



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Council

Monday, 15 October 2012

2.30 pm

Council Chamber, Municipal Offices

Membership	
Councillors:	Colin Hay (Chair), Wendy Flynn (Vice-Chair), Andrew Chard, Garth Barnes, Ian Bickerton, Nigel Britter, Chris Coleman, Barbara Driver, Bernard Fisher, Jacky Fletcher, Rob Garnham, Les Godwin, Penny Hall, Tim Harman, Rowena Hay, Diane Hibbert, Sandra Holliday, Peter Jeffries, Steve Jordan, Andrew Lansley, Paul Massey, Helena McCloskey, Andrew McKinlay, Paul McLain, David Prince, John Rawson, Anne Regan, Rob Reid, Diggory Seacome, Duncan Smith, Malcolm Stennett, Charles Stewart, Klara Sudbury, Jo Teakle, Pat Thornton, Jon Walklett, Andrew Wall, Simon Wheeler, Roger Whyborn and Suzanne Williams

Agenda

1.	A MOMENT OF REFLECTION	
2.	APOLOGIES Apologies have been received from Councillors Wall, Holliday and Wheeler.	
3.	DECLARATIONS OF INTEREST	
4.	MINUTES OF THE LAST MEETING 24 September 2012	(Pages 1 - 20)
5.	COMMUNICATIONS BY THE MAYOR	
6.	COMMUNICATIONS BY THE LEADER OF THE COUNCIL	
7.	PUBLIC QUESTIONS These must be received no later than 12 noon on the fourth working day before the date of the meeting	
8.	MEMBER QUESTIONS	
	The Mayor intends to take item 14 after Member questions due to public interest in this matter.	
9.	STATEMENT OF ACCOUNTS-REPORT OF THE CHAIR OF AUDIT	(Pages

	COMMITTEE Report of the Audit Committee (to be presented by Councillor Massey, the Chairman)	21 - 24)
10.	RESTORATION OF PITTVILLE GATES Report of the Cabinet Member Finance	(Pages 25 - 34)
11.	ICT SUPPORT TO CHELTENHAM FESTIVALS LTD Report of the Cabinet Member Finance	(Pages 35 - 40)
12.	ADOPTION OF STATEMENT OF PRINCIPLES - GAMBLING ACT 2005 Report of the Cabinet Member Housing and Safety	(Pages 41 - 82)
13.	BUSINESS RATES RETENTION SCHEME POOLING Report of the Cabinet Member Finance	(Pages 83 - 96)
14.	JOINT CORE STRATEGY GLOUCESTER, CHELTENHAM AND TEWKESBURY Report of the Chief Executive (please note the Mayor intends to take item 14 after Member questions due to public interest in this matter)	(Pages 97 - 110)
15.	<p>NOTICES OF MOTION Proposed by: Councillor McKinlay Seconded by: Councillor McCloskey</p> <p>Motion on proposed changes to the planning system by the Secretary of State</p> <p>This Council wishes the Secretary of State for Communities and Local Government to note the following:</p> <p>That Cheltenham Borough Council believes that local people, through their democratically elected local authorities, are the most suitable judges of what development is acceptable in an area and the suitable level of contributions that developers need to make;</p> <p>This Council opposes:</p> <ul style="list-style-type: none"> • The Secretary of State's proposals for the Planning Inspectorate to have powers to override agreements between Councils and developers over the number of affordable housing units allocated to planning applications. • The Secretary of State's proposals for planning permission – currently required for extensions of more than three or four metres from the rear wall of any home – to only be needed for those reaching beyond 8m for detached homes and 6m for others • The Secretary of State's intention to override Section 106 of the Town and Country Planning Act of 1990 which will allow developers to immediately appeal to 	

	<p>the Planning Inspectorate over the allocation of affordable housing units in any scheme they maybe concerned with.</p> <ul style="list-style-type: none"> • The Secretary of State's proposals for the Planning Inspectorate to take planning powers away from local authorities which he deems to be slow or of making poor quality planning decisions in determining applications. <p>This Council notes that the current Coalition government did listen earlier in the year over concerns regarding the National Planning Policy Framework and revised its plans accordingly, so urges the Government to listen to the concerns being expressed by the cross-party LGA.</p>	
16.	TO RECEIVE PETITIONS	
17.	ANY OTHER ITEM THE MAYOR DETERMINES AS URGENT AND WHICH REQUIRES A DECISION	

Contact Officer: Saira Malin, Democracy Officer, 01242 775153
Email: democratic.services@cheltenham.gov.uk

Andrew North
Chief Executive

This page is intentionally left blank

Council

Monday, 24th September, 2012

2.30 - 6.50 pm

Attendees	
Councillors:	Colin Hay (Chair), Wendy Flynn (Vice-Chair), Andrew Chard, Garth Barnes, Ian Bickerton, Nigel Britter, Chris Coleman, Barbara Driver, Bernard Fisher, Jacky Fletcher, Les Godwin, Penny Hall, Tim Harman, Rowena Hay, Sandra Holliday, Peter Jeffries, Steve Jordan, Paul Massey, Helena McCloskey, Andrew McKinlay, Paul McLain, John Rawson, Anne Regan, Rob Reid, Diggory Seacome, Duncan Smith, Malcolm Stennett, Charles Stewart, Klara Sudbury, Jo Teakle, Pat Thornton, Jon Walklett, Andrew Wall, Roger Whyborn and Suzanne Williams

Minutes

1. A MOMENT OF REFLECTION

Reverend Robert Pastelli invited members to take a moment of reflection.

2. APOLOGIES

Councillors Smith, Lansley, Garnham, Hibbert, Wheeler, Thornton and Prince had given their apologies.

Councillors Smith and Thornton subsequently arrived late at the meeting.

Councillor Garnham had asked that the Mayor explain that his apologies had been given on two counts, firstly as the Chairman of Gloucestershire Police Authority he had to be present at their last ever meeting which was also scheduled for this afternoon and secondly as he had declared a personal and prejudicial interest in Agenda Item 10 (Joint Core Strategy) and therefore should not take part in the debate.

3. DECLARATIONS OF INTEREST

No interests were declared at the meeting.

4. MINUTES OF THE LAST MEETING

The minutes of the last meeting had been circulated with the agenda.

Councillor Teakle proposed an amendment to the minutes of Agenda Item 9 (Petition Regarding Weavers Field). She felt that the amendment being proposed would provide clarity to members of the public that whilst she had supported the motion she had commented that the scheme as it stood was unacceptable to her. Councillor Jordan seconded the amendment being proposed which related to the paragraph starting "A number of members":

“A number of members, including Councillor Teakle, urged the Cabinet Member Sustainability to recognise the value of Weavers Field as a habitat and a space enjoyed by many for a variety of reasons. The invitation for further discussion with the representatives of the petitioners and ward members was welcomed. Councillor Teakle also stressed that the scheme as it stood was completely unacceptable as 88 allotments would cover the most attractive and scenic open space for walking. She wondered if it would be possible in the proposed discussions to look at amending the scheme (perhaps with fewer allotments on a less scenic area with reduced car parking space) in a way that might be more acceptable to all parties.”

Councillor McLain’s recollection of the debate was that a number of members from across the chamber had made a variety of comments and they had not been named. Councillor Teakle explained that a number of her constituents had raised queries with her regarding the debate and she felt that the proposed amendment set the record straight. The Mayor explained that it was not normal practice to name individual Councillors unless specifically requested.

Upon a vote the amendment was CARRIED.

Upon a vote it was

RESOLVED that the amended minutes of the meeting held on the 25 June 2012 be agreed and signed as an accurate record.

5. COMMUNICATIONS BY THE MAYOR

The Mayor raised the issue of member attendance at Civic events. Recent events such as Battle of Britain and the upcoming Remembrance Sunday were important to people in the town and he hoped members would make an effort to attend.

He was pleased to report the news that Rosehill Street had been opened again following the gas explosion.

Despite the inclement weather over the summer it had been an exciting and enjoyable period what with the Jubilee and Olympics and he felt this had lifted the mood in Cheltenham and across the country. He sympathised greatly with those that had put a great deal of effort into organising events only to have to cancel them at the last minute as a result of the inclement weather we had endured this summer.

6. COMMUNICATIONS BY THE LEADER OF THE COUNCIL

The Leader had no communications.

7. PUBLIC QUESTIONS

The following responses were given to the 8 public questions received;

1.	Question from Leckhampton Green Land Action Group (LEGLAG) to the Leader of the Council
	Is the Joint Core Strategy team that is working on behalf of the Council aware of the merits of carrying out periodic reviews of the 20-year plan (perhaps every five years)? That is to say, will they adopt a "plan,

	monitor and manage" approach that could take into account both the likely effects of the existing economic recession on its short-term housing requirement forecast and the possible effects of a long-continued recession on the longer-term requirement?
	Response from the Leader of the Council, Councillor Jordan
	Yes. The JCS will need to be periodically reviewed as part of a plan, monitor and manage approach. It will also need to ensure that a flexible approach is taken, which is capable of responding dynamically to changing economic circumstances.
2.	Question from Leckhampton Green Land Action Group (LEGLAG) to the Leader of the Council
	Is the JCS team going to adopt a "Brownfield First" policy in line with the "core planning principle" in the new National Planning Policy Framework requiring planning authorities to "encourage the use of brownfield land"? If not, how will they carry out this encouragement?
	Response from the Leader of the Council, Councillor Jordan
	The NPPF does require planning policies to encourage the effective use of land by re-using land that has been previously developed and the JCS authorities are supportive of this principle. Precisely what policy wording will be included in the Preferred Option version of the JCS will need to be considered by all three authorities prior to publishing the next stage of the document for consultation. The JCS will have phasing policies which consider the timing and release of sites over the 20 year plan period and which encourage the development of brownfield sites, but this approach needs to be sufficiently flexible to respond to changing circumstances.
	Supplementary question
	Is the Council aware that approximately ¾ of residents who responded to the JCS consultation preferred scenario A and the lowest number of new houses?
	Supplementary response
	Yes the Council is aware of the feedback from the consultation, welcomes such feedback and will look at it and listen to what residents said but it was important that people remember that this was not a referendum.
3.	Question from Save the Countryside to the Leader of the Council
	Can the Leader confirm that in the Joint Core Strategy (JCS) public consultation, 3 out of 4 respondents preferred Scenario A instead of Scenario B,C or D.
	Response from the Leader of the Council, Councillor Jordan
	The public consultation does indicate that of those respondents who expressed a view relating to the four scenarios, Scenario A was the most popular. However it will be important to ensure that the JCS is found sound at the examination stage.
	Supplementary question
	Considering your response in which you acknowledge that Scenario A was the most popular what other action is the JCS Team taking when choosing a preferred option and how will the public view be taken into account?
	Supplementary response
	Consideration would be given to feedback from the initial consultation but

	there was more consultation to come and all feedback would be taken into account when choosing a preferred option.
4.	Question from Save the Countryside to the Leader of the Council
	Are the housing figures consistent with the 2011 census results?
	Response from the Leader of the Council
	At the current time, not all of the Census 2011 information is available and until such time as this is available it will not be possible to compare this information. However, the JCS will be periodically reviewed and such information will be taken into account then.
	Supplementary question
	Can you confirm that the JCS Team will take information relating to household sizes from the Census 2011 into account when available?
	Supplementary response
	Yes they will be taken into account.
5.	Question from Mr Gerald Potter to the Leader of the Council
	Has the JCS team taken account of Local Housing Requirements Assessment Working Group (LHRAWG) findings and their tool, called "What Households Where – if not, why?
	Response from the Leader of the Council, Councillor Jordan
	The consultants who have undertaken a review of the housing methodology have appraised the methodology that was used by both Gloucestershire County Council and the JCS team. In arriving at their recommendations they have employed robust, nationally-recognised methods and datasets. In making that judgement, the consultants have not felt it necessary to have regard to the online tool provided by the Local Housing Requirements Assessment Working Group approach. The JCS authorities are proposing further work to clarify likely trends in household size and the impact on housing numbers.
6.	Question from Dr Adrian Mears to the Leader of the Council
	The UK is now in its longest recession for over 100 years and, contrary to previous expectations, there is no sign of any cyclical rebound. The situation is growing worse and parallels with Japan since 1990 show that a major recovery might not happen for a very long time. What impact does this new situation have for housing projections and timing of developments and for keeping the JCS up to date?
	Response from the Leader of the Council, Councillor Jordan
	Predicting likely economic growth over 20 years is clearly difficult which is why the JCS will need to be periodically reviewed to ensure that a flexible approach is taken, which is capable of responding dynamically to changing economic circumstances.
	Supplementary question
	Has the likely continuation of the recession been taken into account already or does it still need to be?
	Supplementary response
	The proposal is that this will be taken into account as part of continuous assessment of the JCS as to project economic circumstances 20 years in advance is difficult.
7.	Question from Dr Adrian Mears to the Leader of the Council
	In its response to the draft JCS last February, Leckhampton with Warden Hill Parish Council expressed great concern about the projected large inward migration of retired people into Cheltenham and the impossible load that such a large older population will place on the NHS and on

	public services and resources. Given that, in general, retired people moving into Cheltenham can out-compete younger residents financially for available housing, what suggestions does the JCS team have for tailoring the location, type, timing or other aspects of development to make it easier for younger people to compete?
	Response from the Leader of the Council, Councillor Jordan
	The retired population and the inward migration of this cohort to the area is recognised by the JCS authorities and their consultants as a key issue that must be taken into account in planning for housing and the economic well-being of the JCS area. Cheltenham Council has acknowledged the concerns raised by the questioner in previously asking for work to be done to assess the best way to provide housing that is affordable to younger residents. As part of this, it will be important to take proper account of economic considerations alongside demographic trends. In this way, the housing requirements of the working age population (including working age migrants), together with other cohorts such as retirees, can be properly assessed and provided for in a holistic manner.
	Supplementary question
	Will the approach described by the Leader help to discourage inward migration of retirees?
	Supplementary response
	I don't know to be honest but we are looking at how to deal with this issue.
8.	Question from Vivienne Matthews to the Leader of the Council
	I understand that developers nationwide have at present 230,000+ agreed planning applications outstanding. Could an answer be given on how many planning approvals are outstanding in this area and how this affects the demonstration of the five year supply?
	Response from the Leader of the Council, Councillor Jordan
	The calculation of the 5 year housing supply takes account of unimplemented planning permissions. The current 5 year housing supply figure for Cheltenham is 4.5 years. Unimplemented consents currently account for approximately 2.5 years' of this supply. Specifically, at 1 st April, 2012, there were permissions relating to 1,101 dwellings in Cheltenham which were not yet started and there were a further 185 dwellings on sites under construction.

8. MEMBER QUESTIONS

The following responses were given to the 5 member questions received;

1.	Question from Councillor Regan to Cabinet Member Housing and Safety
	Could the Cabinet Member please advise this council of the latest plans for changes to the Council Housing Benefit, particularly the under 25's. Could the Cabinet Member also reassure the council that any changes will not effect the viability of schemes such as the proposed YMCA housing project, especially if the young people cannot pay for the accommodation.
	Response from Cabinet Member Housing and Safety, Councillor Jeffries

	Other than the Universal credit which is due to be launched next year (2013), there are no plans that I am aware of that specifically affect the under 25's, but the Council will be monitoring the position as welfare changes are introduced. The impact of welfare reform on 3rd party organizations projects is not something I can comment on.
2.	Question from Councillor Regan to Cabinet Member Sustainability
	Could the Cabinet Member inform this chamber what action is being taken to collect discarded side litter where UBICO refuses to collect due to the new instructions emanating from his department in the Hatherley area?
	Response from Cabinet Member Sustainability, Councillor Whyborn
	<p>The Council is now undertaking a programme of awareness and enforcement to remind people that their waste should be contained within the bin with the lid closed, and there should be no side waste, or waste placed on top of a bin. The awareness campaign is being rolled out in a planned way across the town so that residents are given every opportunity before any formal enforcement action is taken. This is being piloted in SW Cheltenham.</p> <p>The scenario you imply of side waste being left on the street will not occur because the agreed action is that Ubico never leave any side waste at the side of bins. Where residents have presented side waste or overfilled bins, initially it is all taken, but once the householder has had a certain number of warnings, at that point all waste is taken except one bag - a warning will be left on the bin, or the bag tagged. The one bag is replaced into the bin and not just left as side waste. Ward councillors are being advised of the process as the awareness campaign is rolled out across the town.</p>
3.	Question from Councillor Hall to Cabinet Member Sustainability
	<p>On February 29th 2011 at the final Environment Overview and Scrutiny committee meeting I made my 3rd request to you in 3 years for up to date information to be placed on the CBC website pages on the street cleaning policy.</p> <p>On each occasion I was assured that it would be done.</p> <p>Today, Monday 17th September 2012 I note that the information has at last been placed on the website. Please can the Cabinet Member explain why it has taken so long for the council tax payers of Cheltenham to be able to access this basic information?</p>
	Response from Cabinet Member Sustainability, Councillor Whyborn
	The street cleaning web page was updated on 29 November 2010, 13 January 2011, 06 July 2011 and, most recently, 06 September 2012. The contents of all previous versions have not been retained, but the amendment record suggests that officers were active in keeping information as up to date as possible. The update on 06 September 2012 appears to include the specific information you were seeking, and in so far as previous updates did not, I apologise.
	Supplementary question
	Can the Cabinet Member confirm whether the information currently on the website is achievable and accurate?
	Supplementary response
	Yes, the information is accurate and to the best of everybody's ability is

	also achievable.
4.	Question from Councillor Chard to the Leader of the Council
	In view of recent press coverage and discussions surrounding the JCS, can the Leader of the Council confirm that he and his Cabinet retain confidence in the Chief Executive of the Council?
	Response from the Leader of the Council, Councillor Jordan
	Yes.
	Supplementary question
	Is Cabinet, as is being suggested by some of my constituents, being bullied by officers?
	Supplementary response
	No this suggestion is nonsense.
5.	Question from Councillor Fletcher to Cabinet Member Sport & Culture
	Can the Cabinet Member explain why the Council has not recognised in any shape or form the wonderful effort and results our local Olympians achieved? Zara Phillips is one that springs to mind and I believe there are those whose origins began in Cheltenham. In this economic climate I am not asking for megabucks here just an appropriate form of appreciation. Maybe a reception in the Mayor's Parlour?
	Response from Cabinet Member Sport & Culture, Councillor R Hay
	<p>The Council is keen to recognize the achievements of our local Olympians who played their part in the highly successful Team GB London 2012 Olympic and Paralympic games. It was felt best to wait for the Paralympics to conclude and the parade on the 10th September.</p> <p>A conversation with the Mayor has taken place, there will be an invitation issued from him to a reception in the Mayors Parlour, I am sure that he will keep members informed.</p> <p>There are a number of countywide events taking place that I am aware of,</p> <p>In August there was a County Council press release sent on behalf of the National Star College for a reception being held on the 12th October as a county wide formal thank you to our local athletes.</p> <p>The Gloucester Boathouse appeal are hosting an Olympic dinner at the racecourse on the 9th November to which they are inviting all of Gloucestershire's Olympians.</p> <p>On the 19th November the annual Gloucestershire Sports Awards run by the Echo and Citizen held again at the racecourse to which all local Olympians have been invited to attend.</p>

9. RECOMMENDATIONS OF THE INDEPENDENT REMUNERATION PANEL (IRP) REGARDING MEMBERS' SCHEME OF ALLOWANCES

The Cabinet Member Corporate Services introduced the report. In his introduction he explained that the Independent Remuneration Panel had received a report on the new Standards arrangements in July following Council's decision in June to adopt a new local code of conduct and continue to have a Standards committee but in a new format. The new Standards

committee was made up of a politically balanced group of seven elected members and two Independent Persons who will be in attendance to offer their advice to the committee but will not have a vote. The chair will be a borough councillor elected by the committee at its first meeting and the committee has not met yet. In May, Council had resolved that the Independent Person should receive an allowance of £300 per annum plus travelling expenses. This did not form part of the members allowance scheme and an additional allowance for attendance at the Standards Committee was not appropriate. The previous SRA for the chair of the Standards Committee was determined on the basis of 12 meetings per year, a MEDIUM level of experience and knowledge and a HIGH level of responsibility and risk. Using the current basis of calculations, the SRA came out at £907 per annum. In practice the number of meetings was much less. Under the new regime, the Monitoring Officer would be responsible for considering the initial complaint in consultation with the Independent Person(s). This should reduce the number of trivial complaints which come before the committee and as it is no longer statutory committee, the IRP took all this into account and reduced the level of risk and responsibility for the chair from HIGH to MEDIUM. With an estimated 4 meetings per year this produces an allowance for the chair of the new Standards Committee as £302 per annum. There were no budgetary implications as this will be covered by the current budget for members allowances.

Upon a vote it was (unanimously)

RESOLVED that:

- 1. That the Special Responsibility Allowance (SRA) for the chair of Standards Committee under the new Standards arrangements should be set to £302 per annum, effective from 1 July 2012.**
- 2. That all other aspects of the Members Allowance Scheme remain unchanged.**
- 3. That the director of commissioning be authorised to implement any necessary changes to the scheme of allowances and the Borough Solicitor and Monitoring Officer be authorised to make any necessary changes to Council's constitution.**

10. JOINT CORE STRATEGY GLOUCESTER, CHELTENHAM AND TEWKESBURY - HOUSING NEEDS ASSESSMENT REPORT

The Leader introduced the item by highlighting some key points. The process to date had been a long and complicated one but without a Local Plan the Council would be indefensible against a development free for all. As such it was in the best interest of the Council to get a Local Plan in place and working with Tewkesbury and Gloucester would ultimately benefit all three authorities.

