



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Cabinet

**Tuesday, 24 June 2014
4.00 pm**

Municipal Offices, Promenade, Cheltenham, GL50 9SA

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

Agenda

	SECTION 1 : PROCEDURAL MATTERS	
1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	MINUTES OF THE LAST MEETING Minutes of the meeting held on 15 April 2014	(Pages 1 - 6)
4.	PUBLIC AND MEMBER QUESTIONS AND PETITIONS These should be received no later than 12 noon on the fourth working day before the date of the meeting.	
	SECTION 2 :THE COUNCIL <i>There are no matters referred to the Cabinet by the Council on this occasion</i>	
	SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE	
5.	FINAL REPORT OF THE CEMETERY AND CREMATORIUM SCRUTINY TASK GROUP Councillor Chris Ryder, Chair of the Cemetery and Crematorium Scrutiny Task Group will be presenting the report to Cabinet	(Pages 7 - 30)
	SECTION 4 : OTHER COMMITTEES <i>There are no matters referred to the Cabinet by other Committees on this occasion</i>	

		SECTION 5 : REPORTS FROM CABINET MEMBERS AND/OR OFFICERS	
6.		CONSULTATION ON A NEW MANAGEMENT AGREEMENT AND PROPOSALS TO CHANGE THE COMPOSITION OF THE BOARD OF DIRECTORS OF CHELTENHAM BOROUGH HOMES Report of the Leader	(Pages 31 - 42)
7.		CHELTENHAM ECONOMIC DEVELOPMENT STRATEGY Report of the Leader	(Pages 43 - 52)
8.		2020 VISION FOR JOINT WORKING Report of the Leader	(Pages 53 - 88)
9.		JCS: IDENTIFYING POTENTIAL FOR LOCAL GREEN SPACE WITHIN CHELTENHAM, TOOLKIT AND COMMUNITY WORK Report of the Leader	(Pages 89 - 122)
10.		AIR QUALITY ACTION PLAN Report of the Cabinet Member Development and Safety	(Pages 123 - 156)
11.		CORPORATE ENFORCEMENT POLICY Report of the Cabinet Member Development and Safety	(Pages 157 - 180)
12.		CHELTENHAM LEISURE AND CULTURE TRUST - INTENTION TO AWARD CONTRACT AND UPDATE ON ADMITTANCE TO LOCAL GOVERNMENT PENSIONS SCHEME AND ON TUPE Report of the Cabinet Member Healthy Lifestyles	(Pages 181 - 190)
13.		INTER AUTHORITY AGREEMENT JOINT WASTE COMMITTEE Report of the Cabinet Member Sustainability	(Pages 191 - 198)
		SECTION 6 : BRIEFING SESSION Leader and Cabinet Members	
14.		BRIEFING FROM CABINET MEMBERS	
		SECTION 7 : DECISIONS OF CABINET MEMBERS AND OFFICERS Member decisions taken since the last Cabinet meeting	
		SECTION 8 : ANY OTHER ITEM(S) THAT THE LEADER DETERMINES TO BE URGENT AND REQUIRES A DECISION	
		SECTION 9 : LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS	
15.		LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS The Cabinet is recommended to approve the following	

		<p>resolution:-</p> <p>“That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1, Part (1) Schedule (12A) Local Government Act 1972, namely:</p> <p>Paragraph 1; Information relating to any individual.</p>	
16.		<p>EXEMPT MINUTES Exempt Minutes of the meeting held on 15 April 2014</p>	(Pages 199 - 200)
17.		<p>DISABLED ADAPTATIONS AND EXTENSION TO 23 ENNERDALE RD Report of the Cabinet Member Housing</p>	(Pages 201 - 210)
		<p>Section 10: BRIEFING NOTES LGA Corporate Peer Challenge, 17 -19 September 2014</p> <p>Planned 12 month extension to GEL contract for the provision of business support services to business start-ups in Cheltenham (to follow)</p> <p>Outside Bodies List-Cabinet Member appointments (to follow)</p>	

Contact Officer: Rosalind Reeves, Democratic Services Manager, 01242 774937
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Cabinet

**Tuesday, 15th April, 2014
6.00 - 6.30 pm**

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

Minutes

- 1. APOLOGIES**
Apologies were received from Councillor Rawson.

- 2. DECLARATIONS OF INTEREST**
There were no declarations of interest.

- 3. MINUTES OF THE LAST MEETING**
The minutes of the last meeting were approved and signed as a correct record.

- 4. PUBLIC AND MEMBER QUESTIONS AND PETITIONS**
None.

- 5. REPORT OF THE DOG FOULING SCRUTINY TASK GROUP**
Councillor Penny Hall, Chair of the Dog Fouling Scrutiny Task Group, was invited to address the Cabinet. She briefly gave the background to the review and outlined the work and visits the group had undertaken. She paid tribute to the commitment of those involved, both officers and members. She gave particular thanks to Bev Thomas, Democracy Officer, who had facilitated the work of the group.

On behalf of the Cabinet, the Cabinet Member Housing and Safety thanked the Chair of the Scrutiny Task Group for its report and said that dog fouling was an issue that affected every ward in the town. He highlighted the partnership working which officers were involved in and many of the recommendations would be picked up through this work. He was pleased to take on board all of the recommendations of the group, subject to the service planning and delivery requirements of the commissioning review on the new Environmental and Regulatory Services Division. Cabinet Members also welcomed the report and recognised that whilst this affected all areas there were particular hotspot areas in the town.

Finally, the Chair of the Dog Fouling Scrutiny Task Group thanked Cabinet for its enthusiastic support of the recommendations. She reiterated that it was only a small number of dog owners who were irresponsible but highlighted the dangers

that this could cause. She also emphasised that the scrutiny task group, which was cross-party, had demonstrated that scrutiny can work well.

RESOLVED THAT

1. **The recommendations of the Scrutiny Task Group Report as laid down in paragraph 5.3 of the scrutiny report, and taking into account the officer comments in Appendix 2, subject to the service planning and delivery requirements of the commissioning review on the new Environmental and Regulatory Services Division be approved;**
2. **It be noted that O&S have scheduled a review of the implementation of the recommendations in 12 months time.**

6. QUARTERLY BUDGET MONITORING REPORT (AS AT END FEBRUARY)

In the absence of the Cabinet Member Finance, the Leader of the Council introduced the budget monitoring report which updated Members on the Council's current financial position for 2013/14 based on the monitoring exercise at the end of February 2014. The report covered the Council's revenue, capital, treasury management and the Housing Revenue Account and identified any known variations to the 2013/14 current budget and a position statement on major schemes.

The Leader explained that the Council was in a positive position and the results were encouraging. He highlighted that the budget monitoring report to the end of November 2013 projected an underspend of £444 k which had now been redeployed. The anticipated outturn position was projected to deliver a further budget saving of £11 300. The Leader then emphasised that carry-forward requests would be scrutinised thoroughly.

RESOLVED THAT

the contents of this report including the key projected variances to the current 2013/14 budget and the total projected budget saving of £11,300 be noted.

7. PUBLIC PROTECTION AND PRIVATE SECTOR HOUSING COMMISSIONING REVIEW

The Cabinet Member Housing and Safety introduced the report and explained that the review of public protection and private sector housing was one of a range of commissioning reviews which had been undertaken by the council. A member steering group had been set up to assist with the review and to provide a sounding board to the cabinet lead. The project had faced some challenging timescales and he paid tribute to the work of officers involved. He reported that having completed the assessment of the two proposals he and the project team concluded that neither the shared service nor the in-house proposal would meet the outcomes at the current time. It was instead concluded that a wider in-house proposal be developed to bring into scope all the services under the Environmental and Regulatory Services Division which came into force on 1 April 2014. The Cabinet Member recognised that this review would require some additional support and it was the intention that at outturn a proposal for

additional capacity would be put forward on an invest to save basis.

The Leader added that it had been the right approach to investigate opportunities as they arose and it had shown that officers were prepared to act quickly.

RESOLVED THAT

- 1. the outcomes as set out in appendix 2 be approved.**
- 2. the strategic approach to aligning services within the new environment and regulatory division as set out in section 7 of the report be endorsed.**
- 3. Savings of £114k in 2015/16 with a further £35k in 2016/17 to meet the already identified savings targets built into the MTFS be noted.**
- 4. A report be brought back to Cabinet in September on the delivery plan for the service redesign and associated structural changes on an invest to save basis.**

8. MERGER OF TOWN CENTRE AND CAR PARKS CCTV SYSTEMS

The Cabinet Member Housing and Safety introduced the report which proposed the merger of the Town Centre and Car Parks CCTV systems which was compatible with an upgrade from analogue to digital systems. This would be a more cost effective system and would be monitored remotely by Gloucestershire Police. He added that the scheme would result in cost savings and the scheme would be delivered by the existing unspent capital budget for town centre and car parking CCTV. The Cabinet Member also explained that there would be one maintenance contract to cover a merged system and this would be more cost effective.

The Leader commented that this was a proposal for agreement in principle and the cost implications would be assessed once the tendering process was complete. It would therefore be subject to further scrutiny.

RESOLVED THAT

- 1. the merger and full digital upgrade of the Town Centre and Car Park CCTV systems be approved in principle**
- 2. the temporary extension of the current Town Centre CCTV maintenance contract until procurement processes are completed for the upgrading works be approved;**
- 3. authority be delegated to the Director of Environmental and Regulatory Services in consultation with the Cabinet Member for Housing and Safety, to approve appropriate specification requirements for tender processes, and agree the capital and revenue implications within existing resources**

4. **one contractor is appointed to carry out this agreed work, as well as undertaking the maintenance contract for the merged system be approved**

9. BRIEFING FROM CABINET MEMBERS

The Cabinet Member Sport and Culture informed Members that the Wilson had been put forward for four awards, including in the Leisure and Culture sector. She also informed Members that the County Council's youth activities fund had now been launched. The focus this year would be on young people not in education and the negative effect of alcohol related behaviour especially in the town centre of young people congregating in the town. The process involved the Positive Lives and Positive Participation Partnerships and the voluntary sector and representatives of these would make a decision on the allocation of funding. She also explained that £5 000 of funding would be top sliced for the purposes of financing the training of voluntary youth workers.

The Leader of the Council informed members of the launch of the Community Pride Fund whereby community groups had the opportunity to bid for £5 000 match funding. He also informed that a small pot of funding would be available for special events. The deadline for bids was 23 June and there would be a cross party panel which would adjudicate the bids. This would be reported back to Cabinet in July.

Finally, the Leader wished to put on record his thanks to officers who had supported Cabinet over the last two years and to his Cabinet colleagues for their valuable contributions.

10. DECISIONS OF CABINET MEMBERS

The Cabinet Member Sustainability informed the meeting that he had taken a decision to undertake a trial of mixed plastic recycling at a number of the larger bring sites for a minimum of three months, subject to evaluation criteria being agreed before implementation and to close a number of smaller bring sites on or after 22 August 2014. He informed that a report would be brought back to Cabinet in September on permanent implementation if the trial was successful.

The Cabinet Member Built Environment reported that he had taken a decision to support the request from the owner of the Brewery Site, NFU Mutual, for the authority to consider using its compulsory purchase powers, if necessary to acquire any third party interest to enable the development of the Brewery Site. The decision requested the Director of Environmental and Regulatory Services to undertake the preparatory work required for compulsory purchase process should this be necessary, subject to NFU Mutual underwriting all of the Council's reasonable and proper costs. He also noted that if it was considered by the Director of Environmental and Regulatory Services that it was necessary and appropriate for a CPO to be made, that a report would be taken to Cabinet seeking approval to the making of the order.

The Cabinet Member Housing and Safety explained that he had taken a decision to provide a grant to Cheltenham Housing Aid Centre in the sum of £7500 for the period 1 April 2014 to 31 March 2015. This funding would be used for clients who are moving on from supported accommodation into independent living.

The Leader of the Council reported that he had made the decision, in the absence of the Cabinet Member Finance, to appropriate 29 Crabtree Place under Section 232 of the Town and Country Planning Act 1990 to be held for general purposes under the Local Government Act 1972 for the purposes of the benefit, improvement and development of the Authority's area; and to dispose of 29 Crabtree Place to Cheltenham Borough Homes under Section 123 of the Local Government Act 1972 for £1.00.

**11. LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS
RESOLVED THAT**

In accordance with Section 100A(4)Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 3, Part (1) Schedule (12A)Local Government Act 1972, namely :

Paragraph 3: Information relating to the financial or business affairs of any particular person (including the authority holding that information)

**12. TERMS RELATING TO THE USE OF THE PRINCE OF WALES STADIUM BY
THE CRFC**

The Cabinet Member Sport and Culture introduced the report and outlined the background to the issue. She reported that verbal agreement with CRFC had now been reached and Cabinet agreement was sought on the recommendations outlined in the report.

RESOLVED THAT

The recommendations as laid down in the report be approved.

Chairman

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Cheltenham Borough Council

Cabinet

24 June 2014

Scrutiny Task Group Review - Cemetery and Crematorium Covering Report

Accountable member	Councillor Chris Ryder, Chair of Scrutiny Task Group
Accountable officer	Rosalind Reeves Democratic Services Manager
Executive summary	<p>At its meeting on 25 November 2013 Overview & Scrutiny Committee commenced a review of the Cheltenham Cemetery and Crematorium. A Scrutiny Task Group was set up and the findings and recommendations of that Group are set out in detail in the attached Scrutiny Task Group Report contained in Appendix 2.</p> <p>The O&S committee considered the task group's final report at their meeting on 3 April 2014. They endorsed the recommendations and asked for them to be forwarded to the June meeting of Cabinet.</p>
Recommendations	<p>The O&S Committee recommends to Cabinet that:</p> <ol style="list-style-type: none"> 1. the recommendations in relation to procurement (i-v) be accommodated within the Authority's Procurement Strategy, 2. the recommendations in respect of staff management (ix and x) be implemented by the appropriate Director, 3. the recommendation regarding abatement (xv) is taken forward by the responsible Cabinet Member, 4. the recommendation in respect of legal options (xii) is taken forward by the Borough Solicitor, 5. the recommendations in respect of project management (vi and vii and viii) are included within the Authority's project management processes and procedures, 6. the recommendation in respect of risk management and the Corporate Risk Register (viii) is endorsed by the Authority's senior leadership team, and 7. the remaining recommendations (xi, xiii and xvi) are actioned by Cabinet/appropriate Cabinet Member

<p>Financial implications</p>	<p><i>The Cabinet Member Sustainability indicated that he would request officers to assess the financial implications and include these in a report setting out his response to the recommendations.</i></p>
<p>Legal implications</p>	<p>The recommendations in respect of procurement processes will require legal input when updating the procurement strategy to ensure that any changes made are legally robust.</p> <p>Whilst there can be no certainty for recovery of the losses incurred by the Authority in this matter, One Legal is continuing to explore possible routes for legal redress.</p> <p>Contact officer: peter.lewis@tewkesbury.gov.uk, 01684 272012</p>
<p>HR implications (including learning and organisational development)</p>	<p><i>The Cabinet Member Sustainability indicated that he would request officers to assess the HR implications and include these in a report setting out his response to the recommendations.</i></p>
<p>Key risks</p>	<p>These are outlined in the task group report</p>
<p>Corporate and Community Plan implications</p>	
<p>Environmental and climate change implications</p>	<p>There is no statutory requirement for mercury abatement equipment to be fitted as the cremation sector operates a ‘burden sharing’ approach (the CAMEO scheme). This is because the government’s target for cutting mercury emitted into the environment can be met without the need for all crematoria to fit abatement equipment. The government has set national, rather than local, targets because mercury emissions do not impact directly on the local environment. However mercury is toxic and when released into the environment accumulates in the air and water and has an effect on health via the food chain, particularly when it is deposited in water and taken up by fish.</p> <p>Whilst there is no direct local impact, the council is committed to enhancing and protecting the environment and it would therefore be good practice and support this objective to ensure the abatement equipment is brought into operation.</p> <p>Contact officer: Gill Morris, Climate change and sustainability officer, Gill.morris@cheltenham.gov.uk 01242 264229</p>
<p>Property/Asset Implications</p>	<p>None</p>

Report author	Contact officer: Rosalind Reeves@cheltenham.gov.uk, 01242 774937
Appendices	<ol style="list-style-type: none"> 1. Extract from the minutes of O&S 3 April 2014 2. Task Group report (including its appendices)
Background information	O&S meeting 3 April 2014

Appendix 1

Extract from the Minutes of O&S Committee 9 April 2014-06-09

Cemetery and Crematorium

Councillor Chris Ryder presented the Scrutiny Task Group’s final report following a review set up by the Overview and Scrutiny Committee in its meeting of 25th November 2013.

Councillor Ryder informed the members that a few matters contained in the report were still waiting resolution and hoped that the Cabinet would pursue those items in due course. She highlighted to members that although the cremators were working satisfactorily currently this was without the abatement system and clarity was needed on the implications if the council was to come out the CAMEO scheme.

She thanked her fellow task group members and Rosalind Reeves for her support to the group. The chair also thanked those involved for the excellent practice adopted.

Councillor Roger Whyborn, Cabinet Member, assured the meeting that Cabinet would review the recommendations contained in the report when he would provide his response to the task group report. In the meantime he said that the task group report had been very helpful in highlighting particular issues though there was one or two areas where he felt the task group had not fully understood how the procurement process works. Regarding the reference in the task group report to a Cabinet report in June he clarified that this would not be a report but a briefing paper on the way forward for the cremators.

RESOLVED THAT

The recommendations of the Cemetery and Crematorium Scrutiny Task Group be endorsed for onward recommendation to Cabinet in June.

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SCRUTINY TASK GROUP REPORT

CEMETERY AND CREMATORIUM

APRIL 2014



1. INTRODUCTION

- 1.1 A review of the Cheltenham Cemetery and Crematorium was initiated by the Overview and Scrutiny Committee at their meeting on 25 November 2013 following a request from Councillor Chris Ryder that performance measures at the crematorium needed to be reviewed urgently. In her professional capacity as a florist, she had frequent contact with funeral directors in Cheltenham and she had been made aware of their serious concerns regarding the operation of the new cremators installed at Cheltenham crematorium. The O&S committee agreed to set up a task group and requested that it report back to the committee on a regular basis due to the urgency of the topic.
- 1.2 This report sets out the findings and recommendations arising from the scrutiny review by the scrutiny task group.

2. MEMBERSHIP AND TERMS OF REFERENCE

- 2.1 Membership of the task group:-
- Councillor Chris Ryder(Chair)
 - Councillor Helena McCloskey
 - Councillor Rob Reid
 - Councillor Barbara Driver
- 2.2 Councillor Ryder would like to put on record her thanks to her colleagues on the task group. This was a complex issue to take on in a short space of time and ensure it was dealt with correctly and she felt they worked really well as a cross party team.
- 2.3 A scrutiny registration form was submitted by Councillor Ryder to the O&S Committee on 25 November 2013 and this is attached as Appendix 1. This listed the areas for investigation and the desired outcomes were as follows:
- To ensure Cheltenham Borough Council gain the confidence and trust of their clients, the funeral directors who are invoiced via the council on behalf of the general public.
 - To ensure that Cheltenham Borough Council cremators are working to full capacity and not putting unnecessary pressure on the work force at the cemetery.
 - To ensure the abatement cleansing issue is dealt with.
 - To recommend a solution to the car parking issue.
 - To ensure there is clarity on the budget for this Victorian building and its grounds for any such maintenance issues raised above and not just rely on money in the general property maintenance division.

- To be able to provide a good quality, dignified service to the many families across the Borough and surrounding areas who use these facilities at difficult times in their lives.

3. HOW DID THE TASK GROUP GO ABOUT THIS REVIEW?

3.1 The task group met on five occasions between November and March and spoke to a range of officers involved in the project to install the new cremators, officers working at the crematorium and their clients, the funeral directors. They all contributed to the discussions and were able to respond to members questions or bring back additional information to subsequent meetings. The officers involved were:

- Rob Hainsworth (RH) – the operational manager for bereavement services across four sites in Cheltenham, Tewkesbury and Charlton Kings.
- Mark Woodward (MW) – service development officer at Ubico and Cheltenham Borough Council's project manager of the project to replace the cremators at the Cheltenham crematorium.
- Tom Mimmagh (TM) – property manager responsible for looking after the maintenance of the council's assets.
- Gareth Jones (GJ) - Senior Environmental Health Officer – responsible for monitoring environmental health issues at the crematorium
- Grahame Lewis (GL) – director responsible for the line management of this function at the time of the task group review
- Bryan Parsons (BP) – corporate governance and risk management officer who had been involved since July in assessing and identifying the risks of the project.
- Rosalind Reeves (RR) – Democratic services manager and the facilitator for this scrutiny review.

Members would like to thank all of the officers who attended meetings and contributed to the review.

The Cabinet Member Sustainability, Councillor Roger Whyborn was also involved in our review and we thank him for his input.

4. THE INFORMATION WE GATHERED

4.1 The following paragraphs describe the areas covered in each of our meetings.

4.2 The Task Group met on 17th December 2013 with Lead Officers

In attendance were Grahame Lewis, Rob Hainsworth, Tom Mimmagh, Mark Woodward and Bryan Parsons along with Rosalind Reeves to bring the Task Group up to date with the ongoing issue with the cremators and to be informed on how in 2009 it was decided that CBC would invest in new cremators at the crematorium.

Much discussion took place to enable the task group to understand the process of how the new cremators were put into the Listed Victorian Chapel. We requested a time line of events to allow us a better understanding of actions through these past four years. Mark Woodward as CBC's project manager said he would make this available to us.

We wished to be ensured that at this present time there was not a risk to Chapel users and staff while the one cremator was running and that the staff were comfortable and being monitored when working over and above their normal hours to keep the crematorium open.

4.3 **Wednesday 15th January a meeting was held at Cheltenham Crematorium, within the Chapel Waiting Room at 9am.**

The Scrutiny task group had been invited to a meeting of the Funeral Directors to give them an opportunity to air their concerns regarding the cremators and any other issues they may wish to raise with the task group.

In attendance was Executive Director - Grahame Lewis, Manager of Crematorium & Cemetery - Rob Hainsworth. Property Manager - Tom Mimmagh. Mark Woodward - UBICO. Senior Environmental Health Officer - Gareth Jones, Several Crematorium Officers, Cabinet Member Sustainability - Cllr. Roger Whyborn and Rosalind Reeves, Democratic Services.

There were representatives from bereavement services from: Mason & Stokes. Trenhailes. Co-Operative services. Selim Smiths. Ian George and Norman Trotman and Hughes from Northleach. There were two or three representatives from each company and generally a very packed room of attendees.

A timeline of events which had been requested at the last meeting was on hand for the tasks group's information, this had been produced by Mark Woodward, the CBC's project manager, which proved useful for formulating questions to officers.

Tom Mimmagh gave a technical update on the Cremators and Abatement system, We were informed that since July 2013 there had been two consultant's reports produced. The first report in October had identified deficiencies in the cremators and a number of health and safety issues which had now been addressed. £50,000 had been spent on remedial work. A second consultant's report had been commissioned to validate the work of the first, which reported near the end of December 2013. Tom Mimmagh was hopeful that both cremators would be up and running satisfactory, albeit without the abatement process in place. In addition every brick had been replaced in both cremators. The new system installed had a 15 year life expectancy, subject to routine maintenance requirements.

