



CHELtenham

BOROUGH COUNCIL

Notice of a meeting of Cabinet

Tuesday, 15 January 2013
6.00 pm

Municipal Offices, Promenade, Cheltenham, GL50 9SA

Membership	
Councillors:	Steve Jordan, John Rawson, Rowena Hay, Peter Jeffries, Andrew McKinlay, Jon Walklett and Roger Whyborn

Agenda

	SECTION 1 : PROCEDURAL MATTERS	
1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	MINUTES OF THE LAST MEETING To approve the minutes of the meetings held on 11 December and 21 December.	(Pages 1 - 16)
4.	PUBLIC QUESTIONS AND PETITIONS	
	SECTION 2 :THE COUNCIL <i>There are no matters referred to the Cabinet by the Council on this occasion</i>	
	SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE <i>There are no matters referred to the Cabinet by the Overview and Scrutiny Committee on this occasion</i>	
	SECTION 4 : OTHER COMMITTEES <i>There are no matters referred to the Cabinet by other Committees on this occasion</i>	
	SECTION 5 : REPORTS FROM CABINET MEMBERS AND/OR OFFICERS	
5.	INTEGRATED TRANSPORT RETAINED ORGANISATION REVIEW Report of the Cabinet Member Built Environment.	(Pages 17 - 28)

6.		PROPOSED LEASEHOLD DISPOSAL OF A PARCEL OF OPEN SPACE AT SANDY LANE RECREATION GROUND Report of the Cabinet Member Finance	(Pages 29 - 34)
7.		REQUEST FOR LEASEHOLD DISPOSAL OF OPEN SPACE AT MONTPELLIER GARDENS Report of the Cabinet Member Finance	(Pages 35 - 40)
8.		3RD SECTOR APPLICATION FOR RETAIL PREMISES AT 12 ROWANFIELD EXCHANGE Report of the Cabinet Member Finance	(Pages 41 - 52)
9.		RELEASE OF RESTRICTIVE COVENAN-LAND FORMERLY OWNED AT LECKHAMPTON INDUSTRIAL ESTATE, 205 LECKHAMPTON ROAD, CHELTENHAM Report of the Cabinet Member Finance	(Pages 53 - 60)
10.		DRAFT POLICY ON MEASURES TO CONTROL STREET SCENE ACTIVITIES IN CHELTENHAM Report of the Cabinet Member Housing and Safety	(Pages 61 - 128)
11.		AMENDMENTS TO CHELTENHAM CIVIC PRIDE URBAN DESIGN FRAMEWORK TECHNICAL APPENDIX ROYAL WELL DEVELOPMENT BRIEF Report of the Cabinet Member Built Environment	(Pages 129 - 148)
12.		COUNTER FRAUD, CORRUPTION AND BRIBERY POLICY AND PROCESS Report of the Cabinet Member Corporate Services	(Pages 149 - 170)
		SECTION 6 : BRIEFING SESSION <ul style="list-style-type: none"> • Leader and Cabinet Members 	
13.		BRIEFING FROM CABINET MEMBERS	
		SECTION 7 : DECISIONS OF CABINET MEMBERS AND OFFICERS Member decisions taken since the last Cabinet meeting	
		SECTION 8 : ANY OTHER ITEM(S) THAT THE LEADER DETERMINES TO BE URGENT AND REQUIRES A DECISION	

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Cabinet

Tuesday, 11th December, 2012

6.00 - 7.25 pm

Attendees	
Councillors:	Steve Jordan (Leader of the Council), John Rawson (Cabinet Member Finance), Rowena Hay (Cabinet Member Sport and Culture), Peter Jeffries (Cabinet Member Housing and Safety), Andrew McKinlay (Cabinet Member Built Environment), Jon Walklett (Cabinet Member Corporate Services) and Roger Whyborn (Cabinet Member Sustainability)
Also in attendance:	Councillor Penny Hall

Minutes

1. APOLOGIES

There were none.

2. DECLARATIONS OF INTEREST

There were none.

3. MINUTES OF THE LAST MEETING

The minutes of the meeting held on 13 November 2012 were approved and signed as a correct record.

4. PUBLIC QUESTIONS AND PETITIONS

There were none.

5. REPORT OF THE GRASS VERGES SCRUTINY TASK GROUP

Councillor Penny Hall, Chair of the Grass Verges Scrutiny Task Group introduced her report and explained that the review was generated by the number of complaints about the standard of grass cutting in Cheltenham. A small working group was set up comprising officers and members. The review had been very positive and had widened and deepened its role. It was a good result for scrutiny..

The Cabinet Member Sustainability said that the review had been thorough and he recommended that Cabinet accept all the recommendations. He looked forward to increased liaison with Gloucestershire Highways and Ubico via monthly meetings.

The Leader of the Council thanked the group for its work.

RESOLVED

To adopt the recommendations of the Scrutiny Task Group Report.

6. TREASURY MID-TERM REPORT

The Cabinet Member Finance introduced the report and explained that due to the difficult economic climate the Council's investment income had fallen. He reported the following :

- Short-term borrowing had been reduced from £7 million to £2 million
- Borrowing costs were now estimated to be £35 200 less than budgeted for
- Since the downturn the emphasis for investments has been on safety and security
- Investment income was slightly up at £10 200
- The range of investments had been widened, including in safe custody accounts
- With regard to Icelandic Bank investments 100 % would be recovered from Landsbanki and Glitnir and the accrued interest; approximately 85% would be recovered from Kaupthing Singer and Friedlander i.e. £10.5 million capital and £0.6 million interest which was better than expected and due to the efforts of the LGA

RESOLVED

To note the contents of the summary report of the treasury management activity during the first six months of 2012/13.

7. LEISURE & CULTURE COMMISSIONING REVIEW

The Cabinet Member Sport and Culture introduced the report and paid tribute to the current Leisure and Culture service which provided a diverse range of services. As it was a non statutory service she emphasised that there was a risk to future delivery if it was not possible to find a sustainable and viable model for the future. She explained that the conclusion of the options appraisal process was that the establishment of a new trust was the best option to not only deliver the priority outcomes but also to attract funds not available to local government for example charitable rate relief, gift aid and other grants.

The Cabinet Member reported that a cross-party Cabinet Member Working Group has supported the commissioning review since May 2011 and key partners and stakeholders have been kept up to the date with the review as it has progressed.

The Cabinet Member explained that as the Council proposes to enter into a contractual arrangement for the provision of leisure and cultural services it is necessary for it to undertake a limited market testing or advertisement exercise under EU Procurement Rules. The new single focused organisation would enable a sustained offering for the future and contribute to the Medium Term Financial strategy.

Subject to the recommendations being approved, the next key stage would include working up a management agreement in more detail.

The Cabinet Member Finance referred to the huge financial challenges which the Council was facing and believed the trust option represented a positive way

forward. He referred to the success of Cheltenham Festivals which had previously been an in-house operation and which now attracted commercial support which would be unavailable to a local authority. The status quo was not an option. He paid tribute to the hard work of officers who had been involved in investigating options for the service.

Members welcomed the recommendations and said it was an exciting prospect for the service and hoped it would become dynamic and vibrant. They recognised that there were fears but emphasised that leisure and culture was fundamental to the Cheltenham offering so it was vital that it succeeds. A question was raised on how the Council could manage or influence outcomes if potential problems arose. In addition concern was expressed that the Trust did not become subject to a take-over by a national body.

In response the Cabinet Member Sport and Culture said that the status quo also represented a risk and the next steps were crucial in terms of drafting the Articles of Association and the Management Agreement as well as appointing the right Trustees.

The Leader of the Council concluded the debate by saying that this represented a big opportunity but emphasised that important conversations were yet to be held.

RESOLVED THAT

1. The Executive Director, in consultation with the Cabinet Member for Sport and Culture and the Borough Solicitor, be authorised to commence the processes set out in sections 4, 5 and 6 of this report to create, subject to the outcome of a procurement process, a new charitable trust. The trust would have the legal form of a charitable company limited by guarantee and broad objects to advance health, arts, sports and education. The trust would begin operation no later than 1 April 2014.

2. the draft 10 year financial plan be agreed as outlined in exempt Appendix 1.E to the business case, as amended for the 2013-14 standstill budget to be reported to Cabinet as part of the 2013-14 budget process (see section 3 of this report).

3. a further report be brought back to Cabinet at a later date to agree the memorandum and articles of association, heads of terms of the various agreements and a detailed business plan (if necessary) as set out in section 7 of this report.

And Further:

4. that Council be recommended to allocate funding for one-off set up costs of £410,500, as outlined in section 3.14. The source of funding will be recommended by the Council's Section 151 Officer in finalising the Council's revised budget 2012/13 and the budget proposals for 2013-14 including any impact on the MTFs projections as part of the budget setting process for 2013/14, to be agreed by Council in February 2013.

8. WASTE SERVICE POLICY

The Cabinet Member Sustainability brought Members' attention to an amended recommendation that once approved, the new version of the Waste Service policy would substitute the version contained in Ubico's service contract with the Council dated 1/04/12.

The Cabinet Member explained that this policy formalised the waste and recycling collection service processes and procedures in a single document. In terms of enforcement the policies on sidewaste in bags and closed lids had been piloted in the summer and was now being rolled out.

Scott Williams, Strategic Client Officer, was invited to address Cabinet. He explained that the no sidewaste and closed bin lid policy was being implemented in a staged manner. 6000 properties had been targeted initially in St Pauls and this was now being rolled out to another area of 5500 properties in Charlton Kings and Battledown. He explained that the staged approach meant that support could be provided to those households who needed it. The demand for recycling boxes had subsequently increased.

Reference was made to private or unadopted roads and the Strategic Client Officer explained that refuse lorries only go as far as the highway boundary but in some instances, where the distance is long lorries do go beyond the boundary but this is at the owners risk.

Members welcomed the phased approach to enforcement and referred to the experience in St Pauls where the increased resource has enabled officers to contact landlords and knock on household doors. Demand for recycling boxes in this area has soared.

In response to a question on dealing with flytipping the Cabinet Member Sustainability explained that a policy on street cleaning was in the pipeline.

RESOLVED

That the Waste Service Policy be approved and its publication be authorised on the Council's website and be incorporated into the Council's contract with UBICO.

9. JOINT WASTE COMMITTEE

The Cabinet Member Sustainability introduced the report and explained that the establishment of a joint waste committee had been a long process. Doing things jointly with other councils created economies of scale. Initially three districts- Forest of Dean, Cotswold and CBC would be involved together with the county council but interest had also been expressed by Tewkesbury. Stroud DC and Gloucester City were still tied to contracts with suppliers but were keeping a watching brief via the Gloucestershire Waste Partnership meetings.

The Cabinet Member Sustainability explained that the joint committee approach could achieve several million pounds worth of savings in the longer term. A significant amount had already been achieved via the formation of Ubico but CBC would still benefit from a single system for waste collection and disposal which could raise £100 k of savings for each authority for the first three years. The aim was ultimately to have a joined up countywide system.

The Cabinet Member Sustainability reported that certain decisions and functions would be retained by the districts, namely the design of the service, budgets and charges and enforcement. Officer time would be ringfenced. All other parties have agreed to go forward with the arrangement being implemented in April 2013.

The Leader of the Council acknowledged that it had been a long process and the establishment of Ubico had happened at the same time. He wished to put on record his thanks to the Cabinet Member and relevant officers.

RESOLVED THAT

a) the financial arrangements as set out in paragraph 3.1 of this report be approved

b) Subject to (a) above the Cabinet decision on 15 November 2011 be reaffirmed as follows:

- agree to establish the Gloucestershire Joint Waste Committee (GJWC) in accordance with Sections 101 and 102 of the Local Government Act 1972, and the Local Authorities (Arrangement for the Discharge of Functions)(England)(Amendment) Regulations 2001 made under Section 20 of the Local Government Act 2000;
- delegate to the Chief Executive in consultation with the Cabinet Member Sustainability, s151 Officer and the Borough Solicitor authority to finalise and complete the Inter Authority Agreement (including the Constitution), including but not limited to the delegation arrangement for enforcement, the year one Business Plan and other documentation and to take all necessary steps to create the GWJC by April 2013;
- agree that the existing Shadow Joint Waste Board and Programme Board arrangements will persist until the end of March 2013 to oversee this process.

Upon the establishment of the GJWC:

- delegate to the GJWC of this Council's functions in relation to the collection, management, disposal treatment, or recycling of waste and street cleansing described in detail in paragraph 4.1 of the 15th November 2011 Cabinet report but subject to the retained decisions as set out in paragraph 4.2 of the said report and as revised in the current inter-authority agreement at section 3.2;
- appoint Gloucestershire County Council as Administering Authority
- appoint Cllr Roger Whyborn and Cllr Steve Jordan to the GJWC.

10. HOUSING OPTIONS REVIEW

The Cabinet Member Housing and Safety introduced the report and explained that the commissioning review had reached the conclusion that there were two potential commissioning options available-in-house provision or transfer to the Council's Arms Length Management Organisation, i.e. Cheltenham Borough Homes.

He wished to highlight that the value demand for the Housing Options Service was 70 % and the value demand attributed to Homeseeker work was less than 30 %; the waste identified fell into 2 main categories, customer contact and the Homeseeker computer system.

Due to the welfare reform changes the in-house Housing Options team would be considering how the service needs to adapt to achieve the Council's stated outcomes for homelessness prevention. A further report would be brought back to Cabinet in May 2013 recommending the proposed commissioning option.

RESOLVED THAT

1. When undertaking service re-design, and commissioning the service, the Council requires the future service provider to identify and implement innovative services/schemes in an effort to combat the affects of welfare reform on the most vulnerable households. (Para 4.1.6)
2. Housing Options Management continue to pursue enhancements to the Homeseeker system and that the necessary training and changes to processes identified through systems thinking are progressed. (Para 4.2.5)
3. the conclusion that there are 2 potential commissioning options for Housing Options be endorsed, i.e. in-house and transfer the service to CBH and that a further report be brought back to Cabinet in May 2013 recommending the proposed commissioning option. (Para 4.3.9)

11. COUNCIL TAX DISCOUNTS ON EMPTY PROPERTIES

The Cabinet Member Finance introduced the report and explained that councils now had a discretionary power to set local discount levels on certain categories of empty properties that had previously been subject to exemptions from council tax for a limited period of time. The level of charge on properties classed as second homes could now be increased from 90 % to 100 %. Finance and revenue officers from all Gloucestershire districts had been working together to agree a countywide approach to all of the changes. He emphasised however that caution had been taken not to abolish a certain number of exemptions in the current arrangements, e.g. where a dwelling is left unoccupied by a person receiving care in hospital, so as not to impose unreasonable charges.

The Cabinet Member Finance also said that changing the exemptions in Class A to C was a sensible way forward and would generate a degree of extra income for the council but would also bring back empty properties into use.

He also highlighted that there would be an additional recommendation to Council (as circulated) confirming that the level of discount for long term empty properties should remain at zero.

The Leader of the Council added that this had been a very useful discussion to have at a countywide level.

RESOLVED that Council be recommended to

1. Set the level of discount for former class A exempt properties at 25% for the 12 month period, as detailed in table 1
2. Set the level of discount for former class C exempt properties at 100% for the first month and 25% for the remaining 5 months, as detailed in table 1.
3. Confirm the level of discount for long term empty properties should remain at zero
4. Set the level of discount on properties classed as second homes at zero

12. LOCALISATION OF COUNCIL TAX SUPPORT

The Cabinet Member Finance introduced the report and explained that the Government now enabled councils to decide council tax support schemes at a local level and councils could therefore introduce their own Council tax support system. Funding for this scheme would be at least 10 % less than is currently received. CBC had been working with other Gloucestershire authorities on a local scheme. Due to its complexity, and in anticipation of the introduction of universal credits it was proposed that for the first year the Government default scheme would be used with one modification, disregarding war widows and war pensions for working age customers. This would enable officers to use their time to work up a fair and robust scheme within the current resources.

The Cabinet Member highlighted that to offset the government cut it was important that this did not affect the poorest and most vulnerable in the community and that the burden be shared with those in a better position to pay it, hence the modifications to the policy on council tax discounts.

RESOLVED that:

- a) Council be recommended to adopt the Department for Communities and Local Government (DCLG) default scheme as the Council's Local Council Tax support scheme for 2013/14, subject to the enactment of the relevant legislation and the final grant settlement being in line with current forecasts.
- b) Council be recommended that the local council tax support scheme disregards in full war widows and war disablement pensions when assessing entitlement to council tax support for working and pension age customers as currently happens for housing and council tax benefit.
- c) Work commences on developing a robust council tax support scheme for working age customers, to take effect from April 2014, which reduces the council tax support costs, protects vulnerable people as far as possible and keeps work incentives.

13. ICT COMMISSIONING REVIEW

The Cabinet Member Corporate Services introduced the report and explained that whilst the service had been successful in delivering a number of high profile projects such as the support and hosting the centre of excellence provision to GO Shared Service, it was a service under pressure.

It had been acknowledged that the creation of GO could provide the catalyst for other shared service arrangements between the GO partners. The ICT Commissioning review had provided an opportunity to consider and evaluate the options available to the Council and to recommend a way forward.

The Cabinet Member reported that three viable options had emerged- outsourcing, enhanced in-house provision and shared service. No matter which option was chosen it would require a similar level of investment to update the infrastructure to what would be considered appropriate for servers and storage hardware. Discussions have taken place with the GO partner councils to establish willingness and readiness to share ICT. With Cotswold District and West Oxfordshire already progressing to sharing the opportunity arose for Cheltenham to share with the Forest of Dean leaving open the future potential for 4 way sharing between the GO partners.

In terms of the business case, although over the next five years there would need to be a slightly larger investment in the Shared Service option-in the region of an additional £16k capital and £33.5k revenues , the savings which would be made are significantly larger.

The Cabinet Member stated that all the recommendations of the ICT scrutiny review had been taken on board.

Members were supportive of the recommendations and paid tribute to all those involved in the review. A shared service represented a sound way forward to achieve a robust and reliable system of modern standards.

RESOLVED

1. That the ICT Infrastructure Upgrade Strategy at Appendix A be approved and that Council be recommended to approve the allocation of funding to finance the programme as part of the budget setting process for 2013/14.
2. That the ICT Review Business Case at Appendix B be approved
3. that the development of a Business Case for 4 way sharing between the GO partner councils (Forest of Dean District Council, Cotswold District Council, West Oxfordshire District Council) be endorsed with any decision being brought back to Cabinet at the latest by August 2015 and that the service delivery model (i.e. outsourcing; managed service etc.) be reviewed again at that time.
4. Subject to obtaining the agreement of the GO partner councils, CBH Limited and Ubico Limited to :
 - Approve the sharing of the council's ICT service with the Forest of Dean District Council, as lead authority.

- Delegate authority to the Director of Resources in consultation with the Cabinet Member for Corporate Services and the Borough Solicitor to enter into an agreement under Section 101 Local Government Act 1972 and s19 and s20 Local Government Act 2000 with Forest of Dean District Council, as the lead authority, for the provision of ICT services as outlined in Annex A of the ICT Business Case (Services in Scope for ICT Services) with effect from 1st April 2013 to January 2016.
- Delegate authority to the Director of Resources in consultation with the Cabinet Member for Corporate Services and the Borough Solicitor to enter into an agreement under Section 101 Local Government Act 1972 and s19 and s20 Local Government Act 2000 for the receipt of GO ICT Hosting and Support with effect from 1 April 2013 with the Forest of Dean District Council as lead authority for the GO Hosting and Support Centre of Excellence. This agreement may be incorporated into the s101 agreement referred to above.
- In order to ensure that existing agreements are consistent with the new agreements mentioned above to delegate authority to the Director of Resources in consultation with the Cabinet Member for Corporate Services and the Borough Solicitor to make consequential amendments to the following GO agreements:

i) Collaboration Agreement dated 8th November 2010 (as varied (1st April 2012)

ii) ERP System supply contract with SCC dated 8th November 2010.

5. The council's ICT staff whose roles fall within the scope of the list of services outlined in the service directory (Annex A to the Business Case) transfer to Forest of Dean District Council with effect from 1st April 2013 in accordance with the Transfer of Undertaking (Protection of Employment) Regulations 2006.

14. LICENSING OF RICKSHAWS IN CHELTENHAM

The Leader of the Council explained that he was using his discretion in inviting Mr Meyer of Rickshaw Revolution to address Cabinet. Mr Meyer believed that it had taken the Council a considerable amount of time to consider his application for operating licensed rickshaws in the town and had submitted a complaint to that effect. He recognised that safety concerns were of utmost importance and referred to the Gloucestershire Constabulary consultation document which had drawn attention to the City of Westminster report on the safety of rickshaws. He asked why the definitive City of Westminster report had not satisfied the council in granting a licence for operating rickshaws in Cheltenham.

In response the Cabinet Member Housing and Safety explained that the rickshaws operating in London were unlicensed. He explained that Cabinet had considered the issue in September but Members were still concerned that there were no safety standards for rickshaws or the manufacture of rickshaws. The Hackney Carriage legislation was not fit for purpose with regard to licensing

rickshaws but as this was due to be revised in 2013/14 it was proposed that the decision be deferred until then.

Members were supportive of the amended resolution, highlighting continued safety concerns and the complexities in policy. They recognised the contribution a rickshaw service could have on tourism and wished to find a workable solution. When asked whether rickshaws could operate unlicensed in the town the Cabinet Member confirmed that this was possible on a private hire basis. Members advised Mr Meyer to discuss this possibility directly with the Licensing Officer.

RESOLVED

To defer a decision on the licensing of rickshaws in Cheltenham until the outcome of the taxi and private hire licensing law reform review by the Law Commission is published in 2013/14.

15. BRIEFING FROM CABINET MEMBERS

Members had no updates to report.

16. DECISIONS OF CABINET MEMBERS AND OFFICERS

The Cabinet Member Housing and Safety explained that he had taken a decision on going out to consultation on the Homeseekers Allocation Scheme.

The Cabinet Member informed Cabinet of his decision to accept the tender from UKDN Waterflow Limited for the provision of reactive drainage services for Council owned residential properties.

Chairman

Cabinet

Friday, 21st December, 2012

4.00 - 4.35 pm

Attendees	
Councillors:	Steve Jordan (Leader of the Council), John Rawson (Cabinet Member Finance), Rowena Hay (Cabinet Member Sport and Culture), Peter Jeffries (Cabinet Member Housing and Safety), Andrew McKinlay (Cabinet Member Built Environment), Jon Walklett (Cabinet Member Corporate Services) and Roger Whyborn (Cabinet Member Sustainability)

Minutes

1. APOLOGIES

There were none.

2. DECLARATIONS OF INTEREST

There were none.

3. PUBLIC QUESTIONS AND PETITIONS

None received.

4. GENERAL FUND REVENUE AND CAPITAL - REVISED BUDGET 2012/13, BUDGET MONITORING TO NOVEMBER 2012 AND INTERIM BUDGET PROPOSALS 2013/14 FOR CONSULTATION

The Cabinet Member Finance introduced the report which outlined the revised budget 2012/13 and provided a budget monitoring position to November 2012. It also set out the Cabinet's Interim Budget Proposals 2013/14 for consultation.

He explained that it had been a difficult time for all local Councils. Government funding had already been cut by 23 % and a further 7 % cut had been announced this week for the coming financial year representing a further cut of just under £400 000. The sluggish state of the national economy had affected investments and pension fund and sources of income such as car park fees and building control fees have also fallen.

The Government had also decided that councils should freeze council tax, but is offering to cover only half the cost of implementing the freeze and only for a two year period. For Cheltenham the council tax freeze equated to £75 000. Freezing council tax had not been easy to achieve for the third year running but it was the right thing to do at this time. Car parking charges would also be frozen for the third year running.

The Cabinet Member Finance announced that the budget proposed savings of £1.29 million which could be made without any major impact on frontline savings. It recognised the need to change the way the Council delivers its

services. It delivers £478 000 from organizational changes, including commissioning of leisure and culture, a further £428 000 of savings from shared services, including the GO project and Ubico.

Longer term, the financial challenge was to bridge a projected funding gap of £3.5 million. This is why a detailed, quantified five-year strategy for cutting costs and maximising income and bridging the medium term funding gap is being developed as outlined in Appendix 4 of the report.

The Cabinet Member Finance explained that the way that the New Homes Bonus (NHB) was used had been rethought and last year it was accepted that it needed to be treated as a regular source of income so part of it was taken into the revenue budget. He proposed that £200 000 of the NHB be put towards the Planned Maintenance Reserve. He explained that this was prudent since if there were fluctuations in NHB income in future years, the contribution to the reserve could be adjusted without having any immediate impact on services. He proposed to use New Home Bonus money to fund a new initiative to bring empty properties back into use, which would have the effect of increasing income from the NHB. It would also be used for funding a number of one-off costs.

The Cabinet member also proposed that the current multitude of bidding funds currently funded from the NHS should be combined into one Community Pride fund, for which the budget would be £50 000 in the coming year. This would be funded using projected underspends in the current financial year.

Finally, he informed the meeting that the projected overspend of £281 000 outlined in the last quarterly monitoring report for the current financial year had now been revised to a projected underspend of £270 000. This had been achieved as a result of the freeze on unspent supplies and services budgets, together with additional income being achieved and savings made in employee related budgets. This was confirmation of the sound financial management within Cheltenham Borough council.

The Cabinet Member Finance thanked all the officers for working so hard on the budget, in particular Mark Sheldon, Director Resources and Paul Jones, Head of Finance, and the finance team. He also paid tribute to officers across the organisation as the budget had been a real corporate effort.

He explained that the budget would be subject to extensive consultation over the coming month and the Cabinet would be obliged to take into account the response to that consultation when framing the final budget proposals at the end of January. Budget information would be posted on the council website and hard copies would be available in reception. Two consultation meetings would be held to which stakeholders in the local community including the voluntary sector would be invited. Meetings would also take place with the parish councils C5 group and the Chamber of Commerce to seek their views. The Cabinet Member had also offered to meet the Conservative and PAB groups to discuss the budget if they so wished.

In response to a question with regard to consultation on capital projects relating to carbon reduction the Cabinet Member Finance explained that the capital programme was work in progress but the situation would become clearer once the availability of capital was known. Crucial to this was the North Place and Portland Street Development.

With regard to a question on the planned maintenance budget the Cabinet member said that in the current financial year £695 000 was put into the planned maintenance fund from the revenue budget. This had now increased to £895 000 due to the £200 000 from the New Homes Bonus and topped up by £100 000 from the accumulated balance in the planned maintenance fund. He informed that the Asset Management Working Group would be meeting on 8 January to discuss this further. There would therefore be a substantial investment in property and an increased commitment from the revenue budget.

Members congratulated the Cabinet Member Finance and the finance team for the draft budget in difficult circumstances which would maintain core services in the town. Concern was expressed with regard to the changing nature of Government funding which added an extra level of risk to the process and increased the volatility to the council's finances. The Cabinet Member Finance also commented that the decentralisation of business rates also exposed the council to fluctuations in income and therefore it was important to be prudent with regard to reserves.

The Leader of the Council thanked all those involved in the budget process. He welcomed the news of an underspend and looked forward to receiving feedback on the budget from the public.

RESOLVED THAT

1. The revised budget for 2012/13 with a projected underspend of £270.5k be noted and that the proposals for its use as detailed in Appendix 3 be approved.
2. The interim budget proposals be approved for consultation including a proposed council tax for the services provided by Cheltenham Borough Council of £187.12 for the year 2013/14 (a 0% increase based on a Band D property).
3. The growth proposals, including one off initiatives at Appendix 3 be approved.
4. The proposed capital programme at Appendix 6, as outlined in Section 7 be approved.
5. The potential liability in respect of Municipal Mutual Insurance, as outlined in Section 9 be noted, and that £80k has been built into the revised budget as a provision to cover the potential exposure of this liability be noted.

6. Authority be delegated to the Director of Resources, in consultation with the Cabinet Member for Finance, to determine and approve any additional material that may be needed to support the presentation of the interim budget proposals for consultation.
7. Consultation responses be sought by 25th January 2013.

5. HOUSING REVENUE ACCOUNT - REVISED BUDGET 2012/13 AND INTERIM BUDGET PROPOSALS 2013/14 FOR CONSULTATION

The Cabinet Member Finance introduced the report which summarised the Housing Revenue Account (HRA) revised budget for 2012/13 and the Cabinet's interim budget proposals for 2013/14 for consultation. He explained that this was work in progress and more information would be available once the final budget had been approved at the end of February.

The HRA budget proposals reflected the impact of the new self financing regime for local authority housing. In February 2012 the Council approved a new 30 year HRA business plan which anticipated significant additional resources arising from the implementation of self financing. The 2013/14 budget contained exciting proposals for new build and improvements to existing stock as well as helping tenants through welfare reform. The Cabinet Member Finance commended Cheltenham Borough Homes on its approach to addressing the impact of benefit changes and the impending universal credit system on its tenants.

The proposed rent increase of 3.43 % was a disappointment but this was due to the application of government rent restructuring guidelines. More discretion could be exercised on other service charges.

Members welcomed the approach CBH was taking with regard to investing and protecting the most vulnerable in the context of welfare reform.

The Leader explained that the Council was proposing to consult on these budget proposals during the period to 31 January which would allow CBH to respond at their Board meeting on 30 January. He said that CBH was doing a valuable job in managing the council's housing stock and providing supportive advice to tenants was welcomed.

RESOLVED THAT

1. The revised HRA budget for 2012/13 be noted.
2. The interim HRA budget proposals for 2013/14 be approved for consultation including a proposed average rent increase of 3.43% (applied in accordance with national rent restructuring guidelines) and increases in other rents and charges as detailed at Appendix 5.
3. The proposed HRA capital programme for 2013/14 be approved as shown at Appendix 3.
4. Authority be delegated to the Director of Resources, in consultation with

the Cabinet Member for Finance, to determine and approve any additional material that may be needed to support the presentation of the interim budget proposals for consultation.

5. Consultation responses be sought by 31st January 2013.

6. BRIEFING FROM CABINET MEMBERS

The Cabinet Member Sustainability informed the meeting that the £36 charge for garden waste formed part of the budget consultation and this was the third year running that it was held at this level for the third year running. He reported that more than 12 500 garden waste bins had been delivered. In terms of the £2 discount on garden waste bins for those who renewed promptly and new business this had been extended to the new financial year but would then come to an end. With regard to allotments he reported that rents would increase by 2.5 % on 1 January 2014 and all allotment tenants would have new tenancy agreements from this date, the consultation for which was currently underway.