There was still some important work to be done with regard to household sizes and economic growth. He felt that this was an important point in the process with work towards a preferred option emerging in Spring 2013 after taking into account social and economic figures.

Consultation on a range of options had taken place between December 2011 and February 2012 and he thanked the thousands of residents that had responded. He reminded members that this was not simply a referendum and although they would endeavour to incorporate the views of local people, the end result must be sound and open to inspection.

The National Planning Policy Framework (NPPF) emerged in March 2012 and there was a need to fully understand its implications. Nathaniel Lichfield and Partners (NLP) were appointed after a tender process to assist with reviewing the JCS evidence so far and objectively assessing the need for housing.

The NLP report was circulated only two weeks ago and members had been invited to attend a presentation. The Joint Member Steering Group had then agreed the seven draft resolves and a covering report produced by Officers which offered their advice. The Leader was now proposing amendments to the resolutions (copies of which had been circulated throughout the chamber and public gallery). He explained that these amendments addressed local concerns for Cheltenham and that the other authorities may have their own similar concerns. He explained each resolution in turn;

1. Historically population projections had been calculated by Gloucestershire County Council but given recent staff reductions there was no longer capacity for them to continue to do this. NLP advocated the use of Department for Communities and Local Government and the Office of National Statistics data in forming the methodology.
2. He took issue with some of NLP's dismissals of consultation responses but stressed that at this stage Council was only being asked to 'note' this commentary and advice. No evidence had yet been presented to back up the conclusions.
3. He considered the population projection to be the least disputed figure given that the projection spanned a 20 year period but he felt that it was also fair to say that the dwellings figure (28,500) was not without controversy.
4. Added by the Leader this recommendation aimed to address concerns about the estimated household size where different methods of calculation produced conflicting results and for which there was evidence to suggest that the trend in household size was broadly static.
5. Added by the Leader this recommendation would form part of the debate about where the economy was heading and he did not consider this to be controversial.
6. This was a complicated issue given that there were three differing estimates to be considered. There was a need for the projections for housing and jobs to be proportionate and the Local Enterprise Partnership could assist in establishing what this balance was locally.
7. The economic projections from Experian and Cambridge were simply to be noted but it was a difficult time to be making economic projections and

there was a real need to be realistic. Such projections would need to be reviewed regularly.

8. More work was required in order to understand the current trend in household size.
9. There was a need to balance social and environmental issues in the Preferred Option.
10. These recommendations had been added as he felt that they represented areas of work which were important for progressing the JCS.
 - 10a. Local Green Space was a new designation within the NPPF which could benefit a range of areas in Cheltenham.
 - 10b. Efforts had always been made to protect Greenbelt in Cheltenham but this was not always in the Council's control and a Local Plan would help to provide continued protection within the context of the NPPF.
 - 10c. It made sense to have a single 5 year supply of land for business and housing across the three JCS areas.
 - 10d. Neighbourhood plans were a new concept but one which he felt it was important to embrace and which he welcomed.
 - 10e. Eco towns were dismissed in two paragraphs within the NPL report but this was an area he felt was worthy of further investigation.

In summary he advised that the Council needed a JCS in order to be in a position to develop a Local Plan but acknowledged that more work was required regarding economic growth and household sizes. There was also a need to balance the social and environmental impact before deciding upon a Preferred Option. He hoped that members felt able to support the recommendations.

Councillor Godwin had written to the Mayor, Chief Executive and Leader of the Council regarding a request to suspend standing orders for the duration of the debate of this issue and questioned whether a decision had been reached. The Mayor had not had sight of the said email but explained that he was not minded to suspend standing orders as he could not see it was necessary. He highlighted that Group Leaders had a standing invitation to the briefings held in advance of each meeting and at which such matters were discussed. He then outlined how he had envisaged the debate would proceed and reminded members that questions should be succinct, not statements and put to the Leader.

Councillor Bickerton supported Councillor Godwin's call for suspension of standing orders and upon a vote it was NOT CARRIED. Normal rules of debate would apply.

The Director of Built Environment offered members some background information on the seven recommendations (as circulated with the agenda) and updated officer advice on the additional recommendations being proposed by the Leader (circulated at the start of the meeting).

He stated that

- 1) "The seven recommendations to Council within the original Leader's report circulated, have been agreed in consultation with officers of the JCS partner authorities and with the member steering group for the JCS; they therefore constitute the formal advice to members.
- 2) This is the first stage of moving towards a sound plan, by seeking to agree how many homes need to be delivered to meet the need for new housing across the JCS area to 2031.
- 3) The calculation of housing need is based on factors such as population growth and the future economic strategy for the area. It does not take account of any constraints on supply – for example, environmental designations such as green belt, the existing built form of Cheltenham or flood plains. As such, this figure represents the very starting point of the plan making process. It is only once this figure is agreed that the JCS can look to determine how much of this need can actually be delivered, having regard to development constraints.
- 4) There is considerable further work required on the supply side, to establish the options for delivering against the needs figure. Until that work is complete, taking account of economic, social and environmental factors, we cannot say with any certainty what will be deliverable within the JCS area and indeed, where the most appropriate locations for development are.
- 5) At this stage, any attempt to influence the needs assessment based on supply side considerations (including development locations) is likely to undermine the credibility of the JCS. In order to pass the test of 'soundness', plans must be evidence based, robust and subject to a meaningful consultation process.
- 6) If the Council gives the impression that it has already decided to resist development in the green belt, before consideration of the merits of development at different locations, this is likely to increase the risks of the plan being challenged and found unsound."
- 7) Officers believe that there are considerable risks in moving away from the tabled recommendations to Council, including:-
 - a) Damage to the Council's reputation, including harm to the JCS partnership, potentially leading to its disintegration;
 - b) financial – increased risk of speculative applications, successful appeals and consequent costs being awarded against the authority;
 - c) prejudice to future consultations – it might appear that the Council has already made up its mind about certain options."

The Monitoring Officer offered legal advice for those members who formed the Planning Committee. She explained that these members were entitled to participate in the debate as the matter was one of policy making for the Council.

She elaborated that members of the Planning Committee would need to be mindful of pre-determination of future planning applications but that was unlikely at this stage in the JCS process.

The Mayor invited questions which the Leader would answer with support from the Director of Built Environment or the representative from NLP where necessary.

In response to a question regarding the projected housing need of NLP of 28,500 dwellings the Director of Built Environment considered this to be a starting point and a minimum level of housing required in the JCS area. However, Officers had agreed to undertake some additional work on household sizes.

The calculation of the figure of 28,500 was being disputed and recommendation 4 highlighted the possibility of an alternative method of estimating household sizes. The Leader did not accept the suggestion from Officers that the JCS would be derailed by the additional recommendations he had put forward, he saw it as applying political leadership to make the whole process work. He assured members that the new resolutions had been circulated to Group Leaders at this Council and the other authorities.

The Leader confirmed that further public consultation was a key element in the process for determining a Preferred Option. Figures would be established and any feedback from past and future consultation would be taken into account as part of this determination of the Preferred Option.

The Leader explained that whilst it was possible to project how many jobs would be needed, the process was not yet at a stage whereby it was possible to identify where these places of employment would be located.

The Leader acknowledged that economic growth was not always viewed as positive and was subjective rather than objective. An existing working group could be used as a conduit for keeping members informed about the outcome of further pieces of work and he would be open to any other suggestions.

He reiterated that it was not practicable for Cheltenham Borough to have a Local Plan without a Core Strategy and he did not agree with the view that the amended resolutions would jeopardize the future of the Joint Core Strategy between Cheltenham, Tewkesbury and Gloucester City.

The representative from NLP confirmed that the demographic projections contained within the report were based on the Office for National Statistics household projections and the Government's own projections.

In his view the Leader did not feel that any of the amendments proposed today would increase the risk of Planning appeals nor did he envisage that these would escalate.

Financial implications were contained within the covering report and not included on the risk assessment at the end of the report. It was impossible for it to be a risk free process as there would always be some risks.

In response to a request from a member asking for reassurance that a robust risk process had been followed which would stand up to legal challenge, the Monitoring Officer assured members that it was a robust process and the risks were set out in the report and additional risks arising from the extra resolves had been identified by the Director of Built Environment.

The Leader confirmed that the growth and dwellings figures included in recommendation 3 included inward migration of approximately 20,000.

The Director of Built Environment emphasised that it was not possible to control migration and as a consequence there was a need to plan for the fact that inward migration would take place as well as planning for growth of the existing population.

A member offered a definition of housing need as set out in Government guidance as one where people were unable to afford housing or in unsuitable housing. The NLP report appeared not to use this definition, but base its figures on housing demand. Recommendation 3 was a statement of fact only if the NLP methodology was used but using other approaches would result in different figures. He suggested that if the estimates were too low then it would be possible to build more homes but that if the estimates were too high, it would not be possible to undo any development. Therefore he urged that the Council should proceed with caution. He acknowledged that this was not the end of the story and that Council would be considering a preferred option in Spring and hoped that Officers had been given a clear steer that members from across the chamber would be unwilling to accept unsustainable housing numbers.

Councillor Godwin considered the report was confusing and contained mixed messages. Work on the JCS would be ongoing for some time but clarity was needed now. He considered the additional resolve in 10d was totally inadequate and proposed the following amendment which was seconded by Councillor Stennett.

That the following is incorporated into resolution 10d in the amendment.

- 1. will set up a working group immediately to examine update and strengthen the Cheltenham Borough local plan*
- 2. will support community groups and parish councils in the development of neighbourhood plans in collaboration with their ward councillors*
- 3. the working group to produce an interim report by 31 December 2012*

In speaking for the amendment, Councillor Godwin was concerned that a new local plan was unlikely to be in place until 2014. He warned that at a recent appeal the planning inspector had made it clear that the authority's local plan was out of date and indeed a barrister at that appeal had advised that the plan should be updated "tout suite". The Secretary of State, Eric Pickles in this month's local government magazine had said that "the Localism Act had enabled local councils to strengthen the role of local plans, complemented by the introduction of neighbourhood plans – which will help strengthen the role of individual ward councillors."

A member supported the amendment saying the update of the local plan was long overdue. As the seconder of the amendment, Councillor Stennett thought

that the review of the local plan was important in order that the council would be able to defend any planning appeals whilst work on the JCS was still ongoing.

The Director of Built Environment was invited by the Mayor to speak. He advised that in future the Cheltenham Local Plan would comprise both the JCS and the Cheltenham plan. These documents were not mutually exclusive. The JCS would contain the high-level strategy and the Cheltenham Plan would provide more detailed strategies for Cheltenham which would hook into the JCS and support its aims. For that reason it would not be sensible to seek to adopt a new Cheltenham Plan ahead of the JCS.

A member asked whether this contradicted the advice given by officers to the overview and scrutiny task group which was that the council needed to get moving on its local plan. The director of Built Environment clarified that officer advice had not changed since moving forward with the local plan also meant progressing the JCS for the reason he had just given.

In his summing up for the amendment, Councillor Godwin was keen to clarify that he was not suggesting a new local plan at this stage but he was aware that there were certain clauses on one or two pages of the current plan that were woefully out of date. He considered that these needed to be updated as a matter of urgency otherwise the council was going to be under pressure by developers and would be in an indefensible position with regard to appeals in the meantime.

As the proposer of the original motion, Councillor Jordan responded that what was being asked for in the amendment was not practicable and added no value. He reminded members that a working group had already been set up of which Councillor Godwin was a member. It was not possible to update the local plan in isolation from the JCS and officers had already reviewed the local plan and were aware of the gaps. There was an urgency in the work but both parts must be progressed in parallel. He proposed that he could accept the second part of the amendment but not the other parts.

Upon a separate vote on each part of the amendment

- 1) LOST Voting For: 5, Against: 18, Abstain: 8
- 2) CARRIED Voting For: 26 with 5 Abstentions
- 3) LOST Voting For: 5, Against: 19, Abstain 7

Debate continued on the substantive motion which now included the amended 10d as follows:

The need to recognise and encourage the role of neighbourhood plans in the new planning framework by supporting community groups and parish councils in the development of neighbourhood plans in collaboration with their ward councillors.

The meeting adjourned for tea at 4.30 pm.

In the debate that followed members made the following points:

- The NLP report appeared to have used an incorrect definition of housing need. In order for the JCS process to move forward members were encouraged to support the recommendations.
- 3638 people registered with Gloucestershire homeseekers were in housing need right now, so there was a need to progress positively with the JCS process
- The approach in the NLP report was unfortunate and arrogant and appeared to rubbish the views expressed in the consultation. The figure for population growth of 44,700 took into account inward migration and as this was largely as a result of economic growth, this was an area that could be controlled. As the methodology used in the report was inadequate the 28,500 dwellings of the JCS area was not a minimum.

Councillor Bickerton proposed an amendment to resolution 3. He proposed that the opening word "agree" was replaced by "note" and "Note that" was added to the start of the second sentence. He also proposed the addition of the following words:

" Note that using the Office for National Statistics (ONS) district data to assess average household size across the JCS area would generate a housing need of 18,600".

This was seconded by Councillor Wall.

In proposing this amendment, Councillor Bickerton, was concerned that the NLP made no reference to the excellent work done by the county in 2008/10 on population growth. The report demonstrated no understanding of the definition of housing need which was that people were unable to afford housing or were living in housing which was unsuitable for their needs. The NLP definition seemed to be based on housing demand which was incorrect and demonstrated a lack of awareness of what was happening in the housing market. The figure for average household size and the recent census data enabled a very accurate household size to be calculated for Cheltenham which was close to the national average of 2.4. This calculation would reduce the number of dwellings from NLP's figure of 28,500 to 18,600.

Other members were supportive or sympathetic to the change of wording from "agree" to "note". Experiences in other European countries experiencing economic difficulties had resulted in demographic changes and there could be more 2 or 3 generation households if the economic downturn continued. The housing need in the NLP report of 28,500 was a very large number and clearly there were different ways of interpreting the data which could produce different results. In Cheltenham there appeared to be a need for a large number of relatively small dwellings however developers were coming forward with plans for larger family homes. Therefore there were serious questions about the figures in the report.

As the proposer of the original motion, Councillor Jordan said he would resist any changes to the seven resolutions listed in the report as they had been agreed with the three partner authorities. It would not be fair to change them and would increase the risk that the partnership could be damaged. However he would be willing to accept an additional statement regarding the ONS district data in 4, provided 3 was left unchanged.

Councillor Wall, as seconder for the amendment, said he would object to the word "agree" remaining in 3.

The meeting adjourned till 6.05 pm for members to discuss the amendment and receive officer advice.

Councillor Smith joined the meeting at 6.10.

On their return, the Mayor invited the Director of Built Environment to advise members on the amendment.

He advised that the officer view was that there was no evidence base currently available to support the 18,600 housing need figure suggested. Officers cautioned strongly against quoting this figure, which had been calculated by simply taking the projected population increase of 44,700 and dividing it by the current average household size of 2.4. This was not a methodologically sound approach and ignored ONS projections, which show falling average household size over the 20 year JCS period across the whole housing stock.

He advised members to note that NLP was a nationally recognised and respected planning consultancy whose evidence was regularly accepted at planning inquiries and examinations.

Finally he wished to remind members of his earlier advice and that if this amendment was passed, it risked disintegration of the JCS process, as it would signal the intent of the Council to resist the level of development being recommended.

The Mayor invited Gareth Williams from NLP to address the meeting.

Mr Williams said that the 2008 projections used in their report were based on data from the DCLG and ONS and were not based on NLP's own data. He referred to an appeal at Torbay in July where a planning inspector had referred to the 2008 household projections. The inspector had said that in the absence of any other data they were the most robust figures available although he acknowledged that they did not take account of the full range of environmental and social factors. On the basis of that data he allowed the appeal. Mr Williams advice was that the council should always seek the most up-to-date figures and he advised that the 2010 household projections would be available shortly. On that basis he considered the NLP report contained a robust assessment of housing need and the area of greatest uncertainty was economic forecasting. NLP had used two well respected forecasters who had given two very different figures that were set out in the report. For this reason officers were suggesting that this was an area for further work.

Councillor Jordan, as proposer of the original motion, was happy to accept the additional wording in 4. that

Officers should investigate the suggestion that using ONS district data to assess average household size across the JCS area would generate a housing need of 18,600.

Clearly there was uncertainty in the housing needs figure and he felt council had a duty to investigate it. He did not consider that it involved any extra work and members were simply seeking a qualification from officers on the alternatives.

With the proposer's agreement this became the substantive motion. The Mayor invited members to debate the remaining parts of the amendment proposed by Councillor Bickerton who had indicated that he still wished to pursue the amendment of the wording in 3 from "agree" to "note".

Councillor Wall advised that he was no longer seconding the amendment due to the substantial change. Councillor Sudbury indicated that she was willing to support the amendment to 3. In her view, if the partnership relationship hinged on the use of a single word, it could not be a very strong partnership.

In his summing up of the amendment, Councillor Bickerton thought it was important to demonstrate that the council had not agreed to the housing need of 28,500 dwellings. In response to NLP's comments, he advised that in a response to a question in the House of Commons, it was minuted that "The Department for Communities and Local Government does not undertake central assessment of the data used by local planning authorities to inform local decisions on identifying housing need". In his view this confirmed that local authorities should use the census and local data directly and not any alternative central assessment by DCLG.

Upon a vote, the amendments to 3. were

LOST Voting For:4, Against:15 and Abstain: 9.

The debate continued on the substantive motion and members made the following points.

- Council had a responsibility to provide housing for the next generation but also to protect green space in the town and this was always going to be a delicate balance. It was important to make effective use of brown field sites but not at all costs if it resulted in poor quality accommodation in less than ideal surroundings.
- The motion highlighted that the statistical basis for the housing needs analysis needed to be looked at along with the credibility of the economic growth figures.
- Whilst acknowledging officer concerns, Council was setting the vision for the next 20 years and therefore it was important to acknowledge in the motion that some green spaces needed protection. The white land at Leckhampton was given as an example as it was particularly vulnerable from not being in the green belt or in an Area of Outstanding Natural Beauty.
- The vision should be about the quality of life in Cheltenham and not just housing quantity. There was only likely to be movement in housing when wages were increasing and the economy was doing well so the council should proceed with caution during this period of economic uncertainty. Otherwise the result could be developers sitting on sites and cherry picking the best developments for their own purposes.

- During the debate there had been mention of the increasing number of elderly people in Cheltenham. A member wished to highlight that this should be viewed not in their economic worth but by the huge amount that this group contributed to voluntary work in the town. Cheltenham would only continue to be an attractive place for people to come and live if the green and cultural parts of the town were maintained as well as housing and jobs.
- A member was concerned that the Leader was proposing amendments to the motion when the joint member steering group had met within the last week to agree the resolutions to go before each council. If the council was working in partnership then it should not be changing the resolutions without discussing it with their partners and this was a demonstration of poor leadership.
- A member highlighted the point previously made about the lack of regard in the NLP report for the views expressed by the public in the consultation which had run from December 2011 to February 2012. The brief to NLP had asked them to take account of the consultation and of the 3300 that responded, the vast majority supported the smaller numbers for housing needs. The responses had been dismissed in the report as misconceptions by the public and had been patronising to those who responded.

In responding to the debate, Councillor Jordan thanked everybody for their contribution and he broadly agreed with many of the points made. However he did not support the view that no amendments should be made to the original seven resolutions agreed by the three partners. In his view, he as Leader and the council must be allowed independent thought and as the JCS was an ongoing process it was important to use this meeting to raise concerns for Cheltenham. Clearly it was a complex subject and a very difficult process moving forward but the council did need to provide housing for the next generation but not at the expense of other aspects of the town.

A separate vote was requested on each group of amendments.

RESOLVED TO

- 1. Note NLP's review that the demographic methodology used to establish housing requirements for the JCS area for the period from 2011 to 2031 as part of the "developing the Preferred Option" document, was appropriate at the time, but that the data upon which the methodology relied will not in future be maintained by Gloucestershire County Council and should be based upon Office of National Statistics (ONS) and Department of Communities and Local Government (DCLG) data, because this will be consistently available and subject to on-going updating.**
- 2. Note NLP's commentary and advice regarding the consultation responses.**

(1. and 2.) CARRIED: Voting For: 31, Against:1
- 3. Agree that a demographic projection solely based on latest ONS and CLG data indicates a population growth of 44,700. This would**

generate housing need of 28,500 dwellings for the JCS area for the period from 2011 to 2031 using NLP's methodology.