Gareth Jones advised us that it was not illegal to operate the cremators without the abatement process, and currently the abatement equipment had been temporarily decommissioned as it was interfering with the effective operation of

the cremators. It appears that many crematoriums are operating without abatement in place. In the absence of abatement the council was obliged to pay £50.00 per cremation into a fund 'CAMEO' burden sharing scheme for each cremation which is unabated. Although later questioning revealed a slightly different figure, nevertheless it is a substantial figure for this Council to maintain while the abatement system is not operational. The income that could be achieved from mercury abatement had been costed as an income benefit to the Council in the business case for the project. It was acknowledged that everybody involved wished for a speedy resolution to the problems and the Cabinet Member was aware that the matter was of high priority and was working with officers to achieve a positive outcome.

The views of the Funeral Directors: The Directors were concerned that the council had not consulted with them about the introduction of the abatement process or during the procurement of the new cremators. They felt that they could have contributed to the process by consulting with their industry contacts across the country. They still had no trust in these cremators. They were concerned that new bricks were being replaced in new cremators! Even if both cremators were operating correctly, a cremator may have to be shut down periodically for maintenance purposes, by overloading the one cremator this could possibly risk this one failing too. In an ideal world, three cremators would be in place. They reminded the meeting that it was two years since they had had in their words 'a fully functioning crematorium'. It was mentioned that there were well known Funeral Homes from across Britain that may be interested in seeking to take on the management of crematoria, indeed some already have their own and this may prove a risk to the council. Mark Woodward confirmed that the council had a business continuity plan for the crematorium and invited Funeral Directors to participate, several names came forward.

4.4 **30th January a meeting took place between the Task Group, Rob Hainsworth, Grahame Lewis, Mark Woodward, Tom Mimmagh and Cllr. Roger Whyborn.**

Many questions were answered that came about from the Timeline of events. We were able to view the 'Pink Paper' consultants' reports. Lots of questions flowed from the task group on reading the paperwork, most were answered satisfactorily. It was good to be informed that from 20 January 2014 both cremators had been fully operational. There were still some technical issues to be dealt with, but these did not stop the cremators from working. Between 10 and 11 cremations had been taking place per day. Normal working patterns had resumed and the overtime costs had reduced. Some of the outdoor grounds maintenance team had been trained to work in the Crematorium, partly to cover long-term sickness issues and partly to cover some of the shifts required as a result of the problems that they had been experiencing. Additional agency staff had been employed to ensure that the Cemetery's appearance did not deteriorate as a result of the redeployment of CBC staff. Rob Hainsworth and his team were to be congratulated on their efforts in maintaining a good standard at the crematorium with these issues around them.

4.5 20th February the task group met with Tom Mimmagh and Mark Woodward to review Project Documentation.

The task group wished to view the tender submissions, evaluation criteria and evaluation results which resulted in the selection of the consultant. They also wished to view the evaluation criteria for evaluating the bids for suppliers of the cremators together with a summary of the results showing why Crawfords were selected.

They looked at minutes that had been taken when the tenders had been evaluated and any decisions that resulted from that meeting.

They also viewed much paperwork of project team meetings, showing how the project was managed and examples of the risk register during key stages of the project as well as copies of emails relating to the audit and procurement process. They also asked for copies of reports if any, to Cabinet Member/Board during the project and details of any Cabinet, Cabinet Member or Officer Decisions during the course of the project.

4.6 27th February the task group met on site at the Cemetery with Manager Rob Hainsworth at 8.30am.



The task group reviewed options for future parking for visitors at the Cemetery, especially when attending funeral services, which was causing great problems to the manager and his staff. They did a tour of the cemetery and viewed suggested places for parking. They viewed the overgrown bushes and trees that were damaging headstones.



Before recommendations are made on this subject, the task group were keen to make contact with the relevant officers, especially the conservation officer, to put our views forward and to hear comments. The Chair of the task group has spoken to the Conservation Officer with regard to the suggestion of taking down the flat roofed building, which comprises the waiting room and toilets at the back of the chapel and rebuild with a more sympathetic building to house new cremators and chimney flues which would be in keeping with the Victorian Chapel. This is a complex issue to address, particularly in the context of Bouncers Lane being a listed park containing listed buildings.

- 4.7 We have not yet had the time to hold a meeting with the relevant officers to discuss this through before producing this final report, but would be happy to revisit this as a task group. It is an area to be explored if new cremators could be installed at the Crematorium in the future.



4.8 Our final meeting in March was to finalise our recommendations.

5. OUR CONCLUSIONS

5.1 Selection of the consultant

At the start of the project, the project team acknowledged their lack of specialist knowledge in this area and therefore the need to appoint a consultant was identified and a tender process put in place. The tender process was correctly followed in that evaluation criteria were set and any subsequent bids were evaluated against these criteria. This evaluation was done on an 80% cost: 20% quality basis so any scoring was heavily weighted towards the cheapest bid. We were advised that a thorough evaluation of quality was completed and the successful consultant had the highest quality score according to the evidence presented to us. It was the view of the task group that this weighting was inappropriate given that a fundamental need was to bring in specialist knowledge and experience which was lacking. Given the total cost of the project, the cost of the consultant was relatively small in comparison but vital to the success of the project.

5.2 The task group reviewed the subsequent bids from the three consultants in confidential session. They noted from the documentation supplied that the consultant chosen had significant experience of carrying out feasibility studies at

- crematoria. They were also advised by officers that he was recognised in the industry as an expert and his knowledge was well respected. The task group noted that this consultant appeared to be lacking hands-on experience of project managing operational projects. Part of the scope outlined in the brief for the consultancy work was that the consultants should 'act as Project Managers for the supplying and installation of replacement cremators and associated equipment by the selected suppliers'. We therefore do not understand from the information provided to us why the consultant scored so highly on experience compared with the other tender submissions.
- 5.3 The task group specifically asked officers for notes of any face-to-face interviews with the consultant before he was appointed. Officers were not able to confirm an interview had taken place or produce any relevant documentation. They did provide us with an agenda from the pre contract consultant meeting but acknowledged this was after he had been appointed. Considering it was such an important role the task group was surprised that an interview was not carried out.
- 5.4 We were advised by Rob Bell on 14 March 2014 that officers would put together a full process report in chronological order with supporting documentation as soon as possible. A collection of documents was finally provided to Democratic Services on Monday 24/03/14. We felt the information could have been provided in a more timely and summary format to support our review.
- 5.5 Officers advised the task group that the consultant once appointed went on to do a good job in assisting the council with the tendering process, particularly in producing the tender document. Once the project moved into the design and build phase, the consultant seemed to take much more of a back step with mainly email contact and indeed his contract only required him to make five site visits and he was requested to make an additional site visit. We were advised that the consultant's visits were used to sign off relevant stages of the contract where payments were required and to address any technical issues. As the final stage of the contract was not completed the final payment to Crawfords was not made. Officers advised us that Crawfords were responsible for project managing the design and build of the new cremators and therefore the services of the consultant were not required permanently on site. The task group questioned why the council, having acknowledged that they lacked the specialist knowledge on this type of project, would then rely totally on the company installing them to provide it. Who was monitoring the quality of what was being delivered if the only specialist knowledge on site was Crawfords? We do not believe the poor quality of the work was something that was picked up by the consultant on his visits and only came to light when consultants were brought in specifically for this purpose after Crawfords had gone into liquidation.
- 5.6 One aspect of the project that did concern us was that it was as late as June 2013 before the fine detail of the maintenance contract was being negotiated with Crawfords. We were advised that the costs of the ongoing maintenance was included in the original tender. From their experience in other industries the task group members felt that this maintenance contract should have been negotiated alongside the purchase contract when the council would have been in the strongest negotiating position.

- 5.7 **The task group recommend that on future projects where the council is bringing in a consultant to offer specialist knowledge and experience the evaluation criteria should be set so that this factor is given more weighting than cost and a face-to-face interview carried out.**
- 5.8 **Consideration should be given to putting in place a maintenance contract at the same time as agreeing the purchase contract.**
- 5.9 **The tender process for the design and build of the cremators**
The task group met with officers who took them through the tendering process. Members concluded that appropriate processes were followed culminating in a meeting to evaluate the scores on all the tenders which was attended by the senior manager, Assistant Director, Rob Bell who was responsible for the crematorium at that time. The tenders were evaluated and scored with an 80% cost: 20% quality split. The task group noted that there was no Cabinet Member involvement and we will return to this point later in this report.
- 5.10 A member of the task group with experience of procurement in the computer industry, was surprised to find that the preferred supplier was selected before any site visits were carried out. Once Crawfords had been short listed as a preferred supplier, only one site visit was done. Although the site visited had similarities with Cheltenham, the actual equipment had been installed several years before and therefore was not necessarily a good test of the new equipment that Crawfords would be installing at Cheltenham.
- 5.11 The task group felt the council should have been more proactive in carrying out research themselves on Crawfords' equipment and looking beyond the literature supplied which officers advised was very impressive. When the task group met with funeral directors, the directors said they could have supplied some valuable information by contacting members of their industry across the country. When the task group raised this with officers, they advised that the consultant had consulted with the industry as part of his initial feasibility report. The task group was satisfied that all the appropriate legal and due diligence checks were carried out but there is no substitute for first-hand experience.
- 5.12 **The task group would recommend that on future projects of this size, at least two site visits are carried out to a preferred supplier and preferably another visit to the supplier with the second highest score.**
- 5.13 **Role of the Project Manager and Senior Management Involvement**
The task group were shown a project initiation document drawn up in May 2010 using a standard template. This identified Mark Woodward as the CBC project manager and Rob Bell as the project sponsor. Mark Woodward was keen to point out that once Crawfords had been appointed and the project entered the design and build phase, that Crawfords had a project manager on site and at that point the property services and the crematorium manager were also on site to deal with day-to-day issues. Mark advised us that he only rejoined the project later on.
- 5.14 It appeared from the project documentation that project meetings continued to take place on a regular basis. From the minutes we viewed, these meetings were concerned with resolving day to day issues and problems with the installation.

There appeared to be no senior management involvement in either of these meetings. At some point senior management responsibility for the Crematorium moved from Rob Bell to Sonia Phillips, the Assistant Director Well Being and Culture and later to executive director, Grahame Lewis. We understand management has now been passed to Rob Bell as Managing Director of Ubico. The manager at the crematorium also changed during the course of the project as did legal and property representation on the project team and clearly changes in management at all levels present added complications to any project.

- 5.15 The task group were concerned that no one was standing back from the project at a management level and reviewing high-level risks and issues away from the day-to-day issues. It was only when Crawfords went into liquidation that senior management started to take a very active role in the project team meetings.
- 5.16 The task group contrasted the situation with the crematorium project with that of the other projects operating in the council at the same time. For example the Town Hall and Museum or the Leisure and Culture Trust. On these projects, the project team met regularly and had both senior management and member involvement. Given the significant cost of the crematorium project and the potential impact on the Cheltenham residents if it went wrong, the task group felt that it was lacking this level of project management and management/member steer beyond the day-to-day management on site. It was only when Crawfords went into liquidation that this started to happen.
- 5.17 At the time of the liquidation, the emphasis was on making the cremators fit for purpose through any remedial work. We noted that ex-workers from Crawfords were put in to carry out a lot of the work and the task group did question whether this presented a further risk given that the original quality of the installation was in question.
- 5.18 **The task group would recommend that all projects over a certain cost and time scale need to be fully managed according to the project management procedures adopted by the Council**
- 5.19 **Management of risk and decision-making**
When the task group examined the project documentation they were shown copies of risk logs which were reviewed at the project team meetings. Officers were keen to reassure us during several of the task group meetings that until March 2013 there was nothing to suggest that there were any real problems at the crematorium with Crawfords equipment. Indeed officers felt the project was near completion and on the point of moving from construction into a maintenance contract. It was only when Crawfords went into liquidation and consultants appointed to scrutinise the work that all the problems with the quality of the installation came to light.
- 5.20 The task group also studied the project timeline that had been supplied by officers and maintained during the course of the project which seemed to contradict this view. They noted a number of updates prior to March 2013 that could have started to ring alarm bells and certainly trigger re-evaluation of the risks.

- 5.21 We were advised that the project was added to the corporate risk register in January 2013 which brought it to the attention of the Senior Leadership Team who have a role in monitoring corporate risks and ensuring appropriate actions are taken. At that point it had a score of 16 which increased to 20 in August 2013. The task group suggested that when the crematorium was taken out of operation for two days for the installation of the new equipment, that it, in itself could have warranted an entry on the Corporate Risk Register We appreciate that it is normal for the facility to be closed on certain days for routine maintenance and staff training to take place but this was a complete replacement and therefore posed a far greater risk.
- 5.22 We understand there was a meeting held on the same day as our final meeting on 5 March 2014 with the project team, senior management and the Cabinet Member to review the risk register for the project. We requested a copy of the revised risk assessment resulting from that meeting and we are still waiting to receive this.
- 5.23 **Risks are managed at a high level by the senior manager on a project as well as the day to day project risks and added to the corporate risk register as soon as any high-scoring risks become apparent**
- 5.24 The task group also asked for records of decisions taken during the course of the project and particularly once it was known that problems were being raised. We felt some significant decisions had been taken and it was not easy to see exactly when these decisions were taken and by whom. For example the task group would have expected a report to be produced for Cabinet or the Cabinet Member when the project was first initiated and certainly when Crawfords went into liquidation. In this report officers would have set out the options, and the implications and risks and any decisions will be formally documented. There is also a process within the Council for formally documenting officer decisions. The task group can only speculate the reason for this but possibly the project was underestimated as a routine project and just part of the overall capital maintenance programme.
- 5.25 **The task group recommend that on all significant projects, decisions are logged and brought to the Cabinet or Cabinet Member at the appropriate time so that an audit trail can be maintained.**
- 5.26 **Support for the staff at the crematorium**
The task group were made aware of the tremendous efforts made by staff at the crematorium to try and keep business as usual going during all the problems they were experiencing. They were concerned about the health and safety and well-being of the staff during this difficult period. They were advised by officers that there were regular health and safety inspections to ensure that staff safety was not being compromised. Nevertheless the crematorium manager advised us that it was a very stressful period for the staff and even though the equipment has undergone extensive remedial work, they will still need a significant period of operation before they can be totally confident in the new equipment.
- 5.27 **The task group would recommend that the well-being and health and safety of staff on any operational or maintenance project are treated as a priority**

and regularly reviewed at every project meeting and staff given the opportunity to express their views.

- 5.28 **We also think the crematorium staff should be formally thanked by the Council for their significant contribution to overcome the problems with the cremators.**
- 5.29 **Cabinet Member involvement**
During the task group review it became very evident that there was little member involvement in the project and the task group were surprised at this given the cost of the project and the potential impact if unsuccessful. There was some discussion about whether the Cabinet Member should be involved in the opening of tenders. The task group were advised that in the early 2000s, Democratic Services would have called in an elected member to supervise the opening of tenders. However with the introduction of a more rigorous procurement process, a Procurement Officer took on the responsibility for this supervision. At one point a list of tender openings was displayed in the Members room inviting them to attend but as there was no take-up of this, the process was stopped.
- 5.30 Members acknowledged that the tender opening process could be seen as a purely administrative process and therefore member attendance would not add any significant value. However the task group felt it was essential for the Cabinet Member responsible to be involved in the tendering and evaluation process for a project of this size and to be fully informed before the preferred supplier was selected.
- 5.31 The task group invited the Cabinet Member Sustainability to attend our meetings. He advised us that he started to get more involved in the project when it became clear that the abatement process was having problems. This was a significant issue to him as it would affect the environmental targets that the project was setting out to achieve.
- 5.32 The task group did feel that the setting up of the scrutiny task group was perhaps a trigger for the Cabinet Member to get more involved as Members and the media started to ask more questions.
- 5.33 The Cabinet Member has advised us that he intends to bring a report back to Cabinet in May 2014 when a decision will be taken on the future of the cremators and the way forward. The task group feel that it would be important to consider the logistics of installing an additional cremator in the report, should an analysis of the business continuity plan and future demand indicate a need. The confidential consultant's report produced in December 2013 also asked the important question whether the system is fit for purpose. Even after all the remedial work this must still be a critical question for the report to address.
- 5.34 **The task group request that they are given an early sight of this report in order that they can ask their questions of the Cabinet member before it is made public.**

- 5.35 **The task group recommend that the Cabinet Member should be involved throughout in any significant projects in the area of their portfolio but particularly at the tendering stage.**
- 5.36 **Legal aspects**
The task group raised a number of questions to officers prior to their meeting on the 30 January. This included a request for an update on the current legal situation regarding recompense. They were advised in the co-ordinated written response from officers that “this is an ongoing and confidential issue and members will be briefed once the position is clearer”. The task group requested this again at their meeting on 20 February and this request was passed on to One Legal who produced a confidential advice note on the options for taking any action against the consultant or supplier. We cannot say too much in a public report but the task group were disappointed to learn that as the company went into liquidation there does not appear to be much in terms of redress via any public liability insurance. We understand this is still being pursued.
- 5.37 Officers made us aware that there were other authorities in the same position and the task group felt that every opportunity should be sought to work together with them.
- 5.38 **The task group recommend that legal options could continue to be explored particularly any joint claims with other authorities in the same position.**
- 5.39 **Communications**
The one issue that really concerned the task group was that without Councillor Ryder’s personal involvement in the funeral industry, the problems at the crematorium may not have been brought to the attention of both elected Members and the public. They felt that the Cabinet Member/officers should not hold back in making all Members aware of problems particularly if they could have widespread impact on the residents of Cheltenham. They also felt it was important to make the public aware at an appropriate stage and to issue apologies for any problems with the services.
- 5.40 **All Elected members should be made aware of problems with potential impact across the town and the public kept informed**
- 5.41 **Further improvements at the crematorium**
The scrutiny task group were also keen to consider future improvements at the crematorium, taking into account the listed status of the grounds and buildings, and had a site visit to walk around the grounds in February this year. We were pleased to hear that the crematorium manager has already plans in place to improve the signage, the toilets and the waiting area and we have some suggestions for other improvements. Ideally we would like more time to consider and pursue these ideas but in the meantime they are set out below:
- 5.42 **The Lodge**
If the council does decide to sell the lodge building, then any financial monies should be ring fenced for improvements at the Cemetery & Crematorium.



5.43 Online booking site

As the use of new technology increases, the crematorium should consider having an online booking website. Initially this could be used to view bookings and would assist funeral directors and the public in seeing what slots were available before contacting the crematorium. The task group acknowledge the added value that crematorium staff add during the process but still feel it worth investigating the options for a more automated booking system.

5.44 New Music system

The introduction of a new music system would offer improved facilities and more choice to relatives on the type of music to be played at the services. There would be a cost and a decision would be required on whether to absorb this cost or to increase charges to the customer.

5.45 Install new loop system in the chapel – A member of the task group advised that members of the public can find it difficult to hear people who are using the standing microphone rather than the lapel microphone used by the conductor of the service. This is in both chapels but there seems to be more of a problem in the North Chapel.

5.46 Improve the parking facilities and consider the option of a new car park and improved drop-off points for people with disabilities

5.47 **Overhanging trees and shrubs**

Introduce a new policy which will advise families of an approved list of trees and shrubs suitable for the crematorium and a policy that gives discretion to the manager of the crematorium to limit their growth.

5.48 **Provision of information to the task group by officers**

Officers have attended meetings of the task group and provided information requested to the best of their abilities in tight timescales. The task group is disappointed not to have received answers to certain questions from officers in a suitable time frame and in an appropriate format. We also found it difficult to get clarity on some aspects particularly in the selection of the consultant and whether he was interviewed and we are still not clear who had overall 'project management' responsibilities for the project.

6. **CONSULTATION**

6.1 During the course of this review we have consulted with officers involved in this issue. The Cabinet Member Sustainability attended several of our meetings and had the opportunity to review our draft report.

7. **RECOMMENDATIONS**

7.1 Taking all our findings into consideration, the task group agreed a number of recommendations, namely that:

- i. **On future projects where the council is bringing in a consultant to offer specialist knowledge and experience the evaluation criteria should be set so that this factor is given more weighting than cost and a face-to-face interview carried out.**
- ii. **At an early stage, more opportunities should be provided for the industry (in this case the funeral directors) to input any technical expertise or recommendations, whilst being cautious as to their own agendas.**
- iii. **During the procurement process there should be an agreed adequate period of testing, to confirm that equipment is functioning properly before final payment is made. That the percentage of money retained for this purpose is more significant than the 5 % held back on this project.**
- iv. **Consideration should be given to putting in place a maintenance contract at the same time as agreeing the purchase contract**
- v. **On future projects of this size, at least two site visits are carried out to a preferred supplier and preferably another visit to the supplier with the second highest score.**
- vi. **All projects over a certain cost and time scale need to be fully managed according to the project management principles and procedures adopted by the Council**

- vii. On all significant projects, decisions are logged and brought to the Cabinet or Cabinet Member at the appropriate time so that an audit trail can be maintained.
- viii. Risks are managed at a high level by the senior manager on a project as well as the day to day project risks and added to the corporate risk register as soon as any high-scoring risks become apparent
- ix. The well-being and health and safety of crematorium staff on any operational or maintenance project are treated as a priority and regularly reviewed at every project meeting and staff given the opportunity to express their views.
- x. When dealing with such a significant contract in the future managers should receive full support from their Directors.
- xi. The Cabinet Member should be involved throughout in any significant projects in the area of their portfolio but particularly at the tendering stage.
- xii. Legal options could continue to be explored particularly any joint claims with other authorities in the same position
- xiii. All Elected members should be made aware of problems on projects of this nature with potential impact across the town and the public kept informed
- xiv. The following recommendations for improving the crematorium should be explored:
 - ring fencing any finance secured from the sale of the Lodge for these improvements
 - online booking system, initially for viewing bookings
 - new music system
 - new loop in the chapel
 - improved parking facilities
 - improved drop-off facilities for the disabled
 - introduce a policy on overhanging trees and shrubs
- xv. The abatement cleansing issue is dealt with swiftly as this Council cannot sustain the significant amount of payment into the CAMEO fund for not being compliant, which we are not at this present time.
- xvi. That the crematorium staff are formally thanked by the Council for their significant contribution to overcome the problems with the cremators

8. PROGRESSING THE SCRUTINY RECOMMENDATIONS

- 8.1 In terms of the reference set for us by the O&S committee, we feel confident that these have been met. As a task group we feel it is important that we continue to

monitor the ongoing situation at the crematorium and we would be happy to reconvene if the O&S committee feels it is appropriate.

- 8.2 The task group request that they are given an early sight of the report to Cabinet on this issue in order that they can ask their questions of the Cabinet Member before it is made public.
- 8.3 We would also request that the information requested by the task group and still outstanding is made available as soon as possible.

