



Notice of a meeting of Staff and Support Services

Thursday, 28 October 2010

6.00 pm

Municipal Offices, Promenade, Cheltenham, GL50 9SA

Membership	
Councillors:	Garth Barnes, Nigel Britter, Jackie Fletcher, Wendy Flynn, Rob Garnham (Vice-Chair), Les Godwin, Colin Hay, Steve Jordan (Chairman), Heather McLain, John Rawson, Duncan Smith and John Webster

The Council has a substitution process and any substitutions will be announced at the meeting

Agenda

- 1. APOLOGIES**
- 2. DECLARATIONS OF INTEREST** (Pages 1 - 2)
- 3. AGREEMENT OF MINUTES** (Pages 3 - 8)
Minutes of the meeting held on Thursday 29 July 2010
- 4. REVIEW OF THE COUNCIL'S CONSTITUTION** (Pages 9 - 60)
Sara Freckleton, Borough Solicitor and Monitoring Officer
- 5. STRATEGIC COMMISSIONING** (Pages 61 - 98)
Andrew North, Chief Executive
- 6. JCC (INC. HEALTH AND SAFETY)** (Pages 99 - 104)
- 7. HR PERFORMANCE** (Pages 105 - 112)
- 8. CORPORATE HEALTH AND SAFETY POLICY** (Pages 113 - 122)
Julie McCarthy, Human Resources Manager - Operations
- 9. STAFF AND SUPPORT SERVICES WORK PLAN** (Pages 123 - 128)
- 10. ANY OTHER BUSINESS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION**

11. DATE OF NEXT SCHEDULED MEETING

Thursday 24 February 2011

BRIEFING NOTES (FOR INFORMATION ONLY)

- Policy review timetable
- Equalities Act
- Default retirement age

Contact Officer: Saira Malin, Democracy Officer, 01242 775153

Email: democratic.services@cheltenham.gov.uk

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.**

This page is intentionally left blank

CHELTENHAM BOROUGH COUNCIL

Staff and Support Services Committee

DATE:

DECLARATION OF INTEREST

NAME _____

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

* The Council's Code of Members Conduct explains what is a 'Personal Interest' and a 'Prejudicial Interest'. The Code is set out in Part 5A of the Council's Constitution.

This page is intentionally left blank

Staff and Support Services

Thursday, 29th July, 2010

6.00 - 7.30 pm

Attendees	
Councillors:	Garth Barnes, Jackie Fletcher, Wendy Flynn, Rob Garnham (Vice-Chair, in the Chair), Les Godwin, Colin Hay, Rowena Hay, Heather McLain, Lloyd Surgenor and John Webster
Also in attendance:	Jan Bridges, Sara Feckleton, Julie McCarthy, Clive Minett and Owen Parry

Minutes

1. APOLOGIES

Councillors Steve Jordan (Chairman) and Nigel Britter. Amanda Attfield (Assistant Director – Human Resources and Organisational Development).

2. AGREEMENT OF MINUTES

The minutes of the last meeting had been circulated prior to the meeting.

RESOLVED THAT: the minutes of meeting held on 27 May 2010 be signed as an accurate record.

3. DECLARATIONS OF INTEREST

None were declared.

4. MEMBERS WORKING GROUP RECOMMENDATIONS

The Borough Solicitor and Monitoring Officer reminded members that at Council on 22 March 2010, having considered the report of the Review Working Group, it was agreed that a further report should come to the this committee in relation to Recommendations 4 and 5.

The recommendations proposed an alternative approach to the appointment of Chief Officers, different to how it had been done at Cheltenham Borough Council in the past and to how other authorities appointed Chief Officers.

The Council sought assurances from this Committee that the recommended action would demonstrate best practice and ensure engagement of wider membership in the process, prior to one preferred candidate being recommended to Council for decision.

Appendix 2, a report commissioned by the Council, set out, in detail, the key elements of a process that demonstrated best practice.

In response to a question from a member of the committee, the Monitoring Officer confirmed that the Appointments Committee would nominate an Officer

to make the conditional offer for employment. This would be included in the terms of reference for the Committee.

The Chairman was confident that the process demonstrated good practice and moved to formally consider the recommendations.

RESOLVED THAT the Constitution Working Group includes within it's review of the Constitution;

- 1. the establishment of an Appointments Committee specifying its composition and terms of reference**
- 2. an amendment to the Council Procedure Rules to introduce a requirement for a 2/3rds majority vote on the appointment by Council of any Chief Officer (Head of Paid Service, Chief Finance Officer, Monitoring Officer and Director).**

5. SMARTER TRAVEL PLAN

The Integrated Transport Manager introduced his information/discussion paper, which provided members with details of progress to date.

In June the Department of Transport had released the "Effects of smarter choice programmes in sustainable travel towns". This included Worcestershire, Darlington and Peterborough and would enable effective benchmarking and comparison against current best practice.

Various frameworks had been tabled with the employee and staff representative forum earlier in the week (26 July 2010) and one suggestion had been that the staff travel survey be tabled with each team at their team meetings.

The Web Team were currently looking at how best to gather staff feedback and provide them with information about the different options available to them via the intranet.

Discussions with Gloucestershire County Council were ongoing with regard to funding and possible cuts, in an attempt to avoid initiatives for which there would be no funding.

Rather than just looking at this as an employer, Cheltenham Borough Council were approaching this as a member of the community and whilst a number of business had pulled out due to economic challenges, GCHQ had recently launched their own smarter travel plan.

A key issue would be staff parking charges; this would form a large part of the consultation and would be a sensitive issue.

The following responses were given to questions and comments from members;

- He agreed that staff parking charges should not been seen as a money making exercise and one thing he had ascertained from around the country was that authorities needed to demonstrate reinvestment.
- Nottingham was one example where they were charging local employers for parking in the city centre. This was something that would be considered as part of ongoing discussions.

- Smarter travel was about more than just cars and parking. Cycle provisions were also being assessed, with the view to enhancing current facilities and providing more secure spaces for cyclists in Cheltenham.
- A review of current parking provisions had highlighted the opportunity for sustainable travel hubs, bringing together various travel options in one place.

The Cabinet Member Corporate Services suggested that this committee should only consider staff issues and that the Environment Committee would need to consider environmental issues.

6. JCC (INC. HEALTH AND SAFETY)

Cabinet Member for Corporate Services, explained that other items on the JCC agenda had included the policies which were scheduled on the agenda of this Committee.

The Corporate Health and Safety Report had been considered by the JCC and members had been particularly concerned with 2.2 (the incident in which, two employees were dealing with a noise complaint and became trapped in premises which were being attacked with bricks until Police arrived to help deal with the situation). He commended the fact that there were two Officers and the quick response of the Police and noted that communication and information sharing had improved since the incident.

The JCC had requested that they be kept informed of incidents at other authorities or organisations, in order that the Council could learn from them, this would include the HSE digest of incidents and would form part of the report in the future.

In relation to this, the Human Resources Operations Manager referred members to 2.9 / page 31, sessions using real life experiences of tragic at work accidents. An employee of CBC who had witnessed the death of a colleague whilst working for a company in the Forest of Dean had spoken about the effect it had, had on him.

In reference to 2.10 / page 31 (the public liability claim dated 26/05/10), Cabinet Member Corporate Services was unable to confirm when the alleged incident had occurred, before or after the changes to the method of working at the Depot.

7. HR PERFORMANCE

The Human Resources Operations Manager introduced the report and highlighted some of the key points.

Sickness absence would be an area of key focus this year. Currently the average was just over 8 days per full time member of staff. The aim was to reduce this by using a number of initiatives, including meeting with Service Managers to discuss alternative ways of supporting staff and introducing interventions to help reduce sickness absence levels. Musculo-skeletal related absences remained an issue and discussions would be ongoing throughout the year, as to what interventions could be put in place.

IMASS the new Occupational Health provider was performing exceptionally well. Where Gloucestershire County Council, the previous provider of this service, had taken up to seven weeks, IMASS had taken just five days in most cases.

Apprentices had been a success story for Cheltenham Borough Council (CBC), with all five from last year having completed their NVQ Level 2 and four of the five working towards an NVQ Level 3. Two had secured fixed term positions at CBC and work was underway to secure employment for the rest, though not necessarily at CBC.

Overall, employee turnover was currently at 12.85%, which was within the Council's target. In the last quarter some figures had increased, which could be attributed to the fact that some fixed term positions were not extended.

Members were also asked to be mindful of a number of employees, for whom payment protection was due to come to an end, as of 1 April 2011.

The following comments were made by members;

- (3.15) the figures related to ECDL were confusing. More clarity should be given with regard to the 470 assessments over 7 modules and the overall pass rate being 98%.
- (3.12) Figures should be included in future updates with regards to employee turnover updates, as percentages alone, were not entirely helpful.
- (3.3) could a graph be included in future sickness absence updates, in order to better demonstrate trends.

8. PEOPLE AND ORGANISATIONAL DEVELOPMENT STRATEGY

The Human Resources Learning and Organisational Development Manager introduced her report and the revised People and Organisational Development Strategy (2010-2015).

The HR Strategy had lapsed at the end of 2009 and the new strategy brought together workforce development and culture, with regards to organisational development. It pulled these two things together, along with all major initiatives (major work streams).

The document itself was intended to be brief, providing an overview rather than including lots of information and show where CBC was going, but be open to change.

At this time, she sought endorsement from the committee in relation to the general direction of travel for the organisation, as set out in the document. As initiatives within the strategy came to fruition, further updates would be provided to the committee.

The following responses were given to questions from members;

- The current financial climate was a difficult one and expectations would need to be managed. The aim was to get people working smarter rather

than harder and Managers would be supported through this period of change.

- All vacant positions were advertised internally in the first instance, providing opportunities for development and progression for existing members of staff.
- Employees were asked two years ago, if they had an NVQ Level 2 or equivalent and 78% said yes. The current target set by central government was 95% but this was likely to change soon. CBC continued to be committed to offering NVQs and whilst it is envisaged that funding would still be available, there was uncertainty about how this would be accessed in the future.
- Almost 100% of staff were using the Learning Gateway and this was attributed to the fact that it formed part of the appraisal process this year.

The following comments were made by members of the committee;

- In the current climate, recruitment and retention would prove difficult. CBC needed to consider the effect that the pay freeze would have on the motivation of its staff and manage the expectations of staff at the end of that period. Staff could also feel added pressure not to take time off sick and this could have a negative impact on their overall health and wellbeing.
- The strategy not only set out what CBC would do but what it was doing and putting a number of initiatives in place over the last few years had already generated changes for the better across CBC. The document demonstrated CBC's aspirations for its employees and whilst pay was a significant factor for staff, so was the belief that they could make a difference.
- CBC needed to resurrect public sector work as a vocation and challenge the stereotypes by changing public perception.

9. WHISTLE-BLOWING POLICY

The Human Resources Operations Manager introduced the report and explained that the policy and procedure had been refreshed, to reflect the new corporate format and the changes to current post titles of Officers involved in the procedure.

The policy and procedure applied to all members of staff and as such would be republished on the intranet, along with a briefing for all Managers and would continue to be issued to new members of staff during induction.

Whilst there had been no incidents, it was important to have the policy and procedure in place.

The following responses were given to questions from members;

- Once a policy was ratified by a committee, minor amendments would be made by the Officer with delegated authority to do so, with the support of One Legal. Significant changes would be referred back to the committee.

Corporate Member Corporate Services suggested that in future, changes were summarised or highlighted to the committee.

10. HEALTH AND WELLBEING POLICY

The Human Resources Operations Manager introduced the report and Employee Health and Wellbeing Policy. This was a new policy which set out how CBC would support employees and reaffirmed the commitment to their employees.

The Chairman highlighted the new Occupational Health provider IMASS, which had improved the service which ultimately benefited CBC and employees.

11. STAFF AND SUPPORT SERVICES WORKPLAN

The Chairman referred members of the committee to the work plan, there were no additional items to add.

12. ANY OTHER BUSINESS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION

There was no urgent business for discussion.

13. DATE OF NEXT SCHEDULED MEETING

The Chairman confirmed that the next meeting was scheduled for Thursday 28 October 2010.