CARRIED: Voting For: 25, Against:5, Abstain: 2

4. **Note that household size is key to calculating the number of new dwellings required and there are alternative methods of estimating this which show the trend is broadly static. Officers should investigate the suggestion that using ONS district data to assess average household size across the JCS area would generate a housing need of 18,600.**
5. **Note that the demographic led projection based on latest ONS data leads to a projected job growth of 9100 to 11400.**
(4. and 5.) CARRIED: Voting For: 19, Against:8, Abstain 5
6. **Agree that “objectively assessed need” for the JCS area should be based upon local job projections and the alignment of housing and employment provision. Also to agree that in preparing the JCS Preferred Option document, further work will be carried out to understand the level of economic growth assumed in the demographic, Cambridge Econometrics and Experian Business Strategies Ltd projections and work with the Local Enterprise Partnership to establish the level of economic growth for the JCS area during the period up to 2031 and the potential implications that this may have on the level of housing required.**
7. **Note that economic projections from Cambridge Econometrics and Experian Business Strategies Ltd forecast housing provision in a range between 32,500 and 43,220 dwellings to align proposed job growth and housing provision for the JCS area for the period from 2011 to 2031.**

(6. and 7.) CARRIED: Voting For: 31, Against:1

8. **Agree that in preparing the JCS Preferred Option Document further work will be carried out to understand the current trend in household size and the implications on the level of housing required.**

CARRIED: Voting For: 31, Against:1

9. **Agree that the JCS needs to balance environmental, social and economic issues and that the social and environmental impact of the “objectively assessed housing need” will be considered in preparing the Preferred Option version of the plan.**

CARRIED unanimously

10. **That in progressing the JCS, Officers are requested to specifically consider the following matters:**

- a. **The possible use of the Local Green Space designation as defined in the National Planning Policy Framework (NPPF) (e.g Leckhampton)**
- b. **The continued protection of Green Belt in accordance with the NPPF.**
- c. **Having a single 5 year supply of land for business and housing that covers the whole JCS area. The 5 year supply should have realistic density of housing and housing supply in terms of the size of dwellings, number of bedrooms, proportion of affordable housing and household size to meet the projected growth and local need.**
- d. **The need to recognise and encourage the role of neighbourhood plans in the new planning framework by supporting community groups and parish councils in the development of neighbourhood plans in collaboration with their ward councillors.**
- e. **Review opportunities for new eco settlements within the JCS area as part of the Council overall green policy to simulate growth in new technologies and seek solutions to create jobs.**

CARRIED: Voting For: 22, Against:6, Abstain: 4

11. NOTICES OF MOTION

No notices of motion had been received.

12. TO RECEIVE PETITIONS

No petitions were submitted, nor had any been received since the last meeting.

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

There were no urgent items for discussion.

Colin Hay
Chair

Cheltenham Borough Council

Council 15 October 2012

Statement of Accounts (including Annual Governance Statement) 2011/12

Report of the Chair of the Audit Committee

Accountable member	Cabinet Member Finance, John Rawson
Accountable officer	Director of Resources, Mark Sheldon
Accountable scrutiny committee	Audit Committee
Ward(s) affected	All
Significant Decision	Yes
Executive summary	The purpose of this report is to notify Council of the deliberations and decisions made by the Audit Committee in its review of the council's Statement of Accounts for 2011/12.
Recommendations	<p>I therefore recommend that Council</p> <p>1. Note the decision of the Audit Committee to approve the Statement of Accounts for 2011/12, including the Annual Governance Statement, and note that, as Chair of that Committee, I have signed the accounts to formally signify their approval by the Council.</p> <p>2. Agree that, as outlined in section 4, the Chair of the Audit Committee will only report to Council if there are any issues arising from the audit of the Statement of the Accounts</p>

Financial implications	<p>None</p> <p>Contact officer: Mark Sheldon E-mail: mark.sheldon@cheltenham.gov.uk Tel no: 01242 264123</p>
Legal implications	<p>This report adopts relevant guidance issued in the Accounts and Audit Regulations 2003 and 2011.</p> <p>Contact officer: Peter Lewis E-mail: Peter.Lewis@tewkesbury.gov.uk Tel no: 01684 272012</p>
HR implications (including learning and organisational development)	<p>None</p> <p>Contact officer: , @cheltenham.gov.uk, 01242</p>

Key risks	There are no risks arising from this report which need to be brought to the attention of members.
Corporate and community plan Implications	None identified.
Environmental and climate change implications	None identified.

1. Introduction

- 1.1** The Accounts and Audit Regulations 2011 require the council to prepare an annual statement of accounts by 30 June of each year. The Section 151 Officer must sign and date the draft statement of accounts, and certify that they present a true and fair view of the financial position of the council. There should then be a period of public inspection of the accounts of 20 working days, for which public notice of at least 14 days must be given.
- 1.2** The Regulations then require that the draft accounts be audited and for the audited statement of accounts to be considered and approved by way of a council committee by 30 September, following the year end. The Section 151 Officer must re-certify the audited statement of accounts prior to this meeting. Following approval by the committee, the statement of accounts is to be signed and dated by the person presiding at the meeting.
- 1.3** At its meeting on 28 June 2010 Council delegated authority to the Audit Committee to review and approve the audited statement of accounts.
- 1.4** The Audit Committee review specifically considers whether appropriate accounting policies have been followed, the conclusion of the audit of the statements, and whether there are any issues that need to be brought to the attention of the Council. The Committee also considers whether the Annual Governance Statement fairly reflects the arrangements within the council and whether the suggested action plan will address any significant governance issues.

2. Background

- 2.1** The draft Statement of Accounts was signed by the Section 151 Officer on 30 June 2012. The public inspection period operated from 16 July to 10 August 2012 and a public notice to that effect was placed in the Gloucestershire Echo on 21 June 2012.
- 2.2** The accounts were audited during July and August 2012 and the Section 151 Officer signed the audited accounts on 19 September 2012.
- 2.3** The Audit Committee considered the Statement of Accounts for 2011/12, together with the auditor's Report to those charged with governance (ISA 260), at its meeting on 19 September 2012.
- 2.4** From 2010/11 the Statement of Accounts has had to comply with a new code of accounting practice – the CIPFA Code of Practice on Local authority Accounting (the 'Code'), which fully incorporates International Financial Reporting Standards (IFRS). There was therefore only one main presentational change for 2011/12, which was the requirement to include the value of Heritage assets (mainly the collections at the Art Gallery and Museum and Pittville Pump Room) on the Council's Balance Sheet.

3. Auditor's Report

- 3.1 The council's external auditors, KPMG LLP, conducted a full audit of the financial statements and have issued a 'Report to those charged with governance (ISA 260) for 2011/12', giving the Statement of Accounts an unqualified audit opinion. The audit did not identify any material misstatements in the accounts and the Audit Certificate was signed on 19 September 2012.
- 3.2 The auditor must appoint a date on which local government electors for the area to which the accounts relate may exercise their rights under regulation 15 and 16 of the Audit commission Act 1998 to question the auditor about or make objections to the accounts. The date appointed by the auditor was 13 August 2012.
- 3.3 The audit identified eight adjustments to the draft accounts and officers have corrected all except one of the adjustments. The impact of the corrected adjustments is to increase the net worth of the Council as at 31 March 2012 by £0.685m and decrease the net worth of the Group as at 31 March 2012 by £5.6m. The auditor commented that 'the finance team have prepared this year's accounts in the face of the pressure and resource restraints following the implementation of GO and 'going live' from 1 April 2012'.
- 3.4 The council received two elector challenges and this work will be completed by KPMG before Grant Thornton is appointed.
- 3.5 The auditor also concluded that the council had made proper arrangements to secure economy, efficiency and effectiveness in its use of resources and anticipated issuing an unqualified VFM conclusion.

4. Change in reporting process

- 4.1 As a result of the establishment of the GO partnership, officers working across various councils are comparing working practices. In the other GO partner councils, the consideration and sign off of the statement of accounts is delegated to the Audit Committee as it is in Cheltenham. No report is made back to council unless there are issues arising from the audit.
- 4.2 Having considered this approach, the Section151 Officer has in consultation with myself as chair of the Audit Committee concluded that this is a sensible approach to adopt which would save officer administrative time and member time in council plus paper. As such it is recommended that, in future, the Chair of the Audit Committee will only report to council if there are any issues arising from the audit of the statement of the accounts

5. Reasons for recommendations

- 5.1 The Audit Committee were provided with a comprehensive verbal explanation of the key changes and highlights of the accounts for 2011/12 and received a complimentary verbal report from the Auditor, taking into account the 'pressures and resource restraints following the implementation of GO and going 'live'' from 1 April 2012.'
- 5.2 Accordingly the Audit Committee considers that there are no issues arising from the audit which need to be brought to the attention of Council.

6. Alternative options considered

- 6.1 See above.

7. Consultation and feedback

- 7.1 Director of Commissioning, Cabinet Member Finance

Report author	Contact officer: Mark Sheldon mark.sheldon@cheltenham.gov.uk 01242 264123,
Appendices	None
Background information	Statement of Accounts 2011/12 External Audit Working paper files 2011/12 Code of Practice on Local Authority Accounting in the UK 2011/12 Accounts Service Reporting Code of Practice 2011/12 Report to those charged with governance (ISA 260) for 2011/12 Accounts and Audit Regulations 2003 Accounts and Audit Regulations 2011

Cheltenham Borough Council Council – 15 October 2012 Pittville Gates Restoration

Accountable member	Cabinet Member Finance, Councillor John Rawson
Accountable officer	David Roberts, Head of Property & Asset Management
Ward(s) affected	Pittville Ward
Key Decision	Significant
Executive summary	<p>The Friends of Pittville have raised substantial funds to restore the historic grade 2 Pittville Gates. The intention is that Cheltenham Borough Council will then procure and subsequently deliver the works, in two phases, each of which is a separate stand alone scheme.</p> <p>In order for the project to progress it is a requirement that the Friends of Pittville enter into a legal agreement with Cheltenham Borough Council which will be subject to proof that sufficient funds have been raised.</p> <p>On the proviso that the above criteria are satisfied the works will commence in the Autumn this year.</p> <p>The proposal has the support of Cabinet. CBC will not be exposed to any financial risk, as the works will not be commenced for either phase until CBC is satisfied that all the funds have either been raised or grant funding guaranteed.</p> <p>As CBC will be overseeing the works and will be effectively responsible for payment, Council needs to allocate the funding as part of its budget.</p> <p>The restoration will substantially reduce the Council's immediate maintenance liability, and it is the intention that the Friends of Pittville will raise funds for future maintenance of the gates as and when it is required.</p>
Recommendations	<p>That Council agrees:</p> <p>To allocate the funding for this project over the 2 phases as set out in Sections 2.9 and 2.10 of the report.</p>

<p>Financial implications</p>	<p>The full amount of funding should be sourced before the Council begins works. There is a contingency allowed for within the project to ensure works are delivered within budget.</p> <p>Officer time to deliver the project has not been costed and accounted for within the project costs.</p> <p>Responsibility for the ongoing maintenance of the Gates must be determined as no specific base budget provision has been made.</p> <p>Contact officer: Nina Philippidis, nina.philippidis@cheltenham.gov.uk, 01242 775221</p>
<p>Legal implications</p>	<p>The council's contract procedure rules must be complied with when procuring the contractor and the project manager.</p> <p>As the Council will be employing the contractor and the project manager the agreement with the Friends of Pittville must provide that the cost of the project must be paid to the Council by the Friends prior to the Council awarding the contracts.</p> <p>Contact officer: Donna Ruck, donna.ruck@tewkesbury.gov.uk, 01684 272696</p>
<p>Corporate and community plan Implications</p>	<ul style="list-style-type: none"> • Cheltenham's natural and built environment is enhanced and protected <ol style="list-style-type: none"> 1. The gate piers and metalwork is a listed structure and part of the town's heritage. Historically they formed a focal point to the Pittville but that is no longer the case and this is partly due to their dilapidated appearance. 2. Pittville Park and the beautiful architecture of the surrounding area is a tourist attraction. If the gate piers and metalwork were to be restored they could add to this tourist experience. 3. The restoration of the gates, piers and metalwork will decrease the rapid rate of their current decay, and consequently help to protect them for future generations. 4. The proposed two new interpretation boards will enable visitors to understand about the history of the Gates and the history of the Pittville area, as well as explaining the conservation of the gate piers and metalwork.

<p>Environmental and climate change implications</p>	<ul style="list-style-type: none"> • Cheltenham has a clean and well-maintained environment The six existing stone gate piers and associated metalwork are in need of repair. It is believed that the piers have not had any maintenance work carried out on them for a long time They have the following problems- <ol style="list-style-type: none"> 1. Stone to the piers is delaminating, and spalling. They have previously been repaired with cement and concrete, which has accelerated the stone decay. The rusting metalwork which is embedded in the stone has also resulted in rust expansion and further stone decay. 2. The metalwork is very rusty in places, paint is flaking off, and some of the detailed decorative elements are missing. 3. The immediate landscaped area is also of a poor quality and unattractive appearance. 4. The existing lighting is unattractive and defective. <p>The proposed works will have a significant improvement to this historic structure and its setting.</p>
---	--

2. Background

- 2.1 In the summer of 2010 the Friends of Pittville group decided to adopt the Gates restoration project as public consultation had judged it the highest priority. Further consultation with organisations such as the Cheltenham Civic Society and with the public, have demonstrated considerable support.
- 2.2 The project will restore the Grade 2-listed Pittville Gates and their surroundings to their former magnificence as the grand entrance to Cheltenham's historic Pittville Estate and Park.
- 2.3 The Gates were constructed in 1833, in order to form an impressive entrance to the Pittville Estate on route from the town centre to the Pittville Pump Room (Grade 1-listed). In 1890 the Estate was acquired by Cheltenham Borough Council in an era of significant growth in the provision of cultural and recreational facilities. The central overthrow was added to the Gates in 1897 in time for the visit of the Prince of Wales in Queen Victoria's Diamond Jubilee year, displaying the new name of Pittville Park. The Gates were listed Grade 2 in 1972.
- 2.4 The Gates are approximately 22 metres wide with six Forest of Dean sandstone pillars 3.2 metres high. The 4.3 metre wide central fixed screen is of ornate cast ironwork of a unique design. In the four gaps there were originally two pairs of carriage gates and two pedestrian gates of the same design.
- 2.5 Currently the Gates and the surrounding area have become somewhat neglected. The six pillars are crumbling with a patchwork of original stone and attempts at repair, and the remaining central screen and overthrow need proper restoration. The surrounding area is an mixture of different styles of paving, asphalt, kerbs and grass with varying levels and inadequate drainage. In addition the original railings along the Prestbury Road have disappeared.
- 2.6 The proposal is to replace the existing crumbling pillars with new ones of the same stone. The existing ironwork (the central screen, remaining gate posts, a short length of railing and the overthrow) will be stripped of paint and repaired where needed, the missing parts

replaced, and then repainted in the original patinated bronze colour. The missing opening gates and their posts will be replaced. Four lamps of the original 1833 design will be placed on the four outer pillars, the central lamp below the municipal coat of arms will be replaced and the electricity supply restored.

- 2.7 It is proposed that the existing hard surfaces will be replaced, with the pathway lines and the 1830s crossing in front of the Gates marked in setts. The design is fairly simple in order not to detract from the ironwork of the Gates. It is intended that the grass triangle will be smartened up and the missing railings along Prestbury Road replaced, using the original 1833 design. To complete the landscaping, hedging will be planted to hide the ugly adjoining boundaries and new street furniture and information boards installed. A granite horse trough will be re-installed in front of the Gates. (See existing and proposed elevations in Appendix)
- 2.8 The project will be managed in partnership with CBC, employing a project management company used to heritage projects. In order to achieve improvement to the site as soon as possible the project has been divided into separate phases, so that the first phase can begin when funding is available while fundraising continues for the later phase. The first phase will involve the replacement of the pillars, the restoration of the existing ironwork and lighting, and the landscaping work. Phase 2 will cover the replacement of the missing gates and railings.
- 2.9 Funding – The total tendered cost of Phase 1 is £193,833; the total cost of the project is approximately £279,433 and includes contingencies and professional fees. The Friends of Pittville have so far raised £134,000 and also applied for an additional £20,000 from the Cheltenham Environmental Fund 2012. An initial Cheltenham Environmental Fund allocation was made to this project in 2011 of £20,000 which has enabled the design, planning consent and procurement to progress.

Costings

Phase 1

Works	£157,464	
Contingency	£ 15,000	
Professional Fees	£ 20,369	
Total		£193,833

Phase 2

Works	£ 71,600	
Contingency	£ 10,000	
Professional Fees	£ 4,000	
Total		£ 85,600

Grand Total		£279,433
--------------------	--	-----------------

Funding

GET	
CBC Environmental Fund 2011	
GCC Community Match	
Leche Trust	
Cheltenham Civic Society	
Other fundraising/donations	
Ecclesiastical 125 Fund	
Garfield Weston	
HLF	
Total	£134,400

Other applications made are:

Worshipful Company of Masons
CBC Environmental Fund 2012
Steel Charitable Trust
Royal Racing Pigeon Association
Manifold Charitable Trust
PF Charitable Trust
Bodfach Trust
Georgian Group
Pilgrim Trust

- 2.10 It is a requirement that the Friends of Pittville raise the necessary funds for each phase prior to the commencement of each phase of the restoration works but Cheltenham Borough Council will contract with those undertaking the works and it will be the Council's obligation to make the payments.
- 2.11 The Friends of Pittville will be required to enter into a legal agreement prepared by OneLegal, which will set out the obligations of each party.
- 2.12 It is Cheltenham Borough Council's intention, subject to consultation and formal written agreement, for the Friends of Pittville to raise funds for any future maintenance works.

3. Reasons for recommendations

- 3.1 The Friends of Pittville are well advanced in fundraising and the contract for the construction works is currently out to tender. In order to progress the project it is recommended that Cabinet agree to enter into an agreement with Friends of Pittville.
- 3.2 The prerequisite of the Friends of Pittville's external funding partners is that the agreement must be in place and for the works to be commenced by the end of November 2012.
- 3.3 As expenditure is over £100,000 a key decision therefore requires Cabinet and Council approval.

4. Alternative options considered

None

5. Consultation and feedback

- 5.1 The members of the Friends of Pittville, the public, the Council's property surveyors, the Council's Heritage and Conservation Officer, the Council's Landscape Architect, a specialist stonemason and a specialist metal conservator have all identified the existing poor condition of the stone and metalwork, and the existing poor landscaping.
- 5.2 Pittville Ward Councillor Hibbert has been supporting this project with the Friends of Pittville.

6. Performance management –monitoring and review

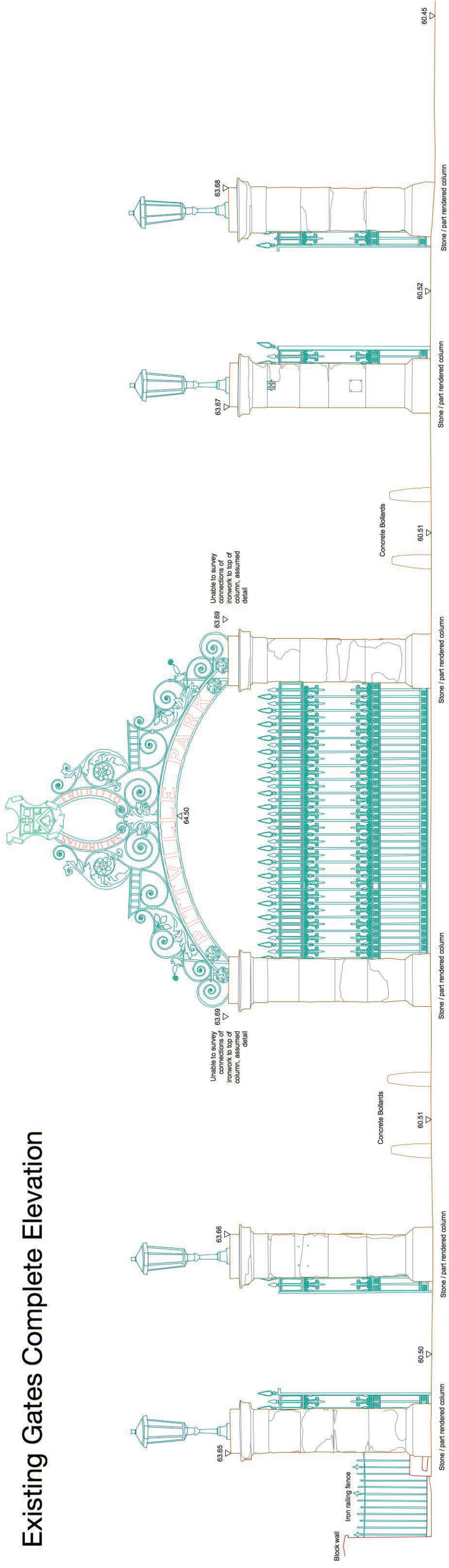
- 6.1 Contract management , construction activities and expenditure will be monitored by Property & Asset Management.
- 6.2 Financial monitoring will be carried by Cheltenham Borough Council's Head of Finances.