Report author	Councillor Chris Ryder, Chair of the scrutiny task group Contact officer: Rosalind Reeves, Democratic Services Manager, Rosalind.reeves@cheltenham.gov.uk, 01242 77 4937
Appendices	1. The One page strategy for this review
Background information	None



SCRUTINY TOPIC REGISTRATION

Date: 25th November 2013	
Name of person proposing topic:	Cllr.Chris Ryder
Contact:	01242 526464 07808292143
Suggested title of topic:	Performance measures at Cheltenham Crematorium and Cemetery – Now & in the Future.
What is the issue that scrutiny needs to address?	
<p>To request 'Who project managed' the refurbished cremators, who signed off the works when completed, were they ever completed to the standard that was expected within the contract? Are the cremators running efficiently? Is Cheltenham Borough Council compliant with pollution laws? To look at our risk assessment and policies, regarding cremators. If there were to be an emergency with any of the cremators within the Chapel, how this would be addressed for the safety of the workforce and public. If the cremators had to be shut down, what measures are in place to cover for this eventuality? Would we satisfy the Funeral Homes which may affect users up to a radius of 25 miles or more?</p> <p>Better consultation with clients: Funeral Directors on behalf of the general public.</p> <p>To ensure Ground maintenance is kept in good order with the resources at hand. Can scrutiny look to see if a policy can be adopted to deter the planting of large bushes/trees which cause unnecessary damage to headstones and look unsightly when not maintained by families.</p> <p>To increase car parking areas for mourners.</p> <p>To ensure that we continue to follow CBC policy of 'Duty of Care' to our staff who perhaps go above their call of duty when working within this environment.</p>	
What do you feel could be achieved by a scrutiny review (outcomes)	
<p>To ensure Cheltenham Borough Council gain the Confidence and Trust of their Clients, the funeral directors who are invoiced via CBC on behalf of the general public.</p> <p>Ensure that Cheltenham Borough Council Cremators are working to full capacity. Not putting unnecessary pressure on work force at the Cemetery. Ensure the Abatement cleansing issue is dealt with. To recommend a solution to car parking issue. Cheltenham is fortunate to have this Victorian Building and Grounds. A clear budget needs to be addressed for such maintenance issues raised above, not just rely on money in the general property maintenance division.</p>	

<p>To be able to provide a good quality dignified service to the many families across the Borough and surrounding areas that use these facilities at difficult times in their lives.</p>	
<p>If there a strict time constraint?</p>	<p>This is an urgent topic to be addressed</p>
<p>Is the topic important to the people of Cheltenham?</p>	<p>Very important</p>
<p>Does the topic involve a poorly performing service or high public dissatisfaction with a service?</p>	<p>I understand that the workforce within this division at CBC has performed their duties admirably so that a decent standard of service has followed. Some Funeral Directors may have a different view on the matter, but praise the staff, especially the Manager. There is always room for improvement.</p>
<p>Is it related to the Council's corporate objectives?</p>	<p>Yes</p>
<p>Any other comments:</p> <p>I am happy to lead/be a member to discuss this important topic, to find solutions to questions being asked about the maintenance programme within this sensitive area.</p>	

Cheltenham Borough Council

Cabinet – 24 June 2014

Consultation on a new Management Agreement and proposals to change the composition of the board of directors of Cheltenham Borough Homes

Accountable member	Leader, Councillor Steve Jordan
Accountable officer	Pat Pratley, Deputy Chief Executive
Ward(s) affected	None
Key Decision	Yes
Executive summary	<p>Over the last 6 months Cheltenham Borough Homes (CBH) Board has been reviewing its business plan.</p> <p>The headline outcome from the review thus far has confirmed that CBH is a high performing organisation and is well positioned in terms of local need. What is also clear is that CBH has diversified its operation over the last 5 years as it has successfully moved beyond its core landlord service delivery and achievement of the decent homes standard.</p> <p>The Board has confirmed that CBH’s current business plan is sound in terms of its core vision. The Board’s desire now is to build upon CBH’s robust foundations whilst creating a business model where opportunities can be taken to enhance and expand existing services to meet the needs of the community.</p> <p>There is also a desire, expressed by CBH as well as CBC, to continue to deliver the current new build programme as well as identify further opportunities for developing and delivering affordable/social housing. It will therefore be important for CBH to position itself appropriately to continue to perform as a 3 star ALMO, to build upon its successful new build programme, as well as equipping itself to deliver against an enhanced and exciting diversified service agenda.</p> <p>In light of the above the CBH Board has also been considering its current governance arrangements, including potential changes to its board composition and updating its management agreement, to facilitate/underpin the future direction of travel. Any proposed changes to the board composition and management agreement will need to be consulted upon and this is outlined in more detail in the report.</p>
Recommendations	<p>1. Cabinet is recommended, for the purposes of consultation, to:</p> <p>1.1 Endorse the strategic direction of the CBH business plan</p> <p>1.2 Endorse the principle of amending the term and content of the Management Agreement, as outlined in section 3, in order to facilitate the delivery of the CBH and HRA business plans;</p>

- 1.3 **Endorse the principle of reducing the CBH board size from 15 to 10 as outlined in section 4 of the report; and**
- 1.4 **Endorse the principle of changing the composition of the CBH board to facilitate the delivery of the CBH and HRA business plans.**
- 2. **Cabinet is recommended to:**
 - 2.1 **authorise the Deputy Chief Executive to make early contact with the Secretary of State and to undertake, in conjunction with CBH, consultation with tenants, leaseholders and other stakeholders for a minimum of 6 weeks in relation to the proposed changes to the CBH board and the management agreement.**
 - 2.2 **Cabinet is recommended to request the relevant Directors from CBC and the Chief Executive of CBH to consider options for further collaboration for sourcing support services over the period of the extended management agreement**
 - 2.3 **Cabinet is recommended to endorse a further report being brought back to the September 2014 Cabinet on the outcome of the consultation together with any proposed changes before seeking the Secretary of State’s consent in accordance with s27 Housing Act 1985.**

<p>Financial implications</p>	<p>As per the body of the report.</p> <p>Contact officer: Mark Sheldon, Director of Corporate Resources <i>Mark.Sheldon@cheltenham.gov.uk, 01242 264123</i></p>
<p>Legal implications</p>	<p>When CBH was set up in 2003, the Council sought and obtained the Secretary of State’s consent to enter into a Management Agreement in accordance with s27 of the Housing Act 1985. The legal advisors to CBH, Trowers & Hamlins and One Legal have agreed that such consent is required for the changes set out in this report and have agreed that Tenant consultation will be undertaken to help inform the Secretary of State as part of the consent process. The process requires the council to give the Secretary of State one month’s notice of the changes and it is therefore proposed to make early contact with the Secretary of State after this meeting. The tenant consultation can then take place with the intention to bring a report back to Cabinet for final determination. At that time, Cabinet will be informed of any representations made by the Secretary of State.</p> <p>Any changes to the CBH Board composition will also require amendments to the Articles of Association of CBH which will need to be approved by the Leader, as representative of the sole member (the council).</p> <p>Contact officer: Shirin Wotherspoon, <i>Shirin.wotherspoon@tewkesbury.gov.uk, 01684 272017</i></p>

HR implications (including learning and organisational development)	<p>No direct HR implications arising from the content of this report for Cheltenham Borough Council</p> <p>Contact officer: Julie McCarthy Julie.mccarthy@cheltenham.gcsx.gov.uk, 01242 264355</p>
Key risks	See attached risk register
Corporate and community plan Implications	<p>The Council's corporate plan has 5 overall strategic objectives. The role that CBH plays in the community and economy of Cheltenham is reflected in the strategic objectives for both Strengthening our Communities and Strengthening our Economy.</p> <p>As well as its ALMO responsibilities CBH's objectives are firmly rooted in developing communities that both feel safe and are safe and CBH also plays a critical role in people having access to both affordable and decent housing. In turn, residents who live in strong and thriving communities, and who feel able to fully contribute to society in its widest sense, contribute to Cheltenham having a strong and sustainable economy.</p>
Environmental and climate change implications	<p>There are no direct environmental and climate change implications arising from this report. However, the report does identify opportunities for CBH business planning, which includes building new homes and providing high quality, fit for purpose, existing homes to meet housing need. In undertaking these activities CBH will need to take account of the potential environmental and climate change impacts and address them in both design and implementation.</p> <p>The report also proposes changes to Clause 2 of the Management Agreement. To ensure CBH is aligned with the council's response to environmental and climate change issues it is suggested this incorporates reference to the council's objective of enhancing and protecting the environment and the associated outcome of reducing carbon emissions and adapting to climate change.</p>
Property/Asset Implications	<p>There are no direct property implications. Future development opportunities will be reviewed by the joint programme group.</p> <p>Contact officer: David Roberts David.roberts@cheltenham.gov.uk; 01242 264151</p>

1. Background

- 1.1** Cheltenham Borough Homes (CBH) has, over the last 6 months, been reviewing its business plan. The headline outcomes so far are that CBH is a high performing organisation and is well positioned in terms of local need. It is also clear that the role of CBH has expanded over the last 5 years and it has begun a successful transformation beyond its core landlord service delivery operation to an organisation which has, with the support of CBC, enhanced and expanded its core services in order to meet the needs of the community.
- 1.2** CBH has now successfully delivered a number of new build developments, eg, Brighton Road, St Pauls Phase 1 and recently successfully completed the first phase of garage sites. CBH is also in the process of delivering St Pauls Phase 2 and has been successful on a number of occasions in securing Homes and Communities Agency (HCA) funding to support new build schemes. The current new build programme continues to be a high priority for CBH and CBC.
- 1.3** There is now a desire, expressed by CBC as well as CBH, to create a pipe-line of development opportunities for the delivery of affordable/social housing to be built through the HRA. CBH is also working closely with the Council's housing enabling and planning teams to understand the Borough's future demand for social housing.
- 1.4** With regard to tenant services, CBH has used revenue investment to enhance its core service provision, eg, through employment initiatives, money and benefit advice, re-engineering its services to tenants following the welfare reforms and, supporting tenants so that they avoid hardship as a result of the reforms to the welfare system. The investment means that CBH continues to perform well with regard to its housing management role and there has been no detrimental impact on services to tenants.
- 1.5** As CBH has been updating its business plan it has been considering the future governance arrangements necessary to underpin a new direction of travel. This report outlines suggested changes to the size and composition of the CBH board as well as proposed changes to the Management Agreement which CBH and CBC believe are necessary to facilitate the delivery of the CBH business plan.
- 1.6** The proposed changes to CBH board composition and the Management Agreement require Secretary of State consent in accordance with s27 of the Housing Act 1985 and consultation with tenants and other stakeholders is not only good practice but a requirement of the HCA with regard to such changes.

2. CBH Business Plan

- 2.1** The CBH Board started reviewing its 10 year business plan in December 2013. There has been an ongoing dialogue with CBC as the business plan refresh has progressed and two workshops with the Council's Cabinet and Senior Leadership Team took place earlier this year.
- 2.2** In summary the feedback from the workshops captured CBC's aspiration for CBH as:
 - 2.2.1** Continuing to deliver and develop its core housing services and maintenance of its housing stock functions to a high standard
 - 2.2.2** Continuing to recognise the potential for CBH to support the Council's commissioning role and local aims
 - 2.2.3** Continuing the new build programmes; and
 - 2.2.4** The potential for CBH to support the broader requirements of social housing need in the future.

- 2.3 In terms of business development the workshops identified the following opportunities for CBH business planning:
 - 2.3.1 Building new homes to meet local housing need
 - 2.3.2 Providing high quality, fit for purpose, existing homes to meet housing need
 - 2.3.3 Service development/enhancement opportunities linked to social-economic issues as well as improving health and outcomes for an ageing population
 - 2.3.4 An increased awareness/need to work in a more commercial way
 - 2.3.5 The opportunity to deliver services on behalf of others as well as to customers within a whole community (tenure blind)
- 2.4 CBH have identified 3 strands of strategic delivery as emerging through their business planning process;
 - 2.4.1 People – making a difference to peoples’ lives
 - 2.4.2 Homes – providing high quality homes
 - 2.4.3 Communities – shaping strong communities
 - 2.4.4 There is also a developing understanding of what employees think it means working for CBH, ie, a “can do culture”, customer focussed and employer of choice.
- 2.5 The above outlines at a broad level the proposed strategic direction for CBH which will form the basis of the further refinement of its business plan.
- 2.6 As Cabinet is also considering at this meeting the Vision 2020 project, it will be important for Members to consider the future role for CBH in the context of that major transformation project. Furthermore, given the councils overall projected funding gap and pension position of both organisations, there may be potential for CBH and the council to consider how they may collectively address financial pressures over the extended life of the management agreement.
- 2.7 **Cabinet is therefore recommended, for the purposes of consultation, to endorse the strategic direction of the CBH business plan. (Recommendation 1.1)**

3. CBH Management Agreement and HRA Business Plan

- 3.1 The Management Agreement sets out the relationship between CBC and CBH. In March 2003, the council, under s27 of the Housing Act, and with approval from the Secretary of State, agreed that CBH should exercise the council’s powers in relation to housing management and the Management Agreement is the contractual relationship between the two organisations. This agreement was renewed in September 2009 and expires in 31 March 2020.
- 3.2 In view of the proposed strategic direction of CBH with regard to service development and diversification, as well as an ambition for an increased role in the delivery of affordable housing, it is necessary to provide a greater degree of certainty to the CBH Board as to the duration of the Management Agreement with CBC. In addition, as both service and market development have been highlighted as areas for business growth it will be necessary to ensure that the Management Agreement can facilitate the delivery of the CBH business plan and the HRA business plan.

- 3.3 In light of the development of CBH's portfolio of services over recent years, CBH's role as a registered provider (RP) and the requirements placed upon RPs, together with the strategic direction which the business plan will determine, a review of the current Management Agreement has been undertaken and the following changes are proposed following that review:
- 3.3.1 Clause 2 of the agreement which sets the context will need to be updated to reflect the current context to include CBC as a commissioning council, the delivery of outcomes and the strategic needs for housing. Clause 4 which sets out tenant, resident and leaseholder involvement needs to be updated to reflect the new guidance for RPs and to reflect mechanisms already in place for consultation and community involvement. Tenant scrutiny arrangements are now built into the governance arrangements and it is important that this function is fully reflected within the management agreement. Clause 29 should also reflect the new arrangements with regard to complaints and the establishment of the designated panel.
- 3.3.2 CBH is an RP and therefore there are a number of obligations which fall on them through housing inspection. The relevant clauses within the Management Agreement will need to be updated to reflect this role. The Agreement will also need to have new sections for CBH Services which is managing the new build programme. In addition the list of activities included in the associated schedules will need to be updated to reflect any services which have been 'pass-ported' to CBH such as housing options which is currently undertaken via a separate contract.
- 3.3.3 If CBH's work expands beyond HRA activities consideration will need to be given as to the use of surpluses which may be generated by the company. There will also need to be a clause included in the agreement about the consultation with CBC with regard to the location of office premises, to ensure that services continue to be delivered locally to residents.
- 3.3.4 The agreement also needs to be updated to reflect the council's shared service arrangements for the use of support services. CBH use these support services which means that costs can be shared across the two organisations.
- 3.3.5 The council has been taking significant steps to reduce the cost of support services by working with partner councils. The council's accommodation plans provide a catalyst and an opportunity for the council to work together with CBH to improve and further share support services which may deliver savings to both the council and tenants, demonstrating value for money, as well as improving services and service resilience.
- 3.3.6 It is important that this ethos is reflected over the course of the management agreement. As such, it is recommended that the Chief Executive of CBH and the relevant Directors from CBC and CBH consider options for further collaboration for sourcing support services over the period of the extended management agreement.
- 3.3.7 **Cabinet is recommended therefore to request the relevant Directors from CBC and the Chief Executive of CBH to consider options for further collaboration for sourcing support services over the period of the extended management agreement. (Recommendation 3)**
- 3.4 As many of the activities which CBH will be undertaking on behalf of the council are long term ambitions requiring significant investment CBC and the CBH Board would wish to see the term of the Management Agreement extended for 30 years (2044).
- 3.4.1 The current HRA Business Plan runs until 2042 and so there is an alignment on the time period, which will enable a review of the HRA business plan ahead of the Management Agreement coming to an end. However inevitably with such long-term planning there will need to be review periods built into the HRA Business Plan and Management Agreement to ensure that the direction of travel is still fit for purpose given the conditions prevailing at the time of such reviews.

- 3.4.2** Section 27 of the Housing Act 1985 requires consultation to take place with regard to the proposed changes to the management agreement and this is referred to in more detail in the legal implications of this report.
- 3.4.3** Cabinet is only being asked at this time to endorse the principle of amending the term and content of the Management Agreement for the purposes of engaging with tenants and stakeholders through consultation. A further report outlining the results of the consultation process will be brought back in the autumn at which time appropriate recommendations will be made.
- 3.5** **Cabinet is therefore recommended, for the purposes of consultation, to endorse the principle of amending the term and content of the Management Agreement, as outlined in section 3, in order to facilitate the delivery of the CBH and HRA business plans. (Recommendation 1.2)**

4. CBH Board Composition

- 4.1** As a consequence of developing the CBH Business Plan and the proposed future strategic direction for CBH as a company, the CBH Governance Working Group have considered whether changes to the CBH Board composition should be proposed.
- 4.2** In July 2012 Cabinet considered a report regarding the potential for reducing the size of the CBH Board however at that time no reduction in board number or composition was proposed.
- 4.3** The matter has been reconsidered in conjunction with the business planning process and the proposals outlined below therefore reflect the outcome and feedback from discussions held between the Leader, who represents the authority as the sole member of the CBH company (equivalent to a shareholder in a company limited by shares), and CBC Chief Executive in conjunction with the Chair and Chief Executive of CBH. The proposal is:
- 4.3.1** The size of the Board to be 9 members, plus the Chair, so a reduction in total from 15 to 10
- 4.3.2** 2 Council nominated Members
- 4.3.3** A minimum of 3 tenant representatives with the aspiration that 1 of the 3 would be a leaseholder;
- 4.3.4** The opportunity for 2 co-optees (non-voting) at any time – based on business requirements and succession planning.
- 4.4** In recognition of the recent and proposed future diversification of CBH business linked to the emerging Business Plan, and as a product of the maturing overall business, a skills based approach is being taken to Board member roles and responsibilities. It is felt that a reduced size and more flexible composition will enable efficiencies and provide increased focus for the strategic role of Board in steering CBH forward. This is also in accordance with current sector best practice in governance.
- 4.5** Since CBH was originally set up there have been a number of changes to the way that tenants engage with the work of the company, including the establishment of a Tenant Scrutiny Improvement Panel (TSIP) and the designated complaints panel which involves tenants. CBH have also invested significant time and resource into tenant involvement and community development, which enables tenants to have a wider say in the way that services are delivered to them and enables tenants to shape what happens within their own community. Therefore, although the proposals for the board composition will see a reduction in the number of tenants, there are now other mechanisms for tenants to become engaged in the work of CBH.

- 4.6** Changes to CBH's Board composition do not require formal statutory consultation with tenants under the provisions of the Housing Act 1985. However, given the total nature of the proposed changes the legal advisors of CBH and the council have agreed that Secretary of State consent in accordance with s27 of the Housing Act 1985 is required and the Secretary of State expects consultation as part of the approval process. In addition as an RP there are requirements set by the HCA with regard to consulting tenants on board changes. Any changes to the CBH Board composition will require amendments to the Articles of Association of CBH which will need to be approved by the Leader, as representative of the sole member (the council).
- 4.7** CBH's Strategy Committee on 14 May 2014 were updated by CBH Chief Executive on the proposals for external consultation and that consultation would take a broad approach covering three areas; the developing CBH Business Plan, the Management Agreement and the CBH Board size and composition
- 4.8** **Cabinet is therefore recommended, for the purposes of consultation, to:**
- 4.8.1** **Endorse the principle of reducing the CBH board size from 15 to 10 as outlined in section 4 of the report (Recommendation 1.3); and**
- 4.8.2** **Endorse the principle of changing the composition of the CBH board to facilitate the delivery of the CBH and HRA business plans. (Recommendation 1.4)**
- 5. Alternative options considered**
- 5.1** The council could consider amending the management agreement to reflect changes since it was drafted and agreed but to not extend the term. It is felt that this would not secure the longer term planning which CBH may require in order to meet its business and investment needs. The management agreement, as written, does have a clause which allows it to be extended for up to 5 years ie 2025, but again this would not meet the longer term needs.
- 5.2** The council could decide to reduce board membership but to keep the board composition as it is ie equality between the three categories of board members. However this might mean that the membership of the board would not necessarily have all the skills and capacity required to deliver the strategic ambitions for CBH as a thriving and modern company.
- 6. Consultation and feedback**
- 6.1** Cabinet is being asked at this point to endorse the principles of amending the Management Agreement and changing the CBH board composition subject to consultation. Following the consultation process, which will last approximately 6 weeks, a further report will be brought to Cabinet in September. The results of the consultation process, together with any recommendations from the Secretary of State, will be taken into account before any final decisions are taken by the Council.
- 6.2** The purpose of the consultation will be to collect resident and partner feedback on the key identified elements. A broad range of methods will be adopted to capture the views of the diverse resident population and partners in the statutory and voluntary sector in Cheltenham.
- 6.3** Consultation will begin late June 2014 and continue on throughout July. Consultation will be co-ordinated via the CBH Community Services team and CBC Strategy and Engagement Team. Both teams will work closely together to design and co-ordinate the consultation process.

- 6.4 CBH Strategy Committee was keen to ensure that the consultation process presented proposals as opposed to a set of agreed items. The committee was also keen that tenants must be given a choice and that consultation could be achieved in the broadest sense. Therefore, a wide variety of opportunities will be used to engage with tenants and other stakeholders, eg, through community events, resident groups, community locations, service delivery contacts and partnership events.
- 6.5 The draft consultation plan will be discuss with the relevant Members and will be considered at the CBH board away day on 25 June.
- 6.6 Once any decision has been taken to make changes to the Management Agreement and board composition formal consent in accordance with s27 of the Housing Act 19985 will be sought from the Secretary of State who will have a month to approve any proposed changes.
- 6.7 **Cabinet is therefore recommended to**
 - 6.7.1 **Authorise the Deputy Chief Executive to make early contact with the Secretary of State and to undertake, in conjunction with CBH, consultation with tenants, leaseholders and other stakeholders for a minimum of 6 weeks in relation to the proposed changes to the CBH Board and the Management Agreement. (Recommendation 2)**
 - 6.7.2 **Endorse a further report being brought back to the September 2014 Cabinet on the outcome of the consultation together with any proposed changes before seeking the Secretary of State’s consent in accordance with s27 Housing Act 1985. (Recommendation 4)**
- 7. **Performance management – monitoring and review**
 - 7.1 The Management Agreement with CBH is monitored through regular officer meetings and update meetings with the Cabinet lead. The CEO and Chair of CBH meet with the CEO of CBC and the Leader on a regular basis to ensure that company issues as opposed to service delivery issues are dealt with on a frequent basis. The Cabinet lead meets with relevant officers on a frequent basis to discuss CBH operational performance.
 - 7.2 CBH and CBC senior leadership teams meet twice a year to consider joint strategic issues and these are supplemented with “blue skies” events where the Cabinet, CBC senior officers together with CBH Board and senior officers come together to consider future planning and direction for CBH.