**Chairman
Councillor Jordan**

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 recommendation for its discontinuance is nevertheless minded to recommend the adoption of a process for scrutinising, calling in and</p>

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.**
- 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

Financial implications	<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>
Legal implications	<p>Contained in report.</p> <p>Contact officer: Sara Freckleton, sara.freckleton@tewkesbury.gov.uk, 01684 272011</p>
HR implications (including learning and organisational development)	<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>
Key risks	<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
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. 2. That the Borough Solicitor is tasked to undertake a comprehensive review of the Constitution and to produce a report by the 30 th September 2010 for consideration by the Staff and Support Services Committee.	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.		
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. 2. That the Borough Solicitor is tasked to undertake a comprehensive review of the Constitution and to produce a report by the 30 th September 2010 for consideration by the Staff and Support Services Committee.	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	Due Date	Lead officer
<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
<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

<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.		
Recommended Action	Due Date	Lead Officer
Report on this recommendation to be prepared for consideration by the Staff and Support Services Committee	30 th September 2010	Assistant Director Human Resources
<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.		
Recommended Action	Due Date	Lead Officer
Report on this recommendation to be prepared for consideration by the Staff and Support Services Committee	30 th September 2010	Assistant Director Human Resources / Borough Solicitor
<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).		
Recommended Action	Due Date	Lead Officer
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).	30 th September 2010	Borough Solicitor

<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.		
Recommended Action	Due Date	Lead Officer
Request the Standards Committee to review the Protocol for Member / Officer relations as specified in the recommendation.	30 th September 2010	Borough Solicitor

This page is intentionally left blank

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 Delegation	2 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 Delegation	2 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.	
---------	--

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</p> <p>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:-</p> <p>(a) it does not exceed the approved capital programme provision and/or budgetary provision; and</p> <p>(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>C. TO EACH ASSISTANT DIRECTOR Delegated by the Council and the Leader /Cabinet</p>	
<p>1 Delegation</p>	<p>2 Condition</p>
<p>Contracts</p> <p>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:-</p> <p>(a) it does not exceed the approved capital programme provision and/or budgetary provision.</p> <p>(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>

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

Subject to any express written policy and financial authorisation, and in consultation with AD HROD or HR Manager Operations as appropriate

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

This page is intentionally left blank

Appendix 3

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 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).

This page is intentionally left blank

7. JNC DISCIPLINARY COMMITTEE

7.1 Membership

The Committee shall consist of five Members appointed according to the requirements of political proportionality. 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>
---	--

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

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.

This page is intentionally left blank

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.

This page is intentionally left blank

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

Staff and Support Services Committee – 28 October 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
Accountable officer	Chief Executive
Accountable scrutiny committee	Economy and Business Improvement
Ward(s) affected	All
Key decision	Yes
Executive summary	<p>This report 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</p>
Recommendations	<p>That Committee:-</p> <ol style="list-style-type: none"> 1. 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 2. Agrees that 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 3. Recommends that Council - <ol style="list-style-type: none"> i. 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 ii. Notes that formal consultation (stage 3 as set out in Appendix C) on the proposed new structure will be undertaken with affected 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

<p>Financial implications</p>	<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)</p> <p>2013/14 onwards £213,000 (full year annual saving)</p> <p>There are potentially de-commissioning costs of c£45k over the period of implementation which, compared to the savings made, result in a payback of 0.3 years.</p> <p>Contact officer: Mark Sheldon mark.sheldon@cheltenham.gov.uk 01242 264123</p>
<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 has played a role in supporting the Chief Executive in the exercise of his responsibility and can make recommendations to the full Council on matters for which the full Council is responsible.</p> <p>As many of the day to day council functions are the responsibility of the Leader and Cabinet it is important to ensure that the Leader and Cabinet are fully engaged in any decisions made in due course which directly affect the delivery of those functions.</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>

HR implications (including learning and organisational development)	<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 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>
Key risks	<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>
Corporate and community plan Implications	<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	<p>None directly arising from this report</p>

1. Background

- 1.1 This committee previously 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 met once on the 23 September 2010.
- 1.4 As the previous reports made clear, structural changes were 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>.

- 1.5** 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.
- 1.6** The principal areas where my proposals differ from the Eighty Twenty Insight recommendations are: -
 - 1.6.1** I propose that we treat democratic services and elections as not being areas for sharing with other councils – at least for the present
 - 1.6.2** Functions such as customer services, street cleaning, economic development and tourism have been added in for completeness
 - 1.6.3** 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.
- 1.7** 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 suggested 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 would begin 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. Consultation and feedback

- 4.1** 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.
- 4.2** 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.”
- 4.3** 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.

- 4.4** 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 will be followed up in future meetings.
- 4.5** 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.

5. Performance management –monitoring and review

- 5.1** 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.
- 5.2** 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.

Report author: Andrew North, Chief Executive (andrew.north@cheltenham.gov.uk)

01242 264100

Appendices :

- A. Strategic Business Case
- B Proposed Structural Changes
- C Restructuring Process Guidance and Timeline
- D Risk Register

Background information:

Previous reports to this committee on 25 February and 27 May 2010 and report to Council on 28 June 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>.



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	: 0.4
Date	: 18 October 2010
Originator	: Jackie Tavener / Ken Dale

Document Control Sheet

Document Location

s:\special projects\commissioning framework\programme documents\business case and benefits\commissioning framework business case.doc

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

Changes Planned

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

References

28th October report to Staff and Support Services Committee – 'Suggested structure to support a Strategic Commissioning Council' – and its appendices

Contents

	Document Control Sheet	2
	Contents	3
1.	Introduction	4
2.	Strategic fit	5
	Supporting the council's financial strategy	5
	Delivering community outcomes	5
	Working with partners to meet customer needs	5
	National strategic drivers	6
	Programme Vision	6
	Key Benefits	6
	Key risks	7
	Critical Success Factors	7
3.	Options appraisal	8
	Option 1 – Retain existing delivery models	8
	Option 2 – Continue ad-hoc commissioning without changing the organisation or developing competencies	8
	Option 3 – Take a systematic approach to restructuring the organisation, developing practices and processes, and extending competencies	9
4.	Financial assessment	10
	Senior leadership team savings	10
	Potential costs	10
	Longer term savings	10
5.	Achievability	12
	Effectiveness of Partnership Working	12
	Senior Management Arrangements	12
	Stakeholder Views and Support	12
	Evidence of Effective Commissioning	12
	Capacity, Capability, Skills and Learning	13
	Plans and Strategies	13

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 £4.7M 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)
 - (c) 2013/14 onwards £213,000 (full year annual saving)

Potential costs

- 4.2. 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.
- 4.3. 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

- 4.4. 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.
- 4.5. 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.
- 4.6. 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. EightyTwo 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.

This page is intentionally left blank

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: -

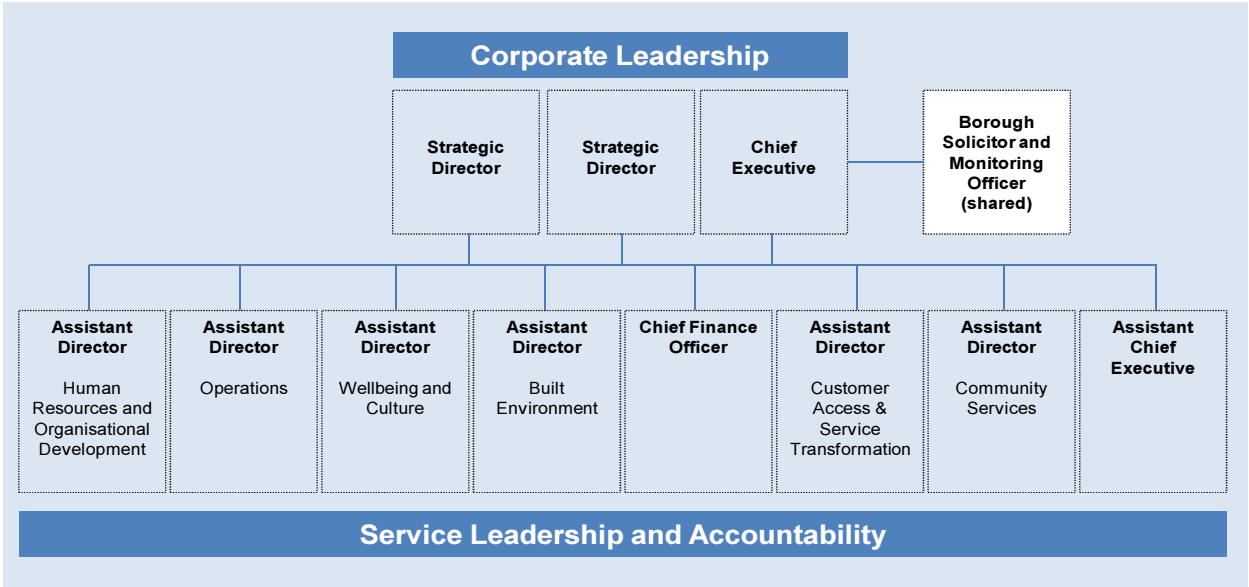
- A two phase approach with the second phase being implemented about 18 months after phase one so as to facilitate transition during a period of considerable change on several fronts
- Allowing scope for the structure to evolve during that 18 month period depending on the outcome of the GO programme 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: -

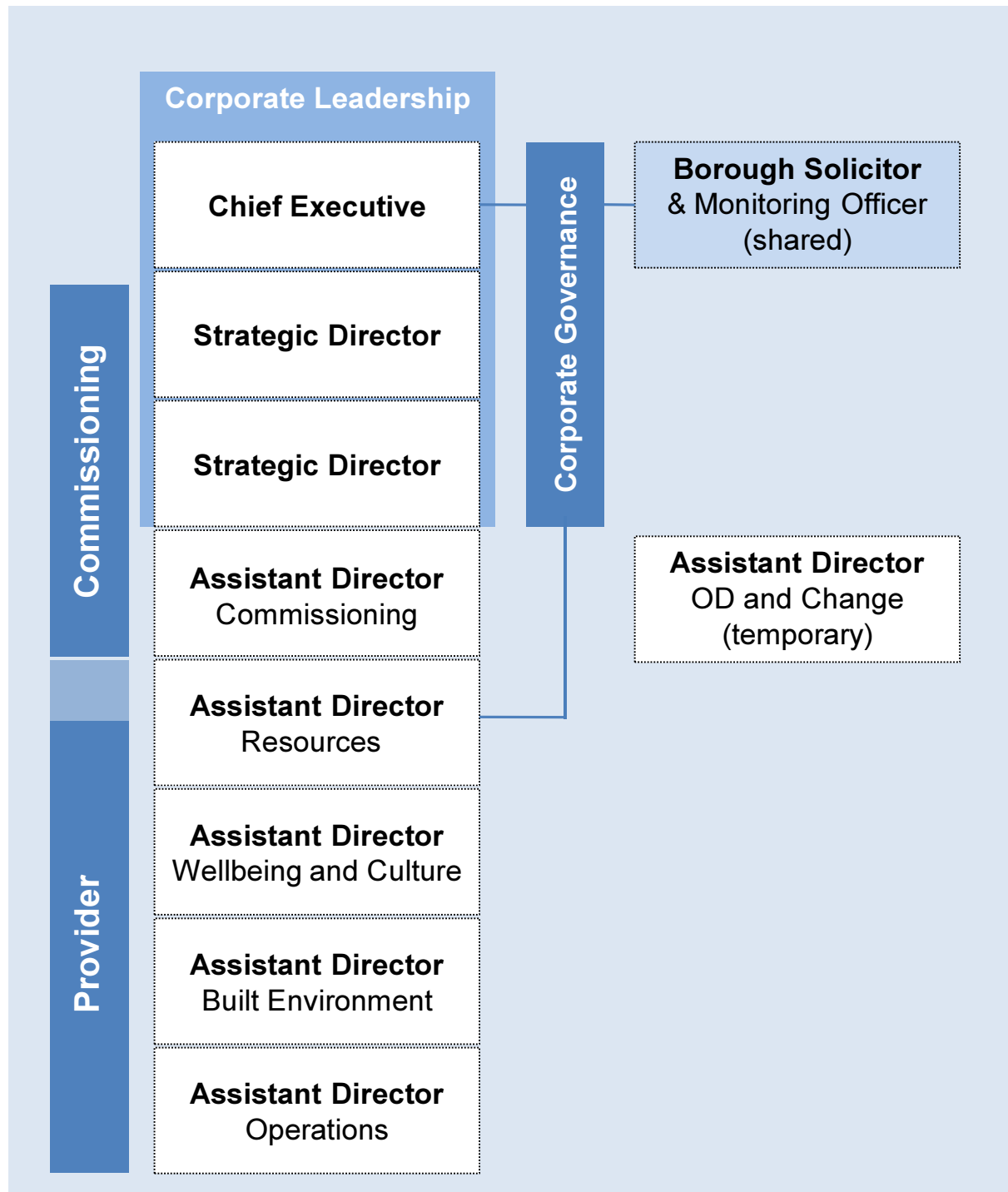
- We should try to avoid moving responsibility for a service area more than once if it can be avoided, but otherwise moving a function sooner rather than later is preferred
- The concept of a shared service for either democratic services or elections is as yet untested and for this reason these functions 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.

