Meeting of:	**CABINET**
Date of Meeting:	**22 OCTOBER 2024**
Report Title:	**BRIDGEND COUNTY BOROUGH COUNCIL INVASIVE SPECIES POLICY**
Report Owner / Corporate Director:	**REPORT OF THE CORPORATE DIRECTOR COMMUNITIES**
Responsible Officer:	**ZAK SHELL HEAD OF OPERATIONS**
Policy Framework and Procedure Rules:	**There is no effect upon the Policy Framework and Procedure Rules.**
Executive Summary:	**This report is to update Cabinet on work to develop an Invasive Non-Native (INNS) Policy and seek approval of the Policy.** **INNS can cause environmental, economic, legal, and social issues and found to cost the United Kingdom approximately £1.7 billion annually.** **Several pieces of legislation relate to INNS with the most notable being section 14 of the Wildlife and Countryside Act 1981 and the Environmental Protection Act 1990 (EPA). These make it an offence to allow these species to spread in the wild and to remove from site without following correct procedure.** **Although individual departments within the Council do seek to treat invasive species on BCBC land holdings, this is often reactionary. To effectively control the spread of INNS across the county borough, BCBC should ensure a more proactive and joined up approach is taken to INNS management. The BCBC INNS working group comprises of representatives from several departments, having recently agreed on the BCBC INNS Policy./** **A background to issues associated with INNS and legislation is provided within the document providing a rationale for the INNS policy.** **The policy also details the scope and approach taken by the council to INNS management. Measures to prevent the establishment of INNS within the county borough and to**

	control or eradicate newly introduced and established INNS are detailed under this section of the policy. **A procedure to be followed in response to INNS reported is also provided within the policy. The INNS reporting procedure will provide clear routes for response to reports. These routes will include reports not verified, verified on BCBC land and verified on adjacent land.** **Other sections within the policy include guidance on best practice for INNS management and guidance for certain department on integrating prevention or mitigation measures into ways of working.**

1. Purpose of Report

1.1 The purpose of this report is to present the draft Invasive Non-Native Species Policy to Cabinet for approval, and to request a decision from Cabinet in relation to the preferred way forward for the treatment of Japanese Knotweed on BCBC assets.

2 Background

2.1 There are an increasing number of environmental, economic, legal, and social problems caused by Invasive Non-Native Species (INNS). A report commissioned by Defra has shown that INNS cost the UK £1.7 billion annually. Additionally, many INNS challenge the survival of some of our rarest species and damage some of our most sensitive ecosystems.

2.2 The primary legislation relating to INNS in the UK is the Wildlife and Countryside Act 1981. Under Section 14 (2) of the Act it is an offence to plant or otherwise cause these plants to grow in the wild, which is prosecuted under criminal law. The full list of invasive non-native plant species is listed under Part II of Schedule 9 and includes Japanese knotweed, Himalayan balsam, and Rhododendron ponticum, all of which have colonised within Bridgend County Borough. The full list of invasive animal species is listed under Part I of Schedule 9 and includes grey squirrel which has also colonised within Bridgend County Borough.

2.3 Furthermore, under Section 34 of the Environmental Protection Act 1990 (EPA), the species listed under Part II of Schedule 9 of the Wildlife and Countryside Act 1981 are classed as ‘Controlled Waste’ and consequently should be disposed of at a licensed landfill site under the Environmental Protection Act (Duty of Care) Regulations 1991. If these species are not disposed of in the correct manner, a civil offence would occur and can be prosecuted by Natural Resources Wales.