Chairman

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Cheltenham Borough Council
Cabinet – 15 January 2013
Integrated Transport Retained Organisation Review

Accountable member	Councillor Andrew McKinlay – Cabinet Member Built Environment
Accountable officer	Grahame Lewis
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>In October 2007 the Cabinet approved the introduction of Civil Parking Enforcement (CPE) for Cheltenham as a result of the transfer of parking enforcement functions from the police authority to the Highways Agency (GCC).</p> <p>At that time the Borough Council was already responsible for off-street parking enforcement and subsequently applied the new provisions to its own car parks.</p> <p>In two tier authority areas, the on-street enforcement functions could also be carried out by District Councils on behalf of the Highways Authority by means of an Agency Agreement and it was therefore agreed that in Gloucestershire the necessary powers would be delegated to the Districts, including Cheltenham, to undertake this task.</p> <p>Gloucestershire County Council (GCC) has now decided that it would be in its own best interests if it were to take this responsibility back, and is entering into a County wide contract with a private company to carry out this on-street car parking enforcement work on its behalf in the future.</p> <p>Unfortunately, at the time of writing this report, no firm details of this new contractual arrangement are available.</p> <p>It has been confirmed by the County Council that as from 1st April 2013, all enforcement of on-street car parking will no longer be the responsibility of Cheltenham Borough Council (CBC). However, CBC will still need to enforce car parking arrangements in its own car parks and the report clarifies how this will be undertaken post 1st April 2013.</p> <p>Finally, there is a range of other non-statutory highway, planning and general street related activities which have also been undertaken by the existing Integrated Transport Team over the last few years and the report sets out how the Council should approach these matters in the future.</p>

Recommendations	<p>I therefore recommend that Cabinet:</p> <ol style="list-style-type: none"> (1) Note the position as regards future on-street car parking enforcement being undertaken by a private contractor on behalf of Gloucestershire County Council. (2) Agrees to retain the Borough Council’s off-street car parking service in-house as set out in this report pending a review by the Executive Director of the Gloucestershire County Council’s Framework Agreement within the next 15 months. (3) Agrees that the Executive Director in consultation with the Cabinet Member for Built Environment should ensure that adequate provisions are put in place to maintain a reasonable level of response to formal Gloucestershire County Council requests for information specifically in relation to Highways related matters.
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Financial implications	<p>The retained organisation staffing and operational requirements need to be resourced within existing budgets.</p> <p>Consideration to existing off-street car parking income budgets needs to be made when determining the necessary ongoing resource to ensure income levels are not negatively impacted.</p> <p>Contact officer: Nina Philippidis, Accountant nina.philippidis@cheltenham.gov.uk, 01242 775221</p>
Legal implications	<p>The Authority has a contract with Gloucestershire County Council by which the County Council delegated to the Authority the management of the County Council’s on-street car parking functions in the Borough. The contract can be ended on 12 months prior written notice. The County Council gave notice in March 2012 that this arrangement will come to an end on 31 March 2013.</p> <p>If the Authority subsequently decides to engage the services of an external contractor to provide its off-street car parking services, a procurement compliant with the Public Contract Regulations 2006 is required. Gloucestershire County Council has carried out a procurement exercise for its on-street parking services. As part of this procurement exercise it included the district councils off-street parking services in the contract specification and has established a framework agreement. This means that if the Authority at some point in the future wishes to do so, it can appoint the contractor engaged by the County Council to carry out its off-street parking services without having to carry out its own procurement exercise. The Authority is able to access the Council’s Framework Agreement and contract with the successful contractor up until 31 March 2017.</p>

	<p>Framework agreements are permitted by the Public Contract Regulations 2006 and Contract Procedure Rule 21 (Frameworks Agreements) is specifically relevant.</p> <p>Contact officer: Donna Ruck, Solicitor, donna.ruck@tewkesbury.gov.uk, 01684 272696</p>
<p>HR implications (including learning and organisational development)</p>	<p>There will be a requirement to transfer under TUPE (Transfer of Undertakings Protection of Employment) Regulations 2006 15 employees to GCC's chosen contractor. Work has already started to ensure CBC complies with the TUPE regulations and the key steps are included in the project plan. The statutory requirement for a full and proper consultation will begin in January and run through to March. Trade Unions are aware and are being kept up to date on each step of the process.</p> <p>Consultation will also need to take place regarding the retained organisation and the potential impacts on employees who are not transferring to GCC's chosen contractor. This will also take place from January through to March. Key activities for this process are included in the project plan.</p> <p>Contact officer: Sarah Flury, HR Business Partner, sarah.flury@cheltenham.gov.uk, 01242 775215</p>
<p>Key risks</p>	<p>As defined under Risk Assessment – Appendix 1</p>
<p>Corporate and community plan implications</p>	<p>As part of the commissioning review, it was noted that the work of the Integrated Transport Team makes a contribution to a number of corporate strategy outcomes:</p> <ul style="list-style-type: none"> ▪ Cheltenham's natural and built environment is enhanced and protected. ▪ Carbon emissions are reduced and Cheltenham is able to adapt to the impacts of climate change. ▪ Cheltenham has a strong and sustainable economy ▪ Communities feel safe and are safe. ▪ Our residents enjoy a strong sense of community and are involved in resolving local issues. <p>The Cabinet Member Built Environment and Executive Director will therefore need to be mindful of how best this positive contribution can be sustained in their deliberations about the final staffing and operational arrangements.</p>
<p>Environmental and climate change implications</p>	<p>Some elements of the team's additional activities have supported and promoted forms of travel which have a much lower impact on the environment and on climate change. Consideration will need to be given to how this can be achieved in the future to ensure the council continues to make a positive contribution to the environment and climate change in the local travel and transport sector.</p>

2. Background

2.1 Future arrangements for on-street car parking enforcement

- 2.1.1 From 1st April 2013 the County Council, through a new contractual arrangement with a private company take over the full responsibility for on-street car parking enforcement. This is likely to cause a significant amount of confusion for the general public who will in the future need to be directed to GCC or its contractors to resolve parking disputes or pay parking fines.
- 2.1.2 Officers will be working to ensure that an appropriate communication strategy is put in place, in order to assist the public post 1st April 2013. The Borough Council will still have a diminishing responsibility to process parking enforcement tickets issued prior to that date and the necessary arrangements are being put in place to manage this transition.

2.2 Retained off-street car parking enforcement activities

- 2.2.1 As already mentioned the County Council is currently developing new contractual arrangements to undertake on-street car parking enforcement.
- 2.2.2 The County Council has offered CBC the opportunity of using its new private contractors to also undertake CBC's off-street car parking enforcement.
- 2.2.3 This matter was given due consideration by the in-house officer Project Board established to oversee and manage this project.
- 2.2.4 After due consideration of all the relevant financial, legal and operational factors, the Project Board decided to recommend to deliver an in-house off-street enforcement service from 1st April 2013. The key reasons for this decision are:
- The costs and service delivery details of "calling off" from this contract will not be available until 21st December at the earliest, when the County Council intends to award its contract. This being the case, and even if the contract is available on the 21st December as advised by GCC, this leaves CBC with very little time or resource to support a robust value for money evaluation of the contract in order to enable Cabinet to make an informed decision on 15th January 2013.
 - Providing an in-house off-street service from 1st April 2013 will buy CBC time in which to evaluate the County Council's contract. If it were subsequently considered advantageous for CBC to access the County Council's new contract, then it could 'opt in' at any time within the next 4 years.
- 2.2.5 The retained off-street activities have now been appropriately assessed by officers to ensure that the Borough Council exercises its statutory powers correctly.
- 2.2.6 The primary activities are:
- In addition to the management of ANPR related operations and the processes associated with this type of operation, issuing penalty charge notices (PCN's) under the civil enforcement regime established by the Traffic Management Act 2004 to drivers who do not comply with the orders the Borough Council has put in place to govern the use of the car parks. ;

- Processing of PCNs once issued in accordance with the above Act, which includes:
 - Dealing with challenges
 - DVLA liaison regarding keeper details
 - Preparing evidence packs and statements when motorists appeal
 - Representing the Council at any Traffic Penalty Tribunal
 - Registering debits against unpaid PCNs
 - Reconciliation of all car parking income
 - Processing car parking permits of elected members, public and staff
 - Dealing with enquiries and complaints from the public
 - Monitoring car parks, ensuring appropriate levels of maintenance are provided and collating management data.
 - Day to day management of car park facilities including the identification and reporting of maintenance requirements.
- Determining the amount of car parking charges and other variations to the Car Parking Orders.

2.2.7 It is very important that the Council provides an efficient and effective off-street car parking enforcement function and that appropriate levels of staffing resource are put in place to undertake this work. Although final details have yet to be finalised the expected cost of carrying out this enforcement work post 1st April 2013 is expected to be in the region of £80,000 per annum.

2.3 Other activities carried out by the Integrated Transport Team

2.3.1 Over the last four to five years, the Integrated Transport Team has undertaken a range of additional duties which, whilst being helpful and supportive on many levels, are not strictly speaking mandatory functions which the Council is obliged to provide.

2.3.2 These interventions have nonetheless added considerable value to how CBC has interacted with its partners and stakeholders for the general benefit of both residents of and visitors to the town alike.

2.3.3 Some of these additional activities are listed below:

- Off-street car park enabling – eg: giving directions, help and advice to the public;
- Local Transport Plan 3 support and consultation response;
- Greener travel initiatives;
- Localised on-street parking schemes – eg: assisting local groups;
- Cycling and walking initiatives;
- Planning Applications related to sustainable transport;
- Local Taxi Forum;
- Coach friendly town initiative;
- Local highway network management;
- Audit inspections – eg: condition of streets and pavements, particularly following utility

repairs;

- Adverse weather support;
- Supporting Cheltenham Development Task Force on local highway schemes;
- Dealing with cruisers;
- Guidance to members;
- Mobility and disability – eg: dropped kerbs;
- Events and festivals – eg: working with partners on major events which have an impact on the highway.

2.3.4 Given the significant financial pressures which the Borough Council currently finds itself under, together with the fact that the above functions are either wholly the responsibility of the Highways Authority, e.g.: GCC, or could be stopped without causing major strategic or operational difficulties; it was felt that each item needed to be supported with detailed background information clarifying the impacts on the Borough Council if they were to cease.

2.3.5 Following receipt of this information several conversations with elected members have taken place and it was concluded that although these activities have added some value in the past they cannot be maintained into the future.

2.3.6 What has however been recognised is that when the Highway Authority do formally consult with the Borough Council in the future on specific local issues relating to highway matters, then officers will need to provide an appropriate response. The Council's Development Task Force, supported by the Urban Design Team may be best placed to arrange such responses. In fact the initial proposed network changes were made public through this route and the junction efficiency trial on St Margaret's Road was also delivered on a joint platform. Given GCC's formal responsibility for highways, the baton passes to them in the New Year with the Task Force and Urban Design team providing support rather than lead.

2.3.7 Given that such instances appear to be very sporadic, and are part of the wider Task Force delivery this is not seen as being overly problematic to manage within existing resource levels. This matter will be resolved as part of recommendation (3) above.

3. Consultation and feedback

3.1 A robust project management approach has been taken in reviewing the Integrated Transport's remit post 1st April 2013, with appropriate internal stakeholders being consulted and involved from project inception. Plans are currently being developed to consult and inform external stakeholders on the services the Council will offer from this date.

3.2 In September 2012 a Project Board was set up to consider the implications of the termination of the on-street parking enforcement agency by Gloucestershire County Council, and to review the retained services currently provided by the Integrated Transport team. To this end, the Project Board's first meeting took place on the 10th September and it has subsequently met six times. The Board includes representation from the following business areas:

- Built Environment, Integrated Transport, One Legal, Finance, Town Centre Management, Commissioning, HR, Public Protection, Customer Services and Project Management.

3.3 The Project Board's principal remit has been to develop, review and cost a matrix of retained services which the Integrated Transport team currently delivers, and to establish what the Council has a statutory duty to deliver, what it delivers in line with current policy and what is purely

Cabinet – 15th January 2013

discretionary. The Board also considered ways in which some services within the remit could feasibly be transferred to other service areas, with financial viability as a key consideration. This work has resulted in a draft operating structure for an off-street car parking enforcement service, and other retained services, for consideration by Members at Cabinet on the 15th January 2013.

- 3.4 To support the work of the Project Board the Project Manager has set up an operational group (Project Team) which meets weekly. The team has met seven times to develop a detailed project plan and includes representation from Integrated Transport, Built Environment, HR, IT, Customer Services and, latterly, Communications.
- 3.5 It should also be noted that other ad hoc operational meetings continue to take place outside these meetings.
- 3.6 The workstreams within scope have been categorised, and are best managed from an operational point of view, as follows:
 - On-Street Decommissioning
 - Off-Street Enforcement
 - Retained Organisation
- 3.7 In terms of consultation, there will be a need to inform the public of the changes to on-street enforcement and the virtual permits scheme. The project team is about to commence working with our in-house communications team and the County Council to develop a Communication Plan to address this. The plan will also need to address the different delivery mechanisms, contact and payment points for the proposed in-house off-street car parking enforcement service, so the public are clear on the new processes, and how to pay any parking fines.
- 3.8 Furthermore it will need to communicate any changes to services currently delivered by CBC as a result of Cabinet decisions on 15th January 2013.

4. Community and equality impacts

- 4.1 The Council takes its statutory duties to promote equality of opportunity seriously. The 2010 Equality Act sets out that we must have due regard to the need to advance equality of opportunity between people who share a protected characteristic and those who do not. The groups that share a protected characteristic include those defined by age, ethnicity, disability, religion or belief and sexual orientation.
- 4.2 The Cabinet Member Built Environment and Executive Director will therefore need to be mindful of this statutory duty in their deliberations about the final staffing and operational arrangements.
- 4.3 The community and equality impacts of the three work-streams are as follows:
- 4.4 On-street decommissioning – The council is confident that as part of the contract with Gloucestershire County Council, the new contractor will have to comply with equality obligations in the deployment of the new service.
- 4.5 Off-street enforcement – as there are no changes proposed in this cabinet report into how this service is delivered (as set out in section 2.2), there are no detrimental community or equality impacts.
- 4.6 Retained Organisation – Section 2.3.3 lists a number of areas of activity that are known to have beneficial community or equality impacts:

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- The team have made representations as part of the LTP3 process to ensure that mobility and access is improved for all users. This activity has a particular benefit for disabled people and older people.
- The team have been able to ensure that local community groups' views have been considered by GCC as part of the decision-making regarding on-street parking schemes.
- The team provide an early warning system with regard to pavement and highway defects that could provide hazardous to pedestrians and drivers – this activity has a particular benefit for disabled people and older people.
- The team aim to ensure that the highway is free from obstructions and that street furniture / street signs are not hazardous to pedestrians. This activity has a particular benefit for disabled people and older people.
- The team have worked with local trader groups to enable them to act as snow wardens so that they can keep pavements clear of ice and snow. The team also work directly to clear car-parks of snow and ice. This activity has a particular benefit for disabled people and older people.
- The team represent the public's views to GCC about the best location for dropped-kerbs, traffic islands, pedestrian crossing to make sure that all highway users are as safe as possible. This activity has a particular benefit for disabled people and older people.
- The team work with local community groups to ensure that they comply with statutory processes regarding events on the highway.
- The team support greener travel initiatives, cycling and walking initiatives, provide advice on planning applications related to sustainable transport and are also responsible for the development and implementation of the council's own green travel plan. This work makes an important contribution to reducing the impact of both the community and the council on climate change.

Although the final staffing and operational arrangements are not known yet, it is recommended that the beneficial work of the team in the above areas is noted and that consideration is given as to how these work-streams are maintained by CBC, or where this is not possible, some form of mitigation is put in place.

Report author	Contact officer: Grahame Lewis, Executive Director grahame.lewis@cheltenham.gov.uk 01242 264312
Appendices	1. Risk Assessment
Background information	

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the three contracts for managing elements of on-street car parking are not co-ordinated or delayed there is a risk that it impacts on service delivery.	G Lewis	December 2012	3	3	9	R	The Borough Council is in a position to continue delivering its off street enforcement service in-house, insulating it from any timescale or contract related slippages which the County Council may experience which might otherwise impact our service provision. CBC can then evaluate the option of calling off services for off-street enforcement from the County's contractor once the contracts are fully operational and without undue pressure on timescales to make a decision.	31 March 2014	Mike Redman	
	If the new county contract arrangements do not allow for the free coning, suspensions and waivers for local events and festivals as well as utilities and other highways related obstructive works then it may impact on the economic viability of such events and ultimately impact on the quality of life for the town.	G Lewis	December 2012	3	4	12	R	Discussions are ongoing with the County with regard to the provision of services such as coning, suspensions and waivers for local events and festivals as well as utilities and other highways related obstructive works.	31 March 2013	Mike Redman	

	If the public are not given sufficient information about the changes and who to contact for what services it could lead to frustration and impact on the reputation of the borough council.	G Lewis	December 2012	3	3	9	R	A communications plan is being developed to signpost the public to the new providers of services and to communicate new processes and procedures for PCN payments, complaints, appeals and determinations etc.	31 March 2013	Mike Redman	
	There is a risk that employees within the service areas choose to leave before their posts are TUPE to the new contractor	G Lewis	December 2012	3	3	9	R	A robust plan to manage the TUPE process is in place, and the timeline and workload is being managed to prevent the loss of valued staff as far as possible.	31 March 2013	Mike Redman	
	There is significant work to be undertaken to ensure that there is a smooth transition to the new contract arrangements and delivery of inhouse retained services. There is a risk that staff who may be identified as at risk of redundancy will be demotivated and may seek employment elsewhere before the transitional plans are completed.	G Lewis	December 2012	3	3	9	R	<p>Consultation will take place regarding the retained organisation and the potential impacts on employees who are not transferring to GCC's chosen contractor. This will take place from January through to March. Key activities for this process are included in the project plan.</p> <p>Staff, who following this process, are identified as being at risk of redundancy will be given support and advice and will be placed on the redeployment list.</p>	31 March 2013	Mike Redman	

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close

Guidance

Types of risks could include the following:

- Potential reputation risks from the decision in terms of bad publicity, impact on the community or on partners;
- Financial risks associated with the decision;
- Political risks that the decision might not have cross-party support;
- Environmental risks associated with the decision;
- Potential adverse equality impacts from the decision;
- Capacity risks in terms of the ability of the organisation to ensure the effective delivery of the decision
- Legal risks arising from the decision

Remember to highlight risks which may impact on the strategy and actions which are being followed to deliver the objectives, so that members can identify the need to review objectives, options and decisions on a timely basis should these risks arise.

Risk ref

If the risk is already recorded, note either the corporate risk register or TEN reference

Risk Description

Please use “If xx happens then xx will be the consequence” (cause and effect). For example “If the council’s business continuity planning does not deliver effective responses to the predicted flu pandemic then council services will be significantly impacted.”

Risk owner

Please identify the lead officer who has identified the risk and will be responsible for it.

Risk score

Impact on a scale from 1 to 5 multiplied by likelihood on a scale from 1 to 6. Please see risk [scorecard](#) for more information on how to score a risk

Control

Either: Reduce / Accept / Transfer to 3rd party / Close

Action

There are usually things the council can do to reduce either the likelihood or impact of the risk. Controls may already be in place, such as budget monitoring

or new controls or actions may also be needed.

Responsible officer

Please identify the lead officer who will be responsible for the action to control the risk.

For further guidance, please refer to the [risk management policy](#)

Transferred to risk register

Please ensure that the risk is transferred to a live risk register. This could be a team, divisional or corporate risk register depending on the nature of the risk and what level of objective it is impacting on

Cheltenham Borough Council

Cabinet

Proposed Leasehold Disposal of a Parcel of Open Space at Sandy Lane Recreation Ground

Accountable member	Cabinet Member for Finance, Councillor John Rawson
Accountable officer	David Roberts (Head of Asset and Property Management)
Ward(s) affected	Charlton Park
Key Decision	No
Executive summary	<p>The Council has been approached by the current tenant (Old Patesians Sports and Social Club) at Sandy Lane Playing Field who wish to enter into a new lease term of 30 years to enable access to grant funding from the Rugby Football Union and implement a series of improvements to the playing surface at Sandy Lane. Old Patesians currently lease land within the recreation ground and any grant of a new lease will be subject to the requirements of S123(2a) Local Government Act 1972 as the land is considered to be Open Space.</p>
Recommendations	<p>1.0 That Cabinet agrees to declare surplus the parcel of open space land outlined in red on the attached plan (attached as Appendix A) and to authorise the placing of a Public Notice pursuant of Section 123(2a) of the Local Government Act 1972 in respect of the leasehold disposal of the parcel open space land relating to the Clubhouse at Sandy Lane Playing Fields, Cheltenham the location of which is outlined In red on the plan attached to this report.</p> <p>2.0 That any objections and representations which might be received in response to the advertisement be considered by Cabinet before making a recommendation to the Cabinet Member for Finance for a final decision concerning the land.</p> <p>3.0 That should no objections or representations be received in response to the advertisement, cabinet declares the land surplus and the matter is referred to the Cabinet Member for Finance for a final decision concerning the grant of a lease extension to Old Patesians at Sandy Lane.</p>

<p>Financial implications</p>	<p>Any new lease should be entered into on commercial terms allowing a reasonable financial return to the council whilst ensuring the council is not financially liable for ongoing maintenance of the land.</p> <p>Contact officer: Nina Philippidis, Accountant nina.philippidis@cheltenham.gov.uk, 01242 775221</p>
<p>Legal implications</p>	<p>The area of land the subject of this report is not the playing fields themselves, which will remain open to the public.</p> <p>The Club has neither a contractual nor statutory right to call for a new lease at the current time. So far as the Council is concerned (as the provisions of the existing lease are dated), the most advantageous legal route to achieving the Club's objective of having a term in excess of 25 years to satisfy the RFU's requirements would be to surrender the existing lease and to grant a new lease, which would result in a lease on modern terms.</p> <p>The proposed grant of a new lease would require advertisement under s123 (2A) of the Local Government Act 1972, and consideration given to any objections, before the decision to grant the lease is made.</p> <p>Contact officer: Rose Gemmell, Rose.gemmell@tewkesbury.gov.uk, 01684 272014</p>
<p>HR implications (including learning and organisational development)</p>	<p>None</p> <p>Contact officer: , @cheltenham.gov.uk, 01242</p>
<p>Key risks</p>	<p>None</p>
<p>Corporate and community plan Implications</p>	<p>None</p>
<p>Environmental and climate change implications</p>	<p></p>

1. Background

- 1.1** In 1968 the Council agreed a lease, for a term of 63 years; of which 18 years of the term remain, to the Trustees of the Old Patesians Association (hereinafter referred to as 'Old Pats' for a parcel land at Sandy Lane recreation ground (which formerly formed part of Sandy Lane Tip), upon which they were permitted to construct a clubhouse and parking area.
- 1.2** Although 'Old Pats' lease the land upon which the clubhouse is constructed, they are only permitted to use the playing areas of the recreation ground by way of Licence. Due to the history of the site, the surface has deteriorated to an extent that the area is becoming unplayable at certain times of the year. 'Old Pats' has made an application for grant funding from the Rugby Football Union (hereinafter referred to as the RFU) to raise funds to improve the quality of the playing surface. The RFU has indicated that one of the terms of the grant agreement is that 'Old

Pats must be in possession of a lease for the clubhouse with a minimum term unexpired of 25 years, in order for any grant application to be considered.

- 1.3 In 2006 the Council produced a new Local Plan, Sandy Lane Recreation Ground is identified within that document as Public Green Space, the land leased by 'Old Pats' has been included within this.
- 1.4 In order for a conclusion to be reached as to whether a lease for a term of 30 years may be granted it is first required, by virtue of S123(1)(2a) of the Local Government Act 1972, that the proposed leasehold disposal is advertised in a local newspaper and for Cabinet to consider any representations made, thereafter.

2. Reasons for recommendations

- 2.1 Advertising the leasehold disposal of Open Space, will assist to inform any further commercial lease decisions in respect of the land leased to 'Old Pats'.
- 2.2 The current playing area is prone to localised flooding during periods of rainfall due to the general nature of the ground conditions, improvement of the playing surface will enhance the quality of the recreation ground for all users.
- 2.3 'Old Pats' is currently the premier Union Club in Cheltenham with a membership of approximately 500 people, many of whom are juniors and improvement of the playing surface will aid the club's ambition of retaining and growing the number of playing members.

3. Alternative options considered

- 3.1 The Cabinet could decide not to agree to place the requisite public notice, which would mean that 'Old Pats' would not be able to approach the Council at the present time for a new lease term, resulting in the failure of any application to the RFU to obtain grant funds for improving Sandy Lane Recreation Ground, the consequences of which is that the Club may seek assistance from the Council to ensure the playing surface is fit for purpose. In the current financial climate this is something that the Council is unlikely to be able to consider.

4. Consultation and feedback

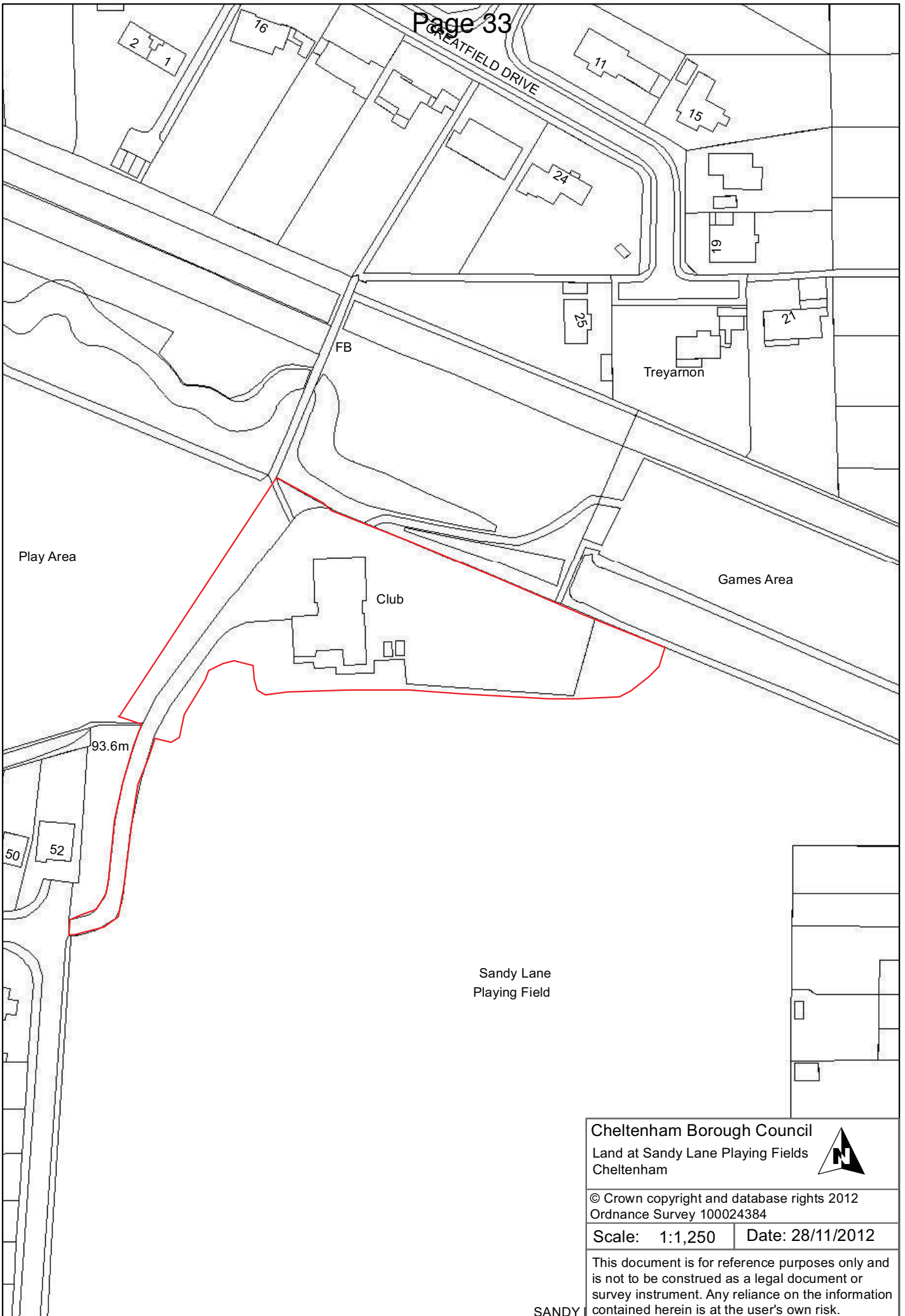
- 4.1 Ward members have been consulted and no adverse comments have been received.


5. Performance management –monitoring and review

- 5.1 Not Applicable

Report author	Contact officer: Christopher Finch chris.finch@cheltenham.gov.uk , 01242 775148
Appendices	1. Risk Assessment 2. Location Plan
Background information	1.