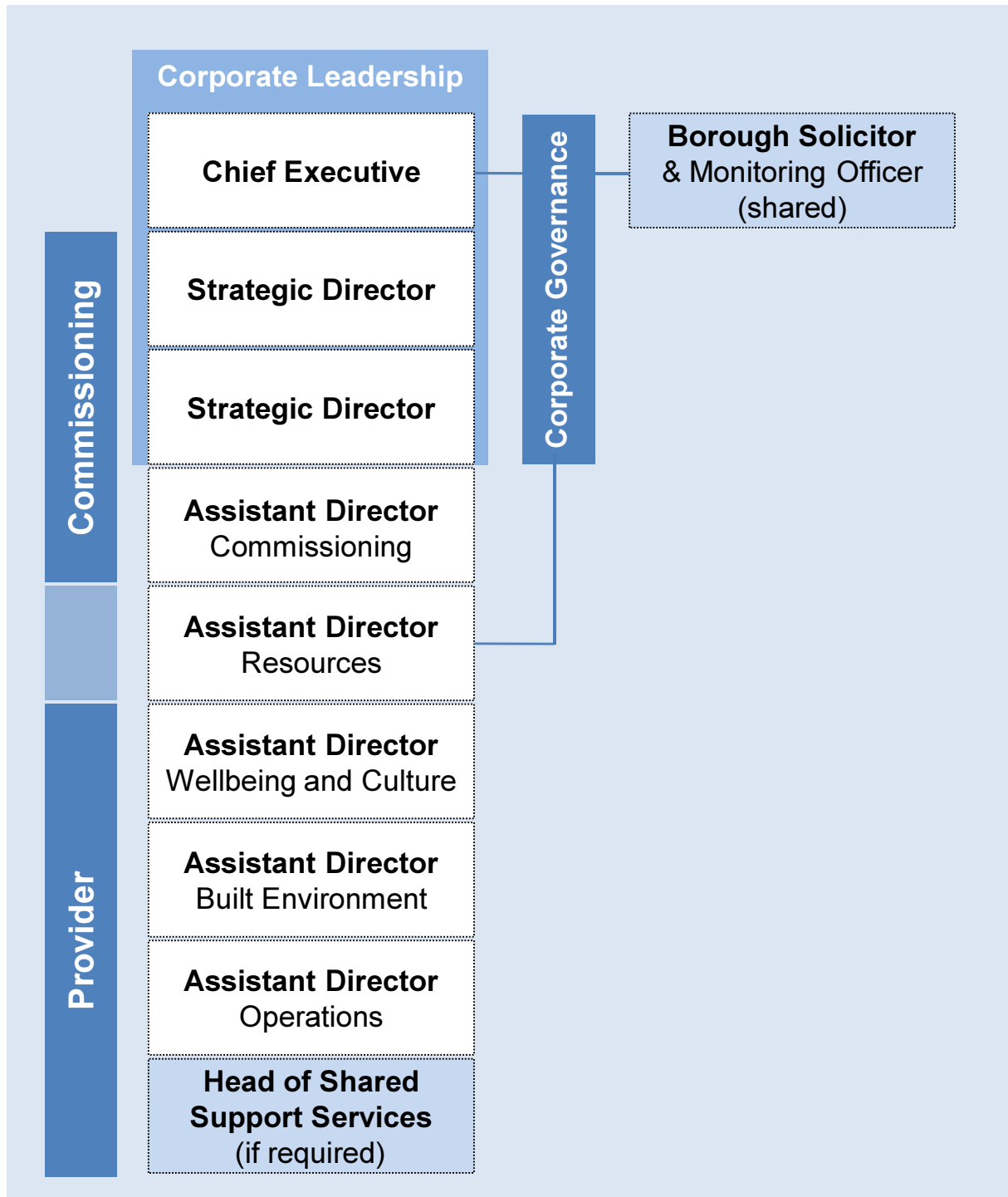
Current Structure



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 - 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. 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

(which commences once S&SSC has given support to the restructuring proposals)

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

- All employees affected will be issued with a letter confirming the proposals, consultation arrangements and how the proposals may affect them personally.
- Letters have been prepared to go out to SLT members as soon as S&SSC has made its decision. Structure charts and job descriptions/person specifications will be enclosed with the letters.
- The Chief Executive will arrange to meet with the affected employees to brief them on the proposals, the business case for these, and the process to be followed. The meeting can be on an individual or group basis.

Letters will advise employees of one of the following:

- Likely to be **NO CHANGE** to current role in the structure – **No change** 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**.
- Following the initial individual meeting, the Chief Executive will offer to meet with the affected employees at a 1-2-1 meeting. Employees may request to have a workplace colleague or their TU representative with them at the meeting (this is permitted).
- The Chief Executive will be supported by HR, as required, at the 1-2-1 meetings.

Stage two of the formal consultation processes

Following the consultation period:

- Allow time to consider all feedback gathered during this exercise before finalising the structure. In consequence the section 4 report may need to be revised before it is finalised for the Council meeting in December 2010.
- Job roles in scope will be re-visited to ensure any changes that have been adopted as a result of the consultation have not had a significant impact on the grades of posts in the proposed structure.
- The Chief Executive will then meet with the affected employees and Trade Unions to announce 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).
- 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 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	Establish savings and prioritized outcomes as a clear target output from any commissioning exercise. Ensure the rationale for a commissioning approach is clearly articulated.	Mark Sheldon	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 any conflicts.	Ken Dale (Programme Manager) & Jackie Tavener (Business Change Manager) Senior Leadership Team	Continuing to October 2012
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	Jan Bridges	March 2012

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							
						Development & Change) to support the transition.		
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 reduced	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 'place-based' project is to engage partners and create alignment. Ensure that joint funding is subject to use of proper commissioning disciplines	Richard Gibson	Continuing October 2011
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	Amanda Attfield	3	3	9	Define the Commissioning	Julie	April 2011

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							
	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					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	McCarthy Business Change Manager (Jackie Tavener)	
10	If the council does not adapt best practice from elsewhere to suit a two tier area there is a risk that the commissioning approach may not be fit for purpose, it may not deliver the outcomes expected and / or it may increase costs.	Andrew North	3	3	9	We are learning from other examples and adapting to our own context. Ensure effective processes. Adopt a dynamic risk management approach.	Future AD Commissioning (if role approved)	Ongoing to October 2012
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.	Amanda Attfield Senior Leadership	April 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							
						Continue to develop the council's resource management approach and the role of the Senior Leadership Team is resolving any conflicts.	Team	
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 fragmented organisation then the outcome may be a loss of the values which bind the organisation together	Andrew North / Amanda Attfield	4	2	8	The principle of working 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.	Amanda Attfield	Continuing to 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	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	Amanda Attfield	Ongoing throughout programme and future

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							
	be lost.					Joint Liaison Forum and Joint Consultative Committee.		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 commitment to a partnership arrangement for a minimum period may limit the deliverability of savings through commissioning	Andrew North	3	3	9	Ensure legal agreements for shared services allow for flexibility over sharing arrangements	Peter Lewis	Ongoing throughout programme and future commissioning exercises
18	If commissioning results in a more diverse provision of services then the council's corporate governance arrangements may be less effective.	Andrew North	3	3	9	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.	Future AD Commissioning (if role approved)	Ongoing throughout programme and future commissioning exercises

<i>Residual risk score</i>	<i>Risk Management view</i>
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.

Information/Discussion Paper

Staff and Support Services - 28 October 2010

Health & Safety Quarterly Performance Update July - September 2010

This note contains the information to keep Members informed of matters relating to the work of the Committee, but where no decisions from Members are needed

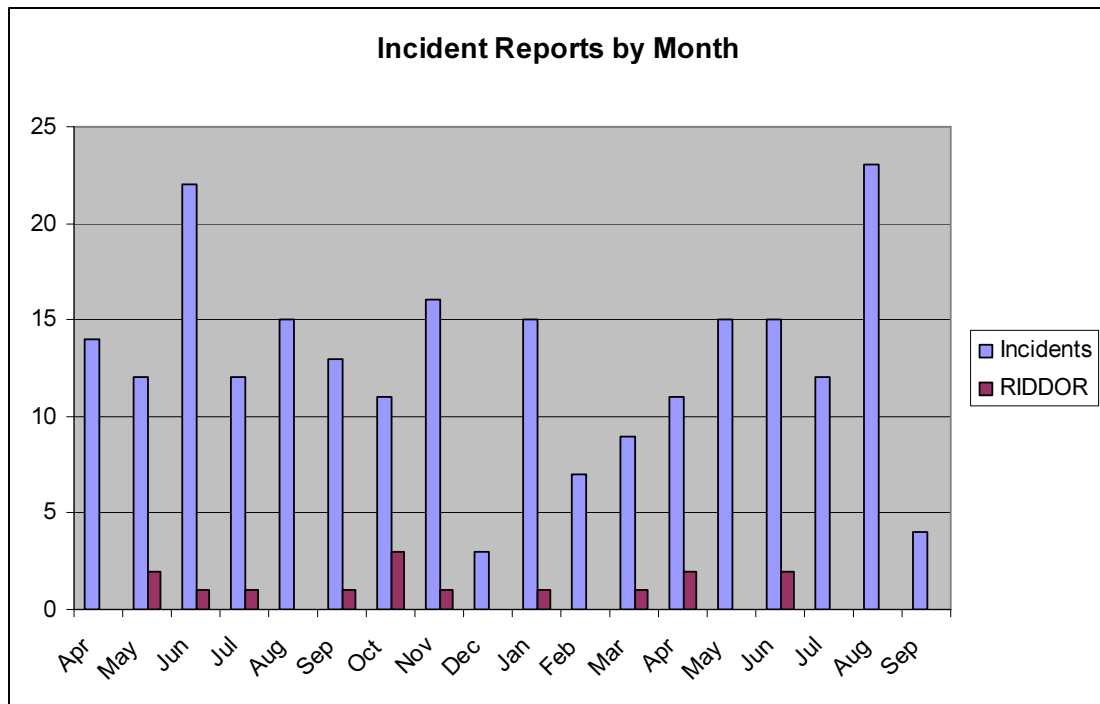
1. Why has this come to committee?

- 1.1** The report is intended to give members of the committee an update on corporate health and safety performance and issues. This report was originally tabled at the Joint Consultative Committee meeting on the 7 October 2010

2. Summary of the Issue

2.1 Accident and Injury Data

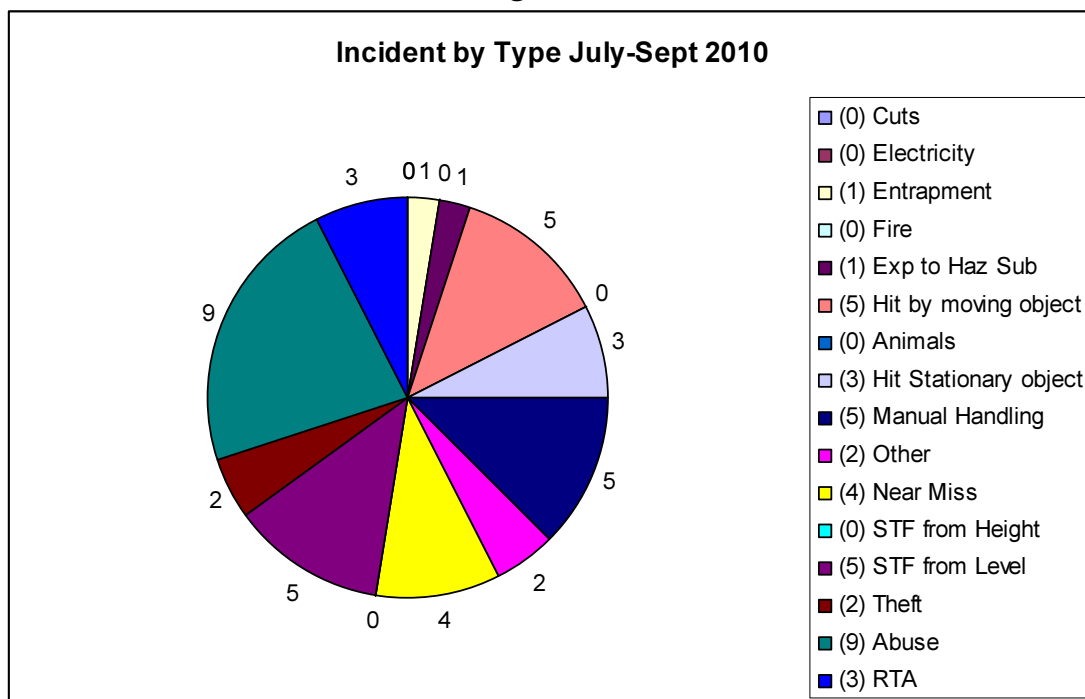
For the three months period July to September 2010 there were 40 work-related incident reports, compared to 40 for the same period during the previous year. The reports received are predominantly from 3 divisions, Health & Wellbeing, Built Environment and Operations where employees are engaged in physical activity and interacting with members of the public. There was a noticeable increase in reports in August mainly arising from verbal or physical abuse. There were no RIDDOR reports for this period.