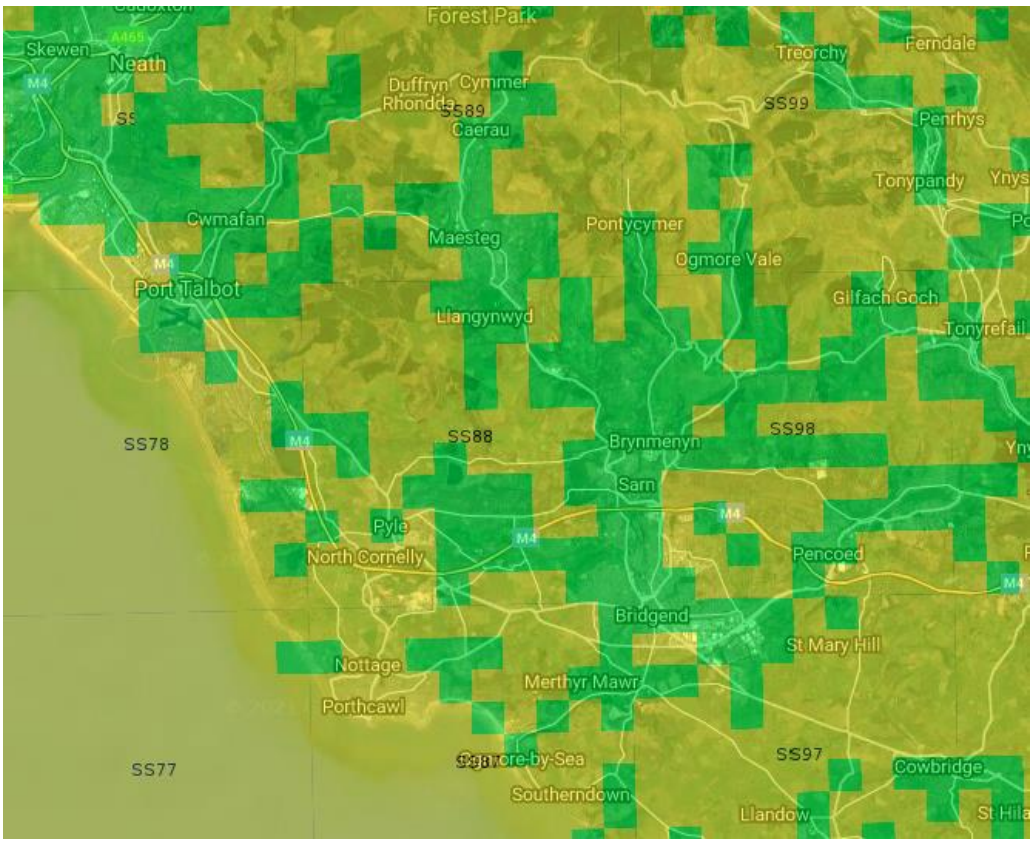
2.4 There are also several other pieces of legislation which have several implications for statutory agencies including local authorities.

- The Anti-Social Behavior, Crime and Policing Act 2014 – provides powers to the police or local authorities to serve a Community Protection Notice on to control or prevent the growth of knotweed.
- The Town and Country Planning Act 1990 - provides powers to local authorities to serve a management notice on a neighboring landowner if the amenity of surrounding land is impacted by the condition of their land.
- The Network Rail Infrastructure v Williams & Waistell [2018] ruling – the claimant was awarded compensation due to the presence of knotweed on neighboring land having a negative impact upon the amenity of the claimant's land.
- The Davies v Bridgend County Borough Council [2023] ruling - property owners may claim damages in private nuisance for residual diminution in value of their premises following encroachment of Japanese knotweed from neighbouring land.

