



CHEL TENHAM

BOROUGH COUNCIL

Dear Sir / Madam

You are hereby summoned to attend a meeting of Council to be held in the Municipal Offices, Promenade, Cheltenham, GL50 9SA, on **Monday, 13 December 2010 at 2.30 pm** at which meeting the following business will be transacted and any other business which may be legally transacted at such a meeting.

Councillors
Garth Barnes, Ian Bickerton, Nigel Britter, Chris Coleman, Tim Cooper, Barbara Driver, Bernard Fisher, Jacky Fletcher, Wendy Flynn, Rob Garnham, Les Godwin, Penny Hall, Colin Hay, Rowena Hay, Diane Hibbert, Sandra Holliday, Peter Jeffries, Steve Jordan, Robin MacDonald, Paul Massey, Helena McCloskey, Andrew McKinlay, Heather McLain, Paul McLain, John Rawson, Anne Regan (Chair), Diggory Seacome, Duncan Smith, Malcolm Stennett, Charles Stewart, Klara Sudbury, Lloyd Surgenor, Jo Teakle, Pat Thornton, Jon Walklett, Andrew Wall, John Webster, Paul Wheeldon, Simon Wheeler and Roger Whyborn

Agenda

- 1. PRAYERS**
- 2. APOLOGIES**
- 3. DECLARATIONS OF INTEREST** (Pages 1 - 2)
- 4. TO APPROVE AND CONFIRM THE MINUTES OF THE MEETING HELD ON 11 OCTOBER 2010** (Pages 3 - 10)
11 October 2010
- 5. PUBLIC QUESTIONS**
None received.
- 6. COMMUNICATIONS BY THE MAYOR**
- 7. COMMUNICATIONS BY THE LEADER OF THE COUNCIL**
- 8. MEMBER QUESTIONS**
- 9. PETITION REGARDING IMPERIAL GARDENS** (Pages 11 - 18)
A debate on a petition received at the last Council meeting regarding Imperial Garden's flowerbeds
- 10. RECOMMENDATIONS FROM CABINET**

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| 11. MEMBERS' ALLOWANCES REVIEW
Report of the Assistant Chief Executive | (Pages 19 - 38) |
| 12. REVIEW OF NORTH PLACE & PORTLAND STREET DEVELOPMENT BRIEF & CIVIC PRIDE URBAN DESIGN FRAMEWORK
Report of the Leader | (Pages 39 - 96) |
| 13. REVIEW OF THE COUNCIL'S CONSTITUTION
Report of the Chairman of Staff and Support Services Committee – Councillor Jordan | (Pages 97 - 152) |
| 14. STRATEGIC COMMISSIONING
Report of the Chief Executive | (Pages 153 - 198) |
| 15. 2010/11 TREASURY SEMI ANNUAL REPORT
Report of the Cabinet Member Finance and Community Development | (Pages 199 - 206) |
| 16. NOTICES OF MOTION
Proposed by: Cllr K Sudbury
Seconded by: Cllr P Jeffries | |

This council wishes to recognise the very significant contribution Gloucestershire Youth Service and its staff make in Cheltenham both in youth centres and with regard to detached youth work. We also recognise the many voluntary groups, who play an important role in youth provision in the town.

Cheltenham's youth centres are highly valued, provide positive opportunities for young people in a safe environment, have a positive impact on young people's development and are widely regarded as helping reduce anti-social behaviour in our communities.

This Council notes the planned budget cuts and service changes contained in Gloucestershire County Council's Meeting the Challenge proposals. Whilst accepting that the County faces difficult budgetary pressures and a need to make savings, this Council is concerned that the budget cuts to young people's services will mean an end to highly valued County Council funded universal youth provision.

Therefore this Council:

- 1) Resolves to ask the Chief Executive of Cheltenham Borough Council to write to the Leader of Gloucestershire County Council asking him to reconsider the decision to withdraw all County Council youth work activity from youth centres and to allocate only £50k to each district to help community and other groups to extend existing services and create new

ones;

- 2) Seeks urgent discussions with County to clarify their future proposals and how best we can work with them to provide best possible youth service;
- 3) Will seek wherever possible to work in partnership with the County Council, community and voluntary groups and the young people themselves to strengthen and develop the future of universal youth services in the town; and
- 4) Asks Cheltenham Borough Council Cabinet to develop plans on how to allocate the funding available to achieve the best possible outcomes for the benefit of our young people and the rest of the community.

17. TO RECEIVE PETITIONS

If any

18. ANY OTHER ITEM THE MAYOR DETERMINES AS URGENT AND WHICH REQUIRES A DECISION

Consideration of the following item is deemed to be for the purposes of a special meeting to consider executive arrangements under Schedule 4 Local Government and Public Involvement in Health Act 2007

19. NEW EXECUTIVE ARRANGEMENTS
Report of the Assistant Chief Executive

(Pages 207 -
212)

Contact Officer: Rosalind Reeves, Democratic Services Manager, 01242 775153
Email: democratic.services@cheltenham.gov.uk

Andrew North
Chief Executive

Public Information

Emergency Evacuation Procedure at the Municipal Offices

- (i) In the event of a fire you will hear a continuous alarm.
In the event of a bomb alert the alarm will sound in repeated short bursts.
- (ii) Members, officers and the public should leave the building promptly and in a quiet and orderly fashion using the nearest available escape routes and assemble on the Promenade footway by the War Memorial.

Attendance at Meetings - Local Government (Access to Information) Act 1985

Meetings are open to the public and a limited amount of public seating is available. Copies of the agenda will also be available. You may be asked to leave the meeting if any "exempt" (confidential) business is considered. This will normally be shown on the agenda

Inspection of Papers - Local Government (Access to Information) Act 1985

We can also arrange for copies of individual decision records, reports or minutes to be supplied. If you wish to inspect minutes or reports (other than those which are exempt) relating to any item on this agenda, please contact Democratic Services. The background papers listed in a report may also be inspected. Please notify Democratic Services who will arrange with the report author for papers to be made available to you at a mutually convenient time.

All meeting information is published on the Council's Internet website at:
www.cheltenham.gov.uk.

**If you have difficulty reading this agenda please let us know
and we will do everything we can to meet your requirements.**

COUNCIL PROCEDURE RULES – SUMMARY

Note: this summary is intended to assist members but where necessary reference should always be made to the actual Council Procedure Rules

1. RULES OF DEBATE

- (a) Once a motion has been proposed, no speeches can be made until it is seconded. (Rule C6.2)
- (b) A member seconding a motion can reserve his or her speech until later. (Rule C6.3)
- (c) Amendments:
- the Mayor may require a motion (including an amendment) to be written down and handed to him before it is discussed. (Rule C5.3)
 - only one amendment can be discussed at any one time, although notice of further amendments can be given (Rule C5.6)
 - before a vote is taken on an amendment, the order of speeches is
 - the mover of the amendment in reply
 - the mover of the substantive motion (usually the Chairman, Leader, Deputy) (Rules C5.15 and C5.16)
 - if the amendment is carried, it becomes the substantive motion to which further amendments can be made (Rule C5.8)
- (d) A member may alter a motion
- of which he gave notice, with the Council's consent (Rule C6.7)
 - which he had moved without notice, with the consent of both the Council and the seconder (Rule C5.10)

2. WHEN A MEMBER MAY SPEAK MORE THAN ONCE ON A MOTION BEFORE THE COUNCIL

- (a) A member who has spoken on a motion or an amendment may NOT speak again during that debate except
- in exercise of a right of reply as the mover of the motion
 - except where an amendment is under discussion, to move an amendment in which case he/she shall not speak for more than three minutes.
 - to speak to an amendment
 - to a point of order
 - in personal explanation
- (Rule C6.5)
- (b) **Point of order** – a member wishing to raise a point of order may do so at any time but the point of order **MUST ONLY** relate to an alleged breach of the Council Procedure Rules or the law **AND** the member **MUST** indicate
- the rule or law he considers has been broken
 - how he considers that a breach has occurred
- (Rule C5.23)
- (c) **Personal explanation** – a member may make a personal explanation at any time **BUT** the “personal explanation” **MUST ONLY** relate to some material part of an earlier speech by that member which may appear to have been misunderstood in the present debate.
- (Rule C5.24)
- (d) The Mayor’s decision on whether a point of order or request for personal explanation is admissible is final.
- (Rule C.5.25)

3. RECORDED VOTES

A recorded vote can be required by seven members.

(Rule C.8.5)

CHELTENHAM BOROUGH COUNCIL

Council

Date:

DECLARATION OF INTEREST

Councillor _____

You are asked to complete this form if you intend to declare an interest in connection with any item on this agenda.

Please hand any completed form to the committee administrator at the meeting.

You are reminded that you are still required to declare your interest orally at the commencement of the committee's consideration of the matter.

Agenda item	*Personal interest	*Prejudicial Personal interest	**Nature of interest

Notes:

- *Please tick appropriate box
- **Please give sufficient information as to identify the existence and nature of the interest, for example – "This application relates to land that borders property owned by a friend of mine", "A relation of mine is a member of this body"
- "Personal interests" and "prejudicial personal interests" are defined and explained in the Council's Code of Members Conduct and summarised overleaf

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Council

**Monday, 11th October, 2010
2.30 to 3.40 pm**

Attendees	
Councillors:	Anne Regan (Chair), Garth Barnes, Ian Bickerton, Nigel Britter, Barbara Driver, Bernard Fisher, Wendy Flynn, Rob Garnham, Penny Hall, Colin Hay, Rowena Hay, Sandra Holliday, Peter Jeffries, Steve Jordan, Paul Massey, Helena McCloskey, Andrew McKinlay, Heather McLain, John Rawson, Diggory Seacome, Malcolm Stennett, Charles Stewart, Klara Sudbury, Lloyd Surgenor, Jo Teakle, Pat Thornton, Jon Walklett, John Webster, Paul Wheeldon, Simon Wheeler and Roger Whyborn
Also in attendance:	

Minutes

1. PRAYERS

Reverend Maz Allen opened the meeting with a prayer.

The Mayor asked those present to stand for a minutes silence as a mark of respect for the sad passing of Councillor John Morris.

2. APOLOGIES

Apologies were received from Councillors Cooper, Fletcher, Godwin, MacDonald, P McLain and Smith.

3. DECLARATIONS OF INTEREST

Councillor Stennett declared a personal and prejudicial interest in agenda item 9 as a director of Gloucestershire Airport and announced his intention to leave the meeting for that item.

4. MINUTES OF THE LAST MEETING

RESOLVED that the minutes of the meeting held on 26 July 2010 be agreed and signed as an accurate record.

5. PUBLIC QUESTIONS

None received.

6. COMMUNICATIONS BY THE MAYOR

The Mayor commended the work of the Street Pastors who provided a night-time service for young people. She had joined them recently on their rounds when they had talked to young people on the streets and answered their questions. They all gave their time on a voluntary basis till four in the morning and the town was very lucky to have such a dedicated group of church leaders.

7. COMMUNICATIONS BY THE LEADER OF THE COUNCIL

The Leader advised of a number of Liberal Democrat changes to membership of committees. Councillor Stewart would be joining the Licensing Committee, Councillor Fisher the Audit Committee and Councillor R.Hay would become a substitute on the Environment O&S Committee. Further announcements would be made following the by-election results at the end of October.

Regarding the Joint Core Strategy, he welcomed the government proposals for more local input to local plan issues. That should provide more opportunities for local decisions on where housing should be built and not built in the area. There would be a full consultation on the localism bill.

He thanked officers and members who had assisted in the budget consultation during the summer months. It had been very useful for increasing public understanding of the functions which the council performed and collecting their views on their relative priorities. In view of the recent media comments he wished to put on record his thanks to the Mayor who he considered was doing an excellent job. Any comments made should not be taken as a criticism of the work of either the current Mayor or past Mayors.

All members had been circulated copies of the responses from the county council and Wales and West Utilities regarding the Tatchley Junction and compensation for the Tewkesbury Road traders discussed at the last council meeting.

He noted the successful launch of the Literature Festival where ticket sales were exceeding expectations.

Regarding the Cheltenham Festival of Performing Arts, he advised members that the petition had been withdrawn following an agreement between the council and the festival. In parallel to discussions regarding the renewal of the service level agreement, the festival had agreed to make a contribution to the council for their hire of the town hall at a level which was sustainable for their organisation.

8. MEMBER QUESTIONS

None received.

9. AIRPORT RUNWAY SAFETY PROJECT UPDATE

The Leader introduced the report as circulated with the agenda. The report explained that in December 2009 the Council had agreed the business case for the airport and had agreed to facilitate £1.2 million of the borrowing required from the PWLB for onward lending to the airport to fund the runway safety project. Since this date the project costs had increased and the project implementation period has been shortened in line with recommendations of the project manager. The business case financial projections have been revised and an additional temporary borrowing facility of £350,000 was being requested from both Cheltenham Borough Council and Gloucester City Council as joint shareholders of the airport. Gloucester City Council had already agreed to support the additional funding on 1 September 2010.

The Treasury Management Panel had approved the necessary changes to the Treasury Management Policy to facilitate the loan at their meeting on 14 September 2010. The report had also been considered by the Economy and Business Overview and Scrutiny Committee at their meeting on 20 September and Cabinet on 21 September who were now recommending the report to Council.

A member referred to paragraph 3.7 of the report and asked why a safety officer was only being appointed now. The Leader advised that this was an operational matter for the airport and he could request a response from them if this was deemed necessary.

A member asked whether it was agreed in writing that there would be no cost to the council from the loan, whether a bank would have been more cautious before offering a loan and what recourse did the council have if the Bridging the Gap monitoring referred to in paragraph 8.2 raised concerns.

The Leader advised that the legal side of the process had been carefully planned to minimise the risk in any transfer of funds. He reminded members that the Council would still maintain control of the assets under the proposed loan. There was a minimal risk to the council that the airport would not be able to pay the loan back and he had confidence in the business plan which accommodated all the repayments. Regarding the Bridging the Gap monitoring, this was important in ensuring that the council received improved future dividends from the airport. As shareholders, they would have the option to sell their shareholding at any point in the future. Council also appointed three directors to the airport board and although the airport was clearly an independent company, it would be possible for the Council to give some direction and they would have the power to review the airport accounts. He confirmed that any decision to sell the shareholding would be made by Council but that the airport was part of his portfolio as Leader

RESOLVED that the additional temporary borrowing facility of £350K (maximum) to support the implementation of the Runway Safety Project be approved and that the Treasury Management Policy be amended accordingly.

Voting: unanimous

10. GO SHARED SERVICES PROGRAMME

The Cabinet Member Corporate Services introduced the report as circulated with the agenda. The report informed members of the progress of the GO programme and the final business case and sought approval to progress the programme and commence the implementation phase. .

He explained that the report had been considered by the Economy and Business Improvement Overview and Scrutiny Committee at their meeting on 20 September 2010. He confirmed that since the report had been prepared the Forest of Dean District Council had signed up to the Programme. He referred in particular to the agreement for CBC to become the Support and Hosting Centre of Excellence and he felt that the work by officers in achieving this should be recognised. He also mentioned the suggestion which had been made that the County Council system should be considered. He confirmed that an

investigation had been carried out but the costs were not competitive with the system being recommended.

A member asked whether the estimated savings were conservative and what flexibility was there for taking on more partners in future. He noted that it would also require a big cultural change and would there be a strict regime to ensure compliance in the full use of the system without which the full benefits may not be achieved.

The Cabinet Member acknowledged that the figures were cautious in that they identified immediate savings, for example the current four system administrators could be reduced to one. Other savings had not been included at this point e.g. the opportunity for a single banking contract or combined procurement. It would be possible for other partners to join at a later date however they would have to pay a joining fee to cover their proportion of the development and implementation costs.

A member asked whether there would be a general deterioration in service as a result of the new system, particularly in responding to queries from members and the public.

The Cabinet Member advised that the introduction of system would provide a more resilient workforce. There would be more flexible working in the future but members and the public should still be able to get answers to questions within a reasonable timescale. He encouraged the member concerned to raise this with the appropriate managers if they felt this was not the case.

A member asked if there were penalty clauses to deter the remaining partners from leaving the partnership.

The Cabinet Member was confident that each of the four partners were making an upfront investment so this shouldn't be a major problem. The system had also been procured on the basis of four partners.

RESOLVED THAT:

- 1. A contribution of £100,000 to support the financing of the implementation of the ERP from the Housing Revenue Account, as outlined at paragraphs 5.2 and 5.3 be approved.**
- 2. The residual financing of circa £93,000 required to support the financing of the implementation of the ERP through a virement of the money set aside to fund the councils sourcing strategy as outlined in paragraph 5.4 be approved.**

Voting: unanimous

11. REGULATION OF COSMETIC PIERCING AND SKIN COLOURING BUSINESSES

The Cabinet Member Housing and Safety introduced the report as circulated with the agenda. He explained that there was a requirement to update the

regulation of skin piercing activities within the Borough to include semi permanent skin colouring and all cosmetic piercing.

A member commented that the fees seemed quite low and asked whether they were sufficient to cover the cost of monitoring such businesses.

The Environmental Health Manager advised that the fees were set at a sufficient level to cover the cost of administration and were reviewed on an annual basis.

A member was concerned that the new byelaws could cause some confusion with the Asian community who have traditionally used henna as a skin dye for their wedding ceremonies. As this did not involve piercing the skin it would not be affected by these bylaws.

The Cabinet Member Housing and Safety confirmed that these communities would not be affected. She was happy to consider how this could be communicated and suggested that this could be done through voluntary organisations.

RESOLVED THAT:

- 1. The byelaws for acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis be adopted and sealed by the Council as set out in Appendix 2 to the report.**
- 2. The Borough Solicitor and Monitoring Officer be authorised to take all of the necessary steps in connection with the making of those byelaws including the affixing of the common seal to the byelaws, giving public notice and applying to the Secretary of State for Health for their confirmation**
- 3. Subject to the confirmation of the proposed new byelaws, the existing byelaws relating to acupuncture, tattooing, ear-piercing and electrolysis made by the Council on 6 March 1986 and confirmed by the Secretary of State for Health on 27 June 1986, be revoked.**

Voting: unanimous

12. REGULATION OF LAP DANCING AND OTHER SEXUAL ENTERTAINMENT VENUES

The Cabinet Member Housing and Safety introduced the report as circulated with the agenda. The Council were being asked to consider the adoption of the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which have been amended by virtue of Section 27 of the Policing and Crime Act 2009. The amended provisions introduce an adoptive Licensing regime for "sexual entertainment venues". Adoption of the above will enable the Council to properly regulate this type of entertainment in the public interest.

In response to a question from a member it was confirmed that the delegation referred to in recommendation 3 would be to the full Licensing Committee and

not to a subcommittee.

A member was concerned that the council was reducing the number of enforcement officers and new rules would have no effect if they were not enforced.

The Cabinet Member Housing and Safety stressed that if the council did not adopt the amended provisions of the act, there was a risk that the council could not effectively regulate such establishments under the existing legislation available.

The Chair of the Licensing Committee, Councillor Diggory Seacome, confirmed that the amended provisions would give the council much greater control. He reminded members that there was only one licensed sexual entertainment venue currently in the town and the council had been able to control this with only one recorded incident in the four years it had been operating. The new regulations would also prevent the use of temporary event notices for lap dancing establishments which had been a particular problem during Race Week.

RESOLVED THAT:

- 1. The amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 be adopted with effect from 1st December 2010.**
- 2. Authority be delegated to the Assistant Director of Operations to carry out the necessary advertising requirements to comply with section 2 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).**
- 3. The power to grant, renew, vary or transfer licences under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) be delegated to the Licensing Committee and/or Officers in line with any Policy subsequently adopted by the Licensing Committee.**
- 4. The draft Sexual Entertainment Venue Policy Statement be approved for the purposes of consultation.**

Voting: unanimous

13. TO RECEIVE MOTIONS

None received.

14. TO RECEIVE PETITIONS

A petition was submitted by Councillor Driver regarding the Imperial Gardens Flowerbeds requesting that

“We the undersigned are strongly opposed to the proposal that flowerbeds in Imperial Gardens should be removed to make way for more sponsors’ tents for Cheltenham Festivals.”

The Mayor accepted the petition on behalf of the Council.

15. ANY OTHER ITEM THE MAYOR DETERMINES AS URGENT AND REQUIRES A DECISION

16. REVIEW OF COUNCIL CONSTITUTION

The Cabinet Member Corporate Services introduced the report which had been circulated with the agenda. The report set out the changes in circumstances which had occurred since March 2010 when it was envisaged by the Council that the Constitution would be comprehensively reviewed to include any changes arising from the implementation of the approved Action Plans. A revised timescale was now being put forward for Council approval. The Constitution Working Group would report to Council in December 2010 in respect of the requirements of the approved Council Action Plans as originally intended.

A member urged his fellow councillors to give their feedback on the constitution when requested and suggested that more thought should be given as to how this could be done.

Councillor Massey, as vice-chair of the Audit Committee reminded members that the Audit Committee had a role in monitoring the Action Plan arising from the recommendations in the KPMG report. He was confident that the proposed approach would satisfy these governance requirements and the rest of the review could be delayed.

RESOLVED that the current position on the comprehensive review of the Constitution be noted and the revised timetable be approved.

Voting: unanimous

Anne Regan
Chairman

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Cheltenham Borough Council

Council – 13 December 2010

A petition regarding Imperial Gardens

Accountable member	Council
Accountable officer	Chief Executive
Accountable scrutiny committee	Environment
Ward(s) affected	Lansdown Ward
Significant Decision	No
Executive summary	<p>A petition was received by Council on 13 October 2010 requesting the following:</p> <p><i>“ We the undersigned are strongly opposed to the proposal that flowerbeds in Imperial Gardens should be removed to make way for more sponsors' tents for Cheltenham Festivals”.</i></p> <p>As the petition had in excess of 750 signatures it is entitled to a debate at Council.</p>
Recommendations	To consider the petition and agree an appropriate course of action

Financial implications	<p>There are no financial implications arising from this report.</p> <p>Contact officer: Sarah Didcote, Sarah.Didcote@cheltenham.gov.uk, 01242 264125</p>
Legal implications	<p>The petition must be considered in accordance with the Council’s Petition Scheme made pursuant to the Local Democracy, Economic Development and Construction Act 2009. The petition will be considered in accordance with the Council Procedure Rules varied in so far as necessary to comply with the attached Process.</p> <p>Contact officer: Peter Lewis, peter.lewis@tewkesbury.gov.uk, 01684 272012</p>
HR implications (including learning and organisational development)	<p>None</p> <p>Contact officer: Amanda Attfield, AD HR and Organisation Development amanda.attfield@cheltenham.gov.uk, 01242 264186</p>
Key risks	

<p>Corporate and community plan implications</p>	<p>Four outcomes are of relevance:</p> <ul style="list-style-type: none"> • Cheltenham has a clean and well-maintained environment • Cheltenham’s natural & built environment is enhanced and protected • Create a financially sustainable structure for delivering arts and culture activities. • Arts and culture are used as a means to strengthen communities, strengthen the economy and enhance and protect our environment
<p>Environmental and climate change implications</p>	<p>See section 3 of the report</p>

1. Background to the Petition Scheme

- 1.1 The petition provisions in the Local Democracy, Economic Development and Construction Act 2009 aim to address the perception nationally, as revealed in the results of the Place survey, that the community is unable to influence local decisions.
- 1.2 The Council’s Petition Scheme (based on the national model scheme) is designed to ensure that the public has easy access to information about how to petition their local authority and they will know what to expect from their local authority in response. Included within the Scheme is the requirement to have a full Council debate should a certain number of signatures be achieved. Cheltenham Borough Council have set that threshold lower than that recommended by the legislation at 750 signatures.
- 1.3 The legislation also recommends a 15 minute maximum period for the debate and recognises that the issue may be referred to another committee where the matter is not one reserved for full Council. The purpose of the requirement for Council debate therefore, is not to ensure that the final decision relating to the petition issue is made at that Council meeting but to increase the transparency of the decision making process, ensuring that debates on significant petitions are publicised with sufficient notice to enable the petition organiser and public to attend. It also ensures that local people know that their views have been listened to and they have the opportunity to hear their local representative debate their concerns. The outcome of debates will depend on the subject matter of the petition.

2. The petition

- 2.1 The Mayor notified Council on 13 October 2010 that she had received a petition earlier that day. It had in excess of 750 signatures and requested the following:

“ We the undersigned are strongly opposed to the proposal that flowerbeds in Imperial Gardens should be removed to make way for more sponsors’ tents for Cheltenham Festivals”.
- 2.2 Fiona Wild was nominated as the petition organiser.
- 2.3 The Council is therefore required to debate the petition for a maximum of 15 minutes in accordance with the Petitions Scheme approved by Council on the 13 May 2010. As this is the first time a petition has been dealt with under the new scheme, a process for dealing with the petition was produced by officers. This was circulated to Group Leaders and the Mayor and Deputy Mayor for comments on 16 November and in the absence of any comments it is attached

as Appendix 1 as a process to be followed for the debate at this meeting. The debate should conclude with one or more decisions taken pursuant to the Petition Scheme as follows

- taking the action requested in the petition (provided the matter is reserved to full Council for decision)
- referring the matter to Cabinet or an Appropriate Cabinet Member or Committee (including Overview and Scrutiny) for further consideration
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition
- taking no further action on the matter

3. Background information to the subject of the petition

3.1 Imperial Gardens

Imperial Gardens, which can be found at the rear of the Town Hall, were originally planted out for the exclusive use of the subscribers to the Sherborne Spa. The spa was constructed in 1818 on the site now occupied by the Queens Hotel. Over the intervening years, the Gardens have undergone many changes, with the formal style you now see being laid out after the second world war. Each year, approximately 25,000 seasonal Spring and Summer bedding plants are used to produce the floral displays.

3.2 The Cheltenham Festivals occupation of the gardens

The Gardens have accommodated the festival marquees for around 14 years. Initially, this consisted of one or two marquees on one occasion per year usually located on the back lawn adjacent to the Town Hall car park. In recent years the footprint occupied by the festival marquees has increased as the literature festival has grown, and with the introduction of both the Jazz and Science Festivals. The footprint now occupied by the festivals has increased, at its maximum, to the size of the area bounded by the red line on the attached plan. The number of days in a year that the Gardens are occupied by the festivals, including the days spent setting up and taking down is approximately 107, although the space is not fully occupied all of this time. The occupation takes place during May, June, July, September and October.

3.3 In arriving at this position the Council has consented to the removal of three flower beds, but has protected the remaining area, which accommodates the main seasonal flower displays, from any permanent marquee construction. It does however allow for its use by the festivals for informal temporary activities associated with public fundays.

3.4 A previous petition

Officers in Green Environment received another petition on the 17th August 2010 from Charlton Kings in Bloom. The wording of the petition was as follows:

“We the undersigned wish to protest against the proposed removal of flower beds in Imperial Gardens to accommodate the festival marquees.”

The petition was been signed by 47 people and was accompanied by a letter from the Chairman of Charlton Kings in Bloom.

3.5 Joint overview and scrutiny working group on Cheltenham Festivals

The use of gardens by the festivals was also considered by the joint overview and scrutiny

working group looking at the Cheltenham Festivals who made their recommendations to Cabinet on 7 December 2010.

In section 3.7 of their report to Cabinet it was stated that:

“The growth of the festivals will require a more flexible use of the green spaces in the centre of town, namely Imperial Square and Montpellier Gardens. Detailed discussions have been had between officers, members and CF but it is important that this is set down in an agreed strategy so that there is clarity and understanding. There may need to be additional consultation with residents. Cabinet should consider the agreed strategy before the end of the year to enable sufficient time to make adequate preparations.”

3.6 Current situation

The Council is aware that the Cheltenham Festivals would like to use more of Imperial Gardens, but has not consented to this at the present time. The council has consented in principle to the use of Montpellier Gardens for additional marquees associated with the Literature Festival in order to accommodate growth, but this is subject to detail.

3.7 Officers are studying ways to accommodate Festivals in a more sustainable way than at present. Before putting any proposals forward on Imperial Gardens, the council would go out to consult all parties and the public. Any such proposals would be put forward as a Cabinet report.

4. Reasons for recommendations

4.1 To decide a course of action as required by the Petition Scheme.

<p>Report author</p>	<p>Contact officer: Adam Reynolds, Green Space Development Manager adam.reynolds@cheltenham.gov.uk 01242</p> <p>Rosalind Reeves, Democratic Services Manager rosalind.reeves@cheltenham.gov.uk 01242 774937</p>
<p>Appendices</p>	<ol style="list-style-type: none"> 1. Process for dealing with a petition at council 2. Plan showing usage of the gardens by the Festivals
<p>Background information</p>	<ol style="list-style-type: none"> 1. Council’s petition scheme – report to Council 13 May 2010 2. Report of the Joint Overview and Scrutiny Working Group on Cheltenham Festivals – Cabinet 7 December 2010

Appendix 1

Process for dealing with petitions at Council

The following is the recommended process to be followed for the debate of a petition at the Council meeting in accordance with the Council's Petition Scheme. The Council Procedure Rules shall be suspended in so far as necessary to facilitate this process.

1. The Mayor will remind members of the procedure to be followed

2. Statement by the petition organiser

The Mayor will invite the petitioner organiser or their representative to come to the microphone and speak for up to 5 minutes on the petition. There will be no questions and the petition organiser/their representative will take no further part in the proceedings.

3. Clarification on the background information in the officer's report

Members will be invited to ask any questions for clarification as to the facts in the officer's report.

4. Statement by the relevant Cabinet Member

The Cabinet Member whose portfolio is most relevant to the petition will be invited by the Mayor to speak for a maximum of 5 minutes on the subject of the petition. They may wish to refer to the background report from officers circulated with the papers for the meeting. They may also wish to propose a motion at this point; if so, the motion must be seconded.

5. Debate by members

Where a member has proposed a motion (which is seconded), the usual Rules of Debate (Rule 13) will apply.

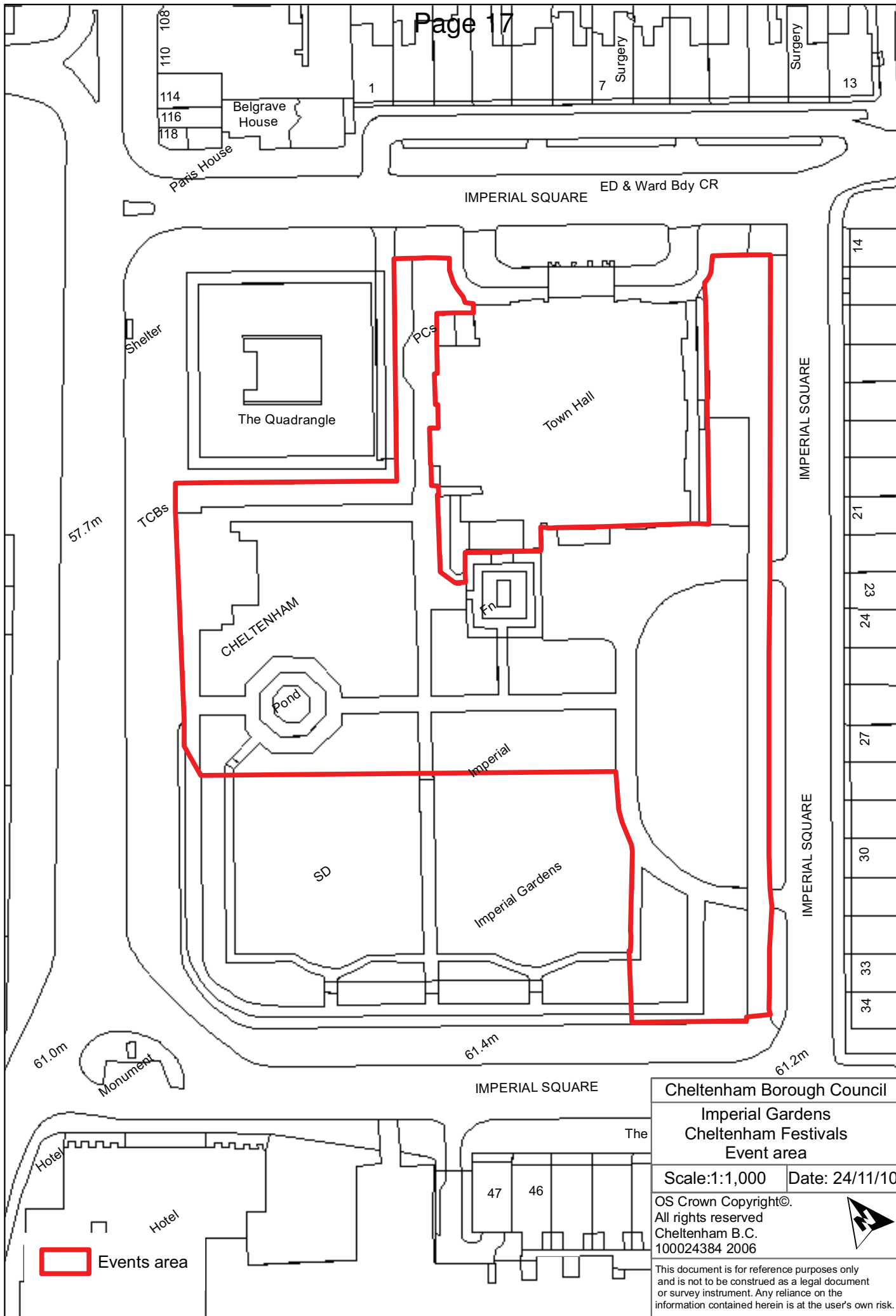
If there is no motion, the Mayor will invite any member who wishes to speak on the petition to address Council for up to a maximum of 3 minutes.

When the 15 minutes set aside for the debate (as laid down in the Council's Petition Scheme) is up, the Mayor may decide to extend the time allowed for the debate but will bring it to a close when they feel sufficient time has been allowed.

6. Conclusion of Debate

The debate should conclude with one or more decisions taken pursuant to the Petition Scheme as follows:

- taking the action requested in the petition (provided the matter is reserved to full council for decision)
- referring the matter to Cabinet or an Appropriate Cabinet Member or Committee (including Overview and Scrutiny) for further consideration
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition
- taking no further action on the matter



 Events area

Cheltenham Borough Council

Imperial Gardens
Cheltenham Festivals
Event area

Scale: 1:1,000

Date: 24/11/10

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**Cheltenham Borough Council
Council – 13 December 2010**

**Recommendations of the Independent Remuneration Panel (IRP)
regarding Members' Scheme of Allowances**

Accountable member	Council
Accountable officer	Assistant Chief Executive, Jane Griffiths
Accountable scrutiny committee	Not applicable
Ward(s) affected	
Significant Decision	
Executive summary	<p>The council's current scheme of Members' allowances, (08-09), was adopted in December 2007. The law requires that members' schemes of allowances are reviewed annually unless they are linked to some form of automatic indexation in which case they must be reviewed at least once in every four years.</p> <p>Before an authority can review its scheme of allowances it must first have considered a report from an Independent Remuneration Panel (IRP). The Cheltenham Borough Council IRP was established in January 2007 and, having gathered and considered a wide range of information, produced a report of its recommendations which was agreed by Council in March 2007. In order to align the annual reviews with the budget setting process, the panel met again in November 2007 to review the scheme and their recommendations for 2208/09 were made to Council in December 2007. This process was repeated in 2008. The panel did not meet in 2009 following a motion passed by Council confirming its intention to freeze members' allowances in the budget for 2010/11.</p> <p>This year the panel have convened to carry out the full review required every four years. The IRP were made fully aware of the budget situation within the council and have taken this into account when making their recommendations.</p> <p>The Council is required to consider the recommendations and, if acceptable, to resolve to adopt them. If the Council rejects the recommendations then the current scheme agreed by Council in December 2008 will remain in place.</p>
Recommendations	<p>I therefore recommend that:</p> <p>Council considers the recommendations set out in the attached IRP report and summarised in part 5 below, and determines whether to adopt them.</p>

Council authorises the Assistant Chief Executive Council to implement any necessary changes to the scheme of allowances and authorises the Borough Solicitor and Monitoring Officer to make any necessary changes to Council's constitution.

<p>Financial implications</p>	<p>At the budget setting meeting on 12th February 2010, Council agreed to freeze all member allowances for 5 years from 2010/11. There is, therefore, no budgetary provision for the proposed increase of £1,135 for the calculated allowances for the Chair and Vice-Chair of Planning Committee.</p> <p>Members will be required to support a growth bid in setting the budget for 2011/12 in order for budgetary provision to be made available for these proposed increases.</p> <p>Contact officer: Paul Jones, paul.jones@cheltenham.gov.uk, 01242 775154</p>
<p>Legal implications</p>	<p>The Local Authorities (Members' Allowances) England Regulations 2003 SI 2003/1021 set out a framework for the creation implementation and amendment of schemes of allowances for Members and Co-optees of local authorities. The main provisions are as follows:</p> <p>Reg 10 imposes the requirement that local authorities make a scheme for payment of basic allowances. Where the authority intends to pay allowances in respect other matters such as special responsibilities or co-optees then these should be included within the scheme.</p> <p>Schemes of allowances must be reviewed by an Independent Remuneration Panel (IRP) annually and no less than once every four years where they are index linked. Reg 19 stipulates that before an authority can amend or revoke its scheme it must have first considered a report from its IRP and have regard to its recommendations, although the authority is not bound to follow them.</p> <p>R.20(1) requires authorities to establish an IRP either itself or in collaboration with other authorities. The IRP must consist of at least three members who are not members of the authority in respect of which they are making recommendations nor disqualified from being or becoming a member of an authority.</p> <p>Under R.20(3) Authorities are empowered to pay the expenses incurred by the IRP in carrying out its functions and this includes such expenses or allowances as the authority shall determine.</p> <p>R.16 and 22 impose a number of requirements as to the publication of the newly adopted scheme and the recommendations received from the IRP considered at the time of formulating and adopting the scheme. The publicity requirements are intended to publicise the scheme adopted and highlight any differences between it and the one recommended by the IRP</p> <p>Contact officer: Peter Lewis, peter.lewis@tewkesbury.gov.uk, 01684 272012</p>

<p>HR implications (including learning and organisational development)</p>	<p>In the current economic climate any variations to the current member allowance scheme will need to be handled sensitively. Effective communications with employees and the recognised trade unions will be needed to clarify and help ensure understanding of why the increase is needed, and how it has been arrived at.</p> <p>Contact officer: Julie McCarthy , julie.mccarthy@cheltenham.gov.uk, 01242 26 4355</p>
<p>Key risks</p>	<p>The determination of allowances is a sensitive subject both from the perspective of Councillors themselves and the public who elect them. In view of this it is important that any scheme adopted is objectively reasonable and based upon some logical and fair mechanism</p>
<p>Corporate and community plan Implications</p>	<p>None</p>
<p>Environmental and climate change implications</p>	<p>None</p>

1. Background

- 1.1 The Local Authorities (Members' Allowances) England Regulations 2003 sets out the framework within which local authorities can establish and amend schemes providing for the payment of allowances to Elected and Co-opted members of their councils. In particular the regulations provide that schemes which are linked to an index to determine annual increases in allowances must be reviewed at least once in every four years.
- 1.2 When reviewing its scheme a council may not adopt a new scheme or re-adopt an old scheme without first having considered the recommendations of an Independent Remuneration Panel established for that purpose.
- 1.3 The existing scheme of members' allowances in place at Cheltenham Borough Council was adopted in March 2007 and provides for basic allowances for all elected members, special responsibility allowances paid in respect of identified roles and responsibilities and travel and dependent carers payments. The scheme was last reviewed in December 2008 following a review by the IRP panel and the revised scheme agreed by Council in December that year.
- 1.4 The panel did not meet in 2009 following a motion by Council resolving to freeze their allowances in the budget for 2010/11. In the budget subsequently agreed by Council in February 2010, Members' and Mayoral allowances were frozen for a period of 5 years in the Medium Term Financial Strategy up to and including 2014/15.
- 1.5 The regulations require that schemes should be reviewed annually, or, where some indexed formula is used, at least once every 4 years. For Cheltenham the scheme adopted in 2006 stipulated that the panel should meet annually to review any increases in basic allowances and SRA's. However the IRP now have the confidence in their scheme to recommend that indexation can be applied in the intervening years where appropriate. This is referred to in section 7 of their report.
- 1.6 Two meetings of the IRP took place in November 2010 for the purpose of the full 4 year review.

2. Rationale for recommendations

These are set out in the IRP report.

3. Alternative options considered

- 3.1 The review undertaken by the IRP constitutes a thorough and reasoned analysis of the allowance rates applicable to Councillors and those co-opted to serve the council. In reaching its conclusions it has taken advice and gathered a range of information and considered a range of options which are detailed in their report.

4. Consultation and feedback

- 4.1 Detailed in the IRP report in Appendix 2.

5. The recommendations

- 5.1 The recommendations and the rationale for them are set out in the IRP report but I summarise them here:

1. That the Basic Allowance payable to all Councillors should not be increased.

2. That the special responsibility allowance currently payable to the Leader of the Council should not be increased
3. That there are no inflationary increases to any SRAs for 2011/12.
4. That the basis for the calculation of the SRA for a Cabinet Member should remain unchanged and that there should be no inflationary increases for 2011/12.
5. That the calculated allowance for the Chair of Planning Committee is split between the chair and vice-chair on a 2/3:1/3 basis and hence that the allowance for Chair of Planning is revised to £3025 for 2011/12 and the Vice-Chair of Planning to £1512.
6. That the SRA for the Chair of Staff and Support Services is removed from the scheme.
7. That the SRAs for the Chair of Standards Committee and to Independent Members remain unchanged and are reviewed once the new Standards Regime is known.
8. That the basis of all other SRAs remain unchanged.
9. That there are no increases to the allowances for Mayor and Deputy Mayor.
10. That when Members are travelling outside the borough on council business the mileage claimed should be home to their destination and the same for their return journey
11. That a member should not be expected to pay for a laptop or VPN link for council use from their basic allowance and a budget should be set aside for this within ICT to ensure that all members have the tools they need to carry out their role effectively.
12. The Democratic Services Manager will consult with the Chair of IRP in September each year, to review the need for the panel to meet.

- If there are no significant issues to review, then the panel recommends to Council that allowances should be increased by the % increase in the median gross weekly earnings for the South West published in the Annual Survey of Hours and Earnings in November each year.

- If there are significant issues then the panel will meet and makes its recommendations to Council in December of the same year.

The next full review required by legislation will commence in September 2014 reporting to Council in December 2014. .

5.2 If the panels recommendations are accepted the new allowances will be as follows:

ROLE	Current allowance	Proposed from April 2011
Basic	£5,066	No change
Leader	£17,293	No change
Cabinet Member	£13,610	tba
Chair of Planning Committee	£2,268	£3,025
Vice-Chair of Planning	£1,134	£1,512

Committee		
Chair of Licensing Committee	£1,361	No change
Chair of Overview and Scrutiny Committee (x3)	£1,361	No change
Chair of Audit Committee	£454	No change
Chair of Staff and Support Services Committee	£302	£0
Chair of Standards Committee	£907	No change
Group Leaders (x2)	£605	No change
Independent members of Standards Committee (x5)	£295	No change
Chair of Council)	£454	No change
Mayor (duties of civic head)	£6049	No change
Mayor (clothing and other expenses)	£500	No change
Deputy Mayor (duties of deputy civic head)	£1210	No change
Deputy Mayor (clothing and other expenses)	£100	No change
TOTAL	£323143	£324278
N.B totals are based on roles and frequencies excluding any double payments of SRAs. Figures for allowances actually paid may be affected by by-elections, decisions by members in previous years not to accept increases etc	Basic Allowance and SRAs £315284 Mayoral Allowances £7859	ie + £1135 (excluding the £302 for the Chair of SSSC which is currently not paid due to only 1 SRA being paid per member)

6. Performance management –monitoring and review

- 6.1 The IRP are recommending that they meet to carry out a light touch review in 2011 reporting to Council in December 2011.