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If there is a high level of public objection to the disposal notice then it may result in a decision not to grant a new lease to Old Pat's	DLR	27 th Nov 2012	2	2	4	Accept	Monitor	End Dec 2012	DLR	
2	If the new lease is subsequently granted then this would deliver 2 of the Councils Corporate objectives, namely; strengthening our communities and enhancing and protecting our environment.	DLR	27 th Nov 2012	5	6	30	Accept	Support the application	End Dec 2012	DLR	



Cheltenham Borough Council		
Land at Sandy Lane Playing Fields Cheltenham		
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Scale: 1:1,250	Date: 28/11/2012	
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Cabinet

Request for Leasehold Disposal of Open Space at Montpellier Gardens

Accountable member	Cabinet Member for Finance Councillor John Rawson
Accountable officer	David Roberts (Head of Asset and Property Management)
Ward(s) affected	Lansdown
Key Decision	No
Executive summary	<p>➤ The Council has been approached by the current tenant of the Proscenium Building, Montpellier Gardens, who wish to enter into a further lease term of 25 years to enable access to grant funding to implement 'green initiatives'. The land is considered to be Open Space and is therefore subject to the requirements of S123(2A) Local Government Act 1972.</p>
Recommendations	<ol style="list-style-type: none"> 1. That Cabinet agrees to declare surplus the parcel of open space land outlined in red on the attached plan (attached as Appendix A) and to authorise the placing of a Public Notice pursuant of Section 123(2A) of the Local Government Act 1972 in respect of the leasehold disposal of the parcel of open space the land and Proscenium building at Montpellier Gardens, Cheltenham the location being outlined In red on the plan attached to this report. 2. That any objections and representations which might be received in response to the advertisement be considered by Cabinet before making a recommendation to the Cabinet Member for Finance for a final decision concerning the land. 3. That should no objections or representations be received in response to the advertisement, that Cabinet declare the land surplus and the matter is referred to the Cabinet Member for Finance for a final decision concerning the proposed new lease of the Proscenium Building.
Financial implications	<p>Any new lease should be entered into on commercial terms allowing a reasonable financial return to the council whilst ensuring the council is not financially liable for ongoing maintenance of the land.</p> <p>Contact officer: Nina Philippidis , Accountant nina.philippidis@cheltenham.gov.uk, 01242 775221</p>
Legal implications	<p>Prior advertisement and consideration of objections is a statutory obligation when contemplating the possible disposal of land which is designated as Public Open Space.</p> <p>Contact officer: Rose Gemmell, Rose.gemmell@teWKesbury.gov.uk, 01684 272014</p>

Key risks	None
Corporate and community plan Implications	None
Environmental and climate change implications	

1. Background

- 1.1** The Gardens Gallery CIC, currently occupy the Proscenium Building under a lease granted in 2007 for a term of 3 years, the lease is a protected tenancy for which the Tenant has an automatic right of renewal, subject to specific matters contained in the Landlord and Tenant Act 1954.
- 1.2** The Gardens Gallery was founded by 5 arts groups and provides space to allow local artists to exhibit their work at the Proscenium building. It is run by volunteers and the Gallery is open free of charge to the public. The Gardens Gallery also provides workshops, learning and educational talks on art.
- 1.3** They wish to carry out non-structural alterations to the building to introduce green initiatives. To enable these works the Gardens Gallery CIC have made an application for grant funding to an external body, one of the terms of the grant agreement is that the Gardens Gallery must hold a lease for a term of a minimum of 25 years to support the grant application.
- 1.4** In order for conclusion to be reached as to whether a lease for a term of 25 years may be granted it is first required, by virtue of S123(2A) of the Local Government Act 1972, that the proposed disposal is advertised in a local newspaper and for Cabinet to consider any representations made, thereafter.

2. Reasons for recommendations

- 2.1** Advertising the leasehold disposal of Open Space, will assist to inform any further commercial lease decisions in respect of the Proscenium Building

3. Alternative options considered

- 3.1** The Cabinet could decide not to agree to place the requisite public notice which would result in the Proscenium Building being closed, the Council having no operational use for it.

4. Consultation and feedback

- 4.1** Ward members have been consulted and no adverse comments have been received

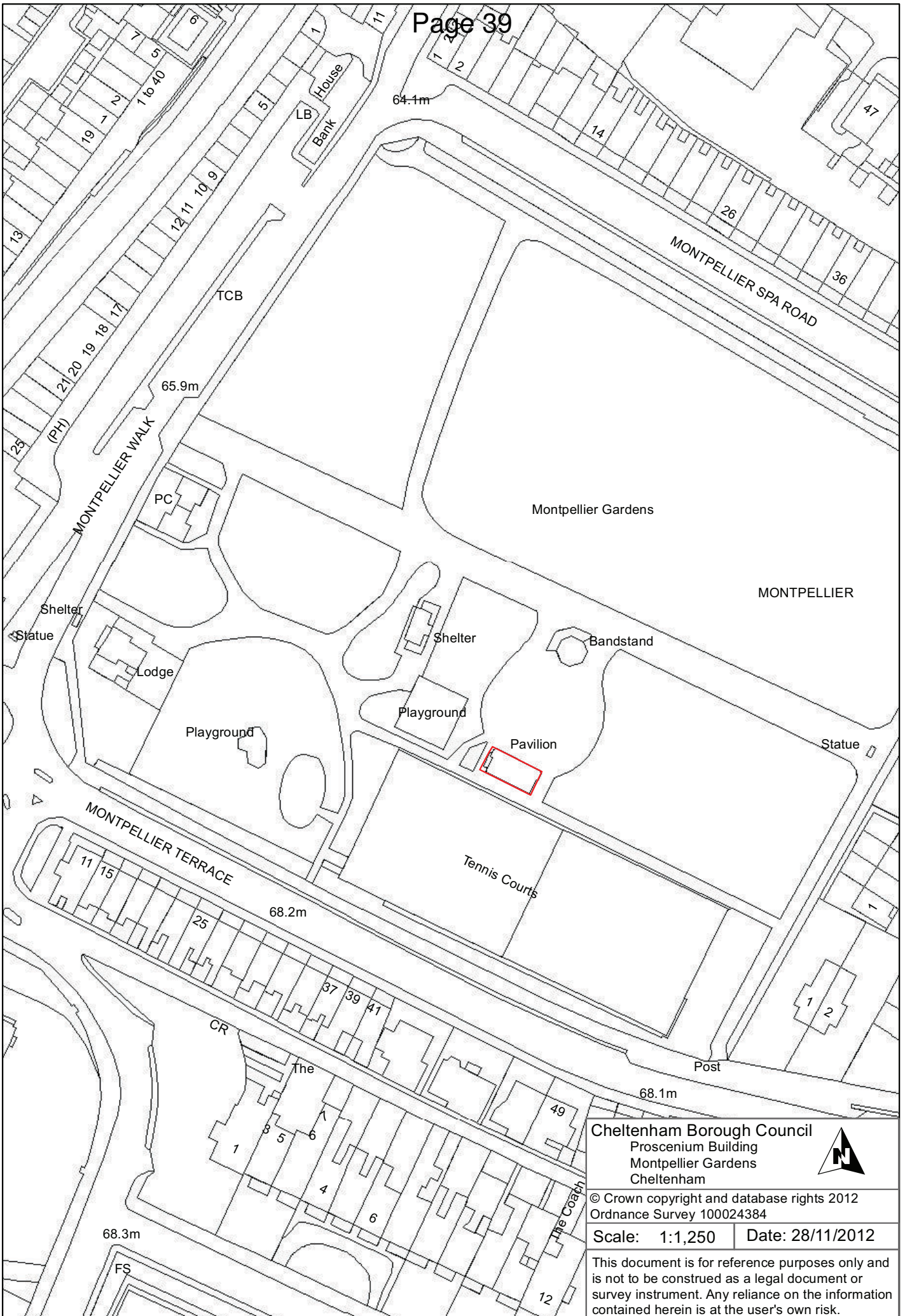
5. Performance management –monitoring and review

- 5.1** Not Applicable

Report author	Contact officer: Christopher Finch chris.finch@cheltenham.gov.uk , 01242 775148
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Appendices	1. Risk Assessment 2. Location Plan
Background information	

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If there is a high level of public objection to the disposal notice then it may result in a decision not to dispose	DR	27 th Nov 2012	2	2	4	Accept	Monitor		DR	



Cheltenham Borough Council
 Proscenium Building
 Montpellier Gardens
 Cheltenham

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Scale: 1:1,250 Date: 28/11/2012

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Cheltenham Borough Council

Cabinet

3rd Sector Application for Retail Premises at 12 Rowanfield Exchange

Accountable member	Cabinet Member for Finance, Councillor John Rawson
Accountable officer	David Roberts (Head of Property and Asset Management)
Ward(s) affected	St Marks
Key Decision	No
Executive summary	<ul style="list-style-type: none"> ➤ The Council received a request from Hesters Way Neighbourhood Project that consideration be given to agreeing a rent subsidy for its Community Hub project at 12 Rowanfield Exchange. The project satisfies two of the Council's Key Objectives and that, as a result, a rent subsidy is proposed.
Recommendations	<ol style="list-style-type: none"> 1. It is recommended that Cabinet agrees to accept the recommendation of the 3rd Sector Panel and authorise the Director of Resources to administer a rent reduction of 60% against the rent of £4,000pa associated with the lease dated 1st August 2010 between Hesters Way Neighbourhood Project and Cheltenham Borough Council

Financial implications	<p>The subsidy results in rental income of £2,400 being foregone by the Council. This income has previously been received and therefore will have to be mitigated by other rental sources so that income budget targets are met.</p> <p>Contact officer: Nina Philippidis, Accountant nina.philippidis@cheltenham.gov.uk, 01242 775221</p>
Legal implications	<p>None at the present time</p> <p>Contact officer: Rose Gemmell, Rose.gemmell@teWKesbury.gov.uk, 01684 272014</p>
Key risks	None
Corporate and community plan Implications	None
Environmental and climate change implications	

1. Background

- 2.1 Hesters Way Neighbourhood Project is a registered charity (hereinafter referred to as HWNP) which entered into a lease with the Council for a term of 5 years from 2010 at a rent of £4,000 pa for shop premises known as 12 Rowanfield Exchange, a location plan is attached to this report at Appendix 4.
- 2.2 HWNP provides a 'community hub' which offers a venue to hold local neighbourhood meetings, councillor surgeries, coffee mornings, meetings for tenants and residents, arts and crafts classes to involve Cheltenham Festivals and Cheltenham Art Gallery and Museum, IT training sessions to help counter the growing digital divide, mini awareness campaigns, that will all help to build up community spirit and neighbourliness, increase volunteering and promote back to work schemes.
- 2.3 HWNP has experienced difficulty in raising funds to continue operating and, as a result, has had to reduce its hours of operation accordingly.
- 2.4 In an attempt to keep the community hub operating, HMNP made an application under the Council's 3rd Sector Policy, a copy of the application is attached as Appendix II.
- 2.5 A meeting of the 3rd Sector Policy board considered the application from HWNP for rent relief at 12 Rowanfield Exchange and concluded that a relief of 40% in addition to a subsidy of 20% applicable to charitable institutions renting Council-owned premises, was appropriate. A copy of the panel's decision is attached as Appendix III.

2. Reasons for recommendations

- 2.1 The 3rd Sector Policy Board considered the application from HWNP and concluded that the following subsidies could be applied:
 - 20% subsidy in respect of HWNP contribution to the Council's Objective 3 'Strengthening Our Communities'
 - 20% subsidy in respect of HWNP contribution to the Council's Objective 5 'A Focus on Children and Young People'
 - 20% subsidy reflecting HWNP is a registered charity.

3. Alternative options considered

- 3.1 Cabinet could consider turning down the application made by HWNP but this would almost certainly result in either further scaling back, or closure, of the operation at 12 Rowanfield Exchange, leaving a shop premises vacant in a neighbourhood parade and the loss of a community facility.

4. Consultation and feedback

- 4.1 Ward members have been consulted and no adverse comments have been received.

5. Performance management –monitoring and review

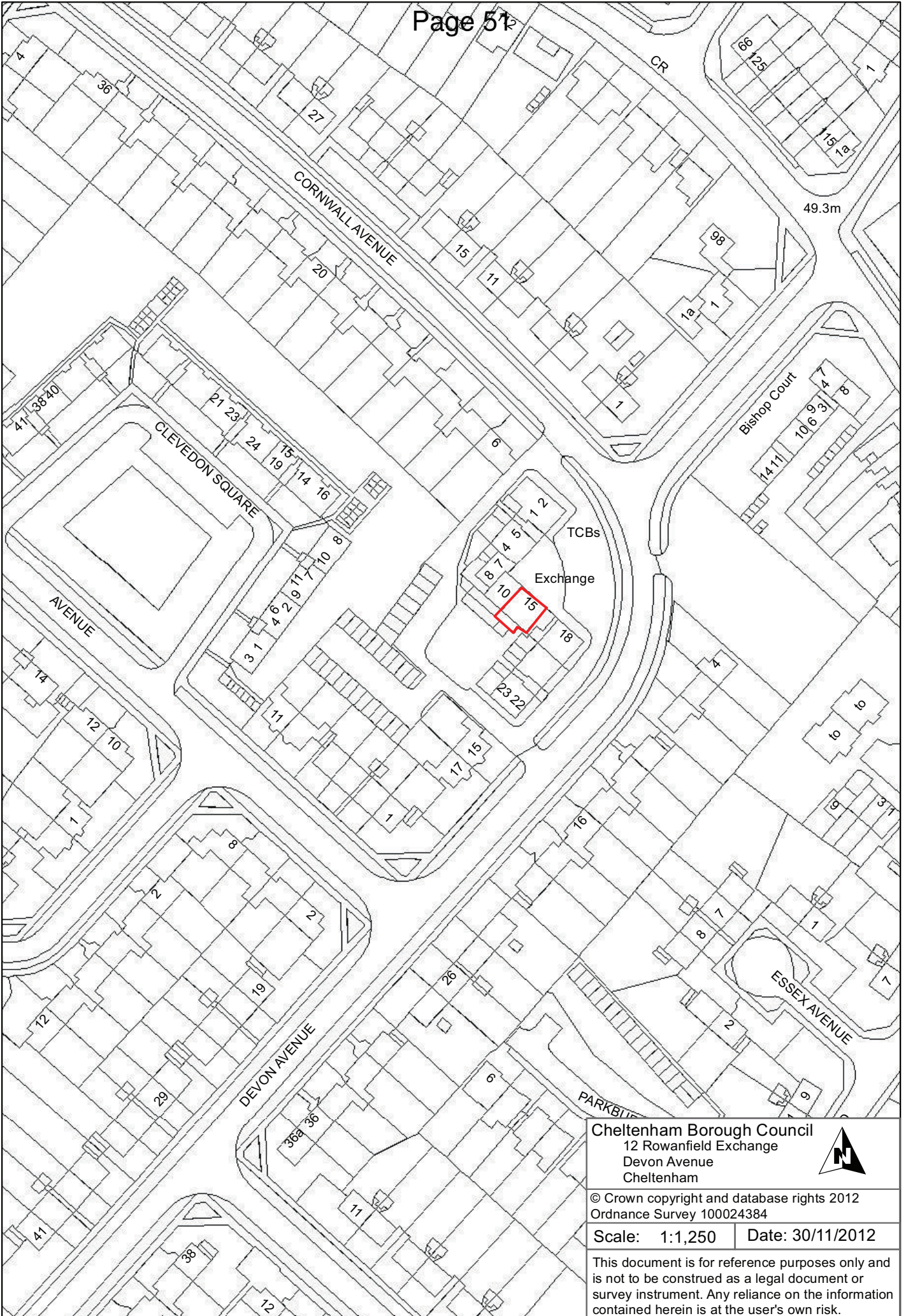
- 5.1

Report author	Contact officer: chris.finch@cheltenham.gov.uk, 01242 775148
Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Submission by Hesters Way Neighbourhood Project3. Decision of 3rd Sector Assessment Panel.4. Location Plan
Background information	<ol style="list-style-type: none">1. None

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If the application is supported then the Council will see a reduction in it's rent line to £1,600 pa.	DLR	27 TH Nov 2012	5	6	30	Accept	Report to Cabinet	End of Dec 2012	CF	
2	If the application for subsidy is not supported then the Hesters Way Neighbourhood Project is likely to cease to operate from the premises resulting in the loss of a community support facility and a follow-on risk to the Council's reputation	DLR	27 TH Nov 2012	5	6	30	Accept	Report to Cabinet	End of Dec 2012	CF	

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Cheltenham Borough Council
12 Rowanfield Exchange
Devon Avenue
Cheltenham



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Cheltenham Borough Council

Cabinet 15th January 2013

Release of Restrictive Covenant-

Land formerly owned at Leckhampton Industrial Estate, 205 Leckhampton Road, Cheltenham

Accountable member	Cabinet Member Finance- Councillor John Rawson
Accountable officer	David Roberts- Head of Property and Asset Management
Ward(s) affected	Leckhampton
Key Decision	Yes/No
Executive summary	<p>In 2009, Cheltenham Borough Council disposed of the freehold of a thin strip of land on the northern boundary of Leckhampton Industrial Estate, Leckhampton Road which extends to circa 1800 sq.m. It was sold subject to a covenant restricting its use to B2 (General industrial) and the value of the land was agreed accordingly.</p> <p>The whole estate is now subject to potential redevelopment and the Council can benefit from the uplift in land value, if it agrees to modify the user covenant on this thin strip of land, appropriately.</p> <p>The original purpose of imposing a restrictive user covenant was to protect the councils' interest and secure additional value if the proposed use changed. This opportunity is now presenting itself.</p>
Recommendations	<p>It is recommended that the Cabinet agrees to a modification agreement which allows the council to benefit from any uplift in value, pertaining to a change of use from B2 General Industrial, in proportion to the area of land previously sold by the council (0.18ha).</p> <p>It is recommended that the Cabinet authorises the Head of Property and Asset Management, in consultation with the Cabinet Member Finance, to negotiate and conclude an Agreement with the owner of Leckhampton Industrial Estate granting that owner the right, within a period of 5 years from the date of the Agreement, to call for the variation of the Covenant restricting the use of the area of land described in the report upon payment of such sum determined by the Head of Property and Asset Management as being the market value for such variation.</p>

Financial implications	<p>Any capital receipt generated could be used to support the Council's capital programme.</p> <p>Contact officer: Nina Philippidis Nina.Philippidis@cheltenham.gov.uk</p> <p>01242 775221</p>
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Modification to Restrictive Covenant

Leckhampton Industrial Estate, Cheltenham

<p>Legal implications</p>	<p>The legal agreement will clearly set out the terms agreed between the parties</p> <p>Contact officer: Rose Gemmell Rose.gemmell@teWKesbury.gov.uk 01684 272014</p>
<p>HR implications (including learning and organisational development)</p>	<p>Not Applicable.</p>
<p>Key risks</p>	<p>If Cabinet agree to enter into an agreement to modify the Restrictive Covenant to enable redevelopment of the site, then the Council could benefit from a proportionate uplift in value for the land.</p>
<p>Corporate and community plan Implications</p>	<p>The Council's Corporate Strategy 2010-2015 has adopted a number of key objectives to assist in meeting its goals during the 5 year plan period.</p> <p>The Council also adopted an Asset Management Plan in July 2010 which seeks to support these corporate objectives through a number of actions. In relation to this site, the key corporate objectives and supporting Asset Management Plan actions are:</p> <ul style="list-style-type: none"> • <i>Value for Money</i>-Investigate opportunities to dispose of surplus and investment property. • Strengthening our Economy - Identification of sites with potential for increasing residential and employment capacity.
<p>Environmental and climate change implications</p>	<p>This proposal does not have any environmental or climate change implications.</p>

1. Background

- 1.1 The site is an existing multi-let industrial estate. It extends to some 1800 sq.m. (0.18 ha/ 0.44 acres). Site plan attached at **Appendix A**.
- 1.2 The site is accessed from Leckhampton Road, to the east, and abuts to the rear of residential properties to the north (facing Collumend Drive and Liddington Road). To the south and west, the estate is bounded by grazing farm land, owned by Cheltenham Borough Council and leased to a local farmer. The property also sits to the north of Leckhampton Scout Hall, which shares the access from Leckhampton Road.
- 1.3 Leckhampton Industrial Estate (aka former Vulcan Works) was originally owned by Cheltenham Borough Council and was sold off piecemeal. The site is now held by the Gardner Trust which operates it on a multi-let, mixed industrial use basis.
- 1.4 In 2009, Cheltenham Borough Council disposed of the freehold of the final piece of the estate, a thin strip of land on the northern boundary of Leckhampton Industrial Estate, Leckhampton Road which, extends to circa 1800 sq.m. The land is subject to a permanent Right of Way in favour of the Gardner Trust, the owner of the Industrial Estate.
- 1.5 The Gardner Trust purchased the Council's land in 2009 at an agreed price of £77,000. (£45,000 restricted land value and £32,000 for rents owing on an aerial mast erected on site).
- 1.6 The sale value was agreed with restrictions limiting the use of the land to Class B2 (General Industrial) of the General Permitted Development (Amendment) Order 2005. It is this Restrictive Covenant which the owner is now seeking to have modified to permit redevelopment options to be explored through the planning process.

2. Reasons for recommendations

- 2.1 The Council sold the freehold of this land in 2009. Placing the restriction upon use of the land at the sale in 2009, restricted the original sale value for the land.
- 2.2 The only interest the Council retains is through the Restrictive Covenant. Agreeing to a modification to this covenant could provide the council with a substantial capital receipt. It is understood that the purpose of placing the Restrictive Covenant upon the land was to protect the Council's financial interest with the likelihood that the site would be re-developed in the future.
- 2.3 It is recommended that the Council agrees to enter into a modification agreement whereby the landowner can request a modification of the restrictive covenant on the whole or part of the land, in return for financial consideration. This would allow the council to benefit from any uplift in value, pertaining to a change of use from B2 General Industrial, in proportion to the area of land previously sold by the council (0.18ha).
- 2.4 It is noted that the remainder of the site could probably be redeveloped without the subject land having the restriction modified and therefore, retaining the restriction would not necessarily protect the employment use.
- 2.5 It is recommended that Cabinet approval is sought, in case the payment required under the modification agreement exceeds the highest estimate of £250,000.

3. Alternative options considered

- 3.1 If the council decided not to agree to modify the Restrictive Covenant, there would be no capital receipt forthcoming to the Council. The subject land could only be used for industrial or commercial purposes.
- 3.2 The site not subject to the restrictive covenant could be redeveloped within its current land use permission and there would be no payment due to the Council.
- 3.3 As the subject land is only a slim strip of the remaining estate, not agreeing to modify the covenant would be unlikely to impede the redevelopment of the remainder of the site, if the landowner was so minded. Therefore, not agreeing to remove the restriction would not necessarily protect the site from redevelopment but it would prevent the Council from receiving any financial benefit.

4. Consultation and feedback

- 4.1 This proposal was taken before Asset Management Working Group on 8th November 2012.
- 4.2 The proposal was supported by this cross party group.

5. Performance management –monitoring and review

- 5.1 To review the decision made at Cabinet on 15th January 2013.
- 5.2 To liaise with our Legal advisers to agree legal terms for the Modification of the Restrictive Covenant including a suitable valuation mechanism to identify an appropriate land value for the site based upon the planning consent secured.
- 5.3 To maintain contact with the land owner to review progress on redevelopment proposals and to monitor payments due to the Council.

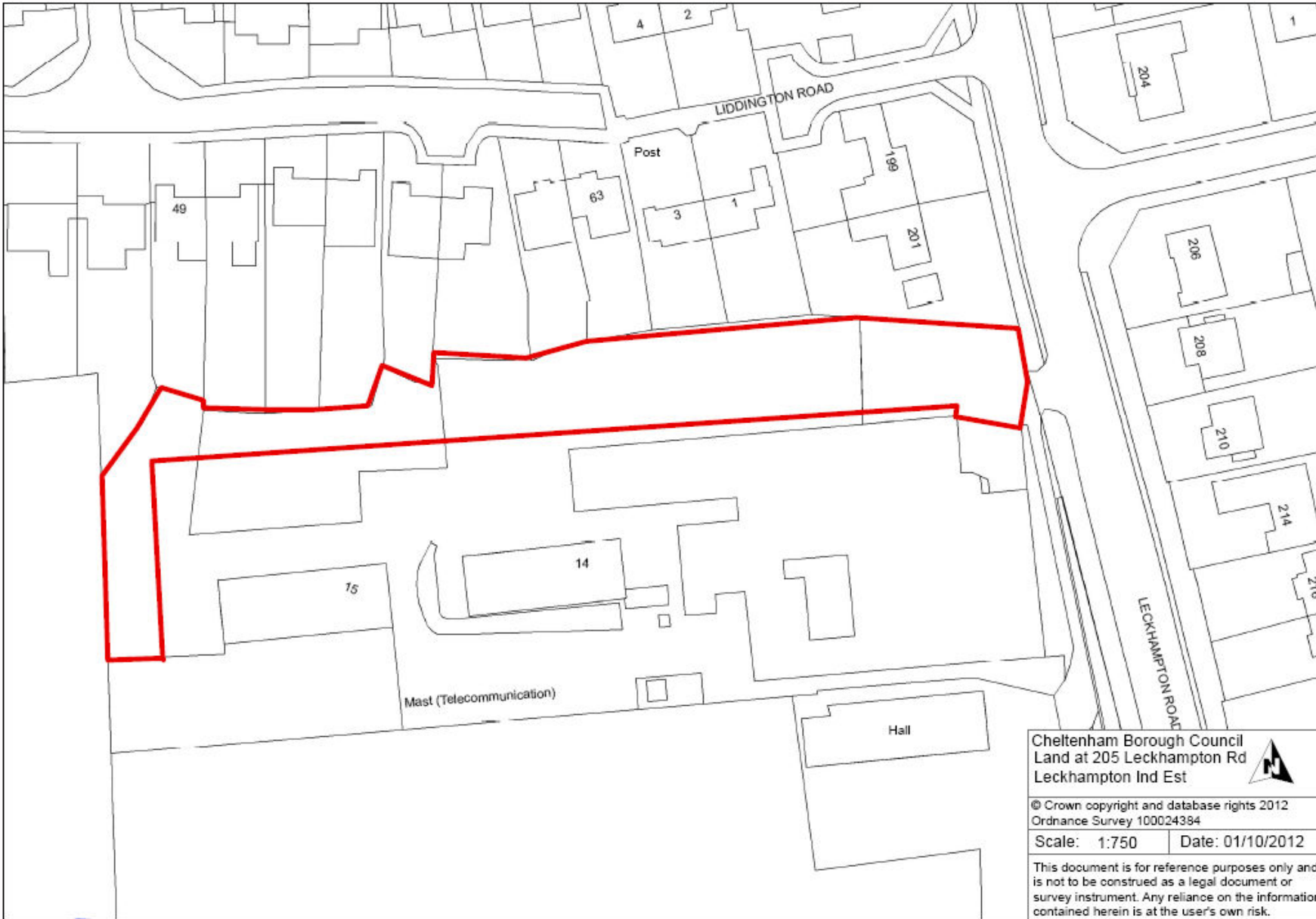
Report author	Contact officer: David Roberts, Head of Property and Asset Management. David.Roberts@cheltenham.gov.uk 01242 264151
Appendices	1. Risk Assessment 2. Site Plan
Background information	

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	Positive risk- If Cabinet agree to enter into an agreement to modify the Restrictive Covenant to enable redevelopment of the site then the Council could benefit from a proportionate uplift in value for the land.	DLR	8 th Nov 2012	5	6	30	Accept	Report to Cabinet	End of Dec 2012	DLR	
2	If the restrictive covenant is not modified then CBC will miss out on any uplift as the remainder of the site could be redeveloped without the strip of land subject to the covenant	DLR	8 th Nov 2012	5	1	5	Accept	Report to Cabinet	End of Dec 2012	DLR	
Explanatory notes											
<p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

APPENDIX A

SITE PLAN

**Land at Leckhampton Industrial Estate
subject to Restrictive Covenant**



Modification to Restrictive Covenant

Leckhampton Industrial Estate, Cheltenham

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Cheltenham Borough Council

Cabinet 15 January 2013 & Council 22 February 2013

Draft Policy on Measures to Control Street Scene Activities in Cheltenham

Accountable member	Cabinet Member Housing and Safety - Councillor Peter Jeffries
Accountable officer	Director of Wellbeing & Culture – Sonia Phillips
Ward(s) affected	All
Key Decision	No
Executive summary	<p>On the 17th of April 2012 Cabinet approved a draft policy on measures to control street scene activities in Cheltenham for the purpose of consultation.</p> <p>A 12 week consultation was undertaken and 8 responses were received. This report outlines the feedback received, policy amendments and a Cabinet resolution to approve and recommend for adoption the amended draft policy by Council.</p>
Recommendations	<p>We therefore recommend that Cabinet approve the following recommendations to Council:</p> <ol style="list-style-type: none"> 1. Note the consultee comments submitted, 2. Adopt the amended draft policy to take effect on the 1st of April 2013.

Financial implications	<p>The additional income that will be generated from the policy will ensure that the Council will be able to recover its administrative and, where permitted, enforcement costs to ensure the service remains cost neutral.</p> <p>Contact officer: Sarah Didcote, sarah.didcote@cheltenham.gov.uk, 01242 26 4125</p>
Legal implications	<p>The Council is responsible for the regulation of a number of activities within the borough of Cheltenham. Although there is no statutory requirement to have a policy in place to facilitate the discharge of these functions a policy will assist the Council in fairly and properly exercising its power in relation to determining applications. It will also assist applicants and holders of consents and/or permissions in understanding the procedures adopted by the Council.</p> <p>Contact officer: Sarah Farooqi, sarah.farooqi@teWKesbury.gov.uk, 01684 272693</p>

<p>HR implications (including learning and organisational development)</p>	<p>No direct HR implications arising from this report.</p> <p>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242 26 4355</p>
<p>Key risks</p>	<p>As outlined in Appendix 1</p>
<p>Corporate and community plan Implications</p>	<p>Cheltenham is able to recover quickly and strongly from the recession.</p> <p>Attract more visitors and investors to Cheltenham.</p> <p>Cheltenham's natural and built environment is enhanced and protected.</p>

1 Background

- 1.1 On the 17th of April 2012 Cabinet approved a draft policy on measures to control street scene activities in Cheltenham for the purpose of consultation. The draft policy contained new and updated proposals relating to the control of street trading, charitable collections and objects placed on the public highway within the borough.
- 1.2 A copy of the draft policy is attached at **Appendix 2**.

The Current Policy

- 1.3 The Council's current policy on the licensing of street activities and objects on the highway was approved by Council on the 27th January 1997 and was further reviewed in 1998/99 and amended by Council on the 1st March 1999.