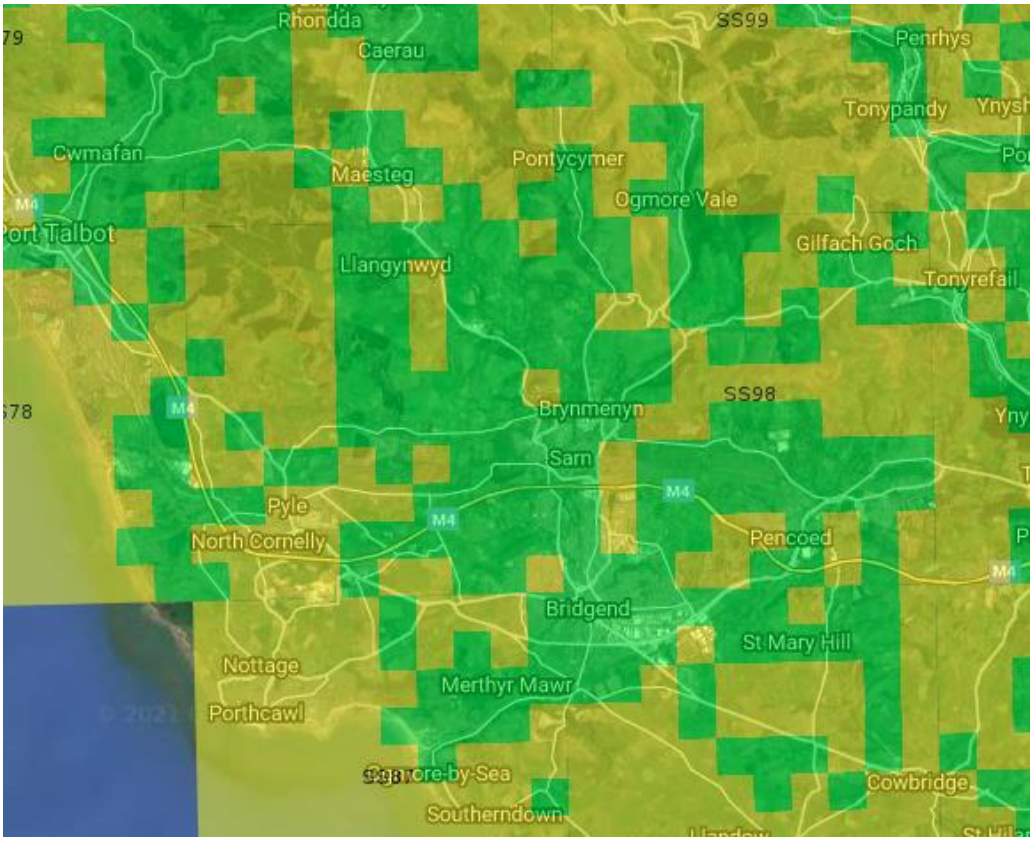
  On May 8th 2024, the Supreme Court overturned a decision made by the Court of Appeal in the case of Davies v Bridgend County Borough Council. It was found, following knotweed treatment, that BCBC was not responsible for the residual diminution in value of the claimant's land where spread had occurred before the council was in breach of duty. Although claims may still be raised against the council in cases where spread may have occurred due to breach after 2013.

  In bringing such claims the onus must now fall to the claimant to prove that a breach in duty, by the council, had caused a loss of amenity with the use of their property and residual diminution in value.

2.5 Many non-native invasive fauna and flora species are present in the county borough, with some species found extensively across the county borough, including Japanese knotweed and Himalayan balsam (see below).



Distribution of Japanese Knotweed (green) across Bridgend County Borough



Distribution of Himalayan Balsam (green) across Bridgend County Borough

2.6 INNS and their treatment both for control/management and to avoid potential legal claims is creating growing pressure on resources and the requirements to pre-empt activities.

2.7 Research has shown that local biodiversity declines greatly where Invasive non-native species have established. Control and eradication of Invasive non-native species will enhance biodiversity and help to restore habitats in these areas. Under Section 6 of the Environment Act (Wales) 2016, public authorities have a duty to maintain and enhance biodiversity and promote the resilience of ecosystems in the exercise of their functions.

2.8 In response, a cross-directorate working group has been established to consider the options BCBC could take regarding its approach to INNS management.

3. Current situation

3.1 BCBC currently undertakes a level of INNS treatment on its land holdings but approaches and frequencies differ between service areas.

Inconsistency of approach has the potential to increase the risk of legal challenge. Alongside this, a perceived insufficient level of treatment may also present a level of risk in relation to legal challenge.

Therefore, to mitigate against the risk of legal challenge, a change in approach is proposed to increase consistency of approach and overall frequency of treatment.

3.2 In response to these issues the following actions have been undertaken or are underway:

- The appointment of an INNS Officer as a 'point person' to coordinate the Council's actions regarding Knotweed. This officer has been in place for nearly two years and has been progressing work in relating to the two other suggestions made.
- The fostering of cooperative approach to INNS management with other local authorities and organisations.
- The facilitation of a cross directorate approach to INNS management through an INNS working group and public engagement through volunteering events.

- A mapping exercise focused on INNS present on BCBC land, specifically Knotweed and balsam species, was completed in April 2024.
  As a part of the exercise, matrices were also produced to prioritise where treatment should be best focused according to perceived legal risk posed to BCBC by the presence of knotweed and Balsam. This information enables BCBC to take a more proactive approach to treatment and provide further protection against future claims, subject to budget availability.

- Procurement have been consulted on the development of an INNS contractor framework. Further work on the framework can only proceed once confirmation has been received regarding budgets for future knotweed treatment as outlined at Section 8 of the report.