Report author	Contact officer: Rosalind Reeves, Democratic Services Manager , Rosalind.reeves@cheltenham.gov.uk, 01242 774937
Appendices	<ol style="list-style-type: none">1. Risk Assessment2. IRP Report
Background information	<ol style="list-style-type: none">1. Part 6 CBC Constitution – Members’ Scheme of Allowances

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	I	L	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	New councillors are not attracted to the role if the basic allowance is frozen and doesn't keep pace with inflation			3	2	6		IRP to be informed of any evidence that this is the case so that they can decide whether an annual review is necessary		Democratic Services Manager	
	Poor public perception if allowances are increased during current economic climate and cuts			2	4	8		Refer to this in the IRP report		Jane Griffiths	
	IRP will be out of touch with national developments if they do not meet annually			3	2	6		Encourage IRP to review national developments at the start of every new review and keep in touch via email		Democratic Services Manager	



CHELtenham
BOROUGH COUNCIL

**Report and Recommendations of the
Independent Remuneration Panel on Members'**

Allowances

Annual Review

November 2010

1. Introduction

1.1 Membership

The Cheltenham Borough Council (CBC) Independent Remuneration Panel was established pursuant to the provisions of the Local Authorities (Members' Allowances) (England) Regulations 2003. The panel members were appointed by the Borough Solicitor and Monitoring Officer in December 2006 under delegated authority from Council. The current panel membership is:

Mr Paul Johnstone (Chairman)	Director of Operations, RR Donnelley Global Document Solutions Panel Previous Member for Tewkesbury BC IRP
Mr Quentin Tallon (Vice Chair)	Cheltenham TUC and Panel Member for Gloucestershire CC IRP
Mrs Patricia Dundas	Gloucestershire Hospitals
Mrs Joyce Williams	Retired Public Servant

1.2 Terms of Reference

The Panel's original terms of reference as set by the Borough Solicitor and Monitoring Officer were;

To make recommendations to full council on the appropriate level and nature of allowances payable to Borough Council Councillors in Cheltenham under the scheme of allowances for implementation from 1 April 2007 which

- a) conform to the requirements of the Local Authorities (Members' Allowances) (England) Regulations 2003
- b) recognise the duties and levels of responsibility which fall upon them
- c) are clear, unambiguous, easy to administer, explain and justify to the local community.

1.3 History of the panel to date

The recommendations of this independent remuneration panel regarding members scheme of allowances were agreed by Council on the 26th of March 2007. One of their recommendations was that *"this panel is reconvened every year to review whether there should be an increase in councillors' basic and SRA for the following financial year. This meeting should be timetabled so that any amendments recommended by council can be fed into the budget preparations."*

The first annual review took place in November 2007 and the panel reported to Council on 10 December 2007 recommending a 2.9% increase in the basic allowance and all SRAs. These recommendations were accepted by Council.

The second annual review took place in November 2008 and the panel reported to Council on 17 December 2008 recommending a 3.59% increase in the basic allowance and all SRAs. Council reduced this to 2.45% in line with the potential staff settlement and also resolved that the SRA for Planning Chair should be split between the Chair and Vice-Chair on a 2:1 basis.

In October 2009 Council passed a resolution that given the economic climate and the budgetary situation faced by the council, it would not amend its scheme of allowances in the year 2010/11 and therefore there would be no requirement for the independent remuneration panel to meet. Budget Council in February 2010 agreed to freeze Members' Allowances and all Mayoral allowances for the next 5 years up to and including 2014/15 in the Medium Term Financial Strategy.

Under the regulations for Members' Allowances, the Council is obliged to review its scheme every four years and hence the need for the panel to meet this year and make recommendations for the Members' Allowance scheme 2011/12.

2. The Review

2.1 Scope of the Review

The review was to cover all aspects of the scheme resulting in any recommendations for change to the following:

- The basic allowance including the amount of any reduction due to the voluntary nature of the Councillors' role
- The payment of Special Responsibility Allowances (SRA) which are currently paid in the council's existing scheme to:
 - The Leader of the Council
 - Cabinet Members
 - Chair of Planning Committee
 - Chair of Licensing Committee
 - Chairmen of Overview and Scrutiny Committees
 - Group Leaders
 - Chair of Staff and Support Services Committee
 - Chair of Audit Committee
 - Chair and independent members of the Standards Committee)
 - Co-opted Members
- The Mayoral allowance (although this falls outside of the current Members Allowance scheme we were asked to look at it as part of our original review in 2006).
- Travel allowances
- Subsistence allowances
- Dependent carers allowances
- Pensions
- Suspension of allowances

2.2 Support for the review

We were assisted by Rosalind Reeves, Democratic Services Manager and we thank her for her support to the panel in carrying out this review.

2.3 Evidence reviewed

There were two meetings of the panel on 8 November and 23 November 2010 and all members of the panel were present.

To assist us with our annual review we considered a variety of information namely;

- The current scheme as set out in the constitution
- The IRP report to Council in December 2008
- Analysis of 2009/10 Members' Allowance returns for the South West
- The results of a Members' survey which all Cheltenham Borough Council members and independent members were invited to complete (12 responses were received)
- Results of interviews with members and officers on specific issues
- Results of the public budget consultation
- An update report from the Democratic Services Manager
- Alternative indexes relating to the annual increases
- Results of a survey of Cabinet Members requested following our first meeting.

2.4 The Financial Context

43% of the members who responded to our survey thought the panel should take the budgetary situation into account.

At the start of the review the panel debated how the current financial climate should affect our recommendations. We considered the argument that the IRP should base their recommendations on what they consider is an appropriate allowance for the role and then it should be for Council to make any adjustments for the budgetary situation.

We were also aware that nationally a number of IRPs were concerned that an ongoing freeze of Members' Allowances may discourage new candidates from coming forward. We did not see any evidence that this was the case in Cheltenham during the recent borough elections.

We also took into account the fact that Council had agreed to freeze Members' and Mayoral Allowances for five years as part of the 2010/11 budget debate in the Medium Term Financial Strategy. We felt as a panel we could not ignore this very strong statement.

Having reviewed all the relevant factors, we decided that given the level of national financial constraints, our recommendations would not be credible if we did not take the current budget situation into account. We also agreed that a key focus of our review should be to ensure that all the relative factors used in calculations were still relevant to the various roles.

3. Members' Allowances Scheme

3.1 Basic Allowance

The calculation

This allowance is payable to all Councillors of the Council. In determining the basic allowance we adopted a formula approach related pro rata to an equivalent salary for a 37 hour week. We opted to base the calculation on a salary figure of £20,000 per annum. At the time of writing our report in March 2007, this figure was similar to the Median Gross annual earnings in the South West for 2006 (£22,042 at that time).

Therefore the calculation to work out the Basic Allowance at that time was:

$$15/37 \times £20,000 \times 67\% \times 46/52 = £4805$$

hours per week x equivalent annual salary x (100% - voluntary element reduction) x working weeks per year/weeks per year

Our recommendation to Council in subsequent years was that this basic allowance should be increased by the percentage increase in the median salary for the South West, a figure published by the Office for National Statistics each year. If Council chose not to implement this increase, or only a part of it, in any year, then there would be no catch up in subsequent years.

The basis of the government statistics changed in 2007 but in the 2009 Annual Survey of

Hours and Earnings (ASHE), the median gross weekly earnings in the South West were £453.8 per week. i.e. £23,597 per annum. If the increases to the Basic Allowance had been kept in line with the increase in this figure since 2006, the allowance would now be set at £5224. Currently it is £5066, hence the allowance has fallen behind.

The 2010 survey results are due to be published in December 2010.

Indexation

79% of the Members who responded to our survey felt the current index was the right one.

In this review, we looked at alternative indexes to the percentage increase in the median salary including the local government pay settlement, the % increase in the LGA Member daily rate and inflation measures. We did not feel the local government pay settlement was the most appropriate measure as councillors are not local government employees. The LGA daily rate is a national average and we now understand that the LGA announced their intention in November this year to discontinue the publication of this figure.

For simplicity we would recommend that the allowance is increased each year by the % increase in the median gross weekly earnings for the South West published in the Annual Survey of Hours and Earnings each year.

Average no of hours and working weeks per year

In this review we had no evidence from the survey of councillors which caused us to change the 15 hours per week for the average number of hours spent by a councillor in performing their basic role. The panel also considered it was appropriate to base the calculation on 46 weeks out of 52.

Voluntary deduction

57% of the Members who responded to our survey supported this deduction.

We were specifically requested by a member to make a comment on the 33% voluntary service deduction. We were advised that this is still a standard practice across many authorities and the figure varies between 25 and 50%. Consequently we agreed that the 33% deduction should remain in place. The gross Basic Allowance without this deduction would be **£7,561** whereas with this reduction it is set currently at **£5,066**.

Under normal financial circumstances the panel would be recommending a percentage increase in line with the index used but taking into account the current financial climate, our recommendation is that there should be no increase in the basic allowance for 2011/12.

Recommendation 1:

That the Basic Allowance payable to all Councillors should not be increased.

3.2 Special Responsibility Allowances (SRAs)

Our recommendations for the payment of SRAs were also based on a formula approach.

3.2.1 Leader of the Council

Using the same methodology as that when calculating the Basic Allowance we considered that due to the responsibilities that fall on the Leader we would equate the role of Leader to a senior officer in Local Government. We selected an annual salary of £45,739.20 per annum as reflecting typical earnings for a role in the public or private sector with a similar level of responsibility at the time of writing the March 2007 report.

We considered that a typical Leader of the Council would need to dedicate at least the equivalent to 2 working days to carry out the role effectively. This is over and above the 15 hours spent carrying out their basic Councillor role.

Therefore, the calculation was

$$15/37 \times \text{£}45,739.20 \times 46/52 = \text{£}16,403.35$$

hours per week x equivalent annual salary x working weeks per year/weeks per year

When reviewing the SRA's in November 2007 we recommended that the Leader's SRA should be increased by the same percentage as the basic allowance. We see no reason to change this approach and hence we are recommending that there should be no increase to the Leader's SRA for 2011/12.

Recommendation 2:

That the special responsibility allowance currently payable to the Leader of the Council should not be increased.

3.2.2 Calculation of other Special Responsibility Allowances (SRAs)

Payments for all other SRA's were based on a formula linked to the basic allowance but took into account the role description, the level of knowledge required to perform the role, the level of responsibility and risk that comes with the role and the hours required to perform the role.

Therefore if this same formula is reapplied and the basis allowance not increased then no SRA's will receive an inflationary increase in 2011/12.

Recommendation 3:

That there are no inflationary increases to the SRAs for 2011/12.

Our focus from this point was to review the current SRAs and determine if there were any changes or anomalies that needed correcting.

Cabinet Member

When reviewing the results of the South West regional allowances survey 2009/10, it was evident that the SRA set for the Cabinet Member and Leader in the council's scheme was significantly higher than other councils in the region. We decided that this was worthy of investigation and so requested the Democratic Services Manager to carry out a survey with Cabinet Members to determine the average time they spent on Cabinet business. A single page questionnaire was circulated via e-mail.

We had a response from the Leader and 4 Cabinet Members. We wish to express our disappointment that despite reminders and follow-ups, two Cabinet Members opted not to respond.

From those who did respond, there was a wide range given for the time spent by a Cabinet Member on Cabinet business ranging from 11.5 hours to 39 hours per week. This is in addition to the time spent as a 'basic' councillor which is covered by the basic allowance. Consequently there is no evidence to suggest that the average of 15 hours per week for a Cabinet Member needs adjustment.

We also reviewed the level of knowledge and experience required to carry out the role effectively and the level of responsibility and risk in the decisions that a Cabinet Member is

required to make. Again we feel that the levels we set in 2006 of a high level of knowledge and experience and a very high level of responsibility and risk are appropriate for a Cabinet Member.

From our first review in 2006, we set out to build a model for determining allowances that can be used to evaluate any role. If necessary we may need to review that model and amend the basis of any calculations where necessary. In the case of the Cabinet member and Leader, although we acknowledge the differences with other authorities, we have reviewed our model and have seen no evidence that would cause us to change it for these roles.

It was brought to our attention that Council is to consider a report on the new Leadership Model to be adopted which designates a role for the Deputy Leader. Should this result in an increase of responsibilities for the Deputy Leader and/or a decrease in some of the responsibilities for the Leader, this could be a matter for consideration at our next review.

Recommendation 4:

That the basis for the calculation of the SRA for a Cabinet Member should remain unchanged and that there should be no inflationary increases for 2011/12.

Planning Chair and Vice Chair

In 2007 we were asked to consider payment of an SRA to the Vice-Chair of Planning. At the time we were doing a light touch review and decided that consideration of the matter should be left to our next full review. We understand that Council agreed to split the allowance for the Chair of Planning Committee on a 2/3:1/3 between the chair and vice-chair and this has been in place since 2009 making the current SRAs, £2268 and £1134 respectively. Without the split, the chair would receive £3403.

We reviewed the results of interviews carried out by the Democratic Services Manager with the current Chair and Vice-Chair of Planning Committee, a previous chair and the Assistant Director Built Environment.

We reviewed the criteria for setting the allowance for the chair. From the evidence we received we felt that the level of responsibility and risk associated with the chair should be increased from a 3(High) to a 4 (Very High), this would be on a par with a Cabinet Member. This would increase the current allowance from £3403 to **£4537**.

We were satisfied that the Vice-Chair of Planning does have extra responsibilities in addition to attending chair's briefings and having sufficient knowledge and experience to chair a meeting in the absence of the chair. They are also formally consulted regarding decisions of what matters should go to committee and an effective vice-chair will also be attending meetings with officers and keeping up to speed on planning issues.

Looking at the results of the survey to the South West, we observed that around 50% of authorities did pay an allowance to their Vice-Chair of Planning and of those an amount equal to 50% of the chairs allowance was most common.

We were concerned that if we decided to pay an allowance to the Vice-Chair of Planning, this could set precedents for other committees. We were satisfied that Planning Committee was a special case. The members we interviewed or who responded to our survey did not think precedents would be an issue..

When it came to setting an allowance for the vice-chair, we found this quite difficult as to some extent the vice-chair was 'sharing' some of the responsibilities of the chair. Therefore we decided that as Council had proposed the 2/3:1/3 split, this split should become a permanent part of the scheme. Thus the revised allowance of £4537 would be split on a 2/3:1/3 basis, making the chair's allowance **£3025** and the vice-chair's allowance **£1512**.

Recommendation 5:

That the level of responsibility for the Chair of Planning be increased to a 4 and that the resulting allowance is split between the chair and vice-chair on a 2/3:1/3 basis.

That the allowance for Chair of Planning is revised to £3025 for 2011/12 and the Vice-Chair of Planning to £1512.

3.2.3 Staff and Support Services Committee

We understand that this committee has been disbanded and replaced by working groups and sub committees and therefore the allowance for the chair should be discontinued. In practice the chair of this committee was always the Leader of the Council and as members are limited to receiving one SRA, this allowance was never effectively paid. Hence there is no financial saving in deleting this SRA.

Recommendation 6:

That the SRA for the Chair of Staff and Support Services is removed from the scheme.

3.2.4 Chair and Independent Members of the Standards Committee

We understand that the introduction of the local filter arrangements in 2008 have not caused a significant increase in workload for the members of the Standards Committee. In addition we were advised that the new coalition government has advised the abolition of the national body Standards for England which may result in further changes to the role of local Standards Committees. We concluded that no change was required to the current scheme and that the role should be reviewed once the outcomes of the changes to the standards regime had been implemented.

Recommendation 7:

That the SRAs for the Chair of Standards Committee and to Independent Members are reviewed once the new Standards Regime is known.

3.2.5 Chair of Council, Licensing, Group Leaders, Audit Committee, Chair of Overview and Scrutiny Committees

We had no specific issues to deal with here. We were satisfied that the vice-chair of Licensing Committee did not fall into the same category as the Planning Committee and therefore should not receive an SRA.

Similarly although vice chairs of other committees did attend briefings and were sometimes called upon to deputise at a meeting, we did not feel this was sufficient to warrant an SRA.

We were asked to consider the situation where a chair receiving an SRA was absent for several meetings and therefore the vice-chair was playing a much more significant role. We do not feel it is for the allowance scheme to define how this situation should be dealt with financially. It should be down to the individual member to make a judgement on whether he is able to fully carry out his responsibilities as a chair and if not to take appropriate action. We consider that this is an issue which should be taken up with the relevant Group Leader/s when it occurs. Committee themselves also have the option to elect a new chair if the original appointment was made by the committee.

Regarding the allowance for Group Leader, we did note a large range in allowances paid to group leaders in the South West survey, some calculating the allowance based on the number of members in the party. When we originally set the SRA for a Group Leader we focused on the meetings that the Group Leader was expected to attend in their role and the degree of consultation with Group leaders as a body. We feel that the management of their group, which will increase with the number of members in the group, is more of a political role outside the scope of the SRA. Therefore we see no reason to change the basis of this allowance.

3.2.6 Co-optees

No change required

3.2.7 Consideration of any new SRAs

We were asked to consider whether there was a case for a SRA payment to chairs of panels and working groups. We understand that there are a wide range of working groups which members are asked to participate in, sometimes on a voluntary basis and sometimes due to the nature of their role. These working groups can be on a temporary or sometimes permanent basis. We believe that all members should play an active role in such groups and be willing to put themselves forward as a member or as a chair. This should be considered part of their basic councillor role and therefore no additional SRA should be paid. We would only consider payment of an SRA if there was evidence that taking the chair of a panel or group required significant additional responsibilities for the chair, significant work outside the meeting and required specific skills or knowledge.

3.3 Mayor's and Deputy Mayor allowance

Although not an SRA when considering the Mayoral allowances we considered it appropriate to split the allowance into 2 parts. The first part reflects the role of the Mayor as Civic Head and the second part is a sum of £500 as a contribution to the amount the mayor has to spend on clothing, donations and raffle tickets etc when representing the Council at events.

We were also advised that the results of the public budget consultation carried out in the summer 2010 indicated that a significant proportion of those who responded to the survey, thought that this was an area that should be stopped or reduced. We understand that the survey was only an indication from some of the population in Cheltenham and not a proper statistical analysis, however we did not feel we could ignore the strength of public opinion from those who responded given that the survey had been initiated by the council.

The panel considers that the basis of the calculation we used when setting these allowances does reflect the considerable amount of work that the Mayor does for the town during their year of office and the support given to that role by the Deputy Mayor.

Taking all this into account this result and the decision made by Council to freeze the Mayoral allowance, we propose no increase to the allowances for the Mayor and Deputy Mayor.

Recommendation 8:

That there are no increases to the allowances for Mayor and Deputy Mayor.

3.4 Travel Allowances

We noted that mileage rates are automatically pegged to the staff rate for essential car usage of 1000cc so receive increases automatically when the staff rate changes. There is no allowance paid for Members' travel within the borough as this included in the basic allowance.

We were requested to review an issue raised by a member concerning travel outside the

borough on council business. When claiming mileage for such a journey the scheme currently requires members to deduct the first 5 miles of any journey. We feel it is appropriate for members to cover mileage within the borough from their basic allowance for ward business and travelling to the municipal offices etc. However if they are required to travel outside the borough on approved duties, we recommend that members should be able to claim the mileage from home to the destination where they are carrying out council business and the same for the return journey.

The IRP would also encourage members to use more sustainable travel where ever possible, particularly train travel for longer distances.

Recommendation 9:

When Members are travelling outside the borough on council business the mileage claimed should be home to their destination and the same for their return journey

3.5 Subsistence Allowances

No change from our position that these should not be paid and no members raised this in the survey.

3.6 Dependent Carers' Allowance

There have been very few claims since this was introduced but the panel still feels this is an important part of the scheme. Claims can be made on the basis of receipts for costs of carers incurred and family members are excluded. We feel no changes are necessary.

3.7 Pension

As a panel we feel this is an issue which should be addressed nationally and until there are any new national guidelines there is no need for change. There have been no comments from members in the survey relating to pensions.

4. Transparency and demonstration of achievements

In our March 2007 report we made a number of additional comments regarding the need for a structured development plan for members and greater transparency in their achievements. We noted that a full member induction program was arranged following the elections in May 2010 when 6 new councillors were elected. It was well supported by new members and received good feedback.

We understand that the responsibility for member development has now been transferred to the Learning and Development Manager in Human Resources. Members are being encouraged to manage their own development through the Learning Gateway. We hope that members will continue to take the opportunities provided to develop their skills in their various roles. We as a panel think this is very important but it is not our role to make any provisions in the scheme to require members to attend. .

5. Clawback of allowances

100% of the members who responded to our survey did support the clawback for non attendance but some felt there should be an element of discretion and some were concerned that it was only voluntary.

One of the IRP's recommendations was that any member who does not attend at least two thirds of the total number of scheduled meetings of Council or of Cabinet or of committees of which he/she is a member should be invited to pay back an appropriate percentage of his/her basic allowance up to a maximum of 25% of the basic allowance.

We understand that member attendance records have continued to be monitored and reported to Group Leaders. Any issues arising have been addressed and overall there is a good level of attendance across all committee meetings.

We still feel that good attendance is an essential role of any councillor and we were very encouraged to hear that Members' attendance at Council and committee meetings will be available for the public to view on the Council's website following the implication of the new Modern.gov system in October 2010.

Therefore we recommend no change to the existing clause in the scheme.

6. ICT Provision

ICT provision is essential for members in carrying out their role effectively and forms a key part of communication with the public, members and officers. New Councillors have always been offered a council laptop and these laptops are returned when they leave office. There is also a provision for members to access the Council network from home using a Virtual Private Network, VPN. Many members opt to use their own PC at home but can then only access web outlook due to security constraints imposed by central government.

We understand that there are currently no spare laptops if an additional councillor was to request one and that there is no budget for new members laptops or replacing existing ones, either in ICT or in the budgets held by Democratic Services. There is also a charge associated with VPN of an initial outlay of £400 and thereafter £200 per annum and again there is no budget for this.

We were asked to consider whether we thought ICT provision should be covered within the basic members' allowance. We feel that members should be responsible for providing their broadband connectivity, paper, printing cartridges etc but the Council should provide members with essential ICT equipment such as a laptop and if required the VPN link. A budget should be set aside for this.

Recommendation 10:

A member should not be expected to pay for a laptop or VPN link for council use from their basic allowance and a budget should be set aside for this within ICT to ensure that all members have the tools they need to carry out their role effectively.

7. Date of next review

Legislation requires that the next full review commencing in September 2014 and reports to council in December of that year.

Although our scheme originally recommended that the panel should meet annually, we would like to amend this in view of the current economic climate and our satisfaction with the method of indexing that is now tried and tested. We are also aware that the review incurs a significant amount of work for officers in supporting the review and producing appropriate reports.

Consequently we would recommend that in September of each intervening year, the Democratic Services Manager liaises with the Chair of the IRP to decide if there are any issues which require the panel to meet. These will be focused on any changes in roles and responsibilities and could include for example consideration of the Deputy Leader role or the roles of the Standards Committee members. If there is no need for the panel to meet, then there will be a recommendation made to Council that the Basic Allowance and all SRAs are increased in line with the index. It will then be up to Council to decide whether to accept the increase or otherwise.

Recommendation 11:

The Democratic Services Manager will consult with the Chair of IRP in September each year, to review the need for the panel to meet.

- If there are no significant issues to review, then the panel recommends to Council that allowances should be increased by the % increase in the median gross weekly earnings for the South West published in the Annual Survey of Hours and Earnings in November each year.

- If there are significant issues then the panel will meet and makes its recommendations to Council in December of the same year.

The next full review required by legislation will start in September 2014 reporting to Council in December 2014.

On that basis we commend our recommendations to Council.

Paul Johnstone (Chair)

Quentin Tallon (Vice Chair)

Patricia Dundas

Joyce Williams

Cheltenham Borough Council

Council – 13th December 2010

Review of Cheltenham Civic Pride Urban Design Framework SPD and North Place & Portland Street Development Brief

Accountable member	Cllr Rawson – Cabinet Member for the Built Environment
Accountable officer	Tracey Crews – Spatial Planning Manager, Cheltenham & Tewkesbury
Accountable scrutiny committee	Economy & Business Improvement Overview & Scrutiny Committee
Ward(s) affected	SPD - All Development Brief – St Paul’s & Pittville
Executive summary	<p>On 27th July 2010 Cabinet approved a consultation exercise on the revisions of the Cheltenham Civic Pride Urban Design Framework Supplementary Planning Document (SPD) and its associated technical appendix; the North Place and Portland Street Development Brief. These revisions were considered necessary by the Cheltenham Development Task Force in order to reflect current market conditions and enable greater flexibility in the type and mix of uses that could be accommodated on the site.</p> <p>Following consultation between 23rd August and 1st October 2010 all responses were considered and the documents were revised accordingly. The revisions were considered by Cabinet on 16th November 2010 and approved subject to two additional amendments. These amendments have now been made and the final revised documents are attached for adoption by Council.</p>
Recommendation	That Council adopts the revised Cheltenham Civic Pride Urban Design Framework Supplementary Planning Document (Appendix A) under section 23 of the Planning and Compulsory Purchase Act 2004, including the revised North Place and Portland Street Development Brief (Appendix B).

Financial implications	<p>None arising from this report</p> <p>Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123</p>
Legal implications	<p>Supplementary Planning Documents provide greater detail on council policies. They become part of the statutory development plan by being adopted by the council. On adoption, the Supplementary Planning Document becomes a Local Development Document within the Local Development Framework.</p> <p>Contact officer: Jonathan Noel, jonathan.noel@tewkesbury.gov.uk 01242 775117</p>

<p>HR implications (including learning and organisational development)</p>	<p>Employees and Trade Unions will need to be kept informed of progress, in particular in relation to employee car parking at North Place.</p> <p>Contact officer: Amanda Attfield, amanda.attfield@cheltenham.gov.uk, 01242 264186</p>
<p>Key risks</p>	<p>See Risk Summary (Appendix C)</p>
<p>Corporate and community plan Implications</p>	<p>There is a change in the affordable housing requirement; from 50% in the 2008 version of the Development Brief; to 40% minimum. However, this figure is now in line with affordable housing policy HS4 in the Cheltenham Borough Local Plan.</p>
<p>Environmental and climate change implications</p>	<p>The revised Development Brief includes the addition of a six bay bus node which was not included in the 2008 version. There are positives and negatives to this from an environmental and climate change perspective. The inclusion of a bus node could encourage more people to use public transport, thereby increasing its sustainability. This has to be balanced against carbon-based emissions from waiting buses. However, the overall number of buses will not increase, they will be merely relocated from Royal Well, so whilst there is potentially a minimal local environmental impact, there should be no increase in emissions across the borough.</p>

1. Background

1.1 The purpose of this report is to request that Council adopts the revisions to the Cheltenham Civic Pride Urban Design Framework SPD, which contains the North Place and Portland Street Development Brief as a technical appendix – see appendices A and B. This follows the consultation exercise undertaken between 23rd August and 1st October 2010 and the subsequent approval by Cabinet of the revisions. If Council adopts the revised documents they will become part of Cheltenham's Local Development Framework (LDF) and will be a material consideration in considering development proposals.

1.2 The existing adopted Development Brief is a technical appendix to the Cheltenham Civic Pride Urban Design Framework SPD, an adopted part of Cheltenham's LDF. Consequently any change to the Brief needs to be reflected in the parent SPD. Furthermore, any review of either document is subject to statutory requirements for the preparation of SPDs and is subject to public consultation.

1.3 The adopted SPD was also subject to a Sustainability Appraisal in accordance with the Strategic Environmental Assessment Directive, which assessed the sustainability impacts of the SPD and the Development Brief. As a consequence of the revisions to these documents, a revised Sustainability Appraisal was undertaken for the proposed changes to the Development Brief only. Consultation took place on the Sustainability Appraisal at the same time as consultation on the SPD and Development Brief. No significant changes were made to the Sustainability Appraisal following this process.

1.4 The main differences between the original and revised Development Briefs are set out below:

Original Brief

1.5 The original brief was specific in terms of the land uses considered suitable for development on the North Place and Portland Street sites. It required a new civic building of approximately 7,000 sqm to accommodate the borough council and other civic uses, a new civic square, commercial development (in B1 use), small retail or cafe units and residential development with 50% as affordable housing and a minimum of 10% of all housing to be town houses. There was also a requirement for a car park with a minimum of 300 spaces.

Revised Brief

1.6 The revised brief allows for a range of town centre and edge of centre uses (e.g. offices and retail) without specifying the full range of acceptable uses, thus allowing prospective developers to propose a mix of uses.

1.7 A number of explicit requirements remain. For instance, there is still a requirement for residential development to form part of the scheme, with a minimum of 100 units to be provided. However, there is no longer a specific requirement for a minimum of 10% of the units to be town houses. There has also been a reduction in affordable housing from 50% to a minimum of 40% to reflect Local Plan policy HS4 (affordable housing) and current market conditions. The provision for a car park with a minimum of 300 spaces also remains, together with a requirement for new landscaped public squares and spaces. Lastly, provision for a six bay bus node is an additional requirement of the revised brief.

1.8 The changes to the SPD only reflected any amendments made to the Development Brief and so were minor. Plans contained within all documentation have been amended to reflect the changes.

2. Reasons for recommendations

- 2.1 The revised North Place and Portland Street Development Brief will provide greater flexibility and make the redevelopment of these key sites more achievable.

3. Alternative options considered

- 3.1 Following receipt of advice from the Cheltenham Development Task Force, officers considered not revising the Development Brief. However, after considering the current market situation and seeking advice from independent specialist property consultants, they concluded that this could lead to further delays in the sites being developed.

4. Consultation and feedback

- 4.1 Consultation formally took place between 23rd August and 1st October 2010 in line with the Council's Statement of Community Involvement. In summary, there were a total of 15 respondents making approximately 87 individual comments in total. There were a number of representations of support for the proposed revisions to provide greater flexibility in the mix and types of uses that could be accommodated and therefore increase the deliverability of the site. There was also support for the retention of the high design and sustainability aspirations for the site. The revisions gained the support of Natural England, English Heritage and the Environment Agency.

- 4.2 The proposed amendments to both documents as a result of the consultation will, in summary:

- provide more clarity about the types of 'town centre uses' that could be acceptable.
- set out that parking provision will need to be agreed with the planning and highway authorities based on evidence of need for the development.
- set out that parking needs to take into account the needs of the evening economy and also to be designed with safety and security considerations in mind.
- include the requirement that development should incorporate crime prevention and 'Secured by Design' principles.
- provide better clarification of access arrangements to the site.
- emphasise that high quality improvements are required to St. Margarets Road, the streetscene and pedestrian and cycle movements.
- set out that access and working hours should be restricted during construction to protect neighbours' amenity.
- provide for a green corridor from the Promenade to Pittville Park, creating links for pedestrians, cyclists and an opportunity for improved biodiversity.
- include the possibility of changing Portland Street to two-way working (subject to modelling) and providing streetscene improvements.
- incorporate additional land on Warwick Place into the area of the brief.

Task Force Recommendations

- 4.3 The Task Force noted the positive actions by the planning team in undertaking the public consultation. They were complimentary about the quality of the analysis received and recommended to Cabinet that the report be accepted.

5. Recommendations of Cabinet

- 5.1 The revised documents were presented to Cabinet on 16th November 2010 with the following recommendations from the Cabinet Member for Built Environment:

(i) that Cabinet approves the revisions to the Cheltenham Civic Pride Urban Design Framework Supplementary Planning Document and the North Place and Portland Street Development Brief; and recommends that Council adopts them with the additional amendments set out at (ii) and (iii) below:

(ii) that the proposed wording at 3.39(ii) of the Supplementary Planning Document, "About 300 public car parking spaces" is not approved and that the previous wording be reinstated, namely:

"A minimum of 300 public car parking spaces. Developers are likely to be asked to consider two different options for the public car park: one underground and the other over-ground."

with consequent changes being made wherever the number of car park spaces is referred to in the Development Brief.

(iii) that the proposed wording of the Development Brief in Design Principle D, sub-section e. be amended as follows:

"A 6-bay bus node for local and national services, to include appropriate interchange and support facilities, will be accommodated at the southern end of the North Place/Portland Street site, potentially in North Place.

with a consequent change being made to Design Principle E, sub-section h(i) to delete the words "including the bus node".

- 5.2 The purpose of recommendation (ii) was to help ensure that adequate parking provision should be retained in the St Margaret's Road area and that underground parking should be considered as an option. The purpose of recommendation (iii) was to ensure that developers are not required to locate the bus node in Portland Street but can consider other options, especially North Place.

- 5.3 All three recommendations were accepted by Cabinet. The documents have now been amended in line with Cabinet's recommendations, see appendices A and B.

6. Performance management – monitoring and review

- 6.1 The Cheltenham Development Task Force Board manages the wider project but not issues relating to planning which remain the responsibility of the Borough Council as Planning Authority. Regular reporting takes place to the Council's Operational Programme Board by the Task Force Managing Director.

7. Next Steps

- 7.1** If Council adopts the revised SPD and Development Brief, it will replace the existing documents as part of the Local Development Framework and they will become a material consideration in determining planning applications.
- 7.2** If the SPD is adopted, it will form the basis of the marketing of the North Place and Portland Street development sites in the New Year. There are additional tasks which also need to be completed including: the conclusion of the archaeological works recently undertaken; the production of a Planning Policy Statement 5 statement concerning historical context; and the appointment of professional advisers. When these tasks are complete, and allowing for the requirements of the OJEU (Official Journal of the European Union) procurement rules, the timetable would allow for the identification of a preferred bidder to develop the sites by late autumn 2011.

Report author	Tracey Crews, Spatial Planning Manager, Cheltenham & Tewkesbury, 01242 264382 or 01684 272089 tracey.crews@cheltenham.gov.uk or tracey.crews@tewkesbury.gov.uk
Appendices	<p>A Revised Cheltenham Civic Pride Urban Design Framework SPD (Final version – for adoption)</p> <p>B Revised North Place & Portland Street Development Brief (Final version – for adoption)</p> <p>C Risk Assessment</p>
Background information	<p>1 Consultation Response Report Civic Pride SPD (Library)</p> <p>2 Consultation Response Report North Place & Portland Street Development Brief (Library)</p> <p>3 Revised North Place & Portland Street Development Brief Sustainability Appraisal (post-consultation amendments) (Library)</p> <p>4 Consultation Response Report Sustainability Appraisal (Library)</p> <p>5 Original Cheltenham Civic Pride Urban Design Framework SPD (Available on request)</p> <p>6 Original North Place & Portland Street Development Brief (Available on request)</p> <p>7 Cabinet Report 27th July 2010 (Available on request)</p> <p>8 Cabinet Report 16th November 2010 (Available on request)</p>

CHELTENHAM

Local development framework

**CHELTENHAM CIVIC PRIDE URBAN DESIGN
FRAMEWORK**

2010 Revision

SUPPLEMENTARY PLANNING DOCUMENT

Adopted

December 2010

Cheltenham Borough Council

www.cheltenham.gov.uk

Cheltenham Civic Pride Urban Design Framework - Supplementary Planning Document -

Preface

Original 2008 Preface

The draft Supplementary Planning Document was approved for consultation by Cheltenham Borough Council Cabinet on 12 February 2008.

It was published on Monday 3rd March 2008 and can be viewed electronically via the following link http://www.cheltenham.gov.uk/site/scripts/documents_info.php?documentID=670&pageNumber=2
A hard copy of the Supplementary Planning Document together with supporting documentation can be accessed at all Cheltenham libraries, neighbourhood centres and the Municipal Offices.

The draft Supplementary Planning Document was subject to public consultation between 3rd March and 28th April 2008. Following consideration of representations received it was adopted by Cheltenham Borough Council on 28th July 2008 as a Supplementary Planning Document within the Local Development Framework (LDF) and will be a material planning consideration when the Borough Council determines any relevant planning applications.

2010 Revision Preface

The economic slump and other factors have led to questions as to whether it is possible to effectively deliver the North Place and Portland Street Development Brief – a Technical Appendix to this SPD adopted as part of it in July 2008. This is a conclusion which has been reached by the Cheltenham Development Task Force which was set up by the Council and its partners to drive forward the Civic Pride programme and bring key regeneration sites forward for Cheltenham.

While there is a commitment to retain the principles embodied within the 2008 document the fixed interpretation – particularly the range of uses - needs to be made more flexible in the light of changing circumstances.

In order to incorporate the changes into the statutory planning framework, this Cheltenham Civic Pride Urban Design Framework SPD and its Technical Appendix - North Place and Portland Street Development Brief have been amended and readopted. They were put through the adoption process jointly. Both were subject to a consultation which ran between 23rd August and 1st October and were adopted by Cheltenham Borough Council on 13th December 2010.

Revisions to this SPD were only made in respect of changes necessary as a consequence of

2010 Revision – Schedule of changes	
Figure 10	replaced
Paragraphs 3.37 to 3.42	revised

those made to the Technical Appendix. These are in the following sections:

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The documents form part of the Cheltenham Civic Pride Urban Design Framework SPD sitting within the Council's Local Development Framework and are each a material planning consideration when the Borough Council determines any relevant planning applications.

For further information contact the Council's Built Environment Division:

Phone	01242 264328
E-mail	builtenvironment@cheltenham.gov.uk
In writing	Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham, Gloucestershire, GL50 1PP

Documents can be viewed on-line at www.cheltenham.gov.uk/urbandesign.

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**Cheltenham Civic Pride Urban Design Framework
- Supplementary Planning Document -**

1. Introduction

1.1 Civic Pride is a project to boost the local economy of Cheltenham through an enhancement of its town centre streets and public spaces. Cheltenham Borough Council, together with Gloucestershire County Council and the South West Regional Development Agency (the Partnership) have jointly funded a consultancy study with four main parts:

- i) Urban Design Strategy
- ii) Transport Strategy
- iii) Public Realm Strategy
- iv) Development proposals for three sites

This study is called the
Cheltenham Civic Pride Urban Design Framework



What is an Urban Design Framework?

1.2 An Urban Design Framework (UDF) is a collection of documents that will help to guide decisions on the planning and development of our town centre. The UDF is a comprehensive study that seeks to address various issues. These include how to make the town more attractive, how to make the transport system more efficient and how to support sustainable lifestyles, making it easier for people in Cheltenham to live and work in a more sustainable way.

1.3 The UDF must also consider that the proposed improvements to the town centre will not be funded through grants. This is because Cheltenham, due to its relative affluence, is not a national priority for central government intervention. It is therefore intended that improvements will be funded through the redevelopment of three council owned sites:

Jargon Buster

What is Public Realm?

The parts of a village, town or city (whether publicly or privately owned) that are available without charge for everyone to use or see, including streets, squares and parks.

What is Urban Design?

Urban design involves the design of buildings, public spaces, landscapes and streets. It considers how these different elements work together and then creates guidance and processes to guide successful development.

What is Planning?

In England and Wales, the planning system details what can be built and where. It sets down the principles and regulations that help to protect the environment in our towns, cities and countryside.

1.4 Royal Well, North Place/Portland Street and St. James Square. The UDF must therefore consider the commercial viability of developing these sites, whilst still adhering to the urban design, transport and sustainability objectives of the project.

A Balanced Project

1.5 The UDF has to balance the different agendas described above before arriving at its final proposals. This has sometimes involved compromising certain objectives and trading-off others, in order to create an overall framework for improvement that will not only make the town centre more attractive and accessible for its residents, visitors and businesses, but will also be the basis of a project framework that is realistic to deliver. A simple analogy would be that of a table. Each of the four strands of the UDF is like the leg of a table - if one of the legs is taken away the table becomes unstable.

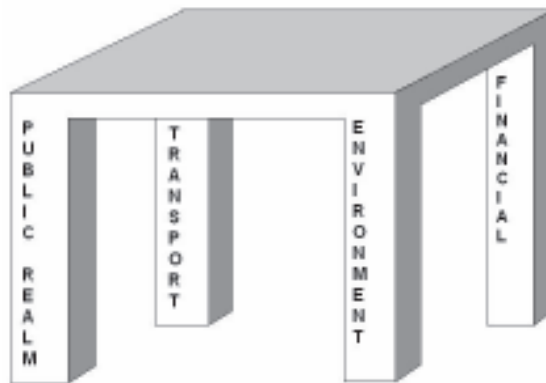


Figure 1: Urban Design Framework

2. The Project

Basic Facts

2.1 The funding for the UDF has come from the South West Regional Development Agency SWRDA, Cheltenham Borough Council and Gloucestershire County Council. The consultancy firm Halcrow was commissioned in May 2006 to produce the UDF.

2.2 Following consultation and adoption by Council, the Cheltenham Civic Pride Urban Design Framework has become a Supplementary Planning Document (SPD) within the Local Development Framework (LDF). This means that it will become an important or 'material' consideration in planning decisions. Details of what this means are explained below:

Planning Context:

2.3 The Planning and Compulsory Purchase Act came into force in 2004 and set out significant changes to be made to the planning system. It requires the existing Cheltenham Borough Local Plan to be replaced with a new style of development plan known as a Local Development Framework (LDF).

2.4 The Cheltenham Borough Council LDF will be one of the most important series of documents published by the Council. It deals with development, helping to conserve the special environment of Cheltenham and identifying land which will be needed for future development. The policies set out in the LDF will influence decisions on planning applications and support the council's proposals for managing traffic in the town¹.

2.5 The LDF is a folder of local development documents that outlines how planning will be managed in Cheltenham. For an indication of its structure see figure 2 below. The Civic Pride Urban Design Framework will be a Supplementary Planning Document (SPD) within the LDF². Supplementary Planning Documents expand or add details to policies laid out in development plan documents.

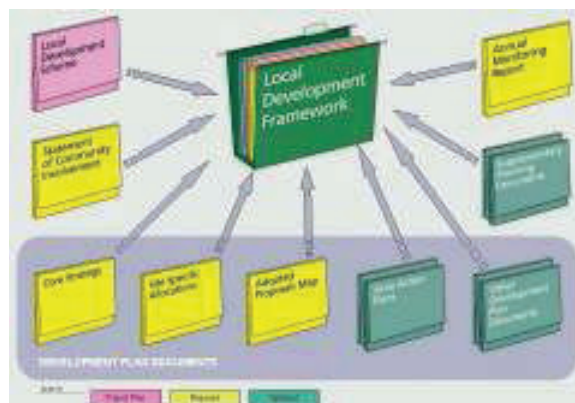


Figure 2: LDF structure

2.6 There are a number of relevant local plan policies to which this SPD relates. These can be viewed via the following link:

<http://www.cheltenham.gov.uk/libraries/templates/thefuture.asp?FolderID=59>

Principal local plan policies include:

- Core polices CP1 – CP7 – sustainable development
- Policy PR2 – land allocated for mixed use development

¹ Transport issues affecting Cheltenham are comprehensively covered in The Local Transport Plan (LTP). The LTP is administered by Gloucestershire County Council.

² For more information about the LDF process visit the planning portal at <http://www.planningportal.gov.uk/uploads/ldf/ldfguide.html>

The Consultants' Reports

2.7 As part of the UDF the consultants have produced a number of reports. These are listed below. The purpose of this report is to summarise the main themes in the consultants' reports and clarify the policy of the Council. The consultants' reports will be referenced in this document as technical appendices. Owing to the length of the technical appendices these reports are available online at the Cheltenham Borough Council website³.