The Need for Revision

- 1.4 The need to revise the Council's current adopted policy has been driven by a number of factors;
- The current policy is limited in scope to the town centre without clearly delimiting the town centre. There is therefore a need to extend the scope of the policy to cover the entire borough and secondly to clearly define the town centre.
 - Despite the fact that the current policy has been in place since 1999 it has been unable to effectively deal with the proliferation of unlicensed 'A' boards in the borough.
 - The Council's priorities, plans and strategies for the borough have changed since 1999.
 - There have been changes in law and guidance that need to be reflected in the Council's policies.
 - The need to have clear and transparent policies governing all street activities and objects on the highway. There has been criticism that the Council's current policies are not sufficiently clear in terms of objectives and principles to be applied when determining applications. This has in the past adversely affected the Council's reputation.
 - To enable the Council to provide effective control measures to manage all street activities and objects on the highway and to ensure that they meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Council's efforts to improve the image, perception and attractiveness of the Town.
 - To implement recommendations made by Cheltenham & Cotswold Audit Partnership. (para 4.4)

2 Consultation

- 2.1 A 12 week consultation on the draft policy was undertaken between the 18th of May 2012 and the 3rd of August 2012. In addition to writing to all of the stakeholders below, the consultation document was available on the Council's website, through notices displayed in the reception area of the Municipal Offices and the consultation was published via the licensing section's twitter account.
- 2.2 Consultation was undertaken with the following people, bodies and stakeholders:
- Gloucestershire Constabulary
 - Gloucestershire Highways
 - Gloucestershire Fire & Rescue Service
 - Cheltenham Business Partnership
 - Charity Commission
 - Cheltenham Crime and Disorder Partnership
 - Environmental Health Department

- Planning Department
- Members of the Council
- Community Protection Manager
- Integrated Transport & Sustainability
- Cheltenham Borough Council Directors
- Parish Councils & Neighbourhood Groups
- Cheltenham Chamber of Commerce
- Existing Consent Holders
- The public, via the Council's website

3 Consultation Feedback

3.1 Responses were received from the following persons and organisations;

- Chair of Charlton Kings Parish Council - Environment Committee
- Mark Nelson, Cheltenham Borough Council Planning Enforcement Manager
- Neals Yard Remedies, Cheltenham
- Mr Copner, director of Soho Coffee, Cheltenham
- Mr Goode, Vinyl Vault, Cheltenham
- Mr Will Capstick & Mr Bambos Shaona (Licensed street traders)
- Clerk of Prestbury Parish Council
- Cheltenham Borough Council's Licensing Committee
- Licensing Officers

Street Trading and Charitable Collections

3.2 In all there was general support for the draft policy proposals relating to street trading and charitable collections with only 2 of the 8 respondents making specific comments relating to the aforementioned parts.

3.3 Charlton Kings Parish Council expressed concern that the proposed £5 million public liability insurance is too high particularly for smaller charities. The £5 million limit is a standard Council requirement and the level the Council considers appropriate. As a result the requirement to have £5 million public liability insurance cover has been a requirement for several years and is therefore not a new requirement. For these reasons, it is not considered that the draft policy be changed at this stage.

3.4 The Parish Council further commented that the stipulated documents required by charities seemed excessive and much of the documents listed are publicly available on the internet. It finally mentioned that smaller charities are not required to have their accounts externally audited.

3.5 Officers consider the stipulated documents to be the minimum documents required to ensure that the charitable collection is conducted in a fair and open manner. For the benefit of Members, a breakdown of the documents and an explanation of why they are considered necessary are provided below;

(a) the aims and objectives of the organisation including any supporting documents, e.g. constitution and/or articles of association;	This is to ensure that the charity applying for a collection is a properly constituted charity that is entitled to a collection permit.
(b) details of street collection permits approved or refused (other than within the borough's area);	This involves merely answering a question on the application form. Normally, supporting documents will not be sought to verify this as officers will contact other authorities who may

	have refused permits.
(c) a copy of the organisation's most recently audited accounts;	This is to ensure that the charity complies with the statutory requirements to apportion a certain section of their income for the purposes relating to the application to collect money. The policy does not stipulate that these must be externally audited.
(d) if the application is made on behalf of a charity a letter of authorisation; any other relevant information requested by the Council;	This is to ensure that fraudulent applications are not made.
(e) for transitory collections, details of the proposed routes must be provided with the application; and	This is for the benefit of both the applicant and officers to ensure that all ancillary arrangements associated with the transitory collection has been undertaken, for example, road closures, conflict with existing consents etc.
(f) statement of due diligence.	The legislation does not currently prescribe what percentage of income from charitable collections must be apportioned to the cause stated on the application form. Official guidance from the Institute of Fundraising does not recommend that Councils set percentages. Instead a statement of due diligence, which sets out the charity's commitment to spend income on good causes, is recommended as a better way to ensure sufficient portions of funds are put towards good causes.

- 3.6** The Parish Council has requested a rewording of paragraph 3.7 in part 2 to include certain charities. The intention of the paragraph is to be broad enough to include collections "in conjunction with animal charities" so officers do not consider it necessary to reword the paragraph to include specific charities as it is sufficiently broad to include the recommendations made by the Parish Council.
- 3.7** Mr Capstick and Shaona suggested that the restrictions on mobile ice-cream sellers on trading in parks and near schools should be lifted.
- 3.8** There are issues with lifting trading restrictions in parks and nearer school entrances.
- 3.9** Currently, mobile ice-cream sellers are not permitted to trade within 75 meters of the gates of all schools on both sides of the road in any direction during the period half an hour before school opening to one hour after closing during school terms. This is necessary to ensure that safety of children during the times specified since these are also peak traffic times around schools. It is therefore not proposed that the above restriction be lifted.
- 3.10** In reference to lifting restrictions in relation to public parks;
- A number of sole trading rights exist with Fosters in relation to Imperial Gardens and Pittville Park.

- There are traders in existence with Council permission already trading in most parks from cafes and stalls,
- The Council has received some complaints from residents over noise emanating from chimes playing for extended periods,
- There is some concern over pedestrian safety where, for example, the mobile ice-cream seller is parked across the road from the park, and
- The vast majority of roads surrounding parks, particularly in the town centre, have some form of parking restrictions applicable which will mean that mobile ice-cream sellers will be unable to park legitimately anywhere near public parks.

3.11 Officers have included an additional requirement for traders who trade from vehicles to also provide the vehicle's insurance document and the latest valid MOT certificate.

3.12 For the reasons above, it is not recommended that the restrictions in relation to trading in public parks be lifted.

3.13 Part 2C has been updated to reflect the Council's agreement with the Public Fundraising Regulatory Association to regulate direct debit collections.

3.14 Since the conclusion of the consultation, the Department for Business, Innovation and Skills have issued new guidance on compliance with the EU Services Directive. Charitable collections fall within the scope of the directive and to ensure the policy complies with the directive, it was necessary to remove the following sections from the draft policy;

- Under paragraph 3.1 – "Priority will be given to applications falling within the following categories and in the order of priority:
 1. Charities who have not received permits in the previous year.
 2. Local Charities as opposed to National Charities."
- Under paragraph 3.3 – "Preference will be given to charities/organisations that have not received permits in the previous year."

Objects on the Highway

3.15 Although there were no substantial issues raised with regards to street trading and charitable collections, the proposals relating to objects on the highway and in particular 'A' boards prompted more response.

3.16 Charlton Kings Parish Council expressed concern that part 3, paragraph 3.3(d) of the policy, that reads "The 'A' board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises" would disadvantage premises not situated on main thoroughfares.

3.17 Officers consider the retention of this condition to be necessary to ensure the Council is able to effectively manage and control 'A' boards in terms of their location and avoiding obstruction of the highway. Business are able to apply for directional 'A' boards if they feel their premises is located in such a location that it would not be of any use to place one directly outside their premises. Furthermore, the Council will encourage businesses to share the use of the 'A' board therefore it may be beneficial for a number of disadvantaged premises to submit a joint application for a directional 'A' board. These will be determined on a case to case basis.

- 3.18** Mr Chris Copner, director of Soho Coffee, made a number comments relating to the fees associated with the licensing of 'A' boards. Fees are subject to a separate consultation and not relevant to the scope of this report. Notwithstanding this, it may be helpful for Members to know that, should the new policy be adopted, fees are likely to be reduced because less administration and enforcement resources will be required.
- 3.19** Mr Phillip Goode from Vinyl Vaults also expressed concern over the fact that the new proposed plans would not benefit his business due to the fact that it is located in a basement.
- 3.20** In reference to Mr Goode's comments, the draft policy does make provision for his situation under part 3, paragraph 3.3(d) of the policy, that reads "The 'A' board is placed directly outside the premises, immediately adjacent to the front of the premises or *in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises.*" [Italics Added]
- 3.21** Finally, comments were received from Mark Nelson, Enforcement manager for Built Environment. There was some concern over planning implications relating to the proposed new rules for 'A' boards. Following discussions with colleagues in Planning over the concerns, it was agreed that an Outdoor Advertising Protocol be introduced in respect of 'A' boards in conservation areas. As a result, an additional sentence has been inserted under part 3, paragraph 3.3 stating "The Conditions of Consent are subject to the Revised Outdoor Advertising Protocol attached at Appendix I of this policy."
- 3.22** The protocol retains the needs test for 'A' boards in designated conservation areas whereas the new proposed policy will apply to all other areas.

Rationale

- 3.23** The Council's corporate strategy sets out a priority to ensure Cheltenham's natural and built environment is enhanced and protected. The Revised Outdoor Advertising Protocol seeks to strike a balance between promoting the Council's corporate priorities where it is deemed necessary, in this case conservation areas, whilst on the other hand lifting unnecessary regulation and burdens elsewhere.
- 3.24** Whilst the effect of introducing the advertising protocol is that there will be fewer 'A' boards that will be licensed than initially anticipated, the factors that drove the need for review will still be achieved (para. 1.4).
- 3.25** Clearer rules under which 'A' boards would be licensed means that most applications can be determined by officers instead of referring all new applications to the Licensing Committee which has cost and resource implications.
- 3.26** There are currently only 7 licensed 'A' boards in the borough which means a significant amount of enforcement resources are required to deal with those not licensed. Despite the fact that the advertising protocol would reduce the number of legitimate 'A' boards that could be licensed, there is still a fair proportion of premises inside the conservation area and outside that would qualify for consent under the proposed new policy. An increased number of licensed 'A' boards would result in less enforcement resources required but also the additional income generated can support the enforcement of the illegitimate 'A' boards under common law principles (Manchester City Council [R] v King [QBD] 1991).
- 3.27** It is very difficult to quantify the anticipated increased number of additional 'A' boards that would be licensed under the new proposed policy for a number of reasons associated with transitional arrangements from old to new policies. Nonetheless, officers anticipate that an additional 40-50 'A' boards would be licensed in the first year if the draft policy is adopted.
- 3.28** The culmination of all of the above factors will result in clearer, more streamlined and cost

effective service delivery in terms of the licensing of 'A' boards which has not been the case since at least 1999 when the current policy was adopted.

4 Outcomes

Street Trading

- 4.1 The current policy on permitted street trading has been changed to reflect the Council's priorities. The new draft policy will permit street trading where it enhances the town's reputation as a tourist and leisure destination. It is envisaged that through applying the new proposed policy, that street trading will make a positive contribution towards the vibrancy and attractiveness of the town as an already well established tourist and leisure destination.

Objects on the Highway

- 4.2 Although there has been some discussion already in terms of the rationale behind the proposed new policy on 'A' boards, the remit of objects on the highway is wider to also include, amongst others, tables and chairs.
- 4.3 Whilst the draft 'A' board policy seeks to retain the town's architectural attractiveness and street amenity, the policy also continues to encourage the use of tables and chairs outside premises as it recognises that Cheltenham has a well established café culture which also contributes towards the vibrancy and attractiveness of the town as a place to visit and live.

5 Equalities Impact Assessment

- 5.1 An equalities impact assessment has been carried out in to ensure that the proposals set out in the draft policy does not adversely affect different groups in the community.
- 5.2 Although objects placed in the highway may have an impact on people using wheelchairs or people with a disability affecting their sight, officers believe that reasonable precautions have been put in place to ensure this group of people will not adversely be affected. For example, the proposed policy for 'A' boards sets out clear rules regarding access provisions, minimum pavement width, size and construction of objects to ensure that persons in wheelchairs, pushchairs or partially sighted will have ample room to use the highway without being obstructed.
- 5.3 No other aspects of this policy has been identified that would adversely affect equality practice.

Report author	Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk 01242 775004
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Draft Policy on Measures to Control Street Scene Activities 3. Consultee Feedback
Background information	<ol style="list-style-type: none"> 1. Documents and minutes of Cabinet Meeting 17th of April 2012 2. Current Town Centre Policy 3. Internal Audit Report (Final) Licensing 2011-2012 (Final Issue Date: 27/09/2011)

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	Failure to review the Council's current policy could adversely affect the Council's reputation for the reasons mentioned in the report.	Licensing & Business Support Team Leader	17.4.12	2	4	8	Accept	Adoption of revised policy.		Licensing & Business Support Team Leader	
	Failure to review the Council's current policy could result in the Council being unable to effectively control the activities that fall within the scope of this review.	Licensing & Business Support Team Leader	17.4.12	2	4	8	Accept	Adoption of revised policy.		Licensing & Business Support Team Leader	
	Failure to review the Council's current policy will result in the Council being unable to fully recover its cost of administering and enforcing some of the activities that fall within the scope of the policy.	Licensing & Business Support Team Leader	17.4.12	3	5	15	Accept	Adoption of revised policy.		Licensing & Business Support Team Leader	
	Failure to review the Council's current policy will result in the licensing section being unable to comply with its internal audit recommendations.	Licensing & Business Support Team Leader	15.1.13	2	5	10	Accept	Adoption of revised policy.		Licensing & Business Support Team Leader	
Explanatory notes											
<p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

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CHELTENHAM
BOROUGH COUNCIL

**Policy on Measures to Control Street Scene Activities
in Cheltenham**

Street Trading, Objects on the Highway and Charitable Collections

All enquiries should be directed to:-
Director - Wellbeing and Culture
Municipal Offices
Promenade
CHELTENHAM
GL50 9SA
Tel: 01242 262626
E-mail: licensing@cheltenham.gov.uk
Website: www.cheltenham.gov.uk/licensing

This Policy was approved by Full Council on **xx** taking effect on **xx**

Policy on Measures to Control Street Scene Activities in Cheltenham

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Introduction

General Information

The aim of this consultation is to detail new procedures and policies that will apply to street trading activities, charitable collections and consent to place objects on the highway across the whole of the borough of Cheltenham and is being circulated for comment.

The reasons for the policy are:

- To have a clear & transparent policy governing all these activities.
- To enable the Council to manage all objects on highway, street trading and charitable collections activities in order to provide effective control measures.
- To ensure that they meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Council's efforts to improve the image, perception and attractiveness of the Town.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

Scope

This policy includes measures to control street trading, charitable collections and permission to place objects on the highway.

Consultation

The consultation will close on xx xxxx xxxx. Council procedure is to allow 12 weeks for a full consultation to take place.

In determining this policy, the Council will consult the following people, bodies and stakeholders:

- Gloucestershire Constabulary
- Gloucestershire Highways
- Gloucestershire Fire & Rescue Service
- Cheltenham Business Partnership
- Charity Commission
- Strategic Leadership Group
- Environmental Health Department
- Planning Department
- Members of the Council
- Community Protection Manager
- Integrated Transport & Sustainability
- Cheltenham Borough Council Directors
- Parish Councils & Neighbourhood Groups
- Cheltenham Chamber of Commerce
- Existing Consent Holders

Appendix 2

Crime and Disorder Act 1998

In considering applications that forms part of this policy, the Council will give particular consideration to Section 17 of the Crime and Disorder Act 1998 and its responsibilities thereunder.

Complaints against the Service

The Council has a corporate complaints procedure, copies of which are available from the Council Offices or on the Council's website www.cheltenham.gov.uk

Social Inclusion/Equalities

This policy will be applied in a manner that is consistent with the Council's equalities policies.

Implementation and Review

Cheltenham Borough Council will keep this policy under review and will consult where appropriate on proposed revisions. It will in any event review this policy at least every three years.

From the date of effect the policy overrides and supersedes all existing policies or arrangement in relation to consent to place an object on the highway, street trading consent and charitable collection permits. Existing consent holders will, upon renewal or when submitting a subsequent application, come under the provisions of this policy.

Enforcement

The Council will enforce the provisions of this policy inline with its Corporate Enforcement Policy. This policy is accessible on the Council's website.

Appendix 2

Part 1 - Street Trading

1. Framework

1.1 Introduction

This part of the policy sets out how the council will deal with applications for street trading consent in the borough of Cheltenham.

The Council aims to provide a clear and consistent approach to the control of street trading activities whilst at the same time it aims to protect the safety of highway users and to prevent nuisance or annoyance.

1.2 Legislation

Street Trading is controlled in accordance with the provisions contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

Cheltenham Borough Council has adopted measures to control street trading in the borough. Every street in the borough has been designated a consent street.

1.3 Definitions of terms used in this Part

Within the terms of Cheltenham Borough Council's Licensing of Street Trading the following definitions apply:

The Council:	The Borough Council of Cheltenham
Borough:	The Borough of Cheltenham
Street Trading:	The selling or exposing or offering for sale of any article (including a living thing) in a street; and the supplying of or the offering to supply any service in a street.
Street:	Includes: a) Any road, footway, beach or other area to which the public have access without payment; and b) A service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street. The policy will therefore cover all roads, lay-bys, alleys and car parks whether public or privately owned.
Consent Street:	Means a street in which street trading is prohibited without the consent of the Council.
Consent:	A consent to trade on a street granted by the Council, pursuant to Paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
Consent Holder:	The person or company to whom the consent to trade has been granted by the Council.

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- Authorised Officer: An officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
- Town Centre: Core Commercial Area as outlined in the “Cheltenham Borough Local Plan” adopted July 2006.
- Exempt: The exemptions listed under Paragraph 1, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- Interested Parties: People who live or work in the vicinity to which the application relates and who may be affected by the grant of a consent.

1.4 Licensing Process & Delegation of Functions

Applications for street trading consents are delegated to either the Licensing Committee or to Officers.

The delegation will be as follows:

Matter to be dealt with	Delegation
Setting or amending policy	Full Council
Initial Grant/Refuse/Revocation	Licensing Committee
Grant of Unopposed Subsequent Applications	Officers

2. Application Procedure

2.1 Submitting an Application

All applicants must be 17 years of age or above. An application for consent must be made to the Council in writing.

Application forms:

- may be downloaded from the Council’s website,
- are obtainable from the Council’s Licensing Section during normal office hours, or
- electronic applications can be made through the Council’s website.

The following will be required to be submitted with the application:

- (a) A completed and signed street trading consent application form.
- (b) A scaled plan (Scale 1:1250) that shows where the proposed trading location relation to the extent of any or all boundaries of the nearby buildings, the width of footpath available, any permanent structures and, if applicable, the location of the pitch in relation to the edge of the road. The plan must include all measurements.
- (c) Colour photographs of the stall, van, barrow, cart etc. that will be used for the street trading activity. (Where the proposed structure has not been constructed, accurate and to scale detailed sketches must be supplied. If this information is not supplied the application will not be accepted.)
- (d) The consent application must be accompanied by a non-refundable administration fee (see current fee sheet). If the consent is granted, the consent

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- fee must be paid in full within 5 working days from the date the consent is granted. Failure to pay the remainder of the licence fee within the require timeframe, without prior agreement from the licensing section, will result in an invalid application.
- (e) Insurer's certificate with Public Liability Cover of no less than £5,000,000.
 - (f) Documents to establish your identity such as a originals of a Photo Driving Licence, passport and at least one original proof of address which is recent (no more than three months old) for example a Utility bill (Gas, Electric or similar), Credit card statement, Bank statement, Mortgage statement or Insurance statement.
 - (g) If the trader is trading from a vehicle, the vehicle insurance document and the latest valid MOT certificate.

All applications should be marked for the attention of the Licensing Section, Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham GL50 9SA.

An application for initial consents should give a minimum of at least 35 working days notice of the application.

2.2 Determination of an application

2.2.1 Consultation

Before a street trading consent is granted the Council will carry out a consultation process for 14 working days (starting on the working day after the application was submitted to the licensing section) with various persons and groups.

- Gloucestershire Highways
- Environmental Health Department
- Gloucestershire Constabulary
- Cheltenham Business Partnership
- Built Environment
- Civil Enforcement
- Gloucestershire Association for Voluntary and Community Action
- Gloucestershire Fire and Rescue Service (where applicable)
- Any other person(s) or bodies the Council deems relevant

A pale pink notice (see **Appendix H**) must be put on display by the applicant as near as possible to the location of the trading pitch in a prominent position for the duration of the consultation period to give interested parties an opportunity to make comments on the application.

The notice has to be at least A4 size, on pale pink paper, printed legibly in black at font size 16 or larger. It must be capable of being conveniently read by passers by.

Written observations from the above organisations and/or interested parties will be made available for public inspection and taken into consideration when determining an application.

The Committee can grant the application as requested, grant the application subject to a number of conditions or refuse to grant the application.

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For information on the committee process, please refer to the Council's adopted probity guide.

2.2.1 Subsequent Applications

Street Trading Consents are issued for a period of up to one year.

As a matter of courtesy, the Council will send reminder letters to existing licence holders reminding them to submit subsequent applications. However, the responsibility to submit subsequent applications on time remains the responsibility of the licence holder.

Applicants should re-submit their application if they wish to continue to trade at least one month before the expiry of their current consent.

2.2.2 Variation of Consent

There is no provision for a variation of a consent once issued. If an applicant wishes to vary any part of their consent, a new application will be required in accordance with the requirements set out above.

2.2.3 Grant

It will be a condition of every consent that a street trading licence plate must be attached to every trading pitch, vehicle or other trading object. The licence plate will outline information relating to the individual consent such as consent number, expiry date, hours of trading and items to be sold.

The purpose of these licence plates is to easily identify licensed traders so to ensure effective enforcement and to ensure reassurance to members of the public.

3. Policy Principles, Aims & Objectives

This section outlines the policies the council will apply when making decisions on applications for consents.

Each application will be determined on individual merits and in view of promoting the principles and objectives contained in this policy.

In particular the policy aims to promote the following aims and objectives in reference to street trading activities:

- To have a clear & transparent policy governing street trading activities in the Borough.
- To enable the Council to manage all street trading activities in order to provide effective control measures.
- To ensure that all street trading activities meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Council's efforts to improve the image, perception and attractiveness of the Town as a tourist and leisure destination, and is in keeping with the streetscape.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

3.1 Site Assessment

Consent from static locations will not normally be granted where:

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- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site,
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes,
- There is a conflict with Traffic Orders such as waiting restrictions,
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes,
- The site does not allow the consent holder, staff and customers to park in a safe manner,
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

3.2 Inspection of the Street Trading Unit

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity may be subject to an inspection by an authorised officer of the Council, prior to the issue of any street trading consent, where this is reasonably practicable. The unit to be used for the street trading activity shall be of a sufficient standard and shall comply in all respects with any legal requirements relating to the type of street trading activity proposed. In particular the unit to be used shall comply with all current legislation covering Food Safety (including hygiene), Health and Safety and Environmental Protection.

3.3 Public Safety

In the interests of highway safety, no activity will be permitted within a minimum of 2 metres of a kerb.

3.4 Conservation Areas

The scope of this part of the policy covers the entire borough. However, the town centre, amongst a number of other areas in the borough, has conservation area status and as a result the Council will adopt a more restrictive approach to applications for these areas in particular. A map outlining the areas in the borough that has conservation area status can be found on the council's website at <http://www.cheltenham.gov.uk/maps>.

3.4.1 Town Centre & Conservation Area

Despite this, the Council would not wish to prevent a modest amount of street trading in these areas of the town of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination. To this end, street trading will generally be permitted in these areas where it enhances the town's reputation as a tourist and leisure destination, and is in keeping with the streetscape.

The appearance of a trader's business must enhance, or at least not be detrimental, to the street scene.

Appendix 2

Part 2 – Charitable Collections

Introduction

This part of the policy document forms the Council's charitable collections policy that will apply to Street, House to House & Direct Debit Collection activities in the borough of Cheltenham to ensure consistency in decision making.

Part 2A - Street Collections

1. Framework

1.1 Definitions of terms used in this Part

Within this part the following definitions apply:

The Council:	Cheltenham Borough Council
Borough:	The Borough of Cheltenham
Permit:	Street Collection Permit
Charity:	Is any organisation or body that a) is established for charitable purposes only, and b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.
Charitable purpose:	Means any charitable, benevolent or philanthropic purpose that includes the following a) the prevention or relief of poverty; b) the advancement of education; c) the advancement of religion d) the advancement of health or the saving of lives; e) the advancement of citizenship or community development; f) the advancement of the arts, culture, heritage or science; g) the advancement of amateur sport; h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity; i) the advancement of environmental protection or improvement; j) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage; k) the advancement of animal welfare; l) the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services.

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Promoter(s):	a person or organisation who causes others to act as collectors.
Collection:	a collection of money or a sale of articles for the benefit of Charitable or other purposes.
National Charity:	Charities that are registered to operate throughout England and Wales as defined in its governing document regardless of whether the charity has a local office.
Town Centre:	Core Commercial Area as outlined in the “Cheltenham Borough Local Plan” adopted July 2006.

1.2 Legislation

The licensing of street collections is regulated by the Charities Act 2006 which regulates collections of money or sales of articles for charitable or other purposes in streets and public places. The Police, Factories, & c. (Miscellaneous Provisions) Act 1916 gives District Councils powers to write regulations and policies to control street collections.

The legislation and regulations stipulate that any collection to be undertaken in a street or public place requires a permit. It is a criminal offence to conduct a collection in any street or public place within the borough without first obtaining such a permit from the Council.

1.3 Delegations

The Council has delegated to its officers the authority to consider and determine applications for permits, subject to the criteria set out in the regulations and in this policy document, including any representation received from the Police, Charity Commission, other Local Authorities and persons/organisations consulted with.

The delegation will be as follows:

Matter to be dealt with	Delegation
Setting or amending policy	Full Council
Grant/refuse/revocation of a consent	Officers

Please note that an officer from the officers can refer an application to the relevant committee at any time for determination.

2. Application Procedure

2.1 Submitting an Application

An application for a permit must be made to the Council in writing on the prescribed application form provided no later than 2 weeks before the proposed collection date.

Permit application forms:

- may be downloaded from the Council's website,
- are obtainable from the Council's Licensing Section, or

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- electronic applications can be made through the council's website.

The following will be required to be submitted with the application:

- (a) the aims and objectives of the organisation including any supporting documents, e.g. constitution and/or articles of association;
- (b) details of street collection permits approved or refused (other than within the borough's area);
- (c) a copy of the organisation's most recently audited accounts;
- (d) if the application is made on behalf of a charity a letter of authorisation; any other relevant information requested by the Council;
- (e) for transitory collections, details of the proposed routes must be provided with the application; and
- (f) statement of due diligence.

Applications will be considered on receipt and, where appropriate, additional information may be requested from the applicant. Failure to provide adequate information in the application form or upon request will result in an invalid application and the application and documents will be returned to the applicant.

2.2 Determination of application

Each application will be determined on individual merits and in view of promoting the principles and objectives contained in this policy.

The legislation does not include statutory criteria for the approval or rejection of a permit request. This is a matter for the Council's discretion. This policy reflects the wide discretion given to the Council enabling it to grant/decline/limit permits on various grounds that are not specific within the legislation and regulations.

The Council reserves the right to make more detailed enquiries about an applicant and the proposed collection in certain circumstances.

Enquiries may be made to Gloucestershire Constabulary and/or the Charity Commission for comment/investigation prior to consideration.

The Council may also consult with other council departments. Where the application for a permit includes a street procession or placing a structure or vehicle on the street/highway; or where the proposed collection relates to the sale of articles in a street/public place, permission should be sought in advance from the relevant authority.

There are no statutory grounds for refusing an application for permits. However, the Council will refuse the application if it considers that the collections:

1. Are not for "charitable or other purposes", and/or
2. Contravene the provisions of the Street Collection legislation and regulations.

In addition, the Council can refuse any application for any of the following reasons:

1. To limit the number of collections,
2. If too high a proportion of the proceeds are likely to be spent on expenses,
3. If inaccurate information was provided on the licence application,
4. If the promoter or any other person involved has been convicted of certain criminal offences, in particular offences of dishonesty e.g. theft, blackmail or fraud etc.

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5. Once issued, a licence may be revoked if it is believed the objectives are or could be compromised.

2.2.1 Issued Permit

Where an application is made for a collection on behalf of a charity, the Council will send a copy of the issued permit to the benefiting charity for their information and to make them aware of the application and collection.

2.2.2 Form of Statement>Returns Form

Attention is drawn to **section 16** of the regulations which sets out the procedure for submission of a statement of income and expenditure (certified by the applicant and either an accountant or an independent person of good standing acceptable to the Council) etc. All items required under this regulation must be submitted within one month of the date of collection and it is essential that this time scale be adhered to. Failure to apply may prejudice any future applications.

3. Policy Principles, Aims and Objectives

This section outlines the policies the Council will apply when making decisions on applications for permits. In particular, it explains how the street collection regulations are to be applied and where and how often an organisation may make a street collection in the borough.

In particular the policy aims to promote the following aims and objectives in reference to charitable collections:

- To have a clear & transparent policy governing charitable collections in the Borough.
- To enable the Council to effectively regulate all charitable collections.
- To ensure that collections are genuinely charitable/not for profit in nature.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

3.1 Allocation of street collection days

The above is subject to the special arrangement that apply to Christmas collections (3.4), Cheltenham Hunt Festival collections (3.5), collections on behalf of national charities (3.6) and organisations will be allowed a permit every year (see below).

The Council operates a diary booking system on a "first come first served" basis for the allocation of street collection date(s) in order to ensure that all charities have equal access to their preferred collection dates. No guarantee will be given that a charitable organisation's preferred date(s) will be allocated to that organisation. Where an organisation's preferred date(s) cannot be granted, alternative dates may be suggested where practicable.

The Council will normally only permit a maximum of one collection in the town centre per day although collection applications for other areas in the borough away from the town centre will be considered at the Council's discretion.

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3.2 Transitory Collections

Transitory collections, i.e. those whose collections pass through the borough, will be given permits subject to their route not coinciding with a permit already granted. These events are normally sponsored walks, street processions, bed pushes or cycle rides etc.

3.3 Emergency & Special Collections

In exceptional circumstances, such as an emergency appeal or a national special event, consideration may be given to the grant of additional permits or reduced notice time, at the discretion of the Council.

3.4 Christmas Town Centre Street Collections

In addition to the requirements set out above, the Council will specify additional requirements for collection applications for the months of November (from the 15th onwards) and December ("Christmas collections") in the town centre.

The Council will not accept applications for Christmas collections until the first week of September every year.

In order to permit as many Christmas collections as possible, the Council will allocate applicants either a morning slot (8am to 1pm) or an afternoon slot (1pm to 5pm).

Officers will submit a report to the Council's Licensing Committee with proposed allocation for Christmas collections in November every year. The Committee may approve the proposed allocation of dates or make any amendments it considers necessary.

Applicants will be notified of the Committee's decision within 5 working days and issued with a collection permit if they were successful.

Where an applicant's preferred date(s) cannot be granted, alternative dates, time and/or locations may be suggested where practicable.

Collection applications for other areas in the borough over December, away from the town centre, will be considered on merits and at the Council's discretion.