- Action Plans are currently in draft for INNS currently found within the county. These should be read alongside the INNS Policy and should act as a reference guide with regards to identification, legislation, and best practice for each species of invasive plant.

- A centralised INNS management database is under development.
  This database will include all BCBC records of complaints, response to the reporter, inspections/monitoring, and treatments in relation to INNS including Knotweed. Integrating the prioritisation map data produced by the INNS mapping exercise into the database should inform Knotweed treatment programmes for each department.
  It should provide a single point where all records relating to Knotweed and other INNS can be easily searched and checked by nominated individuals from each department. The database will make checking INNS related records less onerous and time consuming.
  This has allowed the Invasive species officer to pull together records and, along with INNS working group meetings, has allowed BCBC to consider its position with regards to inspection and treatment of knotweed. This was the third suggestion posed by Dolmans solicitors.

- The BCBC INNS working group have met regularly and are consulted on all relevant projects. The group included the representatives of the following departments:
  - Climate Change Response
  - Corporate Landlord
  - Finance
  - Green Spaces and Bereavement Services
  - Highways Network
  - Legal
  - School modernisation

3.3 A draft BCBC INNS policy, attached as **Appendix 1**, has been discussed and agreed upon by all members of BCBC INNS working group.

3.4 The BCBC INNS policy covers 6 topics:

- Background to the Policy
  Reasoning and key legislation behind the policy.

- The Scope of and approach to INNS management by the Council.
  Measures taken to prevent the establishment of INNS within the county borough and to control or eradicate newly introduced and established INNS. Where INNS have been found newly introduced to South Wales, BCBC will work with stakeholder groups and other local planning authorities to prevent establishment INNS within their respective areas.

  To inform where management of established INNS should be prioritised. The policy should be read alongside the BCBC INNS prioritisation matrices. These matrices, such as the Knotweed prioritisation matrix produced as a part of the INNS

mapping exercise, will inform each department as to where treatment should be prioritised.

All proposed measures which have the potential to affect BCBC departments, represented within the INNS working group, will first be discussed, and agreed upon.

- Best practice in relation to INNS Management methods
  Guidance on acceptable and the most effective INNS treatment and management.

- INNS reporting procedure
  All reports of INNS made to BCBC will be verified and recorded on an INNS management database. After verification the appropriate follow up actions will be taken, which will be influenced by whether the INNS was noted on BCBC land.
  If it is established that the INNS reported was found on BCBC land, then appropriate management will be undertaken, or a treatment programme put in place by the department responsible.

  Should the reported INNS found to not be on BCBC owned land then an awareness letter will be sent to the landowners concerned. Should this land be adjacent to BCBC land and found to negatively impact its amenity then the INNS encroachment response hierarchy will be followed. The hierarchy consist of 4 escalating steps from an awareness letter to direct action undertaken by BCBC.

- Prevention or mitigation of INNS spread incorporated into ways of working
  Guidance on how the introduction and spread of INNS could be prevented or mitigated during the development planning stage through appropriate survey and management plans.

  Guidance is also provided for those involved with roadworks or streetworks before undertaking any work. Environment notes relating to INNS presence will be shared with statutory bodies such as utility companies. This information will inform appropriate avoidance and mitigation measures to be undertaken.

- Relevant INNS related legislation
  A full list of legislation relevant to INNS to inform staff of the law surround INNS and support the reasoning behind the policy.

3.5 The draft policy, attached as Appendix 1, was discussed with members at a Council member awareness session on February 14th, 2024, and with Town and Community Council members at the Town and Community Council Forum on March 11th, 2024. All Councillors were invited to these sessions via Democratic Services.

3.6 A series of options are available in relation to the future management approach. They are set out in Table 1 below with a high-level description and a summary of currently considered benefits and risks.