2.2 Accident Causes/Services

The chart below shows a significant change from previous quarters where the majority of reports relate to verbal or physical abuse, accounting for **22%** of the total reports (mainly within Parking Enforcement). This may be through working closely with the Parking Team to encourage them to report these incidents so that we can better understand the issues they face. The majority of physical accidents were the result of Manual Handling **12%** and Slips, Trips and Falls on Same Level **12%**,

There are a couple of areas of concern, the first of which relates to verbal abuse reports – a number of the reports for this quarter relate to one specific vehicle which has been discussed with the local Police. The second relates to drivers seeming to have a lack of concern for employees who have to work on or adjacent to the highway with 3 incidents reported involving vehicles hitting our employees or there equipment. Where sufficient information has been available these again have been reported to the Police.



2.3 Work- Related Days Lost

Five members of staff were off sick through work-related injuries accounting for a total of 13 days absence from work. This compares to 56 days during the previous period by four members of staff.

Three of these related to manual handling injuries and two were related to minor vehicle collisions.

2.4 Reportable Accidents

It is pleasing to report that there were no RIDDOR reportable injuries or incidents for staff during this period.

2.5 Health and Safety Training

The Health & Safety Advisors deliver some internal training and co-ordinate external training where necessary. They also support the Corporate Induction and PC Essentials with health and safety perspectives.

During the three month period under consideration the following training has been delivered.

Course	Directorate	Total Trained
First Aid Re-qualification *	Various	8
AED Initial*	Various	11
Internal Fire Warden Procedures	Various (Muni Based)	5
Fire Warden*	Various	11
Manual Handling*	Wellbeing & Culture	27
Working at Height*	Wellbeing & Culture	27
Internal H&S Induction Training	Various	8
Manual Handling Refresher	Operations	5

* Denotes external provider

26 Legislation Update

No recent changes Health & Safety Legislation.

27 Health and Safety Executive (HSE) Interventions

There have been no HSE interventions during this period.

2.8 Health & Safety Initiatives

- **Remote Working** – H&S Advisors are working with HR Advisors and colleagues from the ICT section to provide a simple assessment system for managers and employees who will be either working remotely in customers homes, on site or from their own home.
- **Lone Working** – H&S and the Decent & Lifetime Homes team are working together to setup a lone working monitoring system to provide employees with security whilst working alone. A refreshed Lone Working Policy was approved by SSSC in June 2008.
- **Personal Safety Register** – The Personal Safety Register is a confidential database containing names of people and/or properties where council employees or contractors have suffered abuse whilst performing their job role.

The list is maintained to help prevent employees being exposed to further instances of abuse. Employees are made aware of the potential risks and need to undertake a specific risk assessment to ensure their personal safety before visiting the property or meeting the person. H&S Advisors and the Customer Relations Team are working together to develop the new database so that employees who visit clients have access to this vital risk information about the person or place they will be visiting.

- **Flu Jabs** – H&S Advisor have made arrangements for members and employees to receive free flu vaccinations in October. Take up of this offer have been good with 188 of the available 200 vaccinations already being allocated.

1.9 Project Work

The H&S Advisors are currently involved in a number of ongoing projects within the council including

- Selection of suppliers for replacement of cremators at the Crematorium in Bouncers Lane
- Advising the property team on health and safety issues relating to the Accommodation strategy for the Municipal Offices
- Selection and Implementation of the new Fire Services contract
- Selection of contractors relating to cleaning services
- Changes to the Waste and Recycling Collection service planned for 2011 and the proposed shared service with Tewkesbury Borough Council
- Movement of Art Gallery & Museum artefacts into from the current location into storage pending the proposed closure.

3. Next Steps

3.1 The committee to note the content of this paper.

Background Papers	Previous Quarterly Performance Reports
Contact Officer	Julie McCarthy, HR Operations Manager, 01242 264355, julie.mccarthy@cheltenham.gov.uk
Accountability	Councillor Colin Hay
Scrutiny Function	Not applicable

Information/Discussion Paper

Staff and Support Services Committee

28th October 2010

Human Resources Performance Update

This note contains the information to keep Members informed of matters relating to the work of the Committee, but where no decisions from Members are needed

1. Why has this come to Staff and Support Services Committee?

- 1.1 The aim of this briefing note is to provide members with performance information in relation to the Human Resources contribution to the Councils' Business Plan for 2010/11 and progress against the People and Organisational Development Strategy.
- 1.2 The council's Electronic Service Planning tool has now been replaced with a new model that only records performance against corporate outcomes. We will, however, continue to monitor performance against the 2010/11 HR service delivery plan and we will also review our local performance indicators to ensure that targets are realistic and challenging.

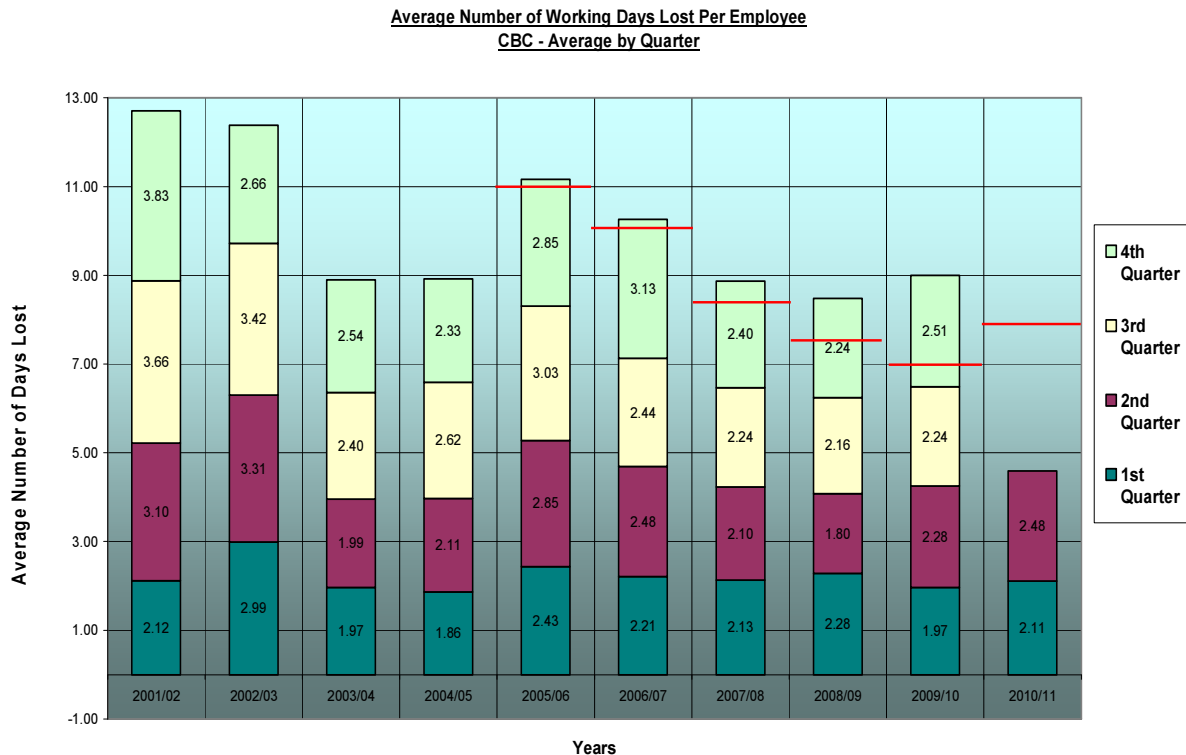
2. Summary of the Issue

- 2.1 Performance is as outlined in the report. The key target is to reduce absence, with a target of 8 days per fte per year (2 days per quarter). The outturn for the latest quarter (July - Sept) was 2.48 days per fte. This compares to 2.28 days for the same period last year.

3. Issues

- 3.1 Within the Corporate Strategy 2010/15, the Council has a cross cutting objective to *"ensure we provide value for money services that meet the needs of our customers"*, and the outcome is *"to deliver cashable savings as well as improved customer satisfaction overall and better performance through the effective commissioning of services."* For Human Resources, the strategy and work programme to help achieve this outcome is set out the People and Organisation Development Strategy, which aims to create a *"flexible, confident, forward thinking organisation, capable of meeting the challenges it faces, one where we all feel we can make a difference"*. The People and Organisational Development Strategy sets out a flexible framework and actions aimed to support the Council through the times ahead. The Strategy is covered in more detail under a separate agenda item.

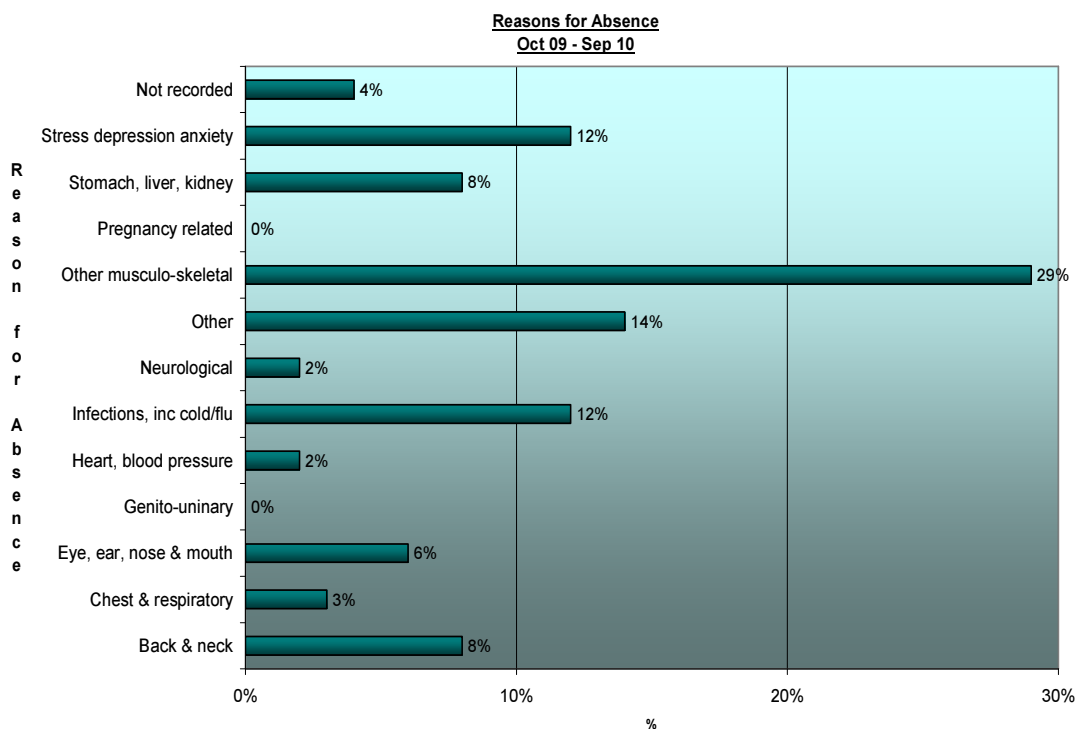
- 3.2** Sickness absence – 2.48 days lost against the target of 2.0 days for this quarter, compared to a return of 2.28 days for same quarter last year. The half year position shows an average of 4.59 days per employee against a target of 4 days. It should be noted that the actual days lost first two quarters of 2010/11 is slightly less than the same period for 2009/10 (2537.03 days compared to 2568.39 days), however, employee numbers have also reduced, thus making the average days lost per fte higher.