- i) Civic Pride Urban Design Framework SPD (this document)

Technical Appendices

- ii) Civic Pride Baseline Study – Halcrow July 2006
- iii) Urban Design Strategy (UDS) - Halcrow October 2006
- iv) Public Realm Strategy (PRS) - Halcrow Jan 2008
- v) Transport Strategy (TS) - Colin Buchanan October 2006
- vi) Traffic Impact Assessment (TIA) - Colin Buchanan March 2007
- vii) North Place & Portland Street Development Brief (NPDB) - Halcrow Jan 2008; Revised 2010
- viii) Royal Well Development Brief (RWDB) - Halcrow Jan 2008
- ix) Sustainability Appraisal (SA) – Halcrow Feb 2008
- x) Strategic Environmental Assessment (SEA) – Halcrow Feb 2008 (incorporated into SA document)

How the proposals have been formed

2.8 The work of the consultants has been monitored and regularly reviewed by two different groups. These are an Officer Working Group (OWG) and a Member Steering Group (MSG). The OWG is a multi disciplinary group consisting of experts from the three different partners. It meets monthly to offer technical advice to the consultants. The MSG contains a member from each of the three political parties in Cheltenham and the Gloucestershire County Council Lead Cabinet Member for Environment and Community. It meets on a regular basis and acts as a sounding board to help guide Civic Pride policy.

2.9 The proposals in this report are a summary of the professional views of the consultants, modified where appropriate by the guidance of the Officer Working Group and Member Steering Group. The technical appendices consist entirely of the consultants work and support this document. The features of the Civic Pride Urban Design Framework SPD are as follows.

³ www.cheltenham.gov.uk/urbandesign

3. Civic Pride Urban Design Framework

Baseline Study:

3.1 The first task for the consultants was to produce a baseline study that defined the objectives of the project. This study built on the work of an unadopted 2001 Cheltenham Urban Design Framework⁴ and incorporated the SWRDA Civic Pride Initiative objectives⁵. The main objectives of the Civic Pride Project can be summarised as follows:

3.2 **Environmental Objectives:** To provide a context for decisions on urban design, planning, transportation, street scene and maintenance issues that will produce high quality and imaginative public realm. To deliver an exemplar sustainable solution to provide benefits for people living, visiting and working in the town.

3.3 **Economic Objectives:** To stimulate economic development within the town centre. To link economic growth to skills retention and development. To enhance the town's reputation as a national centre of culture and encourage investment in the leisure, tourism and retail sectors.

3.4 **Transport Objectives:** To set the context for reducing town centre traffic impact, improving accessibility for walking, cycling, disabled people, public transport users and businesses. To provide the context for the provision of accessible and safe public car parking and for integrating local, regional and national bus and coach nodes. To establish a basis for reclaiming street space in order to introduce public realm enhancements.

3.5 **Property Objectives:** To provide the context for decisions on the development of the three sites.



3.6 Following the baseline study the consultants produced three distinct strategies: an Urban Design Strategy, Public Realm Strategy and Transport Strategy. They also produced development briefs for Royal Well and North Place/Portland Street⁶. The main features of these strategies and development briefs are as follows:

Urban Design Strategy (UDS):

⁴ The 2001 Urban design Framework (Latham Architects) was effectively a study for further work or feasibility study that informed the present piece of work.

⁵ <http://www.southwestrda.org.uk/what-we-do/regeneration/civic-pride.shtm>

⁶ St. James Square has been taken out of the statutory consultation process and will be consulted on separately

3.7 The UDS is a strategic framework to ensure that individual projects and interventions are not conceived of as isolated schemes, but rather, contribute to a coherent urban design structure for the town. Key features include:

3.8 **Urban Structure:** Cheltenham should have a more integrated and permeable town structure (figure 3). Boots Corner should have pedestrian priority so that it forms the heart of the town as the intersection of two important pedestrian/shopping axes; the medieval High Street and regency Promenade. The North/South promenade route should be extended north from Boots Corner to North Place and then Pittville Park. This would allow Albion Street area to be regenerated in line with the DPDS retail study⁷. This will also help with the regeneration of North Cheltenham. Gateways to the town centre, such as Tewkesbury Road, London Road and Gloucester Road should be made more attractive and marked by landmarks. The River Chelt should be celebrated where possible (UDS p 22).

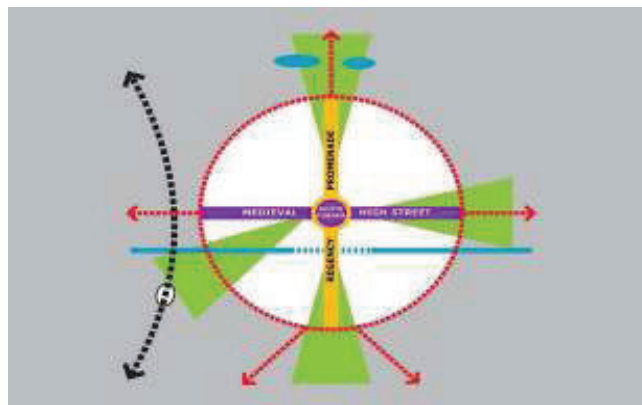


Figure 3: Urban Design Structure

3.9 **Green Structure:** A green corridor connecting Montpellier Park with Pittville Park should be created, encouraging a promenading theme to reflect Cheltenham’s spa town past. Increased planting where possible in new public squares, on St. Margaret’s Road, on buildings and on town centre approaches and gateways (UDS p26).

3.10 **Public Spaces:** There are opportunities for new or enhanced public spaces at Boots Corner, North Place, Royal Well/Crescent Place, Montpellier Walk, Imperial Square, Winchcombe Street/Regent Arcade & Brewery/St. Georges Place. (UDS p25). The main priorities for the creation of new public spaces are Boots Corner, North Place and Royal Well. A high standard of design and finish will be expected at these sites.

⁷ Cheltenham Retail and Leisure Study, DPDS Consulting, December 2006

3.11 Streetscape Improvements: There should be more shared space in the town centre where possible. Street clutter, such as superfluous signs, lampposts and street furniture should be reduced where possible. Buses should be discouraged from laying over or stopping for unnecessarily long times. Improved materials should be used wherever possible (further details in Public Realm Strategy below) (UDS p29).

3.12 Quarters Concept: Cheltenham town centre has seven distinct but overlapping quarters. The UDS sets out general principles for land use and design parameters that could help to target public intervention, inward investment and marketing within each of these quarters (UDS p41)⁸.

Transport Strategy:

3.13 The consultants analysed Cheltenham’s transport network and proposed four traffic management schemes. These schemes modified the existing road network in order to allow the public realm improvements identified in the UDS and PRS. Two preferred schemes were tested using the Gloucestershire Highways ‘SATURN’ Transport Model⁹. The findings of this modelling process were detailed in the Traffic Impact Assessment Report (section 3.19). The main features of the two schemes tested are set out below:

3.14 Phase I: removes vehicle traffic from Boots Corner, Royal Well Rd and North Street. These roads will remain open to public transport and taxis (TS p22)¹⁰.

Jargon Buster 2

What is Streetscape?
The elements within and along the street that define its appearance, identity, and functionality, including adjacent buildings and land uses, street furniture, landscaping, trees, highway, and pavement treatments.

What is Shared Space?
Shared space is the design, management and maintenance of public spaces which reduces the adverse effects of conventional traffic engineering. It is based on the observation that individuals' behaviour in traffic is more positively affected by the environment of the public space than it is by conventional traffic control devices (signals, signs, road markings, etc) & regulations.

What is Street Furniture?
Street furniture includes bus shelters, litter bins, seating, lighting, railings and signs. It includes any structure in and near to the highway.

⁸ The detailed design and implementation of the Civic Pride projects will preserve and enhance the character of the Conservation Area in a manner compatible with the relevant Character Area Appraisal.

⁹ The Central Severn Vale SATURN Model is a strategic traffic assignment modelling facility and provides a detailed picture of Cheltenham’s town centre vehicle movements.

¹⁰ In the Transport Strategy 2006, Phase 1 is referred to as ‘Do Minimum, Phase II is Option 2



Figure 4: Transport Strategy Phase I (Larger scale image at appendix II)

3.15 Phase II: Phase II is based on Phase I but it takes the key objective of reducing traffic in the town centre further, by removing the remaining section of the inner ring road formed by Bath Road and Oriel Road (TS p24). The strategic traffic currently using this route would be dispersed on to other roads around the town centre. However, Phase II is not to be pursued at this time, as it does not currently have the backing of the Highway Authority (GCC). It will remain a possible future option or second phase, subject to funding, planning policy and the support of the Highway Authority.



Figure 5: Transport Strategy Phase II

3.16 Public Transport: Crucial to the Transport Strategy, and something included in both phases, is the creation of a two-way public transport spine running from north to south. This will allow a rationalisation of the bus network, with operator cost savings and more efficient routes for customers. This is in line with the Council's Sustainable Community Strategy (TS p45).

3.17 Cycling: A mesh of cycle routes could be established across the town centre with interchanges at approximately 300m centres. This was a philosophy adopted in Delft in Holland which is widely seen as an exemplar in Europe. Streetscape and design improvements such as removal of street clutter could assist in reducing on-street cycle accident rates and will improve the cyclist's experience.

3.18 **Parking:** As Civic Pride is reliant on developing existing surface car parks, there may be a reduction in parking capacity in future years¹¹. This is however subject to many factors and needs to be weighed against the advantages of developing these car parks which will achieve significant economic and social benefits that outweigh any potential issues arising from a loss of capacity¹².

3.19 **Mitigation:** Mitigation measures are being investigated to offset any future shortfall in parking capacity, these include:

- i) *Park and Ride* – There are plans to expand the number of spaces at Arle Court Park and Ride and to create new facilities at Uckington and Shurdington. Cheltenham Racecourse will continue to provide a park and ride facility.
- ii) *Improved public transport* – The transport strategy will increase the attractiveness of public transport to the town centre, by encouraging quicker and more frequent bus services. The availability of free public transport for the elderly has already had some impact in reducing the demand for town centre parking.
- iii) *Retaining and improving existing car parks* – An appropriate level of parking capacity will be retained at North Place/Portland Street car park and there is the possibility of increasing the capacity of other town centre car parks through sensitive development¹³.
- iv) *Provision of seasonal spaces* – CBC and GCC are actively investigating the possibility of using the car parks of large local firms at weekends to provide additional parking at peak times such as Christmas and during festivals.



Figure 6: Example of multi-storey car park (left) overlooking public space

¹¹ Physical counts of car park usage on both a typical shopping day and during the busy Christmas period were carried out. These studies demonstrated that there is currently an over provision of public parking in Cheltenham town centre.

¹² The specific location for disabled parking is a level of detail that will be worked out at the planning stage. There is no plan to reduce the overall number of town centre disabled parking places. There may be opportunity to increase the number of spaces. There maybe some reassignment of disabled parking locations.

¹³ For example, decking could be ‘wrapped’ with single aspect uses to reduce visual impact.

3.20 Transport Contributions: The Council has an adopted SPG on development contributions towards transport infrastructure cost. The Civic Pride SPD establishes a higher materials specification than the Transport Contributions SPG had envisaged within the town centre. Accordingly where the Transport SPG triggers a contribution towards work, which the Civic Pride requires to be at an enhanced level, the contribution will be enhanced accordingly to enable the Civic Pride specification to be implemented.

Traffic Impact Assessment (TIA):

3.21 The consultants tested the two proposed traffic schemes (Phase I and Phase II) using the SATURN Transport Model. It was expected that this could demonstrate a displacement of traffic on the network when sections of the inner ring road were blocked to normal traffic. The results of the modelling are set out in the TIA report (appendix) - in summary it can be noted that:

3.22 **Phase I:** The model demonstrated no significant build up of traffic in any particular road. There is a significant decrease of traffic in the town centre. Displaced traffic will be evenly distributed across the road network. With traffic management improvements on St Margaret's Road and junction improvements on Albion Street, Phase I could be accommodated within the existing road network (TIA p20).

3.23 **Phase II:** The model showed a greater reduction in town centre traffic, but there would be significant increases in traffic at peak times in certain parts of the road network. Additional road improvements would be required at Lansdown Road/Montpellier Walk junction and Bath Road/Montpellier Terrace. These junction improvements would create a significant capital cost (TIA p33).

3.24 Key Outputs of Phase I:

- i) Allows re-development of Boots Corner, Royal Well and Albion Street
- ii) Improved and more 'pedestrian friendly' town centre
- iii) Allows streetscape improvements and the creation of high quality public spaces
- iv) Impetus for regeneration of west High Street through increased pedestrian footfall

3.25 Key Outputs of Phase II:

- i) Outputs as per Phase I, plus:
- ii) Allows streetscape improvements to Oriel Road/Bath Road.

3.26 **Transport Conclusion:** Due to the results of the TIA and after consultation with the Highway Authority it is proposed that Phase I is the transport option that is the most realistic to implement in the short term. Phase II is reserved as a possible future option subject to Gloucestershire Highways support, further feasibility studies and funding being identified.

Public Realm Strategy (PRS):

3.27 The PRS builds on the work of the UDS and Transport Strategy by providing a more detailed rationalisation of CBC and GCC's approach to both the management of and intervention in the public realm. It sets out a cohesive approach to unifying elements such as signage, lighting, public art, street furniture and materials across a hierarchy of different street types (figure 7 and figure 8). The main features of the PRS are as follows:

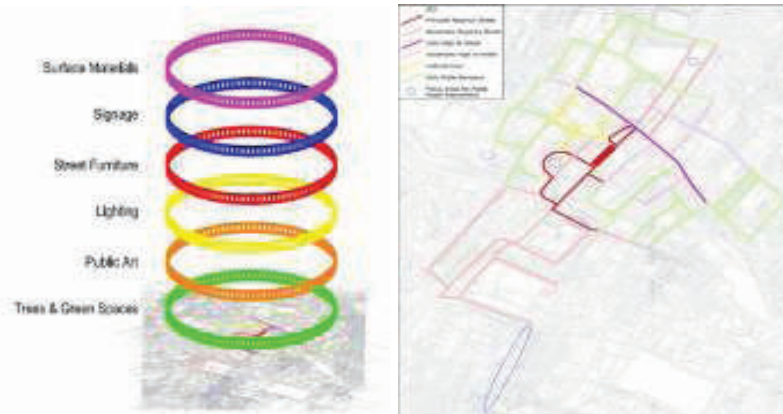


Figure 7: Public Realm: Thematic Approach Figure 8: Street Types (appendix ii)

3.28 **Materials:** The report builds on the UDS quarter approach by suggesting a hierarchy of different paving materials and laying techniques for different quarters. For example, the cultural core streets should have 400-900mm random length high quality natural stone paving and principal regency area streets a 600mm random length yorkstone slab¹⁴ (PRS p10). An appropriate maintenance budget for enhanced materials must be considered.



3.29 **Direction and Location Signage:** Signs should be clear and accessible but not dominating the streetscape; only located where relevant; reinforcing a qualitative statement about the value of the public realm; not following a specific period style in order to unify historical and modern developments; and using specifically designed 3D maps to display easily recognisable landmarks. Signs could be colour coded by quarter and should use a bespoke and contemporary design (PRS p11).

¹⁴ The exact choice of materials is subject to Highway Authority approval.

3.30 **Street furniture:** Street furniture, including seats, benches, bins, bollards, cycle racks, bus shelters and tree surrounds, should not reflect any heritage style or imitate a point in history. The materials used should be durable and vandal proof. The designs should be simple, stylish, elegant and versatile (PRS p13).



Figure 9: Quality distinctive environment

3.31 **Lighting:** Lighting of the public realm will enhance the town after dark by providing a clear sense of place and vibrancy, whilst proving a safe environment for all users of the town centre. Where possible lighting should be upgraded to more sustainable contemporary styles. Lighting of significant buildings during festivals will improve legibility. Any new lighting should use low carbon LED technology (PRS p14).

3.32 **Public Art:** Public Art should establish a coherent pattern to understand the town. This should be expressed through quarters, gateways, linkages and movement. Gateways are possible locations for public art and lettering and paving materials can also be used. One major piece is better than many unsuccessful ones (PRS p16).

3.33 **Decluttering:** The PRS sets out the principle of rationalising street furniture and signage and removing unnecessary street clutter (PRS p7).

North Place and Portland Street Development Brief:

3.34 The consultants have produced a development brief to guide the redevelopment of North Place and Portland Street. This will be submitted to the market with an invitation to tender for development proposals. The main principles of the development brief are as follows:



3.35 **Urban Design:** There is a key opportunity to form a northern gateway to the town centre. Focussed on a high quality civic square addressing Holy Trinity Church to the east of the site and becoming a magnet/destination area north of the High Street. Clear pedestrian linkage to the Brewery and High Street through a strong east-west diagonal link between Dowty House and Holy Trinity Church. This should exploit the meeting of geometries and views of these historic buildings. (NPDB p10).

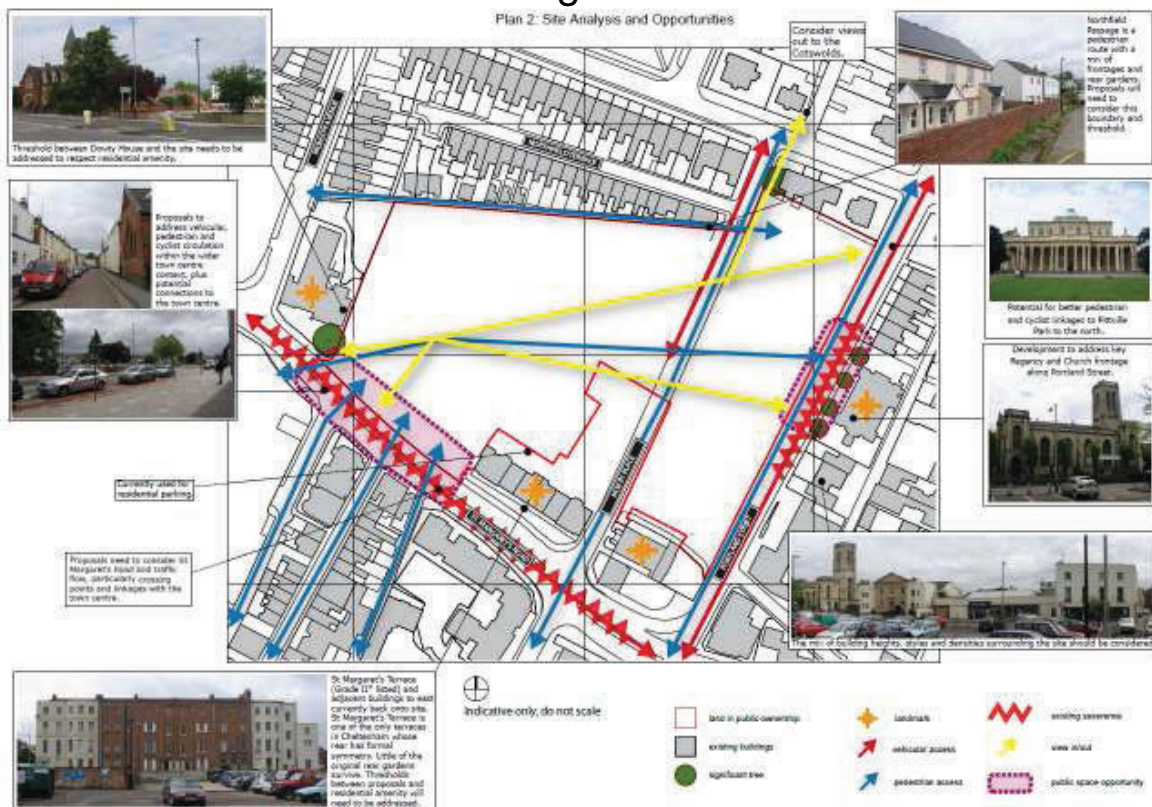


Figure 10: North Place Development Principles (appendix ii)

3.36 There is an opportunity to create a striking contemporary northern extension to the town centre using high quality materials and design and public art. There should be increased planting to continue the green corridor from the Promenade to Pittville Park using the new space in front of the Church to shift the axis. There should be shared space on North Place. There is an opportunity for landmark building on south west portion of site.

3.37 **Land Use:** The site should be mixed town centre uses, including residential (including a minimum of 40% affordable dwellings), commercial (e.g. office, retail etc.), leisure, arts, bus interchange, parking and public spaces. Residential should be a mix of apartments and townhouses and must conform to Cheltenham Borough Council's existing planning policies. The residential units can have a maximum of five storeys.

3.38 **Transport:** There are a variety of access opportunities to the site. However, the Highway Authority's view is that the introduction of a new junction onto St Margaret's Road would introduce further delays and congestion to an existing vital transport corridor and vehicular access to the site here is unlikely to be acceptable. Additionally, choice of access points will not be allowed to compromise urban design objectives which are seeking the creation of vibrant streets and spaces, good pedestrian linkages and enhanced street scene. Portland Street would remain part of the existing road network to ensure access and permeability. There is a major opportunity to enhance the quality and appearance of both St Margaret's Road and Portland Street. Also, improving junctions will help pedestrian and traffic movement and thus address existing congestion. Any access proposals to the site will be subject to modelling. (NPDB p17).



3.39 **Parking:** The site needs to provide car parking for the following:

- i) Residential parking levels will be agreed with the planning and highway authorities and will be based on evidence related to the need of accommodation provided and the availability of parking in and around the development overall.
- ii) A minimum of 300 public car parking spaces.¹⁵ Developers are likely to be asked to consider two different options for the public car park: one underground and the other over-ground.
- iii) Other uses will be provided with limited parking to meet their essential operational and service requirements only. It is expected that any office parking would be available at weekends for public parking.

3.40 There are a variety of options for the location of parking. Residential and commercial parking will be designed to provide safe and secure areas for both person and vehicle, offering well lit spaces with good natural surveillance. This parking can be provided on-street in secure, overlooked locations. Undercroft parking is acceptable if the buildings in which it is located provide active frontages. Underground public parking may be acceptable subject to the suitability of ground conditions. Decker parking may also be acceptable if suitably designed and screened, for example with green walls and/or single aspect development to provide active edges. Rear parking courts in residential and general commercial areas are not acceptable as they create insecure intrusions into the core of blocks and are inefficient in their use of space (NPDB p17). Adopted parking solutions will be expected to respect the Council's ambition for quality public realm and development that enhances the character of the town. Public parking will need to positively consider the needs of the evening economy in terms of charging regimes, opening and closing times etc.

3.41 **Sustainability:** There is an opportunity to incorporate a range of sustainable design and construction techniques into the development, including maximise the 'due south' orientation of new buildings, using the diagonal axis as a key structuring element, thereby improving passive solar gain and low-carbon energy systems. Green roofs on buildings on

¹⁵ The St. Margaret's SPG (adopted 1999) sets a target of 800 parking spaces for the North West portion of the town centre. As the NCP and High Street car park provide approximately 500 spaces there is a need for at least 300 spaces at North Place and Portland Street.

the civic building and green walls to improve air quality and screen car park development are examples of best practice. Opportunities to create exemplar eco build will be actively encouraged. The development should aim to achieve at least Level 5 of the code for Sustainable Homes and ‘very good’ under the BREEAM environmental building standards; to assist in achieving each standard design should incorporate Crime Prevention and Secured by Design. (NPDB p15)¹⁶.

3.42 **Constraints:** Land adjoining existing residential areas must be carefully considered. Sensitive consideration must be given to Holy Trinity Church & St. Margaret’s Terrace (grade II*) in terms of heights, setbacks, development intensity and elevational treatments. English Heritage consent will be required for this development.

Royal Well Development Brief:

3.43 The consultants have produced a development brief to guide the redevelopment of Royal Well. This will be submitted to the market with an invitation for development proposals. The main principles of the development brief are set out below:



Figure 11: Concepts for Royal Well

3.44 **Urban Design:** The Royal Well site creates an opportunity for a unique development utilising the existing landmark architecture, public space, trees and green space. There is a chance to better integrate the currently ‘hidden’ public space into the town centre; creating a new “destination” and creating links to the cultural quarter at Clarence Street. Improving the rear of the Municipal Offices will enhance the setting of the historic Royal Crescent. The removal of through traffic will enable Royal Well to become a pedestrian dominated space. An improved Royal Well will also act as a new town centre gateway for people accessing the town centre on foot or cycling via the Honeybourne Line (RWDB p 16).

¹⁶ New developments should conform to Cheltenham Borough Council Supplementary Planning Guidance “Waste Minimalisation in Development Projects” Sept 2006.

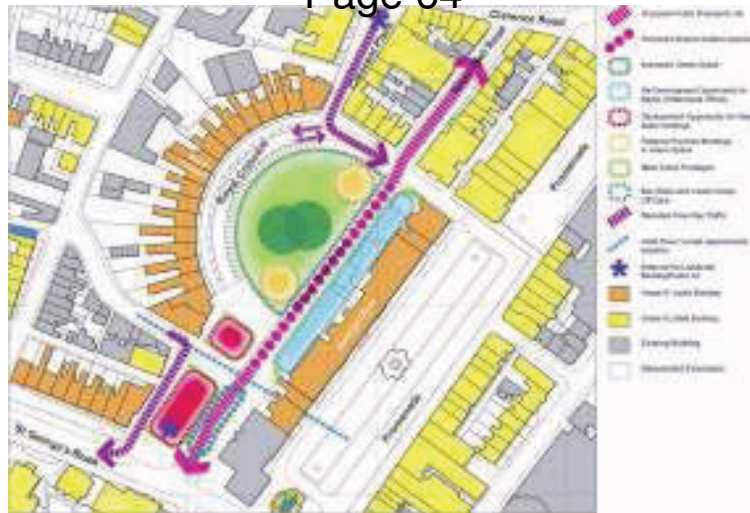


Figure 12: Royal Well Development Principles (appendix ii)

- 3.45 **Land Use:** Mixed use development with potential for leisure, retail and residential uses (RWDB p9). The scale and form of development to the rear of the Municipal Offices will be dependent on English Heritage approval and will be subject to an in depth conservation management plan (currently being commissioned).
- 3.46 **Transport:** As Royal Well Road forms an important part of the North-South bus spine it is proposed that the road will be closed to all normal vehicular traffic, but will remain accessible to public transport, taxis, cyclists and walkers. This will help to improve permeability in the town centre. However, because one of the principal drivers for the redevelopment of this important site is that an attractive new public space is created, the location of bus stops is an important consideration (RWDB p15).
- 3.47 It is proposed that a more thorough analysis of the most suitable locations for the various types of bus and coach services across the town centre be undertaken (town, country and national). However, the initial analysis has identified four options for the coach station: 1) Coach drop off point remains at current location but is rationalised and given sensitive design treatment. 2) Coach station moved to alternative site. 3) No specific coach station. Coaches drop off where appropriate e.g. National Express on the Promenade, day trips outside the Town Hall, country buses along the bus spine - lay offs discouraged within the town centre area. 4) Coaches pick up/drop off at Park and Ride.
- 3.48 **Parking:** The current private parking along Crescent Place will remain, but the public car park at Chapel Walk will be removed and redeveloped. It is unlikely that there will be opportunities for the creation of significant amounts of new car parking within Royal Well. There will also be limited opportunities related to the new building. However, in line with sustainable transport policies and due to enhanced public transport access, the Council will discourage parking for non-residential uses. In any event, residential parking will not be permitted to exceed an average of 0.8 spaces per unit. Underground car parking is unlikely to be possible owing to the location of the site within the floodplain, but it would be considered if a technical solution could be identified which was acceptable to the Environment Agency.

3.49 **Environment:** The retention of the London Plane trees on Royal Well green is essential.

There should be careful consideration of potential flood risk and the development proposal should demonstrate the application of sustainable development principles and provision of “beacon” sustainable solutions (RWDB p13).

3.50 **Constraints:** The River Chelt culvert runs east to west in the south of the site. In order to retain access to the culvert no development is permitted above and within eight metres either side of the culvert. The site is currently in flood risk zone 3. A site specific Flood Risk Assessment is required to ascertain the extent of the highest risk sections of the site. English Heritage permission will be required for any new building to rear of the Municipal Offices. There is a need to retain views of the Ladies College, Chapel and Royal Crescent.

Appendix One: Source of additional information

Contacts

Cheltenham Borough Council Planning		
Urban Design &	Wilf Tomaney	01242 264145
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Planning Policy	Tracey Crews	01242 264382
North Place Development Control	Ian Crohill	01242 264249
Royal Well Development Control	Martin Chandler	01242 774940
Conservation	Karen Radford	01242 775218
Building Control	Iain Houston	01242 264293
Gloucestershire Highways	Amanda Lawson-Smith	01452 425609
Cheltenham B.C. Housing Enabling	Lois Taylor	01242 774718
Cheltenham B.C. Legal	Jonathan Noel	01242 775117
Environment Agency	Ruth Clare	01684 864383

Appendix Two: Larger scale diagrams

Figure 4: Transport Strategy Phase I

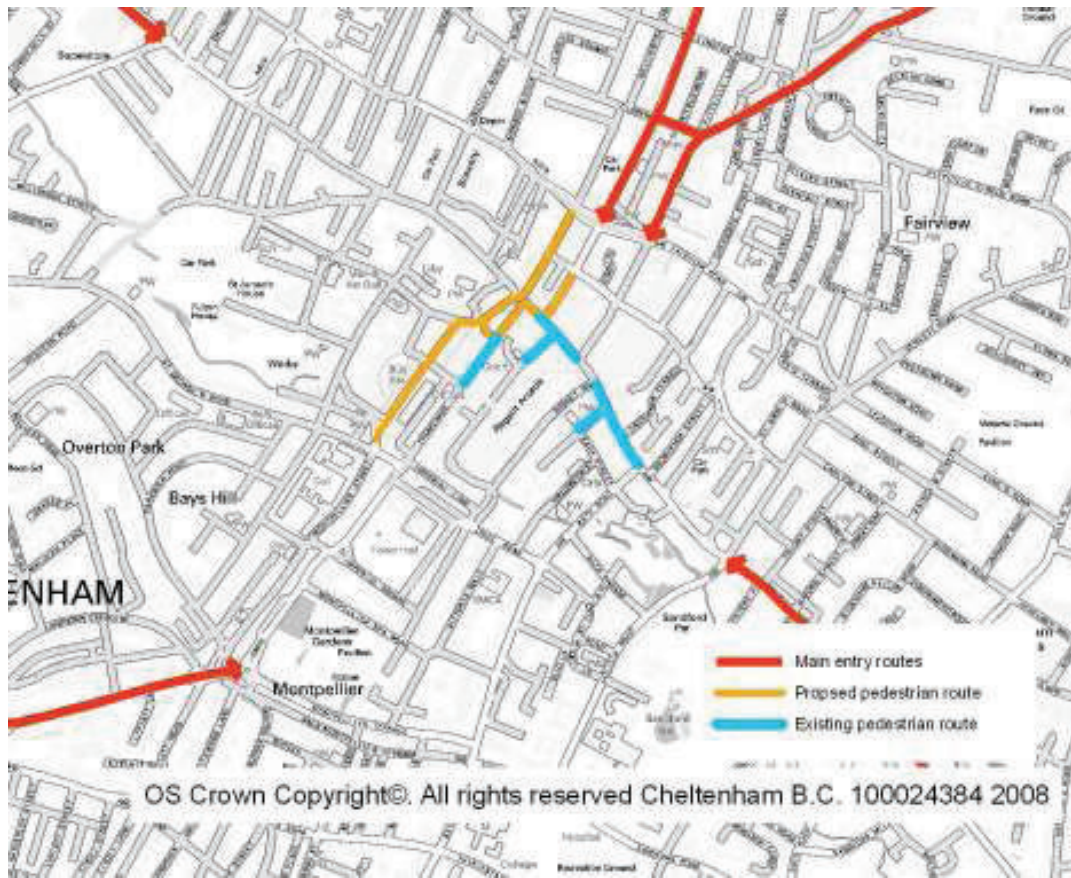


Figure 7: Public Realm: Thematic Approach



Figure 8: Street Types

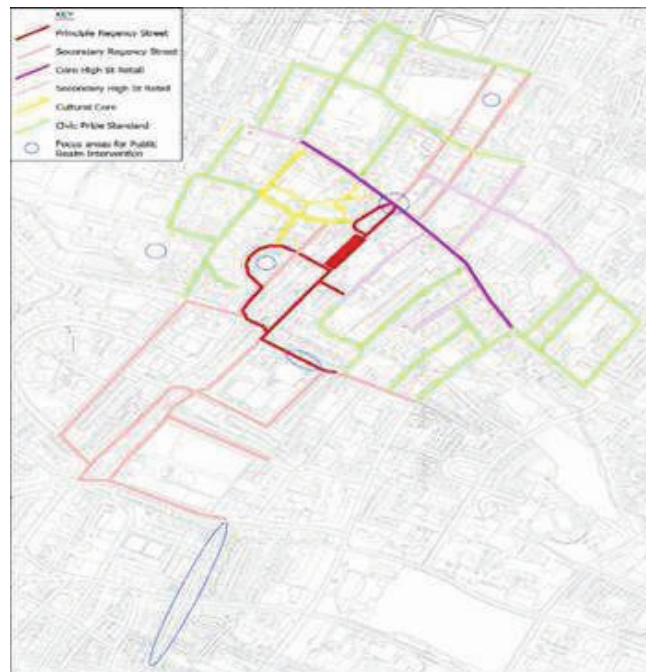


Figure 10: North Place Development Principles

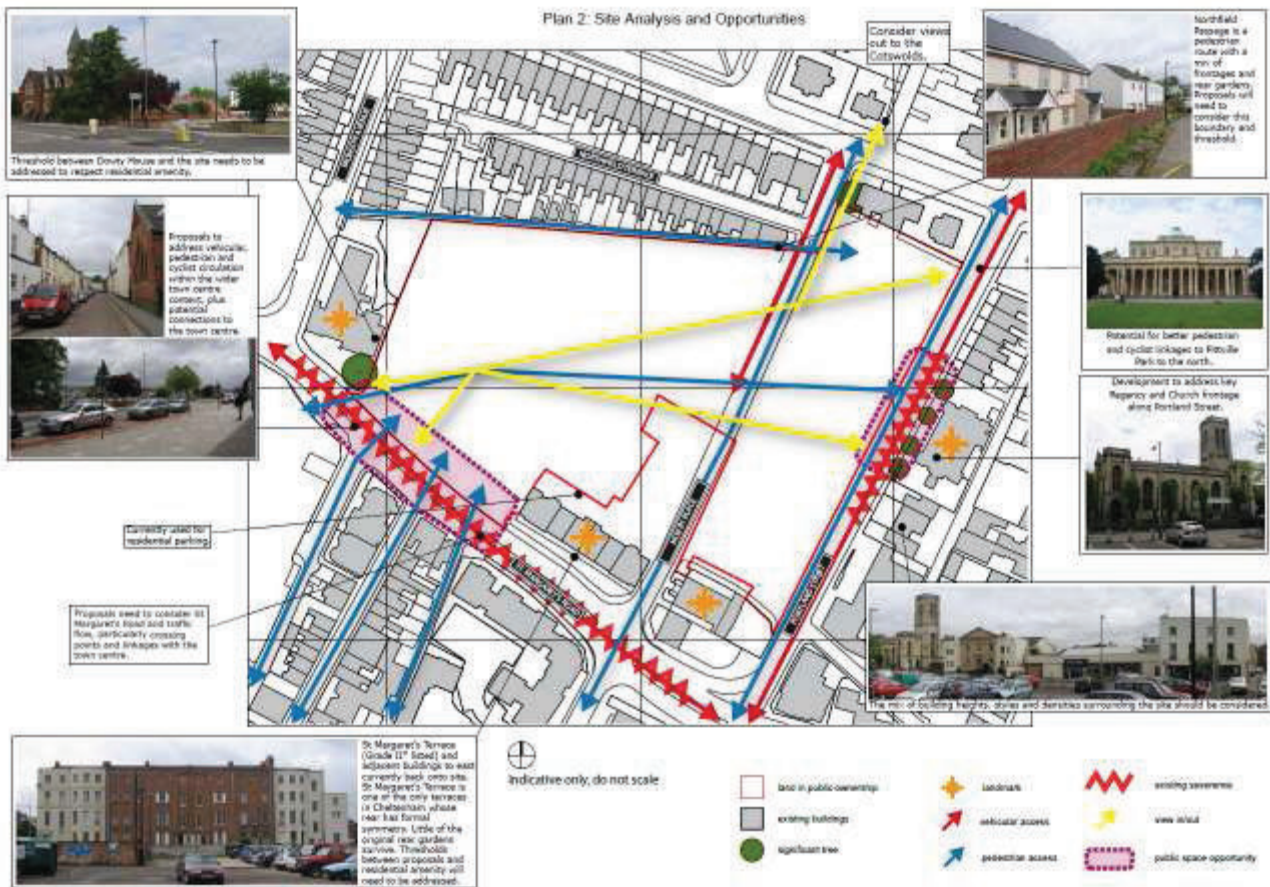
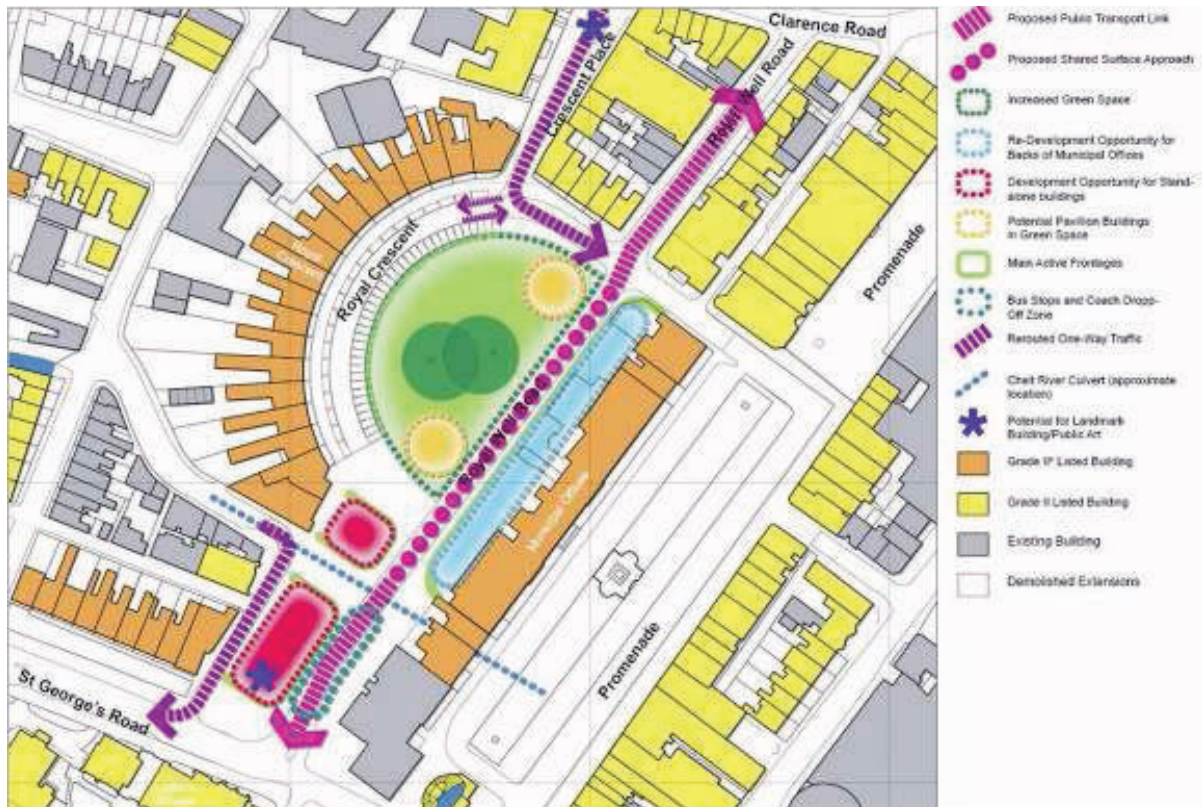


Figure 12: Royal Well Development Principles



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**Cheltenham Civic Pride Urban Design
Framework**

**Cheltenham Borough Council
South West Regional Development Agency
Gloucestershire County Council**

Technical Appendix:

**North Place and Portland Street Development
Brief**

2010 Revision

Adopted - December 2010

On 28th July 2008 the North Place and Portland Street Development Brief was adopted by Cheltenham Borough Council as a technical appendix to the Civic Pride Urban Design Framework Supplementary Planning Document (SPD) within the Local Development Plan (LDF).

The economic slump and other factors have led to questions as to whether the Brief, as adopted, can effectively be delivered. This is a conclusion which has been reached by the Cheltenham Development Task Force which was set up by the Council and its partners to drive forward the Civic Pride programme and bring key regeneration sites forward for Cheltenham.

So, whilst there is an absolute commitment to retain the principles embodied within the 2008 document the fixed interpretation – particularly the range of uses - needs to be made more flexible in the light of changing circumstances.

This Brief has been revised to reflect both these changes and a changing statutory planning framework. Consequential changes have also been made to the SPD.

This Development Brief is a Technical Appendix to the Civic Pride Urban Design Framework SPD. Both the revised Brief and the revised SPD were adopted by Cheltenham Borough Council Cabinet on 13th December 2010.

Both were subject to a consultation which ran between 23rd August and 1st October.

The documents form part of the Cheltenham Civic Pride Urban Design Framework SPD sitting within the Council's Local Development Framework and are each a material planning consideration when the Borough Council determines any relevant planning applications.

For further information contact the Council's Built Environment Division:

- Phone 01242 264328
- E-mail builtenvironment@cheltenham.gov.uk
- In writing Cheltenham Borough Council,
Municipal Offices,
Promenade,
Cheltenham,
Gloucestershire, GL50 1PP

Documents can be viewed on-line at www.cheltenham.gov.uk/urbandesign.

1. Introduction

Background

- 1.1. This Development Brief forms part of the Cheltenham Civic Pride Urban Design Framework (UDF) prepared for the South West Regional Development Agency (SWRDA), Cheltenham Borough Council (CBC) and Gloucestershire County Council (GCC). These three bodies are now partners in the Cheltenham Development Task Force, along with the Homes and Communities Agency.
- 1.2. Once approved, this development brief will form a Supplementary Planning Document (SPD) within Cheltenham’s Local Development framework (LDF) and will be a material consideration when the Borough Council in its role as Local Planning Authority determines any planning applications for the site.
- 1.3. Cheltenham is a thriving town set at the foot of the Cotswold scarp. It grew significantly in the late 18th /early 19th centuries when it was a popular spa resort. It was developed as a number of set-piece estates to a masterplan. This left an extensive legacy of Regency buildings and formal gardens. However, the streets in its core are frequently dominated by vehicular traffic and the traffic management paraphernalia which accompanies it. Pedestrian access to, and in some cases within, the town centre is often difficult, with many routes being cut by the town’s two ring roads. In addition a number of prominent sites are underused and have a negative impact on the quality of the street scene.
- 1.4. **The principal aim of the Civic Pride project is to build upon the regency heritage of the town by revitalising the street scene, including the buildings, streets and spaces in order to bolster the town’s economy.**
- 1.5. The UDF process has analysed transport, economic, environmental and land-use issues affecting the town in order to create strategies to achieve this aim. Part of the project focuses specifically on the redevelopment of council owned sites to be promoted as exemplars of sustainable development. North Place and Portland Street car parks form one of these sites.
- 1.6. The key Civic Pride documents set out below, establish the context for this Development Brief. Together with this brief and its companion for the Royal Well site they make up the UDF and development on this site must comply with their various proposals.