Table 1: Future management options

		Summary	Benefits	Risks
(a)	Maintain existing approach and budgets	Continuation of current levels of management	No increase in financial commitment	Risk of claim and impact to the environment increasing over time
(b)	Maintain existing budgets within service areas, but better target spend	Continuation of current levels of management with a focus on high priority areas deemed to have the most impact on safety and amenity.	A modest increase in the amount of knotweed controlled by BCBC	Risk of claim and ecological impact still posed by many infested sites.
(c)	High priority treatment	Continuation of current treatment plans and the treatment of all sites classed as High priority	Treatment of all high priority stands would help prevent the council from being in breach of legislation. Reduced risk of claims where the risk of spread is high.	Increased financial commitment for treatment by each department. If untreated, medium priority sites will pose a greater risk in the near future.
(d)	High and Medium priority treatment	Continuation of current treatment plans and the treatment of all sites classed as high and medium priority	If both high and medium priority stands were to be treated this would further reduce the risk to the council. Treatment would remove the vast majority of knotweed stands which could develop onto high risk stands in the near future	Increased financial commitment for treatment by each department. If untreated, low priority sites could also pose a greater risk in the future.

(e)	Treatments of all known INNS	Continuation of current treatment plans and the treatment of all stands present on BCBC managed land	The treatment of all stands would help stem the spread of knotweed through and from council land, further reducing risk to the council and meeting our duties, such as those under Section 6 of the Environment Act 2016	Increased financial commitment for treatment by each department

3.7 Similar to Network Rail in its case against Williams & Waistell [2018], the Council would have a duty to treat and prevent knotweed spreading to neighboring land when it has actual or constructive knowledge of knotweed being present on its property. If the Council were to start treating all high priority stands prior to spread onto neighboring land, it would prevent the council from being in breach of legislation. This should help prevent many potential claims from being filed.

3.8 If both high and medium priority stands were to be treated until controlled, this would further reduce the risk to the Council by controlling stands that may develop into those that could pose a risk in the near future.

3.9 The treatment of all stands would help stem the spread of knotweed through and from council land, further reducing risk to the council and meeting our duties, such as the Environment Act 2016 Section 6 duty. The duty is to maintain and enhance biodiversity within the proper exercise of the Council's functions and where INNS such as knotweed have been controlled/eradicated, levels of biodiversity have been shown to recover.

3.10 According to the study Using Single- and Multi-Date UAV and Satellite Imagery to Accurately Monitor Invasive Knotweed Species (FM Martin et al. 2018), areas infested by knotweed were found to increase sixfold over six years. This would imply that if initial treatment were to be delayed by 6 years this could result in treatment costs being significantly higher than if treatment had been undertaken immediately.

4. Equality implications (including Socio-economic Duty and Welsh Language)

4.1

The protected characteristics identified within the Equality Act, Socio-economic Duty, and the impact on the use of the Welsh Language have been considered in the preparation of this report. As a public body in Wales the Council must consider the impact of strategic decisions, such as the development or the review of policies, strategies, services, and functions. It is considered that there will be no significant or unacceptable equality impacts because of this report.

5. Well-being of Future Generations implications and connection to Corporate Well-being Objectives

5.1 The Well-being of Future Generations (Wales) Act 2015 Assessment Template has been completed and a summary of the implications from the assessment relating to the five ways of working is outlined below in respect of the proposal:

Long term
The Policy will help balance the short-term needs of council to carry out its duties against its long-term need to eradicate, reduce, or control INNS present upon its land.

Integration
The policy will likely contribute to BCBC efforts to achieve the public service board (PSB) wellbeing objectives. The wellbeing objectives that the policy will contribute to achieving are the Healthy choices in a healthy environment and Reduce Social and economic inequalities objectives.

Proactive management of INNS will help improve access to nature and restore biodiversity within those areas affected. Improved access and restored native flora may help improve appreciation of local nature within areas affected. The benefits to the natural environment, and potentially to the physical and mental wellbeing of Bridgend County Borough residents, would contribute to BCBC meeting both healthy Wales and resilient Wales goals under the Well-being of Future Generations act.

Involvement
Under the policy, both local internal and external stakeholders will be engaged to raise awareness and improve understanding of INNS. The aim is to have local stakeholders, such as local groups, become more involved with INNS recording and the management of certain INNS.

Collaboration
Under the policy, regarding INNS management, the BCBC INNS Working Group will help facilitate collaboration between BCBC departments.

Prevention
A few key aims of the policy are the prevention of established INNS from spreading further and the prevention of any additional INNS from being introduced into the county borough. Dependent on the species, INNS can have environmental, economic and health impacts. Any preventative actions taken now will likely avoid or mitigate potential issues in future.