Report author	Contact officer: Pat Pratley, Deputy Chief Executive <i>Pat.pratley@cheltenham.gov.uk; 01242 775175</i>
Appendices	1. Risk Assessment
Background information	n/a

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 CBH does not have a business plan, setting out its strategic direction, it will not achieve the outcomes the Council wishes to see from its ALMO	Pat Pratley	24.6.14	3	4	12	Reduce	Continue the strategic engagement between CBH and CBC to ensure there is alignment on direction of travel	1.10.14	Paul Stephenson	
2	If the Management Agreement is not up to date then the relationship between CBH and CBC will be unclear	Pat Pratley	24.6.14	3	4	12	Reduce	Update Management Agreement taking account of stakeholder consultation and response from Secretary of State	30.11.14	Pat Pratley	
3	If the proposals for changing the size and composition of the CBH Board are not consulted upon then tenants may feel that their views have not been listened to	Pat Pratley	24.6.14	4	3	12	Reduce	Consultation process should will use a broad range of methods to capture views of the stakeholder groups and give respondents a choice	1.10.14	Paul Stephenson	
4	If the CBH board composition and capacity do not reflect the future direction of travel then the Board may lack the skills necessary to support and challenge the executive team	Pat Pratley	24.6.14	4	3	12	Reduce	CBH Board composition changes have been aligned to the future direction of travel. Job descriptions will be created for all board members	1.10.14	Paul Stephenson	
5	If future opportunities for collaboration on support services are not considered then it may	Pat Pratley	24.6.14	3	3	9	Reduce	Regular dialogue will take place between CBH CX and the Director of Corporate	Ongoing	Mark Sheldon	

	mean that value for money may not be achieved							Resources regarding potential for taking a collaborative approach to sourcing support services			
<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>											

Guidance

Types of risks could include the following:

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

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

Risk ref

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

Risk Description

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

Risk owner

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

Risk score

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

Control

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

Action

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

Responsible officer

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

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

Transferred to risk register

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

Cheltenham Borough Council
Cabinet – 24th June 2014
Cheltenham Economic Development Strategy

Accountable member	Leader of the Council
Accountable officer	Wilf Tomaney , Townscape Manager. Tracey Crews, Head of Planning
Ward(s) affected	All
Key Decision	No
Executive summary	<p>The current Economic Development Strategy (EDS) is out of date and no longer fit for purpose. In order to inform the drafting of the Cheltenham Plan, assist with implementation of the policies of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and to engage effectively with emerging Local Enterprise Partnership (LEP) initiatives, the Council needs to replace its EDS, providing a strong analytical evidence base which clearly sets out the Council’s aspirations for the local economy and identifies through an action plan how these can be delivered.</p> <p>The EDS will enable the Council to better understand and more accurately forecast sector growth, inform new employment land allocations, and target business advice.</p>
Recommendations	<ol style="list-style-type: none"> 1. To agree the draft brief for consultants’ expressions of interest at Appendix 2 which will form the basis for the tender brief for the Economic Development Strategy for Cheltenham; 2. To authorise the Director of Environmental and Regulatory Services to undertake the procurement process; 3. To approve the transfer of £10,000 from the Economic Development reserve, to assist in funding the project.
Financial implications	<p>This is a one-off project with funding allocated from the Economic Development reserve.</p> <p>Contact officer: Nina Philippidis, Accountantnina.philippidis@cheltenham.gov.uk, 01242 264121</p>
Legal implications	<p>The procurement process will need to comply with the Contract Rules. In developing the new EDS it will be important to have appropriate alignment with the Cheltenham Plan, JCS and SEP.</p> <p>Contact officer: peter.lewis@tewkesbury.gov.uk, 01684 272012</p>

HR implications (including learning and organisational development)	There are no staffing or Trade Union implications. Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242 264355
Key risks	
Corporate and community plan Implications	The proposed procurement of an updated economic strategy will enable the council to deliver on the following outcomes: <ul style="list-style-type: none"> • Cheltenham has a strong and sustainable economy; • Cheltenham’s natural and built environment is enhanced and protected.
Environmental and climate change implications	The strategy will inform the Cheltenham Plan which is subject to a statutory Sustainability Appraisal Process that incorporates the requirements of Strategic Environmental Assessment.
Property/Asset Implications	There are no property and asset implications Contact officer: David Roberts@cheltenham.gov.uk

1. Background

- 1.1** Cheltenham is a thriving town with a population of 116,080 (2012) and productivity levels above the national average. Its economy continues to grow, innovate and diversify. There are a wide range of educational and employment opportunities, a year round programme of festivals and events, a strong cultural and sporting profile and a high quality retail offer.
- 1.2** The current Economic Development Strategy (EDS) 2007- 2017 is no longer fit for purpose. Its focus is descriptive more than analytical, and it does not concentrate on delivery of solutions to problems. It no longer ties in with the borough level strategy and vision and fails to support Cheltenham’s emerging economic priorities or provide the appropriate evidence base for the emerging Cheltenham Plan. The borough faces a number of economic challenges, in particular, there is a need to:
- provide evidence to underpin policies and proposals in the Cheltenham Plan, and so seek ensure that the borough’s “offer” of developable commercial sites is not compromised as pressure to bring forward sites for housing within the urban area continues to increase;
 - relatedly, maintain a proper spatial and strategic balance between housing and commercial development to ensure the economic performance of the town is maintained and continues to grow;
 - align with the Gloucestershire Local Enterprise Partnership’s Strategic Economic Plan (SEP) and with the policies and proposals of the emerging Joint Core Strategy;
 - raise the profile of Cheltenham as a key commercial location and support sector growth;
 - compete successfully with other local and regional business locations;
 - increase levels of entrepreneurship and support small business growth; and
 - ensure commercial stock is fit for purpose and is ‘future-proofed’ to accommodate changing working practices.
- 1.3** By setting out the Borough’s updated economic priorities, the EDS will shape the emerging Cheltenham Plan; the long term spatial plan for the Borough that will guide the scale, type and location of future development, help to deliver the policies of the Gloucester, Cheltenham

and Tewkesbury Joint Core Strategy, further inform economic development team priorities as well as further align with the SEP.

2. Process

- 2.1 Preparation of an economic development strategy requires the application of technical and professional expertise that is not available in the current staff establishment. It will therefore be necessary to procure consultancy support in preparing the strategy. A draft brief for expressions of interest from consultants is attached as appendix 2
- 2.2 To help fund the project, it is recommended that £10,000 be transferred from the Economic Development earmarked reserve (balance as at 1st April 2014 £14,200). Officers are seeking information that will clarify, in broad terms, the budget requirements for a project of this nature. At time of writing this information is awaited and it is intended that a verbal update will be provided at the meeting. Expressions of interest will enable a clear estimate of costs to be obtained before proceeding to formal procurement.

3. Alternative options considered

- 3.1 In – house delivery of the Cheltenham EDS – The project could not be delivered within existing capacity.
- 3.2 A bid was submitted to the Local Government Authority for support to commission an EDS. The bid was unsuccessful.

Report author	Contact officer: alice.welham@cheltenham.gov.uk, david.halkyard@cheltenham.gov.uk 01242 775176 / 01242 774988
Appendices	<ul style="list-style-type: none"> 1. Risk Assessment 2. Draft brief for consultants’ expressions of interest in preparing the Economic Development Strategy for Cheltenham.
Background information	

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the Built Environment division does not put proper controls in place for the management of commissioning an EDS we run the risk of funding not being used as efficiently as possible	Economic Development Officer	June 2014	3	3	9	Reduce	Monitor successful consultant in line with protocols.	ongoing	Economic Development Officer	Implementation of protocols has reduced the likelihood to 2.
	Without an EDS it may be difficult to resist proposals to develop employment sites for other uses, and to ensure, via linkage with the development plan, that future provision comes forward in a planned way.	Head of Planning	June 2014	3	4	7	Reduce	Ensure that Cheltenham EDS is part of evidence base of emerging development plan.	End 2014	Head of Planning	
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

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Cheltenham Borough Council

Outline Brief¹ for Expression of Interest in preparation of an Economic Development Strategy for Cheltenham.

1. Background

- 1.1. To inform the Joint Core Strategy² (JCS) and to engage effectively with emerging Local Enterprise Partnership (LEP) initiatives, the Council needs to revise its Economic Development Strategy (EDS) so that it provides a strong analytical evidence base, clearly sets out the Council's aspirations and identifies through an action plan how these can be delivered.
- 1.2. The current EDS sets out a series of actions, but fails to show how these are to be delivered or to tie them to the borough level strategy and vision.
- 1.3. The possibility of widening strategic and evidential gaps is of considerable concern and is a central driver behind procuring an up-to-date economic strategy for the town. This gaps are:
 - between the forecast-based economic evidence procured by the JCS and the LEP's emerging high-level growth strategy – understanding how these marry up and what they mean for Cheltenham in terms both of spatial and sector requirements;
 - between the LEP's countywide/sub-regional economic growth perspective and the more nuanced and detailed district perspective – understanding how the borough's assets and "pull" factors can be made the most of, and how the "local" perspective can influence the higher-level strategy;
 - between the continued pressure to release employment land within the borough for housing development and the desire to retain new start-ups and attract new businesses into the town – understanding in depth the dynamics of why this is happening and what can be done to address the problem.
- 1.4. Having regard to these factors, the Council wishes to procure an innovative economic strategy for Cheltenham that seeks to close these gaps while focussing on a targeted vision for economic growth and development in Cheltenham, reinforcing the Borough's locational, spatial and sectoral strengths..

2. Objectives

- 2.1. We want to enable targeted and flexible sectoral growth, facilitated through implementation of local plan initiatives; funding and promotional activity; and other policy-based mechanisms available to the authority and its partners – such as the Chamber of Commerce, Cheltenham Task Force and Federation of Small Businesses.
- 2.2. To achieve this, the main aim of the EDS will be to identify strengths and weaknesses in the town's economy so that sectors suitable for targeted growth can be identified.
- 2.3. Using this information the EDS will then:
 - a. Provide an understanding of the land requirements, business support needs and aspirations of existing employers in Cheltenham – particularly in light of steady pressure to release existing underutilised sites for housing development;
 - b. Identify how the Council can support the existing buoyant pattern of start-up businesses and attract and retain new business into the town; and
 - c. Establish a sound basis for delivering new strategic employment sites as part of major mixed use development on urban extension sites around Cheltenham.

¹ This Outline Brief does not constitute a contract and is without prejudice to any decision of Cheltenham Borough Council.

² Being prepared jointly by Cheltenham, Gloucester and Tewkesbury to provide the strategic planning context, policies and land allocations of the Local Plans for the area.

3. Outcomes

3.1. Key outcomes are:

- a. An EDS that will help the Council assist the LEP in developing and implementing its high level vision together with a series of objectives and locally nuanced targets which help Cheltenham and its employment catchment area.
- b. An EDS that is a sound evidence base for the development plan policies which will manage and safeguard employment land. This will:
 - Ensure there is sufficient availability of suitable sites to enable small business start-ups and retain them as they grow;
 - Help to protect sites essential for this strategy which may be vulnerable to redevelopment for housing; and
 - Ensure that the right type of land and buildings are available for relocating and new business on new development sites.

3.2. To help achieve these higher level objectives, other outcomes are likely to include:

- the diversification of local employment base;
- job creation;
- retention of skills;
- influencing the local education sector to enable alignment of skills with the employment base;
- retention of the younger working-age population;
- building on existing high-tech manufacturing and aerospace;
- encouraging growth of green industries;
- building on tourism and retail; and
- expanding our arts and culture offer.

4. Monitoring and Review

- 4.1. The dynamic and fluctuating nature of the economy and employment market will be recognised in the EDS and a methodology for ongoing indicator-based monitoring and periodic review set out in the proposal.

5. Consultation

5.1. The EDS cuts across a number of functional and administrative boundaries:

- it is a planning document and a delivery document;
- it will be a focus for developing funding bids;
- it is Cheltenham-focussed so must consider the aspirations of its community and businesses but must look wider to those of its neighbours and partners not least because of the extent of the town's employment catchment area, the role of the LEP and the involvement of the Borough in the JCS.

6. Timeframe

- 6.1. The project will inform the JCS and, in particular, the draft Cheltenham Plan. The submission version of the JCS is due to be published for public consultation during the summer of 2014 with Examination slated for spring 2015. It is anticipated that a consultation draft Cheltenham Plan will follow later in 2014. Outputs of the strategy will be delivered over the Local Plan period to 2031 and beyond.

7. Expressions of Interest

7.1 In the first instance the council requires:

- an outline of the key components of the proposed EDS together with identification of any issues relating to the brief, the procurement or preparation of a sound evidence base and/or related matters. The flagging of opportunities, where they exist and are not identified above, for potential synergy with other initiatives would also be helpful;
- a timescale for production of each component and for preparation of the strategy overall together with outline identification of the “critical path” of dependant tasks;
- a fee proposal for the overall project, which may, where possible, be broken down per component. In terms of consultation and attendance at working group meetings an hourly or day rate for consultant assistance should be set out; and
- a resume of experience of undertaking similar projects for local government or other public-sector organisations.

8. Contacts and further information

8.1 Further information on:

Latest ED Strategy - www.cheltenham.gov.uk/site/scripts/download_info.php?fileID=959
Gloucester, Cheltenham and Tewkesbury Joint Core Strategy - www.gct-jcs.org
Gloucestershire LEP - www.qfirst.co.uk

Contacts at Cheltenham Borough Council:

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Cheltenham Borough Council
Cabinet – 24 June 2014
2020 Vision for Joint Working

Accountable member	Councillor Steve Jordan, Leader
Accountable officer	Andrew North, Chief Executive
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>The council already has a track record of working in partnership with other councils. As the next logical step on this journey consideration has been given to a broad strategic direction for further collaboration with Cotswold DC, Forest of Dean DC and West Oxfordshire DC. Set out at appendix 2 is a vision for how this may be taken forward, and this report is seeking approval to develop a more detailed business case and to seek funding from government through the Transformational Challenge Award process.</p> <p>The vision is for a number of Councils, retaining their independence and identities, but working together and sharing resources to maximise mutual benefit leading to more efficient, effective delivery of local services. The four councils already have a track record of developing innovative arrangements irrespective of traditional District, County or Regional boundaries. The approach set out in the report builds on that firm foundation and provides a very strong basis to support a new model for local government. It will provide efficient collective shared officer support arrangements able to provide distinct and bespoke advice to a cluster of independent Councils focused around existing District Council localities without the need to consider political mergers. This model is scalable not only in terms of numbers of partners but also in the scope of services.</p>
Recommendations	<p>Cabinet to:</p> <p>Note the contents and the broad strategic direction for joint working as set out within the 2020 Vision for Joint Working (Appendix 2).</p> <p>Approve the establishment of a 2020 Vision Programme Board consisting of one Councillor Representative from each Council.</p> <p>Authorise the 2020 Vision Programme Board to develop a programme plan; business case; and consider any efficiency savings that could be delivered for 2015/16 with a further report to partner councils in Autumn 2014.</p> <p>Authorise the 2020 Vision Programme Board to submit applications to the Transformation Challenge Award for additional funding support</p> <p>Approve the allocation of Transformation Challenge Award funding to</p>

support the development of the programme.

Confirm that Cheltenham Borough Council act as Accountable Body for authorising expenditure against the programme on the unanimous recommendations of the 2020 Vision Programme Board

<p>Financial implications</p>	<p>All costs associated with developing the proposals to the next stage can be met from the grant awarded under the Transformation Challenge Award Fund.</p> <p>If Councils approve the development of a programme some additional staffing resources will be required to support its development. Any backfilling of substantive posts on a temporary basis will be funded from the Transformation Challenge Award grant.</p> <p>Indicative savings for this Council are identified within Appendix 2 although it must be acknowledged that these are 'high level' at this stage. A more detailed financial evaluation of the business case will be undertaken if approved.</p> <p>Contact officer: Mark Sheldon, Director Resources, mark.sheldon@cheltenham.gov.uk, 01242 264123</p>
<p>Legal implications</p>	<p>As mentioned in the Vision 2020 paper (appendix A) although there are a number of innovative employment models within local government, a model which has no council retained/employed staff will be ground breaking. It will be necessary, therefore, to give further detailed consideration to a number of legal issues as this project develops, particularly in respect of the following areas of law:</p> <ul style="list-style-type: none"> • Restrictions on local authorities outsourcing statutory decision making functions; • Role and employment of Statutory Officers (Head of Paid Service, Monitoring Officer, s151 Officer); • Procurement compliance; and • Potential conflicts of interests between commissioners and deliverers. <p>If Councils approve the development of a programme, some additional staffing resources will be required to support its development. Any backfilling of substantive posts on a temporary nature will be funded from the Transformation Challenge Award grant.</p> <p>Contact officer: shirin.wotherspoon@teWKesbury.gov.uk, 01684 272017</p>

HR implications (including learning and organisational development)	<p>If Councils approve the development of a programme, some additional staffing resources will be required to support its development. Any backfilling of substantive posts on a temporary nature or specialist additional support will be funded from the Transformation Challenge Award grant. The vision, as proposed, raises a number of significant employee relations issues that will need to be worked through. Key to ensuring the success of the vision will be effective change management and employee/trade union communication programmes.</p> <p>Contact officer: Julie McCarthy, HR Manager julie.mccarthy@cheltenham.gov.uk, 01242 264355</p>
Key risks	As set out in appendix 1
Corporate and community plan Implications	<p>The report supports the corporate objective of ensuring we provide value for money services that effectively meet the needs of our customers. The report meets VFM 11 in the 2014/15 action plan “We will explore new ways of working with our partner councils via the transformation project. Receive a report on whether there are further savings which might be delivered through the expansion of shared services and delivery models”</p>
Environmental and climate change implications	<p>There are no implications arising from this report but in developing the business case environmental and climate change implications will need to be considered as shared services can lead to an increase in car travel.</p>
Property/Asset Implications	<p>The accommodation strategy has taken account of shared working and any new accommodation would be flexible to meet future needs.</p> <p>Contact officer: David Roberts@cheltenham.gov.uk</p>

1. Background

- 1.1 Set out in Appendix 2 is the vision for joint working endorsed by Leaders and Portfolio Holders responsible for efficiency and shared services for formal consideration by each Council. The vision is for a number of councils, retaining their independence and identity, but working together and sharing resources to maximise mutual benefit leading to more efficient, effective delivery of local services.
- 1.2 Cheltenham Borough Council and its partner councils already have a track record of developing innovative arrangements irrespective of traditional District, County or Regional boundaries. The approach set out in the report builds on that firm foundation and provides a very strong basis to support a new model for local government. It will provide efficient collective shared officer support arrangements able to provide distinct and bespoke advice to a cluster of independent Councils focused around existing District Council localities without the need to consider political mergers. This model is scalable both in terms of numbers of partners but also in the scope of services.
- 1.3 The leaders from the four councils along with their respective cabinet lead for shared services have met to discuss the proposals and are aligned on the strategic direction of travel. They recognise that it is a logical next step on the shared service journey and that it is worth exploring the vision further.

2. Reasons for recommendations

- 2.1 Last summer the government invited bids under the Transformation Challenge Award for innovative shared working proposals. Council on 22 July 2013 were advised that the Leaders of the GO Shared Services Councils (Cotswold, West Oxfordshire, Forest of Dean District Councils and Cheltenham Borough Council) had agreed to submit a bid for a range of initiatives that the councils were interested in investigating further. These included:
 - Reviewing shared management structures and rationalising employment arrangements
 - Extending the range of shared back office services
 - Extending the number of Local Authority owners of UBICO Ltd, the environmental services provider and extending the range of environmental services offered
 - Exploring a shared Public Protection Service.
- 2.2 Although this bid was unsuccessful at the time, the Leaders of the Councils requested that officers from the partner councils develop a proposal for a new forward thinking vision for joint working and shared services. In March of this year the partnership was awarded a grant of £500,000 to support the development of our joint proposals from the Transformation Challenge Award.
- 2.3 The government has recently announced further funding opportunities for the Transformation Challenge Award for 2014/15 and 2015/16. This funding is available to support English local authorities transform their operation, make changes to their business processes and work with the wider public sector to improve services for local people.
- 2.4 It is considered that if this report is approved by all of the Councils, the partnership will be eligible for funding for both tranches of the Programme and could pool any awards to deliver the vision and objectives set out in this report. The timescales set out within the vision have been designed to meet deadlines for submission to the Transformation Challenge Award Programme.
- 2.5 In addition to the opportunities to secure government funding, Council Leaders have recognised the need to meet each of the individual Councils savings targets in line with their existing Medium Term Financial Targets. For some, this means being able to deliver significant revenue savings for 2015/16. It is therefore recommended that the programme plan builds in proposals for interim proposals that can be implemented early reducing management overheads without a loss of

capacity. This will further enable the quicker deliver of shared service options and business cases.

- 2.6 Programme implementation costs will be identified alongside the development of a more detailed business case. It is anticipated that the current allocation from the Transformation Challenge Award will meet any development costs prior to further consideration by councils in the autumn.
- 2.7 It is recommended that a joint member Programme Board with a Cabinet Member from each Council is established to oversee the development of the detailed business case for future consideration by partner councils.
- 2.8 It is further suggested that the funds secured against the Transformation Challenge Award fund be delegated to the programme board to allocate against the development of a more detailed business case and programme implementation if subsequently approved at a later date. Cheltenham Borough Council will act as Accountable Body for the fund and any expenditure.

3. Alternative options considered

- 3.1 The proposal is to explore the options further and to develop a business case. The council could decide that it did not wish to progress the proposal but there are limited options available to the council to deliver the level of projected savings whilst maintaining the level of service.
- 3.2 The council could consider sharing with other neighbouring councils in Gloucestershire but the council has a good track record of working with the GO partner councils. The model as proposed is scaleable and the vision has been sent to the CEX's of the other districts so that they are aware of what is being proposed.

4. Consultation and feedback

- 4.1 Briefing sessions have taken place with employees and the unions. Over the coming months specific engagement sessions will be held with members, employees and stakeholders so that everyone has an opportunity to help shape the vision and strategic thinking.

5. Performance management –monitoring and review

- 5.1 A programme board will be established which will use programme management tools to ensure that it is managed effectively. Specific monitoring reports will be presented to SLT and progress will be updated via the corporate strategy monitoring.

Report author	Contact officer: Jane Griffiths, jane.griffiths@cheltenham.gov.uk, 01242 264126
Appendices	1. Risk Assessment 2. 2020 Vision for joint working
Background information	1.

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1.	There is a risk that once established it would be hard to disaggregate without significant costs and resource commitment.	Andrew North	June 2014	3	3	9	R	Ensure members are fully aware of the long term implications Put in place clear exit strategies and penalties	October 2014	Jane Griffiths	
2	There is a risk that this model of local government is innovative and not tested elsewhere. It may not be politically acceptable to have a model where councils are not direct employers	Andrew North	June 2014	3	3	9	R	Ensure members are fully aware of the benefits of the arrangements Ensure stakeholders including press are fully aware of the benefits	October 2014	Jane Griffiths	
3	If an effective pay and reward mechanism is not put in place which drives out savings through T&Cs opportunities but does not also realistically reward employees then benefits may not be	Andrew North	June 2014	3	3	9	R	Pay and reward scheme to be developed Consultation with unions	Timelines to be established as part of business case Autumn	Jane Griffiths	

	realised										
4	If budgets are not pooled there is greater complexity for managers and a risk that there are missed opportunities to make savings across the whole of the service area	Andrew North	June 2014	3	3	9	R	Use a gresso coding system to identify savings opportunities Consider elements of budgets which could be pooled	Timelines to be established as part of business case Autumn	Jane Griffiths	
5	If there is not a clear process for sharing costs and benefits from the outset it may cause difficulties as these arise	Andrew North	June 2014	3	3	9	R	Cost and benefits protocol to be agreed from outset (NB to include discussion on assets)	Timelines to be established as part of business case Autumn	Jane Griffiths	
6	If any of the services fail to deliver there is a reputation risk falling on all councils	Andrew North	June 2014	3	3	9	R	Effective performance management Communications strategy Scenario planning for service failure	Timelines to be established as part of business case Autumn	Jane Griffiths	
7	If the governance structures do not allow members to feel that they can influence service	Andrew North	June 2014	3	3	9	R	Role of overview and scrutiny to be defined Role of cabinet lead	Timelines to be established as part of business	Jane Griffiths	

	<p>delivery then members will become disillusioned.</p> <p>If there are differing arrangements within councils then this adds to complexity and overheads</p>							<p>member to be defined</p> <p>Role of "shareholder" to be defined</p> <p>Performance frameworks to be agreed</p>	<p>case</p> <p>Autumn</p>		
8	<p>There is a risk that the culture of new organisations is not aligned to the cultures of the councils which could lead to difficulties working with members</p>	Andrew North	June 2014	3	3	9	R	<p>The new organisation will have its own culture but will need to ensure that employees flex when working in different environments</p> <p>Allow sufficient time in the set up stage for relationships to be formed and developed between advisors, heads of shared services and members</p>	<p>Timelines to be established as part of business case</p> <p>Autumn</p>	Jane Griffiths	
9	<p>If members are not clear about the</p>	Andrew	June	3	3	9	R	<p>members to agree</p>	<p>Timelines to be</p>	Jane	

	outcomes they want to be delivered and clear specifications for service delivery then there is a risk that the service will not meet the needs of the community	North	2014					outcomes Specifications to be drafted Needs to be assessed and outcomes updated	established as part of business case Autumn	Griffiths	
10	If there is ineffective communication with union and staff then there is a risk that they would oppose the proposals and potentially some staff may leave	Andrew North	June 2014	3	3	9	R	Communication strategy Employee and union engagement Workforce planning	Timelines to be established as part of business case Autumn	Jane Griffiths	
<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>											

Guidance

Types of risks could include the following:

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

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

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

Risk ref

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

Risk Description

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

Risk owner

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

Risk score

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

Control

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

Action

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

Responsible officer

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

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

Transferred to risk register

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

A 2020 Vision for Joint Working

**New Ways of Working for the GO
Shared Services Partner Councils**

**Report and Outline Business
Case**

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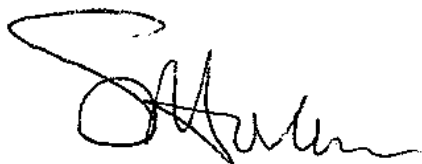
Leaders' Foreword

This proposal has been developed on behalf of the 4 District Councils which collectively represent over 400,000 residents over a geographical area of 934 square miles from Coleford to Witney and Cheltenham to Tetbury.