Masterplan Report	Halcrow Group Ltd	September 2007
Public Realm Strategy	Halcrow Group Ltd	March/December 2007
Transport Strategy	Colin Buchanan	April 2007
Phase 2 Scenario Testing	Halcrow Group Ltd, Nisbet LLP and King Sturge	December 2006
Urban Design Strategy	Halcrow Group Ltd	October 2006
Baseline Report	Halcrow Group Ltd	October 2006

- 1.7. The following key factors have impacted upon potential future uses:
- a. An independent market re-appraisal by specialist property advisers which questions whether the Brief, as adopted in 2008 is deliverable in the current market conditions
 - b. The decreasing likelihood of the creation of a new build Civic Hub in the austere economic climate that we now find ourselves
 - c. Further site analysis including ground investigation work because of localised contamination resulting from the site's use as a coach station raises challenges for the medium density housing.
 - d. The opportunity for speculative office build is perceived as limited, however the Borough Council does not wish to rule it out if it is deliverable. Furthermore, Joint Core Strategy's emerging Employment Land Review recognises the value to economic investment of area-specific regeneration which improves the quality of the environment. Consequently, the Brief introduces opportunities for a wider range of commercial development on the site (e.g. office, retail etc.) along with a range of other potential uses.
 - e. Following recent detailed transport modelling work there has been an examination of opportunities to relocate Royal Well bus bays, currently serving the national coaches and rural services to the town. These bays, when relocated, will cater for services with a stopping time of no longer than 20 minutes. It is proposed that these bays are located at the southern end of the North Place/Portland St site, and will be in addition to the stops located along the proposed "bus spine" which will cater for the urban services.
- 1.8. The need to reappraise the development brief for this site is not unique and there is evidence that several sites across the Borough are being reconsidered as a result of the challenging financial circumstances being faced by landowners and developers alike.

Purpose of the Brief

- 1.9. This Development Brief sets out the Council's planning requirements for development of the site in order to secure high quality, sustainable, mixed-use development that will also preserve and enhance the special character of Cheltenham. The Brief aims to provide flexibility to enable developers to bring forward innovative design proposals for the site, once the basic design and sustainability parameters have been met.

Main Objectives

- 1.10. The Council wants development on the site to satisfactorily resolve issues of design, layout, use, access, car parking and street scene. Proposals will be in accordance with the policies of the existing Local Plan together with national planning policy guidance (see Appendix). It will provide mixed use development which:

- a Is an exemplar of sustainable development and design quality in both building form and street scene
- b Creates a vibrant mixed-use hub acting as a catalyst for regeneration north of the High Street
- c Encourages the use of sustainable transport modes
- d Delivers series of spaces on St Margaret's Road which improve pedestrian movements and streetscene and creates a vibrant, safe street.
- e Maintains a minimum of 300 town centre public car parking spaces to support the retail attraction of the town centre
- f Creates town centre streets and spaces which are pleasant, safe and vibrant with their own sense of place
- g Creates a series of high quality public spaces which
 - i. enhances the setting of Holy Trinity Church
 - ii. establish a green corridor linking the town's two historic promenades (The Promenade and Pittville Park).
 - iii. addresses the pedestrian severance between St Margaret's Road and the Brewery by delivering clear pedestrian connections
 - iv. mark significant focal points within the site
- h Preserves and enhances the existing historic architecture.

2. Development Context

- 2.1. Since the adoption of the Brief in 2008, much of the contextual information has been up dated. This section contains information which is current as at July 2010.

Location

- 2.2. The site consists of two extensive surface car parks on cleared sites about 250 metres north of the High Street (Plan 1). Together they total about 2.1 ha. Generally, to the north, west and east of the site are historic residential suburbs; to the south and east is town centre related development.

Planning

- 2.3. The site is allocated for mixed use development under Policy PR2 of the Cheltenham Borough Local Plan. The uses identified in the Plan are housing with a minimum 100 units, including 50 affordable dwellings; public car parking; public open space; and other possible public uses. Since the Plan's adoption in 2006 market conditions have changed significantly and there is detailed evidence to guide the most appropriate type of development, for example in the Housing Needs Assessment (2009). The overarching housing issue to address on the site is the delivery of affordable housing and the Council now considers this is best reflected in Policy HS 4 a generic housing policy which requires a minimum of 40% affordable housing and it will be seeking this level of provision through the development of the site.
- 2.4. The site is within the Central Conservation Area and is covered by the Old Town Character Appraisal and Management Plan, an adopted SPD.
- 2.5. Both of these documents form part of the statutory planning framework for the site. A list of the most relevant planning documents and policies is appended: they will be used to determine planning and related applications for the development of the site.

Land Ownership

- 2.6. The land is owned by Cheltenham Borough Council (CBC), with a stopped up road (Warwick Place) in the south of the site owned by Gloucestershire County Council (GCC).

Historic Context

- 2.7. The location of the site within the Central Conservation Area gives the site a status as a designated heritage asset within Planning Policy Statement 5. This document requires all parties (potential developers and planning authority) to understand the significance of heritage assets both in terms of this particular site and the significance of nearby heritage assets and their settings. A separate heritage assessment for the site is being prepared independently to assist with the interpretation and assessment of any future proposals, to enable "the understanding of significance" requirements of PPS5 to be fulfilled. This analysis will assess the following characteristics:
- The heritage significance of the site, being a site located with the conservation area
 - The significance of nearby assets and the contribution of their setting;
 - The general character and distinctiveness of the local buildings, spaces public realm and the landscape;
 - Landmarks and other features that are key to a sense of place;
 - The diversity or uniformity in style, construction, materials, detailing, decoration and period of existing buildings and spaces;

- The topography;
 - Views both into and from the site and its surroundings;
 - Green landscape;
 - The current and historic uses in the area and the urban grain.
- 2.8. Historically the sites were principally dominated by two uses. The majority of the area of North Place car park was the site of a large detached 19th century house with large landscaped gardens until the construction of the Black & White coach station. The house was subsequently demolished and the garden used as coach parking and then a car park. The site of Portland Street car park was Victorian housing of mixed quality around an internal lane until demolished in the latter half of the 20th century. In terms of street layout - North Place and Portland Street existed on their current lines; St Margaret's Road extended only as far as North Street in the east, with the east-west route involving a dog-leg along Warwick Place until its extension as part of the construction of the northern relief road in the 1980's. The maps of 1884 and 1902 provide some helpful visual clues as to the historic layout.
- 2.9. The site lies within the Central Conservation Area and although it has no structures within the curtilage there are buildings within close proximity that are listed as II*, II or alternatively noted on the Index of Buildings of Local Interest.

Archaeology

- 2.10. The Gloucestershire County Council Archaeology area summary (a desk based survey) for the car parks carried out in 2001 identified the following potential for archaeological finds.
- “The Desk Based Assessment identified a field boundary and trackway which may be pre-medieval, a probable medieval field system, a terrace of buildings dating to at least 1800, small scale building development covering a period between 1806 and 1855, and a C20 coach station and car parks. Any C19 buildings with cellars will have destroyed evidence of earlier activity. The Desk Based Assessment identified an area which appears to have remained largely undeveloped through the C19 and C20, where it is possible that earlier features and deposits will have survived. {Source Work 6468.}”*
- 2.11. This analysis suggests that the likelihood of any earlier features surviving on Portland Street is remote given that this area was previously Victorian housing with cellars. However there are elements of North Place that may have survived relatively undisturbed and where further analysis and investigation would be appropriate.

Flood Risk

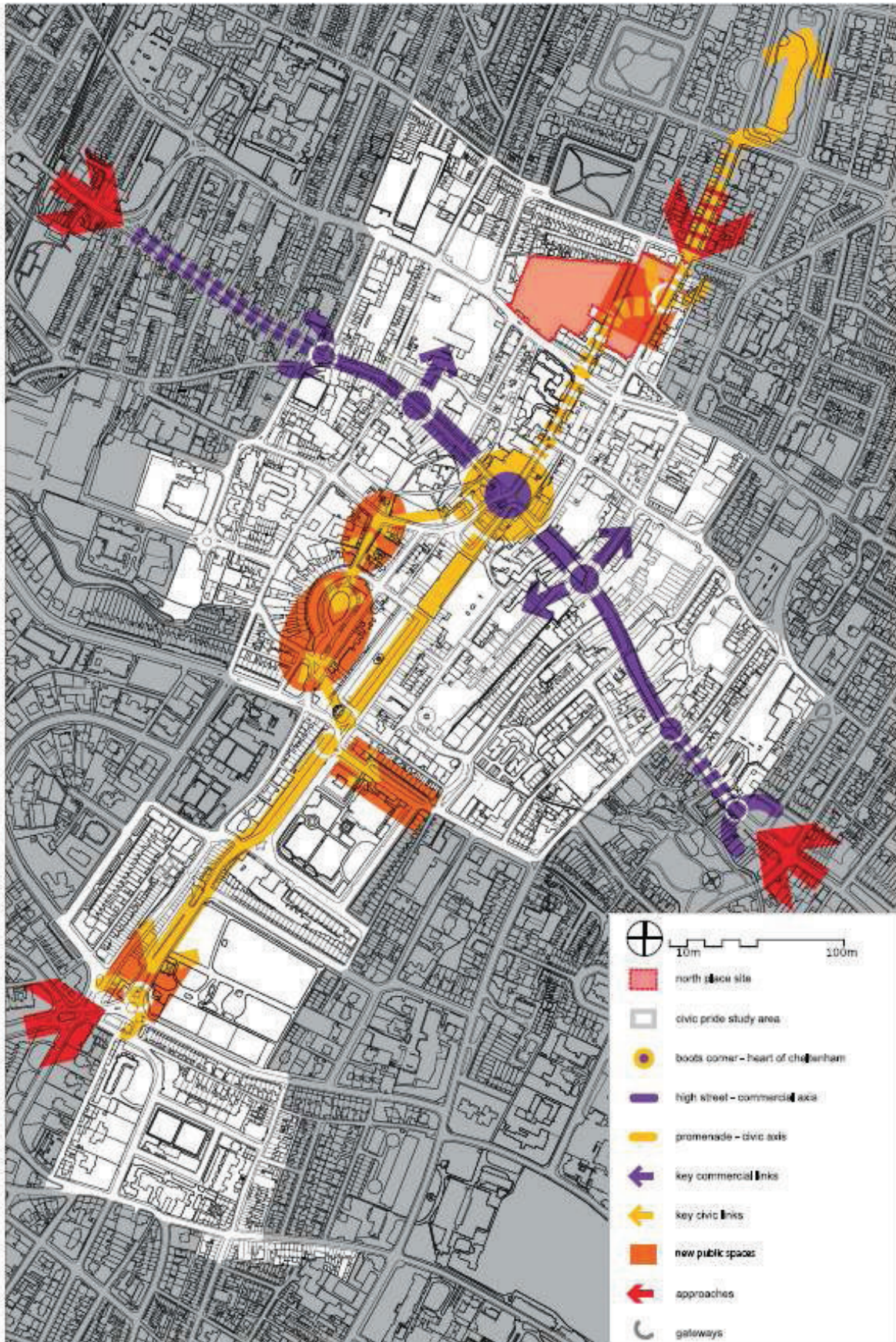
- 2.12. Flood risk is recognised as a significant issue for Cheltenham residents following the events of 2007. As such this site will be considered as Stage 2 of the Strategic Flood Risk Assessment, the findings of which are expected in Autumn 2010. An extract from the Environment Agency in response to the initial brief is at Appendix 2. From the response analysis it is evident that with an appropriate approach and well developed strategy the site can realise a significant number of the strategic aims set out in the original Development Brief. The greening helps support the biodiversity, whilst underground car parking can be achieved so long as due regard is made to the water table and aquifer.



1884 Map



1902 Map



Plan 1: Site Location

Analysis

2.13. Plan 2 gives an analysis of the site and its surroundings. The main points are

- a The site is a flat cleared brownfield site, with little of aesthetic value – a few semi mature trees are set on the Portland Street and St Margaret’s Road boundaries.

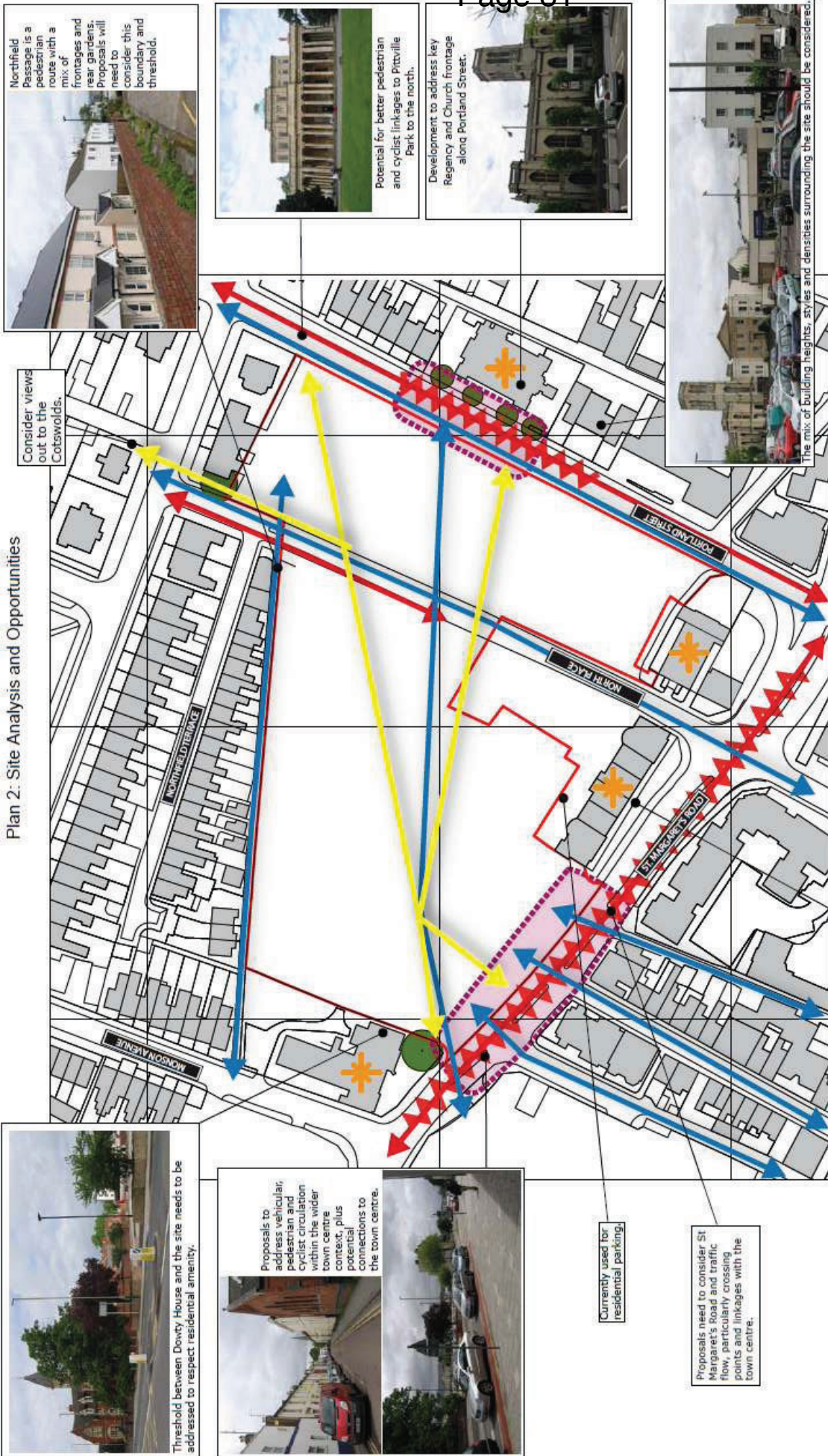
Movement

- b St. Margaret’s Road is part of the orbital northern relief road and heavily trafficked at peak times. The considerable amount of paraphernalia associated with managing traffic on St Margaret’s Road has a negative impact on the quality of the street;
- c Portland Street is historically the main northern approach to the town centre, though at this point it is currently one-way out of town with a contra-flow in-bound bus lane. It is heavily trafficked;
- d North Place splits the site;
- e Warwick Place is decommissioned highway used for parking as part of the neighbouring health club and is an unsightly edge to the site which should be incorporated into the redevelopment;
- f A number of important pedestrian routes come into and pass through the site – linking the town centre, the Brewery, Pittville Park and northern residential suburbs;
- g The site is well located for most bus routes in the town.

Neighbouring development

- h The site is addressed by the rear of predominantly residential buildings at Northfield Terrace and Clarence Square to the north, St Margaret’s Terrace to the south and Dowty House to the west;
- i Across Portland Street to the east is a mix of building styles, heights and uses (residential, religious, commercial);
- j The Brewery, a recent retail development, is across St Margaret’s Road to the south west;
- k A number of key neighbouring buildings are listed and the site is within the Central Conservation Area.

Plan 2: Site Analysis and Opportunities



Consider views out to the Cotswolds.



Currently used for residential parking.

Proposals need to consider St Margaret's road and traffic flow, particularly crossing points and linkages with the town centre.

St Margaret's Terrace (Grade II* listed) and adjacent buildings to east currently back onto site. St Margaret's terrace is one of the only terraces in Cheltenham whose rear has formal symmetry. Little of the original rear gardens survive. Thresholds between proposals and residential amenity will need to be addressed.



- Indicative only, do not scale
- land in public ownership
- landmark
- existing severance
- vehicular access
- pedestrian access
- existing buildings
- significant tree
- view in/out
- public space opportunity

Constraints

2.14. Plan 2 gives an analysis of the site and its surroundings. The main points are:

- a The amenity of adjacent residential uses needs to be protected
- b There is a requirement to consider the adjacent Listed Buildings and their settings, in particular Holy Trinity Church and St Margaret's Terrace rear elevation
- c There are a number of views across the site to Holy Trinity Church, St Mary's Church and to the Cotswolds
- d St Margaret's Road and Portland Street experience heavy traffic flows and have few opportunities for pedestrian crossing;
- e The site may contain archaeological remains
- f There is a need to retain a minimum of 300 public car parking spaces on the site in some form
- g The site has limited localised contamination resulting from former use as a coach station.

Opportunities

2.15. Plan 2 identifies some of the site's opportunities.

- a Public consultation on various elements of the Civic Pride Urban Design Framework, demonstrated significant support for the approaches outlined in this brief - notably support for mixed use development on North Place/Portland Street, addressing pedestrian severance from the town centre and delivering high quality streets and public spaces. The redevelopment of this site offers an opportunity to build on that support.
- b The site is in a strategically important location on the edge of Cheltenham's town centre on two major routes. It provides a key opportunity to form a new northern gateway to the town centre. Redevelopment of this site also provides an excellent opportunity to expand the core of the town centre, by creating a new focus for the town north of the High Street.
- c As a cleared brownfield site, with few redeeming features, the site is a blank canvas for a major new development, with its own sense of place and the opportunity to create bespoke spaces and streets.
- d The site has the potential for the development of blocks on a strong east-west orientation, providing a good opportunity for an environmentally sustainable development with a low carbon footprint.
- e The location within the historic fabric of the town and its well developed block structure establishes a strong framework with the potential to build a network of urban blocks, streets and spaces – see PPS5 historic context statement
- f The site offers the opportunity to provide a mix of suitable town centre and edge of centre uses. The following uses are required on the site, other uses may be appropriate where they contribute to the objectives of the brief:

- i. Residential development which reflects the findings of the Housing Needs Study (2009)- with a minimum of 40% affordable units
 - ii. Employment-generating uses
 - iii. A 6 bay bus node for local and national buses.
 - iv. Public car park for a minimum of 300 cars – here, there is an opportunity to consider placing parking underground as one of a number of options.
- g The site should realise Civic Pride Urban Design Strategy objectives around the provision of new public space and pedestrian linkages between the Promenade and Pittville Park
- h The site also offers an opportunity to create internal linkages and viewing corridors and a series of high quality public spaces which
- i. enhances the setting of Holy Trinity Church
 - ii. provides high quality public spaces
 - iii. link the towns two historic promenades (The Promenade and Pittville Park)
 - iv. addresses the pedestrian severance between St Margaret's Road and the Brewery by delivering clear pedestrian connections
 - v. mark significant focal points within the site
- i There is a further opportunity to provide strong active building frontages and space along St Margaret's Road and Portland Street either of which could be developed as boulevards or tree-lined avenues.
- j There are wider views of the Cotswold Scarp and town centre churches which, if retained, could enhance the structure and layout of the development.
- k There is the potential to radically re-consider traffic management arrangements and to enhance the road corridor in St Margaret's Road. This would help to address the problem of pedestrian severance, improving linkages to the town centre and creating a pleasant street in line with the various strategic objectives of the Civic Pride Urban Design Framework. Subject to traffic modelling, Portland Street may also have the potential for a radical reconsideration of traffic management arrangements, such as 2-way working, which coupled with streetscene enhancements may help to create significant improvements in movement, activity and character.

3. Development Principles

- 3.1. This section details the land use and design requirements for the development of the North Place and Portland Street sites. They emerge not only from the analysis of the sites, but from the principles established in the other parts of the Civic Pride Urban Design Framework. As such **this section needs to be read in conjunction with the Civic Pride Urban Design Strategy, Transport Strategy and Public Realm Strategy**. Plan 4 illustrates the broad principles.

Land Use

- 3.2. The site is suitable for a range of mixed town centre and edge of centre uses which will help to secure the sustainability of the wider site. This Brief does not specify the full range of acceptable uses; it will be for the developer to justify proposed uses in terms of an ability to deliver the various objectives of the Brief and the wider Civic Pride documentation. However, the following are the explicit requirements of the Council:
- a Residential units – a minimum of 100 units with a minimum of 40% affordable housing (see policy HS4 of the Local Plan)
 - b Commercial development that enhances the economic offer of the town centre particularly where it provides significant job creation and training opportunities, local supply chains, a reduction in travel miles for goods and/or the potential to secure organisations with a demonstrable commitment to corporate social and environmental responsibility
 - c Six bay bus node with facilities for local and national services with ancillary services including toilets, refreshments and, possibly ticket and management space. There is not likely to be a long-stay lay-over requirement for coaches
 - d A minimum of 300 public car parking spaces – potentially underground
 - e New landscaped public squares and spaces

Design Principles

- 3.3. The site will require sensitive planning and design. Set out below are a series of headline design principles which are detailed in turn in the boxes which follow.
- A “Beacon” sustainability solutions are a key Civic Pride objective and public ownership of this site presents a unique opportunity to secure exemplar standards of sustainability.
 - B The site requires the creation of a coherent and cohesive block structure, street hierarchy and design philosophy.
 - C High quality design is essential. Proposals will respond positively to the site’s historic context, avoiding pastiche and delivering a style which is clearly “of its time”. They will establish a sense of place. Sustainable movement links and important views through and beyond the site will integrate with the rest of the town. Design processes will contribute positively to placemaking and the creation of an attractive and distinct place.
 - D Sustainable movement choices will be maximised including the integration of enhanced pedestrian linkages between the town centre, the site itself and other parts of the town to the north
 - E The site will deliver a series of vibrant streets and spaces bounded by active building frontages in order to ensure an interesting and safe public realm. They will enhance the setting of Holy Trinity Church; link the towns two historic promenades (The Promenade and Pittville Park); link the site and the Brewery development; and mark significant focal points within the site

Design Principle A Sustainability

- a Development will incorporate a range of sustainable design and construction techniques, for example;
 - i passive solar design
 - ii heat exchange and natural ventilation systems
 - iii utilisation of high thermal mass construction techniques
 - iv high standards of insulation
 - v low-carbon or renewable energy systems
 - vi measures to reduce water consumption and promote water re-use
- b Roof gardens and green walls should be used to announce the area's sustainability credentials and may become a public viewing gallery, with views across the town, and to Cleeve Hill. Green walls will soften any blank or inactive elevations (such as a decked car park, or end wall).
- c Any development should be designed to a minimum Level 4 Code for Sustainable Homes as a minimum with a commitment to increase this across the site where viable or BREEAM Very Good as a minimum.
- d Surface water runoff will be minimised (current levels of runoff will not be increased) using sustainable urban drainage systems – for example landscaped areas, permeable surface, green roofs etc
- e Materials should be sourced locally wherever possible and procured from sustainable sources.
- f Sustainable waste management is required and must be a basic principle of the design. Developers will be required to submit a waste minimisation statement.

g Design Principle B Structure

- a The current split of the site along North Street offers an opportunity to consider the creation of two distinct character zones – though there may be other contextually sensitive layouts.
- b New streets should be aligned along important view corridors. There is an opportunity to create a focus with views to the Brewery and Dowty House tower to the west; church spires to the south (St Mary's and St Gregory's in particular); and Holy Trinity to the west. Any opportunities to retain glimpsed views of the Cotswold scarp should be retained.
- c A perimeter block approach to new development on the site, which builds on the surrounding historic form, will help to create a clear hierarchy of spaces and a clear distinction between private and public space. It will also present an opportunity to complete currently fractured building lines along Portland Street and North Place. The layout of streets and spaces should contribute to the strategic spaces around the site and seek to encourage links - both in terms of pedestrian and cycle movement and for the benefit of biodiversity.
- d Housing densities will demonstrate efficient use of land and respect impacts on neighbours.
- e Buildings of up to 5 storeys in height may be acceptable on main streets. However, heights are likely to be a maximum of 3 storeys on the northern and western edges in order to minimise the impact on neighbouring development.

Design Principle C Design Quality

- a The new development will take cues from, and respond positively to, the site's historic context in a manner which delivers a set of buildings, streets and spaces which are clearly of their time. Pastiche building designs will not be permitted.
- b As a publically owned site, the design process will bring together private and public sector professionals from a range of skills working as a team from concept to implementation. Engagement with stakeholders will be key. A quality audit system will ensure Civic Pride objectives are being met.
- c The design process will be based on placemaking – developing the vision for the site envisaged through the other Civic Pride Strategies before moving to detailed design of buildings and traffic management regimes.
- d Streets and spaces will establish the structure for the development of the site and they must be well considered both strategically and in detail using a landscape-led approach. Detailed landscape plans will be required with planning applications.
- e In order to help create an identity and sense of place the materials used in buildings, streets and spaces will be high quality and long lasting. For streets and spaces, the Public Realm Strategy sets out a set of requirements for street furniture, surface materials, lighting and other elements.
- f With a few notable exceptions, Cheltenham is not a town of individual iconic buildings and, in the main, proposals for the site should avoid such approaches. However, the detailed layout may offer opportunities to use distinct building forms and elements to mark an important corner or approach.
- g The quality of detailing will be important to the success of the proposals. The submission of detailed plans, sections and elevations will be required for selected elements as part of detailed planning applications.
- h The design and layout of streets, spaces and buildings - including the bus interchange and car parking - will create safe and secure environments. Streets and spaces will be active and vibrant. They will be enclosed by buildings which provide active edges and natural surveillance. There will be a structure to urban blocks, which maximises security of private spaces and service areas. Spaces and streets will meet Crime Prevention Through Environmental Design standards and buildings will meet Secured by Design standards. The development will incorporate the principles set out in Safer Places and, where appropriate, incorporate the requirements of Counter Terrorism mitigation.

Design Principle D Movement

The Civic Pride Transport Strategy sets a structure for strategic movement throughout the town. St Margaret's Road will take orbital traffic; Portland Street is a radial approach to the town centre. This establishes the context for movement within and around the site. The Strategy is currently under-going further modelling, the results of which are not yet available – potential developers are advised to check the latest situation with the Borough Council. In order to address how sustainable travel is delivered on the development, it is likely that there will be a requirement for a travel plan - advice is available from the Highway Authority.

- a The development of the site will encourage sustainable transport choices by adopting a hierarchy where ease of movement by pedestrians and disabled people is a first priority, then cyclists, public transport users, essential service vehicles and finally private cars.
- b An improved pedestrian environment is required on St. Margaret's Road and Portland Street - addressing areas of pedestrian severance and improving links between the town centre (Boots Corner, Pittville Street, Lower High Street and the Brewery), the site and the north of Cheltenham. Each street will be given a strong landscape structure with spaces and tree planting. The design will help to calm traffic speeds and ease congestion – the current traffic light regime will be reviewed. These treatments will facilitate the pedestrian link between the town's two traditional promenades (The Promenade and Pittville Park).
- c All streets will provide access for pedestrians and disabled people in a safe and attractive environment with plenty of seating so that the less able can rest en route. Shared surface streets in particular will be designed so that the visually impaired can use them safely and confidently.
- d Routes through the site will accommodate calmed cycling movement - providing convenient and safe links to the emerging wider network of cycle routes and addressing severance by major roads around the site. Cycle parking will be well overlooked, easily accessible and some will be covered.
- e A 6-bay bus node for local and national services, to include appropriate interchange and support facilities, will be accommodated at the southern end of the North Place/Portland Street site, potentially in North Place. It may include supporting taxi provision.
- f There are a variety of access opportunities to the site. The Highway Authority's view is that the introduction of a new junction onto St Margaret's Road would introduce further delays and congestion to an existing vital transport corridor and vehicular access to the site here is unlikely to be acceptable. Additionally, choice of access points will not be allowed to compromise urban design objectives which are seeking the creation of vibrant streets and spaces, good pedestrian linkages and enhanced street scene. Access proposals will be subject to modelling. All streets within the site will be designed to a maximum of 20mph.
- g The site needs to provide for car parking as follows:
 - i Residential parking levels will be agreed with the planning and highway authorities and will be based on evidence related to the need of accommodation provided and the availability of parking in and around the development overall.
 - ii A minimum of 300 public car parking spaces will be provided
 - iii Other commercial and retail uses will be provided with limited parking to meet their essential operational and service requirements only.

- h There are a variety of options for the location of parking.
 - i On-street or in public spaces – in secure, overlooked locations, suitably integrated in an attractive street-scene
 - ii Undercroft – subject to the creation of active frontages on ground floors
 - iii Underground – subject to suitable ground conditions
 - iv Multi-storey – subject to suitable screening with green walls or single aspect development to activate edges.
- Rear parking courts in residential and general commercial areas are not acceptable as they create insecure intrusions into the core of blocks and are inefficient in use of space.
- i Residential cycle parking will be at 2 spaces per unit in convenient, secure, dry locations.

Design Principle E Streets and Spaces

Other parts of the Civic Pride Urban Design Framework establish a vision and principles for the design and layout of streets which are attractive, avoid clutter and accommodate a variety of functions – including movement, social and recreational activity. The design and implementation of streets and spaces this site will comply with the all elements of the Urban Design Framework.

- a The site offers an opportunity to create a striking contemporary northern extension to the town centre using high quality materials and the integration of public art. The continuation of a green corridor from the Promenade up to Pittville Park is required through new tree planting combined with an integrated public art and lighting design.
- b The new buildings enclosing the streets and spaces will take their cue from surrounding historic development and make a positive contribution to on-street activity and passive surveillance. Street frontages will include main entrances at regular intervals and active rooms. In order to help activate frontages and protect amenity, private rooms, such as bedrooms and bathrooms will not be permitted on ground floor street frontages.
- c To encourage safe streets, cafes will be encouraged to spill out onto streets and spaces and residential development will have opportunities for personalised space on street frontage (balconies, front gardens etc).
- d Boundary treatments will be clear and identifiable and should demarcate private areas from those accessible to the public. For residential buildings, the treatment should provide privacy and security whilst maintaining natural surveillance. Commercial uses should front directly onto public space where possible, with little requirement for boundary or threshold treatment.
- e To engender a strong sense of place and community cohesion, streets should be designed as outdoor rooms accommodating variety activity (variously - movement, parking, quiet relaxation, children’s play and social activity). As indicated earlier, a strong landscape structure is required to create attractive streets and spaces. There will be abundant tree and shrub planting, opportunities for public art and high quality surface materials. This will be supported by the opportunity to personalise private outdoor spaces, and there should be an opportunity for this on all residential properties.
- f Within the site, North Place and any new streets will be designed as shared streets allowing easy movement of pedestrians, cyclists and vehicles.

- g There is an aspiration that St Margaret's Road will see the introduction of structural tree planting, new surfacing and the creation of a series of landscaped spaces. Street clutter in the form of highway infrastructure will be minimised as part of the design process. The street will be humanised - accommodating orbital traffic, but delivering a strong pedestrian presence to calm traffic movement. Designs should reflect this aspiration as they meet this edge. Portland Street could be similarly improved by better landscape, traffic management and enclosure by buildings and uses which humanise and vitalise it
- h A new public space will mark the northern gateway into Cheltenham and connect the historic Regency promenades of Montpellier and Pittville. The square will:
 - i establish a suitable setting for buildings
 - ii establish an enhanced setting for Holy Trinity Church – taking a cohesive surface treatment across Portland Street which accommodates through vehicular traffic but leaves open opportunity for the extension of the main square's activities at appropriate times
 - iii incorporate robust hard and soft landscaping, providing areas of sun and shade and enabling flexibility of use (including quiet space, performance, meetings, social activity, play, and through pedestrian movement)

4. Developer Contributions

- 4.1. Developer contributions will be expected to:
- a Provide on-site affordable housing in line with local policy;
 - b Make appropriate provision for infrastructure and other public services including community facilities and education;
 - c Make provision for Green Travel Plans and other sustainable transport options;
 - d Provide play space and equipment appropriate for the site's residential space and potentially provision of an outdoor gym. This provision is likely to be linked to the cost of developing new public realm and streetscape;
 - e Provide for the enhanced materials required under the Public Realm Strategy

5. Planning and Related Applications

- 5.1. The process identified in the Design Quality section will require that the developer will enter into pre-application discussions with the planning authority prior to the submission of a planning application.
- 5.2. All planning applications must be made in full and in addition to detailed plans, sections, elevations, detailed public realm and landscaping plans must be accompanied by:
- a A design and access statement illustrated with concept diagrams and sketches explaining the design principles on which the development is based and how these are reflected in its layout, density, scale, landscape, visual appearance and relationship to the town centre. Statements must be compliant with the CABI guidance on design and access statements.
 - b A sustainability and energy statement, to demonstrate the sustainability credentials of proposed developments. Use of the South West Sustainability Checklist for development should be considered to promote a consistent approach to realising the opportunities of sustainable design and construction
 - c A 3-D, Sketchup model or similar
 - d A transport assessment
 - e A mitigation strategy for known and unknown ground conditions.

An archaeological field evaluation has been commissioned by the Borough Council

A site specific flood risk assessment is not currently anticipated, subject to the emerging SFRA

- 5.3. Any planning consent will be accompanied by a condition restricting hours of working and access arrangements during construction in areas close to residential properties in order to protect residential amenity.

Planning Context

A full policy review is included within the Baseline Report, covering the general policy framework that applies to the Borough and the site. All the relevant planning guidance is available on the Councils' web site. Under the Planning and Compulsory Purchase Act 2004 local plan policies are saved until replaced by relevant development plan documents. Cheltenham Borough Local Plan is currently saved indefinitely. The following core policies and proposals are relevant to a future planning application which will need to show compliance with these policies where they are relevant:

Local Plan

The site is located within the Principal Urban Area of Cheltenham. The following policies directly affect the site:

BE1-7	Conservation Areas (the site is within the Central Conservation Area)
BE8-10	Listed Buildings
RT1-RT2:	Retail Development (the site is within the Core Commercial Area)
CP1	Sustainable Development
CP2	Sequential approach to Location of Development
CP3	Sustainable Environment
CP4	Safe and Sustainable Living
CP5	Sustainable Transport
CP6	Mixed Use Development
CP7	Design
CP8	Provision of Necessary Infrastructure and Facilities
BE1	Open Space in Conservation Areas
BE2	Residential Character in Conservation Areas
BE11	Buildings of Local Importance
BE16	Buildings in Conservation Areas
BE34	Nationally Important Archaeological Remains
BE34A	Archaeological Remains of Local Importance
NE4	Contaminated Land
HS1	Housing Development
HS2	Housing Density
HS4	Affordable Housing
RC5	Development of Amenity Space
RC6	Play space in Residential Development
RC7	Amenity Space in Housing Developments
TP 6	Parking provision in Development
TP127	Development and Highway Safety
TP130	Parking provision in Development
UI 1	Development in flood zones
UI 2	Development and flooding
UI 3	Sustainable Drainage Systems
UI 4	Maintenance strips for watercourses
UI 5	Culverting of watercourses
PR 2	Land Allocated for Mixed Use Development

Supplementary Planning Guidance (SPG) and Documents (SPD)

- Cheltenham Civic Pride Urban Design Framework SPD
- Central Conservation Area Old Town Character Area Appraisal and Management Plan (Feb 2007) (SPD) which gives guidance on how the preservation or enhancement of character can be achieved.

- Travel Plans (SPG) explains the circumstances in which Travel Plans are required and advocates a package of measures tailored to sites aimed at delivering sustainable transport objectives. It also sets out matters which may be subject to planning obligation.
- Sustainable Development SPG
- Sustainable Buildings SPG
- Public Art SPG
- Affordable Housing SPG see also Cheltenham Housing Needs Study (2009)
- Sustainable drainage systems SPG
- Planning obligations – transport SPG
- Public art SPG
- Security and crime prevention SPG
- Waste Minimisation in Development Projects SPD (Gloucestershire County Council)

Local Development Scheme (LDS)

Local Plan policies are saved until formally replaced by those in the Local Development Framework (LDF). Work is ongoing collaboratively with neighbouring local authorities to prepare Gloucester, Cheltenham and Tewkesbury Joint Core Strategy. This will provide the overarching strategy for meeting the development needs of the Joint Core Strategy Area over the plan period to 2026.

Strategic Planning Guidance

The saved policies of the adopted Gloucestershire County Council Structure Plan Second Review (1999) are still valid;

- S3 Development of land within built up areas.
- S.5 Community Services and Infrastructure
- S.6 Local Character and Distinctiveness
- S.7 Environmental Quality of Development
- H.7 Affordable Housing
- T.1 New Development and the Transport System
- T.9 Public Car Parking
- EN.1 Energy Conservation
- NHE.6 Historic Environment
- RE.2 Open Space Provision

National Policy

The following national Planning Policy Statements (PPS) and Guidance (PPG) are relevant;

- PPS1 Delivering Sustainable Development
- PPS3 Housing
- PPS4 Planning for Sustainable Economic Growth
- PPS5 Planning for the Historic Environment
- PPS 10 Planning for Sustainable Waste Management
- PPS 22 Renewable Energy
- PPS 23 Planning and Pollution Control
- PPS 25 Development and Flood Risk, including SUDS guidance
- PPG 13 Transport

Extract from Environment Agency response to initial North Place & Portland Street Development Brief - 11TH April 2008

The Environment Agency supports the principle of redevelopment at this site but wishes to make the following comments. The site is shown on our maps to be located in Flood Zone 1 which is the low flood risk zone, with less than a 1 in 1000 probability of fluvial flooding in any year. We would point out that the Strategic Flood Risk Assessment (SFRA) is yet to be undertaken, which assess all forms of flooding. There is a chance the SFRA could identify other forms of flooding affecting the site. However we anticipate that the site will be suitable for any development from a flood risk perspective. Regardless of the outcome of the SFRA the management of surface water flooding will be important.

Also we welcome that the SPD incorporates sustainable design principles and the provision of “beacon” sustainable solutions for this redevelopment.

Flood Risk

The site lies outside the flood plain of the River Chelt so the only issue from a flood risk perspective would be the management of the surface water drainage. A FRA in accordance with PPS 25 that addresses the risk of flooding from surface water run-off must support the planning application. We would encourage the use of sustainable drainage systems to be incorporated within the development. The intention to carry out a FRA which addresses surface water run-off for the development of this site should be incorporated within the development brief as this is a requirement of PPS25.

Land Contamination

We have no records for this site area for the type of previous land-use which existed. The brief refers to ‘brownfield’ land; from our local knowledge, this land was previously a residential area with possible commercial use. A full Desk Study should be carried out to determine a site history. No historic landfill data is available from our records for this area, but this does not mean that this area has not been land filled, as historically Cheltenham had many local clay and sand pits across the town which have been infilled with a variety of materials. This site is located on the Cheltenham Sand and Gravels a Minor aquifer, so there is a chance that this area has been locally quarried. We have no records of contaminated land at this site, but the local authority contaminated land officer should be able to confirm this further. Therefore, the Desk Study, Conceptual Model and Site Investigation will be required to support the planning application. The SPD should acknowledge this.

In terms of the parking options ... The ‘underground’ option may encroach into the Minor aquifer of the Cheltenham Sands which has a fairly shallow water table. This would mean that any development below the water table would need to consider tankering/ dewatering of the underground structure to reduce ingress of groundwater in the basement area. Sumps may also need to be incorporated into the basement to take any water away. This would be quite a challenge from an engineering point of view and very costly. An underground basement may also divert groundwater flows and affect any local abstractions in the area and flows to the River Chelt. Our concerns are that ground water should not be adversely affected and that any contamination is removed so there is no risk of creating pollution pathways. We recommend these matters are investigated prior to deciding upon the principle of underground parking. The SPD should reflect these constraints.

The documents listed (in original Section 5.2 – Planning and Related Applications) seem fairly high level and this reflects in the language used from the list (a) to (h). In our opinion (a) and (h) are very similar in content. We would prefer the wording in (h) as a ‘land contamination assessment’ is a standard requirement which would include: desk study, site investigation, risk assessment, remediation and validation. A

land contamination assessment should confirm if the site is contaminated and then made suitable for use.

Biodiversity

The site is currently used as a car park covered by hard standing on the whole redevelopment area. By redeveloping this site we would advise you to seek opportunities to create more green space which would positively improve this part of town. We also strongly support that you incorporate the use of green roofs and walls into the design principles. These features also help to increase biodiversity in town centre.

The risk			Original risk score (impact x likelihood)				Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	I	L	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1.01	Failure to re-adopt revised SPD may result in there being no redevelopment of the site	GL/JW		3	2	6	Accept	Role of Task Force key to success			

<p>20Risk Assessment Appendix C.doc_North Place & Portland St Development Brief and Civic Pride SPD Review</p>	<p>Page 1 of 1</p>	<p>Last updated 01 December 2010 Version 3 Council Final</p>
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Cheltenham Borough Council

Council – 13th December 2010

Revisions to the Council's Constitution

Accountable member	Chairman of Staff & Support Services Committee, Councillor Jordan Cabinet Member, Councillor C Hay
Accountable officer	Borough Solicitor
Accountable scrutiny committee	E.B & I
Ward(s) affected	None specifically
Executive summary	On the 28 th October 2010 the Staff and Support Services Committee considered the Constitution Working Group's recommended changes to the Council's Constitution in response to the Action Plans approved by the Council in March 2010. The report of the Constitution Working Group is attached at Appendix A. Recommendations 1- 11 below comprise the recommendations of the Staff & Support Services Committee.
Recommendations	<p>That the Council</p> <ol style="list-style-type: none"> 1. Accepts the recommendation of the Constitution Working Group that the Staff and Support Services Committee should be discontinued. 2. Implements recommendation 1 above with effect from the decision of the Council on the 13th December 2010. 3. Approves the amendments to the Employee Scheme of Delegation and the membership and functions of the Constitution Working Group set out in Appendix 2. 4. Approves the setting up of an Appointments Committee with the membership and functions set out in Appendix 3. 5. Approves the revisions to the functions of the JNC Disciplinary Committee and the setting up of a JNC Appeals Committee as set out in Appendix 4. 6. Approves the revised Article 14 of Part 2 of the Council's Constitution as set out in Appendix 5. 7. Approves the revised Article 13 of Part 2 to the Council's Constitution as set out in Appendix 6 and revisions to Part 3H of the Constitution as set out in Appendix 7. 8. Approves the amendment to Rule 14 of the Council Procedure Rules (Voting on appointment of statutory officers) as set out in paragraph 5.2.2 of the report at Appendix A. 9. Approves the amendment to Rule 14 of the Council Procedure Rules and to the corresponding Rules in the Cabinet,

Committee and Overview and Scrutiny Procedure Rules (Recording of Number of Votes), as set out in paragraph 6.1.2 of the report at Appendix A.