- 3.3** Key areas of underperformance remain in Operations, where absences due to musculo-skeletal or back & neck problems still remain high. However, the actual number of days lost due to these conditions has fallen for the second quarter running.
- 3.4** The implementation of the Occupational Health provider, IMASS, continues to work well with a significant decrease in the time from referral to appointment which has been reduced from an average of 7 weeks to an average of 5 working days. Feedback from line managers is positive, particularly in respect of the reports which now give them a higher level of detail, enabling them and the HR Business Partners to support individuals with a more robust return to work process and preventative interventions to reduce the potential for reoccurrence.
- 3.5** HR Advisors continue to monitor absence levels monthly and meet with line managers to review actions in line with the current absence policy. Other actions will include reviewing the absence policy to tighten trigger points for action. The long term target is to reduce absence to 6dys per FTE by 2015.
- 3.6** Vaccinations for seasonal flu will be held on the 20th & 22nd October 2010. 200

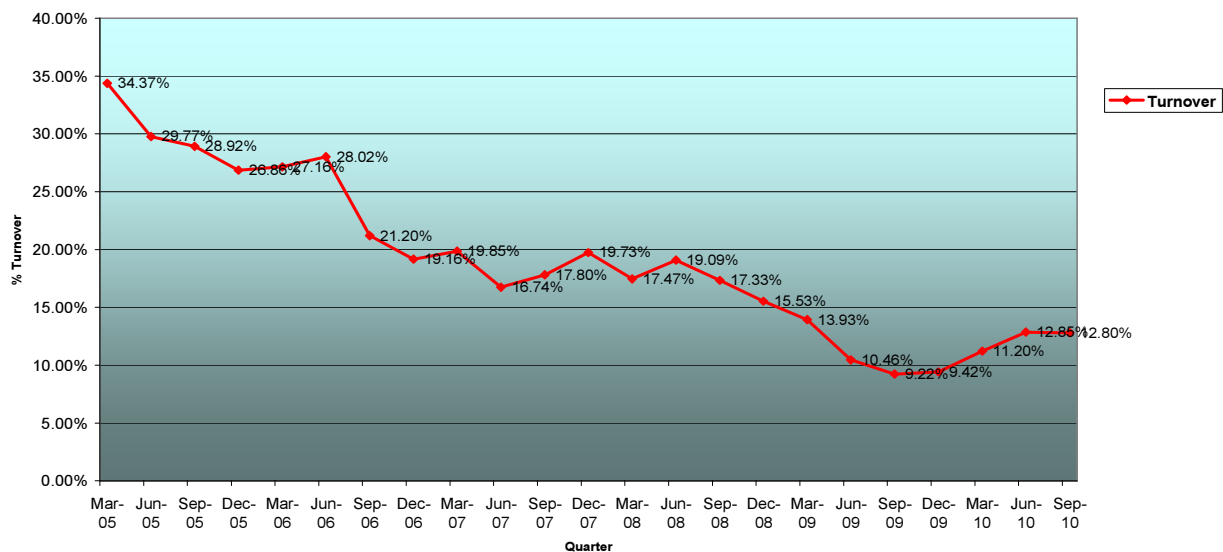
appointments have now been booked for the 2 sessions which are being held at the Swindon Road Depot and Municipal Offices.

- 3.7** The reasons for sickness absence have remained relatively consistent with previous periods. Reasons for absence during the 12 month period ending 30 September 2010 are shown in the graph below:

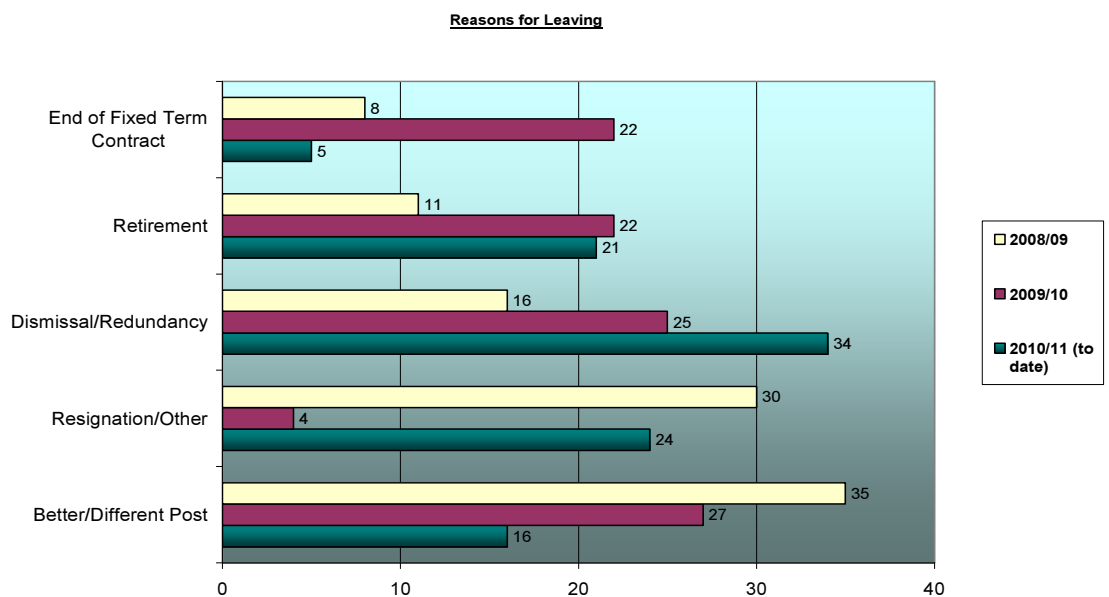


- 3.8** A training matrix detailing all the required H&S training for L@ employees has been created by the health & safety advisors. To date 11 L@ employees have been trained by H&S in manual handling with a view that all staff will be trained by mid 2011. The Operations Manager and one of the Duty Managers will complete their training by mid-November, so they can conduct 'in house' manual handling training. This is to ensure new starters, casual workers and employees who have been identified as needing additional instruction in manual handling receive the training promptly rather than waiting for corporate training to be arranged.
- 3.9** A Display Screen Equipment (DSE) Policy is scheduled to be in place by mid 2011 which will be cascaded across the council thereafter. This will ensure managers and employees are aware of the risks of using DSE so that control measures can be put in place to minimise musculoskeletal problems.
- 3.10** Employee Turnover - the trend on annual turnover is currently at 12.8% against 11% for 2009-10, 13% for 2008-9 and 17% in 2007-8 (local government average is 12.5%). Given the current economic climate, and leaver reasons, the focus on growing our own and providing opportunities for development internally are increasingly important. We also need to be mindful of a group of employees who will drop out of pay protection at the end of March 2011. Work is in hand to assess the individual positions.

CBC Turnover Statistics - All Staff
Period up to 30 Sept 2010



3.11 Reasons for employees leaving are shown below:

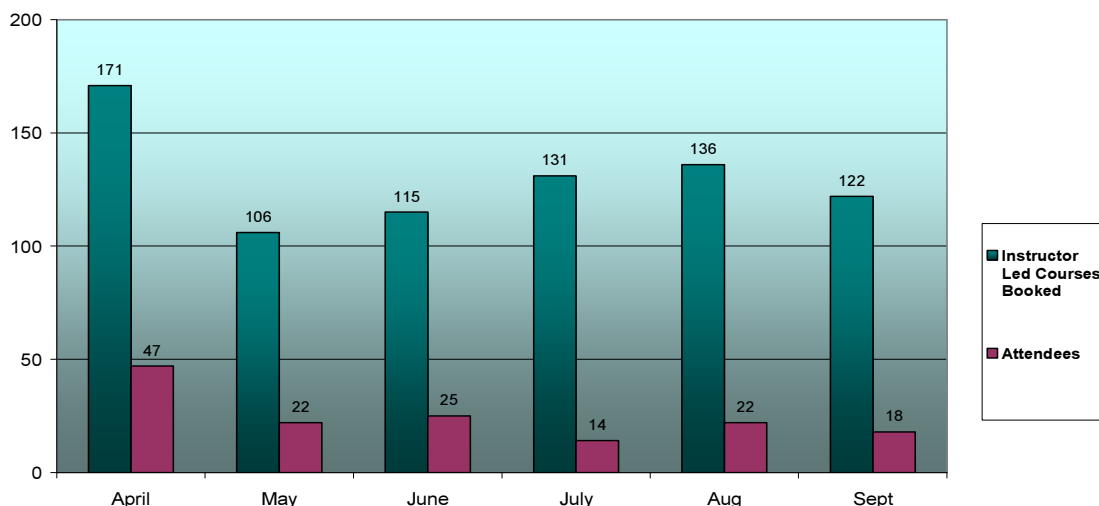


3.12 The 'Apprentices' partnership with Gloucester City Council continues and we currently have 2 business administration apprentices in Integrated Transport and the Web Team. Three other services have registered an interest in apprentices and will be submitting business cases for approval in line with the recruitment freeze.

3.13 There have been 781 requests for courses logged in the learning gateway since the beginning of April 2010, however, a vacant post within the team has made it difficult to match supply to the demand with 148 employees and members attending courses

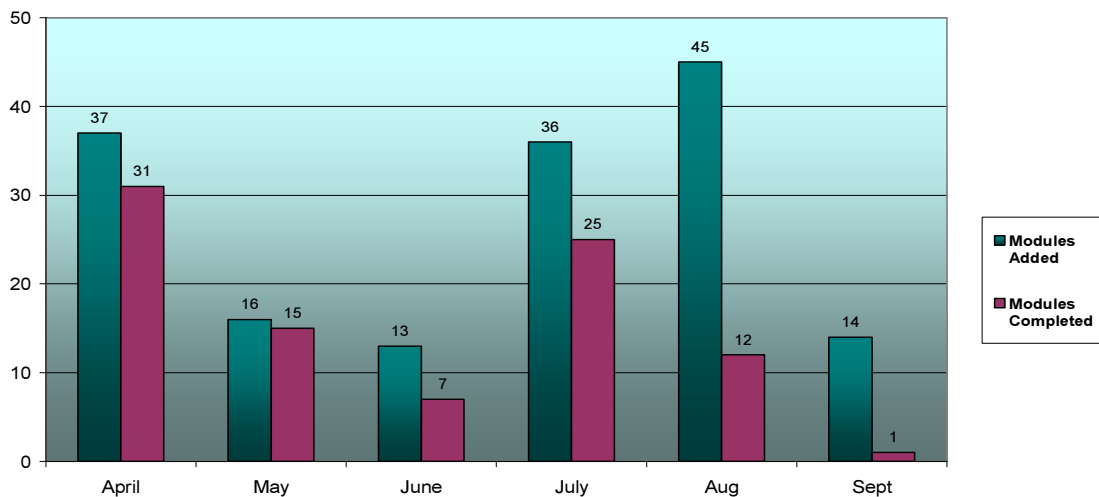
during the same period. The vacancy was filled in August and the team is working hard to reduce the waiting list for courses. Our commitment under 'bridging the gap' is to develop and deliver more courses internally and we are now delivering, minute taking and organising meetings; techniques for change; and assertiveness. Looking forward to 2011/12, adopting the internal delivery approach will result in a saving of £20,000.00 in the corporate training budget.

Instructor Led Courses



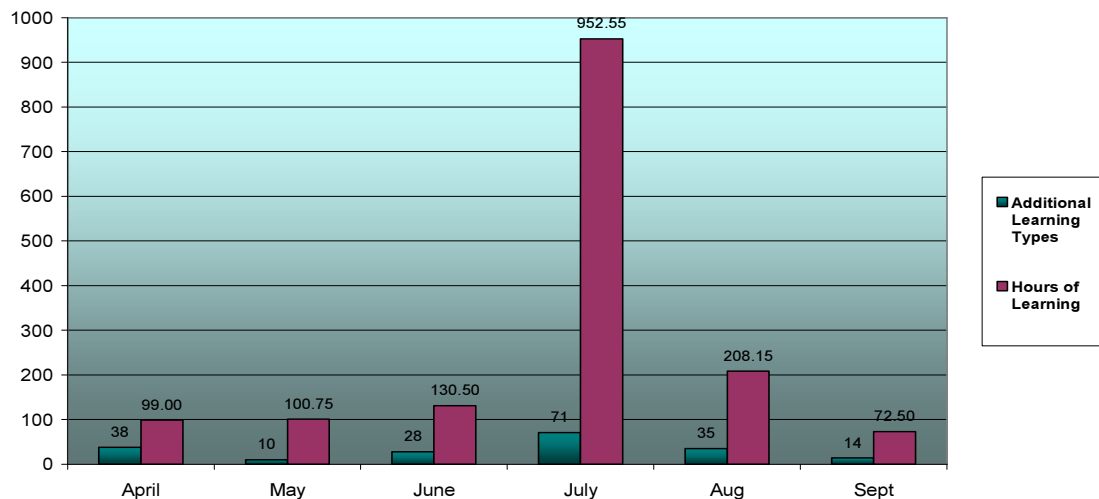
- 3.14** Since April 2010, 162 E-Learning modules have been added to personal development plans and 91 have been completed. This figure is very encouraging as the council have not had access to e-learning material before. Moving forward employees requesting development will be asked to complete the appropriate e-learning module, where one is available, and only request subsequent instructor-led training if the module does not meet all their training needs. With 'bridging the gap' in mind, this approach will maximise the use of the e-learning facility and help reduce spend on externally delivered courses.

E-Learning



- 3.15** Employees are also able to record 'other' development in the learning gateway. Sessions such as seminars, visits, on the job training, and coaching are all part of the council's investment in the development of its workforce. A total of 1563 hours of these types of learning was recorded by our employees from April to September. The August peak showing 952.55 hours of learning was mainly due to the recording of appraisals in the system.

Additional Learning



- 3.16** Appraisals for 2010/11 are complete (100% target achieved), with the Learning Gateway being used to streamline data capture and development needs.
- 3.17** Resourcing will be a key focus for the HR team over the coming months, supporting Commissioning, Sourcing Strategy, and shared service initiatives (such as Waste)

whilst transforming HR transactional services ready for a new system under GO Programme, and delivering business as usual e.g. personnel administration, case work, learning, payroll.