The partner Councils have been consistent in their vision of **a number of councils, retaining their independence and identity, but working together and sharing resources to maximise mutual benefit leading to more efficient, effective delivery of local services.**

Our Councils already have a track record of developing innovative arrangements irrespective of traditional District, County or Regional boundaries. The approach set out in this proposal builds on that firm foundation and provides a very strong basis to support a new model for local government. It will provide efficient collective shared officer support arrangements able to provide distinct and bespoke advice to a cluster of independent Councils focused around existing District Council localities without the need to consider political mergers. This model is scalable both in terms of numbers of partners but also in the scope of services, which could for example provide opportunities to devolve existing County services where there may be further efficiencies through establishing community budgets within localities.

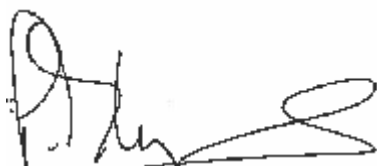
The principal efficiency savings to be gained from amalgamating services are through reductions in operational costs arising from reduced management and staffing costs and not through the marginal reduced cost of democracy. By developing an integrated mixed economy of service provision at a scale sufficient to deliver economies of scale our Councils can concentrate on the needs of their communities and the outcomes they want to see delivered.



Steve Jordan
Leader, Cheltenham Borough Council



Lynden Stowe
Leader, Cotswold District Council



Patrick Molyneux
Leader, Forest of Dean District Council



Barry Norton
Leader, West Oxfordshire District Council

1. Background

The proposition set out in this report represents perhaps the most radical joint working approach in local government today.

It is a proper, considered response to a challenge not only of how to best use a smaller and reducing public subsidy but how to make best use of technology; how to encourage and use a competitive market, and how to make smart use of managerial and other expertise.

Bold proposals do not come without risk and complication. Full implementation will require relentless execution, firm management of change and a sense of momentum. The proposals also require an acknowledgement of the costs of change.

However, our proposals should also be seen as a natural and logical progression along an innovative transformational agenda which the Councils have been delivering over recent years. We should take great encouragement from that which has already achieved.

For example, a number of shared working arrangements involving the partners have developed over the last few years. These include:

- Shared Management and Shared Services between WODC and CDC
- GO Shared Services – Back Office Support Services Partnership between WODC, CDC, FoDDC CBC and undertaking work for Cheltenham Borough Homes and UBICO
- Joint ICT Services – CBC and FoDDC; WODC and CDC
- Ubico Ltd. – a “Teckal” Company for waste collection and environment services – owned by CBC and CDC
- Joint Waste Committee – CDC, CBC, FoDDC (and including TBC and Gloucestershire County Council).
- Audit Cotswolds – CBC, CDC and WODC

These are not the only joint working arrangements that the four councils are engaged in. Other shared services exist with other partners most notably involving Tewkesbury Borough Council (but not exclusively).

There is also a range of employment models being used for shared services:

- Informal arrangements between Councils on specific pieces of work where there is mutual benefit.
- Shared posts – based upon individual secondment agreements.
- Lead Authority– a team based in one Council provides the service for both Councils (e.g. ICT).
- Lead Employer– One Authority takes the responsibility for employing all employees (GO Shared Services, Audit Cotswolds).
- Jointly owned local authority company (Teckal Company).

The development of the GO Shared Services partnership has enabled a strong degree of trust and confidence to emerge between the four partners at a member level.

It is clear from the evidence and practices above that an alliance of shared working has developed around the nucleus of 4 Councils with Tewkesbury Borough Council partnering on a case by case basis.

It seems both timely and logical to build on these strong foundations and plan for further joint working arrangements developed around the existing partners and to that end forward planning would allow such potential future efficiencies to be developed. This will lead to more radical thinking leading in the delivery of transformational change.

It is recognised that each Council is unique and these proposals attempt to protect the cultural differences that exist with the nature and population differences between the Councils. Further work will however be required to ensure that these differences are not being eroded as a result of the proposition.

Clearly, there are other ways in which the councils of Gloucestershire, Oxfordshire and other surrounding counties could group together to create other configurations for joint working. But there is a strong desire among our local politicians to build on the existing arrangements. An opportunity exists to broaden and deepen the scope of the current arrangements whilst incorporating solutions to the particular issues that have emerged due to the uniqueness of the partnership to meet the particular challenges posed by our geography. It is likely that the benefits of joint working will be realised more quickly by building on existing arrangements.

2. Financial Context

Over the past 2 years there have been a number of significant changes to the external environment which impact significantly on District Councils moving forward.

Autumn Statement 2012 and Grant Settlement

The Chancellor of the Exchequer published his Autumn Statement in 2012 which identified that, amongst other issues; a slowdown in growth had led to the government missing its medium term targets for reducing the deficit. As a consequence the Chancellor set out his projections for the future course of public expenditure beyond 2016/17. In broad terms the outcome of the statement was that a further year of fiscal austerity would be required along the lines of the previous strategy which will end in 2016/17.

In December 2012 the Secretary of State for Communities and Local Government announced the grant settlement for 2013/14, which resolved a number of uncertainties around the new Local Government Resource Regime.

The essence of the new regime is to shift the formula grant distribution from being entirely formula driven to an approach which mixes both the top down distribution approach with more locally raised resources via a share of Business Rates and New Homes Bonus. The new approach provides an incentive for business and housing growth which could represent both an opportunity and a risk. Although some amendments to New Homes Bonus were not implemented last year, concern still exists about the long term stability of New Homes Bonus as a funding stream

Spending Review 2015/16

In June 2013 the Chancellor announced the details of the 2015/16 spending review which unveiled a further series of grant cuts for local authorities. Whilst our existing strategies anticipated a significant cut in external funding the cuts were more than anticipated and in addition a further reduction for 2014/15 was imposed to take account of an extended public sector pay cap.

Other Changes

In the grant settlement in December 2013 the government maintained the Council Tax capping limit at 2% for 2014/15 . At this stage it is not known whether the current approach to capping will be extended in the future.

All partners face substantial financial risk and cost pressure around future pension costs with a collective increase in employer contributions over the next three years. This is more severe in Gloucestershire due to more risk averse assumptions from actuaries.

Each council has published savings targets to be delivered over the medium term. West Oxfordshire DC has published savings targets from 2014/15 to 2022/23. The other

authorities have used a four year basis (2014/15 to 2017/18). In summary, the savings targets to be delivered over the medium term are set out in the table below together with each authority's existing plans to deliver against the targets.

	CDC £000	WODC £000	CBC £000	FODDC £000
Total Annual Saving Target	1,275	1,200	4,300	1,600
Assumed Shared Services Savings	600	600	500	200
Other Identified Savings	675	300	2,600	200
Shortfall (Surplus)	0	300	1,200	1200

There remains a view that there will be huge uncertainties about the long term sustainability of some elements of District Council funding streams (for example, New Homes Bonus and Business Rates). Leaders from the partner councils are highly committed to seeking the most efficient operating models for the services and community outcomes that residents and businesses require.

Transformation Challenge Award

Last summer a bid was submitted to a Communities and Local Government fund to recognise and support innovative joint working initiatives. The Transformation Challenge Fund had around £14m to allocate to projects nationally. We have recently received an award of £500,000 as recognition of the innovative partnership working across the four councils on shared services. This grant award enables the councils to investigate a range of additional joint efficiency savings initiatives, as set out in this paper.

The government has recently announced further funding opportunities for the Transformation Challenge Award for 2014/15 and 2015/16. This funding is available to support English local authorities transform their operation, make changes to their business processes and work with the wider public sector to improve services for local people.

The Government proposes to use a proportion of the £15 million available funding in 2014-15 to facilitate district councils, with a 2014-15 budget requirement of £15 million or less, and which currently maintain their own senior management team, including any chief executive, to move to share a senior management team, develop common information technology systems and share other resources and assets with one or more other councils before the end of 2014-15. Any such district council that wishes to make such a move can bid for 2014-15 funding of up to £200,000 per council to help with transitional costs associated with the change.

Furthermore there is in total £305m of funding, comprising £105m grant and £200m flexibility use of capital receipts available to support proposals to re-engineer business

processes and re-design services in 2015-16 & 2016-17. The fund will provide incentives for authorities which already share a senior management team and any chief executive to go further with their plans to redesign their services.

3. Proposition

“Four Independent Councils determining their own policies, priorities and decisions supported by a small number of expert advisors who commission and monitor services either from the private and voluntary sectors or from local authority owned service delivery companies”

If approved, this could effectively lead to councils that do not directly employ any of their own staff, but rather, Councils will jointly own a local authority company which would provide services and deliver outcomes in line with the wishes of each individual council.

Independent Councils

At the core of the proposal is the retention of independent organisations able to fully exercise their democratic mandate and responsibilities. This means that each council will be able to set policies and make decisions in the best interest of their residents and communities. It will also mean that they will be able to set standards for local services whether they are statutory or discretionary and decide on the most appropriate delivery mechanisms.

Each Council will continue to communicate and inform; represent; and speak up for their residents and communities through formal county and regional structures; to other public sector providers; or through informal liaison at a community/town/parish level. Individual Councillors will continue to act as advocates for their communities championing their requirements, needs and expectations for District Council and other public services.

The independent Executive and Non-Executive Functions of each Councils would be unaffected by the new operating model.

Expert Advisors

It is recognised that Councillors value and rely on a relatively small number of senior employees who act as expert advisors to enable them to fulfil their roles and responsibilities and manage the organisation and service delivery.

In the proposed model expert officers will continue to provide an advisory role for policy development particularly around setting the priorities of the Council; the Financial Strategy and Annual Budget; and the Local Plan. They will also advise Councillors on other strategies and policies pertinent to their District. Councillors also require advice to support their formal Council decision making processes made through various committees including Cabinet, Planning, and Licensing.

It is recognised that not all services are provided directly by the Council and expert advisors will therefore be required to act as an interface with Councillors so that other services can be designed to meet local requirements, specified, commissioned and procured through either the private or voluntary sector. Councils also require staff to act as intelligent clients

or commissioners through the monitoring of contracts and agreements. There are potential efficiency, expertise, and resilience benefits in undertaking shared commissioning and some services could be jointly commissioned with other partners if this is agreed by individual councils.

Expert advisors may be independent and bespoke to a Council; may be shared with one or more Councils; or a combination of both. Detailed proposals will need to be developed and agreed by each council.

Councillors

This proposition has been developed around the premise of minimal change to the democratic and decision making functions of each Council. Set out in Appendix A is a diagram showing how the Executive and Non-Executive functions remain unchanged together with the relationship between advisors and service delivery.

There will be times when Councillors with specific responsibilities or who are decision makers wish to obtain briefings and expert advice on specific matters. To meet this need an agreed protocol will be in place to ensure Councillors continue to have appropriate access to all staff.

With a clearer separation between policy development/decision making and the delivery of services, there could be an enhanced and clearer role for Scrutiny. Nationally the Scrutiny function has been more effective when challenging performance of outside bodies than looking at internal performance where there is a potential conflict of interest both with members of the executive and not wishing to criticise staff.

The service delivery organisation would be subject to the same rigours and challenge as any other local public service provider

It is important to recognise the significant role of Ward Councillors and the part they play as advocates for residents and communities; and providing communication, advice and support. In addition to having access to expert advisors there will need to be clear protocols enshrined in the legal agreements to ensure that Ward Councillors have the necessary support to undertake their community leadership role.

Customers

Customers will not notice any difference in contact with their Council. Customer contact will be via existing channels. These channels will be clearly branded and identifiable with the Council that provides the service. A local presence will be maintained to deal with local contact.

4. Service Delivery Model

Further work is needed to investigate alternative service delivery models but key to this proposal is the intent to create some form of single employment vehicle for all staff. This will remove the current built-in quadruplication of effort incurred having 4 separate employment relationships.

This element of the proposition is undoubtedly the most difficult and complex aspect. As a result it will take a significant amount of time to evaluate all of the options and work through the various legal and financial challenges associated with the establishment of such a body.

Employment Models

There are a number of alternatives to the direct employment of staff for the delivery of direct services. These are generally referred to as arm's length arrangements and fall into the following categories:

- Local authority owned 'Teckal' company
- Local authority trading company
- Public service mutual
- Public/Private Joint Venture

The specific advantages and disadvantages of each type of arm's length vehicle will depend on the service being commissioned; each would have different investment, pension, and taxation issues. It is these issues that are likely to determine the appropriate arm's length vehicle for any given situation.

For example, the 'Teckal' company UBICO was established specifically to avoid the potential local government pension implications of in-sourcing a large number of employees from the private sector. However, the 'Teckal' company model has very limited ability to deliver services for others or trade. If external trading was the primary purpose of the company it would be more appropriate to establish a local authority owned trading company.

Employee-led public service mutuals are models that are being encouraged by the government. These can offer employee ownership or community ownership and models include Industrial and Provident Societies and Community Interest Companies.

In order to develop the new operating model it will be necessary to seek advice on the relative advantages and disadvantages of the alternative employment models both for 'Expert Advisors' and 'Service Delivery' staff. It is likely that the overall operating model will result in a combination of 'arm's length' employment vehicles and external commissioning arrangements being used to deliver services and community outcomes.

One model for employment vehicles is illustrated in Appendix B. This model is based on using an appropriate vehicle for the type of service and a group holding company. In this model the main employment vehicle would employ the majority of employees.

It is acknowledged that the suitability of any particular vehicle will depend upon the service being commissioned, the acceptability of the governance arrangements, investment, overheads, pension, and taxation issues.

In the model shown at Appendix B it is expected that the following would broadly apply:

Public Services Co.

- Bespoke specific services for individual Councils
- Shared direct and support services operating within local area
- Expert Advisors
- Flexible commissioning
- Flexible specification
- Unable to trade (except other local councils)

UBICO Type 'Teckal' Co.

- Bespoke shared services for individual Councils
- More restrictive contract based
- Some flexibility specification
- Able to operate outside of LA area
- Limited ability to trade with public/private sector

Commercial Services Co.

- Bespoke shared services for individual Councils
- Restrictive contracts/specification
- Able to operate outside of LA area
- Fully able to trade

It will up to each Council to individually determine which services it chooses to incorporate into the Service Delivery Company or whether it wishes to commission/procure services from other externally available routes (e.g. Charitable Trusts, Outsourced Contracts, other local authorities).

Some indicative provisional assessment has been discussed with leading Councillors so that indicative business case estimates can be provided.

Governance Arrangements

At this stage no detailed assessment of the joint governance arrangements required to manage the jointly owned company has been undertaken.

Whichever service delivery model is adopted, many of the same governance issues will need to be considered before the Councils are in a position to sign up to an agreement to introduce the new model. The key areas for discussion include:

- The duration of the arrangements. These could potentially be left undefined, provided provisions are made for the withdrawal or addition of partners; and the ending of the arrangements.
- The extent of the functions and services of the arrangements.
- The extent to which each authority is to contribute financial and other resources, any valuation issues and, most importantly, the mechanism for defining contributions to fund on-going costs.
- The funding of any increased costs, losses or shortfalls and the mechanisms for managing these, as well as for dealing with surpluses, under-spends and savings.
- The treatment of assets and liabilities of the authorities at the point of transfer of functions to the new arrangement.
- How employment issues, especially TUPE, will be dealt with during the migration to the new arrangements.
- The levels of service to be provided and any differences between the authorities, including how the levels of service will be determined and managed, and the extent of any planned changes.
- The new governance arrangements and how these will be accountable to each of the authorities and how decisions will be made on jointly delivered functions (i.e. by simple majority, or do some important issues require unanimity or special majorities?)
- Any provision to be made for the withdrawal of one (or more) authorities, including arrangements regarding outstanding liabilities to be met by the withdrawing authority.

A number of financial issues will also require early attention if authorities are to develop confidence in the business case. Most notably, a mechanism for allocating the appropriate share of whole system costs and savings to each authority needs to be developed so that each authority can carry out its own internal costs and benefits evaluation.

The development of a cost-sharing agreement is most likely to deliver a workable solution to this issue. This would essentially entail the development and agreement of a formula under which each element of the costs of the shared service would be allocated in as fair and transparent a way as possible. This approach does away with any need to agree the apportionment of savings, because savings are effectively the difference between each authority's historic costs and their share of the new, shared service costs. Cost-sharing offers a number of advantages that recommends it above the other options such as budget pooling:

- The historic cost base is not carried forward;
- The formula can be quite simple and very transparent, so that it can be seen to be fair;
- Savings are shared automatically;

- No incentive exists for 'cost loading' during transition; and
- Cross-subsidy between partners can be avoided.

However, although it is clearly important to ensure that the structure of the agreement is fair and transparent, it is equally essential that it is capable of delivering a consensus amongst the partners. This is likely to fall, at least in part, to whether each partner receives an outcome that is consistent with its expectations when the formula is applied to the new shared service costs. Consensus is most likely to be reached where partners take a pragmatic approach and consider the long term strategic benefits.

It is recommended that the underpinning principles of cost sharing, both for the delivery of the transformation project and, in the longer-term, for the apportionment of partnership costs, are addressed as a priority.

5. High Level Savings Analysis and Assumptions

Shared Services

The model that has been developed in existing shared services recognises and balances the political independence of councils and the potential efficiency opportunities from joint working. For each service area those services and officers that provide a location specific bespoke service to each council are identified together with a separate group of specialist functions and officers that provide services to more than one council. It is in this latter group where shared services and officers are delivering greatest efficiency savings. However the bespoke teams work together through sharing best practice and learning across the councils for mutual benefit which can also deliver efficiencies.

Total savings produced to date as a result of the various joint working initiatives are estimated to be in excess of £2.9m per annum.

A financial analysis of those services that have maximised shared service opportunities between just 2 Councils indicates that salary savings are on average in the order of 15%. The GO Shared Service between 4 councils and 2 independent organisations delivers around 23%. This range has been used in making some financial projections on the maximum that can be achieved by the proposed extensions to shared services as outlined. An assessment has been made for each potential shared service based on the degree of similarity of functions and whether they need to be location specific or not.

Assets

To date little financial benefit has been realised by releasing value from the existing asset infrastructure from which services are provided as inevitably accommodation changes take time to implement. It is considered that substantial efficiencies could be achieved through developing an integrated plan across all of the councils by maximising space in a smaller number of buildings overall. It is however recognised that each council will require office facilities to provide services that are location dependant. No assumptions have been made in the outline business case for any centralisation of employees and offices.

Commissioning/Procurement

From research undertaken elsewhere there is expected to be a small benefit (in percentage terms) from both a clearer separation between specifying services and provision of services; and in shared procurement across a larger financial base. A 2-3% efficiency gain has been assumed in the business case which does not include any decisions for further agreement to jointly procure and/or commission services which could generate substantially greater efficiencies.

New Employment Body

The creation of a new employment structure outside of the constraints of existing local government terms and conditions provides a unique opportunity to establish a modern, forward thinking and dynamic organisation focused on outcome-based reward and recognition systems.

A coherent pay and reward strategy has a central role in controlling employment costs, and can help improve efficiency and productivity.

Pay and reward systems need to be aligned with business strategy and objectives, and reinforce the desired working culture – namely that under-performance is dealt with effectively and where contribution to the organisation's success is incentivised, recognised, and rewarded. Equality, fairness, transparency, and tackling low pay issues are also central to any robust pay and reward approach. Together, these elements are seen as core aspects of any employer's approach to pay and reward.

There is a general awareness of the increasing costs associated with the defined benefits pension scheme currently available to council employees and increasing concerns about affordability. There is an opportunity for a new local authority owned company to introduce a new defined contribution pension scheme for new employees with capped contributions from the employer and being investment based rather than providing a defined benefit.

Any such scheme will require negotiation with employee representatives and Trade Unions and would take some time before the full financial benefits could be realised. A detailed piece of work has been commissioned to confirm realistic savings not just for the first 5 years but over a longer timescale.

Clearly, the extent to which any new employing body will be able to deliver a vibrant, efficient and effective service will be dependent upon its leadership and governance and so at this stage no assumptions have been made in the outline business case. However, there is significant potential for financial savings.

It should be aiming to innovate and use technology so that more effective, personalised and connected services can be delivered to the customer. There should be a commitment from all parties that an element of the implementation costs is put to exploring how things could be done differently by exploiting new technology, and that this aspiration should be built in from day one.

Commercialisation

Although there is an opportunity to trade, no assumptions have been made on the financial benefits associated with some services trading more commercially at this stage. Any opportunities will need to be balanced with legal and tax implications.

6. Outline Business Case

Set out below is a summary of the assumptions and their financial impact at the end of 5 years. Each of the partner Councils has delivered some of these potential efficiencies to varying degrees and this will determine the extent of future benefit to be obtained. These estimates should be treated with caution at this early stage of developing a proposition:

Assumption	Annual Savings at Yr. 5 £m
Between 15% and 25% savings on shared services depending upon degree of similarity and back office processes	4.9
A 2% efficiency gain for Depot type services	0.9
A 2-3% efficiency gain on procurement of supplies and services based upon a commissioning approach	0.8
A new pension scheme for new employees based upon a capped employer contribution (existing employee benefits protected)	1.0*
A 20% reduction in office based asset costs but no proposed centralisation of employees	0.8
No service or policy change savings	0
No assumed savings arising from standardisation of services	0
No assumed savings from a more efficient employment arrangement	0
Total Potential Savings	8.4
Savings already delivered	2.9
Future Opportunity	5.5

*After 10 years

For the purposes of this outline business case only this has been apportioned to each Council based upon their current size and the extent to which previous shared working savings have been delivered.