10. Approves the revised Protocol for Member/Officer Relations as set out in Appendix 9

11. Authorises the Borough Solicitor to make any further minor amendments to the Constitution which are consequential upon the changes approved by the Council

Financial implications	None directly arising from this report. However, indirectly, the proposed revisions to the processes and the scheme of delegation will strengthen decision making which should, in turn, ensure that decisions in respect of the use of public money are more robustly considered. Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123
Legal implications	Contained in report. Contact officer: Sara Freckleton, sara.freckleton@tewkesbury.gov.uk, 01684 272011
HR implications (including learning and organisational development)	As contained in the body of the report at Appendix A. Should the recommendations be agreed, there will be communication implications for relevant Officers and Members to ensure awareness of revisions to the protocols and procedures; there will be training and development implications for those elected Members appointed to the JNC Disciplinary Committee, JNC Appeals Committee and Appointments Committee. Contact officer: Amanda Attfield, amanda.attfield@cheltenham.gov.uk, 01242 264186
Key risks	The action recommended in this report will support the mitigation of risk CR1 on the corporate risk register in that it responds to those recommendations raised by KPMG in their public interest report and also to recommendations from the Review Working Group.

1. Background

- 1.1** On the 28th October 2010, the Staff & Support Services Committee considered the Report and Appendices of the Constitution Working Group (Councillors Godwin, Hay and Smith) which is attached at Appendix A. The report recommended a number of changes to the Council's Constitution in response to the the Action Plans approved by the Council to address recommendations from both the Report in the Public Interest (PIR) issued by KPMG and the report of the Review Working Group set up to consider various aspects of the Council's employment procedures.
- 1.2** The changes which are recommended include the discontinuation of the Staff & Support Services Committee with its functions being distributed between a newly constituted Appointments Committee, a Constitution Working Group and some slightly amended Chief Executive delegations. Other changes recommended are amendments to the functions of the JNC Disciplinary Committee and the establishment of a JNC Appeals Committee and amendments to the Officer delegations to ensure that the limit of their authority, particularly in financial terms, is clear.

- 1.3 Recommendation 10 refers to a revised and updated Protocol for Member / Officer Relations which has been considered and recommended both by the Standards Committee and by the Staff & Support Services Committee.

2. Staff & Support Services Committee Recommendation

- 2.1 The Staff & Support Services Committee accepted the recommendations of the Constitution Working Group with one minor exception which was that the Committee did not consider that there was a need, at the present time, to establish a Staffing Working Group which was referred to in paragraph 3.1.3 and Appendix 2C of the attached report. It was considered that, should there be a need identified in future for this Working Group, it could be set up at that time. Some slight amendments were made to the membership of the Appointments Committee and the JNC Disciplinary Committee which are shown in italics and bold in Appendices 3 and 4 respectively recommended.
- 2.2 With those exceptions, the Staff & Support Services Committee agreed with the report and findings of the Working Group which are accordingly reflected in recommendations 1-11 above.

3. Other consequential matters

3.1 Uncompleted business

The Staff & Support Services Committee has one outstanding item of business relating to the consideration of an application under the Local Government (Discretionary Payments) Regulations 1996 which it has not been possible to complete prior to the Council meeting in December. It is recommended that, in implementing recommendation 1 above, the Council recognises the need for the Staff & Support Services Committee to meet on one further occasion specifically to consider this outstanding matter. It is therefore suggested that the Committee be retained with the single function of "To advise the Council on any other staffing matter that it is within the remit of the Council to determine " only for one further meeting, with the remaining functions being allocated as set out in recommendations 2 & 3 above.

3.2 Updated Constitution

It is not proposed to provide all members with a full copy of the Constitution as there is a need to constantly update the document. However, the current up to date version is maintained on the Council's website and a printed copy is retained in the Members' room. When the comprehensive review of the Constitution is completed next year, a version control system will be put in place to ensure that only the most up to date version is relied upon.

3.3 Nominations to Appointments Committee

If the Council accepts recommendation 4 above and sets up an Appointments Committee, its membership, Chairman and Vice-Chairman will need to be appointed at the Council meeting.

4. Alternative options considered

- 4.1 Contained within the attached report and appendices.

5. Consultation and feedback

- 5.1 Consultation has taken place with all Council Members and the Senior Leadership Team.

6. Performance management –monitoring and review

- 6.1 The effectiveness of any changes to the Constitution which are made can be assessed as part of the comprehensive review.

Report author	Contact officer: Sara Freckleton, sara.freckleton@teWKesbury.gov.uk, 01684 272011
Appendices	A . Report to Staff & Support Services and Appendices (1 - 9)
Background information	<ol style="list-style-type: none"> 1. Report and Minutes of Council dated 22nd March 2010 2. Report and Minutes of Staff & Support Services Committee dated 29th July 2010 3. Report and Minutes of Standards Committee dated 9th July 2010 and 17th September 2010 4. Report and Minutes of the Council of 11th October 2010 5. Report and Minutes of the Staff & Support Services Committee of the 28th October 2010

Cheltenham Borough Council
Staff & Support Services Committee – 28th October 2010
Recommendations of the Constitution Working Group for
revisions to the Council's Constitution

Accountable member	Cabinet Member, Councillor Colin Hay
Accountable officer	Borough Solicitor
Accountable scrutiny committee	E.B & I
Ward(s) affected	None specifically
Executive summary	<p>This report recommends the action to be taken in response to the Council agreed Action Plans which were approved following consideration of the KPMG report in the public interest and the Review Working Group report. Following the Council decision on the 11th October 2010 to defer the comprehensive review pending clarification as to the Council's future direction and the impact of the Government's localism agenda, the Constitution Working Group has concentrated its efforts on those items within the Council agreed Action Plans (Appendix 1) which require review of parts of the Council Constitution.</p> <p>The Working Group is recommending that the Staff & Support Services Committee (S&SSC) be discontinued and that its functions be delegated to the Appointments Committee and to the Chief Executive, Strategic Directors and Assistant Directors as appropriate. Member input to staffing and constitutional matters would be provided by the establishment of a Staffing Working Group and a Constitution Working Group. These changes are set out in the documents at Appendix 2. The recommended membership and functions of the Appointments Committee are attached at Appendix 3. The Working Group is also recommending slight changes to the functions of the existing JNC Disciplinary Committee and the addition of a JNC Appeals Committee (see Appendix 4) to ensure that the current JNC conditions of service for Local Authority Chief Executives are reflected.</p> <p>A series of amendments to the Constitution to clarify the financial and other limits which apply to the exercise of delegated authority by the Borough Solicitor and other employees are recommended at Appendices 5 – 7 in response to recommendations 1 and 2 of the KPMG PIR.</p> <p>The Constitution Working Group is recommending that the Council adopts a definition of "significant decisions" which will describe non-executive decisions that would fall into the category of "key" decisions if taken under executive powers. The Working Group considers that this will give clarity to Members and to the Public as to the importance of decisions which are on the Forward Plan for the Council and will also enable, if necessary, a scrutiny, call-in and review process for decisions made by the Staff & Support Services Committee (the only Committee which exercises non-executive functions and which is not a regulatory or ad-hoc Committee). If the Staff & Support Services Committee, having considered the</p>

recommendation for its discontinuance is nevertheless minded to recommend the adoption of a process for scrutinising, calling in and reviewing significant decisions of the S&SSC, the detailed amendments to various parts of the Constitution (Part 4D Access to Information Rules and Part 4E Overview and Scrutiny Rules) will be drafted by the Borough Solicitor for consideration by the Council on 13th December 2010.

The report recommends that two amendments should be made to the Council Rules of Procedure on voting. The first amendment is to require that appointments to statutory officer posts to be passed by a 2/3rds majority of members present and voting at the meeting. The other requires that the numbers of members voting for, against, or abstaining from voting on a matter are recorded in the minutes of the meeting. This will only apply where a vote is taken and not in cases where the decision is taken by affirmation of the meeting.

The Standards Committee has, in response to the Council's Action Plan, reviewed the Protocol for Member / Officer Relations and has produced a revised document which is attached at Appendix 9 and which is recommended for approval.

Recommendations

(1) That the Committee

- 1. Accepts the recommendation of the Constitution Working Group that the Staff and Support Services Committee should be discontinued.**
- 2. Determines the date upon which recommendation 1 above should be implemented**
- 3. Approves the amendments to the Employee Scheme of Delegation and the membership and functions of the Staffing Working Group and the Constitution Working Group set out in Appendix 2.**
- 4. Approves the setting up of an Appointments Committee with the membership and functions set out in Appendix 3.**
- 5. Approves the revisions to the functions of the JNC Disciplinary Committee and the setting up of a JNC Appeals Committee as set out in Appendix 4.**
- 6. Approves the revised Article 14 of Part 2 of the Council's Constitution as set out in Appendix 5.**
- 7. Approves the revised Article 13 of Part 2 to the Council's Constitution as set out in Appendix 6 and the revisions to Part 3H of the Constitution as set out in Appendix 7.**
- 8. Approves the amendment to Rule 14 of the Council Procedure Rules (Voting on appointment of statutory officers) as set out in paragraph 5.2.2 of this report**
- 9. Approves the amendment to Rule 14 of the Council Procedure Rules and to the corresponding Rules in the Cabinet, Committee and Overview and Scrutiny Procedure Rules (Recording of Number of Votes), as set out in paragraph 6.1.2 of**

this report

10. Approves the revised Protocol for Member/Officer Relations as set out in Appendix 9

(2) That the Committee recommends to the Council

(a) approval of items 1-10 above

(b) that the Borough Solicitor is authorised to make any further minor amendments to the Constitution which are consequential upon the changes approved by the Council

<p>Financial implications</p>	<p>None directly arising from this report. However, indirectly, the proposed revisions to the processes and the scheme of delegation will strengthen decision making which should, in turn, ensure that decisions in respect of the use of public money are more robustly considered.</p> <p>Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123</p>
<p>Legal implications</p>	<p>Contained in report.</p> <p>Contact officer: Sara Freckleton, sara.freckleton@tewkesbury.gov.uk, 01684 272011</p>
<p>HR implications (including learning and organisational development)</p>	<p>As contained in the body of this report. Should the recommendations be agreed, there will be communication implications for relevant Officers and Members to ensure awareness of revisions to the protocols and procedures; there will be training and development implications for those elected Members appointed to the JNC Disciplinary Committee, JNC Appeals Committee, Appointments Committee and there may be training and development implications for those elected Members on the Staffing Working Group and Constitution Working Group.</p> <p>Contact officer: Amanda Attfield, amanda.attfield@cheltenham.gov.uk, 01242 264186</p>
<p>Key risks</p>	<p>The action recommended in this report will support the mitigation of risk CR1 on the corporate risk register in that it responds to those recommendations raised by KPMG in their public interest report and also to recommendations from the Review Working Group.</p>

1. Background

- 1.1 On the 22nd March 2010, the Council approved Action Plans to address recommendations from both the Report in the Public Interest (PIR) issued by KPMG and the report of the Review Working Group set up to consider various aspects of the Council's employment procedures.
- 1.2 It had been intended that the actions relating to constitutional matters would be considered as part of a comprehensive review of the Constitution and a member Working Group (Councillors Godwin, Hay and Smith) was set up by the Staff & Support Services Committee to assist the Borough Solicitor in undertaking the review and compiling a report for consideration by the Committee and Council.

1.3 In view of the changes in circumstances since the 22nd March 2010, the Council on 11th October 2010 agreed the recommendation of the Constitution Working Group, that the comprehensive review should be postponed. However, this postponement does not apply to the requirements of the approved Action Plans and the Working Group completed its consideration of those matters in line with the timescale set by the Council.

2. Requirements of Council approved Action Plans

2.1 The Constitution Working Group considered the approved Council Action Plans, of which five recommendations from the KPMG report (recommendations 1, 2, 4 & 5) and 3 from the Review Working Group report (recommendations 4, 5 & 8) require consideration of various aspects of the Council's Constitution and Committee Structure.

2.2 A further recommendation from the Review Working Group (recommendation 13) required a review of the Council's Protocol for Member / Officer Relations. This has been undertaken by the Standards Committee and is also dealt with in this report.

2.3 The relevant extracts from the Council Action Plans are attached at Appendix 1.

2.4 The Constitution Working Group's analysis of the requirements of the Actions Plans concluded that the requirements could be categorised and summarised as follows:-

a. Review of Committees

- KPMG recommendation 4 - Review the need for and remit of S&SSC and other Committees.
- Working Group recommendation 4 (as approved by S&SSC on 29th July 2010) – Set up an Appointments Committee to make appointments to posts required to be made by Council.
- Working Group recommendation 8 – Review membership and functions of JNC Disciplinary Committee to ensure consistency with current JNC conditions for Chief Executives.

b. Review of Delegations

- KPMG recommendation 1 – Review Constitution to make clear what the Borough Solicitor can and cannot do regarding decisions to instigate and continue legal action, whether financial limits should apply to the B.S.'s delegated authority and when and from whom further sanction is required for financial expenditure above the specified limit.
- KPMG recommendation 2 – Review the Constitution for other potential instances where authority is delegated to individuals without clarity over the extent of their financial authority.

c. Review of Rules of Procedure

- KPMG recommendation 5 – Review constitutionally whether “key decisions” made by committees should be subject to similar procedural and notification requirements as those made by Cabinet.
- Working Group recommendation 5 (as approved by S&SSC on 29th July 2010) – That the Council amends the Council Rules of Procedure to require

that the appointment of any Statutory Officer (HOPS, MO and s.151) should be approved by 2/3rds majority of Members present and voting.

d. Review of Guidance, Codes and Protocols

- KPMG recommendation 26 – Develop guidance on circumstances when it might be appropriate to record the number of people voting for, against and abstaining. This might apply in sensitive matters and exempt proceedings might be expected to be sensitive.
- Working Group recommendation 13 – Standards Committee to review Protocol for Member/Officer relations to ensure that it represents best practice.

2.5 The Working Group consulted all Members of the Council and the Senior Leadership Team on various aspects of the Constitution, to inform both the comprehensive review and also the response to the Council's Action Plans.

2.6 A summary of the conclusions of the Working Group is set out below.

3. REVIEW OF COMMITTEES

3.1 Staff & Support Services Committee

3.1.1 The Working Group considered the functions of the Staff & Support Services Committee in the light of the recommendation from KPMG that the need for this Committee be reviewed. The business conducted by the Committee is in the main, the consideration of staffing matters and policy and to keep under review the Council's Constitution and to report, as necessary, to the Council. In addition the Committee deals with the recruitment of Senior Managers of the Authority and various disciplinary and employment grievance matters as they arise from time to time.

3.1.2 It was the view of the Constitution Working Group that the work of the Staff and Support Services Committee could be conducted equally effectively through dedicated Member Panels to consider Staff matters and Constitutional matters, with resultant decisions being taken by the Council, Cabinet or Officer delegation as appropriate. All Members and the Senior Leadership Team were consulted on this proposition and none of the responses received indicated any continuing need to retain the Staff & Support Services Committee.

3.1.3 The Working Group therefore recommends that there is no need for the Council to retain the Staff & Support Services Committee within its structure. It is proposed that matters relating to the recruitment of Senior Management can be dealt with by the Appointments Committee which is considered at 3.2 below and that the remainder of its functions can be discharged with revised delegations. The current functions of the S&SSC together with the detail of intended allocation of the functions are set out in Appendix 2A and the suggested revisions to the Employee Scheme of Delegation, showing the proposed changes in bold and italics, are attached at Appendix 2B. It is further recommended that a Staffing Working Group and a Constitution Working Group of Members be set up and retained to provide member input to the decisions on those matters which are taken under delegated powers or recommended to the Council. The proposed Terms of Reference of those Working Groups are attached at Appendix 2C.

3.1.4 The Working Group debated the most appropriate timing for the changes referred to in paragraph 3.1.3 to take place and two options were discussed, the first being to implement the proposed changes at the earliest possible opportunity with the other option being to make the changes to coincide with implementation of the wider review of the Constitution in May 2011. The latter option recognised that a recalculation of the allocation of seats to political groups is likely to arise which might, more conveniently, be dealt with at the Annual Council in May rather than at the Council meeting in December. However, an advantage of making the changes immediately would be that the new arrangements would be in place to facilitate any recruitment of senior

managers pursuant to the restructure recommended by the Chief Executive in connection with the strategic commissioning proposals. It was recognised that there were advantages and disadvantages to both options and whilst it will be a matter ultimately for determination by the Council in December, the Working Group, on balance, considered that a May implementation is likely to be most convenient.

3.2 Appointments Committee

- 3.2.1** The Committee will recall considering a report, at its July meeting, on the setting up of an Appointments Committee to conduct the recruitment, assessment and interview process for appointments which are required, either by legislation or by the Council's Constitution to be made by the full Council. That report particularly focused on recruitment to the post of Head of Paid Service and the recommendation that the entire interview and assessment process for future appointments to that position should be dealt with by the Appointments Committee with its preferred candidate only, rather than a reduced short-list, being put forward to the Council for approval. The Committee approved the recommendations set out in the report and asked the Constitution Working Group to draw up terms of reference for the Appointments Committee.
- 3.2.2** The draft Membership and Functions (Terms of Reference) for the Appointments Committee, as recommended by the Working Group are as set out in Appendix 3. The functions have been expanded upon to reflect, not only the Appointment Committee's role in the recruitment of statutory officers (Head of Paid Service, s. 151 Officer and Monitoring Officer) as discussed in the report referred to in 3.2.1 above, but to include those other elements of Senior Manager recruitment which have previously been undertaken by the Staff & Support Services Committee in order to facilitate the changes proposed in section 3.1 above.
- 3.2.3** The Working Group considered that membership of the Appointments Committee should be a total of 9 Members to ensure that, in the case of any absences, a Committee of not less than 7 Members would conduct the recruitment process for the most senior managers (Head of Paid Service and Strategic Directors) with appointments to vacancies at Assistant Director level being made by a Sub-Committee of 3 Members to include the relevant Cabinet portfolio holder (whether or not a Member of the Appointments Committee). The Membership and Functions set out in Appendix 3 reflect the deliberations of the Working Group as far as the setting up of an Appointments Committee is concerned.
- 3.2.4** The setting up of a Sub-Committee of 3 Members to make appointments at Assistant Director level is a matter for the parent Committee and is not a decision which can lawfully be taken by the Council. The way forward to achieve this aim is for the Appointments Committee to meet at an early stage and establish a Sub-Committee to deal with appointments at Assistant Director level. The membership of the Sub-Committee can be determined at that time.
- 3.2.5** It is recommended that, notwithstanding the decision as to the timing of the changes to the Council's Structure to discontinue the Staff & Support Services Committee, the Appointments Committee be set up by the Council in December in order to carry out the recruitment process for any changes to the Officer structure consequent upon the report of the Chief Executive in the context of the Strategic Commissioning proposals.

3.3 JNC Disciplinary Committee

- 3.3.1** In response to recommendation 8 of the Review Working Group (Appendix 1), the Council agreed to review the membership and functions of the JNC Disciplinary Committee to ensure that it reflects the current JNC for Local Authority Chief Executives (National Salary Framework and Conditions of Service).
- 3.3.2** In carrying out this review, the Working Group concluded that the membership and functions of the JNC Disciplinary Committee requires slight amendment to ensure clarity and also consistency with the current JNC conditions of service and that a separate JNC Appeals Committee should also be set up, as recommended by the JNC conditions. The Appeals Committee would carry out

the role of hearing appeals against action taken against non-Statutory Officers and in respect of Statutory Officers, any action taken short of dismissal. The Committee would, in respect of the latter, take a decision either to confirm the action or to award no sanction or a lesser sanction.

- 3.3.3 The proposed amendments to the JNC Disciplinary Committee and membership and functions of the JNC Appeals Committee are set out in Appendix 4.

4. REVIEW OF DELEGATIONS

4.1 Borough Solicitor Delegations

4.1.1 The recommendation from KPMG is that the Constitution be reviewed to make clear what the Borough Solicitor can and cannot do to instigate and continue legal action, whether financial limits should apply to the Borough Solicitor's delegated authority and when and from whom further sanction is required for financial expenditure above that limit. This arises from the finding in the PIR that there was a degree of confusion over the Borough Solicitor's decision making role, with Members believing that the Borough Solicitor was effectively making all decisions and simply briefing them on the process. Nevertheless, the report goes on to say that the Borough Solicitor's actions were consistent with the spirit and requirement of the Council's constitution

4.1.2 The Working Group appreciated that the role of the Borough Solicitor in conducting litigation on behalf of the Council is to do so in pursuant to instructions from Council, Cabinet, a Committee or an Officer in accordance with the responsibility for functions delegated to them. It is not the role of the Solicitor (save perhaps where the litigation relates to an aspect of the legal service itself) to act as the client officer as well as solicitor. However, the Constitution does not, as currently drafted, make that distinction. Care must be taken in the drafting of an amendment to clarify the position, to ensure that it does not have the unintended consequence of preventing the Borough Solicitor from being equipped to respond quickly to any need to commence or defend any proceedings which is necessary in order to protect the Council. The Working Group therefore agreed that an amendment should be made to Part 2 Article 14 of the Constitution (Finance, Contracts and Legal Matters) to ensure that it is clear. A revised Part 2 Article 14, showing the proposed amendments in bold and in italics, is attached at Appendix 5.

4.1.3 Additionally amendments are required to Article 13 of the Constitution (Decision Making) and to Part 3, Responsibility for Functions, to ensure that the delegated powers of the Borough Solicitor (and other Officers) are within specified financial limits. An amended Article 13 is attached at Appendix 6 and an amended Part 3H of the Constitution – Delegation to Employees – is attached at Appendix 7. The amendments to clarify the financial limits within which all Officers, including the Borough Solicitor, may exercise their delegated authority are shown highlighted grey in bold and italics. Those amendments which specifically relate to the Borough Solicitor's delegated authority are at paragraph 5.8.

4.2 Other Officer Delegations

4.2.1 KPMG recommendation 2 requires a review of the Constitution to ensure that there is clarity over the extent of financial authority for Officers in exercising delegated powers. Article 13 of the Constitution deals with Decision making and the Employee Delegation Scheme is at Part 3H. These are underpinned by the Financial Rules in Part 4.

4.2.2 It is clear from the Principles of Decision Making in Article 13, that all decisions made by Officers must be made in accordance with the principles set out including " the action must be lawful and in accordance with all appropriate statutory and regulatory requirements and this Constitution , including the Financial Rules" . Nevertheless, an amendment is suggested to be made to Article 13 to add an additional paragraph to ensure that it is clear that Officers can only exercise delegated powers within the financial limits available to them. The amendment is shown as an additional final paragraph (13.9) of the revised Article 13 which is attached at Appendix 6.

4.2.3 Part 3 H (Appendix 7) describes the Basis of Delegation and includes at 2.2 the requirement that an Employee exercising the function of the Authority under delegation must do so in accordance

with the Budget and Policy Framework.

- 4.2.4 The Financial Rules in Part 4H of the Constitution, require written records to be established and maintained which identify those Employees who are authorised to sign-off expenditure and the level of each Employees authorisation (Rule 21.8). This written record is currently being updated to coincide with the revisions to the Constitution the subject of this report.

5. REVIEW OF RULES OF PROCEDURE

5.1 “Key” Decisions principle for Committees

- 5.1.1 KPMG recommendation 5 (Appendix 1) is that the Council should review constitutionally whether “key decisions” made by Committees should be subject to similar procedural and notification requirements as those made by Cabinet. This recommendation arises because of the findings in the PIR that decisions were made and substantial expenditure incurred without those decisions being subjected to the rigors of the scrutiny process.
- 5.1.2 The Working Group agreed that any non-executive decision being taken by a Committee of the Council which would, if taken by the Cabinet be a “Key Decision”, should follow a process which would allow consideration by an Overview and Scrutiny Committee before the decision is taken and an adapted “Call-In” process after the decision is taken. The Working Group is recommending that wording along very similar lines to the “Key” Decisions wording within Article 13 of the Constitution be used refer to “Significant Decisions” which would be applied to non-executive decisions. The wording is shown in bold and italics at paragraph 13.3 (c) of the amended Article 13 at Appendix 6. Although primarily aimed to introduce a process for scrutiny of non-executive decisions, the use of the term Significant Decisions as defined in the revised Article would assist in alerting Members and the Public to important items of business within the Council’s Forward Plan and when reading reports.
- 5.1.3 Having defined the term Significant Decision within the revisions to Article 13, the Working Group recognised that its application for the purpose of devising a scrutiny and review process would only extend to Committees other than the Overview and Scrutiny Committees, the Regulatory Committees (Planning and Licensing) and the Ad-hoc Committees (e.g. JNC Disciplinary Committee). In practice, therefore, its application would be limited to the Staff & Support Services Committee, the only Committee of the Council exercising non-executive powers which is outside of the categories set out above. The relevance therefore, and necessity of introducing a process at this stage is a matter for consideration by the Committee and the Council in determining whether and, if so, when, the Staff & Support Services Committee will be disbanded.
- 5.1.4 However, if the Council does wish to implement a process for the scrutiny and review of “Significant” decisions taken by the Staff & Support Services Committee, it is suggested that amendments are made to the Constitution to achieve the following:-
- a process whereby the Chair of the appropriate Overview and Scrutiny Committee is notified as soon as it becomes apparent that the Staff & Support Services Committee will be taking a “Significant” decision
 - a process whereby “Significant” decisions taken by the Staff & Support Services Committee can be “called in “
 - a process whereby “Significant” decisions taken by the Staff & Support Services Committee can be reviewed by the appropriate Overview & Scrutiny Committee
- 5.1.5 The Working Group considered that the process to deal with the points set out above should not be overly complex. Nevertheless, in order to be meaningful and clear, it will involve significant amendments to the Constitution to include the following:-
1. Amendment to Part 2 Article 13 – Decision Making – in addition to the changes set out in Appendix 6, to refer to the fact that “Significant” Decisions made by the Staff & Support Services Committee will be subject to a process for scrutiny, call-in and review.
 2. Amendments to Part 4E of the Constitution – Access to Information Rules. A new rule will

need to be introduced to deal with Application of the Rules to the Staff & Support Services Committee. Rule 17 (Report to Council) and Rule 23 (Overview and Scrutiny Access to documents) will require amendments to refer to the process for “Significant” decisions.

3. Amendments to Part 4C of the Constitution – Overview and Scrutiny Procedure Rules will need to be made to specify the procedure which will be followed in order for “Significant” decisions made by the Staff & Support Services Committee to be “called in”.

5.1.6 The wording of the above amendments has not yet been drafted in view of the recommendations in 3.1 above. If the Committee is minded to recommend the setting up of such a procedure for the scrutiny, call-in and review of “Significant” decisions taken by the Staff & Support Services Committee, it is suggested that the Borough Solicitor should be asked to draft the amendments on the basis of those listed in 1 – 3 above, in readiness for approval by the Council on the 13th December 2010.

5.2 **Statutory Officer Appointments**

5.2.1 On the 29th July 2010, this Committee agreed that the Constitution Working Group should include within revisions to the Constitution, a requirement that the Council approves any appointment to a statutory officer post by 2/3rds majority as part of its review.

5.2.2 The Working Group agreed that this requirement could, most suitably be included at Part 4A of the Constitution – Council Procedure Rules within Rule 14 VOTING. It would be suggested that the following wording be added to Rule 14 at 14.11.

“Voting on appointment of Head of Paid Service, Monitoring Officer and Chief Finance (s.151) Officer”

When determining the appointment of its Head of paid Service (s.4 Local Government and Housing Act 1989), Monitoring Officer (s.5 Local Government and Housing Act 1989) or Chief Finance Officer (s.151 Local Government Act 1972), the appointment shall be made by a resolution of the Council passed by not less than two thirds of the Members present voting in favour of the appointment”.

6. **REVIEW OF GUIDANCE, CODES AND PROTOCOLS**

6.1 **Guidance on voting**

6.1.1 Guidance on the circumstances when it may be appropriate to record the number of people voting for, against or abstaining from any decision in line with KPMG recommendation 26 (Appendix 1) was considered by the Working Group and is attached at Appendix 8. The Working Group considered that the most appropriate course of action would be for the numbers of persons voting for, against, or abstaining from a proposal to be recorded on each occasion that a specific vote is taken (rather than affirmation of the meeting) and therefore favoured option A of the Guidance Note at Appendix 8.

6.1.2 It is therefore recommended that an amendment is made to include, within Rule 14 – Voting – of the Council Rules of Procedure (and to the equivalent provision in the Cabinet and Committee Rules of Procedure) the following requirement:-

Recording of Number of Votes

Except where decisions are taken by the affirmation of the meeting (Rule 14.3) the number of members voting for, against, or abstaining from voting on the matter shall be recorded in the minutes of the meeting.

6.2 **Protocol for Member / Officer Relations**

6.2.1 The action approved by the Council in response to recommendation 13 of the Review Working

Group (Appendix 1) was that the Standards Committee should review the Protocol for Member/ Officer Relations to ensure that it reflects best practice. This has taken place in consultation with all Members of the Council and the Senior Leadership Team and a revised draft of the Protocol has been approved by the Standards Committee which is, following further consultation, recommended for approval. The revised Protocol is attached at Appendix 9.

7. Alternative options considered

7.1 Contained within the report.

8. Consultation and feedback

8.1 Consultation has taken place with all Council Members and the Senior Leadership Team.

9. Performance management –monitoring and review

9.1 The effectiveness of any changes to the Constitution which are made can be assessed as part of the comprehensive review.

Report author	Contact officer: Sara Freckleton, sara.freckleton@tewkesbury.gov.uk, 01684 272011
Appendices	<ol style="list-style-type: none"> 1. Extract from Council Approved Action Plans 22/03/10 2. A. Functions of the Staff & Support Services Committee B. Draft amendments to Part 3H Employee Delegation Scheme C. Draft membership and functions of the Staffing Working Group and the Constitution Working Group 3. Draft membership and functions of the Appointments Committee 4. Draft membership and terms of reference of the JNC Disciplinary Committee and the JNC Appeals Committee 5. Article 14 – Finance, Contracts and Legal Matters 6. Article 13 – Decision Making 7. Part 3H – Employee Delegation Scheme 8. Guidance on Voting at Meetings 9. Part 5C – Protocol for Member / Officer Relations
Background information	<ol style="list-style-type: none"> 1. Report and Minutes of Council dated 22nd March 2010 2. Report and Minutes of Staff & Support Services Committee dated 29th July 2010 3. Report and Minutes of Standards Committee dated 9th July 2010 and 17th September 2010

EXTRACT FROM COUNCIL APPROVED ACTION PLANS 22/03/10

Action Plan in response to KPMG Report

RECOMMENDATIONS			
The Role of the Borough Solicitor			
R1. Review the constitution to make clear what the Borough Solicitor can and cannot do regarding decisions to instigate and continue legal action, whether financial limits should apply to the Borough Solicitor's delegated authority, and when and from whom further sanction is required for financial expenditure above that limit.			
Recommended Action	Due Date	Lead officer	
<p>1. That the powers delegated to the Borough Solicitor will be considered as part of the review of the Constitution (including the Employee Delegation Scheme). Specific consideration will be given to the scope of delegation of decisions to instigate and continue legal action and to any financial limits which should apply and, how and from whom authority to exceed that limit is obtained.</p> <p>2. That the Borough Solicitor is tasked to undertake a comprehensive review of the Constitution and to produce a report by the 30th September 2010 for consideration by the Staff and Support Services Committee.</p>	30 th September 2010	Borough Solicitor	
R2. Review the constitution for other potential instances where authority is delegated to individuals without clarity over the extent of their financial authority.			
<p>1. That the Employee Delegation Scheme to be reviewed by the Borough Solicitor as part of the review of the Constitution. The review will consider whether there is sufficient clarity as to the financial restrictions which should appropriately apply and how and from whom authority to exceed any limits is obtained.</p> <p>2. That the Borough Solicitor is tasked to undertake a comprehensive review of the Constitution and to produce a report by the 30th September 2010 for consideration by the Staff and Support Services Committee.</p>	30 th September 2010	Borough Solicitor	

Recommended Action	Due Date	Lead officer
The Role of Members		
<p>R4. Review the need for, and remit of, the S&SSC and other committees. In a Cabinet/Scrutiny model, a Council may only need regulatory committees (Licensing, Audit, Planning). Mixing decisions between Cabinet and S&SSC can be confusing. It may be possible for many operational matters to be delegated to the officers and the Chief Executive as head of paid service, perhaps supported by ad hoc Member Panels or other fora for advisory purposes.</p>		
Recommended Action		
<ol style="list-style-type: none"> 1. That the need for and remit of the Staff and Support Services Committee and other Committees should be reviewed as recommended as part of the comprehensive review of the Constitution. 2. That a Member Working Group be established to undertake the review of the remit of Committees and any other aspect of the Constitution as is deemed appropriate by the Staff and Support Services Committee. 3. That the Borough Solicitor is tasked to undertake a comprehensive review of the Constitution and to produce a report by the 30th September 2010 for consideration by the Staff and Support Services Committee. 	30 th September 2010	Borough Solicitor & AD Human Resources 112
<p>R5. Review constitutionally whether 'key decisions' made by committees should be subject to similar procedural and notification requirements as those made by Cabinet.</p>		
<ol style="list-style-type: none"> 1. That consideration as to whether there should be procedural and notification requirements for decisions made by Committees which are similar to the procedures for "key decisions" to be included as part of the comprehensive review of the Council's Constitution. 2. That the Borough Solicitor is tasked to undertake a comprehensive review of the Constitution and to produce a report by the 30th September 2010 for consideration by the Staff and Support Services Committee. 	30 th September 2010	Borough Solicitor

Recommended Action	Due Date	Lead officer
R26. Develop guidance on the circumstances when it may be appropriate to record the number of people voting for, against and abstaining. This might apply in sensitive matters, and exempt proceedings might be expected to be sensitive.		
Recommended Action	Due Date	Lead officer
As part of the review of the Constitution, develop guidance on the circumstances in which it might be appropriate to record the names of those Members voting for, against or abstaining from the decision on any item of business.		

Action Plan in response to Review Working Group Report

<p><u>Recommendation 4</u> That the Council sets up an Appointments Committee to make recommendations to the Council on appointments to posts which are required to be made by the Council with Terms of Reference which include recommending a preferred candidate to Council for approval following a full interview and assessment process being carried out by the Appointments Committee.</p>		
<p>Recommended Action</p>	<p>Report on this recommendation to be prepared for consideration by the Staff and Support Services Committee</p>	<p>Due Date 30th September 2010</p> <p>Lead Officer Assistant Director Human Resources</p>
<p><u>Recommendation 5</u> That the Council amends the Council Rules of Procedure to require that the appointment of any Statutory Officer (Head of Paid Service, Section 151 Officer and Monitoring Officer) should be approved by 2/3rds of the Members who are present at the meeting and voting.</p>		
<p>Recommended Action</p>	<p>Report on this recommendation to be prepared for consideration by the Staff and Support Services Committee</p>	<p>Due Date 30th September 2010</p> <p>Lead Officer Assistant Director Human Resources / Borough Solicitor</p>
<p><u>Recommendation 8</u> That the Council reviews the membership and functions of the JNC Disciplinary Committee to ensure that they are consistent with the guidance in the 2009 version of the JNC for Local Authority Chief Executives (National Salary Framework and Conditions of Service).</p>		
<p>Recommended Action</p>	<p>Include, within the report of the review of the Council's Constitution, recommended revisions to the membership and functions of the JNC Disciplinary Committee to reflect the 2009 version of the JNC for Local Authority Chief Executives (National Salary Framework and Conditions of Service).</p>	<p>Due Date 30th September 2010</p> <p>Lead Officer Borough Solicitor</p>

<p><u>Recommendation 13</u> That the Standards Committee be asked to undertake a review of the Protocol for Member / Officer Relations to ensure that it reflects best practice.</p>		
<p>Recommended Action</p>	<p>Due Date</p>	<p>Lead Officer</p>
<p>Request the Standards Committee to review the Protocol for Member / Officer relations as specified in the recommendation.</p>	<p>30th September 2010</p>	<p>Borough Solicitor</p>

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**MEMBERSHIP AND FUNCTIONS OF EXISTING STAFF & SUPPORT SERVICES COMMITTEE
SHOWING RECOMMENDED ALLOCATION OF FUNCTIONS**

5. STAFF AND SUPPORT SERVICES COMMITTEE

5.1 Membership

The membership of the Staff and Support Services Committee shall consist of twelve Members of the Council appointed in accordance with the requirements of political proportionality, and subject to a maximum of 3 Cabinet Members.

No.	Function	Allocate
1.	To make recommendations to Full Council on the appointment and/or dismissal of the Head of Paid Service, Chief Executive, Group Directors, Section 151 Officer and Monitoring Officer.	To Appointments Committee
2.	To arrange for the conduct of or conduct (in respect of vacant posts for the Head of Paid Service and any other vacant Chief Officer posts) the recruitment process and selection process, and make recommendations to Full Council as to whom an offer of appointment to the said post(s) should be made.	To Appointments Committee
3..	To appoint and/or dismiss officers at the level of Assistant Director other than the S.151 Officer and Monitoring Officer.	To Appointments Committee/JNC Disciplinary Committee
4.	To appoint Employees to specific statutory purposes, other than those set out in 1. above, where this is not done by an officer with delegated powers;	To Chief Executive
5.	To determine the conditions on which Employees hold office, including deciding matters relating to the early retirement of the Head of Paid Service, Chief Executive, Group Directors, Section 151 Officer and Monitoring Officer, in accordance with the Employment Rules	To Appointments Committee re Chief Executive, Strategic Directors and Assistant Directors, otherwise to Chief Executive

6.	Except where this is delegated to another Committee, to exercise the Council's power of suspension of a Chief Officer or an Assistant Director, after taking appropriate legal advice;	To JNC Disciplinary Committee
7.	To support the Chief Executive and Strategic Directors in the exercise of their delegated powers relating to staffing matters, to the extent that this lies within the remit of the Council rather than the Cabinet;	To Staffing Working Group
8.	To appoint any panel to exercise the Council's powers to determine Employees' grading, disciplinary, grievance or other staffing matters as may be required by statute or under the Council's staffing rules or practices or any contract of employment;	To Chief Executive
9.	To nominate Members of the Committee to represent the Council on joint staff or joint consultative committees (including health and safety);	To Chief Executive/Strategic Directors From Staffing Working Group membership
10.	To advise the Council on any other staffing matter that it is within the remit of the Council to determine;	Chief Executive and Staffing Working Group
11.	To keep under review and advise the Council on the Constitution;	Constitution Working Group
12.	To exercise the residual functions of the Council in relation to elections, parishes, vacancies and local bills;	To Chief Executive

A. TO THE CHIEF EXECUTIVE	
Delegated by the Council and The Leader/Cabinet	
1	2
Delegation	Condition
1.1. Any action which it falls to the Chief Executive to take under the terms of the Constitution.	
1.2 Exercising the Authority's duties and responsibilities as an employer and owner or manager of property for the health and safety of Employees and others.	
1.3 Authorising any suitably qualified Employee to or for any legal purpose, including Proper Officer appointments	Unless otherwise prescribed by law as reserved to full Council In consultation with the Borough Solicitor as appropriate
1.4 To advise the Council, Appointments Committee or Cabinet on any staffing matter that falls within their remit	In consultation with the ADHROD, Appointments Committee and/or Staffing Working Group as appropriate
1.5 To exercise functions in relation to elections, parishes, vacancies and local bills	Unless otherwise prescribed by law as reserved to full Council In consultation with the Borough Solicitor and/or (Acting) Returning Officer as appropriate
Delegated by the Leader/Cabinet	
1	2
Delegation	Condition
1.6 Making a decision on behalf of the Cabinet in a matter where the number of Cabinet Members having an interest under the Code of Members Conduct prevents the Cabinet, by virtue of it not having a quorum, from itself making a decision on that	Subject to prior consultation with and taking account of the views of the Council Chairman and the Chairman of the Appropriate Overview and Scrutiny Committee.

matter.	
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B. TO EACH OF THE CHIEF EXECUTIVE AND THE STRATEGIC DIRECTORS	
Delegated by the Council and The Leader/ Cabinet	
1 Delegation	2 Condition
General 2.1. Any action which it falls to a Strategic Director to take under the terms of the Constitution.	
Urgency 2.2. Taking any action reasonably necessary, including incurring expenditure for which there is no budgetary provision which, in the opinion of the Chief Executive or Strategic Director, is required as a matter of urgency including dealing with an emergency or disaster.	(a) in consultation with the Council Chairman (if it is a matter reserved to Council), the Appropriate Cabinet Member, the Appropriate Overview and Scrutiny Committee Chairman and the Chairman of any other Appropriate Committee where he/she can reasonably be contacted; and b) a report to be made to the next meeting of the Council, Cabinet or Appropriate Committee
2.3 Taking any action reasonably necessary, including incurring expenditure, to deal with an emergency or disaster.	Where practicable: (a) in consultation with the Leader or an Appropriate Cabinet Member; and (b) the Chief Finance Officer. A report to be made to the next available meeting of the Cabinet explaining the action taken and reason for taking it.

<p>Staffing Matters</p> <p>2.3 To specify and implement corporate policies and procedures relating to Employees except for employment contract terms and conditions of Chief Executive, Strategic Directors and Assistant Directors</p>	<p>Unless expressly reserved to full Council</p> <p>In consultation with the ADHROD and/or Staffing Working Group as appropriate</p>
<p>2.4 Appointing and dismissing Employees to the Authority (other than Chief Executive, Strategic Directors or Assistant Directors) and deciding matters relating to their contracts of employment including taking disciplinary action against such Employees</p>	<p>In consultation with the ADHROD and Borough Solicitor as appropriate</p>
<p>2.5 Undertaking the powers of Chief Officers or Heads of Department under conditions of service.</p>	<p>In consultation with the AD HROD</p>
<p>2.6 Deciding upon redundancies and determining applications from Employees for early retirement (including ill health retirements) where there are financial implications for the Authority.</p>	<p>Except in the case of the Chief Executive, a Strategic Director, the Monitoring Officer or the Chief Finance Officer.</p> <p>Subject to any corporate policy and financial authorisation, and in consultation with AD HROD or HR Manager Operations as appropriate</p>
<p>2.7 Determining all matters under the various schemes of allowances, honoraria and benefits which apply to Assistant Directors</p>	<p>Subject to any corporate policy and financial authorisation, and in consultation with AD HROD or HR Manager Operations as appropriate</p>
<p>2.8 Nominating Members to represent the Council on joint staff or joint consultative committees</p>	<p>In consultation with the Staffing Working Group</p>

<p>Contracts 2.9 Accepting any Quotation and/or Tender for the supply of Services or Services to the Authority or for the execution of Works, provided:- (a) it does not exceed the approved capital programme provision and/or budgetary provision; and (b) it is obtained and the contract is entered into strictly in accordance with the Financial and Contract Rules</p>	<p>The Appropriate Cabinet Member or Committee to be informed, through a briefing note or otherwise.</p>
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<p align="center">C. TO EACH ASSISTANT DIRECTOR Delegated by the Council and the Leader /Cabinet</p>	
<p align="center">1 Delegation</p>	<p align="center">2 Condition</p>
<p>Contracts 3.1 Accepting any Quotation and/or Tender for the supply of Supplies or Services to the Council or for the execution of Works within their respective service areas, provided:- (a) it does not exceed the approved capital programme provision and/or budgetary provision. (b) it is obtained and the contract is entered into strictly in accordance with the Financial and Contract Rules.</p>	<p>The Appropriate Cabinet Member or Committee to be informed through a briefing note or otherwise</p>

<p>Notices, etc.</p> <p>3.2 To issue, serve and receive all notices, whether statutory or otherwise, and similar documents relating to matters falling within their respective service areas.</p>	<p>Where necessary, in consultation with the Borough Solicitor and/or any other appropriate Assistant Director.</p>
<p>Staffing Matters</p> <p>3.3 Exercising the Authority's powers and duties with regard to the health and safety of all Employees within their division</p>	<p>In consultation with the AD HROD or HR Manager Operations</p>
<p>3.4 Undertaking the powers of Chief Officers (if so authorised by the Chief Executive/Strategic Directors) or Heads of Department under conditions of service</p>	<p>In consultation with the AD HROD or HR Manager Operations</p>
<p>3.5 Authorising any suitably qualified Employee to or for any legal purpose within the Assistant Director's division including authorising entry on to land or premises for any purpose</p>	<p>In consultation with the Borough Solicitor as appropriate.</p>
<p>3.6 Appointing and dismissing Employees within their division and deciding matters relating to their contracts of employment including taking disciplinary action</p>	<p>In consultation with the ADHROD/ HR Manager Operations and Borough Solicitor as appropriate</p>
<p>3.7 Power to grant compassionate or unpaid leave for staff within their divisions</p>	<p>In consultation with the AD HROD or HR Manager Operations</p>
<p>3.8 Power to authorise the carrying over of paid leave from one year to the next for staff within their division</p>	<p>In consultation with the AD HROD or HR Manager Operations</p>
<p>3.9 Determining the wage/salary grading of all Employees within their divisions and individual or group re-grading claims</p>	<p>In consultation with the AD HROD or HR Manager Operations</p>
<p>3.10 Amending the flexi-time scheme in line with the operational requirements of their division</p>	<p>In consultation with HR Manager Operations</p>
<p>3.11 Determining all matters under the various schemes of allowances, honoraria and benefits which apply to Employees (unless specifically reserved to the Chief Executive or a Strategic Director)</p>	<p>Subject to any express written policy and financial authorisation, and in consultation with AD HROD or HR Manager Operations as appropriate</p>

<i>3.12 Reorganisation of functions and restructuring of staff within their division and the reallocation and transfer of staff and functions below Assistant Director level between divisions</i>	<i>Subject to any express written policy and financial authorisation, and in consultation with AD HROD or HR Manager Operations as appropriate</i>
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Draft

CONSTITUTION WORKING GROUP

Membership – 3 Members, Borough Solicitor/Monitoring Officer, Democratic Services Manager

Functions

No.	Function
1	To assist the Borough Solicitor/Monitoring Officer and DSM in monitoring and reviewing the operation of the Council Constitution
2	To receive and consider reports from the Borough Solicitor/Monitoring and other Officers on constitutional matters
3	To make recommendations to Council in respect of amending or updating the Constitution

STAFFING WORKING GROUP

Membership – 5 Members, Chief Executive/Head of Paid Service, Assistant Director Human Resources and Organisational Development

Functions

No.	Function
1	To assist the Chief Executive, Executive Board and Assistant Director Human Resources and Organisational Development in reviewing and updating staff policies and procedures
2	To receive and consider reports from the Chief Executive, Executive Board and Assistant Director Human Resources and Organisational Development on staffing matters
3	To make recommendations to Council, Cabinet, Chief Executive, Executive Board or Assistant Director Human Resources and Organisational Development (and Appointments Committee if appropriate) in respect of staffing matters

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APPOINTMENTS COMMITTEE

Membership

The membership of the Appointments Committee shall consist of nine Members of the Council appointed in accordance with the requirements of political proportionality, at least one of whom, **but not more than four***, shall be a Member of the Cabinet.