3.5 Cheltenham Hunt Festival Collections

In addition to the requirements set out above, the Council will also specify additional requirements for collection applications for March every year during the Cheltenham Hunt Festival ("Race week collections").

The Council will not accept applications for race week collections until the first week of October every year.

Where there is a conflict of dates, times or locations, officers may submit a report to the Council's Licensing Committee with proposed allocation for race week collections in December every year.

Applicants will be notified of the Committee's decision within 5 working days and issued with a collection permit if they were successful.

Where an applicant's preferred date(s) cannot be granted, alternative dates, time and/or locations may be suggested where practicable.

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Collection applications for other areas in the Borough over Race week, away from the town centre, will be considered at the Council's discretion.

3.6 Collections on behalf of National Charities

The Council recognises that in certain cases a number of different individuals may want to have a collection for the same charity throughout any calendar year year. These are normally national charities such as Help for Heroes, Children in Need, Comic Relief etc.

In cases like these the Council will not limit collections based on the charity benefiting from the collection (in accordance with 3.1 above). Instead individual promoters or collectors will only be permitted one collection per calendar year for each benefiting charity.

3.7 Animals

The use of animals in conjunction with street collections is discouraged and will only be permitted in conjunction with animal charities.

Appendix 2

Part 2B - House to House Collections

1. Framework

1.1 Definitions of terms used in this Part

Within the terms of Cheltenham Borough Council's Licensing of House to House Collections, the following definitions apply:

Permit:	House to House Collection Permit
Collection:	An appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property and the word "collector" shall be construed accordingly.
The Council:	Cheltenham Borough Council
Borough:	The Borough of Cheltenham
Charity:	Means any organisation or body that a) is established for charitable purposes only, and b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.
Charitable purpose:	Means any charitable, benevolent or philanthropic purpose that includes the following a) the prevention or relief of poverty; b) the advancement of education; c) the advancement of religion d) the advancement of health or the saving of lives; e) the advancement of citizenship or community development; f) the advancement of the arts, culture, heritage or science; g) the advancement of amateur sport; h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity; i) the advancement of environmental protection or improvement; l) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage; k) the advancement of animal welfare; n) the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services.
Promoter(s):	a person or organisation who causes others to act as collectors.

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Town Centre: Core Commercial Area as outlined in the “Cheltenham Borough Local Plan” adopted July 2006.

1.2 Legislation

House to House Collections are regulated by the House Collections Act 1939 and the House to House Collections Regulations 1947.

1.3 Delegations

The Council has delegated to its officers the authority to consider and determine applications for permits, subject to the criteria set out in the regulations and in this policy document, including any representation received from the Police, Charity Commission, other Local Authorities and persons/organisations consulted with.

The delegation will be as follows:

Matter to be dealt with	Delegation
Setting or amending policy	Full Council
Grant/refusal/revocation of a consent	Officers

Please note that an officer from the Council can refer an application to the relevant committee at any time for determination.

2. Application Procedure

2.1 Submitting an Application

An application for a permit must be made to the Council in writing on the prescribed application form provided not later than two weeks before the proposed collection date.

Permit application forms:

1. may be downloaded from the Council’s website,
2. are obtainable from the Council’s Licensing Section, or
3. electronic applications can be made through the Council’s website.

The application form must be fully and correctly completed and accompanied where appropriate by any necessary information. Before the Council can grant a permit, it needs to have as much information as possible about the charity, its promoters and collectors.

The following will be required to be submitted with the application:

- (a) the aims and objectives of the organisation including any supporting documents, e.g. constitution and/or articles of association;
- (b) details of street collection permits approved or refused (other than within the borough’s area);
- (c) a copy of the organisation’s most recently audited accounts;
- (d) if the application is made on behalf of a charity a letter of authorisation; any other relevant information requested by the Council;
- (e) statement of due diligence.

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2.2 Determination of application

Applications will be considered on receipt and, where appropriate, additional information may be requested from the applicant. Failure to provide adequate information in the application form or upon request will result in an invalid application and the application and documents will be returned to the applicant.

2.2.1 Issued Permit

Where an application is made for a collection on behalf of a charity, the Council will send a copy of the issued permit to the benefiting charity for their information and to make them aware of the application and collection.

2.2.2 Exemptions

Where the Secretary of State is satisfied that a person pursues a charitable purpose throughout the whole, or a substantial part of England and Wales, and is committed to promoting collections for that purpose, the Secretary of State may by Order direct, in effect, that such person shall be exempt from the requirement to obtain permits from the Licensing Authority, as respects all collections for that purpose in such localities as may be described in the Order.

If the Chief Constable for the Police Area comprising a locality in which a collection for a charitable purpose is being, or proposed to be, made is satisfied that the purpose is local in character, and that the collection is likely to be completed within a short period, he may grant to the person who appears to him to be principally concerned in the promotion of the collection a Certificate in the prescribed form; and where a Certificate is so granted, a permit from the Licensing Authority is not required and the provisions of the Regulations shall not apply to a collection made in conformity with such Certificate.

Charities that benefit from a national exemption order made by the Secretary of State, although not needing a permit from the Council, still have to notify the Council when they are going to fundraise in the borough.

3. Policy Principles

This section outlines the policies the Council will apply when making decisions on applications for permits. In particular, it explains how the street collection regulations are to be applied and where and how often an organisation may make a street collection in the borough.

In particular the policy aims to promote the following aims and objectives in reference to charitable collections:

- To have a clear & transparent policy governing charitable collections in the Borough.
- To enable the Council to effectively regulate all charitable collections.
- To ensure that collections are genuinely charitable/not for profit in nature.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

3.1 Permitted Duration and Frequency of Collections

The Council will restrict the frequency and period collections can take place in the borough.

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A collection can only run for a maximum period of one month. Only two collections are permitted annually in the borough for each charity.

If an application is made for a period in excess of the maximum period permitted above, the application will be returned to the applicant as invalid.

An amended application can be submitted for reconsideration.

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Part 2C - Direct Debits

Collections made by means of visits from house to house are governed by the House to House collections Act 1939 and the House to House collections Regulations 1947 (as amended). The legal definition of 'collection' is an appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property. This means that any person or organisation who wish to do house to house direct debit fundraising will need to obtain a permit. The term 'house' also includes a place of business.

All other forms of direct debit collections are not regulated in law but the Council has entered into an agreement with the Public Fundraising Regulatory Association (PFRA) to control all other direct debit collections in the borough.

Under the agreement, the PFRA is responsible for booking all collections in the borough and dealing with all complaints received in respect of direct debit collections in the borough.

Appendix 2

Part 3 – Objects on the Highway

1. Framework

1.1 Introduction

This part of the policy sets out the framework for decisions making and associated processes when administering applications relating to permission to place objects on the highway.

It is to ensure the safety of all users of the public highway by the management of temporary obstructions, which can be placed on the pavement or carriageway. This policy will allow the pavement to be used for such purposes, support businesses and allow the safe and free movement of all users of the highway.

1.2 Legislation

Consent for objects to be placed on the highway is controlled in accordance with the provisions contained in the Highways Act 1980.

1.3 Scope

This policy covers non-fixed or temporary objects that obstruct the footway or carriageway. It does not include objects placed on private forecourts or within trading pitches that are regulated by the Street Trading legislation.

Cheltenham Borough Council has entered into agreement with Gloucestershire County Council to control objects placed on the highway in the Borough. Under this agreement, Cheltenham Borough Council is empowered to control, amongst others, the provision of amenities on the highways as specified under Part VIIA of the Highways Act 1980.

Consent for certain objects/structures to be placed on the highway remains the responsibility of Gloucestershire County Council such as skips and scaffolding and does therefore not fall within the scope of this policy.

1.4 Definitions of terms used in this Part

Within the terms of Cheltenham Borough Council's Licensing of Objects on the Highway the following definitions apply:

Highway:	A highway shall be understood to mean all roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements over which there exists a public right of passage, that is to say a right for all Her Majesty's subjects at all seasons of the year freely and at their will to pass and repass without let or hindrance.
Object(s):	Includes any or all of the objects that is covered in the scope of this policy.
Consent:	Objects on the Highway Consent.
The Council:	The Borough Council of Cheltenham

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Town Centre: Core Commercial Area as outlined in the “Cheltenham Borough Local Plan” adopted July 2006.

Local Charity: Charities whose head office is based in the borough and the beneficiaries of this charity are mainly based within the borough.

Town: The Borough of Cheltenham.

1.5 Licensing Process & Delegation of Functions

Applications for consent are delegated to either the Licensing Committee or licensing officers.

The delegation will be as follows:

Matter to be dealt with	Delegation
Setting or amending policy	Full Council
Grant (where an application conforms to policy)	Officers
Grant (where an application does not conform to policy or opposed applications)/revocation	Licensing Committee

Please note that an officer from the Council can refer an application to the relevant committee at any time for determination.

2. Application Procedure

2.1 Submitting an Application

An applicant for an initial new consent should give a minimum of at least 35 working days notice of the application.

When an application is received it is initially checked to see if all of the relevant information required is complete and all support documentation has been submitted.

Application forms:

- may be downloaded from the Council’s website,
- are obtainable from the Council’s Licensing Section during normal office hours, or
- electronic applications can be made through the Council’s website.

Written applications should be marked for the attention of Licensing Section, Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham GL50 9SA.

The following will be required to be submitted with the application:

- (a) A completed and signed application form.
- (b) A scaled (1:1250) plan that shows where the proposed trading location relation to the extent of any or all boundaries of the nearby buildings, the width of footpath available, any permanent structures and, if applicable, the location of the pitch in relation to the edge of the road. The plan must include all measurements.

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- (c) Colour photographs of the proposed object (Where the proposed object has not been constructed or purchased, accurate and to scale detailed sketches must be supplied. If this information is not supplied the application will not be accepted.)
- (d) A non-refundable administration fee (see current fee sheet). If the consent is granted, the consent fee must be paid in full within 5 working days from the date the consent is granted. Failure to pay the remainder of the licence fee within the require timeframe, without prior agreement from the licensing section, will result in an invalid application.
- (e) Insurer's certificate with Public Liability Cover of no less than £5,000,000.

Applicants who submit an incomplete application will be contacted and informed of this and the application may be returned to the applicant for resubmission.

2.2 Determination of application

2.2.1 Consultation

Before a consent is granted the Council will carry out a consultation process for 14 working days (starting on the working day after the application was submitted to the licensing section) with various persons and groups. The Council reserves the right to extend this period if there is reasonable cause to do so. In particular the Council may consult with any or all of the following organisations or persons:

- (a) Gloucestershire Highways
- (b) Environmental Health Department
- (c) Gloucestershire Constabulary
- (d) Cheltenham Business Partnership
- (e) Built Environment
- (f) Civil Enforcement
- (g) Gloucestershire Association for Voluntary and Community Action
- (h) Gloucestershire Fire and Rescue Service (where applicable)
- (i) Any other person(s) or bodies the Council deems relevant

A pale pink notice (see **Appendix H**) must be put on display by the applicant in the window of the premises the application relates or as near as possible to the location of the proposed structure in a prominent position for the duration of the consultation period to give interested parties who may be affected by the application opportunity to make comments on the application.

The notice has to be at least A4 size, printed legibly in black at font size 16 or larger. It must be capable of being conveniently read by passers by.

Written observations from the above organisations and interested parties will be made available for public inspection and taken into consideration when determining an application.

In relation to the above, consideration will be given to written observations from consultees. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made.

Where valid objections have been made, the application may be referred to the Council's Licensing Committee for determination in accordance with the table of delegation above.

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When applications are referred to the Committee it can grant the application as requested, grant the application subject to a number of conditions or refuse to grant the application.

For information on the committee process, please refer to the Council's adopted probity guide.

Consents will be issued with an attached plan outlining in red the exact position of the object.

2.2.2 Subsequent Applications

Consents are issued for a period of up to one year. Applicants should re-submit a subsequent application if they wish to continue to place the object on the highway at least one month before the expiry of their current consent.

As a matter of courtesy, the Council will send reminder letters to licence holders reminding them to submit subsequent applications. However, the responsibility to submit subsequent applications on time remains the responsibility of the licence holder.

At this time, further consultation may take place to determine if the object is a cause for concern.

3. Policy Principles, Aims and Objectives

This section outlines the policies the council will apply when making decisions on applications for consents.

In particular, this part of the policy will aim to promote the following aims and objectives:

- To have a clear & transparent policy governing all decisions relating to objects placed on the highway.
- To enable the Council to manage all objects placed on the highway in order to provide effective control measures.
- To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

3.1 General

Each application is assessed against the outlined conditions included in the application pack and this policy.

No object and its associated activity may generate noise which is likely to cause nuisance or annoyance.

Applications will be dealt with on a first come first served basis.

Any object given consent to be placed on the highway must be sufficiently weighed down or secured to ensure that the object will not cause any harm or damage.

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3.2 Public Highway and Private Land

The Council is responsible for controlling certain objects/structures that are placed on a public highway.

At common law, a highway is defined to mean all roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements *over which there exists a public right of passage, that is to say a right for all Her Majesty's subjects at all seasons of the year freely and at their will to pass and repass without let or hindrance.*

Where such uncertainty exist, the test whether an object/structure is placed on a highway (as opposed to private land) is whether there is a public right of passage where, at any time, members of the public can freely and at their will to pass and repass without let or hindrance, whether they do so or not is immaterial.

Therefore, if the proposed location is an area where any member of the public can pass over without hindrance, that area is likely to be considered highway and will for that reason fall within the Council's authority.

In light of the above and for the purpose of licensing objects/structures on the highway under the Highways Act, it is also immaterial whether the particular location is designated as private on, for example, a lease, whether the particular highway is privately maintained or situated under an overhang etc.

The only exception would be areas where that particular location has been designated as private under the Highways Act and the appropriate signage is on display.

A highway can be maintained either at the expense of the taxpayer or privately. Where the highway in question is privately maintained, the Council will not charge a consent fee although the non-refundable application fee will still apply.

Each situation will be determined on individual merits and this policy does not seek to provide an exhaustive list of areas and roads that are privately maintained public highway or private. However, it may be helpful to applicants to be aware of any such areas in the town centre for the purpose of clarity;

1. The Brewery Complex – Designated as private under the Highways Act
2. Montpellier Walk - Privately Maintained Public Highway
3. Rotunda Terrace - Privately Maintained Public Highway
4. The Courtyard - Privately Maintained Public Highway

The licensing section has access to the county's highway register and can advise on the status of any highway.

3.3 'A' Boards

In setting the policy principles relating to 'A' boards, the Council seeks to strike a balanced approach between promoting the Council's priorities, in particular strengthening the borough's economy by assisting and promoting local businesses but at the same time ensure the free passage along footpaths and maintaining the visual street environment by the controlled use of 'A' boards in the streets.

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To this end the Council will permit one 'A' board per premises subject to that premises meeting all of the conditions stipulated below. Please note that one 'A' board will be permitted *per premises* not business. Premises housing more than one business will therefore, subject to the below, be permitted only one 'A' board. In these circumstances the Council will encourage businesses to share the use of the 'A' board.

Conditions of Consent

The Conditions of Consent is subject to the Revised Outdoor Advertising Protocol attached at **Appendix I** of this policy.

- (a) A minimum of 1.8 metres of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary.
- (b) Where there are existing consents in place in the vicinity of the application, there must be a minimum distance of 4 meters (either way) between 'A' boards.
- (c) The size of the 'A' board does not exceed 1100mm (43") in height (inc feet) and 844mm (32") in width.
- (d) The 'A' board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises.
- (e) The 'A' board must not contain any visual or written material that could be construed as inappropriate or offensive. *(Any breach of this condition will result in the immediate removal of any such signs.)*
- (f) The 'A' board must not cause an obstruction to access by emergency or service vehicles.
- (g) The 'A' board must not interfere with sight lines for any road users. *(For example 'A' boards placed on street corners, central reservations, roundabouts, pedestrian safety refuges and junctions, or pedestrian crossing facilities.)*
- (h) The 'A' board must be sufficiently weighed down to avoid falling over. *(It will not be sufficient that 'A' board is attached to fixed structures. The applicant must be able to demonstrate that the 'A' board has been sufficiently weighed down and the Council reserves the right to inspect the 'A' board prior to issuing a consent.)*
- (i) The 'A' board must relate to the trade of the premises.
- (j) The 'A' board must be constructed in such a way that it does not have any moving parts *(i.e. rotating or swinging 'A' boards)*.
- (k) The object does not obstruct the safe passage of users of the footway or carriageway in any other way not mentioned above.

3.3.3 'A' board - Other

'A' boards with consent will be issued with a "consent badge" that must be attached to the 'A' board in order to identify that it has consent. The badge will show the consent number, location, size and expiry date of the 'A' board. It will be a condition of the consent that the badge will be securely affixed to the 'A' board and be displayed at all

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times to enable enforcement officers and members of the public to easily identify consent 'A' boards.

3.4 Tables & Chairs

The Council wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town. To this end, the Council will look favourably on applications by operators in appropriate locations to put tables and chairs on the pavement outside their premises.

Consent to place tables and chairs on the highway will only be granted for the consumption of food and drink, provided they are in association with a business operating from nearby premises.

Consent to place tables and chairs on the highway will be subject to the use of canvas barriers to cordon off the area where the tables and chairs are placed on the highway.

For health and safety reasons, the Council will not permit glass top tables.

Where consent has been issued for tables and chairs to be placed on the highway the Council may permit, within reason, other objects to be placed inside the area that has been cordoned off with barriers. This is subject to the provisions of this policy, that the additional objects have been listed on the application form and indicated on the supporting documents, where applicable.

3.5 Vehicles

Some campaigns involve the use of special exhibition vehicles. The following spaces have been identified as being suitable for occasional static vehicle based displays at the discretion of the Council and subject to the conditions contained in this policy:

- (a) One space outside 173 - 181 High Street for displays no larger than 2.5m x 5m (8ft x 16ft)
- (b) One space outside 111 - 113 High Street for displays no larger than 2.5m x 5m (8ft x 16ft)
- (c) One space on the corner of Crescent Terrace and the widened area on the pedestrianised area of the Promenade for vehicles no larger than 3m x 5m (10ft x 16ft).

Other than on allocated locations, campaigns involving exhibition vehicles will not normally be permitted on pedestrianised areas.

To ensure that the highway is adequately protected against damage, it will be a condition of any consent that involves the use of vehicles displays on the highway that drip trays must be provided for each and every vehicle.

3.6 Other Objects

Objects not specifically referenced in this policy will be dealt with on individual merits.

3.7 Goods displayed on the pavement

Certain traders, particularly grocers and florists, seek to put goods on display outside of their premises. This can enhance the vitality and vibrancy of the town, and is generally acceptable by virtue of Paragraph 1(2)(e)(ii), Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 provided that:

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- (a) The object/structure is placed directly outside, and only directly outside, the front of the premises in question,
- (b) The goods on display forms part of the business of the premises;
- (c) The object/structure does not obstruct the highway,
- (d) The pavement is left clean and tidy after each close of trading.

Appendix A – Pool of Standard Conditions to be Imposed for Street Trading Consents

Pool of Standard Conditions that may be imposed.

Failure of any one or more of the imposed conditions is a breach of the consent and can lead to the consent being immediately revoked.

Conditions of Street Trading Consent

1. Definitions

- 1.1 Consent means this Street Trading Consent issued pursuant to Schedule 4 Local Government (Miscellaneous Provisions) Act 1982.
- 1.2. Consent Holder means the person named in this Consent and for the purposes of enforcing these conditions includes any other person engaged by them to assist in trading (including any Nominated Assistant(s) named in this Consent).
- 1.3. Council means Cheltenham Borough Council.
- 1.4. Site means the site identified in this Consent.
- 1.5. Unit means the unit described in this Consent.

2. Obligations on the Consent holder

- 2.1 Not to use the Site for any purpose other than that of the operation of the Unit.
- 2.2 Not to sell any type of merchandise other than that specified in this Consent.
- 2.3 Not to trade or operate the Unit in such a way as to cause obstruction of the Street or danger or annoyance to persons using the Street.
- 2.4 Not to use any amplifiers or music or partake in or authorise any other activity so as to cause a nuisance to the general public or occupiers of premises in the neighbourhood of the Site.
- 2.5 To ensure that the Unit is securely erected and that such material and design and so constructed and maintained that it is not liable to cause injury to any person present on the Site or otherwise.
- 2.6 Not to trade outside the times and dates permitted by this Consent.
- 2.7 Not to trade in other streets or at other locations than those permitted by this Consent.
- 2.8 To pay to the Council the cost of making good any damage which may be caused to the Site in consequence of the Consent Holder's operations thereon.
- 2.9 To keep the Site in a clean and tidy condition and to pay to the Council the cost of carrying out any works including cleansing of the highway that is required due to the Consent Holder's use of the Site.
- 2.10 To observe all statutory and other provisions and regulations for the time being in force which relate to the Consent Holder's use of the Site.

Appendix A – Pool of Standard Conditions to be Imposed for Street Trading Consents

- 2.11 So far as is reasonable to ensure that patrons or customers of the Consent Holder conduct themselves in an orderly manner.
- 2.12 Where the Consent relates to the sale of food for consumption on street to provide and maintain an adequate refuse receptacle and ensure that it does not become overfilled.
- 2.13 To ensure that the use and storage of liquid petroleum gas complies with any relevant Code of Practice.
- 2.14 To ensure that the dimensions and appearance of the Unit at all times accord with the details agreed by the Council upon the issue of this Consent.
- 2.15 To maintain the Unit in a clean and tidy condition.
- 2.16 To indemnify the Council from all claims, damages and costs in respect of all accidents damages and injuries arising during or in consequence of the use of the Site to any person or property caused by the Consent Holder's operations or caused by any act neglect or default of the Consent Holder, his servants or agents (whether with or without the knowledge of the Consent Holder) to take out and on request produce to the Council a policy of public and product liability insurance covering no less than £5,000,000 in the aggregate during any one period of insurance in respect of products liability.
- 2.17 At all times while trading to display in a conspicuous position on the Unit the street trading permit issued by the Council.
- 2.18 To forthwith inform the Council in writing of the details of any change in the operation or staffing of the Unit (including changes in details of Nominated Assistants) or the sale or transfer of the Consent Holder's business to another party.
- 2.19 The Council's Street Trading Consent Notice shall be conspicuously displayed on the stall, barrow, cart etc, to which the Consent applies, so that it is clearly visible to the public.
- 2.20 The Consent Holder(s) shall notify the Council's Licensing Section within 72 hours of any convictions or proceedings arising out of the use or enjoyment of the Consent.
- 2.21 If trading is to take place on private land, the trader must have written permission from the Land Owner that trading can take place.
- 3. Further conditions**
- 3.1 The only vehicular access to and egress from the Site shall be as agreed by the Council's Integrated Transport Unit and the said access shall be kept free from obstruction at all times.
- 3.2 Nothing contained in this Consent shall be deemed to be a consent or approval of the Council in its capacity as authority for enforcing bylaws or as local planning authority, health or highway authority or in any other capacity.
- 3.3 The Council may revoke or suspend this Consent at any time in the event of:

Appendix A – Pool of Standard Conditions to be Imposed for Street Trading Consents

- 3.3.1 The breach by the Consent Holder their servants or agents (included Nominated Assistants) of any of the conditions herein or any supplemental/additional conditions imposed by the Council; or
- 3.3.2 Work being carried out in, under or over the highway on which the Unit is located; or
- 3.3.3 A change in Council Policy which necessitates termination of this Consent; or
- 3.3.4 Circumstances outside the Council's control which necessitate termination of this Consent forthwith.

- 3.4 The Consent Holder may surrender this Consent by giving notice in writing to the Council.

- 3.5 In the event of the Consent Holder selling or transferring the trade or business of which the Unit is a part to another party this Consent will cease to have effect and cannot be relied upon by the transferee or acquiring party.

- 3.6 The Council may vary the Conditions of this Consent at any time.

- 3.7 The Council shall be under no obligation to renew this Consent at the end of the period stated herein.

- 3.8 Goods may not be of an inflammable, corrosive or otherwise dangerous nature.

- 3.9 The trader will be responsible for cleansing of the trading area and ensure that all refuse arising as a result of the activities of the trader shall be placed in suitable covered containers provided by the trader, unless otherwise provided by the Council, and shall be kept exclusively for that purpose. Such refuse containers shall be kept as clean as is reasonably possible and disposed of in an approved manner on a daily basis.

- 3.10 The trader shall not place on the street or in a public place any furniture or equipment other than as permitted by the Consent and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.

- 3.11 Traders selling food products, shall comply with the provisions of the Food Safety Act 1990 (Amendment) Regulations 2004, General Food Regulations 2004, Regulations (EC) No. 178/2002, 852/2004, 853/2004 of the European Parliament and of the Council and the Food Hygiene (England) Regulations 2006

- 3.12 Liquefied Petroleum Gas shall not be used without the express permission of the Council and any equipment using this gas shall have only flexible and approved armoured hoses complying with the relevant British Standard Specification or equivalent.

- 3.13 No mobile generators shall be used without the express permission of the Council. Where permission is granted generators shall be so positioned that: - they do not present a danger to the public do not present a fire or similar hazard to the stall, goods displayed thereon or adjoining premises and do not cause any noise or fume nuisance.

Appendix A – Pool of Standard Conditions to be Imposed for Street Trading Consents

- 3.14 A competent person must install all generators and documentation must be provided to show that the generators have been maintained in accordance with the manufacturer's instructions.
- 3.15 No combustible materials are to be stored in the vicinity of a generator and suitable first aid fire fighting appliance(s) must be immediately available.
- 3.16 The Consent Holder shall ensure that any equipment, such as a generator, is in a safe working condition and suitably cordoned off to ensure that the general public do not have access to the equipment.
- 3.17 All electric power supplied must be protected by residual current devices. Any appliance is to be separated from the supply outlet by a fuse of suitable rating.
- 3.18 All electrical cables or flexes, which are suspended over the public footway or carriageway shall be adequately supported.
- 3.19 All electrical cables or flexes, which run along the ground and are in a position where the public could come into contact with them, they must be fitted with rubber cable protecting mats.
- 3.20 Each consent holder must ensure that their street trading licence plate is clearly attached to their pitch, vehicle or trading object at all times when they are trading.

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Appendix B – Special Conditions for Mobile Ice Cream Traders

SPECIAL CONDITIONS FOR MOBILE ICE CREAM TRADERS

Trading prohibited in the following streets or parts of streets:

- (a) High Street (from Sandford Park entrance to Townsend Street)
 - (b) Promenade (from High Street to Montpellier Walk)
 - (c) Clarence Street
 - (d) North Street
 - (e) Pittville Street
 - (f) Regent Street
 - (g) Rodney Road
 - (h) Winchcombe Street (from High Street to Warwick Place)
 - (i) Imperial Square
 - (j) Montpellier Walk
 - (k) Montpellier Street
 - (l) Warden Hill Road (within 100 metres of frontage to Bournside School), both sides of the road in any direction, except in the lay- by opposite to number 89, during the period half an hour before school opening to 1 hour after closing during school terms).
 - (m) Loweswater Road (from the junction with Alma Road to the junction with Langdale Road during the above period and times).
 - (n) Evesham Road and roads adjacent to Pittville Park.
2. Trading prohibited within 75 metres of the gates of all schools, except Bournside School (see Special Condition 1) on both sides of the road in any direction during the period half an hour before school opening to one hour after closing during school terms.
3. The consent holder shall not, without the prior permission of the Council, trade in any particular location for more than 30 minutes at any one time and shall not return to that particular location, or any position in the immediate vicinity thereof (which expression shall be as interpreted by the Council), within 2 hours of leaving it.
4. The consent holder shall comply with all traffic regulations rules orders and directions which apply to the public highways on which he trades.
5. The consent holder is required to comply with the Code of Practice on Noise from Ice Cream Van Chimes, etc. 1982 or any modification or re-enactment thereof. (summary attached).

Appendix C – Summary of the Code of Practice on Noise from Ice Cream Seller

CHEL TENHAM BOROUGH COUNCIL
SUMMARY OF THE CODE OF PRACTICE ON NOISE
FROM ICE CREAM TRADERS
MECHANICALLY PROPELLED VEHICLE
CHIMES, ETC. 1982

It is an offence to sound your chimes before 12 noon or after 7.00 p.m. It is also an offence to sound your chimes in such a way as to give reasonable cause for annoyance. The main points of the Code of Practice approved by the Government on methods of minimising annoyance caused by your chimes are as follows:

DO NOT SOUND CHIMES

1. For longer than 4 seconds at a time;
2. More often than once every 3 minutes;
3. When the vehicle is stationary;
4. Except on approach to a selling point;
5. When in sight of another vehicle which is trading;
6. When within 50 metres of Schools (during School hours), Hospitals and places of Worship (on Sundays and other recognised days of Worship);
7. More often than once in every 2 hours in the same length of street;
8. Louder than 80 dB(A) at 7.5 metres;
9. As loudly in quiet areas or narrow streets as elsewhere.

Appendix D – Street Collection Regulations

STREET COLLECTION REGULATIONS

1. In these Regulations, unless the context otherwise requires –
 - “collection” means a collection of money or a sale of articles for the benefit of charitable or other purposes and the word “collector” shall be construed accordingly;
 - “promoter” means a person who causes others to act as collectors;
 - “the licensing authority” means Cheltenham Borough Council;
 - “permit” means a permit for a collection;
 - “contributor” means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;
 - “collecting box” means a box or other receptacle for the reception of money from contributors.
2. No collection shall be made in any street or public place within Cheltenham, unless a promoter shall have obtained from the licensing authority a permit.
3. Application for a permit shall be made in writing not later than 2 weeks before the date on which it is proposed to make the collection. The licensing authority may reduce the period if satisfied that there are special reasons for so doing.
4. No collection shall be made except upon the day and between the hours stated in the permit.
5. The licensing authority may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6. No person may assist or take part in any collection without the written authority of a promoter.

Any person authorised under the above paragraph shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the licensing authority or any constable.
7. No collection shall be made in any part of the carriageway of any street which has a footway:

Provided that the licensing authority may, if it thinks fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with a procession.
8. No collection shall be made in a manner likely to inconvenience or annoy any person.
9. No collector shall importune any person to the annoyance of such person.
10. While collecting –
 - (a) a collector shall remain stationary; and

Appendix D – Street Collection Regulations

- (b) a collector or two collectors together shall not be nearer to another collector than 25 metres:

The licensing authority may, if it thinks fit, waive the requirements of this Regulation in respect of a collection which has been authorised to be held in connection with a procession.