Report author	Contact officer: David Roberts , Head of Property & Asset Management david.roberts @cheltenham.gov.uk, 01242 264151
Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Drawing indicating existing and proposed elevations

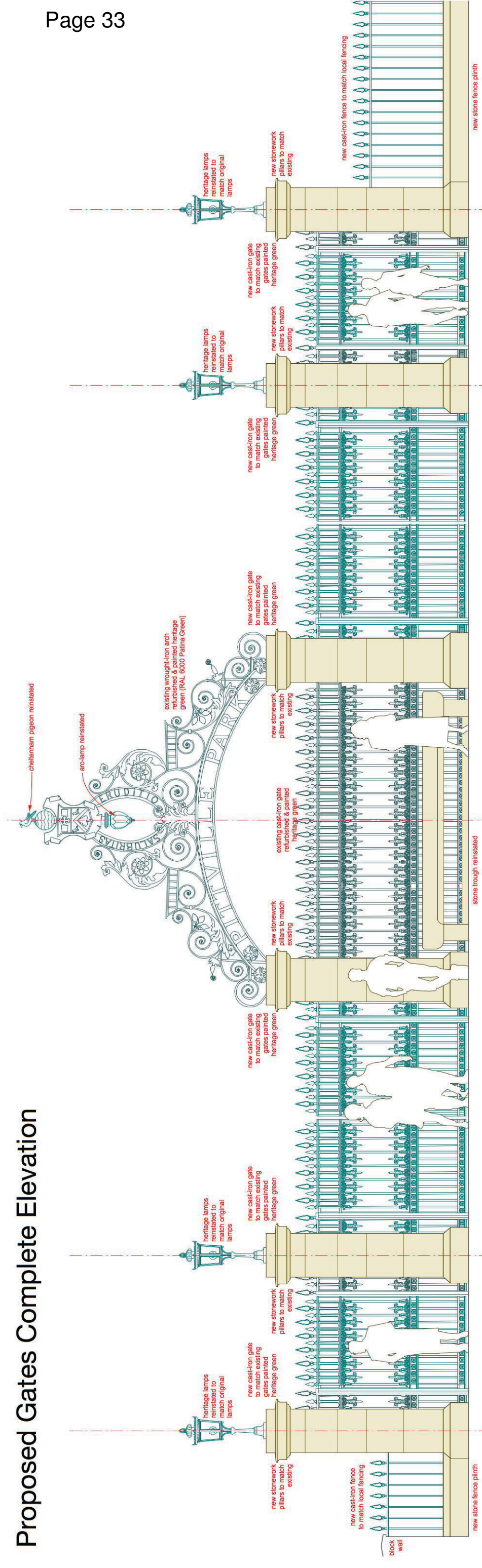
The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If the stone to the piers continues delaminating and spalling, this could potentially cause a weakening and collapse of the structure with possibly injury to the public and then this would place CBC at a high risk to a claim for compensation. If this project does not proceed there will be necessary immediate repairs to be carried out by CBC.	David Roberts	Dec 2011	3	3	9	Reduce	Repairs to the structure and future monitoring and maintenance will substantially reduce the risk. Stability of the asset will be monitored and if the structure becomes unsafe CBC will fence off and make safe.	October 2012	David Roberts	David Roberts
<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>											

This page is intentionally left blank
Page 32

Existing Gates Complete Elevation



Proposed Gates Complete Elevation



General Notes

1. Do not scale off this drawing.
2. Any discrepancies to be referred to the Architect.
3. This drawing is to be read in conjunction with all relevant Specifications and other drawings issued by the Architect, Structural Engineer and other Specialists.
4. This drawing is copyright and is not to be reproduced.

North Point

Revision	Date	Details of revision

Client: Friends of Pittville
 Project: Pittville Gates

Drawing Title: Existing & Proposed Gates Complete Elevations

Status: Planning
 Scale: 1:50 @ A3

Date: May 2012
 Dwg. No: 1828 P (0) 107

Drawn By: TW
 Revision

Herford
 Wye Street
 Herford HR8 7RB
 T 01432 276 107
 E herford@rra-arch.com

Cheltenham
 T 01242 269 374
 E cheltenham@rra-arch.com

London
 T 0207 377 5458
 E london@rra-arch.com



www.rra-arch.com

Cheltenham Borough Council

Cabinet – 25 September 2012

Council – 15 October 2012

ICT support to Cheltenham Festivals Ltd

Accountable member	Councillor John Rawson, Cabinet Member Finance
Accountable officer	Director of Resources, Mark Sheldon
Ward(s) affected	None
Key Decision	Yes
Executive summary	The Council currently provides in kind support to Cheltenham Festivals (CF) for ICT networking and telephony. Increasingly, as the festivals grow, the demands on the ICT team are becoming more difficult to fulfil and are impacting on the core ICT service. The report proposes that the funding should be made available to create an independent ICT infrastructure for Cheltenham Festivals.
Recommendations	<p>Cabinet recommend to Council that:</p> <p>A grant of £139k is made available to Cheltenham Festivals to fund the establishment of independent ICT infrastructure and financing of the first year of independent maintenance support, to be met from the Council’s General Fund Reserve.</p>

Financial implications	<p>As outlined in the report.</p> <p>The cost of supporting CF is based on an allocation of the time of staff within the ICT team. Whilst the proposed changes will not necessarily save the Council money in themselves, they will create scope for savings in the ICT commissioning review and avoid the potential cost of meeting the increasing the service requirements of CF.</p> <p>The grant of £139k will be funded from the General Reserve, which stands at £2.25m at 31/3/12, but this will be reviewed as part of the budget process in December 2012.</p> <p>Contact officer: Mark Sheldon, Director of Resources</p> <p>mark.sheldon@cheltenham.gov.uk, 01242 264123</p>
-------------------------------	---

<p>Legal implications</p>	<p>The Council and Cheltenham Festivals Limited have entered into an agreement setting out the non-financial in-kind support the council will give to the Cheltenham Festivals during the period 1 April 2012 – 31 March 2013. This agreement includes the provision by the council of ICT services, which was estimated to be a cost to the council of £72,900.</p> <p>If the in-kind support under that agreement is to be converted into a cash grant, the existing agreement will need to be varied and a new agreement entered into to cover any conditions attaching to the giving of this grant. The Council can rely on S145 of the Local Government Act 1972 to give this grant.</p> <p>Consideration has been given as to whether this grant would constitute state aid which could be deemed unlawful if it does not fall within certain exemptions or schemes approved by the European Commission. It does appear that there are sound grounds for regarding this grant (and the in-kind support) to Cheltenham Festivals as not affecting inter-state trade and not being likely to distort competition between member states and therefore as not constituting state aid.</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>This proposal will enable the ICT team to focus on the core ICT service for the Council and reduce pressure on the ICT team during festivals.</p> <p>Contact officer: Donna Sheffield, donnasheffield@cheltenham.gov.uk, 01242 774972</p>
<p>Key risks</p>	<p>See risk assessment</p>
<p>Corporate and community plan Implications</p>	<p>The proposals will assist in delivering outcomes for the Council in the ICT commissioning review.</p>
<p>Environmental and climate change implications</p>	<p>None</p>

1. Background

Current support to Cheltenham Festivals (CF)

- 1.1 Currently, Cheltenham Borough Council provides ICT server and network infrastructure and telephony support to Cheltenham Festivals. The cost of this support, estimated at c£88k, is borne by the Council but is recognised as in-kind support in the accounts of Cheltenham Festivals.

Review of ICT

- 1.2 In 2011 a review of ICT was undertaken to give assurance to senior management that the current ICT function is fit for purpose for its current role in supporting the Council's business; and to make recommendations for improvements where necessary.
- 1.3 The review covered all aspects of the service and concluded, in the case of support to Cheltenham Festivals, that they have different ICT requirements from the standard offering. The nature of their business means that they make extensive use of social media, need to hold massive video files and maintain a huge photo library impacting on mailbox limits. They require additional ICT equipment at short notice for temporary staff when they run events and need these to be set up and supported during events. CF's own box office system is supported by a third party. It would appear that there is little synergy between CF's requirements and the Council's ICT service and both parties would benefit by CF buying ICT support from a third party. The review recommended that options should be explored to facilitate full ICT independence for Cheltenham Festivals from the Council.

ICT commissioning review

- 1.4 The Council is currently in the process of reviewing the provision of its ICT function. Under the new scrutiny arrangements, an ICT scrutiny task group was set up with terms of reference which included contributing to the outcomes of the ICT review. The task group considered the support to CF and raised concerns about the impact on the Council's network at peak booking times for the festivals and the potential cost of satisfying the likely demand for a 24/7 operation during festivals.
- 1.5 In the Council's own ICT commissioning review it is evident that, in considering any options, CF's requirements add complexity and cost. Removing these specific non-core needs will allow the Council to drive out savings in this review.

Proposal for creating ICT independence for CF

- 1.6 The ICT team have worked with CF to establish what infrastructure would be needed to create ICT independence from the Council. New servers, networks, pcs and laptops would be required costing c£120k with annual maintenance costs of c£19k. It is proposed that the Council make a one off grant payment of c£139k to fund the infrastructure set up and one year's maintenance cost. It is proposed that the grant will be funded from the General Reserve but this will be reviewed as part of the budget process in December 2012.
- 1.7 CF have a window of opportunity between festivals to undertake this work in December 2012 - January 2013 but require the Council's commitment to funding before embarking on the process and to allow for the lead-in time to order equipment. Should this window not be available, then this work could not be done for another year which, in turn, could impact on the ICT commissioning review. In these circumstances, the Cabinet is requested to recommend to Council that the current proposals be approved outside of the usual budget-setting process.

2. Reasons for recommendations

2.1 The proposals address the concerns of the ICT review and the ICT scrutiny task group and, by allowing CF ICT to stand alone, would simplify any options arising from the ICT commissioning review.

2.2 The proposals will ensure that scarce ICT resource is redirected to CBC activity.

3. Alternative options considered

3.1 Maintain current approach to supporting CF.

4. Consultation and feedback

4.1 Consultation and agreement has taken place with CF, who consider it to be an appropriate and timely point to become more independent of CBC and are fully supportive of the proposal. Group Leaders were also briefed on 19th September 2012 and indicated their support.

5. Performance management – monitoring and review

5.1 Via 1-2-1 meetings with the Director of Resources and ICT infrastructure manager.

Report author	Contact officer: Mark Sheldon, Director of Resources mark.sheldon@cheltenham.gov.uk, 01242 264123
Appendices	1. Risk Assessment
Background information	

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	Capacity Should the proposal to create ICT independence for CF not be supported, this may lead to further pressure on the ICT team as a result of increasing CF demands, leading to failure to meet the demands of the councils own service requirements.	Mark Sheldon	19/9/12	3	4	12	Reduce	Council to support proposal for CF ICT independence	31/1/13	Paul Woolcock	
<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>											

This page is intentionally left blank
Page 40

Cheltenham Borough Council

Council – 15 October 2012

Gambling Act 2005 – Policy Statement of Principles

Accountable member	Cabinet Member Housing and Safety - Councillor Peter Jeffries
Accountable officer	Director of Wellbeing & Culture – Sonia Phillips
Ward(s) affected	Overview and Scrutiny Committee
Key Decision	No
Executive summary	<p>Under section 349 of the Gambling Act 2005 the Council must, before each successive period of three years, prepare a statement of the principles that they propose to apply in exercising their functions under the Gambling Act 2005 during that period and publish the statement.</p> <p>The Council's current policy statement was adopted by Council in December 2009. To comply with the statutory requirements, the current policy statement must be reviewed and adopted by December 2012.</p>
Recommendations	<p>Council is recommended to;</p> <ol style="list-style-type: none"> 1. Note the consultee comments received; and 2. Approve the draft policy statement for adoption.

Financial implications	<p>There are no financial implications arising from this report</p> <p>Contact officer: Sarah Didcote, sarah.didcote@cheltenham.gov.uk, 01242 26 4125</p>
Legal implications	<p>The Council is required to publish a policy statement every three years. The policy statement together with the Act and the statutory guidance assist the Council in its capacity as the Licensing Authority, to determine applications made under the Act. The policy statement has been prepared in line with the statutory guidance and good practice.</p> <p>Contact officer: Sarah Farooqi, sarah.farooqi@tewkesbury.gov.uk, 01684 272693</p>
HR implications (including learning and organisational development)	<p>No HR implications arising from this report</p> <p>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242 26 4355</p>
Key risks	As outlined in Appendix 1
Corporate and community plan Implications	<p>Communities feel safe and are safe</p> <p>Our residents enjoy a strong sense of community and are involved in identifying and resolving local issues</p>

1. Background

- 1.1 Under section 349 of the Gambling Act 2005 (“2005 Act”) a licensing authority shall, before each successive period of three years, prepare a statement of the principles that they propose to apply in exercising their functions under the 2005 Act during that period and publish the statement.
- 1.2 The Council’s current policy statement was adopted by Council in December 2009. To comply with the statutory requirements, the current policy statement must be reviewed and adopted by December 2012.
- 1.3 The current policy statement has been reviewed by officers and a draft policy statement is attached at **Appendix 2**.
- 1.4 The amendments to the current policy statement have been minimal as a result of the fact that legislation, insofar as it relates to the scope of the policy, has largely remained unchanged since the adoption of the current policy statement. The amendments are listed in **Appendix 3**.

2. Consultation

- 2.1 Cabinet approved the draft policy statement for consultation on the 19th of June 2012. It further resolved to approve and recommend the draft policy statement for adoption by Council subject to there being no substantive amendments being made following consultation.
- 2.2 When reviewing its policy statement, the Council is required to consult with:-
 - the chief officer of police for the authority’s area,
 - one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area, and
 - one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under this Act.
- 2.3 A list of consultees is listed on page 25 of the draft policy statement.
- 2.4 Responses were received from 5 consultees;
 - The Association of British Bookmakers (no issues raised),
 - Casino Operators Association (no issues raised),
 - The Racecourse Association Limited (comments below),
 - Gloucestershire Fire And Rescue Service (no issues raised), and
 - HM Court Service Gloucestershire (no issues raised).
- 2.5 Comments from the Racecourse Association Limited;

<p>Location (Page 8) – The proposed location of gambling premises may be taken into account when assessing the application. The Council is asked to consider that the location of racecourses will not have altered since its foundation, and cannot be transferred to another location.</p>	<p>Comments noted. No amendments necessary.</p>
---	---

<p>Additional Conditions (Page 9) – In certain circumstances the Council may impose additional conditions on racecourses to ensure the licensing objectives are met. The Council is asked to ensure that these conditions do not exceed those premises licence conditions outlined in the Premises Licence Mandatory and Default Conditions.</p>	<p>Comments noted. No amendments necessary.</p>
<p>Door Supervisors (Page 10) – The Council is asked to be aware that under the Licensing Act 2003 and the Private Security Industry Act 2001, racecourses are already required to provide licensed door supervisors in some roles. In line with the stipulation by the Council on Page 8 that they will seek to avoid duplication with other regulatory regimes, the Council should not impose any further provisions relating to door supervisors.</p>	<p>Comments noted. No amendments necessary.</p>
<p>Betting Machines (Page 13) – The Council is asked to note that racecourses do not hold Operating Licenses and consequently any betting machines on racecourses will be provided by other operators. The racecourses will contractually require these operators to fulfil any conditions with regard to the provision and supervision of these machines.</p>	<p>Comments noted. No amendments necessary.</p>
<p>Condition on Rules Being Displayed (Page 14) – The Council should be aware that it may not be practical for racecourses to print examples of the Standard Rules of betting (Tattersalls Rules) in their racecard or in a leaflet form. However, these will be displayed, in line with the Premises Licence Mandatory and Default Conditions.</p>	<p>Comments noted. No amendments necessary.</p>

3. Adoption

- 3.1 Delegations permitted under the 2005 Act prescribe that the Licensing Authority Policy Statement under section 349 of the Gambling Act 2005 are to be the shared responsibility of the full council and the executive.
- 3.2 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 govern the form statements must take, the procedure to be followed in relation to the preparation, review or revision of statements and the publication of statements.
- 3.3 These regulations require that a statement is published by being made available for a period of at least 4 weeks before the date on which it will come into effect:-
- on the Council’s website, and
 - for public inspection in one or more public libraries or other premises in the Borough such as the Council Offices.
- 3.4 The Council must also advertise the publication of the reviewed Statement of Principles by publishing a notice on the Authority’s website and in one or more of the following places:-
- a local newspaper circulating in the area covered by the statement,

- a local newsletter, circular, or similar document circulating in the area covered by the statement,
- a public notice board in or near the principal office of the authority,
- a public notice board on the premises of public libraries in the area covered by the statement.

4. Statutory Guidance

- 4.1** The Gambling Commission has issued guidance to local authorities under section 25 of the 2005 Act. The Council is required to have regard to this guidance when discharging its duties under the legislation. The current version of the guidance is May 2009.
- 4.2** Attached at **Appendix 4** is part 6 of the guidance entitled “Licensing authority Statement of Policy” for the information of Members.

5. Reasons for recommendations

- 5.1** To comply with the Council’s statutory duty under section 349 of the 2005 Act.

6. Alternative options considered

- 6.1** The Council can decide not to review its current policy but it will be failing in its statutory duty in doing so.

Report author	Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk, 01242 77 5004
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Draft Licensing Policy Statement of Principles 3. Breakdown of Amendments 4. Part 6 - Guidance to Licensing Authorities 3rd Edition (May 2009)
Background information	<ol style="list-style-type: none"> 1. Cheltenham Borough Council Gambling Policy Statement of Principles (adopted 14/12/2009) 2. Gambling Act 2005 3. Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 4. Gambling Commission Guidance to Licensing Authorities 3rd Edition (May 2009) 5. Officer’s report and minutes from Cabinet - 19 June 2012

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
	The Council can decide not to review its current policy but it will be failing in its statutory duty in doing so. This could open the Council to legal challenge.	Licensing & Business Support Team Leader	29/05/12	3	6	18	Adopt policy	Adopt policy within statutory time limits.	Dec 12	Licensing & Business Support Team Leader	

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

This page is intentionally left blank
Page 46

Gambling Policy

Statement of Principles

DRAFT

Approved by Council xxxx

Contents

Item	Page
Part A	
1. The licensing objectives	3
2. Introduction	3
3. Declaration	4
4. Responsible Authorities	4
5. Interested parties	4
6. Exchange of information	5
7. Enforcement	5
8. Licensing authority functions	6
Part B - Premises licences	
1. General Principles	7
2. Adult Gaming Centres	11
3. (Licensed) Family Entertainment Centres	11
4. Casinos	12
5. Bingo	12
6. Betting premises	13
7. Tracks	13
8. Travelling fairs	15
9. Provisional Statements	15
10. Reviews	15
10.1 Initiation of a Review by a Licensing Authority	16
10.2 Application for Review	16
10.3 Decision whether to grant an application for a review	16
10.4 Carrying out a Review	17
Part C - Permits / Temporary and Occasional Use Notices	
1. Unlicensed Family Entertainment Centre gaming machine permits	18
2. (Alcohol) Licensed premises gaming machine permits	18
3. Prize Gaming Permits	19
4. Club Gaming and Club Machines Permits	20
5. Temporary Use Notices	20
6. Occasional Use Notices	21
7. Further Information	21
Table of Delegated Functions	22
Glossary of Terms	23
List of Consultees	25
Gaming Machine Categories	26

This Statement of Principles has been drafted at a time when a number of regulations, Operating / Personal Licence conditions, Codes of Practice and guidance are not yet published. Should anything in these impact upon the content of this document it will need to be borne in mind and amended at a later stage, bearing in mind resource implications for the authority. All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in May 2009.

PART A

1. The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

2. Introduction

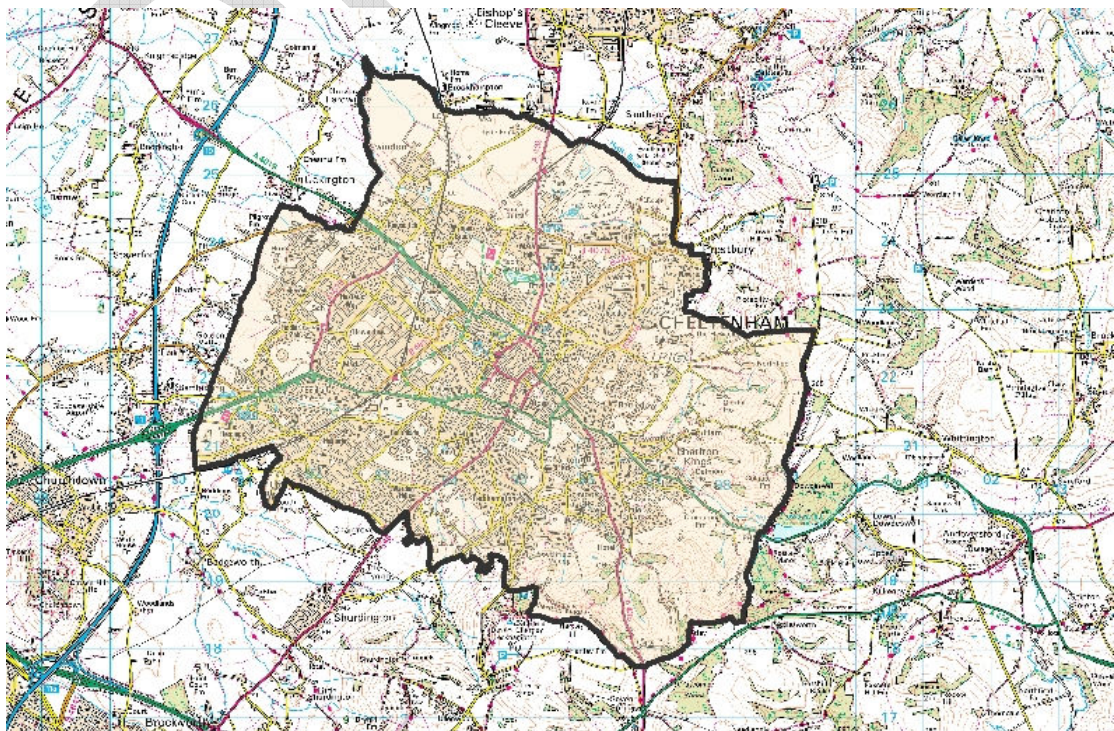
The Area

Until the late 1700s, Cheltenham was a small market town that became a fashionable resort after spa waters were discovered. Over the years it has attracted major employers and has gained a reputation for being an international festival town. This, together with its architectural heritage, educational facilities and quality environment, makes Cheltenham an attractive place to live, work and play.

The borough, which includes 5 parishes, has a population of approximately 114,000 who live in 20 wards. The borough is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares of which 17 % is designated as green belt and 22 % as an area of outstanding natural beauty.

Demography

The population is approximately 114,000, and these figures will continue to rise over the next 20 years.



At the time of writing, June 2009, the borough has 1 Track Licence, 2 Premises licence for Adult Gaming Centres, 1 Bingo Premises Licence, and 16 Betting Office premises licences.

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3. Declaration

In preparing its statement of principles the Licensing Authority is required to:

- Adhere to regulations issued by the Secretary of State under Section 349(4) of The Act; and
- Have regard to guidance issued to local authorities by the Gambling Commission (Section 25(2) of The Act); and
- Recognise the need to be consistent with the licensing objectives where applicable.