	Function
1.	<p>To be responsible for the appointment of the Chief Executive, Strategic Directors and Assistant Directors. Where the Committee is appointing a Statutory Officer (Head of Paid Service, s.151 Officer and Monitoring Officer), the full Council must approve the appointment before an offer of appointment is made.</p> <p>No offer of appointment shall be made until the proposed action (including the name and any other particulars the Committee considers relevant) has been notified to every member of the Cabinet and either:-</p> <ol style="list-style-type: none"> 1. within the period specified in the notification no objection has been made by the Leader on behalf of the Cabinet to the proposed action; or 2. the Committee is satisfied that any objection made is not material or is not well founded; or 3. the Leader has, within the period specified in the notification, notified the Chief Executive that neither he/she nor any member of the Cabinet has any objections
2.	To determine the conditions on which the Chief Executive, Strategic Directors and Assistant Directors hold office, including deciding matters relating to the early retirement of those officers.

Note: It will be a matter for the Appointments Committee, at its first meeting to set up a Sub-Committee to make appointments at Assistant Director level as this cannot be undertaken by the Council (see paragraph 3.2.4 of the report).

* Added by the S&SSC on 28th October 2010

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7. JNC DISCIPLINARY COMMITTEE

7.1 Membership

The Committee shall consist of five Members appointed according to the requirements of political proportionality **and subject to a maximum of two Cabinet Members***. Where casual vacancies arise between Selection Meetings appointments to committee membership shall be made by either the Chief Executive or Monitoring Officer on the instruction of Group Leaders.

7.2 Functions

No.	Function
1	To manage and consider any disciplinary and/or capability and any grievance matters arising in relation to the Statutory Officers (the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer) the Strategic Directors and the Assistant Directors
2	To carry out the function of an Investigating & Disciplinary Committee as set out in the JNC Conditions of Service for Chief Executives and the JNC Conditions of Service for Chief Officers
3	To consider allegations concerning the conduct or capability of Statutory Officers, the Strategic Directors and the Assistant Directors in order to establish whether or not they are sufficiently well-founded and serious in content to justify investigation
4	If appropriate, to suspend a Statutory Officers, a Strategic Director or Assistant Director under the terms of the JNC Conditions of Service for Chief Executives or the JNC Conditions of Service for Chief Officers
5	<p>In respect of Statutory Officers to</p> <ul style="list-style-type: none"> (a) decide whether the issue requires no further formal action; or (b) whether the issue should be referred to a "Designated Independent Person"; (c) to be responsible for the appointment and terms of reference for any "Designated Independent Person" (which power can be delegated to an Officer); (d) to receive and consider the report of the Designated Independent Person; (e) to hold a capability or disciplinary hearing. <p>Following receipt of any DIP report to determine a course of action (up to and including dismissal) within the Council's powers under law and within its procedures. In the case of dismissal, to recommend that course of action to Full Council for final approval.</p> <p>To comply with the notification requirements of Rule 6 of Part 4F of the Constitution (Employment Rules) and to consider any objections from members of the Cabinet to establish whether they are material and/or well-founded.</p>

6	<p>In respect of Strategic Directors and Assistant Directors to</p> <p>(a) to appoint, if appropriate, an investigator to carry out an investigation on behalf of the Committee (which power can be delegated to an Officer);</p> <p>(b) to receive and consider any report of an investigator; or</p> <p>(c) to hold a capability, disciplinary or grievance hearing;</p> <p>(d) following any capability and/or disciplinary hearing, to determine a course of action (up to and including dismissal) within the Council's powers under law and within its procedures, including the procedure set out in Rule 6 of Part 4F of the Constitution (Employment Rules)</p>
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JNC APPEALS COMMITTEE

.1 Membership

The Membership of the JNC Chief Officers' Appeals Committee shall consist of five Members of the Council appointed in accordance with the requirements of political proportionality and to include one Cabinet Member. Members of this Committee may not include any Member of the JNC Disciplinary Committee.

.2 Functions

No.	Function
1	To hear and determine appeals against decisions of the JNC Disciplinary Committee in respect of action taken against any Strategic Director or Assistant Director (other than the Head of Paid Services, Section 151 Officer or Monitoring Officer)
2	To hear and determine any appeals against any action short of dismissal taken by the JNC Disciplinary Committee against the Chief Executive (Head of Paid Service), Section 151 Officer or Monitoring Officer

* Added by S&SSC on 28th October 2010

ARTICLE 14 FINANCE, CONTRACTS AND LEGAL MATTERS**14.1 FINANCIAL MANAGEMENT**

The management of the Authority's financial affairs will be conducted in accordance with the Financial Rules set out in [Part 4H](#) of this Constitution.

14.2 CONTRACTS

Every contract made by the Authority will comply with the Contract Rules set out in [Part 4I](#) of this Constitution.

14.3 LEGAL PROCEEDINGS

The **Borough Solicitor** and the Head of Legal Services is each authorised **subject to 14.4 below** to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Authority (**Council, Cabinet, Committee or Officer under powers delegated to them**) or in any case where the **Borough Solicitor** or Head of Legal Services considers that such action is necessary to protect the Council's interests and he/she is satisfied as to the available evidence. In cases of conflicting opinion the **Borough Solicitor's** view shall prevail.

This authority may only be exercised within the financial limit which is authorised by the decision or is within the authorised expenditure limit of the Borough Solicitor.

14.5 AUTHENTICATION OF DOCUMENTS

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Executive or the **Borough Solicitor** or the Head of Legal Services or any other person authorised by them, unless any enactment otherwise authorises or requires or the Council has given requisite authority to some other person.

Any contract entered into on behalf of the Council shall comply with the requirements of the Contract Rules, ([Part 4I](#) of the Constitution), concerning process and form of required documentation, in particular all contracts must be evidenced in writing.

14.6 COMMON SEAL OF THE AUTHORITY

The common seal of the Authority will be kept in a safe place in the custody of the Monitoring Officer.

A decision of the Authority, or the Cabinet, a Committee, Sub-Committee or Employee able or authorised to act on its behalf, will be sufficient approval for sealing any document necessary to give effect to the decision.

The common seal will be affixed to those documents which in the opinion of the **Borough Solicitor** or the Head of Legal Services should be sealed. The affixing of the common seal must be attested by either the Mayor, Deputy Mayor, the Chief Executive, the **Borough Solicitor** or the Head of Legal Services.

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ARTICLE 13 DECISION MAKING

13.1 RESPONSIBILITY FOR DECISION MAKING

The Authority will issue and keep up-to-date a record of the respective responsibilities of the Council and its Committees, the Cabinet, Cabinet **Members** and Officers for particular types of decisions or decisions relating to particular areas or functions. This record is set out in [Part 3](#) of this Constitution.

13.2 PRINCIPLES OF DECISION MAKING

All decisions of the Council **and its Committees**, the Cabinet, **Cabinet Members** and **Officers** will be made in accordance with the following principles:

- (a) the action must be lawful and in accordance with all appropriate statutory and regulatory requirements and this Constitution, including the Financial Rules **and Contract Rules**;
- (b) the action must be proportionate to the desired outcome;
- (c) decisions should be taken following due consultation and on the taking of professional advice from **Officers**;
- (d) respect for human rights;
- (e) a presumption in favour of openness;
- (f) clarity of aims and desired outcomes;
- (g) due consideration of all objections; and
- (h) explaining what options were considered and giving the reasons for the decision.

13.3 **SPECIFIC TYPES OF DECISION**

(a) **Decisions reserved to Full Council**

Decisions relating to the functions listed in [Article 4](#) (Functions of the Full Council) will be taken by the Full Council **unless lawfully** delegated **to a Committee or an Officer**.

(b) **Key Decisions (executive functions only)**

A **Key Decision** **is defined by law to** mean any decision **in exercise of an executive function** which is likely:-

- (i) to result in the **Authority** incurring **expenditure** which is, or the making of **savings** which are, **significant** having regard to the **Authority's** budget for the service or function to which the decision relates; or

- (ii) to be significant in terms of its effects on communities living or working in an area comprising **two or more wards** in the **Authority's area**

The Authority has agreed the following local definition of Key Decision -

A Key Decision is **a decision made in exercise of an executive function which:-**

- requires a budget expenditure or **budget** saving of £100,000 or more;
- relates to the acquisition or disposal of land or an interest in land with a value in excess of **£250,000; or**
- **is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough**

Additionally (in accordance with Section 38 of the Local Government Act 2000) in determining the meaning of "significant" for these purposes regard shall be had to any guidance issued by the Secretary of State.

(c) Significant Decisions (non-executive functions only)

A Significant Decision means any decision in exercise of a non-executive function which:-

- **requires a budget expenditure or budget saving of £100,000 or more; or**
- **is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough**

13.4 DECISION MAKING BY FULL COUNCIL

Subject to [Article 13.8](#), the Council meeting will follow the **Council** Procedure Rules set out in [Part 4A](#) of this Constitution when considering any matter.

13.5 DECISION MAKING BY THE CABINET

Subject to [Article 13.8](#), the Cabinet and any Committee of the Cabinet will follow the Cabinet **Procedure** Rules set out in [Part 4B](#) of this Constitution when considering any matter.

13.6 DECISION MAKING BY OVERVIEW AND SCRUTINY COMMITTEES

Overview and Scrutiny Committees will follow the Overview and Scrutiny Rules set out in [Part 4D](#) of this Constitution when considering any matter.

13.7 DECISION MAKING BY OTHER COMMITTEES AND SUB-COMMITTEES ESTABLISHED BY THE COUNCIL

Subject to [Article 13.8](#), all Committees and Sub-Committees established by the Council will follow those parts of the Procedure Rules set out in [Part 4C](#) of this Constitution as apply to them when considering any matter.

13.8 DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS

The Council, the Cabinet, **a Cabinet Member**, a Committee or an **Officer** acting as a tribunal or in a quasi judicial manner or as a Regulatory Committee or determining and/or considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person, will follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing contained in Article 6 of the European Convention on Human Rights.

13.9 DECISION MAKING BY OFFICERS

When making decisions within the powers delegated to them under Part 3H of the Constitution (Employee Delegation Scheme), Officers will ensure that the financial implications or expenditure resulting from the exercise of that delegation does not exceed the limit of their authorised level of expenditure.

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PART 3H EMPLOYEE DELEGATION SCHEME

1 POWERS OF DELEGATION

- 1.1 This Employee Delegation Scheme is made under Section 101 Local Government Act 1972, Section 15 of the Local Government Act 2000, Para.2 of Part II of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001 and all other powers enabling delegations to the Authority's Employees.

2 BASIS OF DELEGATION

- 2.1 In this Scheme, any reference to the functions of the "Authority" means the functions of the Council or Executive Functions as appropriate. Any reference to any power, function, duty, requirement or instruction of the Authority means a power, function, duty requirement or instruction of the Council, the Leader, Cabinet, a Cabinet Member or an Appropriate Committee.
- 2.2 An Employee exercising a function of the Authority under delegation must do so in accordance with:
- (a) all statutory and other legal requirements, including the Human Rights Act 1998, statutory guidance and statutory codes of practice;
 - (b) the Constitution of the Authority, including the Financial and Contracts Rules;
 - (c) the Budget and Policy Framework;
 - (d) any other requirement of the Authority, including any requirement of this Scheme;
 - (e) the 'Employees Code of Conduct' contained within the Council's Constitution;
 - (f) the principles of using the most efficient and effective means available;
 - (g) ***the level of anticipated expenditure/financial liability which has been authorised***
- 2.3 The delegation of a function of the Authority to an Employee does not prevent the Council, the Leader, Cabinet, Cabinet Member or an Appropriate Committee from having the overriding power to exercise that function. This applies to an Appropriate Committee even where the delegation has been made by the Council and an Appropriate Committee may revoke or exercise in place of the Employee a delegation made by the Council under this scheme.
- 2.4 An Employee to whom a function is delegated may waive his/her power to exercise the function and instead refer the matter to the Council, the Leader, Cabinet, Cabinet Member or Appropriate Committee.
- 2.5 An Employee authorised to exercise a delegated power may consult such Councillors and officers as he/she considers appropriate and shall so consult where required to do so under the Constitution or this Scheme.

3 THE SCHEME

Specific delegations

- 3.1 This Employee Delegation Scheme contains specific delegations to the officers listed in the table below:

Title of Employee	Schedule Containing Detail of Delegation
Chief Executive	A , B, D, G
Strategic Directors	B
Borough Solicitor	C, D, E
Head of Legal Services	E
Assistant Director (Human Resources and Organisational Development) AD HROD	C, F
Assistant Chief Executive	C, G
Chief Finance Officer	C, H
Assistant Director (Customer Access and Service Transformation) AD CAST	C, I
Assistant Director (Built Environment) AD BE	C, J
Assistant Director (Operations)	C, K
Assistant Director (Wellbeing and Culture)	C, L
Assistant Director (Community Services)	C, M

Sub-delegation

- 3.2 An Assistant Director is not required to exercise all delegations personally and may sub-delegate duties and functions to a Service Manager or other Employee in their division provided they are satisfied that:
- the Service Manager or other Employee has suitable skills and experience to undertake those duties and functions;
 - the sub-delegation is in the interest of the efficient operation of the Authority's business;
 - there is prior consultation with the Appropriate Cabinet Member or Committee Chairman;
 - the Assistant Director records the details of the sub-delegation on a register which is kept up-to-date and held by him/her.
- 3.3 The Chief Executive and Strategic Directors may also sub-delegate direct to a Service Manager or other Employee subject to the same conditions.

Default delegation

- 3.4 In this Scheme, if an Employee to whom a duty or delegation is delegated is not in post or is absent or ought not, because of a conflict of interest, act in the matter:

- (a) in the case of the Chief Executive, the duty or function shall be exercisable by the Deputy Chief Executive or in his/her absence or inability to act another Strategic Director;
- (b) in the case of a Strategic Director (including the Deputy Chief Executive), the duty or function shall be exercisable by the Chief Executive;
- (c) in the case of a duty or function exercisable by the Chief Finance Officer acting in his/her capacity as Section 151 Officer, it shall be exercisable only by their nominated deputy;
- (d) in the case of a duty or function exercisable by the Borough Solicitor in his/her capacity as Solicitor to the Council it shall be exercisable by the Head of Legal Services and in his/her capacity as Monitoring Officer, it shall be exercisable only by their nominated deputy;
- (e) in the case of a duty or function exercisable by any other Assistant Director or the Chief Finance Officer or Borough Solicitor (acting otherwise than under (c) and (d) above), it shall be exercisable by a Strategic Director or the Chief Executive; and
- (f) in the case of a duty or function exercisable by a Service Manager or other Employee, it shall be exercisable by his/her Assistant Director.

Issuing legal proceedings and instructing counsel

3.5 Unless:

- (a) specifically authorised by the Part 2 of the Constitution; or
- (b) as set out in this Scheme of Delegations, or
- (c) where authorised by statute.

nothing in the Constitution or this Scheme of Delegations shall be construed as delegating to any Employee the power to authorise or institute any legal proceedings or process or to instruct legal agents or Counsel unless the consent of the Borough Solicitor or Head of Legal Services or someone authorised by one of them has first been given.

3.6 Subject to the terms of the Constitution and this Scheme, there is delegated to the employees listed in each of the attached Schedules the powers and functions of the Authority listed in Column 1 of the Schedule, on the basis that:

- (a) before exercising such function, the Employee shall comply with any conditions set out in Column 2 of the Schedules; and
- (b) where the name or designation of a Councillor, the Executive Board, a Strategic Director, an Employee or other person or body appears in Column 2, that person or body is first consulted before any decision is taken unless for any reason it is impracticable to do so;

- (c) where there are financial and/or legal implications in the decision the Chief Finance Officer and/or Borough Solicitor are consulted prior to the decision being made.

Financial Powers

- 3.7 Any decision taken under this scheme must be made within the approved revenue and capital budgets, subject to any discretion allowed by the Financial Rules. ***Officers must ensure that the expenditure or financial liability resulting from the decision taken under this scheme does not exceed the limit of their authorised level of expenditure. (Financial Procedure Rule 21.8)***

Job Title Change

- 3.8 Should the title of an officer be altered from that shown due to a re-organisation of departmental arrangements or other reason, the approved delegated arrangements shall be exercisable by the Chief Executive, a Strategic Director or the appropriate Assistant Director or Service Manager, as the case may be, responsible for the function in question.

Committee Change

- 3.9 Any reference to a Committee shall be deemed to include a reference to any other Committee to which the Council may from time to time delegate the performance of the function referred to.

Legislation Change

- 3.10 Any reference to a specific statute includes any statutory extension or modification or re-enactment of such statute and any regulation, orders or bylaws made thereunder.

E. TO EACH OF THE BOROUGH SOLICITOR AND THE HEAD OF LEGAL SERVICES	
Delegated by the Council and the Leader/Cabinet	
1 Delegation	2 Condition
General	
5.1 To act as Solicitor to the Council	The Head of Legal Services will only act as Solicitor to the Council where the Borough Solicitor is not in post absent or unable to act
5.2 Taking any action reasonably necessary to give effect to a decision of the Authority and accepting or initiating any notice or process on behalf of the Authority.	
Documents	
5.3 issuing, serving and receiving all notices, etc. required to be given under the terms of any agreement, Contract, lease or other document by or to (a) 'The Town Clerk'; (b) 'The Town Clerk and Chief Executive'; (c) 'The Borough Secretary'; (d) 'The Chief Executive'; (e) 'The Managing Director'; (e) 'The Proper Officer'; or (e) any other specified person where there is no equivalent person employed or appointed by the Authority.	
5.4 Rectifying documents	
Constitution	
5.5 Authority to take any action which it falls to the Monitoring Officer (in that capacity or otherwise) to take under the terms of the Constitution.	This does not authorise the Head of Legal Services to undertake the statutory duties of a Monitoring Officer unless specifically appointed as the Monitoring Officer's deputy.
5.6 Power to amend the Employee Delegation Scheme where there has been a change of law, job title, structure, rearrangement of responsibilities between Employees or other circumstance, provided that there is no overall increase in the level of delegation.	Appropriate Cabinet Member, Appropriate Committee and affected staff to be informed
5.7 Power to make amendments to the Constitution to reflect changes in law or fact in accordance with Article 12 of the Constitution.	

<p>Legal Proceedings</p> <p>5.8 In addition to any authority given by Article 14 of the Constitution of the Council, authorising, instituting, defending and settling any legal proceedings or process of any sort and taking any action he/she considers appropriate to that end.</p>	<p>Except in any case where the Borough Solicitor deems to be urgent, this does not authorise the Borough Solicitor to incur expenditure or financial loss to the Council which has not either been authorised by the Authority or is within the authorised expenditure limit of the Borough Solicitor within the Financial Procedure Rules in Part 4H of the Constitution.</p>
<p>5.9 Authorising and serving or publishing any notice, summons, application or other legal process of any sort on behalf of the Authority and giving undertakings on its behalf.</p>	
<p>5.10 Exercising all the powers of the Authority under Section 222 Local Government Act 1972 (power to prosecute or defend legal proceedings) including the seeking of injunctions.</p>	
<p>5.11 Authorising under:</p> <p>(a) Section 223 Local Government Act 1972 any officer of the Authority to prosecute or defend on behalf of the Authority or appear in proceedings before a magistrates court.; or</p> <p>(b) Section 60 County Courts Act 1984 persons to appear in or conduct actions on behalf of the Authority in the County Court</p>	
<p>5.12 The power to appoint or instruct legal agents or Counsel or authorising other Employees to do so.</p>	
<p>5.13 The authority to administer cautions on behalf of the Council.</p>	

GUIDANCE ON VOTING AT MEETINGS

GENERAL

The general principles are that decisions taken in Council, Cabinet or Committee are validly made by a majority of Councillors present and entitled to vote. There is no requirement to record, in the minutes of the meeting or otherwise, the number or names of members voting for or against a proposal or the number or names of any abstentions. Neither is there any requirement to record any unanimity of votes cast. This is because the democratic principle is that decisions are made by a majority of those present and entitled to vote and the question of who voted 'for or against or abstained from voting' is a secondary consideration.

Practices do, of course, vary between Local Authorities and some Authorities routinely record, within their minutes, the number of votes for and against any proposal together with any abstentions. This is a matter of local preference and culture and this detail is not recorded routinely at Cheltenham Borough Council.

If there is an equality of votes cast, then the Chairman of the meeting has the right to exercise a second, or "casting" vote. This vote is traditionally used to break the deadlock which is caused as a result of an even number of members voting for and against a proposal.

The voting method most commonly used is a "show of hands" although, as is the practice at Cheltenham Borough Council, in cases where there is no dissent, decisions are made by affirmation of the meeting.

There are exceptions to the above generalities arising from the law or the Council's Constitution. These exceptions are dealt with in detail below.

VOTING METHODS

The Rules of Procedure for meetings of the Council, Cabinet and Committees provide that unless a recorded vote or ballot is demanded, matters will be decided by a simple majority of those members voting and present in the room at the time that the matter is put to the vote. The vote is by show of hands, or, if no dissent, by affirmation of the meeting.

Recorded vote (Constitution)

If seven members of the Council (or the number equivalent to a quorum in the case of Cabinet or a Committee) present at the meeting demand a recorded vote, then each member will be asked to indicate whether their vote is in favour of or against the motion or whether they abstain. The way in which each member present voted is then recorded in the minutes of the meeting.

It is relatively unusual for a recorded vote to be called for and is appropriately used where sensitive decisions are being taken or where members have a particular concern about the outcome of the vote. Provided that the number of members required to call for a "recorded vote" are satisfied, the vote must be taken in that way. A call for a "recorded vote" overrides a demand for a ballot.

Ballot (Constitution)

At the demand of seven members of the Council (or the number equivalent to a quorum in the case of Cabinet or a Committee) present at the meeting a secret ballot will be held. The Chairman of the meeting will then announce the numerical result of the ballot once counted. This does not prejudice the right of any member to have their vote recorded in the minutes as set out below.

A secret ballot is extremely unusual as it is not conducive to the principles of openness and transparency which are extremely important within local authority decision-making. Consequently, it is rarely appropriate for such a process to be used. It is sometimes utilised by local authorities when voting upon appointment of members to various offices or bodies, but its use, whether in open or exempt business is to be discouraged. It is particularly important for any public attending the meeting to be able to observe the proceedings, including the vote and the secret ballot militates against such an opportunity.

Recording of individual vote (Legal requirement)

Any member may request, immediately after the vote has been taken, that their vote will be recorded in the minutes of the meeting to show whether they voted for or against the motion or abstained from voting.

Voting on appointments

The Constitution prescribes the method by which voting on appointments will take place. If there is not a clear majority in favour of an appointment where more than two people are nominated, then the one with the least votes is taken off the list and another vote taken. The Chairman can exercise a casting vote in the event of an equality of votes between two nominees to be taken off the list. If there are two or more nominees having an equality of votes and together having the highest number of votes, then a further vote is taken between those two only and, in the event of a further equality of votes, the Chairman may exercise a casting vote.

Where there are multiple nominees for multiple appointments the vacancies will be filled by the number of nominees with the greatest number of votes. Any equality of votes resulting in the number of nominees with the greatest number of votes exceeding the number of vacancies, requires that a further vote be taken between those nominees with the equality of votes.

Recording of numbers of votes

There is currently no requirement for the number of votes for, against or abstentions from decisions to be recorded in the minutes of the meeting, although this is sometimes done, particularly in minutes of Council.

There are two options to deal with the recommendation of KPMG as follows

A

To make an amendment to the Constitution or to produce informal guidance to the effect that, except where decisions are taken by affirmation at the meeting, the number of members voting for, against and abstaining from voting on the matter shall be recorded in the minutes of the meeting.

B

To recognise within the guidance that there are some matters which are regarded as being sensitive or upon which members may be concerned as to the outcome to the extent that they consider it to be in the public interest for the number of votes for, against and abstentions to a vote to be recorded in the minutes of the meeting. It would be appropriate for it to be within the Chairman's discretion for the outcome of the vote to be recorded in the minutes.

PART 5C – PROTOCOL FOR MEMBER/OFFICER RELATIONS**INDEX**

1. Introduction
2. General Principles
3. Role of Members
4. Role of Officers
5. Correspondence between Officers and Members
6. Relationship between the Leader and Officers
7. Relationship between Members of the Cabinet and Chairmen/Vice Chairmen and Officers
8. Area Committees, Partnerships et cetera
9. Officer Relations with Party Political Groups
10. Public Meetings called by Individual Councillors or Party Political Groups
11. Ward Member Roles and Officers
12. Support Services to Members and Party Political Groups
13. Members' Access to Information and to Council Documents
14. Complaints

1. **Introduction**

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another. Given the variety and complexity of such relations it is not intended to be prescriptive or exhaustive but seeks to offer guidance on some of the issues which commonly arise. The protocol should be read in conjunction with the Code of Members' Conduct, the Employee Rules and the Access to Information guidelines as set out in the Council's Constitution and also with the Customer Relations Framework.

2. **General Principles**

- 2.1 Members and Officers are servants of the public and they are indispensable to one another but their responsibilities are distinct. Members are responsible to the electorate and they serve only as long as their term of office lasts. Officers are responsible to the Council. Their role is to give advice to Members and to the Council and to carry out the Council's work under the direction and control of the Council, Cabinet and Committees.

- 2.2 The principles that underline Member and Officers relations and this protocol are: -

Selflessness – Members and Officers should only serve the public interest and should never improperly confer any advantage or disadvantage on each other or any person.

Honesty and Integrity – Members and Officers should not place themselves in situations where their honesty or integrity may be questioned. They should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity – Members and Officers should make decisions on merit including making appointments, awarding contracts or recommending individuals for rewards or benefits.

Accountability – Members and Officers should be accountable to the public for their actions and the manner in which they carry out their responsibilities

and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness – Members and Officers should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.

Respect for others – Members and Officers should treat each other and the public with respect by promoting equality by not discriminating unlawfully against any person and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. Members should respect the impartiality and integrity of the Council's statutory officers and other employees.

Duty to uphold the law – Members and Officers should uphold the law and on all occasions act in accordance with the trust that the public is entitled to place in them.

Stewardship – Members and Officers should do whatever they are able to do to ensure that their Authority uses its resources prudently and in accordance with the law.

Leadership – Members and Officers should promote and support these principles by leadership and by example and should act in a way that secures or preserves public confidence.

3. **Role of Members**

3.1 Members are elected and are required to act in accordance with the Code of Members' Conduct.

3.2 Officers can expect from Members:

- Leadership within the political sphere and direction
- Respect, dignity and courtesy
- An understanding of and support for respective roles, workload and pressures
- Not to be subjected to bullying or undue pressure, including through written and verbal communications
- Not to use their position or relationship with Officers to advance their personal interests or those of others or to improperly influence decisions
- Compliance with the Code of Members' Conduct

4. **Role of Officers**

4.1 Officers are employed by the Council as a corporate body. The Employment Rules ([Part 4F](#) of the Constitution) deal with the appointment, conduct, disciplining and dismissal of Officers. In general terms Members shall not be involved in such matters other than in respect of Chief Officers, Deputy Chief Officers, Statutory Officers and Political Assistants.

4.2 Members can expect Officers to:

- Maintain confidentiality where necessary and lawful
- Perform their duties effectively, efficiently and with political neutrality
- Behave in a professional and courteous manner
- Be helpful to members and respect their role

- Avoid close personal familiarity with Members and not use their relationship with Members to advance their personal interests or to influence decisions improperly
- Report to an Assistant Director or Strategic Director any time that a Member asks or pressurises the Officer to deal with a matter outside of Council procedure or policy
- Demonstrate an understanding of and support for respective roles, workloads and pressures
- Comply with any relevant Code of Conduct

5. Correspondence between Members and Officers

- 5.1 As far as possible, Members should seek to communicate with Strategic Directors, Assistant Directors and Service Managers. It is permissible and sensible for members to seek straightforward factual information from junior officers, and to enquire as to technical or professional matters of appropriately qualified officers whose duties include advising members. However, anything contentious, or any matter requiring a complex opinion, a value, or a judgement, should be directed to the Strategic Directors, Assistant Directors or the relevant Service Manager.
- 5.2 Correspondence between an individual Member and an Officer should not normally be copied by the Officer to any other Member, unless the Member has himself or herself sent copies to other Members; in this case copies will normally be sent to those Members as well. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.
- 5.4 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. in respect of executive matters or representations to a Government minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

6. Relationship between the Leader and Officers

- 6.1 The Leader will be at the centre of the Cabinet and will need the close working support of a number of officers, including, perhaps, a political assistant. The relationship between the Leader and those officers must never be, or give the appearance of being, so close as to bring into question the officers' ability to deal impartially with other members, especially those belonging to other party political groups.
- 6.2 If the Cabinet chooses to appoint a political assistant, that officer will be, and will remain, an employee of the Council, not of the Cabinet, and will be subject to the same corporate obligations and conditions of service as all other Council employees, except where variations are specifically provided in the conditions of contract reflecting the particular nature of the post.

7. Relationships between Members of the Cabinet and Chairmen/Vice Chairmen of Committees and Officers

- 7.1 It is important that there should be a close working relationship between members of the Cabinet (whether or not they exercise personal executive powers) or Chairmen/vice Chairmen of other Committees and the Strategic Directors, Assistant Directors, Service Managers and other senior Officers who support them in their respective roles. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party political groups.
- 7.2 Where a Strategic Director, Assistant Director, Service Manager or a senior Officer submits a report to the Cabinet or any Committee, that Officer will always be fully responsible for any part of its contents submitted in their name.
- 7.3 Whilst Officers should always seek to assist members of the Cabinet, a Chairman or, indeed, any Member, they must not in so doing go beyond the limits of the authority they have been given.
8. **Partnerships**
- 8.1 The increasing involvement of the Council in various forms of partnerships with other bodies creates situations where Members and Officers are drawn into new non-traditional working relationships. These could pose difficulties if Members and Officers lose sight of the fundamental principles which define their different roles.
9. **Officer Relations with Party Political Groups**
- 9.1 Party Political Groups are a recognised part of the local government structure and their role is recognised and facilitated by statute. Officers may properly be called upon to support and contribute to deliberations by party political groups of matters likely to come before the Council, the Cabinet or Committees. They must do so in ways which do not compromise their political neutrality.
- 9.2 The support provided by officers can take many forms, ranging from a briefing meeting with a Cabinet member or a Chairman to a presentation to a full political group meeting. Whilst in practice such Officer support is likely to be most in demand from whichever party group forms the administration of the Council, such support is available to all political groups.
- 9.3 Any request for an officer to attend a political group meeting should be made through the Chief Executive or the appropriate Assistant Director.
- 9.4 The following matters must be understood by all those participating in political group meetings, Members and Officers alike -
- (a) Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of political party or political group business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of political group business are to be discussed;

- (b) Political group meetings, whilst they may form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings cannot bind the Council in any way;
 - (c) Where Officers provide information to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for the obligation to provide all necessary information and advice to the Cabinet, Committee or Council meeting when the matter in question is considered;
 - (d) Any strategy or policy which may emerge from the political group meeting is that of the political group alone;
 - (e) Special care needs to be exercised whenever officers are involved in providing information and advice to a political group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Code of Conduct and the statutory and other provisions concerning the declaration of interests and confidentiality, and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Member only meeting.
- 9.5 Officers must respect the confidentiality of any political group meeting at which they are present in the sense that they should not relay the content of any such discussion to another party. Officers should not be requested to answer questions on such matters by Overview & Scrutiny Committees.
- 9.6 Any particular cases of difficulty or uncertainty in this area should be raised with the Chief Executive and/or the Monitoring Officer who will discuss them with the relevant political group leader.
- 10. Public Meetings called by Individual Councillors or Party Political Groups**
- 10.1 If an individual Member or a political group convenes a public meeting, publicity for the meeting must clearly state the basis on which it is being held and should not state or imply that it is a Council meeting.
- 10.2 Any request for an Officer to attend such a meeting must be made through the Chief Executive or the appropriate Assistant Director. It must be made clear to those attending such a meeting that any officer is there in his or her official capacity, is politically neutral and that his or her presence does not signify support for a particular political proposal or initiative. This is essential because of the need for Officers to act, and to be seen to act, impartially and to comply with any political restrictions under which they operate.
- 11. Ward Member Roles and Officers**
- 11.1 Whenever a public meeting is organised by the Council to consider a local issue, all of the Members representing the ward or wards affected should as a matter of course, be invited to attend the meeting.

11.2 When dealing with a constituent's enquiry Members can seek information directly from the Officer dealing with the enquiry. Members must not place any Officer under pressure to deal with the matter in a particular way and a Member must deal with the matter in accordance with the principles of this protocol.

12. **Support Services to Members and Party Political Groups**

12.1 The Council can only provide support services (e.g. stationery, typing, printing, photo-copying, I.T., transport, etc.) to Members to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

13. **Members' Access to Information and to Council Documents**

13.1 Members are free to approach any service area with a request to provide them with such information, explanation and advice, especially about the functions of the service division concerned, as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a service area's activities to a request for specific information on behalf of a constituent. Such approaches should only be made to the relevant Service Manager or Assistant Director or, at their direction, to another Officer.

13.2 Members have the right to inspect Council documents partly by virtue of statute and partly by virtue of the common law. Members also have the same rights as any member of the public to access to information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

13.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Cabinet or Committee meeting. These rights are summarised in the Access to Information Procedure Rules ([Part 4E](#)) and extend not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not however apply to documents relating to certain items which may appear as exempt items on the agenda (pink papers), to the advice of any political advisor or to documents which are in rough draft or evolution and have not been finalised.

13.4 The common law right of members is broader; it is based on the principle that any member has a prima facie right to inspect Council documents so far as access to the documents is reasonably necessary to enable the Member properly to perform his or her duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.

13.5 The exercise of this common law right depends therefore upon the Member's ability to demonstrate their "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the Assistant Director holding the document in question, with advice, if necessary, from the Borough Solicitor.

- 13.6 In some circumstances (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee or a member of an Overview and Scrutiny Committee wanting to be informed about a matter within the remit of that Committee) a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms. It is unlikely that a member will ever have a "need to know" in respect of personal details about individual Officers.
- 13.7 Whilst the term "Council document" is broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one political group will not have a "need to know", and therefore a right to inspect, a document which forms part of the internal workings of another political group.
- 13.8 A Member is not entitled to inspect any document, or have access to any information (save to the extent which that document is publicly available as set out in paragraphs 13.2 and 13.3 above), about a matter in which he or she has a prejudicial interest or is acting in a professional capacity, for example, on behalf of a client negotiating with the Council or involved in litigation against the Council.
- 13.9 A Service Manager or Assistant Director may refuse a Member access to a document for these or other good reasons such as the request being frivolous, vexatious or where a reasonable amount of information has already been provided. The Member must be informed in writing of the actual reason for refusal to provide the information.
- 13.10 If a Member is not satisfied with a decision by a Service Manager or Assistant Director, that Member may refer the matter to a Strategic Director, who having sought such advice as they consider appropriate, shall determine finally whether or not the Member should be given the access requested. If the original request had been made to the Chief Executive and a Member is not satisfied with his decision, the matter shall be referred to the Borough Solicitor for determination.
- 13.11 Further and more detailed advice regarding members' rights to inspect Council documents may be obtained from the Borough Solicitor.

14. **Complaints**

- 14.1 Should a Member have cause to complain about the actions or failings of any Officer of the Council below Assistant Director level, he or she should lodge their complaint in writing with the Assistant Director responsible for that Officer. If the complaint is against an Assistant Director, the complaint must be lodged in writing with the Chief Executive or a Strategic Director. If the complaint is against a Strategic Director, the complaint must be lodged in writing with the Chief Executive. If the complaint is against the Chief Executive personally the complaint must be lodged in writing with the Borough Solicitor. If the complaint is against the Borough Solicitor personally the complaint must be lodged in writing with the Chief Executive.
- 14.2 An Officer having cause to complain about the actions or failings of any member should lodge his or her complaint in writing with the Chief Executive.

At a minor level a complaint may be dealt with informally by referring the matter to the leader of the relevant political group. Where the complaint appears to involve an allegation of a breach of the Code of Members' Conduct, the Chief Executive will consult the Monitoring Officer.

- 14.3 Complaints should not be raised or referred to during Council, Committee or Cabinet meetings, except for those expressly called for that purpose.

Draft

Cheltenham Borough Council

Council 13 December 2010

Proposals for a Strategic Commissioning Council and supporting organisation structure (Report under Section 4 Local Government and Housing Act 1989)

Accountable member	Full Council/Leader of the Council
Accountable officer	Chief Executive
Accountable scrutiny committee	Economy and Business Improvement
Ward(s) affected	None directly at this stage

Significant decision	Yes
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Executive summary A version of this report was considered by Staff and Support Services Committee on 28th October 2010 and by the Cabinet on 16th November 2010. It sets out the Chief Executive's formal proposals for a Strategic Commissioning Council together with the supporting organisational structure. The strategic business case for the introduction of formalised strategic commissioning is included at Appendix A to this report. The proposed Council structure to deliver formalised strategic commissioning has been developed from the findings and recommendations of an external review of the current senior management structure of the Council and can be found at Appendix B to this report. The restructuring process guidance and proposed timeline is included at Appendix C to this report and it is intended that the new structure (phase 1) takes effect on 1st April 2011.

The proposals were endorsed by Staff and Support Services Committee which made onward recommendations to Council and an extract from the minutes of that meeting is included in Appendix E to this report.

The Cabinet also endorsed the proposals and added a further recommendation for consideration by Council concerning a 'one off' resource to support the required business change. An extract from the minutes of the Cabinet meeting is included at Appendix F.

