon Randall Smith
SRS			Sian Hayward
Pay Policy			Sally Thomas
9th MARCH 2016 – INDIVIUDAL DECISION			
Flexi retirement request			Ian Bakewell
Allocation Policy			Karen Durant
10th MARCH 2016 – COUNCIL			
Final Composite Council Tax Resolution	To set budget and council tax for 2016/17		Joy Robson
Treasury Management Strategy 2016/17	To accept the annual treasury management strategy		Joy Robson
The Future Food Waste Treatment Strategy: Outline Business Case & Inter Authority Agreement	for the Council to consider the inclusion of MCC in the Heads of the Valleys Anaerobic Digestion Procurement. To agree the Outline Business Case and the Inter Authority Agreement which commits the Council to the procurement and partnership and a 15-20 year contract.	SLT Cabinet	Rachel Jowitt
The Future Food Waste	for the Council to consider the inclusion of MCC	SLT	Rachel Jowitt

Subject	Purpose	Consultees	Author
Treatment Strategy: Outline Business Case & Inter Authority Agreement	in the Heads of the Valleys Anaerobic Digestion Procurement. To agree the Outline Business Case and the Inter Authority Agreement which commits the Council to the procurement and partnership and a 15-20 year contract.	Cabinet	
Waste Strategy			Carl Touhig/ Roger Hoggins
CIL			Martin Davies
SPG			Martin Davies
Draft Diary			
IRPW report			
Pay Policy			Sally Thomas
17TH MARCH 2016 – SPECIAL COUNCIL			
City Deal (TBC)			Peter Davies
13TH APRIL 2016 - CABINET			
Digital Strategy	To update members on progress with the digital strategy and to agree the next steps.		Sian Hayward
Welsh Church Fund Working Group	The purpose of this report is to make recommendations to Cabinet on the Schedule of Applications 2015/16, meeting 6 held on the 25 th February 2016		Dave Jarrett
Flood Plan			Dave Harris
Community Coordination evaluation of pilot			Matt Gatehouse
27th APRIL 2016 – INDIVIDUAL DECISION			
SHG Programme			Shirley Wiggam
4TH MAY 2016 - CABINET			
Welsh Church Fund Working Group	The purpose of this report is to make recommendations to Cabinet on the Schedule of Applications 2015/16, meeting 7 held on the 24 th March 2016		Dave Jarrett
BUDGET MANDATE	To provide Cabinet with an assessment on the		Deb Mountfield

Subject	Purpose	Consultees	Author
2016/17 – PREPAREDNESS ASSESSMENT	preparedness of services to deliver the 2016/17 budget mandates.		

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