4. Responsible Authorities

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Gloucestershire Safeguarding Children Board for this purpose.

A list of "Responsible Authorities" can be found in the glossary of terms in Appendix B to this document. Contact details of the Responsible Authorities can be found at the Authority's website link at www.cheltenham.gov.uk/licensing.

5. Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-

- lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- has business interests that might be affected by the authorised activities; or
- represents persons who satisfy paragraph (a) or (b).

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's

Guidance for local authorities at 8.14 and 8.15. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

The Gambling Commission has recommended that the licensing authority states that interested parties include trade associations and trade unions, and residents' and tenants' associations (Gambling Commission Guidance for local authorities 8.17). This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then councillors should take care that they are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department on 01242 77 5200.

6. Information exchange

Section 29 of the Act entitles the Commission to seek information from licensing authorities, and places an obligation on authorities to comply with its information requests, providing the information is:

- art of a register;
- in the licensing authority's possession in connection with a provision of the Act.

Premises licences and temporary permissions generated by licensing authorities and operating and personal licences issued by the Commission are interdependent functions of the licensing regime introduced by the Act. It is essential for both parties to establish a framework by which information and knowledge can be exchanged between all parties to the regime.

'Advice to licensing authorities on information exchange with the Gambling Commission' provides further information about the protocols by which the information exchange is managed, and sets out the nature of the returns that are required to forward to the Commission each quarter. The paper is available from the Commission's website at www.gamblingcommission.gov.uk.

7. Enforcement

This licensing authority has noted the Gambling Commission's Guidance for local authorities states that; Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This licensing authority's principles are that; it will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will also adopt a risk-based inspection programme. Whilst the Gambling Commission's Guidance suggests that the criteria the authority will utilise in this respect are included in this statement.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

This licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this licensing authority's Corporate Enforcement Policy will be available upon request to the Licensing Section at Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham, GL50 9SA.

8. Licensing Authority Functions

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing
- *Premises Licences*;
- Issue *Provisional Statements*;
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
- Issue *Club Machine Permits to Commercial Clubs*;
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- viii) Register *small society lotteries* below prescribed thresholds;
- Issue *Prize Gaming Permits*;
- Receive and Endorse *Temporary Use Notices*;
- Receive *Occasional Use Notices*;
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange');
- Maintain registers of the permits and licences that are issued under these functions.

It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

A list of licensable activities licensable by this authority:

Premises Licences;

- Betting Shops
- Tracks
- Adult Gaming Centres
- Family Entertainment Centres
- Unlicensed Family Entertainment Centres
- Bingo Halls

Other;

- Gaming Machine Permits
- Occasional Use Notices

- Temporary Use Notices
- Small Society Lotteries

PART B PREMISES LICENCES

1. General Principles

Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission ;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below – page 10) and also that unmet demand is not a criterion for a licensing authority.

Definition of “premises” - Premises is defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities which states that:

- licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.
- licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to "the premises" are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensure that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

Location - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission's Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

This licensing authority has noted the Gambling Commission's Guidance for local authorities states that; In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, in effect those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling.

Accordingly, a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them.

Duplication with other regulatory regimes - In determining applications this licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, in effect those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling.

Accordingly, a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them.

Licensing objectives - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime - This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way - This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below – page 11).

Protecting children and other vulnerable persons from being harmed or exploited by gambling - This licensing authority has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

This licensing authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

Conditions - Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

This licensing authority is aware that tracks may be subject to one or more than one premises licence,

provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winning or prizes.

Door Supervisors - If this licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example, by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.

Section 178 of the Gambling Act 2005 sets out a definition of 'door supervisor', and provides that where a person employed in such a role is required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence.

The SIA regulates the private security industry in England, Wales and Scotland, and is responsible for licensing individuals working within the various industry sectors, by virtue of the Private Security Industry Act 2001 (PSIA). The majority of persons employed to work as door supervisors at premises licensed for gambling, and carrying out the functions listed under Schedule 2 Part 1 of the PSIA, will need to be licensed by the SIA. There are, however, exceptions to this requirement.

The PSIA requires that all contract staff (those employed under a contract for services) carrying out the functions set out under Schedule 2 Part 1 of the PSIA require licensing by the SIA. However, certain premises also need to have their in-house employees (those employed under a contract of service), who carry out these functions, licensed. These premises include those holding a premises licence for the supply of alcohol or regulated entertainment under the Licensing Act 2003.

This requirement is relaxed when applied to door supervisors at casino and bingo premises. Where 'contract' staff are employed as door supervisors at casino or bingo premises, such staff will need to be licensed by the SIA. However, 'in-house' employees working as door supervisors at casino and bingo premises are exempt from these requirements.

For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances / machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

Division of premises and access between premises

The relevant access provisions for each premises type is as follows:

Casinos

- the principal entrance to the premises must be from a street as defined in paragraph 7.23 of the Guidance.
- no entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- no customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

Adult gaming centres

- no customer must be able to access the premises directly from any other licensed gambling premises.

Betting shops

- access must be from a street as defined in paragraph 7.23 or from other premises with a betting premises licence
- no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

- no customer should be able to access the premises directly from:
 - a casino
 - an adult gaming centre.

Bingo premises

- no customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track.

Family entertainment centres

- no customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track.

2. Adult Gaming Centres

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-barring schemes;
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

3. (Licensed) Family Entertainment Centres:

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- Proof of age schemes;
- CCTV;

- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-barring schemes;
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

4. Casinos

There are currently no casinos operating within the Borough.

At present the Licensing Authority has not passed a resolution not to issue casino premises licences generally in the District. However the Licensing Authority reserves the right to review this situation and may, at some time in the future, make such a resolution. Any such resolution will be made by the Full Council and this policy document will be updated.

In considering whether or not to pass a resolution relating to casinos The Licensing Authority will take into account the licensing objectives and may have regard to any relevant principle or other matter

5. Bingo premises

The Licensing Authority notes that the Gambling Commission's Guidance states:

Bingo is not given a statutory definition in the Act other than that it means any version of the game irrespective of by what name it is described. It is to have its ordinary and natural meaning. Two types of bingo are commonly understood:

- cash bingo, where the stakes paid make up the cash prizes that are won;
- prize bingo, where various forms of prizes are won, not directly related to the stakes paid.

Cash bingo is the main type of bingo played in commercial bingo halls. They also offer prize bingo, largely as interval games. The distinction between the two versions of the game is abolished for commercial operators, and the holder of a bingo operating licence will be able to offer any type of bingo game, whether cash or prize. This means that premises with a bingo premises licence, or a casino premises licence (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in all its forms.

Apart from commercial bingo halls, prize bingo is traditionally a game played in arcades, especially seaside amusement arcades, or at travelling funfairs. For these operators, prize bingo is being subsumed within the allowances for prize gaming in the Act. This means that, subject to limits on participation fees and prizes, adult gaming centres, both licensed and unlicensed family entertainment centres, and travelling fairs, (or any premises with a prize gaming permit) are able to offer prize gaming, which includes prize bingo. In this form of gaming, the nature of the prize must not be determined by reference to the number of people playing the game, and the nature or the size of the prize must not be determined by reference to the amount paid for or raised by the gaming. See part 27 of this Guidance for a fuller discussion of prize gaming.

Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This is a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

6. Betting premises

Betting machines - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

7. Tracks

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-barring schemes;
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

Gaming machines - In consideration of the guidance published by the Commission, a track premises licence does not of itself entitle the holder to have gaming machines, because this type of premises licence can be held without a holding a operating licence from the Commission.

However, under section 172(9) of the Act, track owners holding both a track premises licence and a pool betting operating licence (greyhound tracks only), may site up to four gaming machines within categories B2 to D on the track. These should be located in areas from which children are excluded.

Certain tracks will also qualify for an alcohol licence and as such they will be automatically entitled, under section 282 of the Act, to two gaming machines of category C or D. This permission is activated by notifying the licensing authority and paying the required fee. If a track premises licence holder has both an alcohol licence and a pool betting operating licence, then they will be entitled to six gaming machines in total.

Betting machines - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

Condition on rules being displayed - The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

Applications and plans - Section 151 of the Act requires applicants for premises licences to submit plans of the premises with their application. This ensures that licensing authorities have the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan also informs future premises inspection activity.

Plans for tracks need not be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

In the majority of cases, such as greyhound tracks, racecourses, football stadia and cricket grounds, defining the extent of boundaries may be assisted by reference to existing plans already submitted to obtain other permissions. These could include:

- the obtaining of a safety certificate under 'Safety at Sports Ground' legislation (this applies in respect of sports grounds with capacity to accommodate more than 10,000 spectators);
- the approval of a racecourse by the Horserace Betting Levy Board;
- the historic boundaries under previous legislation such as, the approval of tracks under Schedule 3 of the Betting, Gaming and Lotteries Act 1963.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

The Commission appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Licensing authorities should satisfy themselves that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the 'five times rule' (commonly known as betting rings, and discussed later in this section) must be indicated on the plan.

As the plan forms part of the licence document, it also needs to be sufficiently flexible to ensure that a relatively small change in the premises layout would not require an operator to submit an application to vary the track premises licence. Only a significant change to the track layout would require a licence variation. For example, moving a category C gaming machine from one end of a bar that had been marked on the plan as a gaming machine area to another may not necessitate a full variation to a tracks premises licence, nor would the establishment of a new betting ring at a racetrack, as neither of these events have any impact on the purpose of the licence or the conditions attached to it. However, relocating category C machines to entirely different parts of a track or relocating an existing betting ring protected by the 'five times rule' would generally need to be the subject of an application to vary the premises licence.

Some tracks extend across the geographical boundaries of licensing authority areas. In such cases applications can only be made to licensing authorities in whose area the premises is wholly or partly situated, although the Act contains no rules about cases where premises lie across multiple authority areas. In such cases, applicants will note this on the application form, and the application can be made to any of the authorities that the track extends over. The applicant is then required to notify the other licensing authorities covered by the track location about the application (as they would be designated as

responsible authorities and therefore entitled to make representations about the application). The Commission expects applicants will apply to the licensing authority in whose area the greater or greatest part of the track site is situated, although ultimately the Act does not entitle an authority to reject an application because it is responsible for a smaller area of the premises than another authority.

8. Travelling Fairs

It will fall to this licensing authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9. Provisional Statements

The Licensing Authority notes the Guidance for the Gambling Commission which states that; “a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use” and that “requiring the building to be complete” ensures that the Licensing Authority could, if necessary, inspect it fully.

In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by way of representations at the provisional licence stage which, in the authority’s opinion, reflect a change in the operator’s circumstances where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision.

Section 210 of the Act (which applies to premises licences and provisional statements) makes it clear that a licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

10. Reviews

A premises licence may be reviewed by the licensing authority of its own volition or following the receipt of an application for a review, which is essentially a request by a third party to the licensing authority to review a particular licence. Licensing authorities should note that reviews cannot be delegated to an officer of the licensing authority – the lowest level of delegation permitted is to a licensing sub-committee.

10.1 Initiation of review by licensing authority

Section 200 of the Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full-scale review being conducted. Licensing authorities may wish to consider in

their scheme of delegation who initiates reviews, and whether a 'filter' system should be implemented to prevent unwarranted reviews from being conducted.

In relation to a class of premises, the licensing authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions. In relation to these general reviews, the authority would most likely be acting as a result of specific concerns or complaints about particular types of premises, which would cause them to want, for example, to look at the default conditions that apply to that category of licence.

In relation to particular premises, the licensing authority may review any matter connected with the use made of the premises if it has reason to suspect that premises licence conditions are not being observed, or for any other reason (such as a complaint from a third party) which gives them cause to believe that a review may be appropriate.

A formal review would normally be at the end of a process of ensuring compliance by the operator. If the operator does not meet the requirements then, after a formal review, the licensing authority may impose additional conditions or revoke the licence.

The licensing authority must give notice in writing to the licence holder that it intends to undertake a review, and must also publish notice of its intention to carry out the review. Regulations for reviews state that the notice should be published in a local newspaper at least once in the ten working days following the day on which the application to review was made to the authority, or should be published on the licensing authority's website and remain there for 28 consecutive days starting from eight days after the application to review was made. In addition, regulations state that the notice must also be displayed outside the premises itself, and remain there for the 28 days referred to above.

10.2 Application for a review

Section 197 of the Act provides that an application for review may be made by a responsible authority or an interested party. Such applications must be submitted to the licensing authority in the prescribed form and state the reasons why a review is being requested, together with any supporting information and documents.

The regulations referred to above require the applicant for a review to provide notice in writing of their application to the premises licence holder, and to all responsible authorities, within seven days of making their application. Failure to do this will mean that the application process is halted until notice is received by all parties.

Representations must be made within 28 days, commencing seven days after the date on which the application was received. During these seven days the licensing authority is required to publish notice of the application, as per the process set out in the regulations referred to above.

10.3 Decision whether to grant an application for a review

The decision to grant a review must not, and if properly managed will not, amount to prejudging the outcome of a review.

Section 199 provides that an authority must grant an application for a review, unless it decides to reject the application under section 198 of the Act. An application for a review may be (but need not be) rejected if the licensing authority thinks that the grounds on which the review is sought:

- are not relevant to the principles that must be applied by the licensing authority in accordance with section 153 - so, if the application raises issues that are not relevant to the Commission Guidance/codes of practice, the Licensing Authority Statement of Policy, or the licensing objectives, then the licensing authority may reject it. In addition, if the application raises general objections to gambling as an activity, that is likely to be irrelevant to the principles in section 153, given that a licensing authority is required to permit the use of premises for gambling insofar as it thinks that permission is in accordance with the matters set out in that section. Examples that are

likely to be irrelevant include demand for gambling premises, issues relating to planning, public safety, and traffic congestion

- are frivolous
- are vexatious
- 'will certainly not' cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence
- are substantially the same as the grounds cited in a previous application relating to the same premises. Here the licensing authority must take into account how much time has passed since the earlier application in reaching a judgement about whether it is reasonable to rely on this as a reason not to review the licence
- are substantially the same as representations made at the time the application for a premises licence was considered. As with sub-section (e) the licensing authority will need to take into account the period of time that has passed since the representations were made, but the underlying requirement is that the licensing authority should not review the licence on the basis of the same arguments considered on the grant of the premises licence.

Most applications for a review are likely to be the result of a public complaint or a complaint from the police. It is important that licensing authorities process applications for review without delay, so that both the review applicant and the premises operator know where they stand.

10.4 Carrying out a review

Having given notice of their intention to initiate a review or having determined that a review initiated by a third party should go ahead, section 201 of the Act requires the licensing authority to carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options are to:

- add, remove or amend a licence condition imposed by the licensing authority;
- exclude a default condition imposed by the Secretary of State or Scottish Ministers;
- (relating to, for example, opening hours) or remove or amend such an exclusion;
- suspend the premises licence for a period not exceeding three months;
- revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may take action as described above on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

The licensing authority must hold a hearing, unless the applicant and any person who has made representations that have not been withdrawn (that are not vexatious, frivolous or irrelevant) consent to the review being conducted without one.

Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable
- HM Revenue and Customs.

11. Complaints against Licensed Premises

The Licensing Authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are

encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Licensing Authority will, where appropriate, seek to arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask the Licensing Authority to consider their objections, or for any licence holder to decline to participate in a conciliation meeting.

PART C

Permits / Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

Premises that do not hold a premises licence but wish to provide gaming machines may apply to the Licensing Authority for an Unlicensed Family Entertainment Centres permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238 of The Act).

The Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and still have regard to any relevant issued by the Commission under section 25.

The Guidance also states that "In its Licensing Authority Statement of Policy, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons, licensing authorities may want to give weight to matters relating to child protection issues."

Statement of principles - this Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

The Licensing Authority will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

It should be noted that the licensing authority cannot attach conditions to this type of permit.

If the operator of a family entertainment centre wants to make category C machines available in addition to category D machines, the operator will need to apply for a gaming machine general operating licence (Family Entertainment Centre) from the Commission and a premises licence from the licensing authority (see part 23 of this Guidance).

2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3. Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3))

The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming offered is within the law;
- clear policies that outline the steps to be taken to protect children from harm.

In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

4. Club Gaming and Club Machines Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations made by the Secretary of State. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Commission or the police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

5. Temporary Use Notices

There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises.

This Licensing Authority notes the Guidance for the Gambling Commission which states that; Part 9 of the Act sets out the position in relation to temporary use notices. These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice include hotels, conference centres and sporting venues.

A temporary use notice may only be granted to a person or company holding a relevant operating licence, in effect a non-remote casino operating licence.

Regulations state that temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. However, the facilities may not be provided in circumstances where any person participating in the gaming does so by means of a gaming machine. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

6. Occasional Use Notices:

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

7. Further information

Further information about the Gambling Act 2005, this Policy Document or the application process can be obtained from:-

Licensing Team Cheltenham Borough Council Municipal Offices Promenade Cheltenham GL50 9SA	Tel: 01242 775200 Fax: 01242 264210 E-mail: licensing@cheltenham.gov.uk Website: www.cheltenham.gov.uk/licensing
--	--

Further information may also be obtained from:-

Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP	Tel: 0121 230 6500 Email: info@gamblingcommission.gov.uk Website: www.gamblingcommission.gov.uk Fax: 0121 233 1096
---	--

Department for Culture Media & Sport 2-4 Cockspur Street London, SW1Y 5DH	Tel: 020 7211 6200 General Enquiries Open Monday to Friday 9:30 a.m. – 4:30 p.m. Email: enquiries@culture.gov.uk Website: www.culture.gov.uk
---	--

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	Full Council	Licensing & Regulation Sub-committee (Licensing Panel)	Officers
Licensing policy	X		
Policy not to issue casino premises licences	X		
Fee Setting - when appropriate			X (to be approved by Executive Committee)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Request to review a premises licence			X (in consultation with the Head of Legal Services)
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premise gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

GLOSSARY OF TERMS

Application(s):	Application(s) for licences and permits as required by The Gambling Act 2005 and defined in section 1.5 of this draft policy or an application for a review of such a licence
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005.
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by The Licensing Authority.
Interested Party:	As defined in Section 158 of The Gambling Act 2005. <i>“For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-</i> <ol style="list-style-type: none"> a) <i>Lives sufficiently close to the premises to be likely to be affected by the authorised activities;</i> b) <i>Has business interests that might be affected by the authorised activities;</i> c) <i>Represents persons who satisfy a) or b) above.”</i>
Licences:	As defined in The Gambling Act 2005 and section 1.5 of this draft policy.
Licensing Objectives:	As defined in The Gambling Act 2005.
Mandatory Condition:	Means a specified condition provided by regulations that are required to be attached to a licence.
Notifications:	Means notification of temporary and occasional use notices.
Premises:	As defined in The Gambling Act 2005, being, <i>“Any place, including a vehicle, vessel or moveable structure”</i>
Regulations:	Regulations made under the Gambling Act 2005.
Responsible Authority:	For the purposes of this Act, the following are responsible authorities in relation to premises: <ol style="list-style-type: none"> 1. The Licensing Authority in whose area the premises are wholly or mainly situated (“Cheltenham Borough Council”); 2. The Gambling Commission; 3. Gloucestershire Constabulary; 4. Gloucestershire Fire and Rescue Service; 5. Built Environment Division, Cheltenham Borough Council; 6. Environmental Health Section, Cheltenham Borough Council; 7. Gloucestershire Safeguarding Children Board; 8. HM Customs and Excise.
The Act:	The Gambling Act 2005.
The Borough of Cheltenham:	The area of Gloucestershire administered by Cheltenham Borough Council.
The Licensing Authority	Cheltenham Borough Council in its capacity as Licensing Authority
The Policy Document	Cheltenham Borough Council's statement of principles.