- | | |
|------------------------|--|
| Recommendations | <p>That Council:</p> <ol style="list-style-type: none"> 1. Approves the Chief Executive's proposals for a Strategic Commissioning Council and agrees the new Council structure as set out in this report and in Appendices A and B 2. Sets aside a 'one-off' resource of £80,000, funded from virement as recommended by Cabinet, as outlined in section 4 of this report. 3. Notes that formal consultation (stage 3 as set out in Appendix C) on the proposed new structure will be undertaken with affected employees 4. Requests the newly constituted Appointments Committee (or appropriate sub-committee) to conduct and complete any necessary recruitment or redundancy processes at Assistant |
|------------------------|--|

Director level (including the AD Resources/s151 Officer) and to agree such terms and conditions of appointment or dismissal as may be necessary in order to facilitate the new structure

Financial implications	<p>The proposed restructuring of the Senior Leadership Team resulting from a move to become a commissioning council will generate annual revenue savings which will be delivered in phases. A summary of the net annual savings, based on a projection of employment costs of the new structure, is as follows:</p> <p>2011/12 £144,000 (deletion of 2FTE's – wef 1/4/11)</p> <p>2012/13 £198,000 (deletion of additional 1FTE – wef 1/10/12 net of de-commissioning costs of c£20k for the post of AD OD and change)</p> <p>2013/14 onwards £213,000 (full year annual saving)</p> <p>There may be further one off de-commissioning costs of between c£26k and £29k depending upon the outcome of the restructuring process.</p> <p>The total de-commissioning costs will be in the range of c£46 to £49k which, when compared to the savings made, result in a payback of approximately 0.3 years.</p> <p>The outcome of a commissioning process may be that services are no longer provided in house. Options for provision may include shared services, trusts, private sector, worker co-operatives, consortium or joint venture. The pension implications of these options will need to form part of any business case and will require full actuarial assessment and may vary depending on the proposal. Early discussions with the actuary suggest that some of the options may have no impact on the pension fund. Should there be an impact on the pension fund, the savings made may offset any additional pension costs and a business case may still deliver a net saving to the council.</p> <p>Contact officer: Mark Sheldon mark.sheldon@cheltenham.gov.uk 01242 264123</p>
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<p>Legal implications</p>	<p>The Chief Executive, as the Council's Head of Paid Service, has a statutory responsibility to report to the Council on proposals for fundamentally changing the way in which the Council is structured and organised to deliver its services to its customers. Any such proposals must ultimately be determined by full Council. Staff & Support Services Committee and Cabinet have considered the proposals and made onward recommendations to Council.</p> <p>As many of the day to day council functions are the responsibility of the Leader and Cabinet it will be important to ensure that the Leader and Cabinet are fully engaged in any decisions made which directly affected the delivery of those functions. Commissioning proposals for individual functions will be subject to the usual project and business case processes and will be referred to Cabinet for approval where appropriate.</p> <p>As the processes for introducing and embedding a Strategic Commissioning Council move forward, it is likely that significant legal support will be required, particularly in respect of the following: procurement advice and drafting of contracts, HR and structural/organisational issues, governance arrangements, constitutional issues including changes to Part 3 of the Constitution in respect of roles and responsibilities of officers and members.</p> <p>Contact officer: Peter Lewis peter.lewis@tewkesbury.gov.uk 01684 272012</p>
<p>HR implications (including learning and organisational development)</p>	<p>There are potential redundancy and financial implications associated with the proposed reduction of Assistant Director posts. The costs (and associated savings) are contained within the Strategic Business Case at Appendix A. A redundancy is a form of dismissal. Any dismissal (and appointment) of Assistant Directors must be undertaken in accordance with the Council's Employment Rules and the Local Authorities (Standing Orders)(England) Regulations 2001. Within CBC Assistant Directors are designated as Deputy Chief Officers and the Regulations require the appointment/dismissal committee to include at least one Cabinet Member. At CBC the new Appointments Committee is being set up to deal with appointments and dismissals (and other employment matters) in respect of Chief and Deputy Chief Officers. The Employment Rules require consultation with each Cabinet Member before an appointment/dismissal takes place. Whilst the Appointments Committee has to refer appointment/dismissal of the Head of Paid Service, Chief Finance (s151) Officer and Monitoring Officer to Council for final approval, on this occasion, in order to avoid unreasonable delay, it is recommended that the Appointments Committee (or appropriate sub-committee) makes the final decision in respect of the s151/Assistant Director Resources post.</p> <p>Contact officer: Julie McCarthy julie.mccarthy@cheltenham.gov.uk 01242 264186</p>
<p>Key risks</p>	<p>The key risks are as set out in Appendix D to this report which is the updated risk matrix from the report to Council on 28 June 2010</p>
<p>Corporate and community plan Implications</p>	<p>The corporate and community plans anticipate the progressive adoption of commissioning methodologies and the achievement of outcomes and objectives would be facilitated by the proposals in this report.</p>

Environmental and climate change implications	None directly arising from this report
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1. Background

- 1.1** The Staff and Support Services Committee considered reports on the 25 February 2010 and then (post borough elections) on 27 May 2010 on a possible change in approach so that the Council applies strategic commissioning disciplines consistently across the organisation. This would involve engagement with citizens, communities and partners to better achieve citizen focused outcomes whilst at the same time generating financial savings.
- 1.2** On 28 June 2010 full Council considered a report on strategic commissioning including feedback from this committee and resolved to confirm agreement to the principle of becoming a strategic commissioning council as well as agreeing that this committee would provide oversight to a programme to take the principles forward with the advice and support of a cross-party member group. At that meeting I indicated that a business case for taking a strategic commissioning approach would be produced for this committee and full Council's further consideration. The strategic business case for the introduction of a Strategic Commissioning Council is now attached as Appendix A.
- 1.3** The cross-party member group has been set up and has met on three occasions.
- 1.4** Staff and Support Services Committee considered the substance of this report on 28 October 2010 and Cabinet did the same on 16 November 2010 and their recommendations are included at Appendices E and F respectively.
- 1.5** As the previous reports made clear, structural changes are necessary as a consequence of the move to a strategic commissioning approach. In order to understand better the structural options that we might use to best take forward the new approach I sought advice from Eighty Twenty Insight, a firm we had previously engaged to support us on our sourcing strategy work. Their report was prepared with the involvement of partner agencies, senior staff and after discussion with the cabinet. As it runs to 69 pages I have not attached it to this report but it is available on the following web-link <http://www.cheltenham.gov.uk/sltstructure>.
- 1.6** My proposals for structural reorganisation are set out in Appendix B and follow closely the recommendations in the Eighty Twenty Insight report. If adopted my recommendations would reduce the number of Assistant Directors by two in Phase 1 (with an implementation date of 1 April 2011) with a further reduction of a post in Phase 2 (where the target implementation date would be 1 October 2012). This would reduce the number of Assistant Directors from the current 8.5 down to 6.5 after Phase 1 and then to 5.5 after Phase 2 (ignoring the uncertain impact on numbers of any shared services posts which may be created). When fully implemented this would produce an estimated annual saving of £213,000 in salary costs plus on-costs.
- 1.7** The principal areas where my proposals differ from the Eighty Twenty Insight recommendations are: -
- 1.7.1** I propose that we treat democratic services and elections as not being areas for sharing with other councils – at least for the present
- 1.7.2** Functions such as customer services, street cleaning, economic development and tourism have been added in for completeness
- 1.7.3** The point at which services move from one directorate to another has been changed in a couple of instances in order to minimise disruption to ongoing service delivery.

- 1.8 Clearly if the structural reorganisation is to progress it will need to be properly and carefully handled and constitutionally will need to involve elected members as affected posts are at Assistant Director level. Appendix C sets out the necessary procedural steps with a proposed timeline and it is proposed that the newly constituted Appointments Committee (or appropriate sub-committee) deals with appointment and dismissal arrangements to deliver the new structure. Formal consultation with those staff affected by the proposals has begun, following approval by Staff & Support Services Committee, as set out in more detail in Appendix C.

2. Reasons for recommendations

- 2.1 The reasons for seeking to adopt a strategic commissioning approach are set out in the reports referred to in 1.1 and 1.2 above but essentially come down to a strong focus on understanding the needs of Cheltenham and its people in designing outcomes for public services, seeking to work much more closely (including sharing budgets where appropriate) with other parts of the public service and making objective, transparent, evidence based decisions about how services should be provided and by whom.
- 2.2 For the reasons set out in the previous reports I believe that by using a strategic commissioning approach we can improve the outcomes for people who rely on the council and the wider public sector whilst at the same time creating opportunities for financial savings. The structural changes proposed facilitate this approach and, incidentally, deliver modest savings from the leaner senior officer structures which are needed to run an efficient and effective commissioning organisation. Furthermore, the proposed changes allow for the council's senior officer structures to evolve further through the active pursuit of other delivery options such as charitable trusts or shared services; in this way they secure a solid and affordable top level structure to tackle the service and fiscal challenges which will face us over the next few years.
- 2.3 More specifically the separation of commissioning from provider activities allows service change and development to be driven transparently by the needs of citizens and service users and by partnership opportunities rather than the internal needs of the service provider. Contestability (i.e. the comparison of quality and cost across a range of possible provider options) will be best achieved by giving the commissioning responsibility to officers who do not have a direct career or financial interest in the outcome.

3. Alternative options considered

- 3.1 Clearly one alternative option is not to reorganise around strategic commissioning principles but to maintain existing ways of doing business by providing most services in house and considering in an ad-hoc way any shared service or similar opportunities that may arise. The difficulty here is that we cannot always be certain that we are addressing service change in proper priority order or finding the optimum solution to deliver the defined citizen outcomes. This has been less of a problem as central support activities have been under consideration, but when front line services are being considered the need for a strong citizen outcome focus is vital. There is also a danger of neglecting full consideration of the impact on the cost base of retained support services if we progressively move front line services into alternative delivery models.
- 3.2 Further, should a strategic commissioning approach be driving the structural changes – as I am proposing, there are clearly a range of structural alternatives which have, at the core, a separation of commissioner and provider and might thus be regarded as fit for purpose. Indeed my indicative structure set out in the 25 February 2010 report to this committee and repeated in my report to Council on 28 June 2010 identified three fixed commissioning blocks whereas I am now proposing only two, more fluid blocks for commissioning activity. The 'hub' I originally proposed for central support activity has now been replaced with a 'resources' function separate from a 'commissioning support' function. Arguably there is no right or wrong solution to the structural choices available but I have largely adopted the ideas presented by Eighty Twenty Insight which do have the significant virtue of weaving the programme sponsorship role of the two strategic directors more explicitly into the commissioning arrangements as well as potentially offering

greater financial savings than originally envisaged.

4. Business Change

- 4.1** During recent weeks the council has been assessing the resources required to deliver its various workstreams and key projects, including GO shared ERP. It is acknowledged that the council is going through a period of significant change and, in order to manage this change as effectively as possible and deliver more efficient services at reduced cost, the council will need to invest in the business change process. As such the Cabinet, at a meeting on 16th November 2010, agreed to set aside £80,000 of one off funding to be vired from the underspend in money set aside for the sourcing strategy which is no longer required. This proposal will be included in the 2011/12 budget report. This budget will be used to support the business change process and may be used to create additional temporary resource internally or buy in externally support. The Chief Executive will determine, in consultation with the Senior Leadership Team, how best to apply the budget to support the organisation.

5. Consultation and feedback

- 5.1** As part of the Eighty Twenty Insight work in preparing their report the senior leadership team and the (pre-August) Cabinet were involved in workshops and discussions. Key partner organisations have been involved via the Cheltenham Strategic Partnership and/or through interviews. The feedback from these processes is set out in the Eighty Twenty Insight report.
- 5.2** I met with the trade unions (Unison and GMB) on 19 August 2010 to discuss possible senior structural changes building on a previous discussion about strategic commissioning. Their view was as follows – “the local Trade Unions have worked positively with the Council and its Officers over the past few years to ensure that the changes deemed necessary for the deliverance of Council services have been approached in an open and professional manner. This approach has delivered a change programme based on best practice and value for money whilst maintaining the core jobs and services within the Council’s direct labour team. As we approach this difficult period in local service delivery due to the central Government’s financial cuts, it is imperative that this established approach to change continues under the new criteria of ‘commissioning.’ The local Trade Unions are committed to continuing to work with the Council to find the best possible way to deliver these services, balancing the Government’s reduction in financial support, statutory service requirements, local community expectation and the inevitable changes in the structure and capacity of the Council as we move forward through the coming period of uncertainty.”
- 5.3** Economy and Business Improvement Overview and Scrutiny Committee discussed the issue of Strategic Commissioning at its meeting on 20 September 2010 and raised questions on various aspects including the cohesiveness of plans given the various initiatives currently being pursued by the council, the extent of partners’ commitment to working with the council on joint commissioning and pooling budgets, the importance of the public being able to hold providers accountable and be able to seek redress for a substandard service and the potential tension between achieving value for money through outsourcing and avoiding the inflexibility of long term contractual commitments. It was explained that an external report had been commissioned in order to independently examine the structural options available. As a result of the meeting the risk register has been revisited to enhance risk identification and mitigation in relation to strategic commissioning. The Committee has asked for further reports on examples of commissioning best practice in other local authorities and evidence that steps taken in Cheltenham can deliver and are delivering savings.
- 5.4** The cross-party member group has been set up in order to provide guidance and feedback on emerging proposals and to advise on the impact on members. At its first meeting on 23 September it reviewed the restructuring proposals and the outline commissioning process, raising a number of questions about the roles of members and member committees and asking whether there would be an additional workload for Assistant Directors and Service Managers. These issues are being followed up in further meetings.

- 5.5 Staff and Support Services Committee and Cabinet have discussed and supported the proposals as outlined above and briefings have been offered to political groups (and in the case of the two larger parties the offer was taken up).
- 5.6 A survey of all councillors commenced on 1 November 2010 and the survey results have been analysed to consider whether further information is needed. The results of the survey and the additional information will be circulated to elected members prior to this Council meeting.
- 5.7 Appendix C contains restructuring process guidance and a timeline which indicates the steps and timescales for an ongoing consultation process with staff affected by the proposed changes.

6. Performance management –monitoring and review

- 6.1 The process of development of a strategic commissioning approach in the way the council operates is being run as a major change programme with the performance and monitoring arrangements and the risk assessment and mitigation processes that this implies.
- 6.2 Should the proposals be approved the cross-party member group and the Economy and Business Improvement Overview and Scrutiny Committee have agreed to a continuing role in monitoring the implementation and the effectiveness of the changes proposed.

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Appendices :

- A. Strategic Business Case
- B Proposed Structural Changes
- C Restructuring Process Guidance and Timeline
- D Risk Register
- E Extract from the minutes of Staff and Support Services Committee 28 October 2010
- F Extract from the minutes of Cabinet 13 November 2010

Background information:

Previous reports to the S&SSC committee on 25 February, 27 May 2010 and 28 October 2010, report to Council on 28 June 2010, report to Cabinet on 13 November 2010.

‘Senior Management Structure Review’ – Eighty Twenty Insight report into the Council’s management structure in the light of its adoption of a Strategic Commissioning approach, dated 19 August 2010, available at <http://www.cheltenham.gov.uk/sltstructure>.

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DOCUMENT COVER SHEET

Programme : Strategic Commissioning

Title : **Strategic Business Case**

Senior Responsible Officer : Andrew North

Status : Draft

Filename : Commissioning Framework Business Case.doc

Issue Number : 0.5

Date : 01 December 2010

Originator : Jackie Tavener / Ken Dale

Document Control Sheet

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Changes History

Release	Date	Description
0.1	09-May-2010	Initial draft for review and comment
0.2	September 2010	For consultation with the Strategic Commissioning programme board.
0.3	12 October 2010	Amendments following programme board consultation
0.4	18 October 2010	Including further minor amendments. Submitted for approval to Staff and Support Services Committee
0.5	01 December 2010	Update to information on the budget gap and the financial implications of the programme. Submitted for approval to Council

Changes Planned

The document will be kept under review and modified as appropriate.

References

1st December Section 4 report to Council and its appendices

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1. Introduction

- 1.1. This is the strategic business case for Cheltenham Borough Council's Strategic Commissioning programme. Its format is based upon the standard adopted by the Office of Government Commerce.
- 1.2. The programme's vision is:
"By April 2012 we will lead our community by taking a commissioning approach. We will be driven by the needs of people and place, in order to improve wellbeing, the economy and the environment, and use resources efficiently and effectively"
- 1.3. The business case explains how the programme will contribute to the delivery of the council's strategy and states its objectives, benefits, critical success factors and financial implications.
- 1.4. The business case also evaluates whether the objectives and benefits are achievable and describes other options considered.

2. Strategic fit

Supporting the council's financial strategy

- 2.1. Cheltenham Borough Council has generally performed well in delivering high quality public services at a reasonable cost. However the environment for delivering public services is changing and a particular challenge is the severe financial restraint which is likely to be imposed on local government by central government.
- 2.2. In the last two years the 'bridging the gap' programme has been successful in delivering savings without overly damaging services. However the latest projections indicate a gap of £4.8M over the next 5 years (based on an assumed 25% cut in central government funding). There is now a limited amount of further saving which can be made without challenging the range of services provided and the way in which they are delivered.
- 2.3. Adopting a strategic commissioning approach provides a structured and systematic method for determining priorities based on needs and intended outcomes.
- 2.4. Following such a process may mean that many services will not necessarily (as at present) be provided through a directly employed workforce, but neither is it presumed that sharing of services, outsourcing or the creation of 'not for profit' vehicles would always be preferred. Strategic Commissioning dictates that the delivery mechanisms chosen will depend on an evidence-based judgement as to how best to meet the needs of citizens or service users.

Delivering community outcomes

- 2.5. In keeping with its duties to engage citizens, lead its communities, and find new and more effective ways to deliver high quality services, the Council has adopted an outcomes-based approach:
"Working to secure value for money and deliver the best possible outcomes that meet the needs of our citizens, communities and service users"
- 2.6. Rather than focus on narrow performance measures or outputs, the Council has identified a series of broad outcomes.
- 2.7. Strategic Commissioning emphasises the primacy of community outcomes and is therefore very much aligned with the Council's approach.

Working with partners to meet customer needs

- 2.8. When services are redesigned it is important that citizens, service users and council tax payers are the focus of the service specification process. It is also important that we work closely with partners to achieve the outcomes which have been jointly agreed for the town.
- 2.9. The Council recognises that many outcomes demand a partnership-based approach to service planning;
"Some of these outcomes we will be able to deliver by ourselves, but for many other outcomes we will have to work in partnership with other organisations."
- 2.10. The essence of Strategic Commissioning is that firstly through a thorough planning process involving partners and stakeholders (including users) the outcomes for any functional area are defined clearly; then a range of options for provision are considered to best achieve those defined outcomes. This should facilitate the transformation of services where warranted in order to achieve the defined outcomes.

National strategic drivers

- 2.11. The role of councils as 'agents of place' as set out in the Lyons Inquiry's recommendations for local government can be summarised as:
- (a) Strong governance and leadership through the Local Strategic Partnership
 - (b) Developing a shared vision set out in the local Sustainable Community Strategy.
 - (c) The involvement of local people
- 2.12. The 'Total Place' initiative was announced as part of the Treasury's Operational Efficiency Programme (OEP) alongside the 2009 Budget, stating that all parts of Government, including councils, could make £9 billion in annual savings from:
"back office operations and IT, collaborative procurement, asset management and sales, property and local incentives and empowerment"
- 2.13. Pilots started in June 2009, examining how public services and agencies in the locality can pool strategic effort and budgets. One of the intended outcomes of the project was to explore ways in which business, voluntary and public sector bodies can work together to provide a wide range of public services.
- 2.14. Although it is likely that the term 'Total Place' will not be retained, aspects of these themes have been pursued further through the new Government's commitment to the concepts of 'Big Society', 'radical devolution' and 'localism'. In its submission to the new Government, the Local Government Association has proposed 'place-based budgeting' which would require:
"the integrated strategic commissioning of services from the public, private and voluntary sectors"

Programme Vision

- 2.15. In response to the local and national strategic drivers described above, the council's Senior Leadership team has adopted the following vision for the Strategic Commissioning programme:
"By April 2012 we will lead our community by taking a commissioning approach. We will be driven by the needs of people and place, in order to improve wellbeing, the economy and the environment, and use resources efficiently and effectively"

Key Benefits

The following paragraphs explain the key benefits that can be realised by the Strategic Commissioning programme.

- 2.16. Better outcomes for citizens as a result of:
- (a) Intended outcomes being based on a thorough understanding of the needs and aspirations of people who rely or might in the future rely on the Council, perhaps because they live, work or learn here or because they are visitors. In addition we must identify the needs which support Cheltenham as a place - for example a strong local economy, an attractive environment or physical regeneration.
 - (b) Clear and specific outcome statements about what the end result would be of delivering a particular service, project or initiative. The focus will be on what the service is intended to achieve rather than how the service operates or what inputs are required by the service.
 - (c) Clear prioritisation which ensures that resources are used to best effect
- 2.17. A contribution to bridging CBC's medium term financial gap. A detailed assessment of the financial impact is included in section 4 of this business case.

- 2.18. Together with our partners we will create consistent structures and approaches in support of place-based commissioning, enabling partners to develop a shared view of outcomes and on how to pool and apply resources more effectively and efficiently.
- 2.19. We will develop the market for delivering services, thus providing more options and increased competition. This may mean, for example, enabling the voluntary and community sector to build capacity and capability or setting up innovatory shared services amongst existing public sector providers.

Key risks

- 2.20. A risk analysis, including the actions which will be taken to mitigate risks, is attached as Appendix D to the 28th October report to Staff and Support Services Committee – ‘Suggested structure to support a Strategic Commissioning Council’.

Critical Success Factors

The critical success factors of the programme are listed below:

- 2.21. A consistent approach to commissioning in use by the council and its commissioning partners by April 2012.
- 2.22. An organisation structure, which is capable of providing effective support to commissioning exercises, in place at the council's senior leadership level by April 2011.
- 2.23. A knowledge and skills development programme in place for members and employees, which enables the council to secure the opportunities presented by commissioning, defined by January 2011 and delivered during 2011/12.

Individual commissioning exercises, supported by the factors listed above, will themselves define success factors appropriate to their particular context. These may include:

- 2.24. Achievement of defined community outcomes
- 2.25. Cost savings contributing to the Medium Term Financial Strategy
- 2.26. A growth in the number of organisations able to deliver services to the public.

3. Options appraisal

The Council has considered the following main options:

- 3.1. Option 1 - Retain the Council's and partners' existing methods of service delivery.
- 3.2. Option 2 – Continue to commission services in an ad-hoc way without restructuring the organisation or identifying the specific competences, capability and skills needed to become an effective commissioner.
- 3.3. Option 3 - Restructure the organisation to realign the professional functions on which commissioning relies and put in place a senior management team with the appropriate accountability, competences, capability and leadership skills needed to successfully transition the Council to become an effective commissioner.
- 3.4. It is recommended that option 1 and 2 are discounted and that the Council proceeds with option 3. The rationale for this recommendation is set out below.

Option 1 – Retain existing delivery models

- 3.5. There are a number of consistent threads across several decades of policy making, and by successive governments, that challenge traditional approaches to public service. The view is that the business of local government should not purely be the delivery of services at the cheapest cost. Instead public services and other relevant organisations in a locality should pool strategic effort and budgets to deliver outcomes that best meet the needs and preferences of the community (citizens and place). This view is clearly aligned with the underlying principles of commissioning.
- 3.6. Furthermore, the new Government is considering a recent submission from the Local Government Association which has proposed 'place-based budgeting' and requires 'the integrated strategic commissioning of services from the public, private and voluntary sectors'. Given this political driver, the fact that more and more relevant organisations are making commissioning central to their overall corporate management and that the Council itself accepts that it will ultimately deliver better outcomes and provide better value for money in the context of constrained public sector finances, the 'no change' option has been discounted.

Option 2 – Continue ad-hoc commissioning without changing the organisation or developing competencies

- 3.7. Research by EightyTwenty Insight has highlighted that although there is now widespread adoption of commissioning practices in local government, there has been relatively little change to senior management structures and roles. As such, posts responsible for commissioning rarely have direct control of the functions required to manage the commissioning process. Furthermore, the senior management structure is designed with little reference to the key requirements (competence, capability and skills) of being an effective commissioner.
- 3.8. These authorities are therefore imposing a commissioning philosophy on a conventional management structure and risk blurring accountability and weakening the capacity and disciplines needed for effective commissioning.
- 3.9. Additionally, they are less able to deliver the cultural change which is fundamental to the adoption of a strategic approach to commissioning, an approach which requires commissioners and providers to maintain an open mind to the possibility of change to the delivery models currently in place.
- 3.10. Furthermore, an ad-hoc approach to commissioning means that outcomes and services cannot easily be addressed in priority order or resourced consistently with priority needs.
- 3.11. These risks are mitigated by discounting option 2 and implementing option 3.

- 3.12. In summary, the Council will increase the likelihood of becoming an effective commissioner of outcomes by restructuring the organisation to realign the professional functions on which commissioning relies and putting in place a senior management team with the requisite accountability, competences, capability and leadership skills.

Option 3 – Take a systematic approach to restructuring the organisation, developing practices and processes, and extending competencies

- 3.13. The benefits and costs of this approach are set out elsewhere in this business case.
- 3.14. Alternative models for the restructured organisation have been considered and external objective advice taken on the best approach. These are discussed in section 3 of the 28th October report to Staff and Support Services Committee – ‘Suggested structure to support a Strategic Commissioning Council’.

4. Financial assessment

This section outlines the financial impacts of the Strategic Commissioning programme.

Senior leadership team savings

- 4.1. The change to a strategic commissioning authority results in a revised Senior Leadership Team management structure with fewer staff at a senior level. Savings are delivered in phases and are summarised below:
 - (a) 2011/12 £144,000 (deletion of 2FTE's – wef 1/4/11)
 - (b) 2012/13 £198,000 (deletion of additional 1FTE – wef 1/10/12 net of de-commissioning costs of c£20k for the post of AD OD and change)
 - (c) 2013/14 onwards £213,000 (full year annual saving)
- 4.2. There may be further one off de-commissioning costs of between c£26k and £29k depending upon the outcome of the restructuring process. The total de-commissioning costs will be in the range of c£46 to £49k which, when compared to the savings made, result in a payback of approximately 0.3 years.

Potential costs

- 4.3. Around £5,000 of the Corporate Training Budget 2011-12 will be channelled into commissioning development support. No further additional funding has been identified at this time. With budgets under significant pressure, it is proposed that development will be designed and delivered through an in-house programme for leaders and managers, building on the significant investment already made in SLT and Service Managers through the Achieve Breakthrough leadership programme. It is anticipated that SLT and Service Managers will in turn use their knowledge to support and coach members in understanding and adapting to their changing roles. Accreditation will be sought for the commissioning development programme, working closely with university colleagues, to add even more value. Free seminars (e.g. CIPFA run) and events will be accessed where possible and knowledge pooled and shared. External funding sources will be monitored and accessed if available and appropriate, subject to a clear business case.
- 4.4. Current best estimates suggest an average internal staff requirement of about 10-11 FTE for the lifetime of the programme. Around 7-8 FTE will be required to deliver the core framework whilst the balance will support early commissioning exercises for Leisure and Culture and Sustainable Communities.

Longer term savings

- 4.5. Given the financial outlook for the public sector, it is evident that current delivery models are not sustainable i.e. that the council cannot continue to deliver services at today's level with significantly reduced budgets.
- 4.6. Whilst it is difficult to quantify savings from commissioning, evidence from the Torbay model (supported by Grant Thornton) suggests that 10-15% of operational budgets may be saved as a result of a commissioning exercise. In Cheltenham we are looking in 2011 to undertake commissioning exercises for leisure and cultural services and for our planning and related services. If we were to assume that this level of commissioning is sustainable within the council's resources and that the Torbay figures are justified, an annual saving of between £0.8M p.a. and £1.2M p.a. might be achieved and will grow as a result of future commissioning exercises.
- 4.7. The figures above should be seen as indicative. At this early stage it is difficult to guarantee a profile of savings resulting from a commissioning programme since it may take the council in many directions including pooling budgets with other organisations, being commissioned by others or using our reduced budget to commission outcomes for our communities from others. Equally there will be costs

arising from commissioning including decommissioning, procurement and legal costs. However, it is possibly more likely that outcomes will have a better chance of being delivered through commissioning in a period of significantly reduced budgets. And a strategic approach to commissioning, rather than an ad-hoc opportunistic approach, is likely to make a substantial contribution both to the achievement of community outcomes and a sustained reduction in spend.

5. Achievability

EightyTwenty Insight has conducted an independent readiness assessment in relation to a number of key factors influencing the achievability of the Council becoming an effective commissioner. The findings and corresponding recommendations from the assessment are incorporated in the following paragraphs:

Effectiveness of Partnership Working

- 5.1. The Council's plans and strategies are designed to deliver broad outcomes that require the Council to work in partnership to achieve success. The council has invested time and effort in collaborative working and is considered by its partners to be committed, open and positive. The Cheltenham Strategic Partnership is well-supported by partners and provides a sound platform for the development of a 'place-based' and localist approach to delivering improved outcomes and value-for-money. As the Cheltenham Strategic Partnership is supportive of the approach to work in partnership to commission services, EightyTwenty Insight considers the council to be well placed in taking this forward, subject to it implementing the recommendations in respect of the senior management structure and in particular the role of AD Commissioning.

Senior Management Arrangements

- 5.2. An assessment of the readiness of the Council's senior management arrangements to meet the requirements of strategic commissioning, drawing on comparisons with developments in other authorities and the size of the Council's current senior management structure with those of other district councils has identified a need to implement a new management structure. A proposed management structure has been designed to support a strategic commissioning framework in which the Council will be able to work closely with its partners to achieve the outcomes that will ensure a sustainable and successful future for Cheltenham and builds on the successes and potential of the current arrangements. It is recommended that the proposed management structure is implemented.

Stakeholder Views and Support

- 5.3. EightyTwenty Insight has conducted interviews and workshops with Cabinet Members, partners and members of the SLT and have found positive levels of support for the introduction of strategic commissioning and the opportunities that commissioning would present. The positive support from key stakeholders is essential if the council is to successfully transition to become an effective commissioner.

Evidence of Effective Commissioning

- 5.4. There is already widespread adoption of commissioning practices in the public sector. With regard to local government particularly, the following councils have been identified as commissioners: Torbay Council, Brighton and Hove City Council, London Borough of Barnet as well as in County Council specific services. The council has shown a willingness to learn the lessons from early adopters through its contacts with Torbay Council and research undertaken to date and by the scheduling of early commissioning projects with the intention of sharing the lessons learnt internally.
- 5.5. Locally, evidence for the potential of commissioning comes from the Supporting People programme. Co-commissioning, by councils, health and probationary services across Gloucestershire, of housing-related support services for vulnerable people since 2003 has led to:
 - (a) Pooled costs reducing from £29.2M in 2004/5 to £22.5M in 2009/10

- (b) Improved health, housing and social care outcomes through the co-ordinated administration of the delivery and development of service models, for example:
 - (i) Increased 'floating' support services (support at their home location of choice)
 - (ii) All contracts achieve minimum standards and VFM
 - (iii) Outperforming targets for key national indicators
 - (iv) 4000 people supported in 2008/9
- (c) The development of financial models which allow the financial benefits of pooling resources to commission future services to be evidenced.

Capacity, Capability, Skills and Learning

- 5.6. EightyTwenty Insight has identified a skills gap and developed an outline management development programme for the Senior Leadership Team. Once this programme has been delivered, the Senior Management of the Council will have the necessary proficiency to lead the Council through the transition to become effective commissioners of outcomes.
- 5.7. The Commissioning Programme is designed to allow the Council to learn from ongoing commissioning projects, for example the current initiatives in both Leisure and Culture and in Sustainable Communities are testing and improving the core approaches to process design, working with partners, and learning and development.

Plans and Strategies

- 5.8. The Council's plans and strategies are designed and aligned to deliver broad outcomes that require the Council to work in partnership to achieve success. In order to support the outcomes-based, partnership approach, the Council included an improvement action in its Corporate Strategy to 'develop an approach to commissioning of services'.
- 5.9. This improvement action has developed into the Commissioning Programme which is one of the Council's major corporate programmes, and as such, its effective delivery is clearly a high priority for the Council.

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Appendix B – Recommended Senior Management and Service Structure

Generally I have accepted and adopted the broad structural recommendations from the Eighty Twenty Insight report, namely: -

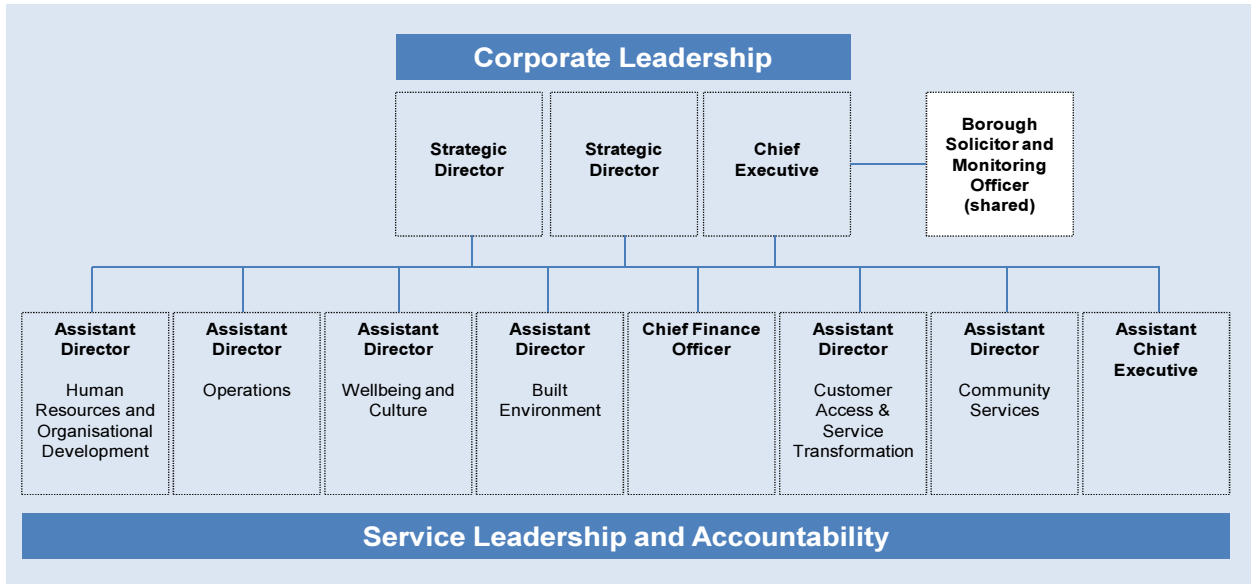
- A two phase approach with the second phase being implemented about 18 months after phase one so as to facilitate transition during a period of considerable change on several fronts
- Allowing scope for the structure to evolve during that 18 month period depending on the outcome of the GO programme and other shared service opportunities
- Strategic directors become generic lead commissioners each carrying a portfolio of citizen or community outcomes to commission
- Adoption of the now fairly standard role of resources (assistant) director to link together resource responsibility for money, people, property and other assets
- Support for commissioning activity, ranging from programme management to procurement to citizen and community engagement, is provided from a single support service headed by an (assistant) director for commissioning
- The provider side activities are divided into three operational businesses each headed by an existing (assistant) director

I have made some changes of detail to the recommended accountabilities and functions based on the following considerations: -

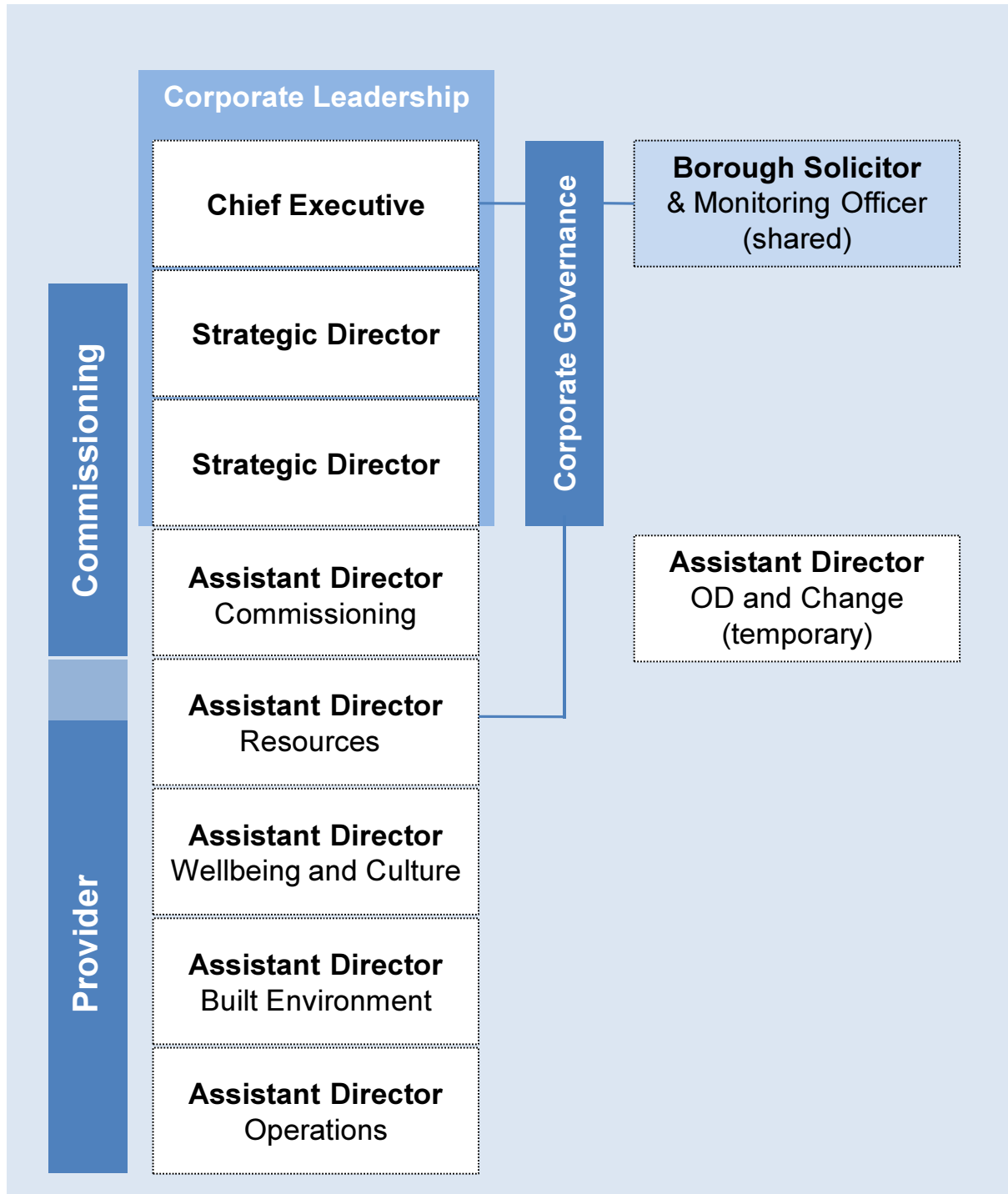
- We should try to avoid moving responsibility for a service area more than once if it can be avoided, but otherwise moving a function sooner rather than later is preferred
- The concept of a shared service for either democratic services or elections is as yet untested and for this reason these functions should not be put into the same category as services already identified for sharing
- Specific reference to the CBH client function which makes the function seem anomalous has been replaced with a more general reference to 'strategic client functions'
- Certain functions which had been left out have now been added in for completeness

Finally, the terminology for posts may need to be reconsidered at some point so that they are more descriptive of the roles and responsibilities that people carry. I have not yet suggested new titles in order to make it easier to read across from existing posts.

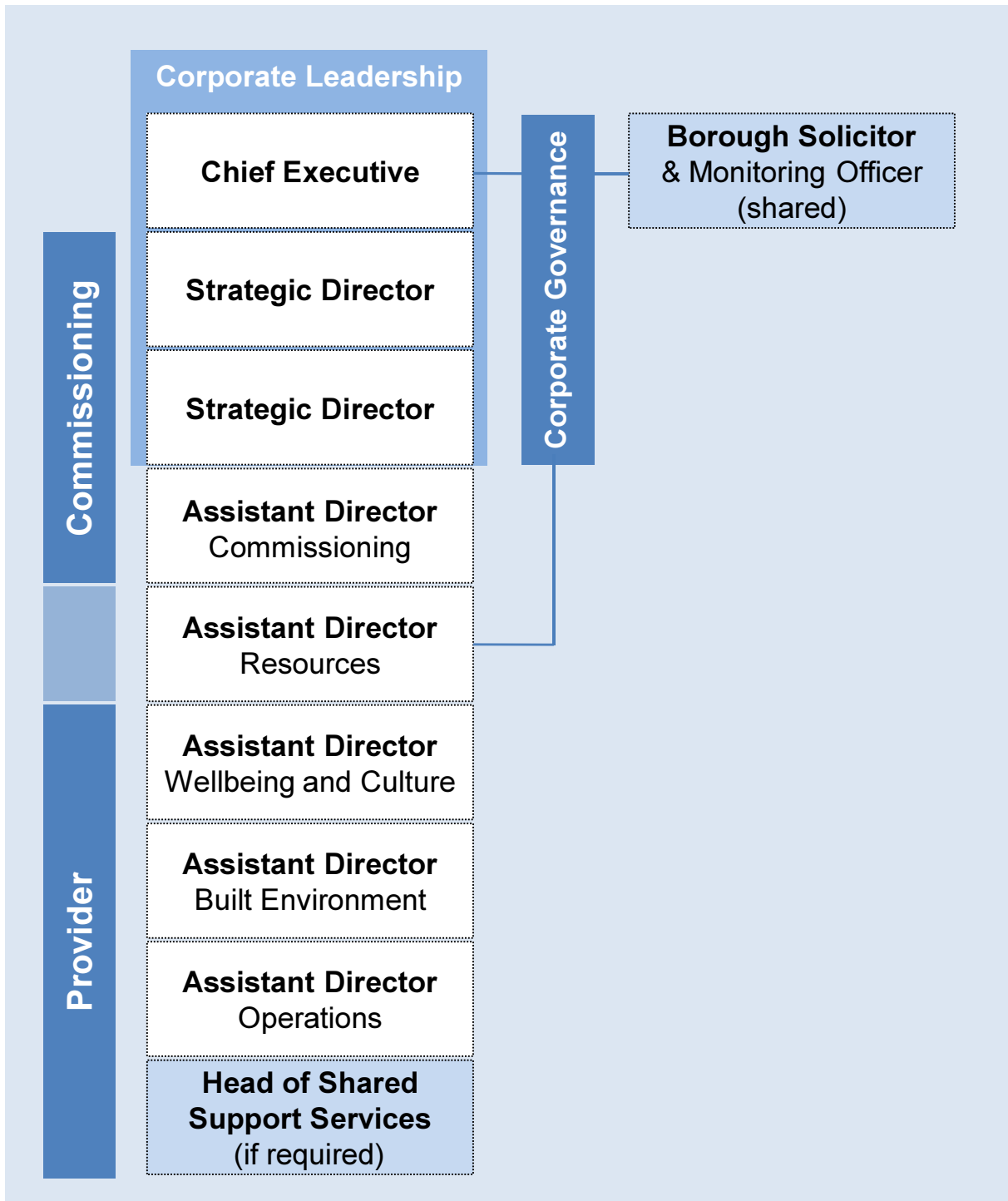
Current Structure



Proposed Structure (Phase 1)



Proposed Structure (Phase 2)



PROPOSED STRUCTURE – PHASE 1

KEY REVISED ACCOUNTABILITIES AND FUNCTIONS

Post	Key Accountabilities	Functions Managed
Strategic Director	<ul style="list-style-type: none"> • Strategic change • Portfolio of outcomes • Partnership and contract governance • Deputising for the Chief Executive 	Strategic matrix management of : <ul style="list-style-type: none"> • Programme teams. • Partnership facilitation and development • Contract and agreement performance review
AD Commissioning	<ul style="list-style-type: none"> • Commissioning and partnership support 	<ul style="list-style-type: none"> • Policy and research • Communications and community engagement • Strategic land use • Partnership and contract management (inc procurement and strategic client functions) • Partnership support • Programme management • Service development • Oversight of governance • Democratic services • Elections
AD OD and Change (temporary post)	<ul style="list-style-type: none"> • Change support 	<ul style="list-style-type: none"> • HR Strategy and Organisational Development • Health and Safety • Shared service facilitation • Transactional HR
AD Resources	<ul style="list-style-type: none"> • Strategic resource management • Creation of shared support services 	<ul style="list-style-type: none"> • Strategic finance (including s151) • Internal Audit • Property and Asset Management • Other support services until shared services established: <ul style="list-style-type: none"> ○ ICT ○ Revenues ○ Benefits ○ Transactional Finance ○ Customer Services

Post	Key Accountabilities	Functions Managed
AD Built Environment	<ul style="list-style-type: none"> • Provider side management 	<ul style="list-style-type: none"> • Development Control • Building Control • Urban Design • Integrated Transport and Parking • Housing enabling and strategic housing • Economic Development
AD Wellbeing & Culture	<ul style="list-style-type: none"> • Provider side management 	<ul style="list-style-type: none"> • Leisure @ • Healthy communities • Culture, Arts and Entertainment • Tourism
AD Operations	<ul style="list-style-type: none"> • Provider side management 	<ul style="list-style-type: none"> • Waste and Recycling • Street and other Cleaning • Landscape Services • Parks development • Cemeteries and Crematorium • Fleet Services • Public Protection

PROPOSED STRUCTURE – PHASE 2

KEY REVISED ACCOUNTABILITIES, ACTIVITIES AND FUNCTIONS

Post	Key Accountabilities	Functions Managed
Strategic Director	<ul style="list-style-type: none"> • Strategic change • Portfolio of outcomes • Partnership and contract governance • Deputising for the Chief Executive 	Strategic matrix management of : <ul style="list-style-type: none"> • Programme teams. • Partnership facilitation and development • Contract and agreement performance review
AD Commissioning	<ul style="list-style-type: none"> • Commissioning and partnership support 	<ul style="list-style-type: none"> • Policy and research • Communications and community engagement • Strategic land use • Partnership and contract management (inc procurement and strategic client functions) • Partnership support • Programme management • Service development • Oversight of governance • Democratic Services • Elections
AD Resources	<ul style="list-style-type: none"> • Strategic resource management 	<ul style="list-style-type: none"> • Strategic finance (including s151) • Internal Audit • Property and Asset Management • HR Strategy and Organisational Development and Health and Safety • Other support service functions unless transfer to shared service division or to another partner.
AD Built Environment	<ul style="list-style-type: none"> • Provider side management 	<ul style="list-style-type: none"> • Development Control • Urban Design • Integrated Transport and Parking • Housing enabling and strategic housing • Economic Development

Post	Key Accountabilities	Functions Managed
AD Wellbeing & Culture	<ul style="list-style-type: none"> • Provider side management 	<ul style="list-style-type: none"> • Leisure @ • Healthy communities • Culture, Arts and Entertainment • Tourism
AD Operations	<ul style="list-style-type: none"> • Provider side management 	<ul style="list-style-type: none"> • Waste and Recycling • Street and other Cleaning • Landscape Services • Parks development • Cemeteries and Crematorium • Fleet Services • Public Protection
Head of Shared Support Services (if required - may be more than one post depending on the extent and range of shared services)	<ul style="list-style-type: none"> • Shared support service delivery 	<ul style="list-style-type: none"> • If CBC is responsible for extensive Centres of Excellence, eg: <ul style="list-style-type: none"> ○ ICT ○ Revenues ○ Benefits ○ Transactional Finance ○ Transactional HR ○ Customer Services ○ Building Control

Appendix C – Restructuring process guidance and timeline

Building and costing the business case for change

- Job roles in scope have been graded/re-graded as required using HAY Group method (which carried out the review of senior officer grades in 2009) and consistent with the Council's approach to job evaluation. Two roles were viewed as having changed significantly – Assistant Director (AD) Resources and AD Commissioning. No change of grade is recommended for AD Commissioning, however the AD Resources role has been evaluated at a higher grade than current AD level but below Strategic Director level. The proposed grades and salary levels have also been market tested as part of the process.
- In formulating proposals for restructuring, it has been necessary to identify the posts/employees likely to be affected and obtain appropriate costing information including salaries, redundancy, training and early retirement costs.
 - Where posts are deemed 'at risk' HR have costed potential redundancy payments and where applicable pension costs obtained from the County Pensions team.
 - Payback options have been be factored into the proposed savings.
- The process of restructuring has been planned to a timetable based on the informal phases and formal stages explained below.