Council	Joint Working Potential £000	Delivered to Date £000	Assumed in Plans £000	Additional Benefit £000
CDC	1,950	800	600	550
WODC	2,100	800	600	700
CBC	2,700	600	500	1,600
FODDC	1,650	700	200	750
Total	8,400	2,900	1,900	3,600
Total Future Opportunity Savings				5,500

Set out below is a summary of the impact of the potential financial benefits upon each Councils' current financial strategies.

	CDC £000	WODC £000	CBC £000	FODDC £000
Annual saving target	1,275	1,200	4,300	1,600
Assumed Shared Services Savings	600	600	500	200
Other Identified Savings	675	300	2,600	200
Vision 2020 Additional Savings	550	700	1,600	750
Shortfall (Surplus)	(550)	(400)	(400)	450

It is recognised that in order to deliver such a fundamental change will require significant investment in new systems and would incur one off costs in its establishment. Much greater detailed evaluation of the financial business case will be required before any final decision is made.

Non Cashable Benefits

There is no doubt that employees operating in Council's with extensive shared service arrangements have develop a broader range of skills as a result of knowledge transfer, working with uncertainty and change. As a consequence those employees are more readily able to seek out innovative solutions and deliver improvements more quickly. This in turn creates a more dynamic and can-do culture within our organisations.

In addition to financial savings there is a considerable amount of formal and informal shared learning and improvement arising from joint working including opportunities for Councillors to share policy development ideas and learn from each other's experience.

Reducing Government subsidy has led to significant staff reduction in all partner authorities thus causing legitimate concerns over corporate capacity, especially at senior level and the ability to respond to any 'surge' such as a sustained response to a civil emergency.

One of the key non-financial benefits from shared services is the increased resilience for individual organisations both in terms of being able to access scarce expert and specialist knowledge and cover for specialist functions in unforeseen circumstances.

7. Legal Considerations

Some high level specialist legal advice on the proposition has been sought. Although there are a number of innovative employment models within local government, a model which has no council retained/employed staff will be ground breaking.

There do not appear to be any fundamental legal barriers to the development of this proposition. However, further detailed consideration will need to be given to the following issues:

- Restrictions on local authorities outsourcing statutory decision making functions;
- Role and employment of Statutory Officers (Head of Paid Service, Monitoring Officer, s151 Officer);
- Procurement compliance; and
- Potential conflicts of interests between commissioners and deliverers

8. Risks

There are considered to be two principle strategic risks associated with the proposition at this stage:

Employee Support

It is recognised that this proposition is potentially a major change for employees and many may see a move away from existing employment arrangements as a threat to future job security and employment conditions despite the protection that will be given to their existing terms & conditions. There is no doubt that such a change will require extensive consultation and discussion with Trade Unions and employee groups to consider all of the issues and options for implementation. If partner Councils are minded to approve the development of detailed proposals it is recommended that employees are consulted at an early stage.

Perception of “Takeover”

Evidence from shared management case studies suggests that there can be a concern for both staff and Councillors that depending upon key appointments a perception exists that one Council is being taken over by another and that as a consequence the independence of the council is threatened. In order to mitigate against this there is a value in ensuring independent and impartial advice around organisational structures and key appointments. The establishment of a jointly owned new employment entity will also assist in reducing this perception

Impact of Changes to the Partnership

It is recognised that the current partnership has been established as a result of a series of individual decisions and sharing arrangements which has led us to this point. As such there could be a desire to change the mix of partners either by adding in more Councils or by some Councils wishing (or being required through for example Local Government Re-organisation) to align themselves in a different arrangement. This is particularly so with Councils being from separate County areas.

The actual basis and terms for any partners joining or leaving could only be determined once the specific circumstances and the impact on the partnership are known. However, it will be possible to establish the broad principles and terms upon which partners can join and leave the partnership. Set out in Appendix C are some different scenarios and how these could be dealt with under the proposed model.

9. Next Steps

There is further work required to define the 2020 Vision Programme and enable a Transformation Challenge Award funding bid to be submitted in October 2014. It is assumed that by July the programme vision and outline business case will have been approved, and the 2014/15 Transformation Challenge Award funding bid together with the 2015/16/17 Expression of Interest will have been submitted.

In order to progress the programme it will be necessary to:

- Identify transitional management arrangements and other 'quick wins';
- Define the 2020 Vision programme; and
- Prepare the Transformation Challenge Award funding bid

Identifying transitional management arrangements and 'quick wins'

To ensure clear focus on the delivery of the programme whilst maintaining business as usual and service delivery it may be necessary to put in place interim or transitional management arrangements. This will inform the programme design and the development of a more detailed business case. In addition any 'quick wins' such as projects that are already being developed need to be identified and considered for inclusion.

Defining the programme

The process of defining the programme has several key elements; design of the programme infrastructure, confirming the vision, analysis of options, development of a 'blueprint' for the future state of the organisations, all resulting in a more detailed business case for strategic commitment.

Design of the programme infrastructure will involve establishing the programme governance arrangements, member programme board, programme team and identifying resource requirements.

Confirming the vision will involve engaging with key stakeholders to confirm that the vision meets the Council's requirements and is achievable.

The analysis of options will involve determining the preferred operating model taking into account relevant, HR, Legal, Finance and Pensions advice etc.

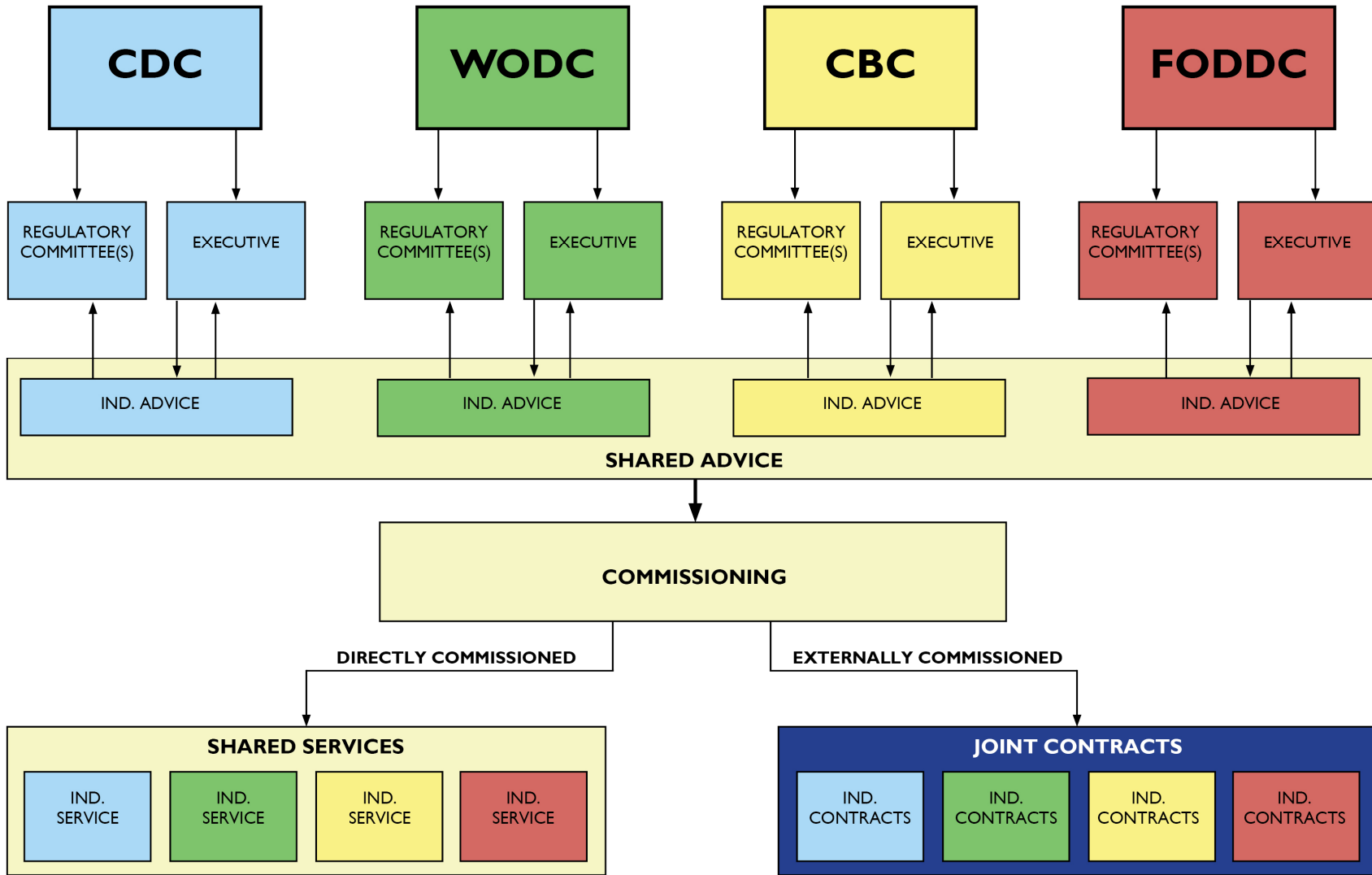
Development of the 'blueprint' will provide a detailed description of what the future state of the organisations will be like.

A more detailed business case can then be created taking account of both the estimated future operating costs/savings, any 'quick wins' and also the one-off programme transition costs. This business case will be sufficiently robust to enable a decision to proceed to be made.

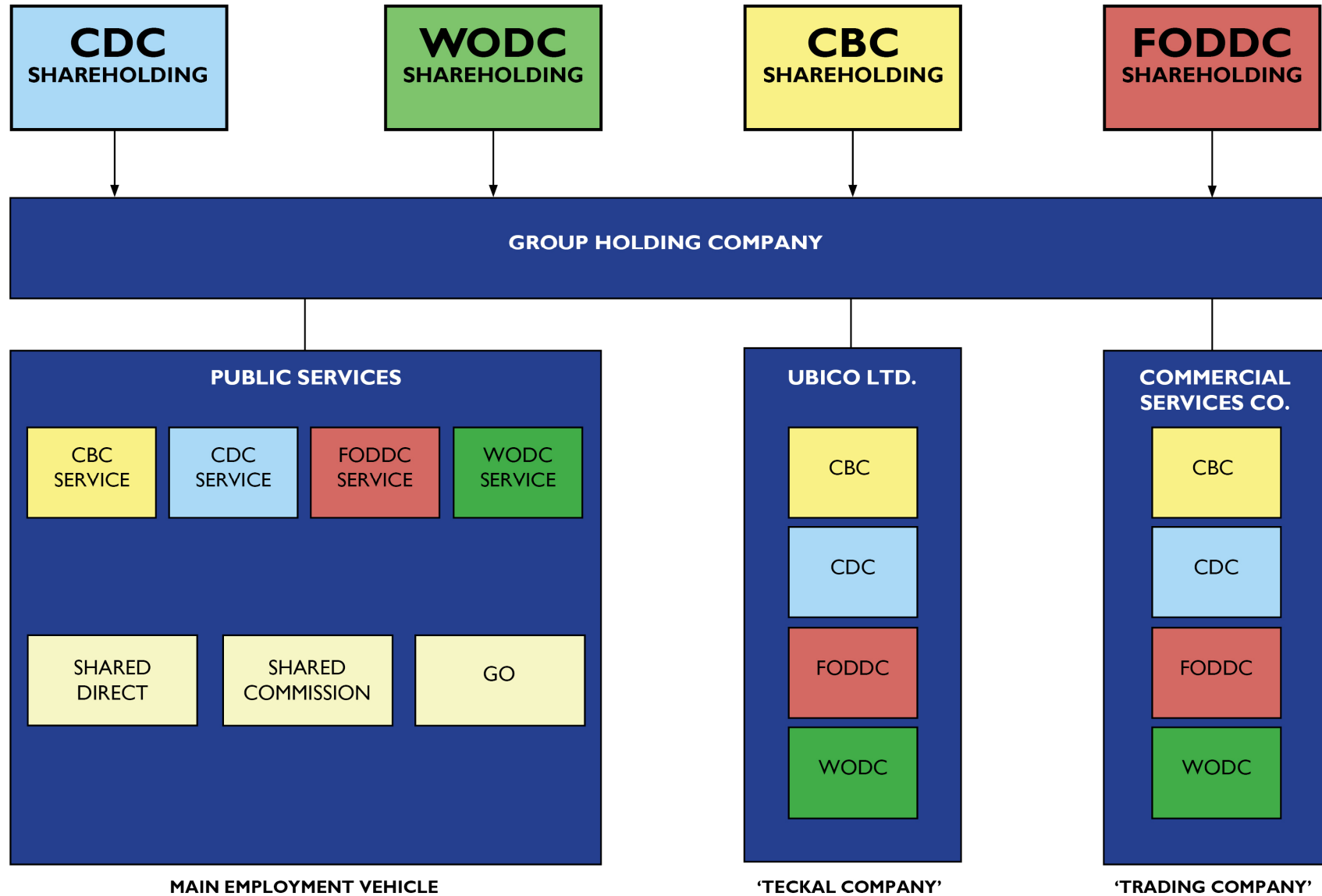
Preparing the Transformation Challenge Award funding bid

The Transformation Challenge Award funding bid will require an estimate of the programme resources, timescales and business case for inclusion within the bid. Whilst in October the programme definition stage as described above will not be fully completed there should be sufficient work completed to enable a bid to be submitted.

FUNCTION (PROPOSED)



EXAMPLE SERVICE DELIVERY MODEL



Joining and Leaving Scenarios

The following possible scenarios are illustrative only. The actual basis and terms for any partners joining or leaving could only be determined once the specific circumstances and the impact on the partnership are known. However, it will be possible to establish the broad principles and terms upon which partners can join and leave the partnership.

Associate Partner - Taking Some Minor Services

A new partner wishing to receive some minor services (e.g. single service <£250k p.a.)

The partner could contract with the service providing company for an agreed price. This would not affect the Shareholding Council's Teckal exemption providing that the contract value remains below approximately 5% of the company turnover. The joining partner would need to deal with their own procurement issues. Under this scenario the new partner would not take a stake in the company and the existing shareholding and governance arrangements would be unaffected. However, the new partner would be involved in managing their contract through client/contract monitoring meetings

Minor Partner - Taking Significant Services

A new partner wishing to receive significant value or multiple services (e.g. multiple or service >£1m p.a.)

In this scenario it is likely that the new partner would take a proportional stake in the service providing company. This would reduce any risk of the Teckal exemption being breached for the Shareholding Councils and reduces any procurement risks for the new partner. The new partner would own a proportion of the service company appropriate to the value of services commissioned and could have a stake in the governance of the company appointing a representative on the Company Board.

Depending on scale and the structure of the service company(s), a new partner could take a share in a single subsidiary or multiple subsidiary companies.

Full Partner - Taking All or Majority Services

A new partner wishing to receive all or majority of services (e.g. multiple services >£5m p.a.)

In this scenario it is likely that the new partner would become a full partner and take a stake in the holding company in addition to any service providing company(s). This would eliminate the risk of the Teckal exemption being breached for the Shareholding Councils and the procurement risks for the new partner. The new partner would own a proportion of the companies appropriate to the value of services commissioned and would have a stake in the governance of the companies appointing representatives to the Companies' Boards.

If appropriate a full partner need not take a stake in every subsidiary company if they do not wish to receive services from that company. (E.g. If depot services are currently outsourced by the new partner there would be no requirement to receive services or take a stake in Ubico)

Partners wishing to leave partnership

If an associate partner that only received contracted services wishes to leave the partnership this would be in accordance with the terms of their contract. An associate partner wishing to leave the partnership would therefore have no adverse impact on either the partner or the partnership.

If a minor or a full partner with a shareholding decides to leave the partnership this would need to be in accordance with the shareholding agreement and articles of association of the company(s). Whilst these have not yet been developed it is expected that there would be provision for leaving the partnership and giving up any shareholding. Whether the shareholding would have any value (positive or negative) would need to be determined. However, it would be expected that a fair and equitable basis would be developed. Therefore if the company shares had a net positive value then the leaving shareholder would receive a proportion of that value in accordance with their proportion of the shareholding. Whereas if a result of the partner withdrawing that had a negative impact on the company(s) then the converse might apply.

In the event that multiple partners wished to withdraw from the partnership this could trigger the cessation of the partnership and winding up of the company(s). In this event the company(s) would be wound up with any liabilities being discharged in proportion to the shareholdings.

Cheltenham Borough Council Cabinet – 24th June 2014

Identifying potential for Local Green Space designations within Cheltenham

Accountable member	Leader – Councillor Jordan
Accountable officer	Tracey Crews, Head of Planning
Ward(s) affected	All
Key Decision	No
Executive summary	<p>Implementing the recommendations of Council regarding the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) on 9th April 2014 – this report concerns the adaptation and use of Cotswold District Council’s Local Green Space Toolkit to determine where areas suitable for designation in the future Cheltenham Plan exist. Because a key element of the Local Green Space designation in the National Planning Policy Framework (NPPF) is that a green area to be designated must be ‘demonstrably special to a local community and hold a particular local significance’, work with the local communities within the borough to initially identify and propose areas is suggested.</p>
Recommendations	<ol style="list-style-type: none"> 1. Agree the use of the Local Green Space Toolkit, amended as appropriate. Changes to be agreed with the Leader of the Council prior to publication, 2. Agree the consultancy brief, and 3. Action officers to undertake the procurement process to commence the works required to support local communities wishing to identify sites considered suitable for Local Green Space designation.

Financial implications	<p>The main financial cost outside of CBC officer time will be in hiring consultants to facilitate the community meetings alongside the Council's participation and engagement team, and working with interested communities to apply the toolkit to assess possible candidate areas for designation. Consultants will also be expected to write a report detailing the outcomes of this work and making recommendations for the Cheltenham Plan. An initial estimate of the cost of this work is around £6,000 based on a calculation of the time thought likely to complete and the day rate of consultants in this area; however the exact cost will come through the tender process. There is currently no budgetary provision but funding will be considered as part of the outturn report to Council in July 2014.</p> <p>Contact officer: Paul.Jones@cheltenham.gov.uk, 01242 775154</p>
Legal implications	<p>The designation of Local Green Space is discretionary, should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period and only be used in respect of areas meeting the criteria within paragraph 77 of the National Planning Policy Framework, that is:</p> <ul style="list-style-type: none"> - where the green space is in reasonably close proximity to the community it serves; - where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and - where the green area concerned is local in character and is not an extensive tract of land. <p>This work will go towards the evidence of consultation on aspects of the Cheltenham Plan which is a requirement of producing any Development Plan Document and consideration of designating Local Green Spaces as part of the Cheltenham Plan.</p> <p>Contact officer: Peter.Lewis@tewkesbury.gov.uk, 01684 272012</p>
HR implications (including learning and organisational development)	<p>There are no HR implications</p> <p>Contact officer: Richard.Hall@cheltenham.gov.uk, 01594 812634</p>
Key risks	<p>This work is considered of low risk overall. However there is a political risk following the recommendations of Council on the 9th of April (see below) which could lead to reputational damage and/ or negative publicity for the Council if the actions subject to this report are not implemented.</p> <p>“Designate Local Green Spaces where appropriate as part of the Cheltenham Local Plan. We would particularly wish to evaluate the potential for Local Green Space designation in Leckhampton and North West Cheltenham, where green areas of particular local significance are known to exist.”</p>

<p>Corporate and community plan Implications</p>	<p>There are no obvious implications regarding the corporate plan.</p>
<p>Environmental and climate change implications</p>	<p>Because this study is an implementation of a requirement expressed in Policy SA1 of the Pre Submission JCS, which has been subject to full Sustainability Appraisal, it does not require further assessment. The assessment of policies SA1 and INF4 of the JCS showed them to have a positive effect in regard to the provision of Green Infrastructure.</p>
<p>Property/Asset Implications</p>	<p>There are no property or asset implications Contact officer: David.Roberts@cheltenham.gov.uk, 01242 264151</p>

1. Background

- 1.1** Local Green Space is a relatively new planning designation which was introduced in 2012 through the publication of the Government's National Planning Policy Framework (NPPF), with further advice provided in 2014 through the publication of the national Planning Practice guidance (PPG). It is part of a wider group of environmental designations which are designed to protect and enhance the Borough's Green Infrastructure. Local Green Space can only be designated as part of a Development Plan Document. The most recent Development Plan Document which the Council has consulted on is the Gloucester Cheltenham and Tewkesbury Joint Core Strategy, the Pre Submission draft of which was agreed by Council in April for consultation later this year.
- 1.2** The Pre submission Draft JCS sets out the importance of Green Infrastructure as a key policy in both place shaping of new developments, access to recreation and health opportunities, and support for biodiversity. Submissions made to the Draft JCS on Local Green Space have helped inform these parts of the plan and are now included within the agreed Pre Submission version, in particular policies INF4 and SA1 which make specific reference to and requirements for the designation.
- 1.3** During the writing of the current version of the JCS there was much consideration as to whether it would be appropriate to designate areas of Local Green Space within that document. However the pre submission JCS is a strategic document; its role is to set out the development and economic vision and strategy for the JCS area, identify requirements for strategic allocations, create a framework of sustainable cross boundary development policies and amend the Green Belt map. Alongside the JCS will sit the Cheltenham Plan, the main aim of which will be to deal with local, rather than strategic designations. Legal advice was taken as to the appropriate part of the development plan to designate Local Green Space. This confirmed that it was most appropriate in the context of the Cheltenham Plan.
- 1.4** Therefore it was agreed that the allocation of Local Green Space was a matter better suited to the Cheltenham Plan particularly because the NPPF characterises the Local Green Space designation as a local designation, when it states that it:
- Will not be appropriate for most green areas or open space
 - (must be) demonstrably special to a local community
 - The green area concerned is local in character and is not an extensive tract of land
- 1.5** The JCS's approach on this issue is in accordance with the recently published national Planning Practice Guidance which states that: "Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making."
- 1.6** At the Council meeting of the 9th of April 2014 on the Pre Submission JCS the following recommendation of the leader was agreed: The Council resolved to: "Designate Local Green Spaces where appropriate as part of the Cheltenham Local Plan. We would particularly wish to evaluate the potential for Local Green Space designation in Leckhampton and North West Cheltenham, where green areas of particular local significance are known to exist. We further resolve that, with immediate effect, any planning application to be determined on strategic sites in Cheltenham will comply with the requirements of the JCS including policies SA1 and INF4 in regards to the identification of Local Green Space."
- 1.7** Following on from this recommendation it is clear that we should quickly seek to identify which areas across the Borough would meet the criteria set out for Local Green Space in paragraphs 76 - 78 of the NPPF and in national Planning Practice Guidance. This will ensure that we have a robust evidence base for making any designations in the Cheltenham Plan, and will assist in

evaluating areas set aside for this purpose in the masterplanning of Strategic Allocations.