- 3.18** The national economic climate and bridging the council's financial gap will mean that employee relations are likely to dominate over the coming year and beyond. Alongside the majority of councils in the region, Cheltenham will continue to press for restraint on pay, and a position that enables the Council to plan prudently going forward.
- 3.19** Employees' declaring a disability was 1.94% compared to the current target is 2.75%. The percentage of disabled employees in the top 5% of wage earners, was 0% against a target of 3%. Actions for 2010-11 included improved liaison with Disability Employment Advisors, however, the current recruitment freeze means that these figures are unlikely to change for the remainder of the year.
- 3.20** The percentage of women in the top 5% of earners, remains constant at 30.77%, compared to the target of 22%. The percentage of employees from black/minority ethnic backgrounds has increased to 2.91% against target 2.9% and 2.81% 2009-10. The percentage in the top 5% of wage earners from black/minority ethnic backgrounds, is 0% against a target of 3%.
- 3.21** The percentage of ill health retirements remains at 0% (low is good - full year target is 0.32%) and percentage of employees retiring early is also 0% (low is good - full year target is 0.32%). Each and any early retirement request is subject to a business case and has to cost in. The Council may see more in this area over the coming months.
- 3.22** We are currently working in partnership with Gloucester City Council to evaluate providers of redundancy support packages and in particular those schemes that attract government funding.
- 3.23** The council has now held the Investors in People award for 15 years, and the awarding body has now sent us a certificate to recognise this achievement.

4. Recommendation

- 4.1 That the Committee note, and make comment on the content of this report.**

Background Papers

None

Contact Officer

Amanda Attfield

01242 264186

amanda.attfield@cheltenham.gov.uk

Accountability

-

Scrutiny Function

-

This page is intentionally left blank

Information/Discussion Paper

Staff and Support Services - 28th October 2010

Corporate Health & Safety Policy Refresh

This note contains the information to keep Members informed of matters relating to the work of the Committee, but where no decisions from Members are needed

1. Why has this come to committee?

- 1.1** Employers are required by the Health and Safety at Work etc. Act 1974 to do what is reasonably practicable to ensure the health and safety of employees, members and others who may be affected by Council activities. The Act requires a written statement of policy which sets out the general intentions, approach and objectives which should be reviewed and updated on a regular basis. The current policy dated 5th December 2008 has been reviewed and updated to take account of changes in the management structure and responsibilities. The Corporate Health and Safety Advisors will provide the necessary advice and support required to fulfil these obligations.

2. Summary of the Issue

- 2.1** Every employer has a legal duty to have a written Health and Safety Policy. This health and safety policy sets out the Authority's aims and objectives and the organisational structure and health and safety responsibilities of all employees and Members.
- 2.2** The Council has an existing policy in place, however Health and Safety Executive guidance identifies the policy should be reviewed and updated on a regular basis. This updated policy further clarifies roles and responsibilities of all those people involved with the Councils activities.

2.3 This Corporate Health and Safety Policy has been prepared to incorporate:

- the relevant principles of The Health and Safety at Work Act 1974

2.4 The policy formalises the responsibilities for members, managers and employees to ensure health and safety associated with the Councils activities are properly managed.

2.5 The implementation and ongoing application of this policy will be monitored by the HR Manager Operations and will be reviewed in line with changes in legislative requirements.

2.6 Failure to review and update this policy on a regular basis may lead to early intervention from the Health and Safety Executive. It also serves as a reminder to all of their obligations and responsibilities.

2.7 Formal consultation has taken place through members of the Joint Consultative Committee which includes the two recognised trade unions, Unison and GMB, and representatives from HR and management representative from two divisions of the council.

3. Next Steps

3.1 The aim of the Policy is to demonstrate the Authority's intent and commitment in ensuring the health and safety of its Members, employees and contractors. This policy underlines our recognition that health and safety is equally important to our other aims, and that we recognise our legal responsibilities. All relevant stakeholders will be briefed on the content of the policy.

3.2 The committee to note the content of this paper and the refreshed Corporate Health & Safety Policy – Appendix 1.

Background Papers	Note applicable
Contact Officer	Julie McCarthy, HR Operations Manager, 01242 264355, julie.mccarthy@cheltenham.gov.uk
Accountability	Councillor Colin Hay
Scrutiny Function	Not applicable

Corporate Health & Safety Policy

For All Employees at
Cheltenham Borough Council



Corporate Health & Safety

Foreword by the Chief Executive

Our commitment to health and safety forms part of the Council's wider agenda of social responsibility, sustainability, risk management, corporate governance and ultimately, quality of service.

The basis of our health and safety policy is to develop a climate in which a positive health and safety culture can develop.

We expect and require all employees to recognise their responsibilities as set out in this policy and to abide by their service area's local arrangements and procedures.

The signatures below demonstrate commitment at the highest level of the Council to this Health and Safety Policy and to the continuous improvement in our health and safety performance.

Chief Executive: Andrew North



Signature:

Date:

Leader of the Council: Councillor Steven Jordan



Signature:

Date:

Corporate Health and Safety Policy

“Striving for excellence in health and safety risk management”

In line with the Council's general and statutory obligations to provide a safe and healthy working environment for employees, Cheltenham Borough Council has adopted a policy statement on health and safety. This policy statement details the Council's intentions towards the creation, maintenance and development of a safe and healthy working environment. It identifies the respective roles and responsibilities of the Council as an employer and in relation to all employees working within the Council.

Guiding Principles

To achieve continuous improvement of our health and safety performance through leadership, the dedication of our employees and the application of high standards in our work we have adopted four guiding principles:

Control – management are responsible for the clear allocation of health and safety responsibilities and for ensuring those responsibilities are implemented

Co-operation - we all have a responsibility to co-operate as individuals and as groups to make health and safety a collaborative effort

Communication - communication of health and safety information is essential and can always be improved

Competence - developing the health and safety competence of managers and employees to ensure they have the skills and knowledge necessary to maintain a safe and healthy working environment.

These guiding principles are interrelated and interdependent and consistent activity in each area is needed to promote a climate in which a positive health and safety culture can develop.

Policy Aim

To provide, as far as is reasonably practicable, an environment and working practices that ensure the health, safety and welfare of employees and visitors to the Council.

To be an organisation where everyone can fulfil their potential free from work related injury or ill health; this includes employees, service users, contractors, and others who may be affected by our work activities

All employees are expected to co-operate in the implementation of the Council's Health & Safety Policy by: -

- acting in the course of their employment with due care for their own safety and that of others, who may be affected by their acts or omissions at work.
- co-operating, so far as is necessary, to enable the Council to perform any duty or to comply with any requirements, as a result of any Health and Safety legislation which may be in force.

- using correctly all work items provided by the Council in accordance with the training and the instructions they receive to enable them to use the items safely.

Policy Objectives

- to conduct all our activities and operations safely and in compliance with legislation and best practice
- to provide safe working conditions and equipment including plant and machinery
- to promote a positive safety culture
- to be an exemplar organisation in health and safety management
- providing information, instruction and training, as necessary, at all levels (including non-employees and contractors) to make sure they are competent, avoid ill health or injury at work, and increase awareness of employees' legal and moral obligations towards health and safety
- providing suitable and adequate assessment of the health and safety risks to employees (while at work) and non-employees (arising out of our work activities)
- to establish Directorate targets and action plans for continuous improvement of health and safety performance

The Council recognises that the successful implementation of its health and safety objectives is dependent on the commitment and involvement of both Members and officers and sufficient resources being allocated to both implement the Policy and ensure systems are sustainable.

Organisational Structure and Responsibilities for Health and Safety

The specific health and safety roles and responsibilities assigned to various posts and functions within the Council are detailed below.

The Council

The Council as the employer is ultimately responsible for the application of Health and Safety legislation, for achieving the objectives of this Health and Safety Policy, and for ensuring that adequate resources are made available to meet the health, safety and welfare needs of its employees.

The Council delegates the work required to meet these responsibilities to Cabinet, the Chief Executive and Corporate Directors, with advice from the Corporate Health and Safety advisors.

Responsibility for health and safety cascades through the authority from the Chief Executive to each individual. Responsibilities are allocated based on the principle that you are responsible for the work under your control, for those working under your control and for the people who are affected by your work.

Chief Executive and Strategic Directors

The Chief Executive is responsible for the overall management of the Authority and is accountable and has ultimate responsibility for the health and safety of all those who work in the Authority and those who may be affected by our work activities.

To demonstrate this responsibility the Chief Executive personally endorses this Health and Safety Policy Statement.

Strategic Directors play a strategic role in supporting the Chief Executive to meet his responsibilities.

The Exec Board takes responsibility and visible leadership for strategic health and safety issues and will:

- Ensure adequate resources are made available to implement the Corporate Health and Safety Policy.
- Take account of health and safety when developing policies, making decisions, implementing major projects and change management initiatives.
- Monitor and review health and safety performance.
- Ensure full co-operation between divisions to enable us to deliver a consistent approach to managing health and safety
- Ensure that decision-making is in line with Council policy and procedures for health and safety and any statutory provisions set out in legislation
- Ensure development, implementation and review of systems within the authority to promote management control, communication, co-operation and competence on health and safety matters

Members

All members shall ensure that the decisions they make are in line with Council policy and procedures for health and safety and any statutory provisions set out in legislation. This principle is to be borne in mind by all committees and during all contacts with employees and members of the public.

Assistant Directors

Assistant Directors are responsible for ensuring that robust health and safety management systems exist in their respective divisions.

They are accountable for the overall health and safety performance of the services they manage.

It is the responsibility of Assistant Directors to ensure that there are arrangements in place to:

- Meet the aims and requirements of the Corporate policy, organisation and arrangements
- Identify and cascade service and individual health and safety objectives through the

management line

- Periodically review performance against health and safety objectives
- Report on Service health and safety performance as required
- Ensure that any identified preventative and corrective actions are implemented.

Service Managers/Supervisors/Team Leaders

Health and Safety legislation requires all 'Managers', wherever they work, to help the Council maintain and improve health and safety standards.

This means that 'Managers' must:

- Ensure all work-related hazards are identified and suitable and sufficient risk assessments are undertaken.
- Develop local procedures and safe working practices in line with departmental documentation, and local risk assessments and communicate these to employees.
- Ensure that they and their employees have adequate levels of competency to complete their work tasks safely.
- Ensure that local health and safety systems are maintained.
- Report and investigate incidents as necessary.
- Set a good example and promote good practice
- Encourage people to identify problems before they result in accidents
- Release employees for appropriate health and safety training
- When procuring services ensure the supplier has the necessary health and safety arrangements in place relevant to the service being requested.

Building Managers

Building managers, working in conjunction with Property Maintenance, have additional responsibilities to ensure that the place of work they are responsible for is maintained to an appropriate standard and that relevant legislative and the Councils requirements are met.

In particular this means that Building Managers must ensure that:

- An Asbestos Risk Register is undertaken and maintained
- Building fire risks are managed through Fire Risk Assessment, maintenance of relevant equipment and adequate numbers of trained and competent Fire Wardens
- First Aid provision is maintained with appropriate equipment and trained and competent First Aiders
- General access and egress routes are maintained and appropriate measures are in place for separation of vehicles and pedestrians
- Legionella risks are appropriately controlled
- Contractors working on their behalf are properly controlled

Employees (including Agency staff and Casual Workers)

The Health and Safety at Work Act 1974 requires all employees (including agency staff and casual workers), *“to take reasonable care for the health and safety of themselves and of other persons who may be affected by their acts and omissions”* and *“shall co-operate with management to enable management to carry out their responsibilities under the Act”*. This means that all employees must:

- Act responsibly and take care of their own health and safety and that of others, not only in what they do but also what they may fail to do.
- Co-operate with and support the Council, managers and other employees (including agency staff and casual workers), in meeting their health and safety legal responsibilities.
- Undertake any required training in safe methods of working and only use tools, machinery, plant, vehicles or equipment that they are trained to use.
- Take all suitable safety precautions and carry out work in accordance with the information, instruction and training they have received (written or verbal).
- Make use of, wear and take good care of anything (including equipment and protective clothing) provided for the purposes of health and safety.
- Maintain tools, machinery, plant, vehicles and equipment in a good condition, only use them for the purpose intended and withdraw from use anything that is considered unsafe.
- Report defects, malfunctions, hazards, accidents, incidents, “near misses” and anything thought to be dangerous to their Manager and /or the Corporate Health and Safety Advisor without delay. **If employees feel that reporting of any health and safety issue may bring recrimination from a manager or other employee, they should report their issue using the Whistle Blowing reporting process**
- Be sensibly and safely dressed for their particular working conditions.

Contractors

Contractors must:

- Co-operate and communicate with the Council on all relevant health and safety matters.
- Meet the health and safety standards required of them in the performance of the work activities undertaken with or on behalf of the Council.