Who has authorisation to approve a new structure?

- A fundamental change to how the Council is organised and structured is authorised by Council on a report received from the Chief Executive (section 4 report).

Preparing for Consultation

- Write and/or amend the job descriptions and person specifications for all roles in the new structure. ALL roles in scope MUST be graded/re-graded – this has been completed by HAY Group and is consistent with the Council’s approach to job evaluation.
- Grades have been established – and a revised budget position agreed with the Chief Finance Officer to inform the Chief Executive’s report
- The impact of change to each employee has been assessed. The impact could be any one of the following:

No change – No change to the post and the present post holder will continue to perform their current role.

Slot – No significant change to job role and the grade remains the same as the employee’s previous job. Automatic appointment of current post holder because the duties and responsibilities are substantially the same. Posts so offered would be considered as suitable alternatives.

Ring fence for prior consideration – There has been significant change to the existing post and the post has been re-graded to a higher/lower grade; or

The post is potentially redundant and the employee occupying the post is ‘at risk’ of redundancy. This includes situations where the requirements of the Council for employees to undertake work of a particular kind have diminished and/or have ceased, and the number of full-time equivalents required for a particular post has therefore diminished or ceased.

In such circumstances, where new or additional posts have been created, employees ‘at risk’ will be ring fenced and given ‘prior consideration’ for these posts. This may involve a selection process if there are more employees than posts available.

At risk of redundancy - no suitable alternative - The post is potentially redundant. The employee occupying the post is ‘at risk’ of redundancy and no suitable alternative posts are proposed in the new structure. The employee will need to be placed on the redeployment register.

The initial view is that impact could be as follows:

Current Post	Impact of change	Proposed Post(s)
Strategic Director	Slot	Strategic Director
Strategic Director	Slot	Strategic Director
Assistant Director – Built Environment	Slot	Assistant Director – Built Environment
Assistant Director – Wellbeing & Culture	Slot	Assistant Director – Wellbeing & Culture
Assistant Director – Operations	Slot	Assistant Director – Operations
Assistant Director – HR & OD	Slot	AD OD & Change – Post to be deleted in second phase
Chief Finance Officer	At Risk - Ring Fence	Assistant Director Resources Assistant Director Commissioning
Assistant Chief Executive	At Risk - Ring Fence	Assistant Director Resources Assistant Director Commissioning
Assistant Director – CA&ST	At Risk - Ring Fence	Assistant Director Commissioning
Borough Solicitor	Out of Scope – Shared Service with TBC	N/A
Assistant Director – Community Service	Out of Scope as Post Holder has formally tendered their notice to retire Dec 2010	N/A

Informal consultation

An additional step – an informal consultation phase was built into this review.

The aims of the additional step were:

- To allow the Chief Executive and Eighty Twenty Insight to meet with and seek SLT's feedback on the draft proposals – this happened with the majority of SLT members on 11 August 2010 and this was followed up with individual meetings with those not able to attend on that day.
- To update the report and feed initial comments into the draft Section 4 report for Cabinet and SSSC.
- To update TU's on the proposed changes at an early stage – this meeting happened on 19 August 2010.

Commence formal consultation with recognised TUs and employees

Stage one of the formal consultation processes

(this has commenced, S&SSC gave support to progressing the restructuring proposals on 28th October 2010)

Recognised Trade Unions

- There is no set period for collective consultations where redundancy involves less than 20 employees, but 30 days consultation period is recommended.
- Trade Unions will be written to, enclosing current and proposed structure charts, present and new job descriptions and person specifications, timescales and an invitation to a meeting.

Employees

- Following the S&SSC decision to progress the proposals, the formal consultation period commenced on 1st November 2010. Letters were sent to SLT members, detailing the proposals, consultation arrangements and how the proposals may affect them personally. Structure charts and job descriptions/person specifications were enclosed with the letters. Employees were advised of their right to have a workplace colleague or their TU representative with them at the meeting. Letters advised employees of one of the following as it impacted their role:
 - Likely to be **LITTLE OR NO SIGNIFICANT CHANGE** to the current role - **Slot**
 - Likely to be **SIGNIFICANT CHANGE** to current role and/or **number of FTE's required** for the post are likely to **DIMINISH - Ring Fence for prior consideration; 'At Risk' of Redundancy**
 - Likely to be **NO SUITABLE ALTERNATIVE** posts proposed in the new structure – **'At Risk' of Redundancy'**
- The Chief Executive has met with the affected employees on a 121 basis to brief them on the proposals, the business case for these, and the process to be followed.

Following the consultation period (1st November to 30th November 2010):

- All feedback gathered during this exercise has been considered. None of the feedback indicates that the structure proposals needs to be amended, however certain points raised will be considered as part of finalising the job content and selection process for the roles (e.g. job titles, AD relationship to SDs, CBH client side function) and ongoing monitoring in particular in relation to capacity. It is not envisaged that these issues will impact the grades of the posts in the new structure (see grading outcomes in section "Building and costing the business case for change).
- The Chief Executive will meet with the affected employees and Trade Unions to confirm the structure to be proposed in the section 4 report for full Council.

Stage three of the formal consultation processes (to commence after council approves the proposed restructuring)

- The Chief Executive will confirm to SLT members any appointment process/selection methods for new posts (ring-fencing, slotting, interviews/selection centres etc), aiming for the new structure to take formal effect from 1 04 2011 at the latest.
- The Chief Executive will write to all affected employees to confirm the new structure and how they are affected.
- There will be a process to appoint to the new role/roles where required, which will be in accordance with the Council Constitution/Council requirements.
- Serve redundancy notices (as and if necessary).
- Action necessary HR paperwork for changes.
- HR to action changes to payroll and establishment lists.

Risk identified		Risk owner	Impact score (1-4)	Likelihood score (1-6)	Current risk score (1 - 24)	Managing the risk: Control / mitigating action	Responsible officer	Deadline
Risk ref ¹	Risk description							
1	If the council does not adopt a commissioning approach to assess need and to agree and prioritise outcomes there is a risk that it is unable to deliver significant savings without unstructured service reduction, leading to substantial negative impacts on citizens	Mark Sheldon (BtG)	4	3	12	Ensure the rationale for a commissioning approach is clearly articulated. Establish savings and prioritized outcomes as a clear target output from any commissioning exercise. Ensure that the process for each commissioning exercise mandates a staged approach to decision making based on an agreed business case which appraises all the options.	Mark Sheldon Future AD Commissioning (if role approved)	Continuing to October 2012
3	If the process of moving towards a commissioning council is not properly programme and project managed there is a risk that it could impact on service delivery in the short term by diverting resources from other work	Andrew North	3	3	9	Resource the programme appropriately using MSP disciplines planning the resource needs so that capacity or skills shortages are addressed in advance. Continue to develop the council's resource management approach and the role of the Senior Leadership Team is resolving	Ken Dale (Programme Manager) & Jackie Tavener (Business Change Manager) Senior Leadership Team	Continuing to October 2017

¹ Missing risk references may occur where risks have been removed (as no longer valid) or incorporated in other risks

Risk identified		Risk owner	Impact score (1-4)	Likelihood score (1-6)	Current risk score (1 - 24)	Managing the risk: Control / mitigating action	Responsible officer	Deadline
Risk ref ¹	Risk description							
						any conflicts.	Lead commissioners	Ongoing
4	If knowledge and skills about commissioning are not developed within the organization, there is a risk that services will not be commissioned or delivered in the right way which may impact on flexibility and/or costs	Amanda Attfield	4	3	12	Knowledge programme for relevant officers/members developed and delivered Skills for business development programme developed and delivered Inclusion of a temporary AD role (Organisational Development & Change) to support the transition.	Jan Bridges	March 2012
5	If the move towards commissioning is not communicated effectively with customers and stakeholders there is a risk that it is perceived to a bureaucratic exercise and impact on the councils reputation	Jane Griffiths	3	3	9	Consistent and effective messages related through all existing networks and partnerships and ensure buy-in. Link the process clearly into the wider Glos Conference commissioning process. Evidence and publicise VfM returns.	Katie Sandey	Continued involvement of customers and stakeholders in the way in which commissioning approach is implemented to April 2011
6	If partner organizations are not sufficiently 'bought into' the process then there is a risk that the commissioning work will be done in isolation and potential savings and effective delivery of outcomes will be	Andrew North	4	4	16	Effective engagement with the VCS through the VCS forum, plus other partners through CSP and thematic partnerships. The objective of	Richard Gibson	Continuing to October 2012

Risk identified		Risk owner	Impact score (1-4)	Likelihood score (1-6)	Current risk score (1 - 24)	Managing the risk: Control / mitigating action	Responsible officer	Deadline
Risk ref ¹	Risk description							
	reduced					'place-based' project is to engage partners and create alignment. Ensure that joint funding is subject to use of proper commissioning disciplines		
7	If the process of moving to a commissioning environment is not handled effectively then there is a risk that it could impact on employee and member motivation	Amanda Attfield	3	3	9	Change management and HR processes are in place Regular employee and member updates will take place. A member and employee skills development programme is being created.	Julie McCarthy	April 2012
8	If the commissioning approach does not clearly specify roles (including commissioner / provider roles), responsibilities and accountabilities then there is a risk that responsibilities and accountabilities could be blurred or duplicated which would impact on service delivery, costs and customer satisfaction	Amanda Attfield	3	3	9	Define the Commissioning structure, process and roles Describe new roles – job descriptions and person specifications Make revisions to any existing roles and consult job holder/s Learn from other authorities who have adopted commissioning Monitor realization of benefits	Julie McCarthy	April 2011
10	If the council does not adapt best practice from elsewhere to suit a two tier area there is a risk that the	Andrew North	3	3	9	We are learning from other examples and adapting to our own context.	Business Change Manager (Jackie Tavener) Future AD Commissioning (if role)	Ongoing to October 2012

Risk identified		Risk owner	Impact score (1-4)	Likelihood score (1-6)	Current risk score (1 - 24)	Managing the risk: Control / mitigating action	Responsible officer	Deadline
Risk ref ¹	Risk description							
	commissioning approach may not be fit for purpose, it may not deliver the outcomes expected and / or it may increase costs.					Ensure effective processes. Adopt a dynamic risk management approach.	approved)	
11	If capacity to lead and manage the changes, at the same time as implementing major change (i.e. a new ERP system), is not secured, then the benefits from Commissioning and the ERP system may not be fully realized, and morale and motivation may be impacted adversely – affecting existing SLT, members and service managers	Andrew North	4	4	16	Consider senior level capacity carefully when approving reductions in employees. Inclusion of a temporary AD role (Organisational Development & Change) to support the transition. Consider any further resource which may be needed. Continue to develop the council's resource management approach and the role of the Senior Leadership Team is resolving any conflicts.	Amanda Attfield Senior Leadership Team	April 2012
12	If commissioning results in the fragmented provision of services then the outcome may be a disjointed service to customers and consequent impacts on the council's reputation and costs	Pat Pratley / Jackie Tavener	4	2	8	All commissioning projects will need to consider how customers will access services in a way which is easy, coherent and 'joined-up' with other council and partner provided services. Introduce controls within commissioning process.	John Steed	Continuing to October 2012
13	If commissioning results in a	Andrew North /	4	2	8	The principle of working	Amanda	Continuing to

Risk identified		Risk owner	Impact score (1-4)	Likelihood score (1-6)	Current risk score (1 - 24)	Managing the risk: Control / mitigating action	Responsible officer	Deadline
Risk ref ¹	Risk description							
	fragmented organisation then the outcome may be a loss of the values which bind the organisation together	Amanda Attfield				together needs to be inherent in the new structures and processes. The values of the council should influence the choice of delivery option and the acceptability of any provider Values, competencies and consultation being built into commissioning toolkit and HR strategy.	Attfield	October 2012
14	If commissioning leads to a reduction in the number of direct jobs and services at the council, trade union support may reduce or be lost.	Amanda Attfield	3	3	9	Seek to involve the unions at all stages of decision making processes and keep them fully briefed. Regular briefings at Joint Liaison Forum and Joint Consultative Committee.	Amanda Attfield	Ongoing throughout programme and future commissioning exercises
15	If we are tied into a contract for a number of years and unable to react to changing circumstances then additional costs or failure to deliver outcomes may result.	Andrew North	3	3	9	Each commissioning exercise will need to consider, evaluate and deal with this risk.	Peter Lewis	Ongoing throughout programme and future commissioning exercises
16	If commissioning results in a more diverse provision of services then member influence over service delivery may be reduced.	Andrew North	3	3	9	Create appropriate governance including roles for members. Engage the cross-party members group in consideration of governance approach.	Future AD Commissioning (if role approved)	Ongoing throughout programme and future commissioning exercises
17	The potential shared service arrangements which require	Andrew North	3	3	9	Ensure legal agreements for shared services allow for	Peter Lewis	Ongoing throughout

Risk identified		Risk owner	Impact score (1-4)	Likelihood score (1-6)	Current risk score (1 - 24)	Managing the risk: Control / mitigating action	Responsible officer	Deadline
Risk ref ¹	Risk description							
18	<p>commitment to a partnership arrangement for a minimum period may limit the deliverability of savings through commissioning</p> <p>If commissioning results in a more diverse provision of services then the council's corporate governance arrangements may be less effective.</p>	Andrew North	3	3	9	<p>flexibility over sharing arrangements</p> <p>Statutory officers together with the council's senior officers ensure that the Code of Corporate Governance and other governance arrangements reflect the practicalities of the commissioning programme and individual commissioning projects.</p>	Future AD Commissioning (if role approved)	<p>programme and future commissioning exercises</p> <p>Ongoing throughout programme and future commissioning exercises</p>

Residual risk score		Risk Management view	
16 – 24		Must be managed down to reduce risk scores as soon as possible, or prepare a contingency plan or action	
7 – 15		Seek to improve the risk score in the short/medium term or establish a contingency plan	
0 – 6		Tolerate and monitor within the project.	

Extract from the Minutes of Staff and Support Services

Thursday, 28th October, 2010
6.00 - 7.45 pm

Attendees	
Councillors:	Steve Jordan (Chairman), Garth Barnes, Nigel Britter, Jackie Fletcher, Rob Garnham (Vice-Chair), Les Godwin, Colin Hay, John Rawson and Duncan Smith
Also in attendance:	

Minutes

3. STRATEGIC COMMISSIONING

Having declared an interest, the Assistant Director – Human Resources and Organisational Development excused herself from the meeting.

The Chief Executive introduced the report as circulated with the agenda. This committee had considered two earlier reports (Feb 2010 / May 2010) on Strategic Commissioning and as such, efforts had been made to reduce the amount of information contained within the report, but given that it would be referred onto Council, a certain level of detail had been necessary.

The initial reports had been philosophical about what Strategic Commissioning could achieve, this report set out proposals for a Strategic Commissioning Council and the supporting organisational structure.

Consultation with trade unions, the Economy and Business Improvement O&S Committee, key partners and Members through seminars and the cross-party working group, had resulted in feedback varying from “it’s just good management” to “this will fundamentally affect the way members work”.

The full year annual saving as a result of the proposed restructure of the Senior Leadership Team would be £213,000, as set out in item 4 of the Strategic Business Case (Appendix A). Additional savings could be made by applying commissioning methodology, for example an indicative figure of 10-15% of the operational budgets could achieve an annual saving of £0.8 and £1.2 million, based on the Torbay model.

He then concentrated on the proposed restructure and reminded members that he had recommended changes to the Senior Leadership Team structure to this committee in November 2008 regarding the former Deputy Chief Executive’s retirement, along with 3 others.

He was confident that this had been a success for the organisation and often wondered how 4 additional Strategic Directors had been required, though he did feel that there was still scope for further restructuring.

Appendix B set out the structure being proposed by the Chief Executive.

Subject to agreement the aim was to implement Phase 1 by April 2011, resulting in a reduction from 8.5 Assistant Directors (the Monitoring Officer was counted as half a post, given that it was shared with Tewkesbury Borough Council), to 6.5.

Phase 2 would see that further reduced by 1 Assistant Director (AD) post and was envisaged for implementation by October 2012.

The Head of Shared Services was marked as 'if required' as it very much depended on the extent and range of shared services.

The proposals identified significant changes, especially to those AD's directly affected by the changes.

Appendix C contained key points for consideration and he was very grateful to HR and Finance for their input.

The retirement of the AD Community Services would leave one redundant AD and could result in 2 having to apply for 1 post. As such, there clearly needed to be a process for involving members if there were competition for posts.

In summary the Chief Executive felt confident that this was the appropriate structure for the future, accepting it was lean, but fit for purpose and long term, would offer capacity to transform services whilst retaining community focus.

In addition to this, the Cabinet Member Corporate Services offered his opinion. The report adequately set out the structure, but he felt that members could benefit from clarity about their roles. He accepted that Strategic Commissioning could take many forms and it depended on the size and scope of the services being considered, members needed to be aware of the process and when and how they would be involved.

The following responses were given to questions from members of the committee;

- Were the proposed structure agreed, it would be flexible, so if a subsequent decision discounted Strategic Commissioning, the process could stop and the structure evolve.

At this point Councillor Garnham excused himself and left.

- Redundancy costs had not been included as they would vary dramatically from service to service and staff would be redeployed where possible, so there were too many variables to include any figures. Members were reminded that pension costs would be one of many factors in forming a decision.
- Hay Group had looked at the AD pay and grading and made certain recommendations, the suggestion was that they would not change but perhaps the Resources role would.
- There was still a lot to be done, but the structural change needed to go ahead of strategic commissioning. The structure was a sensible one for

the future and would not be agreed until December at Council. In the meantime members were able to suggest changes, etc and by agreeing the recommendations this evening, were not tying their hands.

- If an AD was redeployed elsewhere in the Council at a lower grade, they would, like all employees, benefit from pay protection for 12 months only. There would also have to be a clear business case for doing this, but at the moment there was no way of knowing if this would be necessary. There was a legal obligation to offer posts to members of staff who were being displaced.

At this point Councillor Fletcher excused herself and left.

- The external cost of the process to date was £16,000 for the Eighty Twenty Insight report and £6,000 for Hay. The internal costs were not separately accounted and some projects were already in place and going forward to produce savings.

The Chairman felt that it was an evolving process. Were, the new structure being proposed solely to generate savings he would be unable to support it, but genuinely felt that strategic commissioning was the right route to take.

He felt that it was the best way for the Council to deal with the current financial climate, systematically looking at what services it delivered and how to do it better.

A process for member involvement needed to be agreed and whilst this was not the only approach available, it was as good as any and offered flexibility – nothing was set in stone and there was scope for change.

If Council agreed the recommendation to dissolve the Staff and Support Services Committee in December, items such as this would be reviewed by a working group established by Council and/or Cabinet, who would make recommendations rather than a decision, but ultimately the final decision would continue to sit with Council.

The Chairman advised that this item had been added to the forward plan for discussion by Cabinet in November.

Upon a vote it was

RESOLVED (4 For / 3 Abstentions) that;

- 1. The Chief Executive's proposals for a Strategic Commissioning Council and supporting new Council structure as set out in the report and in Appendices A and B be approved.**
- 2. The formal consultation (stages 1 and 2 as set out in Appendix C) on the proposed new structure be undertaken with affected employees and the recognised trade unions be agreed.**
- 3. The committee recommends that Council –**

- (i) Approved the Chief Executive's proposals for a Strategic Commissioning Council and supporting new Council structure as set out in the report and in Appendices A and B.**
- (ii) Notes that formal consultation (stage 3 as set out in Appendix C) on the proposed new structure will be undertaken with employees.**
- (iii) Requests the newly constituted Appointments Committee or appropriate sub-committee to conduct and complete any necessary recruitment or redundancy processes at Assistant Director level (including the section 151 officer) and to agree such terms and conditions of appointment or dismissal as may be necessary in order to facilitate the new structure.**

Extract from the minutes of Cabinet

Tuesday, 16th November, 2010

6.00 - 6.42 pm

Attendees	
Councillors:	Colin Hay (Cabinet Member Corporate Services), Steve Jordan (Leader of the Council), Andrew McKinlay (Cabinet Member Sport and Culture), John Rawson (Cabinet Member Built Environment), Klara Sudbury (Cabinet Member Housing and Safety), John Webster (Cabinet Member Finance and Community Development) and Roger Whyborn (Cabinet Member Sustainability)

Minutes

1. **STRATEGIC COMMISSIONING**

The Leader invited the Chief Executive to introduce his report. The Leader explained that the report had been prepared for the Staff and Support Services Committee and was due to go to Council in December for a final decision. In view of the importance of the issue he had requested that it was considered by Cabinet to enable them to give their opinion.

The Chief Executive explained how Strategic Commissioning provided a pragmatic response to meet the challenges both nationally and locally. These included the Government initiatives regarding the Big Society and Community Based Budgeting as well as budgetary pressures at a local level, including the need to review discretionary services. The council had already had some good success in joining up with others to deliver shared services and this formed a good basis for Strategic Commissioning going forward.

His report outlined how Strategic Commissioning would provide a framework for future strategy, based on what would work, and how it would provide better outcomes to local people. The new structure would enable strategic choices to be made over the next few years. Strong political leadership would be very important, as would effective scrutiny so it was essential to get members fully engaged. He was aware that some members objected to the title of 'Strategic Commissioning' and in response he would encourage them to understand the process rather than the name.

He was aware that several members had expressed concern about the organisation's ability to cope with the reduced capacity if the senior management structure was reduced too quickly. To address this concern, he referred to the amendment which had been circulated at the start of the meeting. This recommended that a one-off resource of £80,000 would be made available to fill any capacity gaps. This sum had originally been allocated to the sourcing strategy work streams but had not been spent.

In response to a question from a member, the Chief Executive explained how the council would cope if residents had opposing views regarding how services should be delivered. He suggested that in this situation it would be necessary to

take a step back and first clarify the objectives before trying to bring agencies together to reach a common understanding.

Several members of Cabinet spoke on the proposals and covered the following points.

- A member commended Strategic Commissioning as a systematic approach to determine how services should be delivered and achieved cost savings at the same time. This made good sense regardless of the budget situation.
- Member input would be key, particularly in helping to provide the public view on service delivery.
- The additional funding would provide extra capacity and give the project the best possible start.
- Strategic Commissioning was a difficult concept to sell and this could be facilitated by giving examples where options for service delivery had been considered recently, e.g. café provision in the parks.
- It would be important to emphasise that Strategic Commissioning was not another word for privatisation and there were no assumed outcomes. The approach would allow service requirements to be analysed and decisions made on how best to satisfy those requirements in the current economic climate. High-quality services would be maintained.
- The decision to set up a new resources division was welcomed and would provide significant savings and more cost-effective management.
- It was acknowledged that some Members were not happy with the term “strategic commissioning” and it was important that they understood the process. When a service was being reviewed, clearly the Cabinet Member would have a role but it was important that the involvement of other members in the process was clearly defined.

RESOLVED THAT:

- 1. The Chief Executive’s proposals for a Strategic Commissioning Council and supporting new Council structure as set out in this report and in Appendices A and B be endorsed**
- 2. It be recommended that Council approves the Chief Executive’s proposals for a Strategic Commissioning Council and supporting new Council structure as set out in this report and in Appendices A and B**
- 3. It be recommended that Council set aside a 'one off' resource of £80,000, funded from a vehement of the streams, to support the significant business change required during 2011/12 in order to deliver some of the councils key projects including GO. unspent allocation to fund sourcing strategy work**

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Cheltenham Borough Council
Cabinet – 7th December 2010
Council - 13th December 2010
Treasury Mid Term Report 2010/11

Accountable member	Finance & Community Development , John Webster
Accountable officer	Chief Finance Officer , Mark Sheldon
Accountable scrutiny committee	Economy & Business Improvement
Ward(s) affected	None
Significant Decision	No
Executive summary	The Treasury Management Strategy for 2010/11 has been determined by the adoption of the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2009, which includes the requirement for determining a treasury strategy on the likely financing and investment activity for the forthcoming financial year. The Code also recommends that members are informed of Treasury Management activities at least twice a year. This report therefore ensures this authority has adopted the code and complies with its requirements, one of which is the provision of a Mid-year Report to Members.
Recommendations	In compliance with the requirements of the CIPFA Code of Practice this report provides Members with a summary report of the treasury management activity during the first six months of 2010/11. Members are asked to note the report.

Financial implications	All financial implications are noted in the report Contact officer: Andrew Sherbourne, andrew.sherbourne@cheltenham.gov.uk, 01242 264337
Legal implications	None specific arising from the report recommendations. Contact officer: Peter Lewis , peter.lewis@tewkesbury.gov.uk, 01242 264216
HR implications (including learning and organisational development)	No direct HR implications arising from this report Contact officer: Julie Mccarthy , Julie.mccarthy@cheltenham.gov.uk. 01242 264355
Key risks	

Corporate and community plan Implications	Page 200
Environmental and climate change implications	

1. Background

The Treasury Management Strategy for 2010/11 has been determined by the adoption of the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2009, which includes the requirement for determining a treasury strategy on the likely financing and investment activity for the forthcoming financial year. The Code also recommends that members are informed of Treasury Management activities at least twice a year. This report therefore ensures this authority has adopted the code and complies with its requirements, one of which is the provision of a Mid-year Report to Members.

2. Economic update for the first six months

2.1 The following key points have been provided by the councils Treasury Advisors, Arlingclose Ltd.

The UK continued to emerge from the recession but the level of activity remained well below pre-crisis levels. Gross Domestic Product (GDP) registered 0.3% growth in the first quarter of 2010 and 1.2% in the second.

2.2 The Bank of England's Monetary Policy Committee (MPC) maintained the Bank Rate at 0.5% and Quantitative Easing at £200bn. However, the minutes of the Bank of England's September meeting contained the possibility of further Quantitative Easing to keep the economy and inflation on track in the medium term.

2.3 Annual CPI has remained high so far during 2010. It peaked at 3.7% in April and has fallen back to 3.2% in September. In the coming months higher food and fuel prices, coupled with the hike of VAT from 17.5% to 20%, will see inflation rise and we may not see inflation come down again until later in 2011.

2.4 The formation of a coalition government dispelled uncertainty surrounding a hung parliament in May's General Election. The new government's Emergency Budget laid out tough action to address the UK's budget deficit, aiming to eliminate the structural deficit by 2014/15. This is to be achieved through austerity measures - £32bn of spending cuts and £8bn of net tax increases.

2.5 Unemployment had been falling until July 2010. Since then, small increases in unemployment may indicate the start of a new trend of rising unemployment.

Portfolio position 1/4/2010 to 30/9/2010

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Movements in the Council's borrowing during the first six months of 2010/11 financial year can be seen in the table below. Long term loans are deemed to be those repayable over a period of more than one year.

Source of Loan	Balance at 1 April 2010 £	Raised during Apr-Sept £	Repaid during Apr-Sept £	Balance at 30 Sept 2010 £
Temporary Borrowing				
- Building Societies	1,200,000	0	1,200,000	0
- Banks	0	0	0	
- Local Authorities	15,800,000	65,900,000	74,700,000	7,000,000
Temporary Investment	614,303	1,591,333	1,550,065	655,571
Total Short Term Borrowing	17,614,303	67,491,333	77,450,065	7,655,571
Long Term Borrowing				
- Public Works Loan Board	11,000,000	0	0	11,000,000
- Market Loans	15,900,000	0	0	15,900,000
Long Term Borrowing	26,900,000	0	0	26,900,000
Total External Borrowing	44,514,303	67,491,333	77,450,065	34,555,571

- 3.1** In February 2010 the Council's borrowing costs for 2010/11 was estimated to be £1,219,300. This is now forecast to be £1,212,600. Temporary borrowing of £65.9m at an average interest rate of 0.35% has occurred between 1st April and 30th September 2010 to meet temporary cash flow shortfalls.

This is lower than what was forecast in the 2010/11 Treasury Management Strategy as interest rates were expected to rise in the summer/autumn of this year. As a consequence the consolidated rate of interest estimated in December 2009 (4%) is now likely to be around 3.08% as the base rate is forecast to remain at 0.50% for a while longer. This may result in the HRA paying £175,300 less interest to the General Fund.

- 3.2** No debt rescheduling has been undertaken so far this financial year as the PWLB repayment rates make the premium costs payable too expensive. The Council's debt portfolio will continue to be reviewed by Arlingclose for debt rescheduling opportunities which has assisted us in the past.

4. Investments

The DCLG's Guidance on Local Government Investments in England gives priority to security and liquidity and the Council's aim is to achieve a yield commensurate with these principles.

Security of capital remained the Council's main investment objective. This was maintained by following the Council's counterparty policy as set out in its Treasury Management Strategy for 2010/11 approved by Council on the 12th February 2010. This restricted new investments to the following

- Debt Management Office (DMO)
 - Other Local Authorities
 - UK Banks – Minimum long term rating of A+ across all three rating agencies (Fitch, Standard & Poors and Moody's)
 - *Other - Cheltenham Festivals/Gloucestershire Airport Company, Everyman Theatre and Cheltenham Borough Homes
- * These were approved at Council on the 28th June 2010.

Counterparty credit quality is assessed and monitored with reference to :-

- Credit ratings
- Credit Default Swaps
- Share Price

Using Arlingclose's suggested creditworthiness approach in the current economic climate it is considered appropriate to keep investments short term.

4.1 Investments - Movements in the Council's investment portfolio during the first six months of 2010/11 can be seen in the table below.

Source of Loan	Balance at 1 April 2010 £	Raised during Apr-Sept £	Repaid during Apr-Sept £	Balance at 30 Sept 2010 £
Temporary Lending				
- Building Societies	0	0	0	0
- Banks	2,700,000	2,000,000	150,000	4,550,000
Bank of Scotland Call A/C	0	22,760,000	22,260,000	500,000
Debt Management Office	0	0	0	0
Total Short Term Lending	2,700,000	24,760,000	22,410,000	5,050,000
Long Term Lending	Balance at 1 April	Raised during	Repaid during	Balance at 31 March

	2009 £	the year Page 203	the year £	2010 £
- Building Societies	0	0	0	0
- Banks	13,400,000	0	2,300,000	11,100,000
Total Long Term Lending	13,400,000	0	2,300,000	11,100,000
Total External Investments	16,100,000	24,760,000	24,710,000	16,150,000

4.2 In February 2010 the Council's Investment income for 2010/11 was estimated to be £243,200 but is now forecast to be £215,100, a reduction of £28,100. Interest rates were predicted to rise in September/October 2010 but this is now unlikely to happen with the economy as it stands and with rates looking to remain at 0.50% for the foreseeable future.

4.3 Included within the investments of £16.15m as at 30th September 2010, the Council has £9.65m deposited in the collapsed Icelandic banks. The Council has received £450,000 from the administrators of Kaupthing Singer & Friedlander in this financial year, which relates to 10p in the pound. A further distribution is expected in November/December 2010. The administrators currently estimate that total distributions should be in the range of 75p to 84p in the pound which is up from 65p to 78p as indicated in July 2010.

4.4 Following guidance from CIPFA, issued in September 2010, deposits held with Glitnir have been classed as non-priority claims by the Winding-Up-Board. Local authorities' legal advice remains that deposits have priority status under Icelandic law. If priority status is awarded 100% recovery is expected. If non-priority is awarded, recovery is expected to be 29%.

4.5 Landsbanki Winding-Up-Board has classed the Councils' deposits as priority claims. If priority status is awarded at court, 95% recovery is expected but if non-priority status is awarded, recovery is expected to be 38%. It is expected that the courts will come to the same conclusion for both Glitnir and Landsbanki. It is considered unlikely that there will be a settled position on priority status before the middle of the next financial year.

5. Compliance with Prudential Indicators

During the financial year to date the Council has operated within the treasury limits and Prudential Indicators set out in the Council's Treasury Policy Statement and Annual Treasury Strategy Statement. In 2010/11 the Council set an authorised limit of £76m and an operational limit for borrowing of £69m, which was not breached during the financial year up until 30th September 2010.

6. Outlook

	Dec-10	Mar-11	Jun-11	Sep-11	Dec-11	Mar-12	Jun-12	Sep-12	Dec-12	Mar-13
Official Bank Rate										
Upside risk	-	0.25	0.25	0.25	0.50	0.50	0.50	0.50	0.50	0.50
Central case	0.50	0.50	0.50	0.75	1.00	1.25	1.50	2.00	2.50	2.75
Downside risk	-	-	-	0.25	0.50	0.50	0.50	0.50	0.50	0.50

6.1 The path of base rates reflects the fragility of the recovery and the significantly greater fiscal tightening of the emergency budget. The Bank of England will stick to its lower for longer stance on policy rates. Consumer Price Inflation is stubbornly above 3% and could remain higher than the

Monetary Policy Committee has previously forecast. The employment outlook remains uncertain, as unemployment remains near a 16 year high at just over 2.4 million.

7 Performance management

7.1 In compliance with the requirements of the Treasury Management CIPFA Code of Practice this report provides members with a summary report of the treasury management activity during the first six months of 2010/11. As indicated in this report none of the Prudential Indicators have been breached and a prudent approach has been taken in relation to investment activity with priority being given to security and liquidity over yield.

Report author	Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk 01242 264123
Appendices	1 – Risk Assessment
Background information	

The risk		Original risk score (Impact x likelihood)			Managing risk						
Risk ref.	Risk description	Risk Owner	Date raised	I	L	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
CR28	Icelandic Banks – financial exposure If the current status as priority deposits with Landsbanki bank is successfully challenged, the council's deposits would be re-classified as 'general unsecured creditors' resulting in a lower recovery rate and exposure to claimant costs and impact on the MTFs over that already factored in through the capitalisation of losses.	Chief Finance Officer Mark Sheldon	9 April 2010	4	3	12	Accept	Council commitment to join in group action with other councils to defend current priority depositor status	March 2011	Chief Finance Officer Mark Sheldon	

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Cheltenham Borough Council Council – 13 December 2010 New Executive Arrangements

Accountable member	Leader , Councillor Steve Jordan
Accountable officer	Assistant Chief Executive, Jane Griffiths
Accountable scrutiny committee	Economy and Business Improvement
Ward(s) affected	All indirectly
Significant Decision	Yes
Executive summary	As previously advised in July, the Council has a statutory obligation to adopt new executive arrangements; either a new style strong leader and cabinet model or a directly elected mayor and cabinet model. As agreed, contact was made with DCLG, after which it was confirmed that we must adopt the new arrangements by end December 2010, following public consultation. Having considered the responses to that consultation, and for the reasons set out in this report, it is recommended that a new style strong leader and cabinet model be adopted.
Recommendations	To adopt a new style strong leader and cabinet model to take effect May 2012 That the Borough Solicitor and Monitoring Officer update the Council Constitution to facilitate the new executive arrangements as set out in paragraph 3.4 of this report

Financial implications	The council already has an 'old style' strong leader and cabinet model and there are no additional financial implications arising from the proposal for new governance arrangements. Contact officer: Paul Jones, paul.jones@cheltenham.gov.uk, 01242 775154
Legal implications	As set out in the body of the report. The Council is required to adopt new executive arrangements pursuant to Sch 4 LGPIH and full council must make its decision on new arrangements before 31 December 2010, following public consultation. If the Council fails to comply with these statutory requirements the Secretary of State may intervene and impose a 'new style' strong leader and cabinet model. Under Sch 4 LGPIH the new executive arrangements will take effect on the third day following the date of the May 2012 Borough elections. Contact officer: Peter Lewis, peter.lewis@teWKesbury.gov.uk, 01684 272012

HR implications (including learning and organisational development)	None arising from this report Contact officer: Amanda Attfield, Amanda.attfield@cheltenham.gov.uk, 01242 264186
Key risks	See attached risk register
Corporate and community plan Implications	None arising from this report
Environmental and climate change implications	None arising from this report

1. Background

- 1.1** At the Council meeting in July members were advised that under the Local Government and Public Involvement in Health Act 2007 (LGPIH) we needed to review our governance arrangements. Given that the new coalition government had announced that they would be proposing changes to this legislative requirement, Council agreed that we write to the Secretary of State indicating that we were not proposing to change our current arrangements. In October we received notification from DCLG that there was a statutory requirement to consult on executive arrangements (although how we did this was at our discretion) and to adopt either a strong leader or elected mayor form of executive arrangement by the statutory deadline.
- 1.2** During November an online consultation exercise was undertaken seeking views from the public on the whether the council should move to a directly elected mayor or a new style leader. The results of the consultation are set out in paragraph 5 below.

2. Reasons for recommendations

- 2.1** The Council has a statutory requirement to adopt one of the two new models. The new coalition government has already indicated that it will be reviewing the LGPIH as part of its overall review of local governance arrangements.. The current arrangements ie a leader and cabinet seem to be working well, there was little public interest in the review and the Council has more immediate issues in relation to budget pressures, and any transitional change to a mayoral model would divert both member and officer time.
- 2.2** The Council, in determining its executive arrangements, has to have regard to these securing continuous improvement in the way in which its functions are exercised, having regard to economy, efficiency and effectiveness. The Council has had leader and cabinet arrangements in place since 2001 and these have assisted in delivering continuous improvement to the way in which the Council delivers its functions. The leader and cabinet model includes being able to hold the leader and their cabinet to account at both overview and scrutiny committee, at council meetings and ultimately by the public through two yearly elections when there can be changes to the administration.
- 2.3** The new strong leader and cabinet model is very similar to the current strong leader and cabinet model which the Council operates. The main differences with the new model are that the leader is appointed for a 4 year term (but may be removed earlier by Council) and the leader must appoint a deputy leader.
- 2.4** The Council Constitution will need to be reviewed and updated to facilitate the new executive

arrangements, which will include the following:

- Provision for the Leader to be appointed for a four year term of office (or for the period remaining on their elected term as a councillor) ;
- Provision for the removal of the Leader (within the four year term of office) by resolution of Full Council, and for the appointment of a new Leader;
- All executive power to be vested in the Leader and the Leader will then decide which powers to delegate to Cabinet, individual Cabinet Members or Officers;
- The leader to appoint a deputy leader (who will hold office while the Leader remains in office) to undertake the leader's functions where the leader is absent or unable to act;
- Provisions to cover the absence or incapacity of both the leader and deputy leader

3. Alternative options considered

- 3.1** Before the Council adopted its current executive arrangements it did hold a referendum and at the time there was overwhelming support for a leader as opposed to an elected mayor. The leader can be removed from office during their term of office and both the public and members believed this to be a strong constitutional safeguard. The council also has a civic mayor and having both an elected and civic mayor may be confusing to the public. The elected mayoral model would also be more costly in that we would have the additional cost of elections for a mayor and, although the independent remuneration panel would need to determine the appropriate level of allowance, it is anticipated that this would probably be greater than that currently paid to a leader.
- 3.2** Each year the Council has published via a public notice the requirements should someone seek to petition for a referendum for an elected mayor but we have never had anyone pursue this course of action. Earlier in the year we were asked by the English Democrats about the petition requirements, which we understand was part of a national campaign but have heard no more from the organisation.
- 3.3** If the Council adopts a strong leader model and subsequently there is a groundswell of public opinion to adopt an elected mayor then the Council if so minded could review the situation and undertake more detailed consultation on future options, particularly once government legislation on local governance arrangements has been clarified. If the Council was to receive a petition from 5% of the electorate within a 12 month period then it has a statutory duty to hold a referendum on a mayoral model.

4. Consultation and feedback

- 4.1** There was no feedback from the public when the council considered the matter at its meeting in July and at the time of writing the report there are been over 1000 "hits" to the online web page setting out the proposed options and only one person who had responded. They indicated that they wanted the council to have a leader as they were unhappy that an elected mayor could not be removed during their term of office.
- 4.2** A number of councillors also contacted officers during the November consultation and indicated that they would want to see a strong leader model.
- 4.3** The council must now publish a notice that it is proposing to adopt the new arrangements and also set out any transitional arrangements. There are not deemed to be any transitional arrangements.

5. Performance management –monitoring and review

5.1 There are no performance management issues arising from this report.

Report author	Contact officer: Assistant Chief Executive, Jane Griffiths, jane.griffiths @cheltenham.gov.uk, 01242 264126
Appendices	1. Risk Assessment
Background information	1. Council report 26 July 2010

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	I	L	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	The council may be challenged that there was only an online consultation exercise with limited publicity	Assistant Chief Executive	1 November 2010	2	2	4	Accept	No action to be taken.	n/a	n/a	n/a
2	If the council fails to adopt a model before 31 December then there is a risk that the SoS would impose a governance structure which may have reputation risks	Assistant Chief Executive	1 November 2010	2	2	4	Accept	Report drafted for council 13 December	n/a	n/a	n/a

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Guidance

Types of risks could include the following:

- Potential reputation risks from the decision in terms of bad publicity, impact on the community or on partners;
- Financial risks associated with the decision;
- Political risks that the decision might not have cross-party support;
- Environmental risks associated with the decision;
- Potential adverse equality impacts from the decision;
- Capacity risks in terms of the ability of the organisation to ensure the effective delivery of the decision
- Legal risks arising from the decision

Remember to highlight risks which may impact on the strategy and actions which are being followed to deliver the objectives, so that members can identify the need to review objectives, options and decisions on a timely basis should these risks arise.

Risk ref

If the risk is already recorded, note either the corporate risk register or TEN reference

Risk Description

Please use “If xx happens then xx will be the consequence” (cause and effect). For example “If the council’s business continuity planning does not deliver effective responses to the predicted flu pandemic then council services will be significantly impacted.”

Risk owner

Please identify the lead officer who has identified the risk and will be responsible for it.

Risk score

Impact on a scale from 1 to 4 multiplied by likelihood on a scale from 1 to 6. Please see risk [scorecard](#) for more information on how to score a risk

Control

Either: Reduce / Accept / Transfer to 3rd party / Close

Action

There are usually things the council can do to reduce either the likelihood or impact of the risk. Controls may already be in place, such as budget monitoring or new controls or actions may also be needed.

Responsible officer

Please identify the lead officer who will be responsible for the action to control the risk.

For further guidance, please refer to the [risk management policy](#)

Transferred to risk register

Please ensure that the risk is transferred to a live risk register. This could be a team, divisional or corporate risk register depending on the nature of the risk and what level of objective it is impacting on