Track

A horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

DRAFT

LIST OF CONSULTEES

Responsible Authorities

Built Environment Division, Cheltenham Borough Council
Environmental Health Section, Cheltenham Borough Council
Gloucestershire Area Child Protection Agency
Gloucestershire Fire and Rescue Service
The Chief Officer of Police

Trade Organisations

Association of British Bookmakers Ltd (ABB)
ASTRA Games Limited
Austin Leisure
British Amusement Catering Trade Association (BACTA)
The British Association of Leisure Parks, Piers & Attractions Limited (BALPA)
British Beer and Pub Association
British Casino Association (BCA)
Business In Sport and Leisure
Casino Operators' Association
Crown Leisure Limited
Gala Bingo
Gamestec Leisure Limited
Ladbrooks
Leisure Link
Paddy Power
Ral Limited
Recaf Equipment Limited
Serendipity Holdings Limited
Steeplechase Company (Cheltenham) Limited
Touch-Tec
The Bingo Association
William Hill

Specialist Licensing Solicitors (National and Local)

Blake Laphorn
Bond Pearce
Christopher Davidson
Gosschalks
Kuit Stewart Levy
Maitland Walker
Popleston Allen
Woods Whur

Other Consultees

Cheltenham Borough Council – Assistant Directors
Cheltenham Borough Council – Strategic Land Use Team
Cheltenham Borough Council Members
Cheltenham Business Partnership
Cheltenham Chamber of Commerce
Cheltenham Crime and Disorder Reduction Partnership
Cheltenham Strategic Partnership
Gamblers Anonymous
Gloucestershire Magistrates Court
Parish Councils

Machine category	Maximum stake (from July 2011)	Maximum prize (from July 2011)
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100 (in multiples of £10)	£500
B3	£2	£500
B3A	£1	£500
B4	£1	£250
C	£1	£70
D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize	10p	£5
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	10p	£15 (of which no more than £8 may be a money prize)

Breakdown of Amendments

1. Updated number of licenses since last policy (page 4).
2. Updated web address for licensing (www.cheltenham.gov.uk/licensing) (page 4, 21).
3. Updated the stake and prize limits for gaming machines;

Old Stakes & Prizes	Updated Stakes & Prizes
Cat B3: Stake £1 Prize: £500	Cat B3: Stake £2 Prize: £500
Cat C: Stake 50p Prize: £35	Cat C: Stake £1 Prize: £70
Cat: D - non-money prize (crane grab machine) Stake 30p Prize: £8	Cat: D - non-money prize (crane grab machine) Stake £1 Prize: £50
Cat: D – combined money and non-money prize (coin pusher or penny falls machine) Stake 30p Prize: £8	Cat: D – combined money and non-money prize (coin pusher or penny falls machine) Stake 30p Prize: £15

4. Following amendments to the consultee list;

From Current Policy	New Consulted Policy
ASTRA Games Limited Austin Leisure BACTA British Beer and Pub Association British Casino Association (BCA) Business In Sport and Leisure Casino Operators' Association Crown Leisure Limited Gala Bingo Gamestec Leisure Limited Ladbrooks Leisure Link Paddy Power Ral Limited Recaf Equipment Limited Serendipidy Holdings Limited Steeplechase Company (Cheltenham) Limited Touch-Tec William Hill	Association of British Bookmakers Ltd (ABB) ASTRA Games Limited Austin Leisure British Amusement Catering Trade Association (BACTA) The British Association of Leisure Parks, Piers & Attractions Limited (BALPA) British Beer and Pub Association British Casino Association (BCA) Business In Sport and Leisure Casino Operators' Association Crown Leisure Limited Gala Bingo Gamestec Leisure Limited Ladbrooks Leisure Link Paddy Power Ral Limited Recaf Equipment Limited Serendipidy Holdings Limited Steeplechase Company (Cheltenham) Limited Touch-Tec The Bingo Association William Hill

This page is intentionally left blank
Page 74

Part 6: Licensing authority Statement of Policy

- 6.1** Section 349 of the Act requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies.
- 6.2** The Licensing Authority Statement of Policy will last for a maximum of three years, but can be reviewed and revised by the authority at any time. The statement must be produced following consultation with those bodies and persons set out in subsection (3) of section 349 of the Act. Regulations made by the Secretary of State, or Scottish Ministers in Scotland, prescribe the form of statements, and the procedure to be followed in relation to them and their publication⁷. The detail of the regulations is further explained below. An order of the Secretary of State means that licensing authorities have to publish their second statement by 14 January 2010.

Fundamental principles

- 6.3** All Licensing Authority Statements of Policy should begin by stating the three licensing objectives, which the policy will promote. The statement should also state that the licensing authority shall aim to permit the use of premises for gambling as set out in section 153 of the Act.
- 6.4** Licensing Authority Statements of Policy should include a firm commitment to avoid duplication with other regulatory regimes so far as possible. For example, a range of general duties are imposed on the self-employed, employers and operators of gambling premises, both in respect of employees and of the general public, by legislation governing health and safety at work and fire safety. Therefore such requirements need not be included in the Licensing Authority Statement of Policy.
- 6.5** In determining its policy, the licensing authority must have regard to this Guidance, and give appropriate weight to the views of those it has consulted. In determining what weight to give particular representations, the factors to be taken into account will include:
- who is making the representations (what is their expertise or interest)
 - relevance of the factors to the licensing objectives
 - how many other people have expressed the same or similar views
 - how far the representations relate to matters that the licensing authority should be including in its policy statement.
- 6.6** In relation to premises licensing, licensing authorities can only consider matters within the scope of the Guidance, Act and Codes of Practice. Even if there is a large response regarding a certain issue, an authority may be unable to deal with the issue under the Gambling Act. However the issue may be a matter for other legislation, for example planning.
- 6.7** It will be up to the licensing authority to ensure that it looks at the views of consultees and considers carefully whether they should be taken into account and to what extent (having regard to the above factors). A licensing authority should always be able to give reasons for the decisions it has made following consultation. Having regard to this Guidance will be important for consistency, especially where licensing authority boundaries meet.
- 6.8** As with the Commission, it is expected that local licensing authorities will regulate gambling in the public interest.
- 6.9** While statements of policy may set out a general approach to the exercise of functions under the Act, no statement of policy should override the right of any person to make an

⁷ SI No. 636: The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006
SI No. 154: The Gambling Act 2005 (Licensing Authority Policy Statement) (Scotland) Regulations 2006

application under the Act and to have that application considered on its merits. Additionally, a statement of policy must not undermine the right of any person to make representations on an application or to seek a review of a licence where provision has been made for them to do so. However if a 'no-casino' resolution has been passed by an authority it does not have to consider applications for new casino premises licences in its area.

'Demand' for gaming premises

- 6.10** Previous legislation required that the grant of certain gambling permissions should take account of whether there is unfulfilled demand for the facilities. Absence of unmet demand is not a criterion for a licensing authority in considering an application for a premises licence under the Gambling Act. Each application must be considered on its merits without regard to demand.
- 6.11** The Licensing Authority Statement of Policy should reflect this situation and not comment on the need for gambling premises.
- 6.12** However, the licensing authority may comment on the location of premises in so far as the location relates to the licensing objectives. So, for example, a Licensing Authority Statement of Policy could, and should, set out the general principles that the licensing authority will apply when determining whether the location of proposed gambling premises is acceptable (with or without conditions) in light of the licensing objectives. For example, a Licensing Authority Statement of Policy might set out that the authority will consider very carefully whether applications for premises licences in respect of certain gambling premises located very close to a school or a centre for gambling addicts should be granted in light of the third licensing objective. Any such policy must, however, come with the qualification that each case will be decided on its merits, and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will have to be taken into account.

Consultation

- 6.13** Section 349 (3) requires the licensing authority to consult the following on the Licensing Authority Statement of Policy or any subsequent revision:
- in England and Wales, the chief officer of police for the authority's area
 - in Scotland, the Chief Constable of the police force maintained for the police area comprising that area
 - one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
 - one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.
- 6.14** The list of persons to be consulted when preparing the Licensing Authority Statement of Policy is deliberately wide. This enables licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the Licensing Authority Statement of Policy.
- 6.15** Licensing authorities will develop their own consultation practices but they may like to consider the following:
- consultation with a range of organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, medical practices or primary care trusts, and advocacy organisations (such as the Citizen's Advice Bureau and trade unions)
 - consultation with other tiers of local government (where they exist)

- consultation with businesses that are, or will be, holders of a premises licence
- consultation with the organisations named as responsible authorities in the Act
- using a variety of consultation methods including meetings with gambling businesses in the local authority area and open forums for the public.

6.16 Any written consultation should follow best practice as set out by the Department for Business, Enterprise and Regulatory Reform including allowing 12 weeks for responses to the consultation⁸. Consultation documents could be provided on the licensing authority's website.

Form and content of the Licensing Authority Statement of Policy

6.17 Regulations made by the Secretary of State or Scottish Ministers set out requirements as to the form and publication of Licensing Authority Statements of Policy and subsequent revisions of statements. In addition to the requirements set out by the regulations (below), this Guidance sets out certain information that the Commission considers should be included in all Licensing Authority Statements of Policy.

6.18 The regulations provide for the form of the statement to be determined by the licensing authority subject to the following requirements:

- Licensing Authority Statement of Policy must contain an introductory section summarising the matters contained within the statement, describing the geographical area to which the statement applies, and listing the persons consulted in preparing the statement.

6.19 As required by the regulations, the statement should make clear the geographical area that it covers. This may be achieved by including a plan of the area covered by the statement.

6.20 The statement should also set out the licensable activities that are covered.

6.21 Statements of principles to be applied by the licensing authority in exercising its functions must be contained in four separate sections within the Licensing Authority Statement of Policy as set out below:

- 1) Licensing Authority Statements of Policy must contain a section that sets out the principles to be applied by the authority in designating, in writing, a body which is competent to advise the authority about the protection of children from harm.

6.22 Section 157 of the Act sets out the responsible authorities. Within this section, the licensing authority has discretion to determine the most appropriate body competent to advise the authority about the protection of children from harm. Such a body may, but not necessarily, be the Local Safeguarding Children Board in England and Wales, or the Child Protection Committee in Scotland. The licensing authority must consider which body best fulfils this function and the Licensing Authority Statement of Policy should set out this consideration, or the criteria the authority intends to use, in order to designate that body in writing.

- 2) Licensing Authority Statements of Policy must contain a section that sets out the principles to be applied by the authority to determine whether a person is an interested party in relation to a premises licence, or in relation to an application for or in respect of a premises licence.

6.23 Section 158 of the Act defines interested parties as persons who:

- (a) live sufficiently close to the premises to be likely to be affected by the authorised activities
- (b) have business interests that might be affected by the authorised activities or
- (c) represent persons who satisfy paragraph a) or b).

⁸ Further information is available at www.berr.gov.uk

- 6.24** Licensing authorities must consider whether a person is an interested party with regard to particular premises on a case by case basis, judging each on its merits. However, an authority may have regard to a number of factors when making its decision. These factors should be set out in this part of the Licensing Authority Statement of Policy. An authority may take into account, for example, the size of the premises and the nature of the activities taking place. Larger premises may be considered to affect people over a broader geographical area compared with smaller premises offering similar facilities.
- 6.25** Licensing authorities should include guidance in their Licensing Authority Statements of Policy whom they consider comes within the category of those who represent persons living close to premises, or have business interests that may be affected by it. For example, this category could include trade associations and trade unions and residents' and tenants' associations. It is expected that the types of organisations that may be considered to have business interests will be given a wide interpretation to include, for example, partnerships, charities, faith groups and medical practices etc.
- 3) Licensing Authority Statements of Policy must contain a section that sets out the principles to be applied by the authority in exercising the functions under Sections 29 and 30 of the Act with respect to the exchange of information between it and the Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 of the Act.
- 6.26** The Act empowers the Commission to seek information from licensing authorities, and places an obligation on authorities to comply with information requests. Specifically, section 29 of the Act entitles the Commission to request information from licensing authorities and to set out the manner in which the information is compiled, collated and provided, providing it:
- forms part of a register maintained under the Act
 - is in the possession of the authority in connection with a provision of the Act.
- 6.27** Section 350 of the Act allows licensing authorities to exchange information with other persons or bodies listed in Schedule 6 (1) for use in the exercise of functions under the Act as follows:
- a constable or police force
 - an enforcement officer
 - a licensing authority
 - HMRC
 - the Gambling Appeal Tribunal
 - the Secretary of State
 - Scottish Ministers.
- 6.28** The licensing authority must set out how it will approach information exchange with other regulatory bodies under the Act, and whether it intends to establish any protocols in this regard. The statement should also include the authority's approach to data protection and freedom of information. In particular, how information will be protected, whether the confidentiality of those making representations will be maintained, what information will be shared with other agencies or persons and how information can be accessed by data subjects.
- 6.29** Further information regarding the exchange of information can be found in part 13 of this Guidance.
- 6.30** For the purposes of their Licensing Authority Statement of Policy, licensing authorities should confirm that they will act in accordance with the relevant legislation and Guidance from the Commission and will adopt the principles of better regulation.
- 4) Licensing Authority Statements of Policy must contain a section that sets out the principles to be applied by the authority in exercising the functions under Part 15 of

the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified in that section.

- 6.31** Licensing authorities are referred to what has been said at paragraphs 5.23 to 5.25 above concerning the Regulators' Compliance Code.
- 6.32** Further guidance on licensing authorities' compliance and enforcement responsibilities is available in part 36 of this Guidance. This has been developed following discussions between the Commission, the police, licensing authorities and other law-enforcement and regulatory agencies to agree respective roles in relation to particular types of gambling and licensed premises.
- 6.33** It is recommended that licensing authorities adopt a risk-based inspection programme. This would include targeting high-risk premises which require greater attention, whilst operating a lighter touch in respect of low-risk premises, so that resources are more effectively concentrated on problem premises. The policy statement should set out the principles to be applied by the authority in respect of such a programme and the criteria the authority is likely to use to determine the level of risk in respect of premises.
- 6.34** Many licensing authorities in England and Wales will have general enforcement policies which are in accordance with the codes of practice developed with the Crown Prosecution Service. Licensing authorities in England and Wales may wish to include in their Licensing Authority Statements of Policy that they will apply these codes in the management of criminal cases.
- 6.35** Part 36 of this Guidance covers more detailed issues such as the agreement of protocols with the local police and the Commission on enforcement issues.

Other matters to be covered in policy statements

- 6.36** In addition to these requirements as set out in regulations, a number of other matters should be included in Licensing Authority Statements of Policy.

Consideration of applications

- 6.37** The authority should set out in its statement what factors it may take into account when considering applications for premises licences, permits and other permissions and matters that it will consider relevant when determining whether to review a licence. This is where considerations such as the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children, should be detailed. Any such policy must, however, come with the qualification that each case will be decided on its merits, so if an applicant can show how they might overcome licensing objective concerns, that will have to be taken into account.

Statement regarding casino resolution

- 6.38** Under section 166(5) of the Gambling Act, any resolution not to issue casino licences must be published in the Licensing Authority Statement of Policy. In addition, the Licensing Authority Statement of Policy should include details about how the authority has taken or will take a decision to pass (or not to pass) a casino resolution.

Statement of principles

- 6.39** If an authority intends to apply a statement of principles when considering applicant suitability for applications for FEC permits under paragraph 7 of Schedule 10, or prize gaming permits under paragraph 8 of Schedule 14 of the Act, it is not obliged to include

those statements as part of the Licensing Authority Statement of Policy, but may want to consider doing so to make them available in one place.

Declaration by licensing authority

- 6.40** Each Licensing Authority Statement of Policy should include a declaration which sets out that in producing the final Licensing Authority Statement of Policy, the authority has had regard to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Commission, and any responses from those consulted on the policy statement. To avoid later challenge, it would be sensible if the licensing authority demonstrated how the licensing objectives and Commission Guidance have been taken into account when drawing up the statement.
- 6.41** Authorities should note that the regulations and this Guidance do not prevent authorities from including any additional information that the authority considers necessary or helpful.

Advertisement of the Licensing Authority Statement of Policy or Revisions

- 6.42** Before publishing a statement or revision, the regulations made by the Secretary of State or Scottish Ministers require authorities to publish a notice of their intention to publish a statement or revision (this must be done no later than the date on which the statement or revision is to be published). The notice must:
- (a) specify the date on which the statement or revision is to be published
 - (b) specify the date on which the statement or revision will come into effect
 - (c) specify the internet address where the statement or revision will be published and the address of the premises at which it may be inspected
 - (d) be published on the authority's website and in/on one or more of the following places:
 - a local newspaper circulating in the area covered by the statement
 - a local newsletter, circular, or similar document circulating in the area covered by the statement
 - a public notice board in or near the principal office of the authority
 - a public notice board on the premises of public libraries in the area covered by the statement.

Publication of the Licensing Authority Statement of Policy or revisions

- 6.43** The regulations stipulate that the Licensing Authority Statement of Policy or any subsequent revision of the statement must be published on the authority's website and be made available at reasonable times for inspection by members of the public either in the principal office of the authority, at one or more public libraries in the area covered by the statement or in other premises situated in that area. The statement or revision must be published at least four weeks before it takes effect.

Review of the Licensing Authority Statement of Policy

- 6.44** The Licensing Authority Statement of Policy will have effect for three years but the licensing authority may review and alter the policy in that period.
- 6.45** Licensing authorities will need to consider, in the event of a change of policy, whether a review of the statement is necessary. For example, a change in planning policy could lead to a review and subsequent revision of a statement (if, for example, a change in planning policy led to family entertainment centres (FECs) where previously there were none, the statement may then be required to make reference to FECs where it was previously silent). Where the statement is reviewed and changes made, authorities must consult on any revision.

- 6.46** Authorities should note that where a statement is revised, it is only the revision that needs to be published and consulted on. So, for example, an authority may consult separately on whether to pass a casino resolution and then subsequently publish the resolution as part of the statement. This can be done without any need to review and reopen consultation on the main body of the statement. Any revisions must be published and advertised in the same way as a new statement.
- 6.47** Regulations provide for the form and content of revisions to the Licensing Authority Statement of Policy to be determined by the licensing authority, subject to the following requirements:
- revisions to Licensing Authority Statements of Policy must include an introductory section at or near the beginning, summarising the matters dealt with in the statement and listing the persons consulted in preparing the revision.
- 6.48** Where the revision deals with any of the matters below, these must be presented in separate sections:
- 1) the principles to be applied by the authority in exercising the powers under section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm
 - 2) the principles to be applied by the authority in exercising the powers under section 158 of the Act, to determine whether a person is an interested party in relation to a premises licence, or an application for or in respect of a premises licence
 - 3) the principles to be applied by the authority in exercising its functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act or
 - 4) the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified in that section.

Additional information to be made available

- 6.49** In order to ensure that applicants and persons who wish to make representations have the necessary information to be able to do so, the information set out below should be made available by licensing authorities as part of their communications strategy.
- 6.50** It should be noted that, unlike the Licensing Act, the Gambling Act does not include as a specific licensing objective the prevention of public nuisance. There is however other relevant legislation which deals with public nuisance. It would be helpful if licensing authorities could explain that objections to new premises or requests for a review should be based on the licensing objectives of the Gambling Act.
- 6.51** It is open to licensing authorities to include any of this information in their Licensing Authority Statement of Policy. However, authorities might think it more appropriate to make it available in another form, such as on the authority website.

Registers

- 6.52** Section 156 of the Act requires licensing authorities to maintain a register of the premises licences that it has issued. The register must be made available, at any reasonable time, to the public who may request copies of the entries. Authorities should ensure that

information regarding the location of the registers (ie on the website, in the council offices etc), when they can be viewed, and the cost of obtaining copies is made available to the public.

Fees

- 6.53** Authorities should ensure that information regarding the fees to be charged, including the level of fees, for applications for premises licences and other permissions under the Act is available to the public.
- 6.54** Separate guidance relating to the calculation of fees and accounting procedures has been produced by the Secretary of State available from the Department for Culture, Media and Sport website (www.culture.gov.uk). In Scotland, all of the equivalent fees will be set centrally by Scottish Ministers⁹.

Applications

- 6.55** Authorities should ensure that information is available on how to make applications for licences and other permissions under the Act. In particular, it would be helpful if authorities ensure that a full list of responsible authorities and their appropriate contact details, is readily available. Application forms, where appropriate, should also be made available. Authorities should note that there will be no prescribed application forms for family entertainment centre, prize gaming or licensed premises gaming machine permits. As such, the authority will need to make clear how applications for these permits should be made and in what form. Additionally, authorities will need to ensure that information regarding making representations, and applying for a review of a premises licence, is also made available.

Delegation

- 6.56** Information should be provided as to how functions are delegated under the Act (ie whether decisions are to be taken by a licensing officer, licensing sub-committee or full committee etc). A table setting out the scheme of delegation required by the Act may be the most appropriate method for this and is located in part 4 of this Guidance.

⁹ Gambling Act 2005 (Premises Licence Fees) (Scotland) Regulations 2007; Gambling Act 2005 (Fees) (Scotland) Regulations 2007; Gambling Act 2005 (Fees No.2) (Scotland) Regulations 2007; Gambling Act 2005 (Fees No.3) (Scotland) Regulations 2007 and Gambling Act 2005 (Fees No.4) (Scotland) Regulations 2007.

Cheltenham Borough Council
Council – 15 October 2012
Business Rates Retention Scheme - Pooling

Accountable member	Councillor John Rawson, Cabinet Member Finance
Accountable officer	Mark Sheldon, Director of Resources
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>To explain the Government's proposals for Business Rates Pooling from April 2013 and seek approval in principle to enter into a Pooling Agreement with all Gloucestershire district councils and the County Council subject to agreement on satisfactory governance arrangements and a full assessment of the risks and rewards.</p> <p>The proposal was endorsed by the Cabinet for recommendation to Council at its meeting on 25th September 2012.</p>
Recommendations	<p>That Council</p> <ul style="list-style-type: none"> a) Agree in principle to be part of a Gloucestershire Business Rates Pool, subject to a thorough assessment of risks/rewards and agreement on satisfactory governance arrangements b) Subject to a) above, to approve the submission of a proposal to the Government for a Gloucestershire Pool by the 19th October deadline c) Delegate authority to the Section 151 Officer and Chief Executive to assess the risks/rewards and agree the business case for joining a Gloucestershire Business Rates Pool d) Delegate authority to the Section 151 Officer and Chief Executive, in consultation with the Borough Solicitor, Leader of the Council and the Cabinet Member for Finance, to agree the governance arrangements for the operation of a Gloucestershire Business Rates Pool.