6. Climate Change Implications

6.1 Under the policy, the management of INNS would assist with efforts to progress the reestablishment of native species within areas affected, which could include trees. These trees would lock in carbon and the shade provided would have cooling effects on those areas. Where native trees have reestablished along rivers, streams and other waterways, this cooling effect could also reduce rates of evaporation further benefiting the local environment.

6.2 It should also be noted that should INNS be allowed to establish within any areas of peatland within Bridgend this may have negative effects potentially causing the area to dry and turn from a Carbon sink, which locks in carbon, to a Carbon source, which emits carbon.

7. Safeguarding and Corporate Parent Implications

7.1 It is not foreseen that the Policy will impact BCBC duties under the Safeguarding Policy.

8. Financial Implications

8.1 Currently departments procure INNS treatment services independently of each other. The cost of knotweed treatment may vary from year to year.

8.2 The amount spent annually by BCBC departments on INNS treatment is detailed in Table 2 below.

Table 2: BCBC departmental spend on INNS treatment

Department yearly spend on Knotweed treatment						
	2018	**2019**	**2020**	**2021**	**2022**	**2023**
Rights of Way	£1,500	£1,500	£1,500	£1,500	£1,650	£1,650
Highways	£5,320	£3,135	£3,135	£1,152	£1,610	£1,444
Greenspaces	£920	£4,325	£4,325	£922	£1,194	£3,108
Property	£5,400	£9,750	£9,750	£8,316	£7,722	£9,504
Totals	£13,140	£18,710	£18,710	£11,890	£12,176	£15,706

8.3 Much of the annual spend on Knotweed control relates to follow up treatment under knotweed treatment programmes. Knotweed may take several years to successfully control.

8.4 If BCBC are to take the proactive approach towards INNS treatment that is advised, then to successfully control knotweed infestations, several options of a way forward are available, set out as options (c), (d) and (e) in Table 1.

8.5 Table 3 below sets out the currently estimated increase in budget required by each department for each of the potential options, to prioritise the treatment of knotweed stands according to their level of risk.

Table 3: Estimated costs relating to enhanced Japanese Knotweed treatment.

Additional funds required*			
Department	**Option (c) High Priority**	**Option (d) High + Medium Priority**	**Option (e) All stands**
Rights of Way	No change	No change	No change
Highways	£3,356	£97,496	£98,940
Green spaces	£24,192	£28,624	£28,744
Property	£68,812	£82,784	£86,056
Climate Change Response	£14,262	£14,262	£14,262
Total	**£110,622**	**£223,166**	**£228,002**

*** Required treatment budget figures were calculated by subtracting the current amount spent on knotweed treatment from the predicted annual On Asset costs presented within the INNS mapping report.**

8.6 Options (a) and (b) set out in section 3.6 above are not currently considered to require any additional revenue budget.

8.7 Option (c) is currently estimated to require an enhanced annual budget of £110,622; option (d) is currently estimated to require an enhanced annual budget of £223,166; option (e) treatment of all Japanese Knotweed is currently estimated to cost an enhanced annual budget of £228,002.

8.8 It is to be noted that it is possible for Cabinet to adopt the policy, attached as Appendix 1, regardless of which management approach is chosen. The difference between choosing different management approaches will however impact on the extent and scale to which BCBC is able to carry out actions in line with the policy.

8.9 Given the timing of this report in relation to the Medium Term Financial Strategy (MTFS) timetable, options (c), (d) and (e) cannot be progressed at this time.

8.10 However, if Cabinet are minded to present the cost pressure to be considered as part of the MTFS, the adoption of option (c), (d) or (e), could not commence until the outcome of the budget for 2025-26 is approved by Council in February 2025.

8.11 It is difficult to predict future changes in treatment costs, but an estimated rate of knotweed spread, mentioned within the INNS Mapping report may provide an indication when compared against current costs. According to a study cited within the INNS mapping report, areas infested by knotweed were found to increase sixfold over six years. This would imply that if initial treatment were to be delayed by 6 years this could result in treatment costs being significantly higher than if treatment had been undertaken immediately.

9. Recommendations

9.1 It is recommended that Cabinet:

- Note work undertaken by officers.
- Approve the draft policy, attached as Appendix 1.
- Consider the management options presented in section 3.6, and their financial implications presented in section 8.7, and identify their preferred way forward, noting

that options c, d and e can only progress subject to the outcome of the Medium Term Financial Strategy in February 2025.

Background documents

None