- 11. No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector.
- 12.
 - (1) Every collector shall carry a collecting box.
 - (2) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them from being opened without the seal being broken.
 - (3) All money received by a collector from contributions shall immediately be placed in a collecting box.
 - (4) Every collector shall deliver, unopened, all collecting boxes in his possession to a promoter.
- 13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon, the name of the charity or fund which is to benefit nor any collecting box which is not duly numbered.
- 14.
 - (1) Subject to paragraph (2) below, a collecting box shall be opened in the presence of a promoter and another responsible person.
 - (2) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.
 - (3) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person.
- 15.
 - (1) No payment shall be made to any collector.
 - (2) No payment shall be made out of the proceeds of a collection, whether directly or indirectly, to any other person connected with the promotion or conduct of such collection for, or in respect of, services connected therewith, except such payments as may have been approved by the licensing authority.
- 16.
 - (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to the licensing authority –
 - (a) a statement in the form set out in the Schedule of these Regulations, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection, and certified by that person and a qualified accountant;
 - (b) a list of the collectors;
 - (c) a list of the amounts contained in each collecting box; and shall, if required by the licensing authority, satisfy it as to the proper application of the proceeds of the collection.
 - (2) The licensing authority may, if satisfied, there are special reasons for so doing, extend the period of one month referred to in paragraph (1) above.

Appendix D – Street Collection Regulations

- (3) For the purposes of this Regulations “a qualified accountant” means a member of one or more of the following bodies:-

The Institute of Chartered Accountants in England and Wales;
The Institute of Chartered Accountants of Scotland;
The Institute of Chartered Accountants in Ireland;
The Association of Certified Accountants.

17. These Regulations shall not apply –
- (a) in respect of a collection taken at a meeting in the open air; or
 - (b) to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.
18. Any person who acts in contravention of any of these regulations, shall be liable on summary conviction to a fine not exceeding level 1, or in the case of a second or subsequent offence not exceeding level 2.

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Appendix E – House to House Regulations

HOUSE to HOUSE COLLECTIONS REGULATIONS

House to House Collections Act. 1939

House to House Collection Regulations, 1947

Responsibility of promoters as respects collectors

1. Every promoter of a collection shall exercise all due diligence to:
 - a) Secure that persons authorised to act as collectors for the purposes of the collection are fit and proper persons; and
 - b) Secure compliance on the part of persons so authorised with the provisions of these regulations.

Certificates of authority, badges, collecting boxes and receipt books

2. No promoter of a collection shall permit any person to act as a collector, unless he has issued or caused to be issued to that person:
 - a) A prescribed certificate of authority duly completed (except as regards the signature of the collector) and signed by or on behalf of the chief promoter of the collection;
 - b) A prescribed badge, having inserted therein or annexed thereto a general indication of the purpose of the collection, and
 - c) If money is to be collected, a collecting box or receipt book marked with a clear indication of the purpose of the collection and a distinguishing number, which indication and number shall, in the case of a receipt book, also be marked on every receipt contained therein in addition to the consecutive number of their receipt.
3. Every promoter of a collection shall exercise all due diligence to secure:
 - a) That no prescribed certificate of authority, prescribed badge, collecting box or receipt book is issued, unless the name and address of the collector to whom it was issued have been entered on a list showing in respect of any collecting box or receipt book the distinguishing number thereof; and
 - b) That every prescribed certificate of authority, prescribed badge, collecting box or receipt book issued by him or on his behalf is returned when the collection is completed or when for any other reason a collector ceases to act as such.
4. In the case of a collection in respect of which a licence has been granted:
 - a) Every prescribed certificate of authority shall be given on a form obtained from Her Majesty's Stationery Officer, and every prescribed badge shall be so obtained; and
 - b) Every prescribed certificate of authority shall be authenticated, and the general indication on every prescribed badge of the purpose of the collection shall be inserted therein or annexed thereto, in a manner approved by the licensing authority for the area in respect of which the licence was granted.

Appendix E – House to House Regulations

Duties of collectors in relation to certificates and badges

5. Every collector shall:

- a) Sign his name on the prescribed certificate of authority issued to him and produce it on the demand of any police constable or of any occupant of a house visited by him for the purpose of the collection:
- b) Sign his name on the prescribed badge issued to him and wear the badge prominently whenever he is engaged in collecting; and
- c) Keep such certificate and badge in his possession and return them to a promoter of the collection on replacement thereof or when the collection is completed or at any other time on the demand of a promoter of the collection.

Age Limit

6. No person under the age of 16 years shall act or be authorised to act as a collector of money.

Importuning

7. No collector shall importune any person to the annoyance of such person, or remain in, or at the door of, any house if requested to leave by any occupant thereof

Collection of money

8. Where a collector is collecting money by means of a collecting box, he shall not receive any contribution save by permitted the person from whom it is received to place it in a collecting box issued to him by a promoter of the collection.

9. Where a collector is collecting money by other means than a collecting box, he shall, upon receiving a contribution from any person, forthwith and in the presence of such person enter on a form of receipt in a receipt book issued to him by a promoter of the collection and on the corresponding counterfoil or duplicate the date, the name of the contributor and the amount contributed, and shall sign the form of receipt, the entries and signature being in ink or indelible pencil, and shall hand the form of receipt to the person from whom he received the contribution.

Duty of collectors to return boxes and books

10. Every collector, to whom a collecting box or receipt book has been issued, shall:

- a) When the collecting box is full or the receipt book is exhausted, or
- b) Upon the demand of a promoter of the collection, or
- c) When he does not desire to act as a collector, or

d) Upon the completion of the collection return to a promoter of the collection that collecting box with the seal unbroken or that receipt book with a sum equal to the total amount of the contributions (if any) entered therein.

Examination of boxes and books

11. Subject to the following paragraph, a collecting box when returned shall be examined by, and, if it contains money, be opened in the presence of, a promoter of the collection and another responsible person.

12. Where a collecting box is delivered unopened to a bank, it may be examined and opened by an official of the bank in the absence of a promoter of the collection.

Appendix E – House to House Regulations

13. As soon as a collecting box has been opened, the contents shall be counted and the amount shall be entered with the distinguishing number of the collecting box on a list, which shall be certified by the persons making the examination.

14. Every receipt book when returned and all sums received therewith shall be examined by a promoter of the collection and another responsible person, and the amount of the contributions entered in the receipt book shall be checked with the money and entered with the distinguishing number of the receipt book on a list, which shall be certified by the persons making the examination.

Provision for envelope collections

15. Where the promoter of a collection to whom an order has been granted informs the Secretary of State that he desires to promote an envelope collection, and the Secretary of State is of the opinion that the collection is for a charitable purposes of major importance and is suitable administered, the Secretary of State may, if he thinks fit, give permission for the promotion of an envelope collection.

16. Where an envelope collection is made in accordance with this regulation:

- a) Every envelope used shall have a gummed flap by means of which it can be securely closed;
- b) No collector shall receive a contribution except in an envelope which has been so closed.

Promoters to furnish accounts

17. The chief promoter of a collection in respect of which a licence has been granted shall furnish an account of the collection to the licensing authority by which the licence was granted within one month of the expiry of the licence.

18. The licensing authority or the Secretary of State may extend the period within which an account is required to be furnished to the authority or to him, as the case may be, if satisfied that there are special reasons for so doing.

Form and certification of accounts

19. The account required by the preceding regulation

- a) Where money has been collected, shall be furnished in the form prescribed by the authority
- b) Where property has been collected and sold, shall be furnished in the form prescribed by the authority

Disposal of disused certificates of authority, etc

20. The chief promoter of a collection shall exercise all due diligence to secure that all forms of prescribed certificates of authority and prescribed badges obtained by him for the purposes of the collection are destroyed when not longer required in connection with that collection or in connection with a further collection which has been authorised to promote for the same purpose.

Appendix F – Conditions to Place Object(s) on the Highway

Conditions of Permission to place Object(s) on the highway

1. OBLIGATIONS ON THE PERMISSION HOLDER

The Permission Holder undertakes:

- 1.1 To ensure that the object(s) is not placed in any other area than that stated in this Permission.
- 1.2 Not to allow the object(s) to be placed on the highway outside the times and dates permitted by this Permission.
- 1.3 To ensure that the dimensions and appearance of the object(s) at all times accords with the details agreed by the Council upon the issue of this Permission.
- 1.4 To ensure that the object(s) does not at any time obstruct the passage of or cause danger to persons lawfully using the highway.
- 1.5 To ensure that the object(s) is at all times well maintained and kept in a clean and tidy condition.
- 1.6 To ensure that the object(s) is at all times sufficiently weighted so that they do not move or blow over in the wind.
- 1.7 To pay to the Council the cost of making good any damage caused to the highway in consequence of the Permission Holder's operations thereon.
- 1.8 To indemnify the Council from all claims, damages and costs in respect of all accidents damages and injuries arising during or in consequence of the use of the Site to any person or property caused by the Consent Holder's operations or caused by any act neglect or default of the Consent Holder, his servants or agents (whether with or without the knowledge of the Consent Holder) to take out and on request produce to the Council a policy of public and product liability insurance covering no less than £5,000,000 in the aggregate during any one period of insurance in respect of products liability.
- 1.9 To observe all statutory and other provisions and regulations for the time being in force which relates to the placing of the object(s) on the highway.
- 1.10 To comply with any directions or requirements issued by a chief officer of the Council or any member of their staff so authorised.
- 1.11 To forthwith inform the Council in writing of the details of any transfer/disposal to another person of the business to which the object(s) relates.

2. FURTHER CONDITIONS

- 2.1 This Permission is not assignable.
- 2.2 The Council may at any time vary the conditions of this Permission.
- 2.3 Nothing contained in this Permission shall be deemed to be a consent or approval of the Council in its capacity as authority for enforcing byelaws or as a local planning authority, health or highway authority or in any other capacity.
- 2.4 The Council may revoke or suspend this Permission at any time in the event of:
 - 2.4.1 The breach by the Permission Holder their servants or agents of any of the conditions herein or any supplemental/additional conditions imposed by the Council; or
 - 2.4.2 Work being carried out in under or over the highway on which the object(s) is located; or
 - 2.4.3 A change in Council Policy which necessitates termination of this Permission; or

Appendix F – Conditions to Place Object(s) on the Highway

- 2.4.4 Circumstances outside the Council's control which necessitate termination of this Permission forthwith.
- 2.5 The Permission Holder may surrender this Permission by giving notice in writing to the Council.
- 2.6 The Council shall be under no obligation to renew this Permission at the end of the period stated herein.
- 2.7 All licences must be displayed on the premises referred to in the consent or on the premises to which the consent relates.
- 2.8 The Council reserves the right to require objects and displays to be removed if at any time they are found to be inappropriate or necessary. This may happen if the Advertising board or display becomes;
- Unsightly or unsafe through poor maintenance
 - Inappropriate because of new developments in the vicinity
 - During events likely to result in significant increase in level of footfall
- 3. SPECIAL CONDITIONS RELATING TO MOBILE ADVERTISING**
- In addition to the above conditions, the following special conditions will apply to all mobile advertising structures:
- 3.1 A minimum of 1.8 metres of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary and a minimum distance of 4 meters (either way) between other boards.
- 3.2 The board must be sufficiently weighed down and not permanently fixed to the highway or any furniture on the highway;
- 3.3 The board does not contain any material or information that would prejudice the council or break any current legislation or contain any visual or written material that could be construed as inappropriate or offensive;
- 3.4 The type of board used is of an agreed type with the council;
- 3.5 The 'A' board must be constructed in such a way that it does not have any moving parts (i.e. rotating or swinging 'A' boards etc.);
- 3.6 The board must be of sufficient contrast to its surrounding area
- 3.7 The board must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts;
- 3.8 The board must, and must only, relate to the trade of the premises;
- 3.9 The board must not exceed the dimensions stipulated in the consent;
- 3.10 The board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises;
- 3.11 The board must not obstruct safe passage for all highway users, emergency or service vehicles or interfere with sight lines for any road users. (Breach of this condition will result in the board being removed immediately.)

Appendix G – Conditions of Permission to Place Tables & Chairs on the Highway

Conditions of Permission to place tables and chairs on the highway

1. General matters

- 1.1 The fee for the granting of the Permission shall be paid in advance.
- 1.2 The tables and chairs shall at all times be well maintained and kept in a clean and tidy condition.
- 1.3 The tables and chairs shall not be placed in any other area than that stated in the Permission. They shall be placed in an area delineated by a suitable temporary barrier which is positioned to the satisfaction of the Assistant Director of Operations.
- 1.4 Furniture and temporary barriers shall be in accordance with the *Pavement tables and chairs design guide*.
- 1.5 The person to whom the Permission is granted shall ensure that the tables and chairs so far as reasonably practicable, and the persons using the tables and chairs, do not at any time obstruct the passage of or cause danger to persons lawfully using the highway on which they are situated.
- 1.6 The Permission may be suspended by the council at any time in the event of work being carried out in, under or over the highway on which the tables and chairs are situated or any adjacent highway.
- 1.7 The person to whom the Permission is granted shall indemnify the council against any costs, claims, actions or damages arising out of the placing of the tables and chairs on the highway.
- 1.8 The person to whom the Permission is granted shall bear absolute responsibility for ensuring that adequate public liability and products liability insurance is held in respect of the permitted area and the cover obtained shall be not less than £5,000,000, any one claim, in respect of public liability and not less than £5,000,000 in the aggregate during any one period of insurance in respect of products liability. Evidence of such public liability and products liability insurance shall be provided to the satisfaction of the council before the Permission can be exercised.
- 1.9 The Permission is not assignable.
- 1.10 The council may at any time vary the Permission or conditions thereof:
- 1.11 If the person to whom the Permission is granted breaches any one or more of the conditions thereof, the council may serve a 'default' notice requiring the breach of conditions to be remedied in a particular way within a stated time and should it be necessary in order to remedy the default, the council may require the tables and chairs, temporary barriers and other furniture to be removed from the highway either temporarily or permanently.

Appendix G – Conditions of Permission to Place Tables & Chairs on the Highway

1.12 (a) The person to whom the Permission is granted shall ensure that the tables and chairs and use thereof by members of the public are at all times supervised so as to avoid nuisance being occasioned to:-

- (i) members of the public lawfully using the highway
- (ii) local residents
- (iii) other local businesses.

(b) The person to whom the Permission is granted shall ensure that glasses, crockery, napkins, cutlery and any other item placed upon the tables and chairs by the person to whom the Permission is granted or by any other persons, when the tables and chairs are in use, are removed from the tables and chairs when they are not in use.

1.13 The person to whom the Permission is granted shall not allow music to be broadcast on to the street.

1.14 The person to whom the Permission is granted shall ensure that customers consuming food or drink outside the premises do not move beyond the demarcated area.

1.15 It shall be the duty of the person to whom the Permission is granted to clean the section of the highway in respect of which Permission is granted to the specification of the Assistant Director Community Services.

1.16 The Permission does not authorise the holder to allow alcoholic drinks to be served or consumed at the tables and chairs. It is the responsibility of the person to whom the Permission is granted to check with the Licensing Justices that the liquor licence for the premises allows such activities to take place.

2. Design specification

2.1 Means of enclosure

2.1.1 When in use the pavement area will need to be enclosed, to demarcate the permitted area and contain the tables and chairs, thus making it distinguishable to other pavement users, and particularly to assist blind and visually impaired pedestrians.

2.1.2 The layout of furniture and means of enclosure will only be approved if adequate provision has been made for customers with disabilities.

2.1.3 The enclosure shall be removed outside the hours of operation or when it is not intended to operate on the pavement within that period. The materials should therefore be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into.

2.1.4 The design of the barrier should complement the character of the surrounding area and in any event must have bars/elements at around 100mm and 1,000mm above ground level.

2.1.5 Planters can be particularly attractive and can be used as part of the means of enclosure but must be removed from the highway outside of the hours of operation.

Appendix G – Conditions of Permission to Place Tables & Chairs on the Highway

2.1.6 Notwithstanding the contents of paras. 2.1.1 - 2.1.5 above the enclosure shall comply, in all respects, with the provisions of the council's design guide.

2.2 Furniture

2.2.1 The furniture should be of a high quality and uniform style within the permitted area. White plastic and or picnic tables will not normally be approved.

2.2.2 Where umbrellas are used these must be fabric type (ie non reflective) and display only limited advertising or logos up to 150 x 450 mm in size. Umbrellas are to be positioned so as to avoid overhanging, outside the enclosure or impairing vehicle sight lines.

2.2.3 Non furniture items, eg menu boards, signs and portable gas heaters also need to be approved as part of the enclosed area, and any unacceptable clutter or intrusion into sight lines will need to be removed if it is seen to be causing a problem.

2.2.4 All items need to be portable enough to be brought in at the end of the permitted period of each working day or in the event of an emergency.

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Appendix H – Public Notice

Public Notice

I (Full Name) applied on
..... (Date) for consent to place an object on
the highway/street trading consent (Delete as appropriate) at (Address or
describe location)

during (Times and dates)

Full details are included in the application held at
Cheltenham Borough Council.

The application has been made to:
Cheltenham Borough Council,
Licensing Team, PO Box 12, Municipal Offices, Promenade,
Cheltenham, GL50 1PP
E mail licensing@cheltenham.gov.uk .

The application can be inspected at the Council's offices
from Monday to Friday between 9am and 5pm.

Any person wishing to make representations about this
application may do so in writing to Cheltenham Borough
Council no later than (Two working weeks –
see policy)

Appendix I – Revised Outdoor Advertising Protocol

Revised Outdoor Advertising Protocol

Where a licensing application is made to display an 'A' board within a Conservation Area, the Licensing Section shall provide written notification to the Built Environment Enforcement team. The notification should include an explanation for the signage and the location of the premises to which it refers.

No 'A' board will be approved within Conservation Areas except in the following circumstances; having regard to the position and location of the premises;

- a) where those premises are located at basement or first floor level i.e. the premises has no shop-front at street level,
- b) the premises are situated along a side alleyway and / or on private land which is not a public thorough fare / right of way.

Nothing in this protocol overrides requirements set out in the Council's policy on the licensing of 'A' boards so where an 'A' board meets the exemptions in the protocol, it will still be subject to the normal policy on the licensing of 'A' boards set out in the policy.

Where the premises meet the exceptions in the protocol then the Planning Enforcement and Compliance team will confirm to the Licensing Section that the 'A' board may be licensed.

Where contraventions exist the most appropriate enforcement action will be considered which would normally involve the use of licensing powers or powers contained within the Town and Country Planning (Control of Advertisements) Regulations 2007.

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Clive Hodges (Chair of Charlton Kings Parish Council Environment Committee)

General

Charlton Kings Parish Council is broadly supportive of the proposed measures and the underlying philosophy that underpins the policy. It does however believe that the policy document itself is overly long and that the pagination scheme and its division into appendices and sections makes it difficult to navigate and open to confusion.

Specific Comments

The covering letter is numbered one but the following page is numbered Page 40 at the top and 2 at the bottom. The potential for confusion is increased by the fact that the document is Appendix 3 – presumably of some other document that is not subject to consultation – and that is also contains a series of appendices that are lettered.

Part 1 - 2.1(e) We are surprised at the requirement to have public liability cover of not less than £5m – this could put off many small charities and traders. Is it not possible to set a level that is commensurate with the assessed risk that the activity poses – it is hard to imagine that an accident caused by legally positioned A board could result in a claim for £5m.

Part 2 The amount of supporting paperwork that a charity is required to submit with its initial application seems excessive especially as the majority of the information is available on the Charities Commission web site and is easily located by use of the charity's registered number. Surely we should be reducing the amount of paper we produce! You should also note that charities with an annual income of less than £25,000 – very often the local charities whose fund raising you seek to encourage are not required to have their accounts externally audited.

Part 2 Para 3.7 We believe that this paragraph needs to be reworded to include those charities such as Guide Dogs etc

Part 3 Para 3.3(d) This measure would seem to seriously disadvantage businesses that are not situated on main thoroughfares. Some indication of the presence of a business in side road should surely be permissible.

Mark Nelson (Enforcement Manager)

1. The comments relate to Part 3 of the Consultation - Objects on the Highway, and in particular to Advertising boards and advertising on canvas barriers enclosing table and chairs of street cafes.
2. The draft policy fails to mention the statutory provisions of the Town & Country Planning Act 1990, as amended, and the specific advertisement control system in England consisting of rules made by the Secretary of State, which is part of the planning control system. These rules are contained in the Town and Country Planning (Control of Advertisements) Regulations 2007 which has been in force since 6 April 2007.
3. An "A" board is an advertisement for the purposes of the Town and Country Planning Act 1990, and the Town and Country Planning (Control of Advertisements) Regulations 2007, and requires express consent of the Council. Therefore the legal position is that any person who wishes to place an "A" board on the highway must obtain advertisement consent from the Council acting in its capacity as the planning authority for the borough.
4. The local planning authority (LPA) is required to exercise its powers under the Regulations with regard to amenity and public safety, taking into account relevant development plan policies in so far as they relate to amenity and public safety, and any other relevant factors. The definition of "amenity" in regulation 2(1) includes both visual and aural amenity.
"Public safety" is not confined to road safety. Crime prevention and detection are relevant; obstruction of highway surveillance cameras, speed cameras and security cameras by advertisements is also included.
5. All advertisements require consent from the LPA before they can be lawfully displayed. Any person who displays an advertisement in contravention of the Regulations is guilty of an offence under section 224(3) of the 1990 Act and liable to a fine on conviction.
6. The LPA may decline to determine an application if it does not include confirmation that:
the owners of the site and any other person with an interest in the site have agreed to the application; and where the site is on highway land, that the application is acceptable to the highway authority. And, in any event, in an Area of Special Control the LPA may decline to determine an application if it does not fall within any of the categories specified in regulation 21(1).
7. Whilst Conservation Areas are mentioned in the draft policy, there is no mention of Areas of Special Control for the display of advertisements. At paragraph 3.4 the policy states that "the Council will adopt a more restrictive approach to applications for these areas in particular." However, it does not expand upon what this more restrictive response entails and whether or not it includes consultation with Planning Enforcement & Compliance. (See also 11)
8. For a number of years areas of the borough have been formally designated as Areas of Special Control for the display of advertisements by the Secretary of State. An Area of Special Control of Advertisements is an area specifically defined by the planning authority because the LPA consider that its scenic, historical, architectural or cultural features are so significant that a stricter degree of advertisement control is justified in order to conserve visual amenity within that area.
9. In any Area of Special Control of Advertisements the only categories of advertising that are permitted are:
 - public notices
 - advertisements inside a building
 - advertisements for which there is deemed consent.-

Additionally, the LPA may give their specific consent in an Area of Special Control for:

- notices about local events or activities;
- advance signs or directional signs which are 'reasonably required' in order to direct people to the place identified by the sign;
- an advertisement required for public safety reasons.

The main consequence for advertisements which can be displayed with deemed consent in an Area of Special Control is that there are stricter limits on permitted height and size of the advertisement than elsewhere.

A Boards are not permitted in an Area of Special Control and the LPA are not empowered to grant consent for them in such Areas.

10. The draft policy should therefore include reference and powers of delegation also to the Planning Committee and / or Built Environment enforcement and compliance officers. Whilst it is recognised that one of the reasons for the policy is to avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies, this should not be at the expense of overlooking the long established advertisement control system under Planning legislation.
11. With regard to consultation, 2-2-1 of the policy states that the Council may consult with '*any or all of the following organisations or persons*' – the list referred to include Built Environment. Does this mean that Built Environment may not be consulted? There needs to be a formal approach to consultation which should include Built Environment on all occasions (in particular Built Environment Enforcement)
12. With the Localism Act coming into force LPAs now also have additional powers to remove and dispose of any structure which in their view is used for the unauthorised display of advertisements and recover the costs in doing so.
13. It should be noted that signs attached to private property (such as railings outside a firm that clearly belong to the firm) and on private frontages/forecourts are already dealt with under planning enforcement powers.
14. The new Enforcement Team of the Built Environment Division is well place to deal with such contraventions in terms of Planning Legislation, especially within Areas of Special Control.
15. Further member consultation is required with Built Environment Officers before this policy is formalised.

Neals Yard Remedies Cheltenham

We are writing in response to your letter dated the 11th of June this year. We are a business trading in Montpellier and in these difficult economic times very much appreciate all the help that the council can give us.

One of the major ways that business can be facilitated is when licenses and restrictions are lifted to enable companies to promote their businesses to the general public. We find that A Boards and black boards work very well on the pavements. They let passers by know what is happening in the various shops, they act as street furniture and they are big enough to not be a hidden risk on health and safety grounds. Customers enjoy the information and often entertainment that these types of signs offer because they are not fixed to walls and so can change with the different things that are happening in the area. For example we often have a black board outside telling people about available treatments in our therapy rooms or workshops that we are holding.

We as businesses have to be responsive and extra welcoming in the current climate, we are thinking of every way possible to make our area an exciting, friendly and accessible place to come and shop and we need the council to support us in our attempts to survive the recession. Since the parking charges were implemented in Montpellier our footfall has plummeted, we need a council which show imagination, flexibility and the ability to see the big picture and support initiatives that come from the ground and not stifle them with red tape and petty regulation.

We appreciate your desire to consult with us on this issue and hope you take our views into consideration.

Chris Copner (Soho Coffee)

1. I can see no mention of charges for the various licences under consultation. In previous years I have been driven to question the basis of charges for the licence we maintain for our store at 2 Cambray Place. Currently we pay £2,838 for 9 tables and 33 chairs which is disproportionate to charges levied by other local authorities providing similar licences where we operate. There needs to be a fair and transparent charging mechanism for these licences in Cheltenham and this needs to take account of the business rates contribution already being paid by the licensee for the host premises.
2. The Licence granted is for use of space for a maximum of 10.5 hours per day. At all other times the pavement reverts back to normal pedestrian use. It is reasonable for the Council to undertake standard cleaning responsibilities rather than default these to the licensee. At Cambray Place there is significant overnight activity which results in all manner of residue being left. Some of this such as chewing gum requires specialist street cleaning equipment to remove and it would not be possible for a licensee to be suitably equipped – nor in these circumstances a reasonable expectation for them to assume responsibility.
3. There is no mention of fees for provision of licences for A Boards. We would expect that an A Board incorporated in a licensed area should not be subject to a separate or additional fee.

Phillip Goode (Vinyl Vault)

Further to your letter dated 30/05/2012 we would like to make the following comment:

Having had an A-board licence for a few years we are concerned that the old criteria of having a shop in a basement off the high street seem to have been discarded. It is essential for our business that our A-board remains in it's present position – putting it on the pavement outside the shop, which appears to be the new plan, would serve no purpose.

As we are one of the few businesses which have complied with your licensing laws please consider this point in any future plans.

Prestbury Parish Council

Clerk: Amanda Wragg
Telephone: 01242 575129
E-Mail: prestburyparish@btconnect.com

Parish Council Office
The Pavilion
New Barn Close
Prestbury
Cheltenham GL52 3LP

June 13th 2012

Louis Krog
Licensing & Business Support Team Leader
Public Protection
Cheltenham Borough Council
Municipal offices
Promenade
Cheltenham
GL50 9SA

Dear Mr Krog

Re. Consultation on Draft Policy Measures to Control Street Scene Activities in Cheltenham

I am writing to thank you for the opportunity to review the Draft Policy Measures to Control Street Scene Activities in Cheltenham. Prestbury Parish Council has reviewed the draft document and has no queries or contributions to make to what is a clear and comprehensive document.

Best wishes

Amanda C. Wragg

Amanda Wragg
Clerk to the Council

Mr Will Capstick

2nd August 2012

Dear Sir / Madam,

I am writing this letter in reply to one I received dated 30th May 2012 regarding the 'Consultation on draft policy on measures to control street scene activities in Cheltenham – Street trading, objects on the highway and charitable collections'.

I currently hold street trading consent for 2 ice cream vans and as the only ice cream van firm based in Cheltenham I would like to put across my views on several of the current policies.

I'd like to start with the restrictions surrounding Pittville Park. I have been operating my ice cream vans for 16 years and used to have a regular position around the park. Several years ago the council enforced a policy banning ice cream vans from being near the park. As well as effecting my business this also enraged members of the public who enjoyed me being there at the park. I started a petition which received many signatures, and appeared in the press along with members of the community showing their support. I failed to overturn the policy and received little explanation.

On Wednesday August 1st 2012 I was invited to attend the National Play Day in Pittville park and I parked up by the Pump rooms looking out over the park. This was a very successful day and I had many comments saying how good it was to see me back in the park. I also had comments from others saying how convenient it was to have some refreshments available at that end of the park, as the kiosk is positioned too far away from the play area so on hot days it is a struggle to cool down without drinks or cold treats. Earlier in the year I visited the Pump rooms and enquired whether it would be possible to place my van within their car park and serve people in the park. They thought this was a great idea but unfortunately this wasn't their decision and suggested I contacted the Parks department of the council. I did this and my email got sent on to different departments however I didn't ever get a reply.

I realise there is a kiosk based in the park and they pay a fee to be there, but it is a large park and not everyone knows where the kiosk is. I would be happy to pay an extra fee on top of the fee I currently pay for my licenses to the council if I was to be granted a position within the park or around its perimeter.

My second point concerns the possibility of positioning an ice cream van within Cheltenham High Street. I have recently noticed many towns allow ice cream vans within their pedestrianised areas during the summer months and I think it would be great if Cheltenham can do the same. I recently visited Nuneaton and there are half a dozen vans doing business around their High Street grid. I spoke to the owner and he said they arrive before the shops open so there are very few pedestrians and they leave after the shops close, again avoiding members of the public.

On page 3 of the councils 'Policy for town centre activities' document it states that street trading can be permitted assuming we serve

'Ready-to-eat foods for consumption on-street, provided that it is festive'

After reading the documents I can positively say an ice cream van satisfies all criteria as it would not require tables and chairs or an A-board and it can be very easily removed. To quote the document again (page 2, paragraph 3)

'Additionally, the sale of ready-to-eat 'treat' foods which are synonymous with holiday periods would be acceptable. For example, ice-creams during the summer months.....'

I also do not see how it would take business away from any other traders, especially as the council allow to have a burger/hot dog van operate only a few metres away from Burger King over the Christmas months. Again we would be happy to meet any extra fees required.