2. Reasons for recommendations

- 2.1 One of the most significant elements of the Local Green Space designation is that it is a way to provide special protection against development for green areas *of particular importance* to local communities, whilst complimenting sustainable development and investment in sufficient homes, jobs and other essential services.
- 2.2 It is clear from the NPPF at paragraph 76 that the designation of Local Green Space should be driven by local communities who identify areas of particular importance to them. Therefore in identifying appropriate areas for consideration there should be both a 'bottom up' (where local communities bring areas to the attention of the Council) as well as a 'top down' (where the council proposes areas to designate to communities) approach. It is also important that this discussion with communities takes place at a Borough wide level, rather than in a piecemeal way where some communities may not be aware that they could identify land to benefit from the designation and so could be left out.
- 2.3 To assist with this in their area, Cotswold District Council (CDC) have produced a 'toolkit' which is designed to support local communities in putting forward their local open spaces for assessment. The toolkit asks a series of questions and facilitates thinking about the suitability of a location through a flowchart of considerations.
- 2.4 Agreement has been achieved that will allow Cheltenham borough Council to make use of and modify the CDC toolkit for the purposes of its own Local Green Space assessment. This will greatly expedite the process of consulting communities and has the benefit of having been already tested and found effective. Using this toolkit, we will be able to begin discussion quickly with the Borough's communities, facilitated by the Neighbourhood Co-Ordination Groups with help from the Cheltenham Participation and Engagement Team.
- 2.5 We would seek to partner with specialist community engagement consultants to bring together community groups to look at the revised toolkit alongside maps of potential areas of search for Local Green Space. The experience of consultants in this field would have the benefit of ensuring that consultation output was concise and focussed, and given the sensitivity of this issue would be useful in ensuring that any potential areas identified for designation were evaluated fairly at the meetings. It would also free up officer time which is currently limited given work on the JCS and other elements of the Cheltenham Plan.
- 2.6 We would seek to tender for the above, and would allow flexibility in the way the work would be approached by the consultants to ensure best value for money, but as a rough structure we would be looking for:
 - Early engagement with local community groups, parish councils etc. to listen to their views on which areas of green space they deemed special and could benefit from this protection. The consultants would capture any ideas which the community group already had on this topic, and then present some maps and suggestions for areas for consideration. If the local group agreed that this would be worthwhile, the consultants could assist with the completion of the toolkit.
 - The consultants would then generate a report capturing the outcomes of the events and which areas the groups considered and whether the community felt there were any strong candidates for designation. The report would include outputs from the toolkit.
 - The planning policy team would at the same time be assessing development needs which the Cheltenham Plan would be required to deliver and likely / necessary locations to meet those needs.

- The planning policy team would also meanwhile be evaluating which areas were already designated or protected in some other way – such as playing pitches, areas currently in Green Belt/ AONB etc. where designations such as Local Green Space would not increase protection.
- After this sifting process by planning officers, the Cabinet could then be presented with a list of potential areas that should be further investigated with a view to designation in the forthcoming Cheltenham Plan, including further dialogue with communities wherever required.

3. Alternative options considered

- 3.1 Consideration was given as to whether officers of the Council could lead the consultation elements of the study. However currently officers are constrained by other work priorities, and this is a discrete piece of work which could be done well by external support. Consideration was also given to an option of providing relevant materials to Parish Councils and Neighbourhood Co-Ordination groups and inviting them to contact us should they wish further assistance. The drawback of this approach would be that it may elicit a sporadic response and may lead to some communities not feeling fully supported in their aspiration to protect such land.

4. Consultation and feedback

- 4.1 This work has come as a result of consultation and feedback from the public through responses to the Draft JCS and members through Scrutiny Task Group and at Council. The proposal to further investigate Local Green Space designations in the area should therefore accord well with the feedback we have received.

5. Performance management –monitoring and review

- 5.1 The results of the tendering exercise will be reviewed and monitored to ensure that the successful tender is appropriately carried out. The delivery of the Cheltenham Plan and other Borough Development Plan documents is monitored in the Local Development Scheme.

Report author	Contact officer: Philip.Stephenson@cheltenham.gov.uk, 01242 264379
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Local Green Space toolkit 3. Counsel advice 4. Tender Brief
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
	Any environmental risks	TC	27.5.14	1	1	1	Accept	This project is part of the JCS which is subject to full Environmental Assessment – no environmental risks were identified with this work.	N/A	TC	N/A
	If this work is not quickly carried out the Council could be subject to limited reputational damage and/ or negative publicity because the work was requested as part of a Council resolution.	TC	27.5.14	2	3	5	Reduce	By actioning the recommendations in this report the risk will be reduced or eliminated	Autumn 2014	TC	Team risk register
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

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LOCAL GREEN SPACE DESIGNATION A TOOLKIT FOR LOCAL COMMUNITIES IN COTSWOLD DISTRICT

INTRODUCTION

The Natural Environment White Paper ([The Natural Choice](#): securing the value of nature 2011) highlighted “the importance of green spaces to the health and happiness of local communities”.

Green spaces, particularly natural green spaces, located close to local people provide a range of social, environmental and economic benefits, including –

- improved mental and physical health
- increased social activity
- increased physical activity
- reduced crime
- improvements to children’s learning
- increased voluntary action
- improved community cohesion and sense of belonging
- potential for local food growing
- more attractive places to live, work, play, visit and invest
- enhanced opportunities for wildlife habitats and wildlife corridors
- climate change adaptation for example by flood alleviation

The White Paper recommended that a new Green Areas designation be introduced that would give local people an opportunity to protect green spaces that have significant importance to their local communities.

“ We propose that green spaces should be identified in neighbourhood plans and local plans which complement and do not undermine investment in homes, jobs and other essential services. Given the importance of green spaces to the health and happiness of local communities the Government considers the new designation should offer suitably strong protection to localised areas that are demonstrably special”

That recommendation was incorporated into the [National Planning Policy Framework](#) (NPPF) as the new designation of Local Green Spaces.

PURPOSE OF THE TOOLKIT

This toolkit is designed to support local communities in putting forward their local open spaces for formal designation as a Local Green Space in a robust, consistent and transparent manner.

The Policy Context

National Planning Policy Framework

The NPPF provides the following information on Local Green Space designations -

76. Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.

77. The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- where the green space is in reasonably close proximity to the community it serves;
- where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- where the green area concerned is local in character and is not an extensive tract of land.

78. Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts.

Additional guidance is provided in the [National Planning Practice Guidance](#).

Local and Neighbourhood Plans

Local Green Spaces can be designated through the emerging Cotswold Local Plan or through neighbourhood plans.

A policy, related to Local Green Spaces, will be included in the emerging Cotswold Local Plan.

Where relevant an appropriate policy should also be included in neighbourhood plans.

The proposed text for the emerging Cotswold Local Plan is included at appendix 2.

PROCESS FOR DESIGNATION

Step 1

If your community is considering designating an area as a Local Green Space, it may be helpful to test the site against the “decision tree” in Figure 1 on page 4.

Step 2

Make informal contact with the Council (contact Lesley Davies, Forward Planning) so that we can provide you with help in deciding whether it is worth progressing with the designation process.

Step 3

If the site seems potentially suitable we will ask you to complete the designation checklist (including all the relevant evidence) see pages 7-12

Step 4

We will review the evidence you have provided and give guidance as to whether we consider the site is suitable for designation and whether any additional evidence is required. If the evidence is sufficiently robust and, in the case of designation through the Local Plan, Cotswold District Council considers the site suitable, the designation process can start.

Step 5

If the site is to be designated in the Local Plan, we will consult the owner of the land (if known).

If the site is to be designated in a Neighbourhood Plan, those responsible for producing that plan should consult the owner of the land (if known).

Step 6

The site can then be considered for inclusion in the appropriate draft Local or Neighbourhood Plan. The deadline for inclusion in the emerging Cotswold Local Plan is 14th June 2014.

Step 7

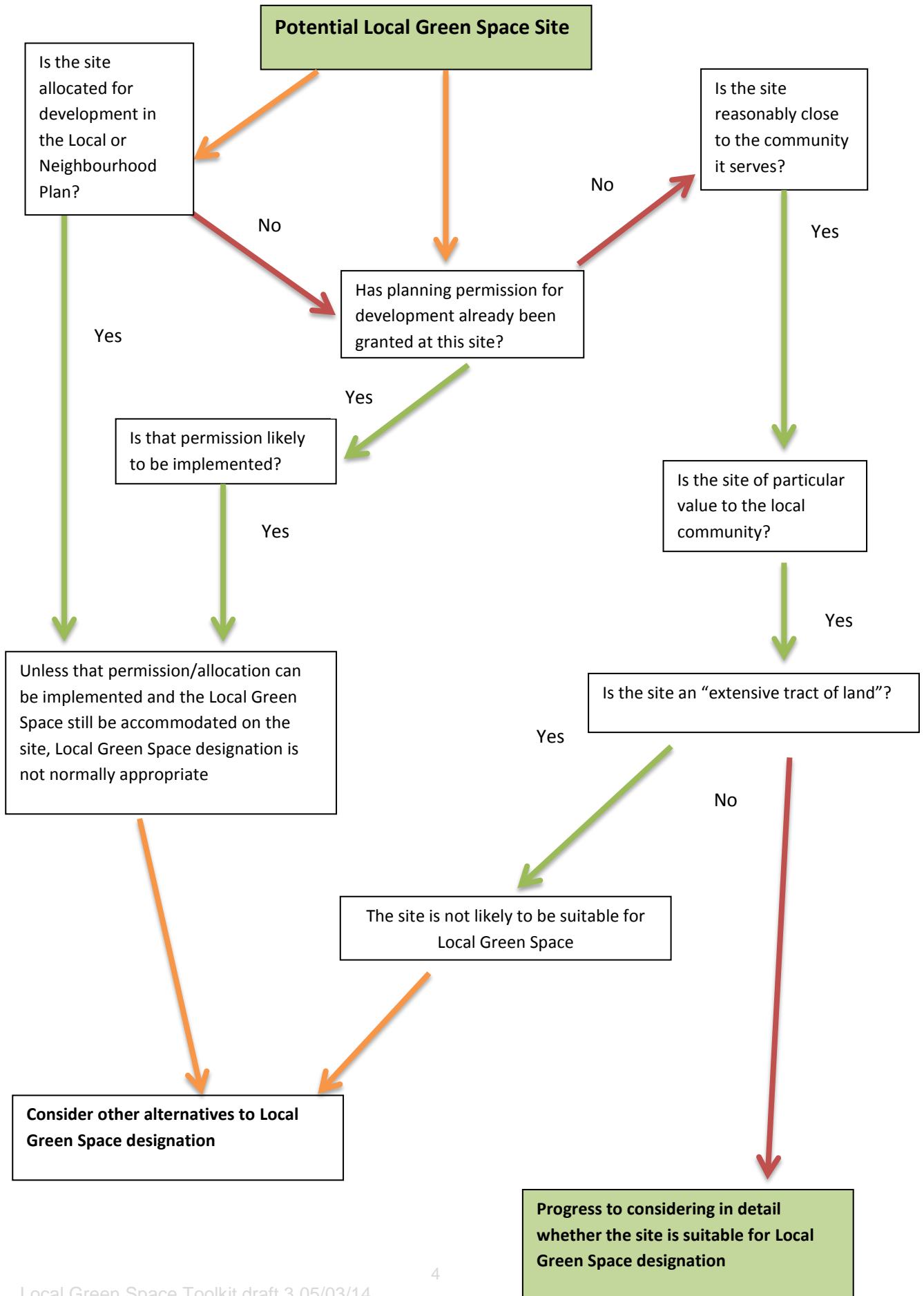
The site designation will be “tested” through the plan process. Anybody can object to policies or sites in a plan during the consultation process and these consultation responses must be considered. Neighbourhood Plans will also be subject to a local referendum. Both Local and Neighbourhood Plans are formally scrutinised by a Planning Inspector or an Independent Examiner, who will ensure that the plans are robust and based on sound evidence.

Step 8

Formal designation when the relevant plan is approved.

It is important to note that the designation process could take some time and that it may be worth looking in parallel at other means of protecting or enhancing the site.

Figure 1 -Decision tree



Criteria for Designation

Any type of green space could be suitable for Local Green Space designation from recreational land with a sports pavilion or the area around a war memorial to allotments or an urban space that provides a tranquil oasis.

As Local Green Space designation means that development is highly unlikely to be permitted on a site, there is a strong possibility that land owners and others will challenge the designation. To meet that challenge the designation must be based on solid evidence that the site meets the relevant criteria. This will be easier to demonstrate if the checklist in this toolkit is completed and the relevant evidence provided.

A potential Local Green Space site must meet the criteria set out in the NPPF, and further detailed in the National Planning Practice Guidance. These criteria are not specific – they do not give set distances or areas, but act as guidance which should then be interpreted at a local level.

In order to ensure that any designation in the District is robust, we have created a checklist against which potential Local Green Space sites should be tested.

Not every potential site will meet every criteria however all sites must meet the following criteria in the checklist –

Point 2.1	not with an extant planning permission within which the Local Green Space could not be accommodated
Point 2.2	not allocated for development in the relevant Neighbourhood Plan or the Local Plan, unless it can be shown that the Local Plan housing allocation is not strategic and can be re-located somewhere else in the neighbourhood plan area; or alternatively that the Local Green Space could be incorporated within the site as part of the allocated development
Point 3.2	Not an “extensive tract of land”
Point 3.3	“local in character”
Point 5	in “proximity to the community it serves”
Point 6	“demonstrably special to the local community”

And all sites must meet at least one of the following criteria in the Checklist-

Point 7	“particular local significance ... because of its beauty”
Point 8	“particular local significance ... because of its historic significance”
Point 9	“particular local significance ... because of its recreational value”
Point 10	“particular local significance ... because of its tranquillity”
Point 11	“particular local significance ... because of its wildlife”
Point 12	“particular local significance ... for any other reason”

In order to provide further certainty, it is proposed that Natural England’s Accessible Natural Greenspace Standards (ANGSt) are used to define the likely size of a suitable Local Green Space and its distance from the local community. Therefore a Local Green Space should normally be located within 2km (1.25 miles) of the community it serves and a site of 2ha (5 acres) or less should be located within 300m (325 yards) (or 5 minutes’ walk) of the community it serves. Given the rural nature of the District, it may be necessary to relax these requirements in certain circumstances.

A site of over 20ha (50 acres) would be considered to be “an extensive tract of land” and therefore not suitable for designation as a Local Green Space.

[Accessible Natural Greenspace Standard](#) (Natural England 2010)

ANGSt recommends that everyone, wherever they live, should have an accessible natural greenspace:

- of at least 2 hectares (5 acres) in size, no more than 300 metres (325 yards) (5 minutes walk) from home;
- at least one accessible 20 hectare (50 acres) site within two kilometres (1.25 miles) of home;
- one accessible 100 hectare (250 acres) site within five kilometres (3 miles) of home; and
- one accessible 500 hectare (1240 acres) site within ten kilometres (6.25 miles) of home; plus
- a minimum of one hectare (2.5 acres) of statutory Local Nature Reserves per thousand population.

CHECKLIST AND CRITERIA FOR LOCAL GREEN SPACE DESIGNATION

1	General Information	Tick if relevant evidence provided
1.1	Name and address of site <i>Some sites have several names and all known names should be given</i>	
1.2	Site location plan <i>The plan can be at any scale, but must show the location and boundaries of the site. Please indicate the scale.</i>	
	<i>Insert here or attach separately</i>	
1.3	Organisation or individual proposing site for designation <i>This will normally be a Town or Parish Council or a recognised community group</i>	
1.4	Ownership of site if known <i>Information on land ownership can be obtained from the Land Registry. Some land parcels are not registered however local people may know the owner.</i>	
1.5	Is the owner of the site aware of the potential designation? Do they support the designation? (Sites may be designated as Local Green Spaces, even if there are objections from the site owners)	
1.6	Photographs of site	
	<i>Insert here or attach separately</i>	
1.7	Community served by the potential Local Green Space <i>i.e. does the site serve the whole village/town or a particular geographic area or group of people?</i>	
2	Planning History	
2.1	Is there currently a planning application for this site? If permitted/allocated, could part of the overall site still be used as a Green Open Space?	

	<i>Further Information – Cotswold District Council – planning applications</i>	
2.2	Is the site allocated for development in the Local or Neighbourhood Plan? If allocated, could part of the overall site still be used as a Green Open Space? <i>Further Information – Cotswold District Council – planning policy.</i>	
3	Size, scale and “local nature” of proposed Local Green Space	
3.1	Area of proposed site <i>It is unlikely that a site of over 20ha (50 acres) would be considered suitable for designation.</i>	
3.2	Is the site an “extensive tract of land”? <i>(Extensive tracts of land cannot be designated as Local Green Space) e.g. how large is it in comparison to other fields; groups of fields; areas of land in the vicinity etc.? Does the site “feel” extensive or more local in scale?</i>	
3.3	Is the proposed site “local in character”? <i>e.g. does the site feel as though it is part of the local area? And why? How does it connect physically, visually and socially to the local area? What is your evidence?</i>	
4	Need for Local Green Space	
4.1	Is there a need for a local green space in this location? <i>e.g. is there a shortage of accessible greenspace in the area? Is there a village needs survey or parish plan that provides evidence of that need. Further information – Natural England (Accessible Natural Greenspace Standard) Cotswold District Council - Open Spaces, Sport and Recreation Study</i>	
5	Evidence to show that “the green space is in reasonably close proximity to the community it serves” <i>Please indicate what evidence you have provided against each point.</i>	
5.1	How far is the site from the community it serves? Is the site within 2km of the local community? <i>Possible evidence – a map to show that distance</i>	
5.2	Are there any barriers to the local community accessing the site from their homes? <i>e.g. railway line; main road Possible evidence – a map to show any potential barriers and how those can be overcome.</i>	

6	Evidence to show that the green area is “demonstrably special to a local community” Please indicate what evidence you have provided against each point.	
6.1	Evidence of support from Parish or Town Council <i>e.g. letter of support; Council minutes</i>	
6.2	Evidence of support from other local community groups or individuals. <i>e.g. letters of support; petitions; surveys etc.</i>	
6.3	Evidence of support from community leaders <i>e.g. letters of support from Ward Members; County Councillors; MP etc.</i> <i>Further information on contact details - Cotswold District Council, Gloucestershire County Council, House of Commons</i>	
6.4	Evidence of support from other groups <i>e.g. letters of support from organisations such as Campaign to Protect Rural England; Cotswolds Conservation Board; Gloucestershire Wildlife Trust; Gloucestershire Rural Community Council; Cotswold Water Park Trust; local amenity societies; local schools etc.</i>	
7	Evidence to show that the green area “holds a particular local significance, for example because of its <u>beauty</u>,” (if applicable) Please indicate what evidence you have provided against each point.	
7.1	Is this criteria relevant to this site ?	
	YES / NO	
7.2	Describe why the community feels that the site has a particular local significance for its beauty.	
7.3	Site visibility <i>e.g. is it easy to see the site from a public place? Are there long-distance views of the site? Are there views of the site from any key locations?</i>	
7.4	Is the site covered by any landscape or similar designations? <i>e.g. Area of Outstanding Natural Beauty; Conservation Area; Special Landscape Area</i> <i>Further information – Cotswold District Council; Natural England; Cotswolds Conservation Board</i>	

7.5	Is the site (or the type of site) specifically mentioned in any relevant landscape character assessments or similar documents? <i>e.g. Cotswolds AONB landscape character assessment. Further information – Cotswold District Council; Natural England; Cotswolds Conservation Board</i>	
7.6	Does the site contribute to the setting of a historic building or other special feature?	
7.7	Is the site highlighted in literature or art? <i>e.g. is the site mentioned in a well-known poem or shown in a famous painting?</i>	
8	Evidence to show that the green area “holds a particular local significance for example because of its <u>historic significance</u>” (if applicable) <i>Please indicate what evidence you have provided against each point.</i>	
8.1	Is this criteria relevant to this site ?	
	YES / NO	
8.2	Are there any historic buildings or remains on the site? <i>e.g. listed buildings; scheduled ancient monuments ; registered parks and gardens; war memorials; other historic remains or structures.</i> <i>Further information – Cotswold District Council; English Heritage; Gloucestershire Historic Environment Record; Gloucestershire Archives; local history society;</i>	
8.3	Are there any important historic landscape features on the site? <i>e.g. old hedgerows; ancient trees; historic ponds or historic garden features</i> <i>Further information – Cotswold District Council; English Heritage; Gloucestershire Historic Environment Record; local history society</i>	
8.4	Did the site play an important role in the historic development of the village or town? <i>e.g. the old site of the town railway station; the old garden for the manor house etc.</i>	
8.5	Did any important historic events take place on the site?	
8.6	Do any historic rituals take place on the site? <i>e.g. well-dressing; maypole dancing etc.</i>	

9	Evidence to show that the green area “holds a particular local significance, for example because of its <u>recreational value</u> (including as a playing field)”, (if applicable) <i>Please indicate what evidence you have provided against each point.</i>	
9.1	Is this criteria relevant to this site ?	
	YES / NO	
9.2	Is the site used for playing sport? <i>If so what sport? How long has it been used for sports provision? Is this sports provision free or is a club membership required? Further information – Sport England</i>	
9.3	Are the public able to physically access the site? <i>e.g. are there any public rights of way across the site? Or adjacent to the site? Has access been allowed on a discretionary basis? Is there public access to the whole site or only part? Is there good disabled access to the site? (A site can still be designated even if there is no public access.) Further information – Gloucestershire County Council</i>	
9.4	Is the site used by the local community for informal recreation? And since when? <i>e.g. dog walking; sledging; ball games etc</i>	
10	Evidence to show that the green area “holds a particular local significance, for example because of its <u>tranquillity</u>” (if applicable) <i>Please indicate what evidence you have provided against each point.</i>	
10.1	Is this criteria relevant to this site ?	
	YES / NO	
10.2	Do you consider the site to be tranquil? <i>e.g. are there any roads or busy areas close by?</i>	
10.3	Is the site within a recognised tranquil area? <i>e.g. within the Campaign to Protect Rural England's tranquillity maps</i>	
11	Evidence to show that the green area “holds a particular local significance, for example because of the <u>richness of its wildlife</u>”; (if applicable) <i>Please indicate what evidence you have provided against each point.</i>	
11.1	Is this criteria relevant to this site ?	

	YES / NO	
11.2	<p>Is the site formally designated for its wildlife value? <i>e.g. as a site of special scientific interest; a key wildlife site etc</i> Further information - Natural England; Gloucestershire Centre for Environmental Records</p>	
11.3	<p>Are any important habitats or species found on the site? <i>e.g. habitats and species listed in the UK priority habitats and species lists or in the Cotswold Water Park or Gloucestershire Biodiversity Action Plans or protected species or on the red/amber lists of birds of conservation concern.</i> Further information - Natural England; Gloucestershire Centre for Environmental Records; National Biodiversity Network; Cotswold Water Park Trust; RSPB</p>	
11.4	<p>What other wildlife of interest has been found on the site? Further information - Natural England; Gloucestershire Centre for Environmental Records; National Biodiversity Network; Cotswold Water Park Trust</p>	
11.5	<p>Is the site part of a long term study of wildlife by members of the local community? <i>e.g. long-term monitoring of breeding birds.</i></p>	
12	<p>Evidence to show that the green area “holds a particular local significance, for <u>any other reason</u>”; (if applicable) <i>Please indicate what evidence you have provided against each point.</i></p>	
12.1	Is this criteria relevant to this site ?	
	YES / NO	
12.2	Are there any other reasons why the site has a particular local significance for the local community?	

ALTERNATIVES TO LOCAL GREEN SPACE DESIGNATION

If during the process it becomes evident that the site is not appropriate for local green space designation, there are other options that can be investigated.

Agreements with land-owners

It may be possible for local communities to reach either formal or informal agreements with the owner of the site to ensure access to the site for local people. This may be an appropriate option where the site owner has a long-term connection with the local area, for example the owner of a large historic estate. It may be possible for the land-owner to dedicate the site as “open access land”.

Further information:

[Right of way and open access land - GOV.UK](#)

Community Purchase

In some instances local communities have purchased important sites to ensure that they remain in community control in perpetuity. The ownership can lie with the Town or Parish Council or with a specific trust.