Corporate Health and Safety Function

The Corporate Health and Safety function is delivered by officers (who act as the ‘competent person’ as set out in the Management of Health and Safety at Work Regulations 1999) within the Human Resources and Organisational Development Division and is managed by the HR Operations Manager.

The Corporate Health & Safety function responsibilities include:

- the provision of competent health and safety advice throughout the Council
- offer professional advice to ensure the Council's responsibilities for health and safety are met and any issues resolved (e.g. if management and employee safety representatives views differ for any reason, supporting the procurement of services etc.)
- auditing, monitoring and reporting on the effectiveness of the policy
- provide advice on health and safety legislation
- identify health and safety training needs

Joint Consultative Committee

Membership of the Joint Consultative Committee (the JCC) includes Cabinet Members, the HR Operations Manager, Corporate Health and Safety Advisors, representatives from Senior Leadership Team (SLT) and Trade Union Representatives.

Safety Representatives

Cheltenham Borough Council recognises and encourages appointed safety representatives as they represent the interests and concerns of their co-workers and respond on their behalf.

The JCC:

- Fulfills the Council's obligations as regards to consultation on health and safety at work, with recognised Trade Unions.
- Ensures that operational health and safety policies and standards are brought to the attention of SLT.
- Provides a forum for discussing health and safety issues.
- Supports health and safety activities including monitoring, inspection, audits and review of activities.

Occupational Health

To ensure the health and wellbeing of employees, the Council provides access to an occupational health support service to ensure that relevant advice is available to managers and employees in keeping them fit for work.

Staff & Support Services Committee 2010 - 11 Work Programme



The work of the Staff and Support Services Committee will focus on the following cross-cutting objective of the Cheltenham Borough Council Business Plan 2010 -2015;

\\mudata\mgdataroot\AgendaItemDocs\7\0\0\AI00001007\sqlsum20a.doc

“Ensuring we provide value for money services that meet the needs of our customers”.

Contacts:

Amanda Attfield, Assistant Director HR and OD

Tel: 01242 26 4186 **Email:** amanda.attfield@cheltenham.gov.uk

Julie McCarthy, HR Operations Manager

Tel: 01242 26 4355 **Email:** julie.mccarthy@cheltenham.gov.uk

Clive Minett, HR Business Partner – Systems and Business Improvement

Tel: 01242 77 5164 **Email:** clive.minett@cheltenham.gov.uk

Jan Bridges, Learning and Organisational Development Manager

Tel: 01242 77 5189 **Email:** jan.bridges@cheltenham.gov.uk

Sara Freckleton, Borough Solicitor

Tel: 01242 26 4155 **Email:** sara.freckleton@tewkesbury.gov.uk

Standard Agenda Items:

1. HR performance update
2. JCC (inc. Health and Safety)

Papers explained:

Report: Scheduled on the agenda for discussion at the meeting. Requires a decision or recommendation from the committee.

Information/Discussion Paper: Scheduled on the agenda for discussion at the meeting. No decision or recommendation required.

Briefing Note: For information only. Not scheduled on the agenda for discussion at the meeting.

Meeting Date		Item	P & O D Priority Action	Purpose	What is required?	Contact Officer
27 May 2010	1.	HR performance	All	Keep members informed	Information / Discussion Paper	Amanda Attfield
	2.	JCC (inc. Health and Safety)	Health & Wellbeing	Keep members informed	Verbal update	Julie McCarthy
	3.	Equal Pay	Pay & Reward	Exempt document	Briefing Note	Amanda Attfield
	4.	Managing Change	Recruitment & Retention / Organisational Development	Member comments and agreement of new policy	Report	Julie McCarthy
	5.	Strategic Commissioning	Organisational Development	Further discussion	Report / Presentation	Andrew North / Ken Dale
	6.	Vetting and Barring	Health & Wellbeing	For information only	Briefing Note	Julie McCarthy
	7.	Fit Notes	Health & Wellbeing	For information only	Briefing Note	Julie McCarthy
	8.	HR Shared Services	Organisational Development	For information only	Briefing Note	Amanda Attfield
	9.	2010 - 11 Appraisals	Skills Development	Keep members informed	Verbal update	Jan Bridges
Meeting Date: 27 May 2010; Agree Agenda: 17 May 2010; Complete Reports: 14 May 2010; Dispatch: 19 May 2010						
29 July 2010	1.	HR performance	All	Keep members informed	Information / Discussion Paper	Amanda Attfield
	2.	JCC (inc. Health and Safety)	Health & Wellbeing	Keep members informed	Verbal update / Briefing Note	Colin Hay / Julie McCarthy
	3.	People and Organisational Development Strategy		Member comments and agree draft strategy	Report	Jan Bridges
	4.	Smarter Travel Plan		Update members	Information / Discussion Paper	Owen Parry
	5.	Whistle-blowing	Organisational Development/ Health & Wellbeing	Member comments and to agree revised policy	Report	Julie McCarthy
	6.	Health and Well-Being policy	Health & Wellbeing	Member comments and to agree new policy	Report	Julie McCarthy

	7.	KPMG/Review Working Group – recommendation 4		Establish an Appointments Committee	Report	Sara Freckleton
	8.	KPMG/Review Working Group – recommendation 5		Appointment of any Statutory Officer	Report	Sara Freckleton
	9.	Vetting and Barring	Health & Wellbeing	Update for committee	Briefing Note	Julie McCarthy
	10.	New Government Announcements (Pay Freeze)		Update for committee	Briefing Note	Amanda Attfield
	11.	Equal Pay	Pay & Reward	Exempt Document	Briefing Note	Amanda Attfield
Meeting Date: 29 July 2010; Agree Agenda: 24 June 2010; Complete Reports: 19 July 2010						
28 October 2010	1.	HR performance	All	Keep members informed	Information / Discussion Paper	Amanda Attfield
	2.	JCC (inc. Health and Safety)	Health, Safety & Wellbeing	Keep members informed	Verbal update	Julie McCarthy
	3.	Policy Review Timetable	Tbc	Keep members informed	Briefing Note	Julie McCarthy
	4.	Strategic Commissioning	Tbc	Section 4 report re: proposed changes to structure of Council prior to Council	Report	Andrew North / Ken Dale
	5.	Corporate Health & Safety Policy	Health & Wellbeing	Review changes to policy and agree	Information / Discussion paper	Julie McCarthy
	6.	Constitution Review	Tbc	Review revised constitution and agree changes	Report	Sara Freckleton
	7.	Amended Equalities Act	Tbc	Keep members informed	Briefing Note	Julie McCarthy
	8.	Default retirement age	Tbc	Keep members informed	Briefing Note	Julie McCarthy
Meeting Date: 28 October 2010; Agree Agenda: 23 September 2010; Complete Reports: 18 October 2010						
24 February 2011	1.	HR performance	All	Keep members informed	Information / Discussion Paper	Amanda Attfield
	2.	JCC (inc. Health and Safety)	Health, Safety & Wellbeing	Keep members informed	Verbal update	Julie McCarthy
	3.	Removal of default retirement age		Keep members informed	Briefing Note	Julie McCarthy
	4.	Localism Bill				
	5.	Comprehensive Spending Review				
	6.	Accommodation Strategy				

Meeting Date: 24 February 2011; Agree Agenda: 20 January 2011; Complete Reports: 14 February 2011						
26 May 2011	1.	HR performance	All	Keep members informed	Information / Discussion Paper	Amanda Attfield
	2.	JCC (inc. Health and Safety)	Health, Safety & Wellbeing	Keep members informed	Verbal update	Julie McCarthy
Meeting Date: 26 May 2011; Agree Agenda: 21 April 2011; Complete Reports: 16 May 2011						
28 July 2011	1.	HR performance	All	Keep members informed	Information / Discussion Paper	Amanda Attfield
	2.	JCC (inc. Health and Safety)	Health, Safety & Wellbeing	Keep members informed	Verbal update	Julie McCarthy
Meeting Date: 28 July 2011; Agree Agenda: w/c xx xx 2010; Complete Reports: 18 July 2011						

To be scheduled	Request for enhanced payment	Tbc	Request for enhanced payment	EXEMPT Report	Amanda Attfield
-----------------	------------------------------	-----	------------------------------	---------------	-----------------

This page is intentionally left blank

Briefing Notes

Name of Committee: Staff & Support Services

Date of meeting: 28 October 2010

Responsible Officer: Julie McCarthy

This note contains information to keep Members informed of matters relating to the work of the Cabinet but where no decisions from Members are needed.

If Members have questions relating to matters shown, they are asked to contact the Officer indicated.

HR and H&S Policy Review Timetable

Contained in the table below are the titles of all the HR and H&S policies that assist and support the work of the service. The table also contains the year that the policies are due to be formally refreshed or drafted. Changes to legislation and/or good practice guidance are actioned as soon as the HR Operations Manager is made aware of them.

Policy Name	Adopted Date	Formal Refresh Date	New Policy to be created	Policy Owner
HR & OD POLICIES				
Sickness Absence Policy	2006	2010		HR
Appraisals	2010	2011		HR
Acting Up Policy	2009	2012		HR
Adoption Leave/Pay	Guidance in line with NJC Terms & Conditions			HR
Alcohol and Substance Misuse Policy	2009	2012		HR
Annual Leave (inc how to calculate pro-rata leave entitlement)	2009	2012		HR
Attendance Pattern Policy for day & shift workers	2009	*2012		HR
Bank Holidays	2009	*2012		HR
Flu Pandemic	2009	2011		HR

Capability Policy (Poor performance)	1998	2010		HR
Car User Policy	2009	*2012		HR
Career Breaks/Sabbaticals	No formal policy in place		2011	HR
Casual Workers Policy	2007	2010		HR
Childcare Voucher Scheme	2008	reviewed annually		HR
Compassionate Leave/Dependant Care	Guidance in line with NJC Terms & Conditions			HR
Compensation Regs Policy	2007	2010		HR
Contractual Right to Deduct Overpayment of Salary	2009	2012		HR
Criminal Records Bureau (CRB)	2007	2010		HR
Dignity at work	2009	2012		HR
Disciplinary Policy & Rules	2008	2011		HR
Dress Code & Personal Appearance	No formal policy in place		2011	HR
Evening Meeting Attendance Allowances	No formal policy in place		*2010	HR
Fixed term contracts	2007	2010		HR
Flexible Working (right to request)	Guidance in line with NJC Terms & Conditions			HR
Flexitime	2009	2012		HR
Gender Reassignment	No formal policy in place		2011	HR
Grievance Policy	2008	2011		HR
Honorarium	2009	2012		HR
Independent Safeguarding Authority (ISA) Vetting & Barring	New Legislation - Awaiting further guidance from Government			HR
Induction Checklist	2007	2010		HR
Illegal Workers	Guidance in line with current legislation			HR
Jury Service	Guidance in line with NJC Terms & Conditions			HR
Learning & Development Policy	2009	2012		HR

Maternity	Guidance in line with NJC Terms & Conditions			HR
Market Forces Supplement Policy	2009	2012		HR
Notice Periods	2009	2012		HR
One to Ones	No formal policy in place		2012	HR
Overtime Policy	2009	*2012		HR
Parental Leave	Guidance in line with NJC Terms & Conditions			HR
Paternity Leave	Guidance in line with NJC Terms & Conditions			HR
Pay Scales	2009	2010		HR
Personal Relationships at Work	No formal policy in place		2011	HR
Probation Policy	No formal policy in place		2010	HR
Professional Training - Mileage Allowance	2010	2013		HR
Professional Subscriptions	No formal policy in place		2011	HR
Recruitment of Ex-Offenders Policy	Policy adopted in 2007 – Guidance in line with current legislation			HR
Recruitment Policy	2010	2013		HR
Redeployment Policy	2006	2010		HR
Redundancy Policy	2007	2010		HR
References (giving and receiving)	No formal policy in place		2010	HR
Religious and Belief Observance	No formal policy in place		2011	HR
Relocation Allowance	2008	2011		HR
Restructuring/Change management	2010	2013		HR
Flexible Retirement Policy	2009	2012		HR
Retirement Policy	2010	2011		HR
Secondments	No formal policy in place		2010	HR
Special Leave	Guidance in line with NJC Terms & Conditions			HR