My third point is in relation to 'Special conditions for mobile ice cream traders'. Point number 2 is a very clear and obvious term relating to ice cream vans parking 75 metres away from schools. Whilst as I believe this is a very sensible rule, it is very restricting as this is not practical at all schools. There are several schools I visit that are more than happy to have an ice cream van visit at home time. Schools including Airthrie and Greatfield school I visit regularly and I can honestly say I serve approximately 90% of their pupils and parents (as well as some teachers) and have never received any complaints. Airthrie school let me park on their drive but as there is only room for 2-3 vehicles this is not always possible. The headteacher is more than happy for me to park directly outside the school but due to this rule I have to park 75 metres away causing the children to walk further from the school and some times cross the road, therefore making the situation more dangerous. At Greatfield school I used to park near the school in the car park on the same side as the school. The parents and children left the school and come to the van without having to cross any roads or the car park. Now I park 75 metres away it means they do need to cross the road as well as cross the car park, which is obviously busier now as parents in their cars are still arriving and leaving the car park. The ice cream van itself adds no extra danger as I arrive early before the children depart from the school and I leave after all the parents and children have left so I am stationary the whole time.

All I ask is that you keep this policy in place but add an extra condition that ice cream vans can park closer with the permission of the school.

I would like to finish by thanking you for your time and for inviting Cheltenham traders to have their say on council policies that effect their livelihoods. I do not have to tell you how difficult it is to earn a living in the current economic climate so any help the council can offer to small, local business such as mine is greatly appreciated.

I eagerly await your reply.

Yours faithfully,



Will Capstick & Bambas Shaouna
Mr Whippy Cheltenham

Consent numbers 12/00733/STA & 12/00629/STA

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Cheltenham Borough Council

Cabinet – 15th January 2013

Adoption of Amendments to Cheltenham Civic Pride Urban Design Framework

Technical Appendix Royal Well Development Brief

Accountable member	Councillor Andrew McKinley, Cabinet Member Built Environment
Accountable officer	Wilf Tomaney – Townscape Manager
Ward(s) affected	Lansdown
Key Decision	No
Executive summary	<p>Cabinet is being asked to recommend to Council that it adopts a set of revisions to the Royal Well Development Brief (the Brief).</p> <p>The Brief is a technical appendix to the Cheltenham Civic Pride Urban Design Framework Supplementary Planning Document (the SPD). The Revisions are listed at Appendix 2. They arise from a need to correct inconsistencies between the Brief and the parent SPD in order to clarify the planning position should the site progressing to market.</p> <p>The draft Revisions were approved for consultation at Cabinet on 25th September 2012 and have since been through a statutory consultation process. There were six responses received by the deadline, making eight different comments, not all of which related to the draft changes. Of 4 objections only 1 related to a change; the remaining 4 were no comment/no objection. They are listed at Appendix 3, with suggested responses.</p>
Recommendations	That Cabinet recommends to Council the adoption for planning purposes of the schedule of revisions to the Royal Well Development Brief part of the Cheltenham Civic Pride Urban Design Framework Supplementary Planning Document as set out at Appendix 2 to this report.
Financial implications	<p>No direct financial implications in terms of the schedule of revisions to the Royal Well Development Brief as set at Appendix 2 as the basis for public consultation.</p> <p>Contact officer: Paul Jones, paul.jones@cheltenham.gov.uk, 01242 775154</p>

Legal implications	The Council is acting in its capacity of Local Planning Authority and only planning considerations must be taken into account. The SPD will provide the advice to potential developers as to how the Local Planning Authority would generally see the site being developed Contact officer: Gary Spencer, gary.spencer@tewkesbury.gov.uk, 01684 272699
HR implications (including learning and organisational development)	No direct HR implications arising as a result of the content of this report Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242 264355
Key risks	If the Royal Well Brief remains unaltered, it will result in lack of clarity in the planning policy environment and uncertainty on the part of the market affecting key objectives around the delivery of Civic Pride and management of the Council's assets.
Corporate and community plan Implications	The Royal Well Development Brief is part of the suite of Technical Appendices attached to the Civic Pride SPD. The Council's Corporate Plan commits the Council to "making progress" on Civic Pride sites as part of its Environmental objective outcomes. It is considered that the proposed revisions clarify the potential contradiction between the SPD and the Brief and make clear the Council's planning objectives as its asset management arm begins to seek alternative uses for the Municipal Offices.
Environmental and climate change implications	No direct implications. However, the indications are that the traffic management elements of the Civic Pride project will have carbon emission savings. Any new building resulting from development as part of the Brief will be expected to meet high standards of sustainable design and development.

1. Background

1.1 On 28th July 2008 the Royal Well Development Brief (the Brief) – which includes the Municipal Offices - was adopted by the Council as a technical appendix to the Civic Pride Urban Design Framework Supplementary Planning Document (SPD) within the Local Development Plan (LDF).

1.2 In September, Cabinet approved consultation on nine specific wording changes covering three main areas:

- a** the type of uses deemed to be acceptable;
- b** the role of the Municipal Offices Heritage Assessment September 2010 in the design and decision-making process; and
- c** the nature of bus interchange provision and the work emerging from the Local Sustainable Transport Fund.

1.3 As discussed in September, the changes are necessary for a number of reasons:

- a** There is an inconsistency between the Brief and the SPD in the description of acceptable uses.

The SPD in listing suitable uses on the site uses phrasing which is not exclusive, in that it offers an example list of suitable uses but does not exclude other suitable uses. The example

list mentions retail as an option.

By contrast, the Brief lists a range of uses which “will be provided”. The phrasing here is exclusive i.e. it appears not to allow any uses other than those listed. Contrary to the SPD, the Brief’s list does not include “retail”.

- b** The introduction of the National Planning Policy Framework (NPPF) in March 2012, introduced a “non-exclusive” approach to town centre uses – its range of suitable town centre uses includes retail, leisure, commercial, office, tourism, cultural, community and residential. The SPD is broadly consistent with the NPPF; the Brief’s approach is less consistent.
- c** The economic slump and other factors have led to questions as to whether the Brief, as adopted, can effectively be delivered. The Cheltenham Development Task Force has particular concerns at the lack of clarity around the inclusion of retail or otherwise as a suitable use for the Royal Well site – and specifically for the Municipal Offices. It considers it important that retail is not excluded as an option.
- d** Since the adoption of the SPD and Brief, a Heritage Assessment has been completed for the Municipal Offices (September 2010). This will be an important consideration both in preparing and assessing proposals for the site. It is referred to in the SPD as “currently being commissioned” but is absent from the Brief. The Brief is the document which establishes the detail on which proposals will be assessed and the lack of any mention of the Heritage Assessment is considered a serious omission.
- e** The Brief sets out a specific requirement for 6 bus stops on the Royal Well site. The SPD is more circumspect, indicating that further analysis needs to be undertaken to establish exactly what is needed. In fact, the emergence of revised North Place brief identified Warwick Place as an alternative for some of this provision and work on the Local Sustainable Transport Fund and its Cheltenham transport plan means consideration of the precise residual bus requirement in the Royal Well area is on-going. As such, the Brief can now be less specific; the SPD can remain as it is.

1.4 Thus the aim of the draft revisions was very specifically to focus on nine wording changes to the Brief only (there are no changes to the SPD) the main aims of which are:

- a** To make the wording around use less exclusive - enabling consideration of options which include retail, or indeed other appropriate town centre uses not listed. This reflects the altered policy environment of the NPPF, recognises the altered state of the market and establishes a consistency between the SPD and the Brief;
- b** To clarify the existence and role of the Municipal Offices Heritage Assessment September 2010;
- c** To allow solutions to the bus interchange and traffic management issue to emerge in a more pragmatic manner, reflecting the shifting circumstances.

1.5 As part of the adoption of the altered Brief it would be wise to update matters of fact (e.g. the status of the planning policy framework etc.). Any such changes are minor alterations and do not need to be consulted on.

1.6 Since September Cabinet, the Draft Revisions have been through a public consultation process – detailed in section 5, below. The process conforms to the requirements of the Cheltenham Borough Council Statement of Community Involvement (adopted October 2006) and the *Town and Country Planning (Local Planning) (England) Regulations*, which between them set out the consultation requirements of the Borough and the Government in respect of SPD adoption.

2. Reasons for recommendations

- 2.1 The recommendation is necessary because only full Council can formally adopt or alter an SPD.
- 2.2 The recommendation refers to Appendix 2 which lists the proposed revisions. Officers are suggesting one alteration to the revisions set out in draft in September – a requirement that the quality and quantum of bus stop/interchange provision is agreed with appropriate stakeholders and that facilities are commensurate with the nature of that provision.

3. **Alternative options considered**

- 3.1 Officers considered a more wide-ranging update of the Brief and the SPD. This was rejected because experience with the North Place/Portland Street Development Brief, where both Brief and SPD were the subjects of a substantial redraft, suggested that the process was both confusing for the public, cumbersome and long-winded. It was felt that it should be avoided if possible.
- 3.2 Officers considered making no alterations to either Brief or SPD. This was rejected because there were contradictions between the two, with the SPD more closely reflecting what is required. Officers considered that had the site not included a substantial and important Council owned building it would have been possible to deal with proposals without making changes to the Brief – using the emergence of the NPPF and other changes identified to justify the approach. However, given the importance of the Municipal Offices to the delivery of the Brief, it was felt that the changes should be made and publicised in the interests of openness.

4. **Consultation and feedback**

- 4.1 Consultation lasted from 22nd October to 3rd December. It included:
 - a A press release
 - b Consultation documents available on-line and at the Municipal Offices, all libraries and neighbourhood resource centres
 - c A public notice in the Echo
 - d Letters to all on the LDF consultation list (in excess of 1,000 people) and to statutory undertakers
 - e An invite to meet officers and discuss the draft revisions in the Municipal Offices. This was attended by 8 members of the public, Councillor Thornton and three officers. A reporter from the Echo was present throughout – though there was no subsequent story directly related to the Brief.
- 4.2 A total of six responses were received by the deadline, these made eight different comments in total. There were four comments seeking alterations (i.e. objecting) to the Brief's approach to the Royal Well/Municipal Offices. However only one of these related to proposed changes which were available for comment; the remaining 3 addressed issues outside the changes and as such are not valid. The remaining 4 responses were effectively "no comment". Additionally, English Heritage (EH) submitted a "no comment" outside the consultation timeframe; this has been included in the analysis for information only because EH is a statutory body with an important brief in this area.
- 4.3 Whilst this is a small number of responses, the consultation was on technical matters of detail; many of the broader issues were established in the 2008 SPD and Brief and were not open for comment.
- 4.4 A schedule of written comments and officers' suggested response to each is at Appendix 3. The one valid objection has given rise to a suggested further revision – which officers consider adds more clarity a requirement that the quality and quantum of bus stop/interchange provision is agreed with appropriate stakeholders and that facilities are commensurate with the nature of that provision. It ties in with comments made by others.

4.5 The public meeting was small but there was a lively debate. The main questions relevant to the consultation were around the suitability of retail uses in the Municipal Offices. Other issues raised were not part of the consultation, including the suitability of hotel use in the Municipal Offices and a discussion of appropriate architectural style.

5. Performance management –monitoring and review

5.1 The delivery of Civic Pride (and consequently, the SPD and Brief) is an outcome emerging from the Council's Corporate Plan objectives. As such it is a subject to regular review.

Report author	Contact officer: Wilf Tomaney, wilf.tomaney@cheltenham.gov.uk, 01242 264145
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Schedule of Proposed Revisions 3. Schedule of comments received and suggested response
Background information	<ol style="list-style-type: none"> 1.

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	Any risks associated with equality impact										
	Any environmental risks										
	The Royal Well Brief is unaltered, resulting in lack of clarity in the planning policy environment and uncertainty on the part of the market affecting key objectives around the delivery of Civic Pride and management of the Council's assets.	WT/JW	June 2012	5	2	10	Reduce	Monitor progress on adoption of the Brief	Spring 2013	WT/JW	
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

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Guidance

Types of risks could include the following:

- Potential reputation risks from the decision in terms of bad publicity, impact on the community or on partners;
- Financial risks associated with the decision;
- Political risks that the decision might not have cross-party support;
- Environmental risks associated with the decision;

- Potential adverse equality impacts from the decision;
- Capacity risks in terms of the ability of the organisation to ensure the effective delivery of the decision
- Legal risks arising from the decision

Remember to highlight risks which may impact on the strategy and actions which are being followed to deliver the objectives, so that members can identify the need to review objectives, options and decisions on a timely basis should these risks arise.

Risk ref

If the risk is already recorded, note either the corporate risk register or TEN reference

Risk Description

Please use “If xx happens then xx will be the consequence” (cause and effect). For example “If the council’s business continuity planning does not deliver effective responses to the predicted flu pandemic then council services will be significantly impacted.”

Risk owner

Please identify the lead officer who has identified the risk and will be responsible for it.

Risk score

Impact on a scale from 1 to 5 multiplied by likelihood on a scale from 1 to 6. Please see risk [scorecard](#) for more information on how to score a risk

Control

Either: Reduce / Accept / Transfer to 3rd party / Close

Action

There are usually things the council can do to reduce either the likelihood or impact of the risk. Controls may already be in place, such as budget monitoring or new controls or actions may also be needed.

Responsible officer

Please identify the lead officer who will be responsible for the action to control the risk.

For further guidance, please refer to the [risk management policy](#)

Transferred to risk register

Please ensure that the risk is transferred to a live risk register. This could be a team, divisional or corporate risk register depending on the nature of the risk and what level of objective it is impacting on

Change No.	Original Text	Text Change	Reasoned Justification
i	Pg. 4, 1.7, (Main Objectives) “c. Creates a lively mixed-use, residential and commercial hub which will activate...”	Underlined text inserted “C. Creates a lively mixed-use, residential and commercial hub which <u>could include retail, office and or hotel uses and</u> will activate...”	The insertion of this text is intended to increase the readability of the document by stating early on some potential uses for the site. These uses are also listed later in the development brief in section (3.2e) “Development Principles, Land Use”. And are given a more detailed reasoned justification in section (v) on page two of this document.
ii	Pg. 9, 2.9, (Constraints) “c. Vehicular Circulation needs to be	Underlined text inserted “C. Vehicular Circulation needs to be considered within a wider town centre context <u>as part of the</u>	Any potential new development of the site will need to take into account the implications of public transport network changes arising from the successful bid. This is an area of recent local change which it is important that prospective site developers be aware of.

	considered within a wider town centre context.	<u>network changes arising from the Gloucestershire County Council successful Local Sustainable Transport Fund Bid in 2012.</u>	
iii	Pg. 9, 2.9, (Constraints) “f. 6 bays for bus/coach interchange...”	Deleted: “f. 6 bays for bus/coach interchange...” Replaced with: “f. Bus bays for bus/coach interchange must be sited on this part of the bus spine. <u>Bus bays will be provided of sufficient number and type to meet the emerging requirements</u> ”	We feel that given the potential implications of the successful bid, the brief should not be so prescriptive as to the number of bays to be included. This flexibility will be useful in matching the provision to the requirements of any proposed scheme. Following detailed transport modelling work there has been an examination of opportunities to relocate Royal Well bus bays, currently serving the national coaches and rural services to the town. These bays, when relocated, will cater for services with a stopping time of no longer than 20 minutes. It is proposed that these bays are located at the southern end of the North Place/Portland St site, and will be in addition to the stops located along the proposed “bus spine” which will cater for the urban services.

		<p><u>of the Cheltenham Transport Plan and those of the bus and coach operators; the quality and range of associated facilities will be consistent with the nature of the facility provided. Details will be agreed with the Highway Authority and appropriate stakeholders. “</u></p>	<p>During Consultation on draft revisions comments were made regarding the quality of both the bus-waiting to be provided and any associated facilities. Further changes reflect these concerns.</p>
<p>iv</p>	<p>Pg. 12, 3.2, (Land Use) “The following uses will be provided”</p>	<p>Deleted: “will be provided” Replaced with: <u>“could be considered”</u></p>	<p>The removal of the words “will be provided” and replacement with the words “could be considered” is more consistent with the principles in National Planning Policy Framework paragraph 14 to adopt the golden thread of a “presumption in favour of sustainable development” and “positively seeking opportunities to meet the development needs of the area”. We felt that the language in this part of the brief was overly prescriptive and did not properly allow for</p>

			alternative sustainable proposals.
v	<p>Pg. 12, 3.2, (Land Use)</p> <p>“e. Commercial Development (Use Class B1)”</p>	<p>Deleted:</p> <p>“e. Commercial Development (Use Class B1)”</p> <p>Replaced with:</p> <p><u>“Commercial development including retail and/or office space”</u></p>	<p>Evidence from the North Place & Portland Street development brief (another technical appendix of the Civic Pride Urban Design Framework Supplementary Planning Document) has indicated that less tightly defined outcomes could provide the impetus to investor interest, particularly in light of the current market conditions and government austerity programme.</p> <p>The opportunity for speculative office build is perceived as particularly challenging in the current market; however the Borough Council does not wish to rule it out if it is deliverable. Consequently, the Brief introduces opportunities for a wider range of commercial development on the site (e.g. office, retail etc.) along with a range of other potential uses. This approach is also consistent with National Planning Policy Framework paragraphs 21 and 23 which require planning policies to be flexible and promote competitive town centre environments.</p>

<p>vi</p>	<p>Pg. 12, 3.3, (Design Principles) “d. Sustainable movement choices will be maximised by the delivery of bespoke townwide bus infrastructure – the spine and 6 bus pull-in bays...”</p>	<p>Deleted: “bespoke townwide bus infrastructure – the spine and 6 bus pull-in bays...”</p> <p>Replaced with: <u>“the local sustainable transport bid with a bus spine and bus pull in bays”</u></p>	<p>This text was changed so as to be consistent with changes (ii) and (iii) on page 1 of this document.</p>
<p>vii</p>	<p>Pg 16, 3.3 (Design Principle C – Design Quality) “g.i. it respects</p>	<p>Underlined text inserted: “...it respects and enhances the historic character of the main building <u>in a manner</u>”</p>	<p>This text is altered because the Heritage Assessment has been prepared since the original brief was adopted and will be an important part of designing and assessing proposals for the Municipal Offices building. Designers and developers need to be clear on its existence</p>

	and enhances the historic character of the main building and enables its historic form to be understood...”	<u>consistent with the Municipal Offices Heritage Assessment September 2010</u> and enables its historic form to be understood...”	and importance in the process.
viii	Pg. 17 (Design Principle D Movement) “e.... There will be provision for six pull – in bays.”	Deleted: “There will be provision for six pull – in bays.” Replaced with: <u>Bus bays will be provided of sufficient number and type to meet the emerging requirements of the Cheltenham Transport Plan.</u>	This text was changed so as to be consistent with changes (ii) and (iii) on page 1 of this document.

		<p><u>and those of the bus and coach operators; the quality and range of associated facilities will be consistent with the nature of the facility provided. Details will be agreed with the Highway Authority and appropriate stakeholders. “</u></p>	
<p>lx</p>	<p>Pg 19 (Planning and Related Applications) “...planning applications must be ...accompanied by...”</p>	<p>Add the following to the list of accompanying documents: <u>“A description of the proposals assessed against the Municipal Offices Heritage Assessment September 2010”</u></p>	<p>This text is altered because the Heritage Assessment has been prepared since the original brief was adopted and will be an important part of designing and assessing proposals for the Municipal Offices building. Designers and developers need to be able to clearly explain how they have addressed the Plan in their proposals.</p>

Appendix 3 Royal Well Development Brief: Schedule of Comments Received 22nd October - 3rd December 2012

Document Part Name

Change iii

Ref	Name	Organisation	Comment	Officer Response	Change
7	Mike Lambden	National Express	The proposed change of the words on Page 9, 2.9 (f) sound fine in principle. However the word 'sufficient' is very open to interpretation and what a developer may regard as sufficient may not be the same as what transport providers would regard as 'sufficient' It is also not just the number of bays but also ensuring that they are adequate for all types of bus and coach, fully accessible to meet the requirements of Disability legislation and are safe to use for both the public and transport operators.	Agreed.	<p>Change</p> <p>Alter the revised wording of para 2.8 f and of Design Principle D paragraph e. to read</p> <p><u>“Bus bays will be provided of sufficient number and type to meet the emerging requirements of the Cheltenham Transport Plan and those of the bus and coach operators; the quality and range of associated facilities will be consistent with the nature of the facility provided. Details will be agreed with the Highway</u></p>

Ref	Name	Organisation	Comment	Officer Response	Change
					<u>Authority and appropriate stakeholders.</u>

Document Part Name General Comments

Ref	Name	Organisation	Comment	Officer Response	Change
1	Barbara Morgan	Network Rail	Upon the review of this document, Network Rail has no comments to make.	Noted.	No Change
2	Mr M Jones		Royal Well: The present use and layout for country bus/coach arrivals is excellent because (a) they can arrive and depart easily from all directions without causing congestion to existing traffic flow. (b) the fine trees, Royal Crescent itself and the open space provide an attractive location for visitors to admire our Regency architecture whilst waiting for buses to arrive/depart. (c) Its central location is near the Promenade--another advantage for visitors to the town. (d) the existing toilets are adequate and well situated. I would add that my comments are based on my frequent use of the bus station over many years and will, I hope, receive your serious consideration.	Noted. The Brief adopted in 2008 established the principle of altering the layout of the current Royal Well area. The draft revisions do not relate to the principle of the layout, but to the number of bus bays which need to be provided after development. Therefore the comment therefore outside the scope of the consultation. Notwithstanding this, the brief does not establish a detailed layout. Thus, regarding point (a) it is anticipated that the strategic changes to the highway network will improve access and reduce congestion. Regarding points (b) & (c), the intention is that there will be an improved setting to the area and easier pedestrian access to the	Change Alter the revised wording of para 2.8 f and of Design Principle D paragraph e. to read <u>"Bus bays will be provided of sufficient number and type to meet the emerging requirements of the Cheltenham Transport Plan and those of the bus and coach operators; the quality and range of associated facilities will be consistent with the nature of the facility</u>

Ref	Name	Organisation	Comment	Officer Response	Change
3	Diana Brown		<p>I urge the Task Force committee members to respect the current use of these prestigious buildings as a fitting 'home' for the Cheltenham Borough Council and its allied departments. The leaders of this fine town should be aware of the appropriateness of this centrally situated site which is well regarded by the townspeople and visitors alike. The general public's perception of the importance of our elected leaders' role in the town is directly proportional to the important site in which they function. The proximity of the often flower bedecked building to the Long Gardens and War Memorial is a major factor in our civic pride. If we allow this area to be taken over and run by commercial bodies, either for hotel, shops or flats, we will inevitably see a degeneration of the overall aspect of The Promenade ie. a loss of the unique juxtaposition of popular quality shops with calm oases of walking and sitting areas and unimpeded views of an unspoilt Regency terrace. I have spoken to many Cheltenham residents who are not up-to-date with current proposals and ,without exception, they have voiced identical concerns about the about the possible changes of use of the Municipal Buildings. Please do not allow this to happen without thorough public consultations and in-depth discussions with architects and Heritage bodies.</p>	<p>town. Regarding point (d) there will be a need to provide appropriate waiting facilities and an appropriate alteration can be incorporated here.</p> <p>Noted. The Brief adopted in 2008 established the principle of alternative uses for the Municipal Offices if the Borough Council was to relocate. The current consultation does not seek to alter this but relates to the nature of possible alternative uses. Both hotel and residential uses formed part of the 2008 document, and are not proposed to be altered here. The introduction of an opportunity for retail is consistent with the more inclusive approach of the recently adopted National Planning Policy Framework. There is protection for the heritage aspects of the present Municipal Offices buildings through its Historic Assessment, consideration of which is now proposed to be specifically written into the Brief under other changes to the document. There are no changes proposed to the character of the Long Gardens and it is suggested that improved open space is established in Royal Well.</p>	<p>provided. Details will be agreed with the Highway Authority and appropriate stakeholders.</p> <p>No Change</p>

Ref	Name	Organisation	Comment	Officer Response	Change
4	Neil Chapman (Highways Agency)	Highways Agency	The Highways Agency has no further comments to make on the above consultation.	Noted.	No Change
5	Mike Lambden	National Express	We have had detailed discussions about the proposed Bus Node in North Place and in principle are in agreement with moving our services there if this is built as currently planned. However this is 'chicken and egg' because if any delay, or significant changes, occur to the North Place scheme it may not meet our requirements or may raise safety issues. We are aware that the plans are currently going through the formal consultation process and that there have been a large number of comments from local residents about the overall scheme. Any amendments could possibly affect what has been discussed for the current bus node design. Therefore we believe that the bus and coach requirements at Royal Well cannot be considered in isolation.	Noted. This Brief cannot consider the implications of the proposals for development at North Place. However, the reason for the draft changes regarding the bus node is to allow any proposal to address and accommodate the fluid situation around the requirements for any provision and it is appropriate to alter the text in order that a range of circumstances can be considered.	Change Alter the revised wording of para 2.8 f and of Design Principle D paragraph e. to read " <u>Bus bays will be provided of sufficient number and type to meet the emerging requirements of the Cheltenham Transport Plan and those of the bus and coach operators; the quality and range of associated facilities will be consistent with the nature of the facility provided. Details will be agreed with the Highway Authority and appropriate stakeholders.</u> "
6	Jamie R. Melvin	Natural England	The consultation which we have been offered the opportunity to comment on is of a low risk/priority for Natural England and so we will not be offering representations at this time. The lack of further	Noted. The draft changes do not specifically address the natural environment. The proposals are likely to offer opportunities	No Change

Ref	Name	Organisation	Comment	Officer Response	Change
8	Caroline Power (English Heritage)	English Heritage	comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may be able to make comments that will help the Local Planning Authority (LPA) to fully take account of the environmental value of areas affected by this plan in the decision making process.	to improve the green environment of Royal Well and other planning policy offers appropriate levels of protection in this area. The involvement of a variety of stakeholders in proposals as they develop in detail and become a planning application will further offer opportunities for flora and fauna to be considered.	No change.
9	Mr M Jones		English Heritage have no wish to comment on the above document. Municipal Offices:- I think the present use of these fine buildings should be retained as the cost of relocation and general upheaval would be colossal and also because their present central location is ideal, affording easy access by bus or car besides the important 'prestige factor'.	Noted. The Brief adopted in 2008 established the principle of alternative uses for the Municipal Offices if the Borough Council was to relocate. The current consultation does not seek to alter this but relates to the nature of possible alternative uses. It is not the purpose of the Brief to set criteria for the assessment of alternative locations for the Borough Council's main office and the planning process cannot consider the cost and upheaval of any move to the Council. But, notwithstanding that, a search for alternatives is likely to consider issues such as easy access and the appropriate prestige of any new location.	No Change

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Cheltenham Borough Council

Cabinet – 15th January 2013

Counter Fraud and Corruption Policy

Accountable member	Cabinet Member Corporate Services, Councillor Jon Walklett.
Accountable officer	Mark Sheldon, Director Resources
Ward(s) affected	None
Key Decision	No
Executive summary	<p>The council's Anti Fraud and Corruption Policy is due for a review. This policy needs to be updated to reflect the internal audit partnership arrangements with Audit Cotswold and the requirements of the Bribery Act.</p> <p>The policy was reviewed by Internal Audit and brought up to date, it has also been renamed as the Counter fraud and corruption policy and guidance.</p> <p>This policy was considered by the Audit Committee on the 9th January 2013.</p>
Recommendations	<p>Cabinet approve the following;</p> <ol style="list-style-type: none"> 1. Counter Fraud and Corruption policy and make any further suggestions that it considers necessary to strengthen the council's standards of propriety and accountability. 2. Authorise the Director of Resources to update the policy with any additional comments following the conclusion of the on-going consultation with the audit partnership.
Financial implications	<p>The council has a duty to protect public funds.</p> <p>This policy is designed to strengthen the guardianship of the council assets, both property and financial, in order to meet with its obligations.</p> <p>Contact officer: Director Resources, Mark Sheldon</p> <p>Email mark.sheldon@cheltenham.gov.uk,</p> <p>Tel; 01242 264123</p>

Legal implications	<p>It is essential to have in place an updated Counter Fraud and Corruption policy as proposed, to ensure compliance with the new statutory requirements as set out in the report and the appendices.</p> <p>Contact officer: Solicitor, Lisa Jones</p> <p>Email: lisa.jones@tewkesbury.gov.uk,</p> <p>Tel: 01684 272015</p>
HR implications (including learning and organisational development)	<p>There are no HR implications arising as a result of this report.</p> <p>Contact officer: Sarah Flury, HR Business Partner</p> <p>Email: sarah.flury@cheltenham.gov.uk</p> <p>Tel: 01242 775215</p>
Key risks	<p>If the Council does not have effective counter fraud and corruption controls then it could put at risk its assets and reputation.</p>
Corporate and community plan Implications	<p>None</p>
Environmental and climate change implications	<p>None</p>

1. Background

- 1.1 The Councils constitution has a list of policies including the Anti Fraud and Corruption Policy which was approved by Cabinet in June 2007 and is now due for a review.
- 1.2 There have been a number of changes to the way that the council counters fraud and corruption since this policy was approved including approval for its Internal Audit team to join the Audit Cotswold partnership increasing its capacity and resilience particularly in respect of investigation work.
- 1.3 The Government approved The Bribery Act (2010) which introduced a range of new legal responsibilities including a requirement on commercial organisations to prevent bribery. The council amended procurement arrangements to reflect these changes and issued additional guidance to staff. These changes were reported to Audit Committee on the 2nd June 2011.

2. Reasons for recommendations

- 2.1 The legislative and operational changes that have taken place since the Anti Fraud and Anti Corruption Policy were approved in June 2007 require the policy to be updated and renamed..
- 2.2 The constitution was revised and approved by Council in March 2012 and includes a Code of Conduct for Employees. This Code includes a wide range of guidance to promote professional behaviour and to protect employees and the council including advice on declarations for the Register of Interest and offers of gifts, hospitality and sponsorship.
- 2.3 The Code of Members Conduct provides guidance in line with our statutory duty on promoting and maintaining high standards of conduct was adopted by the Council on the 25th June 2012

with effect of the 1st July 2012. This Code includes advice on what is required for the Registration of Interests and the Declaration of Interests and Restrictions on participation. The obligations set out in this Code are in addition to those which apply to all Members by virtue of the procedural and other rules of the authority and any protocols and policies which may be adopted from time to time.

- 2.4 The Prevention of Corruption Acts was repealed by the Bribery Act 2010. Any commercial contract that we enter into reflects the requirements of this new Act and the Councils Contract rules.
- 2.5 This policy therefore needs to align itself with existing Codes of Conduct, policies and guidance on the prevention and detection of corruption, fraud and bribery to ensure that it provides clear and unambiguous guidance to employee's, Members and all those that it does business with.