<p>Financial implications</p>	<p>The Business Rates Retention Scheme forms part of the Government's agenda of localising funding for local government.</p> <p>Pooling of business rates with the other local authorities in Gloucestershire may help retain more funding in Gloucestershire as a whole. It may also help mitigate some of the risks associated with the localisation of business rates. Quantifying these risks and rewards at this early stage is very difficult.</p> <p>There is no obligation for the Council to pool business rates with the other Gloucestershire councils. There is a theoretical benefit of being part of a pool due to the potential for reducing the risk of fluctuations in funding. However, this very much depends on the actual levels of business rates collected across the pool and the governance arrangements agreed by pool members.</p> <p>The exact impact of business rate pooling may not be fully known until the Draft Local Government Finance Settlement is announced in late November/early December 2012. However, a cooling-off period has been built into the Government's timetable to allow councils to finalise their decision in the light of the settlement announcement.</p> <p>Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123</p>
<p>Legal implications</p>	<p>The Local Government Finance Bill has reached the Report Stage in the House of Lords (due 10 October 2012) and subject to the House of Commons agreeing any amendments Royal Assent should follow within a few weeks afterwards.</p> <p>As presently drafted the Bill will insert a new Schedule 7A into the Local Government Finance Act 1988. Schedule 7A will enable the Secretary of State to make regulations designating groups of two or more local authorities for the purposes of retaining business rates locally. The effect of designation will be that the group will collectively be a Relevant Authority and exercise the functions conferred by Schedule 7A.</p> <p>In the absence of the detail of any regulations it is the principle of pooling that is the issue for members.</p> <p>An agreement will need to be put in place between all the authorities in the pool to deal with how the pool will work; decisions are taken and depending on the regulations, include provision for changing membership/lead authority</p> <p>Contact officer: Peter Lewis, peter.lewis@tewkesbury.gov.uk, 01242 272012</p>
<p>HR implications (including learning and organisational development)</p>	<p>None</p> <p>Contact officer: Julie McCarthy, julie.mcCarthy@cheltenham.gov.uk, 01242</p>
<p>Key risks</p>	<p>See appendix 1</p>

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

1. Background

- 1.1 The Local Government Finance Bill was introduced in December 2011 and set out the Government's intention to introduce a Business Rate Retention (BRR) scheme from 01 April 2013.
- 1.2 BRR forms part of a wider policy of decentralisation, aimed at giving councils increased financial autonomy and a greater stake in the economic future of their local area.
- 1.3 Details of the BRR scheme have been provided in a series of consultation documents and other government papers over the last 12 months. The most recent of these is the Technical Consultation published in July 2012 which builds on the proposals in the Government response to consultation published in December 2011, and on the statements of intent published in May 2012. The Government have also published a Pooling Prospectus which outlines the benefits of pooling.
- 1.4 Whilst the Government has provided some clarity on how the BRR scheme will work, there remains a great deal of uncertainty around the actual level of funding councils can expect to receive in 2013/14. This uncertainty may not be resolved until the Local Government Finance Settlement is announced in late November or early December 2012.

Business Rates Retention Scheme

Rationale behind changes to the current funding of local government

- 1.5 The local government finance system is one of the most centralised in the world with councils getting more than half of their income from a central government grant. Under the current funding arrangements, Cheltenham collects business rates from all businesses in the borough and then pays it over to the Government into a central pool. This is then redistributed back to local authorities via a complex funding formula.
- 1.6 This means that councils are not rewarded and have no direct financial incentive to promote and /or facilitate business growth in their area, as any new business rates are paid over to the central pool.
- 1.7 The Government's proposals on BRR enable councils to keep a share of the business rate growth in their area promoting financial autonomy and giving councils a greater stake in the economic future of their local area.
- 1.8 The Government is not proposing to make any changes to the way in which business rates are calculated or paid which will continue to be set nationally. There will also be

no change to the existing mandatory and discretionary reliefs available to eligible ratepayers.

Spending Control Totals, Central & Local Shares

- 1.9 The Government has made clear from the outset that the BRR scheme must not put at risk the deficit reduction programme and should operate within existing spending control totals and be fiscally sustainable in future years. To ensure this, some business rates income would need to be retained by central government. It is proposed that councils can keep 50% of business rates collected (the **local share**), with the remaining 50% (the **central share**) retained by the Government and paid into a central pool and redirected to local government through other grants.
- 1.10 However, the local government spending control totals for 2013/14 and 2014/15 which will be used to establish the BRR scheme start up funding allocation have been reduced based on assumptions around public sector pay and other funding commitments.
- 1.11 The Government is also holding back money to fund the safety net needed to assist authorities whose business rates income falls below a certain level and also to fund the New Homes Bonus scheme. The Government have stated that any money that is not needed will be returned to local government through the Revenue Support Grant (RSG) and other grants.
- 1.12 According to the LGA, the effect of all these changes is that the decrease in the control total for all local government (including police and fire) is 12.2 per cent in 2013/14 and then 8.7 per cent in 2014/15. This is a significantly worse position than the original Spending Review figures which were 0.8 per cent decrease for 2013/14 and 5.8 per cent decrease for 2014/15.
- 1.13 As a result, of the estimated £23 billion of business rates for 2013/14 £10.6 billion will be the local share and £13.5 billion will be the central share.

Operation of the BRR scheme

- 1.14 The Government will calculate each billing authority's **proportionate share** of the estimated £23 billion aggregate business rates. This will establish a billing authority's **business rates baseline** at the outset of the scheme so that no council is worse off. The **proportionate share** of business rates will be based on the average rates income over 5 years from 2007/08 to 2011/12.
- 1.15 Billing authority **business rates baseline** will be split between the billing authority and major precepting authorities. The district share has been set at 80%, with the county share being 18% and the fire and rescue authority share being 2%.
- 1.16 The **baseline funding level** for each authority is then defined as being the authority's **proportionate share** of the **local share** of the estimated aggregate business rates.
- 1.17 Some local authorities collect more business rates than they currently receive in formula grant (which is based on relative need and resources), while the business rates collected by other authorities are lower than their current funding level. It is proposed to rebalance resources at the outset of the scheme through a system of **tariffs and top ups**.

- 1.18 An authority which collected more business rates than its **baseline funding level** would pay the difference to central government as a **tariff**. An authority which collected less business rates than its baseline funding level would receive the difference from central government as a **top-up**. These will remain fixed in future years to ensure that changes in budgets reflect business rates growth.

Levy & Safety Net, System reset

- 1.19 The BRR scheme will protect local authorities from significant reductions in their income through a **safety net** payment. This will be funded by a **levy** on disproportionate growth that some authorities will achieve due to being able to grow business rate income easily in relation to others.
- 1.20 The Government proposes a proportional **levy** ratio at a 1:1 level. This means that for every 1% increase in the individual authority's **business rates baseline** the authority would see no more than a corresponding 1% increase against its baseline funding level. In practice, this means that all **tariff** authorities (e.g. district councils) would pay a **levy**, since by their nature, **top-up** authorities (e.g. county councils) would not be able to achieve more than 1% increase in their baseline funding level for every 1% increase in their individual authority **business rates baseline**.
- 1.21 The Government would pay a **safety net** to authorities who see their income from business rates drop by a set percentage below their **baseline funding level**. It is proposed that this percentage is set in the range 7.5% to 10%. In practice, this means that every local authority would be guaranteed to receive at least 90% to 92.5% of its **baseline funding level**.
- 1.22 The Government has indicated that once the **baseline funding levels** have been set, they will only be amended when the spending needs of councils become out of balance with the resources they receive. At this point, the scheme would be **reset**, which would necessitate a review of **baseline funding levels** for each authority taking into account any changes to relative funding needs and resources.
- 1.23 It is the Government's aim that it does not intend to **reset** the BRR scheme until 2020 at the earliest (except in exceptional circumstances).

Pooling

- 1.24 Under the BRR proposals, local authorities will be able to come together voluntarily to pool their business rates. There are a number of potential benefits to be gained through the pooling of business rates. Pooling business rates:
- provides local authorities with a mechanism to promote jobs and growth, allowing investment decisions to support economic priorities across a wider area
 - encourages collaborative working across local authorities, rather than being constrained by administrative boundaries
 - allows the benefit from investment in economic growth to be shared across the wider area and helps local authorities to manage volatility in income by sharing fluctuations across budgets.
- 1.25 Pooling could, depending on local arrangements and circumstance, place member authorities in a beneficial collective financial position. Pooling could allow the

members of the pool to benefit from the business rates income through off-setting tariffs against top-ups and reduction in levy rates.

- 1.26 Where local authorities come together to form a pool there will be a single tariff or top-up figure, which will be the sum of all the tariffs and top-ups of the individual authorities within the pool. There will also be a single levy rate for the pool, calculated on the aggregate income and growth across the pool. Pooling also means that eligibility for safety-net payments will be calculated at the pool-wide level
- 1.27 The Government has indicated that if local authorities want to pool, they will need to consider the best economic geography (e.g. County-wide, Local Enterprise Partnership-wide)
- 1.28 The Government highlights the link between local authorities and Local Enterprise Partnerships (LEPs). The Growing Places Fund has been allocated to LEPs to generate economic activity, prioritise infrastructure needed to deliver economic strategies, and to leverage in private investment.
- 1.29 An Expression of Interest was submitted to the Government on behalf of all the Gloucestershire councils in July 2012. The proposed Gloucestershire pool is closely aligned to the Gloucestershire LEP and would enable Gloucestershire's local authorities and LEP to work collaboratively using pooling to help deliver their growth objectives.

Governance Issues

- 1.30 When submitting the final proposal to pool business in October 2012, members of the pool will have to consider and agree the governance issues, such as:
 - governance structure for the management of the pool including the decision making process
 - how the pool will share the benefits of growth and the impacts of volatility between member authorities
 - how investment decisions will be made
 - how the pool will ensure transparency of decision making and investment decisions
 - how the pool will handle dissolution etc
- 1.31 Members of the pool will be responsible for any decisions on how to distribute the total business rates within the pool. In doing this, local authorities will need to consider how to distribute any growth in business rate income across the members of the pool.
- 1.32 Pools may look at a number of different distribution options:
 - Simple distribution – members of the pool distribute the aggregate revenue on the same basis as they would have been treated outside the pool (i.e. no individual authority is worse off in the pool)
 - Weighted distribution based on relative growth of each member

- Growth in the pool up to a certain value or percentage is shared, but growth gained by each individual pool member over and above that level is retained by them
 - Distribution prioritised to delivering growth in future years (i.e. growth distributed for investment in new developments).
- 1.33 In designating a pool, one member is to act as lead authority. It is the Government's intention that payments from/to the pool under BRR will be channelled through the lead authority. The lead authority is responsible for supplying any information on behalf of the pool in connection with BRR.
- 1.34 The Government may also attach conditions such as a requirement to publish an annual financial statement showing how the income has been distributed, or what income has been retained within the pool for future investment.

What pooling means for Cheltenham/Gloucestershire

- 1.35 In principle, pooling would help to maximise the resources that can be retained for Gloucestershire. If all the councils in Gloucestershire pooled their business rates, there is a theoretical benefit of a reduced **levy** rate on any disproportionate growth. This is because the **tariffs** paid by the district councils are offset by the **top-up** received by the county council.
- 1.36 In the case of Cheltenham, the **levy** rate is estimated to be around 88%. That means for every £100 of growth in business rates over and above the **business rates baseline**, Cheltenham would retain £12 but would pay a **levy** over to the Government of £88.
- 1.37 The actual benefit will depend on the actual amount of business rates collected by each authority and how this compares to each authority's **business rates baseline**. It is too early to say with any degree of certainty the exact financial benefit that would be gained. However, the table below illustrates the theoretical benefit if the **levy** rate for the pool drops to around 20%.

Authority	Business Rates Baseline (£m)	Spending Baseline (£m)	Tariff / Top-up (£m)	Individual Levy Rates
Cheltenham	22.000	2.500	(19.500)	88.64%
Cotswold	12.000	1.900	(10.100)	84.17%
Forest of Dean	5.000	2.400	(2.600)	52.00%
Gloucester	19.000	3.300	(15.700)	82.63%
Stroud	10.000	2.400	(7.600)	76.00%
Tewkesbury	14.000	1.700	(12.300)	87.86%
Gloucestershire	20.000	67.100	47.100	0.00%
The Pool	102.000	81.300	(20.700)	20.29%

Note: The figures above are illustrative only, based on indicative figures from modelling undertaken, which may be subject to change.

- 1.38 This means that for every £100 of growth in business rates over and above the pool's business rates baseline, the pool would retain £80 but would pay a levy to the government of £20.
- 1.39 Pooling business rates does bring with it some risks. The safety net payment is calculated at the pool-wide level. This means that individual authorities who suffer a large reduction in their business rates (and would meet the safety net criteria individually outside of the pool), may not receive any financial support through the pool. This would be because the overall reduction in the pool is not large enough to trigger the pool-wide safety net payment.
- 1.40 For example, with a safety net set at 7.5%, Cheltenham as an individual authority outside the pool would trigger the safety net with a the business rates it collects falls to 92.5% of the Spending Baseline (i.e. If spending baseline is £2.57m, safety net is triggered when local share of business rates fall to £2.38m). However, for the pool-wide safety net to trigger the pool would need to see the total business rates collected fall below £75.2m – the spending baseline being £81.3m). Therefore, if Cheltenham's business rates are falling but other authority's are increasing, the pool-wide safety net would not trigger.
- 1.41 All of the Gloucestershire councils are working collaboratively to assess the advantages and disadvantages, risks and rewards of pooling business rates. A smaller sub-group of officers from the Gloucestershire councils is currently working through different growth scenarios and modelling the outcomes. Once this work has been completed, we will provide further detailed information to members including an analysis of the benefits, risks & rewards of pooling.
- 1.42 The governance issues are also being explored by officers from the Gloucestershire councils. A draft of the governance arrangements for the Gloucestershire pool will also be provided to members at a later date.

Pooling Timetable

- 1.43 The Government published a timetable in their pooling prospectus outlining the key dates to ensure pools are able to come into effect in April 2013. This is shown in the table below:

27 July 2012	Invitation for local authorities to submit expressions of interest
August 2012	Development of detailed pooling proposals
10 September 2012	Submission to DCLG of firm list of pool members, pool's consideration of impact on other parties, pool's view of emerging governance arrangements and proposed process for final sign-off by each pool member prior to 19 October submission
September 2012	DCLG consults interested parties from those affected by the pooling proposals (responses by 28 September 2012)
24 September 2012	Deadline for responses to the Business Rates Retention Technical Consultation.
19 October 2012	Submission of final pooling proposal including governance arrangements signed off by the Chief Executives and Section 151 officers of each authority in the pool
November 2012 (date subject to timing of draft Local Government Finance Settlement)	Designation of pooling proposals, ahead of publication of draft Local Government Finance Report
December 2012 /	Local authorities to notify DCLG of their intention not to proceed.

January 2013	This must be before statutory consultation on the draft Local Government Finance Report closes.
--------------	---

- 1.44 This means that for the Gloucestershire pool to be in place by April 2013, the formal pooling proposal will need to be signed off by the Chief Executive and Director of Resources before 19 October 2012. This is before we will know the amount of funding Cheltenham can expect to receive for 2013/14. As such, a cooling-off period has been built into the timetable which allows for local authorities to reassess the relative benefits or risks of being part of the pool.

2. Reasons for recommendations

- 2.1 The impact of business rate pooling may not be fully known until late November/early December 2012. However for a pool to be considered a proposal must be submitted to DCLG by 19 October 2012. A cooling-off period has been built into the government's timetable to allow councils to finalise their decision on pooling in the light of the settlement announcement.

3. Alternative options considered

- 3.1 Councils are not required to join a Business Rates Pool, they do so voluntarily. A thorough assessment of the risks and rewards is essential to inform the decision whether to pool or not. The Council may miss an opportunity to increase its funding from business rates or reduce the risk of losses in funding should it not consider the pooling option.

4. Consultation and feedback

- 4.1 Officers have been working with all Gloucestershire councils on pooling of business rates, including the County Council. Consultation has taken place with the Chief Executives and Leaders of Gloucestershire councils, with an expression of interest submitted on behalf of all Gloucestershire councils to the DCLG in July 2012. Further consultative work is scheduled to take place with interested parties over the coming weeks as the government provide further information.

5. Performance management – monitoring and review

- 5.1 Should the Council decide to pool, it will be informed in late November if it has been successful. It must notify the Government in December/January if it decides not to proceed.

Report author	Contact officer: Jayne Gilpin, jayne.gilpin@cheltenham.gov.uk, 01242 264323
---------------	---

Appendices	A Glossary of Key Terms 1. Risk Assessment
Background information	DCLG Business Rates Retention Scheme Pooling Prospectus, July 2012 http://www.communities.gov.uk/documents/localgovernment/pdf/2182704.pdf DCLG Business Rates Retention Technical Consultation, July 2012 http://www.communities.gov.uk/documents/localgovernment/pdf/21825021.pdf

Appendix A – Glossary of key terms

Listed below are the definitions provided in the Government's Technical Consultation document on the Business Rates Retention scheme published in July 2012.

Baseline funding level

The amount of a local authority's *start up funding allocation* which is provided through the *local share* of the estimated business rates aggregate (England) at the outset of the scheme. It will form the baseline against which *tariffs* and *top-ups* will be calculated.

Billing authority

A local authority which bills and collects business rates, for example a district council or unitary council.

Billing authority business rates baseline

Determined by dividing the *local share* of the estimated business rates aggregate (England) between billing authorities on the basis of their *proportionate shares*, before the payment of any *major precepting authority share*.

Central share

The percentage share of locally collected business rates that will be paid to central government by billing authorities. This will be set at 50%. The *central share* will be re-distributed to local government through grants including the *Revenue Support Grant*. This replaces the previous 'set-aside' policy.

Individual authority business rates baseline

Derived by apportioning the *billing authority business rates baseline* between billing and major precepting authorities on the basis of *major precepting authority shares*.

Levy

Mechanism to limit disproportionate benefit. This will be set on a proportionate basis so that an authority never sees more than a 1% increase in its *baseline funding level* for each 1% increase in its *individual authority business rates baseline*.

Local government spending control total

The total amount of expenditure allocated to the local government sector by HM Treasury for each year of a Spending Review.

Local share

The percentage share of locally collected business rates that will be retained by local government. This will be set at 50%. At the outset, the *local share* of the estimated business rates aggregate will be divided between billing authorities on the basis of their *proportionate shares*.

Lower tier share

The percentage of the *local share* that is retained by a billing authority in two tier areas. This will be set at 80%.

Major precepting authority

A local authority that does not collect business rates but is part of the business rates retention scheme. They are county councils in a two tier areas, single purpose fire and rescue authorities and the Greater London Authority.

Major precepting authority shares

Used to establish the proportion of the *local share* that is paid by a billing authority to its major precepting authorities. Also applied to *billing authority business rates baselines* to establish *individual authority business rates baselines* for both billing and major precepting authorities.

Pre-levy income

An individual authority's business rates income minus/plus the *tariff* or *top-up*.

Pre-safety net income

An individual authority's business rates income minus/plus the *tariff* or *top-up*, minus any *levy*.

Proportionate Share

This is the percentage of the actual national business rates which it has collected - on the basis of the average rates collected by authorities over the five years to 2011-12. This percentage will be applied to the *local share* of the estimated business rates aggregate to determine the *billing authority business rates baseline*.

Rate reliefs

The rating system currently provides mandatory relief to charities and other categories of ratepayer (e.g. certain rural ratepayers) and permits authorities to grant discretionary relief to other rate payers. There will be no changes to mandatory and discretionary reliefs as a result of the introduction of the business rates retention scheme.

Relevant shares

The percentage of the total business rates income of a billing authority that is paid to central government in respect of the *central share* and to major precepting authority in respect of *major precepting authority shares*.

Reset

New *baseline funding levels*, new *individual authority business rates baselines* (and therefore new *tariffs* or *top-ups*) are set for each authority to take account of changes in relative need and resource.

Reset period

The years between *resets* in which local authorities are able to retain (after taking into account the *levy* and payments owing to *relevant shares*) the growth in business rates income. It is the Government's ambition that the initial *reset period* will last between 2013 and 2020.

Revenue Support Grant

All authorities will receive *Revenue Support Grant* from central government in addition to its *baseline funding level*. An authority's *Revenue Support Grant* amount plus its *baseline funding level* will together comprise its *start up funding allocation*.

Safety net

Mechanism to protect any authority which sees its *retained rates income* drop, in any year, by more than a set percentage (final percentage will be set between 7.5% and 10%) below their *baseline funding level* (with baseline funding levels being uprated by RPI for the purposes of assessing eligibility for support).

Start-up funding allocation

A local authority's share of the *local government spending control total* which will comprise its *Revenue Support Grant* for the year in question and its *baseline funding level*.

Tariffs and top-ups

Calculated by comparing an *individual authority business rates baseline* against its *baseline funding level*. *Tariffs* and *top-ups* will be self-funding, fixed at the start of the scheme and index linked to RPI in future years.

Tariff authority

An authority with a higher *individual authority business rates baseline* than its *baseline funding level*, and which therefore pays a *tariff*.

Top-up authority

An authority with a lower *individual authority business rates baseline* than its *baseline funding level*, and which therefore receives a *top-up*.