Sporting Events	2010	2013		HR
Standby/Call-out Procedures	2009	2012		HR
Time Off for Dependants	Guidance in line with NJC Terms & Conditions			HR
Terms and Conditions of Employment	Guidance in line with NJC Terms & Conditions			HR
Training Courses and Programmes	Annually following appraisal completion			HR
Travel & Subsistence Expenses	2009	*2012		HR
Understanding your payslip	Guidance in line with NJC Terms & Conditions			HR
Unpaid Leave	Guidance in line with NJC Terms & Conditions			HR
Whistle Blowing Policy	2010	2013		HR
Working Time Regulations	Guidance in line with current legislation			HR
Volunteers and Work Experience Guidance	Guidance in line with current legislation			HR
Volunteering Policy	2009	2012		HR
TUPE	2010	2013		HR
Restructuring Process & Timeline	2010	2013		HR
Pay Protection Guidance	2010	2013		HR
Variation to Job, Roles and Duties Guidance	2010	2013	HR	
HEALTH & SAFETY POLICIES				
Accident and Incident Reporting	2008	2013		H&S
Permit to Work	2003	2010		H&S
Safety Audit & Inspections	No formal policy in place		2011	H&S
Asbestos	2009	2012		H&S
Bomb threats	2009	2012		H&S
Management of Contractors	2003	2010		H&S
Display Screen Equipment	2009	2012		H&S

Electrical Safety	Safe system of work in place		2011	H&S
Fire Evacuation Procedures	2009	2012		H&S
First Aid	2007	2010		H&S
Legionella	No formal policy in place		2010	H&S
Manual Handling	2007	2011		H&S
Noise	No formal policy in place		2011	H&S
Personal Protective Equipment	2003	2011		H&S
Staff Personal Safety and Violence	2009	2012		H&S
Lone Workers	2007	2010		H&S
Risk Assessment	Harriet System Implementation 2010/2011			H&S
Work at Height	2004	2011		H&S
Blood, Body Fluids and Sharps	Safe system of work in place		2011	H&S
Control of Substances Hazardous to Health (COSHH)	2003	2011		H&S
Vehicle safety (last updated 6 Apr 2005)	2005	2011		H&S
Young Persons	2003	2012		H&S
New and Expectant Mothers	2003	2012		H&S
JOINTLY OWNED POLICIES				
Severe Weather Policy	2010	2013		HR/Emergency Planning
HR Aspects of dealing with a major emergency or business continuity event	2009	2011		HR/Emergency Planning
Business Continuity Plans	2009	2010		HR/Emergency Planning/All Divisions
Stress Policy	2008	2011		HR/H&S
Task & Finish Policy	2009	2012		HR/H&S
No Smoking Policy	2008	2011		HR/H&S
Occupational Health	2010	2013		HR/H&S

Health and Wellbeing Policy	2010	2013		HR/H&S
Mobile Phones	2004	TBC		HR/H&S/ICT
Remote Working Policy	2010	2013		HR/H&S/ICT
Pension Scheme	Guidance in line with NJC Terms & Conditions			HR/Glos County Council
Equal Opportunities Policy	2008	2010		POLICY & PERFORMANCE /HR
Code of Conduct for Employees Policy	1998	2010		HR/LEGAL

*denotes – dialogue commenced with recognised trade unions to fast track formal refresh date. This is due to current unprecedented budgets pressures.

Contact Officer: Julie McCarthy
 Tel No: 01242 264355
 Email: julie.mccarthy@cheltenham.gov.uk

Briefing Notes

Name of Committee: Staff & Support Services

Date of meeting: 28 October 2010

Responsible Officer: Julie McCarthy

This note contains information to keep Members informed of matters relating to the work of the Cabinet but where no decisions from Members are needed.

If Members have questions relating to matters shown, they are asked to contact the Officer indicated.

Equality Act 2010

What is the Equality Act?

The Equality Bill received royal assent on 8 April 2010, becoming the Equality Act 2010. The stated aim of the Act is to reform, harmonise and streamline discrimination law, and to strengthen the law to support progress on equality. The Act strengthens and extends protection from discrimination to cover nine 'protected characteristics':

1. Age
2. Disability
3. Gender reassignment
4. Marriage and civil partnership status
5. Pregnancy and maternity
6. Race
7. Religion and belief
8. Sex
9. Sexual orientation

It also extends protection against harassment across most of the protected characteristics, and extends protection to employees who have been harassed by third parties such as customers, suppliers or contractors to all the protected characteristics. The Act applies to employers and service providers.

When does the Act come into force?

The various sections of the Act will be brought into force according to a staged timetable. As the Act is brought into force, it will replace all existing equality legislation. The vast majority of the Act came into force on 1 October 2010. The provisions relating to the single public sector equality duty, the extension of protection from age discrimination, protection from dual discrimination, and the introduction of extended positive action provisions will be introduced later (2011-2012)

What does it mean to employers?

The aim was to bring together existing UK discrimination laws and regulations into one Act but the opportunity was also taken to both make additions and update the law.

Some of the language has also changed. Whilst the same characteristics are protected as before, for example, age, disability, race, etc. these are now known as 'protected characteristics'.

The Act will also bring Equal Pay into a sharper focus and employers who do not have a proper pay structure should take a special note of this requirement.

Detailed below is a brief overview of five key areas of change that came into force from 1 October 2010.

Pre-employment health questions:

Employers may no longer ask candidates about any disability or medical conditions before making an offer of employment, except where directly linked to the role e.g. driving. Also good practice would advise that managers avoid questions such:

‘How many days have you had off work due to sickness in the last year?’

Employers will still be able to withdraw a job offer if a health questionnaire then finds that the candidate is not capable of doing the job and reasonable adjustments cannot be made

Pay Reporting and Equal Pay:

- A person bringing an equal pay claim no longer has to compare themselves with an actual employee of the opposite sex doing equal work. They can now rely on a hypothetical comparator.
- Successfully defending such claims will in future depend on employers having proper pay structures in place supported by a fair job evaluation system.
- The Act also makes 'gagging' clauses which stop employees discussing their salaries virtually indefensible

Discrimination by association or perception

This change may sound a little legalistic but it simply means the following:

- You cannot discriminate against someone because they are associated with a person who has one of the 'protected characteristics'.

For example: you cannot refuse to promote someone because he/she looks after an elderly relative or is married to a person of a particular race.

- You cannot discriminate against someone because you think they have one of the 'protected characteristics'.

For example you cannot turn down an applicant because you think he/she is gay or a woman because you think she may pregnant.

Pregnancy

Many employers still appear to consider it acceptable to discriminate on the grounds of pregnancy. The Act makes a key legal change in that pregnancy now becomes a 'protected characteristic' in its own right, not just part of sex discrimination. Treating a woman unfavourably because of her pregnancy, pregnancy-related illness or absence on maternity leave is now direct discrimination. Claiming discrimination has also become more straightforward as a woman now only has to show that she has been treated less favourably 'than is reasonable'

Disability discrimination

Significant changes have been made to the rules on disability discrimination which can only be summarised here. Institute members can gain more detail by subscribing through the Institute to the BusinessHR website. The key changes are:

- Tribunals have been given wider powers to decide what is a disability. The claimant still has to show that he/she has a 'physical or mental impairment' that has a 'substantial' and 'long-term' adverse effect on his/her ability to carry out 'normal day-to-day activities'.
- Indirect discrimination has also been extended to cover disabled people. This means that setting criteria for a job that are not essential for its performance but which could exclude a disabled candidate, who could otherwise do the role, could be discriminatory.
- The Act introduces discrimination 'arising from' a disability. This means that claimants simply have to show that they received less favourable treatment because of their disability and not compared to another person. One area needing special care will be handling higher absence rates by disabled employees. Employers can defend such claims on the grounds that it is a proportionate means of achieving a legitimate aim or they were unaware of the

disability. The duty to make reasonable adjustments for a disabled person is also expanded and employers will need to take increased care in assessing such requirements.

The following provisions are amongst those that will not take effect in October 2010:

Positive action in recruitment and promotion

The Government's decision to delay implementing the controversial power for employers to take positive action on recruitment and promotion is unsurprising. This part of the Act would allow employers to recruit or promote employees because of their sex, race etc if they are 'as qualified as' other candidates, provided this is done on a case-by-case basis rather than as a matter of policy. The Conservatives voiced concerns about the clause when the Bill was being debated in Parliament and indicated, pre-election, that they would avoid implementing it should they come to power.

Gender pay reporting

Under the Labour Government there was talk of requiring larger private and third sector employers and some in the public sector to publish their gender pay gap, i.e. the difference in pay between male and female employees. With that in mind, the Act contains a section that would give Ministers power to introduce new regulations, at some future date, that would make reporting compulsory.

Neither the Conservatives nor the Liberal Democrats were happy with this provision, albeit for different reasons. One option available to the coalition would be simply to bring the relevant section of the Act into effect without ever using the power to introduce regulations. By declining to implement this provision the coalition appears to be sending out a message that it does not think forcing employers to reveal what they pay to men and women is the solution to the stubborn problem of the gender pay gap.

Dual discrimination

The Act contains a section aimed at enabling individuals to claim they have been discriminated against because of a combination of two protected characteristics (as opposed to a single characteristic). The Labour government had planned to introduce the new concept in April 2011 and that may yet happen. Any further delay in implementing it will be largely symbolic as previous cases have demonstrated that claimants are already able to claim that they have been discriminated against on grounds of a combination of characteristics. Such claims will still be possible under the Equality Act 2010 even without the dual discrimination provision.

Most of the provisions covering discrimination beyond the workplace will also take effect on 1 October. Again, however, there are exceptions, including:

Public sector equality duties

The coalition is consulting on bringing this aspect of the Act into effect in April 2011. For the time being the existing race, disability and gender equality duties will continue to apply.

Public sector socio-economic duty

The future of the embryonic socio-economic duty is precarious in light of the Conservatives' pre-election claims that they would not bring it into effect.

Age discrimination by goods and service providers

Given that even the Labour government did not intend to extend age discrimination protection until April 2012, it is unsurprising that this part of the Act will not take effect in October this year. That should not be taken as a sign that these provisions have been kicked into the long grass. When the Bill was debated, neither the Liberal Democrats nor Conservatives opposed the principle of extending age discrimination protection to service-users.

If you would like to read more information on the Equality Act then please visit the following web sites:-

<http://www.eversheds.com/documents/services/EqualityAct2010.pdf>

<http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/>

http://www.equalities.gov.uk/equality_act_2010/equality_act_2010_what_do_i_n.aspx

Contact Officer: Julie McCarthy
Tel No: 01242 264355
Email: julie.mccarthy@cheltenham.gov.uk

This page is intentionally left blank

Briefing Notes

Name of Committee: Staff & Support Services

Date of meeting: 28 October 2010

Responsible Officer: Julie McCarthy

This note contains information to keep Members informed of matters relating to the work of the Cabinet but where no decisions from Members are needed.

If Members have questions relating to matters shown, they are asked to contact the Officer indicated.

Default retirement age to be abolished next year

The Government has confirmed that it plans to abolish the default retirement age (DRA) next year.

The aim is that from 6 April 2011 the statutory retirement procedure in the Age Regulations will be revoked, as will the provisions that prevent an employee who is dismissed for retirement bringing age discrimination and unfair dismissal challenges provided a number of key conditions are met.

Transitional provisions

The Government proposes a transitional period of just under six months (6 April 2011 to 1 October 2011), so that retirements that have already been initiated can continue through to completion, provided that:

- notification of retirement is issued by the employer prior to 6 April 2011
- the date of retirement falls before 1 October 2011
- all requirements of the statutory retirement procedure are met.

The effect of the proposed changes will be that employers will be unable to issue new notifications of retirement using the DRA after 5 April 2011, and retirements using the DRA will cease completely on 1 October 2011.

Justifying retirement

After the changes are implemented it will still be open for employers to have a compulsory retirement age but only if the employer can justify it as a proportionate means of achieving a legitimate aim. An example would be where a drop off in performance could lead to significant safety risks, evidence shows a clear link between age and a deterioration in performance and

routine performance testing is not feasible. Workforce planning reasons might also justify retaining a compulsory retirement age for some employers.

When determining whether a compulsory retirement age can be objectively justified as being a proportionate means of achieving a legitimate aim, tribunals will look at the needs and circumstances of the employer's business and the rationale behind such a practice.

Other potentially fair reasons for dismissal of employees over the age of 65 may include capability or redundancy. However, it seems likely that there will be an increased risk that any unfair dismissal claims brought by employees dismissed on these grounds may also include an age or, perhaps, disability discrimination claim which could result in a potentially unlimited level of compensation.

Employers will need to decide whether or not they are going to retain a "normal retirement age", post 6 April 2011. Should they choose to do so, this age would require to be objectively justified.

Employers' retirement policies will also need to be reviewed and significantly amended to reflect the proposed changes. Whilst the statutory procedures will no longer apply, the Government has suggested that giving employees the right to request to work beyond the age of 65 will still be integral to the question of fairness where a post 6 April 2011 retirement dismissal is effected.

Clear communication to employees will be key to the successful implementation of the changes. All relevant managers will need to be fully appraised of the new protocol to be followed to avoid employers falling foul of the new regime.

Contact Officer: Julie McCarthy

Tel No: 01242 264355

Email: julie.mccarthy@cheltenham.gov.uk

This page is intentionally left blank