3. Alternative options considered

- 3.1 None

4. Consultation and feedback

- 4.1 The Audit Committee considered the policy on the 9th January 2013 and a verbal update of their recommendations and comments will be provided to Cabinet
- 4.2 .Internal Audit, HR and One Legal were also consulted and have commented on the policy.
- 4.3 There are on-going discussions with our partners in the audit partnership (Audit Cotswolds) to consider any if there are any further amendments that can be made to strengthen the policy further. When this consultation is complete the policy will be adopted by all the partner councils.
- 4.4 Audit Committee were asked to agree that any further amendments from this consultation are included within our policy by the Director Resources.

5. Performance management – monitoring and review

- 5.1 Any suspected incident will be considered for referral to the Police for investigation by the relevant Director in consultation with the Section 151 Officer, the Head of Internal Audit and where appropriate either HR or the Monitoring officer. The Chief Executive will be notified of any decision taken to refer any issue to the police.
- 5.2 Any proven incident of fraud, corruption or bribery will be considered by the Corporate Governance Group to consider if any further amendments need to be made to policy and guidance.
- 5.3 The Audit Committee will receive an annual Counter Fraud report from the Head of Internal Audit; the first of these will be June 2013.

Report author	<p>Contact officer: Bryan Parsons</p> <p>Email bryan.parsons@cheltenham.gov.uk,</p> <p>Telephone 01242 264189</p>
Appendices	<ul style="list-style-type: none"> 1. Risk Assessment 2. Draft Counter Fraud and Corruption Policy

Background information	1. None
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The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the Council does not have effective counter fraud and corruption controls then it could put at risk its assets and reputation.	Director Resources	04/01/2013	4	2	8	Reduce	Agree an effective Counter Fraud and Corruption policy with guidance for employees and members	04/01/2013	Internal Audit (Cotswold Audit Partnership)	
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

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INTRODUCTION

- 1.1 In administering its responsibilities; Cheltenham Borough Council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or within the Council such as another organisation, a resident, an employee or Councillor. The Council is committed to an effective Counter Fraud and Corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities.
- 1.2 The Resources Director as the "Section 151 Officer" has a statutory responsibility under section 151 of the Local Government Act 1972 to ensure the proper arrangements for the Council's financial affairs and has developed financial codes of practice and accounting instructions. The Director of Resources exercises a quality control on financial administration through delegation to the Head of Finance (Go Shared Services).
- 1.3 The Monitoring Officer has a statutory responsibility to advise the Council on the legality of its decisions and to ensure that the Council's actions do not give rise to illegality or maladministration. It is therefore essential for employees to follow the Council's policies and procedures to demonstrate that the Council is acting in an open and transparent manner.
- 1.4 The Council will thoroughly investigate all suggestions of fraud, corruption or theft, both from within the Council and from external sources, which it recognises can:
 - Undermine the standards of public service that the Council is attempting to achieve.
 - Reduce the level of resources and services available for the residents of Cheltenham.
 - Result in consequences which reduce public confidence in the Council.
- 1.5 Any proven fraud will be dealt with in a consistent and proportionate manner. Appropriate sanctions and redress will be pursued against anyone perpetrating, or seeking to perpetrate fraud, corruption or theft against the Council.
- 1.6 The Council is committed to the highest possible standards of openness, probity, honesty, integrity and accountability. The Council expects all staff, Councillors and partner organisations to observe these standards which are defined within the Code of Conduct for employees and Members Code of Conduct, underpinned by its values and help achieve the Council's over-arching priority for the continued delivery of outcomes and value for money for local tax-payers.

DEFINITIONS

- 2.1 **FRAUD:** Is defined by The Fraud Act 2006 as follows:

Counter fraud and corruption policy.

A person is guilty of fraud if he is in breach of any of the following:

Fraud by false representation; that is if a person:

- (a) dishonestly makes a false representation, and
- (b) intends, by making the representation:
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

Fraud by failing to disclose information; that is if a person:

- (a) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and
- (b) intends, by failing to disclose the information:
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

Fraud by abuse of position; that is if a person:

- (a) occupies a position, in which he is expected to safeguard, or not to act against, the financial interests of another person,
- (b) dishonestly abuses that position, and
- (c) intends, by means of the abuse of that position:
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

The Fraud Act 2006 repeals certain offences that are detailed in the Theft Acts of 1968 and 1978. The term "fraud" is usually used to describe depriving someone of something by deceit, which might either be misuse of funds or other resources, or more complicated crimes like false accounting or the supply of false information. In legal terms, all of these activities are the same crime, theft, examples of which include deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

- 2.2 **CORRUPTION:** Is the deliberate use of one's position for direct or indirect personal gain. "Corruption" covers the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person to act inappropriately.
- 2.3 **THEFT:** Is the physical misappropriation of cash or other tangible assets. A person is guilty of "theft" if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.
- 2.4 **MONEY LAUNDERING:** Money laundering is the process by which criminals attempt to 'recycle' the proceeds of their criminal activities in order to conceal its

Counter fraud and corruption policy.

origins and ownership and which leaves them with money that cannot be traced back.

All employees are instructed be aware of the increasing possibility of receiving requests that could be used for money laundering and illicit requests for money through e-mails. Detailed guidance is set out in the Council's Proceeds of Crime / Money Laundering Policy.

- 2.5 Any Service that receives money from an external person or body is potentially vulnerable to a money laundering operation. The need for vigilance is vital and if there is any suspicion concerning the appropriateness of the transaction then advice must be sought from Internal Audit. The Council has a separate and more detailed Proceeds of Crime / Money Laundering Policy and a designated money laundering reporting officer who is the is the Section 151 Officer; Director of Resources and nominated to receive disclosures about money laundering activity
- 2.6 One Legal (the councils legal team) also have their own professional guidance in relation to money laundering which places a duty on solicitors to report any suspicions and these may override their legal professional privilege and confidentiality. All such suspicions must be reported to the Monitoring Officer and the Money Laundering Reporting Officer.
- 2.7 **BRIBERY:** The Bribery Act 2010 received Royal Assent on 8th April 2010. Previously, bribery has been viewed within the definition of corruption, as defined within the Council's Counter Fraud and Corruption Policy. The Bribery Act 2010 introduces four main offences, simplified as the following:
- Bribing another person: a person is guilty of an offence if he/she offers, promises or gives a financial or other advantage to another person.
 - Offences relating to being bribed: a person is guilty of an offence if he/she requests, agrees to receive, or accepts a financial or other advantage. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient's ultimate advantage or not.
 - Bribery of a foreign public official: a person who bribes a foreign public official is guilty of an offence if the person's intention is to influence the foreign public official in their capacity, duty or role as a foreign public official.
 - Failure of commercial organisations to prevent bribery: organisations, which include the Council, must have adequate procedures in place to prevent bribery in relation to the obtaining or retaining of business.

Note: A 'financial' or 'other advantage' may include money, assets, gifts or services.

- 2.8 Prior to entering into any business arrangements, all Council officers and/or business units should ensure that they have taken all reasonable steps to identify any potential areas of risk relating to bribery or corruption.

3. SCOPE

- 3.1 This document applies to:

Counter fraud and corruption policy.

- All employees (including casual workers and Agency Staff) and Councillors.
- Committee Members of Council funded voluntary organisations.
- Partner organisations. (where CBC have a financial or statutory responsibility)
- Council Suppliers, Contractors and Consultants.
- General Public.

4. AIMS AND OBJECTIVES

4.1 The aims and objectives of the Counter Fraud and Corruption Policy are to:

- Ensure that the Council is protected against fraud and loss.
- Protect the Council's valuable resources by ensuring they are not lost through fraud but are used for improved services to Cheltenham residents and visitors.
- Create a 'Counter fraud' culture which highlights the Council's zero tolerance of fraud, corruption and theft, which defines roles and responsibilities and actively engages everyone (the public, Councillors, staff, managers and policy makers).

To provide a best practice 'counter fraud' service which:

- Proactively deters, prevents and detects fraud, corruption and theft.
- Investigates suspected or detected fraud, corruption and theft.
- Enables the Council to apply appropriate sanctions and recovery of losses.
- Provides recommendations to inform policy, system and control improvements, thereby reducing the Council's exposure to fraudulent activity.

5. PRINCIPLES

5.1 The Council will not tolerate abuse of its services or resources and has high expectations of propriety, integrity and accountability from all parties identified within this policy. The Council will ensure that the resources dedicated to "counter-fraud" activity are sufficient and all those involved are trained to deliver a professional "counter fraud" service to the highest standards.

5.2 All fraudulent activity is unacceptable, and will result in consideration of legal action being taken against the individual(s) concerned. The Council will also pursue the repayment of any financial gain from individuals involved in malpractice and wrongdoing. The Council will ensure consistency, fairness and objectivity in all its "counter-fraud" work and that everyone is treated equally.

Counter fraud and corruption policy.

- 5.3 This policy encourages those detailed in section 3.1 to report any genuine suspicions of fraudulent activity. However, malicious allegations or those motivated by personal gain will not be tolerated and, if proven, disciplinary or legal action may be taken. Sections 8.3 and 8.4 detail the reporting arrangements in relation to incidents of fraud or irregularity.
- 5.4 The Council will work with its partners (such as the Police, other Councils and other investigative bodies) to strengthen and continuously improve its arrangements to prevent fraud and corruption.

6. RESPONSIBILITIES

STAKEHOLDER	SPECIFIC RESPONSIBILITIES
Chief Executive	Ultimately accountable for the effectiveness of the Council's arrangements for countering fraud and corruption.
Resources Director (Section 151 Officer)	To ensure the Council has adopted an appropriate Counter fraud policy, there is an effective internal control environment in place and there is an adequately resourced and effective Internal Audit service to assist with 'counter fraud' work.
Borough Solicitor and Monitoring Officer	To advise Councillors and Officers on ethical issues, conduct and powers to ensure that the Council operates within the law and statutory Codes of Practice.
Audit Committee	<p>To receive formal assurance from Internal Audit at each meeting and an annual opinion report in June.</p> <p>A formal counter fraud report will be issued to the Audit Committee in June</p> <p>The Audit Committee also receive assurance:</p> <ul style="list-style-type: none"> - from external audit on the Council's Annual Accounts and Annual Governance Statement - on the effectiveness of the corporate governance framework - on the effectiveness of the corporate risk management processes

Counter fraud and corruption policy.

<p>Councillors</p>	<p>To comply with the Members Code of Conduct and related Council policies and procedures and to be aware of the possibility of fraud, corruption and theft, and to report any genuine concerns accordingly.</p>
<p>External Audit</p>	<p>Statutory duty to ensure that the Council has adequate arrangements in place for the prevention and detection of fraud, corruption and theft.</p>
<p>Internal Audit</p>	<p>Responsible for assisting the development and implementation the Counter Fraud and Corruption Policy and monitoring the investigation of any reported issues. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this policy and that action is identified to improve controls and reduce the risk of recurrence.</p> <p>Reporting to the chief executive and the Resources Director on the progress and results of investigations</p> <p>Reporting annually to Audit Committee on proven frauds</p>
<p>Executive Directors, Directors, and Service Managers</p>	<p>To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to Internal Audit. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption and theft and to reduce these risks by implementing internal controls.</p>
<p>Staff</p>	<p>To comply with Council policies and procedures, to be aware of the possibility of fraud, corruption and theft, and to report any genuine concerns to management, or through the Whistleblowing Policy Procedures.</p>

Counter fraud and corruption policy.

Public, Partners, Suppliers, Contractors and Consultants

To be aware of the possibility of fraud and corruption against the Council and report any genuine concerns / suspicions.

7. APPROACH TO COUNTERING FRAUD

- 7.1 Cheltenham Borough Council has a responsibility to reduce fraud and protect its resources by completing work in each of the following key areas:
- 7.2 **DETERRENCE:** The Council will promote and develop a strong “counter-fraud” culture, raise awareness and provide information on all aspects of its “counter-fraud” work. This includes advice on the intranet, a fraud e-learning tool, publicising the results of proactive work, investigating fraud referrals and seeking the recovery of any losses due to fraud.
- 7.3 **PREVENTION:** The Council will strengthen measures to prevent fraud. Internal Audit will work with managers and policy makers to ensure new and existing systems, procedures and policy initiatives consider any fraud risks. Audit activity will also consider fraud risks as part of each review.
- 7.4 **DETECTION:** Internal Audit maintains a record of all fraud referrals with the exception of benefit fraud; this is held with the Benefit Fraud Team. This record helps to establish those areas within the Council most vulnerable to the risk of fraud. This also enables a Council wide fraud profile to be created which then informs any detailed work in areas throughout the Council aimed at detecting existing and new types of fraudulent activity.

Internal Audit also leads in the National Fraud Initiative (NFI) run by the Audit Commission. An officer in the internal audit team is designated as the ‘Key Contact’ for this process. Furthermore, an annual survey is submitted to the Audit Commission on behalf of the authority by Internal Audit. Areas indicated in the surveys may receive proactive investigation where appropriate.

Internal controls are established for financial and other systems within the Council. They are designed to discourage fraud and provide indicators of any fraudulent activity. The Council also relies on employees, Councillors and the public to be alert and to report suspicion of fraud and corruption.

Managers should pay particular attention to circumstances which may require additional and sensitive monitoring or supervision. Examples of Fraud Indicators are detailed in Appendix C.

- 7.5 **INVESTIGATION:** The Council will investigate all reported incidents of fraud or irregularity. Please see Appendix A for the Protocol for Investigating Irregularities.

Counter fraud and corruption policy.

- 7.6 **SANCTIONS:** The Council will apply realistic and effective sanctions for individuals or organisations where an investigation reveals fraudulent activity. This will include legal action in addition to criminal and disciplinary action, where appropriate.
- 7.7 **REDRESS:** A crucial element of the Council's response to tackling fraud is seeking financial redress. The recovery of defrauded monies is an important part of the Council's strategy and will be pursued, where appropriate.
- 7.8 In addition to the above, Internal Audit also prepares a risk based annual Audit Plan that details the key objectives and areas of work for the year. Within these work areas indicators for fraud are considered. Internal Audit will also respond to requests from management where there may be concerns over the effectiveness of internal controls. The work plan is agreed and monitored by the Audit Committee and Section 151 Officer.

8. REPORTING, ADVICE AND SUPPORT

- 8.1 The Council's expectation is that Councillors and managers will lead by example and that employees at all levels will comply with the Constitution, Council Policies, Financial Regulations, Financial and Contract Procedure Rules and directorate procedures.
- 8.2 The Council recognises that the primary responsibility for the prevention and detection of fraud rests with management. It is essential that employees of the Council report any irregularities, or suspected irregularities to their line manager and if this is not appropriate then to the Service Manager or Director. The Council will provide all reasonable protection for those who raise genuine concerns in good faith.
- 8.3 The line manager, Service Manager or Director who receives the allegation (whether from a Councillor or a Council employee) must refer the matter to the Resources Director (Section 151 Officer) or one of the following people depending on the circumstances, to determine how the potential irregularity will be investigated:
- Borough Solicitor and Monitoring Officer
 - Relevant Director.
 - Internal Audit.
 - Head of HR GoSS /HR Operations Manager GoSS
- 8.4 Where appropriate, the Resources Director should inform the Chief Executive and Monitoring Officer where the irregularity is material and/or could affect the reputation of the Council. The Section 151 Officer will liaise with the Cabinet Member for Corporate Services, as appropriate. The Communications Team should also be informed if the matter is likely to be communicated externally.
- 8.5 The investigating officer will follow the Guidelines for Managers on Investigating Allegations as well as the Protocol for Investigating Irregularities Appendix A), which includes the need to:

Counter fraud and corruption policy.

- Deal promptly with the matter.
- Record all evidence received.
- Ensure that evidence is sound and adequately supported.
- Ensure security of all evidence collected.
- Contact other agencies if necessary e.g. Police.
- Notify the Council's insurers.
- Implement Council disciplinary procedures where appropriate.

8.6 The Council will also work in co-operation with the following bodies that will assist in scrutinising our systems and defences against fraud and corruption:

- Local Government Ombudsman
- External Audit
- the National Fraud Initiative and related Audit Networks
- Central Government Departments
- HM Revenue and Customs
- UK Border Agency
- Department for Work and Pensions
- Police.

8.7 Any concerns or suspicions reported will be treated with discretion and in confidence. Key contacts include:

Resources Director (Section 151 Officer)	Write to: Cheltenham Borough Council Municipal offices Promenade Cheltenham Glos. GL50 9SA.
Borough Solicitor and Monitoring Officer	
Relevant Director	
Internal Audit	
Audit Committee Chairman	
Standards Committee Chairman	

Counter fraud and corruption policy.

8.8 Attached are the following Appendices:

Appendix A: The Protocol for Investigating Irregularities.

Appendix B: The Council's Fraud Response Plan.

Appendix C: Examples of Fraud Indicators.

9. FURTHER INFORMATION

9.1 Further information on Council policy can be found in the following documents:

The Constitution.

- Code of Conduct for Employees and the Members Code of Conduct. Which include detailed policy advice on;
 - Gifts, Hospitality and sponsorship.
 - Declaring and Registering Interests
- Whistle-blowing policy.
- Financial Regulations.
- Contract Procedure Rules
- Money Laundering Policy.
- Regulation of Investigatory Powers Act (RIPA).

10. POLICY REVIEW

10.1 The Audit Committee will continue to review and amend this strategy as necessary to ensure that it continues to remain compliant and meets the requirements of the Council.

Responsible Officer: Director Resources

Date: January 2013

Review frequency every three years

APPENDIX A PROTOCOL FOR INVESTIGATING IRREGULARITIES

a) Fraud Referral / Allegation

The primary responsibility for the prevention and detection of fraud, corruption and theft rests with Directors and Service Managers. Internal controls have been established for financial and other systems within the Council. They are designed to discourage fraud and provide indicators of any fraudulent activity. Employees, Councillors and other groups are encouraged to report suspected irregularities in accordance with section 5.3 of this policy and the Council's [Whistle-blowing policy](#).

When a referral or allegation is received it must be reported to the key contacts and officers detailed in section 8.3 above, as well as any other relevant contacts, to determine the course of action.

In some cases, an allegation may be of a routine or minor nature that can be dealt with by service management without the need for a formal investigation. If this is the outcome, a record of the decision and who made it must be kept to enable the course of action to be justified. Alternatively, if the matter is of a nature that requires immediate Police involvement, please refer to section f) below on reporting issues to the Police.

If it is agreed that an internal investigation is required, this protocol details the stages that should be followed. It is the Director and Service Managers' responsibility to initiate and manage the investigation in potential cases of fraud, corruption or theft following consultation with Internal Audit and HR.

All investigations should be reported to Internal Audit, who will monitor the investigation, ensuring action is initiated, effectively managed and it is brought to a proper conclusion.

b) The Investigation

The Director or Service Manager should appoint a senior manager, independent of the activity, to head the investigation. The investigation officer/team will have access to specialist professional advice and investigation skills from Internal Audit, the HR Business Partner and One Legal as required. The Investigating officer/team will also have open access to service management to ensure all appropriate enquiries can be undertaken. The Director should arrange for regular briefing meetings from the investigation officer/team.

The investigation officer/team will agree a plan for the investigation having regard to the initial evidence and/or allegation. The investigation plan should be kept under regular review. Investigation progress will be reported to the Director or Service Manager and other relevant officers on a regular basis, especially when any key decisions need to be taken.

c) Evidence

All evidence gathered will be regarded as strictly confidential and will be the property of the investigation officer/team. It will only be made more widely available on agreement with the necessary officers. The team will be responsible for gathering all evidence, whether it is verbal, written or electronic, which may include the need to interview employees.

If it is necessary to interview employees, the Director or Service Manager should be informed. HR should also be contacted to ensure the interview is arranged, conducted and

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managed correctly to ensure the employee is supported and the investigation is not compromised. Interviews with employees must be conducted in accordance with the relevant Council standards and procedures, with allowances for proper representation.

When obtaining written evidence, the source copy of any documentation should be obtained. Electronic evidence will be stored on a PC, laptop, blackberry, mobile phone, etc. When obtaining electronic evidence, the main issue is how to capture the evidence before it is changed. To do this, the equipment should be secured at the earliest opportunity to ensure evidence is not altered. This is a specialist activity and should be undertaken under the supervision of an IT specialist on which ICT Infrastructure Manager can advise.

Some investigations may require either covert surveillance or a covert operation to obtain information. If covert surveillance is considered necessary consideration must be given at the outset as to whether it falls under the Regulation of Investigatory Powers Act 2000 (RIPA)

If it is decided that the proposed action is outside of RIPA a record of how that decision was arrived at must be made and the action duly authorised under the Council's Non RIPA surveillance application form and procedure.

If it is decided that the proposed action is covered by RIPA, formal authorisation will need to be obtained under the RIPA. Authorising any action under RIPA regulation needs to be obtained from the RIPA trained and designated Authorising Officer and Authorised by a Magistrate.

The conduct of interviews and gathering of evidence which may subsequently be used as criminal evidence is governed by specific rules and acts. In this respect, the following statutes are relevant:

- Police and Criminal Evidence Act 1984 (PACE).
- Regulation of Investigatory Powers Act 2000 (RIPA).
- Human Rights Act 1998.
- Data Protection Act 1998.

Specialists trained in investigation and interviewing could be made available to the investigation team if this is required. The need for specialist advice would be a part of the discussion when an investigation is initiated.

The investigation officer/team should ensure that a fully referenced investigation file is maintained, which includes all documentation, records and notes collated during the investigation.

d) Reporting

Once the investigation work has been concluded, the investigating officer/team will need to prepare a written report detailing the initial referral or allegation, the work completed (including documents obtained and interviews conducted) and an opinion or conclusion on the outcome of the investigation. Depending on the severity of the investigation outcome, the report may lead to a disciplinary hearing or Police referral.

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The report should also detail any breakdown in management, operational or financial controls to the Director or Service Manager, who will have to agree the necessary actions to address the issues.

The investigation officer/team, in consultation with the Director or Service Manager, should make arrangements for the Director of Resources, Service Director, Head of Audit and Head of Human Resources to be informed of the investigation outcome. Other officers should be notified on a strictly confidential, need to know basis.

e) Disciplinary and Criminal Proceedings

Directors and Service Managers will be expected to take action in accordance with the Council's [Disciplinary Policy and Procedure](#).

f) Police Involvement

Reporting incidents to the Police must be considered on an individual basis. If criminal activity is suspected, the matter should be promptly reported to the Police by the Director or Service Manager. Approval to report the matter to the Police must be obtained from either the Resources Director, the business units Director, or Monitoring Officer.

Advice should be sought from Internal Audit on how the matter should be reported and who would be best placed to meet with the Police and discuss the details of the investigation. In the unlikely event that none of the above officers are immediately available, the Director must judge how quickly the matter should be reported to ensure any Police investigation is not affected.

Continuous liaison with the Police is vital as there may be parallel enquiries undertaken by the Police in addition to those in-house. Also, the Police have specialist skills to interview under caution that will be needed if evidence is to be used in court. Normally, any internal disciplinary process can take place at the same time as the Police investigation. However, this should be agreed in advance by both the Police and the Council to ensure both investigations are not compromised.

g) Investigation Costs

The Internal Audit plan contains a small contingency of time for Counter fraud work. The Head of Audit, in conjunction with the Resources Director will determine whether the contingency should be used for undertaking work on a specific investigation. Where resources are not directly available through Internal Audit, any contribution may disrupt planned work so there may be an additional direct charge to the service concerned. If external specialist advice is required, this will only be after agreement both in terms of scope and cost, with the Director or Service Manager. Charges for Legal Services advice will be in accordance with the normal service agreements.

h) Post Investigation

The Council wishes to see that following an investigation, action is taken to minimise future occurrence. This may involve improvements in control, changes to systems and procedures or employee training.

Any publicity arising from an investigation will be co-ordinated by the Council's Communication Team. It is the responsibility of the Director or Service Manager to ensure that the Communications Team is informed of developments following completion of an investigation.

I) Training

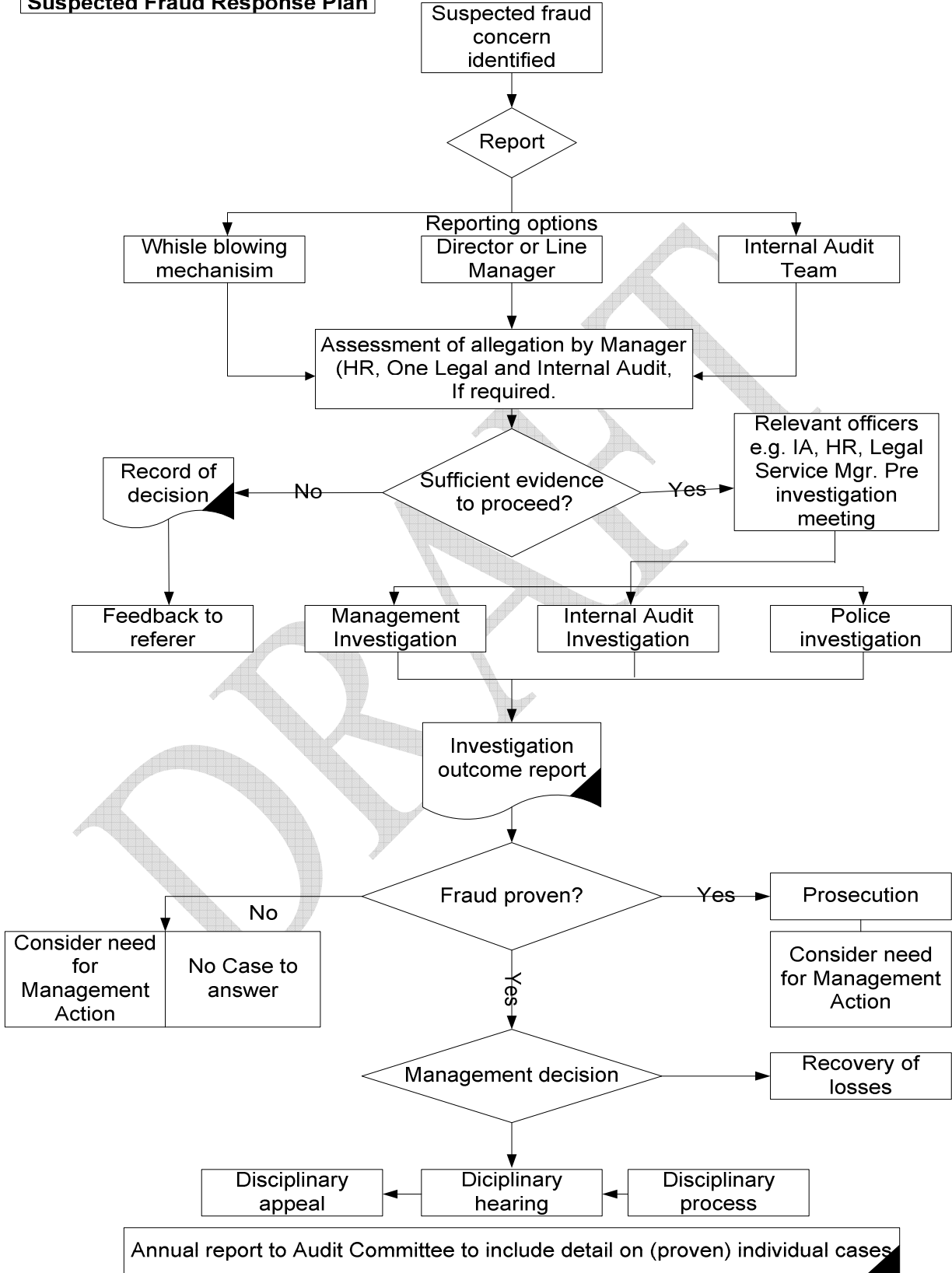
The Council acknowledges that the continuing success of its Counter Fraud and Corruption Policy and its general credibility will depend largely on the effectiveness of training and responsiveness of employees and Councillors throughout the organisation. To facilitate this, the Council has introduced a Fraud Awareness e-learning package that has been rolled out across the organisation and is included as part of officer induction arrangements. The subject is also included as part of Councillor training.

Investigation of fraud and corruption may require specialist training, not only for the Council's Internal Audit Service, but also employees within other Directorates.

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Appendix B
Suspected Fraud Response Plan



APPENDIX C

A number of frauds can come to light because of suspicions aroused by, for instance, the behaviour of certain individuals. It is impossible to give a definitive list of fraud indicators or warning signs. The following are types of risk factors that may, either alone or cumulatively with other factors, suggest the possibility of fraud and may therefore warrant further investigation or enquiry.

Unusual employee behaviour: Refusal to comply with normal rules and practices, fails to take leave, refusing promotion, managers by-passing subordinates, subordinates by-passing managers, living beyond means, regularly working long-hours, job dissatisfaction/unhappy employee, secretiveness or undue defensiveness.

Financial irregularities: Key documents missing (e.g. invoices, contracts); absence of controls and audit trails; missing expenditure vouchers and official records; general ledger out of balance; bank and ledger reconciliations are not maintained or cannot be balanced; excessive movements of cash or transactions between accounts; numerous adjustments or exceptions; constant overdue pay or expense advances; duplicate payments; ghost employees on the payroll; large payments to individuals; excessive variations to budgets or contracts.

Bad procurement practice: Too close a relationship with suppliers/contractors; suppliers/contractors who insist on dealing with only one particular member of staff; unjustified disqualification of any bidder; lowest tenders or quotes passed over with minimal explanation recorded; defining needs in ways that can be met only by specific contractors; single vendors; vague specifications; splitting up requirements to get under small purchase requirements or to avoid prescribed levels of review or approval.

Disorganisation: Understaffing in key control areas; consistent failures to correct major weaknesses in internal control; inadequate or no segregation of duties.

Inadequate supervision: Policies not being followed; lack of senior management oversight; inadequate monitoring to ensure that controls work as intended (periodic testing and evaluation); low staff morale, weak or inconsistent management.

Lax corporate culture: Management frequently override internal control; climate of fear or a corporate culture; employees under stress without excessive workloads; new employees resigning quickly; crisis management coupled with a pressured business environment; high employee turnover rates in key controlling functions.

Poor work practices: Lack of common sense controls; work is left until the employee returns from leave; post office boxes as shipping addresses; documentation that is photocopies or lacking essential information; lack of rotation of duties; unauthorised changes to systems or work practices.