Risk Assessment Appendix 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
	Uncertainty and impact on income streams as a result of the introduction of the business rates retention scheme in April 2013 resulting from the loss of major business and the constrained ability to grow the business rates in the town.	Mark Sheldon	14/09/2012	4	4	16	Accept & Monitor	Join Gloucestershire pool to share the risk of fluctuations in business rates revenues retained by the council. Work with members and Gloucestershire LEP to ensure Cheltenham grows its business rate base.	On-going On-going	Jayne Gilpin Mike Redman	
<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>											

Cheltenham Borough Council

Council – 15 October, 2012

Joint Core Strategy for Gloucester, Cheltenham and Tewkesbury

Report of the Chief Executive

Accountable member	Cllr Steve Jordan, Leader
Accountable officer	Andrew North, Chief Executive
Ward(s) affected	All
Key Decision	Significant
Executive summary	<p>On 24th September, 2012, Council received a report on the outcomes of a housing needs assessment prepared by consultants appointed by the three Joint Core Strategy (JCS) partner authorities. Council resolved to accept the seven recommendations included in the report, but added three further paragraphs at the meeting (those numbered 4, 5 and 10).</p> <p>An identical report (containing the same seven original recommendations) was considered by Gloucester City Council on 27th September, 2012 and by Tewkesbury Borough Council on 1st October, 2012.</p> <p>Whilst Gloucester City Council accepted the report's seven recommendations, it also resolved to object to the additional three paragraphs passed by Cheltenham and has requested that they be reconsidered. Tewkesbury Borough Council also accepted the report recommendations, but passed resolutions similar to those of Gloucester, though relating only to one of the additional Cheltenham paragraphs.</p> <p>This report sets out Cheltenham Borough Council's approach to engaging with and resolving these issues so that the Joint Core Strategy may proceed as swiftly as possible to its next formal stage – the 'Preferred Option'.. Council's acceptance or otherwise of the recommendations below will decide whether we are able to continue with a joint approach alongside Gloucester and Tewkesbury councils or not.</p>
Recommendations	<p>Council is recommended to:-</p> <ol style="list-style-type: none"> 1. Note that the seven recommendations set out in the report to Council of 24th September, 2012, have now been accepted by all three JCS authorities; 2. Note that the additional paragraphs 4, 5 and 10, added at the Council meeting on 24th September, 2012, will be adequately addressed by the original seven report recommendations, or by the ongoing JCS programme, or by the proposal at recommendation 4 below; 3. Accordingly withdraw resolutions 4, 5, and 10 relating to the Council's decisions on "Housing Needs Assessment Report" of 24th September 2012, renumbering the remaining paragraphs to reflect the original seven recommendations standing alone; and

4. Refer to the Council's 'JCS and Planning Liaison Overview and Scrutiny Working Group' the task of evaluating alternative methods of assessing household formation rates over the plan period, feeding conclusions and recommendations into the JCS "Preferred Option" process for consideration by the three JCS Councils.

<p>Financial implications</p>	<p>Any delay in agreeing the JCS is likely to result in difficulties in defending the town against inappropriate development, which would lead to the need to incur significant expenditure in dealing with such applications, including any related appeals or legal challenges..</p> <p>Contact officer: Mark Sheldon, Director of resources, mark.sheldon@cheltenham.gov.uk, 01242</p>
<p>Legal implications</p>	<p>The JCS forms part of the Council's statutory emerging development plan and it is essential to have a 'plan led' system if the planning process is to deliver sustainable growth. The key recommendation in this report is to agree the process by which the objectively assessed need for new homes in the JCS area will be determined.</p> <p>In the absence of an up to date JCS, and supporting Local Plan, Local Authorities are vulnerable to challenge when they are unable to produce a robust 5 year housing land supply (HLS).</p> <p>In the absence of a 5 year HLS, Local Authorities are having imposed upon them, by the Secretary of State, planning permissions which need not necessarily comply with the current or emerging Local Plan or any of the emerging Strategies in the JCS.</p> <p>It is therefore essential that Local Plans and the JCS are progressed expeditiously if the threat of adverse planning decisions being forced upon Local Authorities is to be avoided.</p> <p>Contact officer: Neil Weeks, neil.weeks@teWKesbury.gov.uk, 01684</p>
<p>HR implications (including learning and organisational development)</p>	<p>There are no staffing or Trade Union implications.</p> <p>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242</p>

Key risks

The JCS authorities are preparing the Preferred Option Joint Core Strategy, which is due for consideration by each of the Councils in 2013. It is therefore essential that agreement is reached on the objectively assessed need if they are to continue to progress to the next stage of the document. Should the recommendations be accepted, there will be no financial implications specifically associated with this report, given that the JCS is being prepared from within existing budgets.

Should the recommendations in this report not be accepted, there is likely to be a considerable delay in the production of the Preferred Option document. This could also result in work on the JCS being suspended. The JCS authorities have an up-to-date Risk Register and this is monitored on a regular basis, however, the specific risks associated with this report are:

The additional resolutions subject of objection by Gloucester City Council and Tewkesbury Borough Council are not withdrawn

Should this occur, the preparation of the JCS Preferred Option Document will at best be delayed and possibly fatally damaged. This would complicate and have implications for subsequent examination and adoption of the development plan. Delay in bringing forward the development plan (whether jointly or without the other JCS partners). This will increase the risk of speculative planning applications for all three JCS authorities in advance of the development plan process, with significant financial and staffing resource implications for the authority.

It is also important that the JCS progresses quickly, in order to progress the associated Infrastructure Delivery Plan and Community Infrastructure Levy preparatory work.

The JCS authorities have an up-to-date Risk Register and this is monitored on a regular basis, however, the risks associated with this report comprise:

1. *The additional resolutions subject of objection by Gloucester City Council and Tewkesbury Borough Council are not reconsidered.* Should this occur, the preparation of the JCS Preferred Option Document will be delayed, or quite probably endangered. This would have implications for subsequent examination and adoption of the development plan. Delay in bringing forward the development plan Cheltenham alone will also have implications for ensuring that the development of the area remains plan-led, avoiding speculative planning applications being submitted.
2. **The risks set out in the Council report of 24th September 2012.** These remain generally applicable.
3. Failure to progress the Joint Core Strategy **in a timely way compromises** the preparation of other development plan documents for the authority, **principally our Local Plan.** The JCS is the strategic planning document for the area and it is currently intended that detailed development plan policy will come forward through district based plans.

As the development plan needs to be internally consistent, work on district plans should accord with the policies and allocations within the strategic level JCS.

Corporate and community plan Implications	Any significant delay in progressing the JCS, having particular regard to the provisions of the National Planning Policy Framework (NPPF), will have implications across a range of areas, but would include environmental, social, economic and financial impacts.
Environmental and climate change implications	The JCS will be subjected to a statutory Sustainability Appraisal Process which incorporates the requirements of Strategic Environmental Assessment.

1. Background and Key Issues

1.1 On 24th September, Council received a report on the assessment of housing needs. The report was based on work commissioned by the three JCS authorities from consultants Nathaniel Lichfield and Partners. Incorporating seven recommendations, the report was prepared jointly by all three JCS authorities for subsequent consideration by each Council. The recommendations are reproduced at appendix 2 for ease of reference.

1.2 In addition to resolving to accept the jointly prepared recommendations, in the course of the meeting, Council resolved to add three further paragraphs:

4. Note that household size is key to calculating the number of new dwellings required and there are alternative methods of estimating this which show the trend is broadly static. Officers should investigate the suggestion that using ONS district data to assess average household size across the JCS area would generate housing need of 18,600

5. Note that the demographic led projection based on latest ONS data leads to a projected job growth of 9100 to 11,400

10. That in progressing the JCS, officers are requested to specifically consider

- a. The possible use of the Local Green Space designation as defined in the National Planning Policy Framework (NPPF) (e.g. Leckhampton)*
- b. The continued protection of Green Belt in accordance with the NPPF*
- c. Having a single 5 year supply of land for business and housing that covers the whole JCS area. The 5 year supply should have realistic density of housing and housing supply in terms of the size of dwellings, number of bedrooms, proportion of affordable housing and household size to meet the projected growth and local need.*
- d. The need to recognise and encourage the role of neighbourhood plans in the new planning framework by supporting community groups and parish councils in the development of neighbourhood plans in collaboration with their ward councillors*
- e. Review opportunities for eco settlements within the JCS area as part of the Council overall green policy to stimulate growth in new technologies and seek solutions to create jobs.*

1.3 Gloucester City Council received the report on 27 September 2012, Tewkesbury Borough Council on 1 October 2012. Both councils accepted the report recommendations, but resolved to object to the additional paragraphs passed by Cheltenham Borough Council. The full resolutions of Gloucester and Tewkesbury are reproduced at appendices 3 and 4 respectively.

- 1.4 Gloucester City Council objected to all three additional paragraphs for the following reasons:
- Resolution 4 is considered not to be supported by sound evidence, is contrary to advice from the JCS's appointed consultants¹ and, if acted upon, will lead to the JCS being found unsound. Moreover, recommendation 8 [recommendation 6 from the original report] already covers the main point of this resolution in undertaking to carry out further work to understand trends in household size;
 - Resolution 5 is considered to be simply a statement of fact. Consequently it is unnecessary to resolve to note it;
 - Resolution 10 comprises matters that relate primarily to supply rather than need. The resolution therefore is not relevant to the purpose of the report. Gloucester City Council is particularly concerned about parameter (c) of resolution 10 – the calculating of 5-year housing supply on a JCS-wide basis – as it feels that this may leave Gloucester vulnerable to unplanned development as a result of decisions taken elsewhere in the JCS area.
- 1.5 Tewkesbury Borough Council objected only to resolution 4. The reasons given are broadly the same as those noted in relation to that paragraph by Gloucester City Council.

Officer advice regarding the Council's additions to the 24th September resolution

1.6 Paragraph 4

- 1.6.1 Officer advice given at the 24 September 2012 meeting is accurately noted in the draft minutes of the meeting and remains unchanged. Whilst officers concur generally with the view expressed by both Gloucester City Council and Tewkesbury Borough Council, they also consider that an additional issue should be highlighted. The development plan examination process has the testing of evidence at its heart. The plan must be soundly-based. Any technical information regarding housing need that is to be considered by the JCS authorities must therefore be in the form of defensible evidence, must be based on objective and unbiased analysis and the source of the evidence must be transparent.
- 1.6.2 Moreover, there are formal consultation stages in the plan preparation process – culminating in an Examination in Public - where members of the public and interested parties or organisations may make representations on proposals and the evidence informing those proposals. The housing needs assessment report is not in itself part of a formal consultation process. The next consultation stage of the JCS relates to the Preferred Option version of the plan, and the housing needs assessment evidence will clearly be part of that consultation. It would therefore, at this stage, be inappropriate to admit representations on the evidence base without also inviting public representation from any interested party/parties. Given that the plan is following due process, there is no provision or requirement to invite such representations at this stage. In any event, it is simply not practical to consult widely on every piece of evidence that informs the plan at the point the information emerges, when there is proper provision for this to take place at set stages in the plan preparation process.
- 1.6.3 Acting upon information that may not meet the requirements touched upon at 1.6.1, or which does not accord with due process, would leave the JCS authorities open to procedural or legal challenge, either now or later in the process. Challenge of that nature could at best delay the JCS and at worst, result in work needing to begin afresh at significant cost in terms of time, money and the goodwill of our partners.

¹ This report prepared by NLP and entitled "Review of Representations by the Don't Strangle Stroud Group and Response by Keith Woodhead" was received too late for distribution for the meeting of 24th September.

1.6.4 It is, nevertheless, legitimate for Cheltenham Borough Council to examine the issue of household formation should it wish to do so, in order to satisfy itself that the matter has been explored thoroughly and from various evidential angles. To this end it is proposed that the Council's 'JCS and Planning Liaison Scrutiny Working Group' is requested to take this work forward, potentially with the involvement of the Planning Inspectorate or Planning Advisory Service in the role of "critical friend", and to report its findings into the JCS Preferred Option preparation process for consideration by all three councils in due course.

1.7 Paragraph 5

1.7.1 Officer advice given at the meeting regarding this resolution remains unchanged. Officers concur with the view expressed by Gloucester City Council that it is unnecessary to restate a matter of fact over which there is no disagreement.

1.8 Resolution 10

1.8.1 Officer advice given at the meeting on 24th September, 2012, regarding this resolution remains unchanged. Officers consider that these matters relate primarily to housing supply (constraints, land allocations and so on) rather than need. Members have attended seminars with officers and consultants where the importance of avoiding conflating issues of need with issues of supply has been stressed several times. Members can be assured that all these matters will be properly considered in preparing the Preferred Option version of the JCS. This will, of course, be reported to Council for a decision in due course, where members will have full opportunity to debate not only housing need but housing supply issues. The Preferred Option JCS will be *de facto* the entire draft plan – vision, strategy, policies, proposals, allocations and delivery mechanisms.

2. Reasons for recommendations

2.1 Cheltenham Borough Council has given full commitment to preparing a sound Joint Core Strategy and to progress the plan through to adoption as swiftly and efficiently as possible. The additional resolutions passed at the meeting of 24th September were not intended to delay that process or to cause concern amongst partner authorities. Rather, the resolutions were aimed at addressing matters of particular concern to Cheltenham Borough Council Members. However, officers advise that those legitimate concerns can be adequately addressed as part of the ongoing JCS preparation process, via the JCS and Planning Liaison Scrutiny Working Group', or by adherence to the seven recommendations set out in the original report – recommendations, members should note, that all three authorities have accepted. As, contrary to the intention, considerable concern has clearly been caused to our partner councils, officers advise that there is no reason why the additional three paragraphs should not safely be withdrawn, so that preparation of the Preferred Option JCS can proceed.

3. Alternative options considered

3.1 The inference of the Gloucester City Council and Tewkesbury Borough Council resolutions is that should the three additional amendments subject of this report not be reconsidered, the future of the JCS partnership is in doubt. Given Cheltenham Borough Council's ongoing commitment to the JCS and the need to swiftly prepare the Preferred Option JCS, it is considered that there is no valid alternative course of action likely to allay the concerns of partner authorities.

4. Consultation and feedback

4.1 This report has been prepared as an urgent response to the Council resolutions in Gloucester and Tewkesbury. Whilst there has been no formal consultation on its contents there has been informal discussion with partner authorities and Cabinet as to the proposed course of action.

5. Performance management –monitoring and review

5.1 The JCS and Planning Liaison Scrutiny Working Group may wish to take forward matters referred to at 1.6.4 above and will feed any relevant outputs into the JCS Preferred Option process as they emerge.

<p>Report author:</p>	<p>Andrew North, andrew.north@cheltenham.gov.uk</p> <p>01242 264100</p> <p>Contact officer: David Halkyard, david.halkyard@cheltenham.gov.uk,</p> <p>01242 774988</p>
<p>Appendices</p>	<ol style="list-style-type: none"> 1. Risk Assessment 2. Report recommendations from the 24th September, 2012 meeting 3. Resolution of Gloucester City Council at its meeting of 27th September, 2012 4. Resolutions of Tewkesbury Borough Council at its meeting of 1st October 2012
<p>Background information</p>	<ol style="list-style-type: none"> 1. Report and appendices to Cheltenham Borough Council on 24 September 2012 2. Draft minutes of the Council meeting on 24 September 2012

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
CR33	If the Council does not keep the momentum going with regard to the JCS the policy vacuum left by abolition of the RSS and the resultant delay in projections and framework could result in inappropriate development	Andrew North	10 Aug 2010	5	5	25	reduce	Agreement across Gloucestershire districts to work collaboratively on determining housing and employment projections by the end of 2013. Econometric Housing Model received and analysis undertaken. Seminars for councillors to explain the projections. Decision to consult from all three councils and initial phase of consultation undertaken on development scenarios. Establishment of a member working group.	1 Apr 2013	Mike Redman/David Halkyard	Yes
<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>											

Appendix 2 – Original Report Recommendations

That members:

1. Note NLP's review that the demographic methodology used to establish housing requirements for the JCS area for the period from 2011 to 2031 as part of the "developing the Preferred Option" document, was appropriate at the time, but that the data upon which the methodology relied will not in future be maintained by Gloucestershire County Council and should be based upon Office of National Statistics (ONS) and Department of Communities and Local Government (DCLG) data, because this will be consistently available and subject to on-going updating.
2. Note NLP's commentary and advice regarding the consultation responses.
3. Agree that a demographic projection solely based on latest ONS and CLG data indicates a population growth of 44,700. This would generate housing need of 28,500 dwellings for the JCS area for the period from 2011 to 2031 using NLP's methodology.
4. Agree that "objectively assessed need" for the JCS area should be based upon local job projections and the alignment of housing and employment provision. Also to agree that in preparing the JCS Preferred Option document, further work will be carried out to understand the level of economic growth assumed in the demographic, Cambridge Econometrics and Experian Business Strategies Ltd projections and work with the Local Enterprise Partnership to establish the level of economic growth for the JCS area during the period up to 2031 and the potential implications that this may have on the level of housing required.
5. Note that economic projections from Cambridge Econometrics and Experian Business Strategies Ltd forecast housing provision in a range between 32,500 and 43,220 dwellings to align proposed job growth and housing provision for the JCS area for the period from 2011 to 2031.
6. Agree that in preparing the JCS Preferred Option Document further work will be carried out to understand the current trend in household size and the implications on the level of housing required.
7. Agree that the JCS needs to balance environmental, social and economic issues and that the social and environmental impact of the "objectively assessed housing need" will be considered in preparing the Preferred Option version of the plan.

Appendix 3 – Resolutions of Gloucester City Council at its meeting of 27th September 2012

36 - JOINT CORE STRATEGY - ESTABLISHING THE FULL, OBJECTIVELY ASSESSED NEED FOR DEVELOPMENT

RESOLVED -

1. That it be noted that Nathaniel Lichfield Partners' (NLP) review that the demographic methodology used to establish housing requirements for the JCS area for the period from 2011 to 2031 as part of the "developing the Preferred Option" document, was appropriate at the time, but that the data upon which the methodology relied will not in future be maintained by Gloucestershire County Council and should be based upon Office of National Statistics (ONS) and Department of Communities and Local Government (DCLG) data, because this will be consistently available and subject to on-going updating.
2. That NLP's commentary and advice regarding the consultation responses be noted.
3. That it be agreed that a demographic projection solely based on latest ONS and CLG data indicates a population growth of 44,700. This would generate housing need of 28,500 dwellings for the JCS area for the period from 2011 to 2031 using NLP's methodology.
4. That it be agreed that "objectively assessed need" for the JCS area should be based upon local job projections and the alignment of housing and employment provision. Also to agreed that in preparing the JCS Preferred Option document, further work will be carried out to understand the level of economic growth assumed in the demographic, Cambridge Econometrics and Experian Business Strategies Ltd projections and work with the Local Enterprise Partnership to establish the level of economic growth for the JCS area during the period up to 2031 and the potential implications that this may have on the level of housing required.
5. That it be noted that economic projections from Cambridge Econometrics and Experian Business Strategies Ltd forecast housing provision in a range between 32,500 and 43,220 dwellings to align proposed job growth and housing provision for the JCS area for the period from 2011 to 2031.
6. That it be agreed that in preparing the JCS Preferred Option Document further work will be carried out to understand the current trend in household size and the implications on the level of housing required.
7. That it be agreed that the JCS needs to balance environmental, social and economic issues and that the social and environmental impact of the "objectively assessed housing need" will be considered in preparing the Preferred Option version of the plan.

8. That Cheltenham Borough Council be informed that resolutions 4, 5 and 10 from the proceedings of its meeting on 24 September 2012 regarding the Joint Core Strategy are unacceptable to Gloucester City Council and will cause delay to the Joint Core Strategy and potentially render it unsound.
9. That Cheltenham Borough Council be asked to reconsider resolutions 4, 5 and 10 as a matter of urgency at its Council meeting on 15 October 2012.
10. That Gloucester City Council officers be instructed to report to a future Council meeting on the options for achieving the City's needs in the shortest timescales possible reflecting the duty to cooperate.

Appendix 4 – Resolutions of Tewkesbury Borough Council at its meeting of 1st October 2012

Joint Core Strategy – Establishing the Full Objectively Assessed Need for Development

Recommendations

1. Note NLP's review that the demographic methodology used to establish housing requirements for the JCS area for the period from 2011 to 2031 as part of the "developing the Preferred Option" document, was appropriate at the time, but that the data upon which the methodology relied will not in future be maintained by Gloucestershire County Council and should be based upon Office of National Statistics (ONS) and Department of Communities and Local Government (DCLG) data, because this will be consistently available and subject to ongoing updating.
2. Note NLP's commentary and advice regarding the consultation responses.
3. Agree that a demographic projection solely based on latest ONS and CLG data indicates a population growth of 44,700. This would generate housing need of 28,500 dwellings for the JCS area for the period from 2011 to 2031 using NLP's methodology.
4. Agree that "objectively assessed need" for the JCS area should be based upon local job projections and the alignment of housing and employment provision. Also to agree that in preparing the JCS Preferred Option document, further work will be carried out to understand the level of economic growth assumed in the demographic, Cambridge Econometrics and Experian Business Strategies Ltd projections and work with the Local Enterprise Partnership to establish the level of economic growth for the JCS area during the period up to 2031 and the potential implications that this may have on the level of housing required.
5. Note that economic projections from Cambridge Econometrics and Experian Business Strategies Ltd forecast housing provision in a range between 32,500 and 43,220 dwellings to align proposed job growth and housing provision for the JCS area for the period from 2011 to 2031.
6. Agree that in preparing the JCS Preferred Option Document further work will be carried out to understand the current trend in household size and the implications on the level of housing required.
7. Agree that the JCS needs to balance environmental, social and economic issues and that the social and environmental impact of the "objectively assessed housing need" will be considered in preparing the Preferred Option version of the Plan.
8. Inform Cheltenham Borough Council that their resolution no. 4 is not acceptable to Tewkesbury Borough Council. Officers have investigated the issue of household size and sought advice from the JCS Councils' consultants, which has been provided to members. Cheltenham Borough Council's Resolution 4 is not based on evidence, is contrary to advice from officers and the JCS Councils' consultants and would lead to an unsound plan.
9. Inform Cheltenham Borough Council that Tewkesbury Borough Council considers that Cheltenham Borough Council's resolution 4 would result in an unnecessary and unacceptable delay in progressing the Joint Core Strategy and requests that Cheltenham Borough Council reconsider resolution 4 as a matter of urgency at it's Council meeting on 15 October 2012.

Officers to report to a future meeting on its options to achieve a sound core strategy for Tewkesbury Borough Council in the shortest possible timescale, reflecting the duty to cooperate.

This page is intentionally left blank
Page 110