Village Green status

Anyone can apply to register land as a green if it has been used by local people for lawful sports and pastimes ‘as of right’ (ie without permission, force or secrecy) for at least 20 years.

Further information:

[Town and village greens: how to register](#)

[Open Spaces Society](#)

Local Nature Reserves

A Local Nature Reserve (LNR) provide people with special opportunities to study or learn about nature or simply to enjoy it. Local Nature Reserves are designated by district or county councils and the Local Authority must control the LNR through ownership, lease or agreement with the owner.

Further information:

[Natural England](#)

Assets of Community Value

The Community Right to Bid gives community groups a fairer chance to prepare and bid to buy community buildings and facilities that are important to them. This could include village shops, pubs or allotments. The right covers private as well as public assets. It is important to nominate land and buildings to be part of the register of ‘assets of community value’, which is held by the Local Authority (Cotswold District Council). If something on this register is offered for sale, the community then have up to six months to prepare a bid.

Further information:

www.gov.uk

[My Community Rights](#)

Cotswold District Council – [Community right to bid](#)

APPENDIX 1: DRAFT COTSWOLD LOCAL PLAN POLICY AND SUPPORTING TEXT

To be included in the Local Plan section on green infrastructure

Draft Supporting Text

National policy makes provision for local communities to identify green areas of particular importance to those communities, where development will not be permitted except in very special circumstances. These Local Green Spaces can be designated through the local plan or through neighbourhood plans. The following sites have been proposed as Local Green Spaces through the local plan consultation process –

A

B

C

Additional guidance is provided on the criteria and evidence required for selection of local green space sites in “Local Green Spaces – a toolkit for local communities in Cotswold District”

Neighbourhood plans, when produced, should seek the provision and enhancement of green infrastructure, including Local Green Spaces where designated, as well as including the designation of new Local Green Spaces where appropriate.

Draft Policy

Local communities are encouraged to include new and robustly justified Local Green Spaces within their neighbourhood plans, where this designation does not prevent identified development needs being met. The selection of these sites should be guided by the advice in “Local Green Spaces– a toolkit for local communities in Cotswold District”

Development that would harm the openness or special character of a Local Green Space or its significance and value to the local community will not be permitted unless there are very special circumstances which outweigh the harm to the Local Green Space.

WEB REFERENCES

Natural Environment White Paper – The Natural Choice: securing the value of nature (2011)
<http://www.official-documents.gov.uk/document/cm80/8082/8082.pdf>

National Planning Policy Framework.
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

National Planning Practice Guidance.
<http://planningguidance.planningportal.gov.uk/blog/guidance/open-space-green-space-and-rights-of-way-2/local-green-space-designation/>

Natural England – Accessible Natural Greenspace Standards
<http://publications.naturalengland.org.uk/publication/40004?category=47004>

Natural England – Landscape
<http://www.naturalengland.org.uk/ourwork/landscape/default.aspx>

Natural England - mapping
<http://www.naturalengland.org.uk/publications/maps/default.aspx>

Natural England – Local Nature Reserves
<http://www.naturalengland.org.uk/ourwork/conservation/designations/lnr/>

Land Registry
<http://www.landregistry.gov.uk/>

Cotswold District Council – planning applications
<http://www.cotswold.gov.uk/residents/planning-building/planning/online-planning-register/>

Cotswold District Council – planning policy
<http://www.cotswold.gov.uk/residents/planning-building/planning-policy/>

Cotswold District Council – Open Spaces, Sport and Recreation Study
http://consult.cotswold.gov.uk/portal/fp/open_spaces/open_spaces_sport_and_recreation_study?tab=files

Cotswold District Council – Community right to bid
<http://www.cotswold.gov.uk/business/land-property/community-right-to-bid/>

Gloucestershire County Council – Find your Councillor
<http://glostext.gloucestershire.gov.uk/mgMemberIndex.aspx?bcr=1>

Gloucestershire County Council – public rights of way
<http://www.gloucestershire.gov.uk/prow>

Greenspace
<http://www.green-space.org.uk/index.php>

House of Commons – find your MP

<http://findyourmp.parliament.uk/>

Campaign to Protect Rural England – home page

<http://www.cpre.org.uk/>

Campaign to Protect Rural England – tranquil places

<http://www.cpre.org.uk/what-we-do/countryside/tranquil-places>

Cotswolds Conservation Board

<http://www.cotswoldsaonb.org.uk/>

Gloucestershire Wildlife Trust

<http://www.gloucestershirewildlifetrust.co.uk/>

Gloucestershire Rural Community Council

<http://www.grcc.org.uk/>

Cotswold Water Park Trust

<http://www.waterpark.org/>

English Heritage

<http://www.english-heritage.org.uk/professional/protection/process/national-heritage-list-for-england/>

Gloucestershire Historic Environment Record

<http://www.gloucestershire.gov.uk/her>

Gloucestershire Archives

<http://www.gloucestershire.gov.uk/archives/article/107703/Archives-Homepage>

Sport England

<http://www.sportengland.org/>

Gloucestershire Centre for Environmental Records

<http://www.gcer.co.uk/>

National Biodiversity Network

<http://www.nbn.org.uk/>

Royal Society for the Protection of Birds

http://www.rspb.org.uk/Images/BoCC_tcm9-217852.pdf

Town and village greens: how to register

<https://www.gov.uk/town-and-village-greens-how-to-register>

Open Spaces Society

<http://www.oss.org.uk/what-we-do/village-greens/>

My Community Rights

<http://mycommunityrights.org.uk/community-right-to-bid/>

www.gov.uk – Community right to bid

<https://www.gov.uk/government/policies/giving-people-more-power-over-what-happens-in-their-neighbourhood/supporting-pages/community-right-to-bid>

www.gov.uk – open access land

<https://www.gov.uk/right-of-way-open-access-land/open-access-land>

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**RE: DESIGNATION OF LAND AT SOUTH
CHELTENHAM/LECKHAMPTON AS LOCAL GREEN SPACE**

ADVISORY NOTE

INTRODUCTION

1. I am instructed to advise Cheltenham Borough Council ('the Council') in its capacity as local planning authority ('LPA').

BACKGROUND

2. Together with neighbouring authorities¹ the Council has been engaged in the process of preparing a Joint Core Strategy ('JCS'). Once adopted the JCS will form a major part of the Local Plan/development plan for Cheltenham's administrative area.² It is currently ready for publication as a pre-submission draft, subject to the approval of the Council. A meeting is scheduled to decide upon on 9th April 2014 (i.e. Wednesday this week).

THE ISSUE

3. Leckhampton with Warden Hill Parish Council and Martin Horwood, MP for Cheltenham, have submitted representations arguing that land within an area referred to as A6 South Cheltenham/Leckhampton in the JCS should be designated as Local Green Space ('LGS'). It is also argued that the Council has misunderstood relevant principles and the circumstances in which such designations can be made.

¹ I.e. Tewksbury Borough Council and Gloucester City Council.

² Local Plan is term used in the National Planning Policy Framework ('the Framework') to refer to what is referred to in the legislation as the development plan - see in particular section 38 of the Planning and Compulsory Purchase Act 2004.

ADVICE

4. In my view the approach to the designation of LGS within the draft JCS is lawful and consistent with national policy and guidance. On the other hand, I think it is likely that a planning inspector would regard the designation currently proposed as LGS by the Parish Council as being contrary to national policy and guidance.

5. The main reasons for this are that:
 - Land should not be identified as LGS where it would undermine the ability of the Local Plan to provide for sufficient homes, jobs and other essential services (Framework §66, National Planning Guidance). However, it appears likely that this would be the effect of designating the area proposed as LGS in this case since, as the Parish Council acknowledge, the LGS designation it proposes is inconsistent with the site functioning as an urban extension to meet those needs.
 - LGS is not appropriate for most green or open spaces. In particular it is not intended for use as a strategic tool to keep “extensive tract[s] of land” free from development for its own sake but rather as a means only of protecting areas of special local significance (Framework, §77 and National Planning Guidance). For this reason it has a fundamentally different purpose to including land in the Green Belt and should not be used as means of achieving that purpose by the “back door”. Part of the case, however, made by the Parish Council for designating the land relies on wider planning grounds for objecting to the allocation (such as traffic generation) but which are not relevant to the question of whether or not it should be LGS.
 - Because LGS is only intended to be used in relation to areas of special local significance (and then only to the extent that is consistent with sustainable development and meeting identified needs) it will normally be more appropriate to consider such designations at the local level of plan-making, rather than at the strategic level such as in the JCS. The current draft of the JCS is consistent with that because it envisages, and indeed

encourages, the identification of areas of LGS within strategic allocations when the District Plans are prepared (see policies INF4 and SA1).

6. In my opinion, therefore, there is no reason that the Council should defer making a decision on the draft JCS on any of these grounds.

CONCLUSION

7. I advise accordingly. Should anything further arise please contact me in chambers.

JOHN HUNTER

Kings Chambers

8th April 2014

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Appendix 2

Tender for Local Green Space Assessment

Revision	Issue Date	Issue Status	Changes Incorporated
1	22 nd May 2014	Draft	TC comments incorporated
2	10 th June 2014	Draft awaiting Cabinet approval	

Overview

This is a request for a detailed costed proposal to be submitted to the Cheltenham Borough Council Planning Policy Team to assist us with a project to identify suitable candidates for designating land as 'Local Green Space'

Background

- 1.1 We are seeking detailed and costed proposals to be submitted to the Council Planning Policy team for short term assistance in facilitating community involvement in assessing the potential for designating areas of the Borough as 'Local Green Space'.
- 1.2 Local Green Space is a planning policy designation which can be included within Development Plan Documents. The designation is designed to allow to local communities to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.
- 1.3 Identifying land as Local Green Space must therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.
- 1.4 At a meeting of Cheltenham Borough Council on the 9th of April 2014 agreeing the Pre Submission Joint Core Strategy strategic Development Plan Document the Council resolved to:

“Designate Local Green Spaces where appropriate as part of the Cheltenham Local Plan. We would particularly wish to evaluate the potential for Local Green Space designation in Leckhampton and North West Cheltenham, where green areas of particular local significance are known to exist.”

Consultancy Requirements

- 1.5 National Planning Policy requires that the designation of Local Green Space should be driven by local communities who identify areas of particular importance to them. Therefore in identifying appropriate areas for consideration we there should be both a 'bottom up' (where local communities bring areas to the attention of the Council) as well as a 'top down' (where the council proposes areas to designate to communities) approach. It is also important that this discussion with communities takes place at a Borough wide level, rather than in a piecemeal way where some communities may not be aware that they could identify land to benefit from the designation and so could be left out.
- 1.6 We are seeking proposals to be submitted to the Council Planning Policy Team to assist us with the consultation .
- 1.7 Cheltenham Borough Council Planning Policy Officers have access to a Local Green Space Toolkit. We would seek to approach local communities and Parish Councils with the purpose of determining whether they feel that there are areas which they would wish to see designated in this way; and whether these areas when considered with the aid of the toolkit are suitable for such a designation.
- 1.8 Tenders will normally be considered for work totalling approximately £5,000 - £6,000; and must not in any event cost more than £10,000. Tenders will be considered and awarded at the Council's discretion and we are under no obligation to choose the lowest bidder. Successful submissions will provide the highest quality and most suitable (in our view) package of assistance to the communities and ourselves. There is intended to be flexibility through negotiation in the tender process to allow for maximum cost efficiency.
- 1.9 As a rough structure to guide this work we would be looking for:
- Early engagement with local community groups, parish councils etc. to listen to their views on which areas of green space they deemed special and could benefit from this protection. The consultants would capture any ideas which the community group already had on this topic, and then present some maps and suggestions for areas for consideration. If the local group agreed that this would be worthwhile, the consultants could assist with the completion of the toolkit.
 - The consultants would then generate a report capturing the outcomes of the events and which areas the groups considered and whether the community felt there were any strong candidates for designation. The report would include outputs from the toolkit.
 - The planning policy team would at the same time be assessing development needs which the Cheltenham Plan would be required to deliver and likely / necessary locations to meet those needs.
 - The planning policy team would also meanwhile be evaluating which areas were already designated or protected in some other way – such as playing pitches, areas currently in Green Belt/ AONB etc. where designations such as Local Green Space would not increase protection.
 - After this sifting process by planning officers, the Cheltenham Borough

Council Cabinet could then be presented with a list of potential areas that should be further investigated with a view to designation in the forthcoming Cheltenham Plan, including further dialogue with communities wherever required.

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Cheltenham Borough Council

Cabinet – 24th June 2014

Air Quality Action Plan

Accountable member	Councillor Andrew McKinley, Cabinet Member Development and Safety
Accountable officer	Paul Scott – Contaminated Land Officer
Ward(s) affected	All
Key Decision	No
Executive summary	<p>Cheltenham Borough Council has produced an Air Quality Action Plan in accordance with its statutory duties under the Environment Act 1995 and following the designation of the Borough as an Air Quality Management Area (AQMA) in 2011.</p> <p>The AQMA was declared because five separate locations in Cheltenham did not meet the government’s health based limit for the air pollutant nitrogen dioxide. Nitrogen dioxide is a gas formed from fossil fuel combustion. It comes from some industrial processes, but mostly from road traffic exhaust emissions. Studies on the effects of nitrogen dioxide and particulates on human health have linked it with various respiratory illnesses, cardiovascular disease and the aggravation of existing lung conditions, such as asthma. Poor air quality impacts on health of the whole population and it is calculated to cause the premature death of 29,000 people per year in the UK.</p> <p>This Action Plan lays out a number of actions that if implemented could have a positive impact on air quality within Cheltenham. Implementation of the proposed actions will require effective engagement with key partners both within and external to the council. Such partners include Planning and Development Control, Gloucestershire Highways and Gloucestershire County Council.</p>
Recommendations	To approve the adoption of the Air Quality Action Plan and implementation of measures contained therein

Financial implications	<p>None – will be implemented within existing revenue resources.</p> <p>Contact officer: Nina Philippidis, Accountant nina.philippidis@cheltenham.gov.uk, 01242 264121</p>
Legal implications	<p>None, unless not implemented.</p> <p>Contact officer: vikki.fennell@tewkesbury.gov.uk, 01684 272015</p>

HR implications (including learning and organisational development)	Negligible – use of existing resources Contact officer: richard.hall@cheltenham.gov.uk, 07801123276
Key risks	Should resources be reduced within Public Protection there is a risk that the Action Plan measures may not be progressed and air quality may not improve.
Corporate and community plan Implications	Implementation of the Air Quality Action Plan will help deliver elements of the community objectives within the Corporate Plan; especially <i>enhancing and protecting our environment</i> and <i>strengthening our communities</i> . In particular, the outcomes that will be assisted in being met by the Air Quality Action Plan include; maintaining a clean and well maintained environment, reducing carbon emissions and ensuring people are able to lead healthy lifestyles (through reduced exposure to potentially harmful air pollution). In addition the economy of Cheltenham could benefit from a number of the proposed Air Quality actions, through improving the shopping experience and visual appeal of Cheltenham to visitors and improving the safety of cyclists and pedestrians (from reduced town-centre through traffic).
Environmental and climate change implications	Implementation of the measures contained within the Air Quality Action Plan should help to reduce carbon emissions through the planned reduction in vehicle use.
Property/Asset Implications	None Contact officer: David Roberts@cheltenham.gov.uk

1. Background

1.1 Please see attached report Air Quality Action Plan 2014 – v1.2 FINAL

2. Reasons for recommendations

2.1 To comply with statutory provisions under Section 84(2) b of the Environment Act (1995) – where a local authority is required to prepare an Air Quality Action Plan in pursuit of the achievement of air quality standards. In this case, achievement of the national air quality objective for nitrogen dioxide (annual mean).

3. Alternative options considered

3.1 None

4. Consultation and feedback

4.1 External and Public consultation completed. Feedback fed into revised Action Plan as attached.

5. Performance management –monitoring and review

5.1 Cheltenham Borough Council is required to provide annual Progress Reports to the Department of Environment, Food and Rural Affairs (DEFRA) every April. This will include details of progress with implementation of the Air Quality Action Plan. Internal performance management will continue through the Air Quality Steering Group and ongoing liaison with Gloucestershire County Council. Information obtained from meetings and review of air quality monitoring data will feed into the annual report to DEFRA.

Report author	Contact officer: paul.scott@cheltenham.gov.uk, 01242 264358
Appendices	1. Risk Assessment
Background information	1. Please see attached Air Quality Action Plan v. 1.2 FINAL

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	
	Risk that air quality may not improve at key locations that are required to meet UK air quality standards (areas exceeding national objective limits) following the implementation of the Highways Improvement Scheme and closure of the inner ring road. Possible health impacts from poor air quality continue.	PS	31/03/14	2	3	6	Reduce	Continue with expanded Air Quality Monitoring network to gauge effectiveness of Highways Improvement scheme. Assess further possible air quality actions that could be implemented should pollution levels not decline. Demonstrate that long term benefit to air quality is likely anyway as a result of improved emission standards and a gradual reduction in background pollution levels.	31/03/15	PS		
	Risk that Cheltenham Borough Council suffers from negative publicity if air quality (as above) is not improved.	PS	31/03/14	2	3	6	Reduce	Have robust monitoring data to demonstrate effectiveness of those measures implemented. Focus on areas of success.	31/03/15	PS		
	Risk that some measures identified in the Action Plan may not be implemented due to funding constraints at Gloucestershire County Council.	PS	31/03/14	2	3	6	Accept	Funding and resource will be maximised where possible, however limitations exist with potential for Cheltenham Borough Council to influence funding allocations at County level. Majority of proposed air quality measures & schemes are County Council funded & resourced.	31/03/15	PS		

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CHEL TENHAM
BOROUGH COUNCIL

Air Quality Action Plan

In fulfillment of Part IV of the
Environment Act 1995
Local Air Quality Management

April 2014

Local Authority Officer	Paul Scott
Department	Environmental Protection
Address	PO Box 12, Municipal Offices, The Promenade, Cheltenham GL50 1PP
Telephone	01242 264358
e-mail	pollution@cheltenham.gov.uk
Report Reference number	AQAP 2014 – v1.2 FINAL
Date	02/04/2014

Executive Summary

Cheltenham Borough Council has produced this Air Quality Action Plan in accordance with its statutory duties under the Environment Act 1995 and following the designation of the Borough as an Air Quality Management Area (AQMA) in 2011.

The AQMA was declared because five separate locations in Cheltenham did not meet the government's health based limit for the air pollutant nitrogen dioxide. Nitrogen dioxide is a gas formed from fossil fuel combustion. It comes from some industrial processes, but mostly from road traffic exhaust emissions. Studies on the effects of nitrogen dioxide and particulates on human health have linked it with various respiratory illnesses, cardiovascular disease and the aggravation of existing lung conditions, such as asthma. Poor air quality impacts on health of the whole population and it is calculated to cause the premature death of 29,000 people per year in the UK.

This Action Plan lays out a number of actions that if implemented could have a positive impact on air quality within Cheltenham. Implementation of the proposed actions will require effective engagement with key partners both within and external to the council and identification of suitable resource. Such partners include Planning and Development Control, Gloucestershire Highways and Gloucestershire County Council.

This document aims to identify actions that will improve existing air quality whilst linking air quality considerations to wider policy to ensure that any potential air quality impacts of future traffic growth and development are minimised.

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1 Introduction

1.1 Purpose of Report

This report sets out a number of proposed measures to improve air quality within the Cheltenham Air Quality Management Area (AQMA). It forms part of the requirements of the Local Air Quality Management review and assessment process as set out in Part IV of the Environment Act (1995). The boundary of the AQMA is shown in Figure 1.1 and was declared due a number of locations across the town exceeding the annual mean nitrogen dioxide objective (see Section 1.3). This '**objective**' is a national measure of air quality and where this is not being met, the local authority must prepare and implement a remedial Action Plan to improve air quality in their area and work towards achieving the objective.

1.2 Background to Air Quality management

Poor air quality reduces life expectancy in the UK by an average of seven to eight months with estimated health costs of up to £20 billion per year. The UK Air Quality Strategy was developed to bring these figures down through the effective implementation of measures to improve air quality. It is also recognised that measures to improve air quality will often also have co-benefits such as reducing greenhouse gas emissions and noise pollution.

Part IV of the Environment Act 1995 requires local authorities to periodically review and assess air quality in their areas. The role of this process is to identify areas where air quality is poor and where objectives are not being met. Where this occurs, these locations must be designated as AQMA's and a subsequent Action Plan developed in order to reduce pollution emissions at these locations. As part of this process the council must calculate the likely sources of the pollution and the magnitude of reduction in emissions required to achieve an objective. This information is then used to inform the Air Quality Action Plan.

1.3 Air Quality Objectives

The air quality objectives applicable to local air quality management (LAQM) in England are set out in the Air Quality (England) Regulations 2000 and the Air Quality (England) (Amendment) Regulations 2002. Table 1.1 below shows the objectives for nitrogen dioxide in units of microgrammes per cubic metre $\mu\text{g}/\text{m}^3$ with the number of exceedences in each year that are permitted.

Table 1.1 Air Quality Objectives for Nitrogen Dioxide

Pollutant	Air Quality Objective		Date to be achieved by
	Concentration	Measured as	
Nitrogen dioxide	200 $\mu\text{g}/\text{m}^3$ not to be exceeded more than 18 times a year	1-hour mean	31.12.2005
	40 $\mu\text{g}/\text{m}^3$	Annual mean	31.12.2005

The air quality objectives only apply where members of the public are likely to be regularly present for the averaging time of the objective (i.e. where people will be exposed to pollutants). For annual mean objectives, relevant exposure is limited to residential properties, schools and hospitals. The 1-hour objective applies at these locations, as well as at any outdoor location where a member of the public might reasonably be expected to stay for 1 hour or more, such as shopping streets, parks and sports grounds, as well as bus stations and railway stations that are not fully enclosed. Measurements across the UK have shown that the 1-hour nitrogen dioxide objective is unlikely to be exceeded unless the annual mean nitrogen dioxide concentration is greater than 60 $\mu\text{g}/\text{m}^3$. In Cheltenham there are no locations that exceed 60 $\mu\text{g}/\text{m}^3$ as an annual mean, so the 1-hour nitrogen dioxide objective is not relevant. The objective that needs to be met in Cheltenham is the annual mean objective for nitrogen dioxide of 40 $\mu\text{g}/\text{m}^3$.

1.4 Scope of Action Plan

The main aim of the Action Plan is to deliver improved air quality across the Borough of Cheltenham and specifically in those areas that currently do not meet the air quality objective for nitrogen dioxide. The scope of the plan will therefore be;

- to confirm the extent of the problem and amount of air quality improvement required at each location;
- to refine knowledge of the sources of pollution so that the air quality action plan can be properly targeted;
- to take account, as far as possible, of any local policy developments that are likely to affect air quality in the future.
- to identify the most effective measures that could be implemented to reduce pollution levels at the key locations where air quality is not meeting national objective limits.
- to take into account and respond to any comments made by consultees in respect of this draft plan before agreeing on the final list of measures to be implemented. This has been carried out and this plan has now been amended and is presented as a final approved version.

2 AQMA Location

The Cheltenham AQMA comprises the entire Borough area due to the number of separate locations where exceedance of nitrogen dioxide was measured (7 locations in 2010, 5 locations in 2011 & 2012). It was therefore deemed appropriate to utilise the whole Borough boundary to avoid having to declare numerous separate AQMA's and also to prevent the possibility of simply shifting the air quality problem elsewhere with implementation of any localised Action Plan measures.

Figure 2.1 Map of current AQMA Boundary

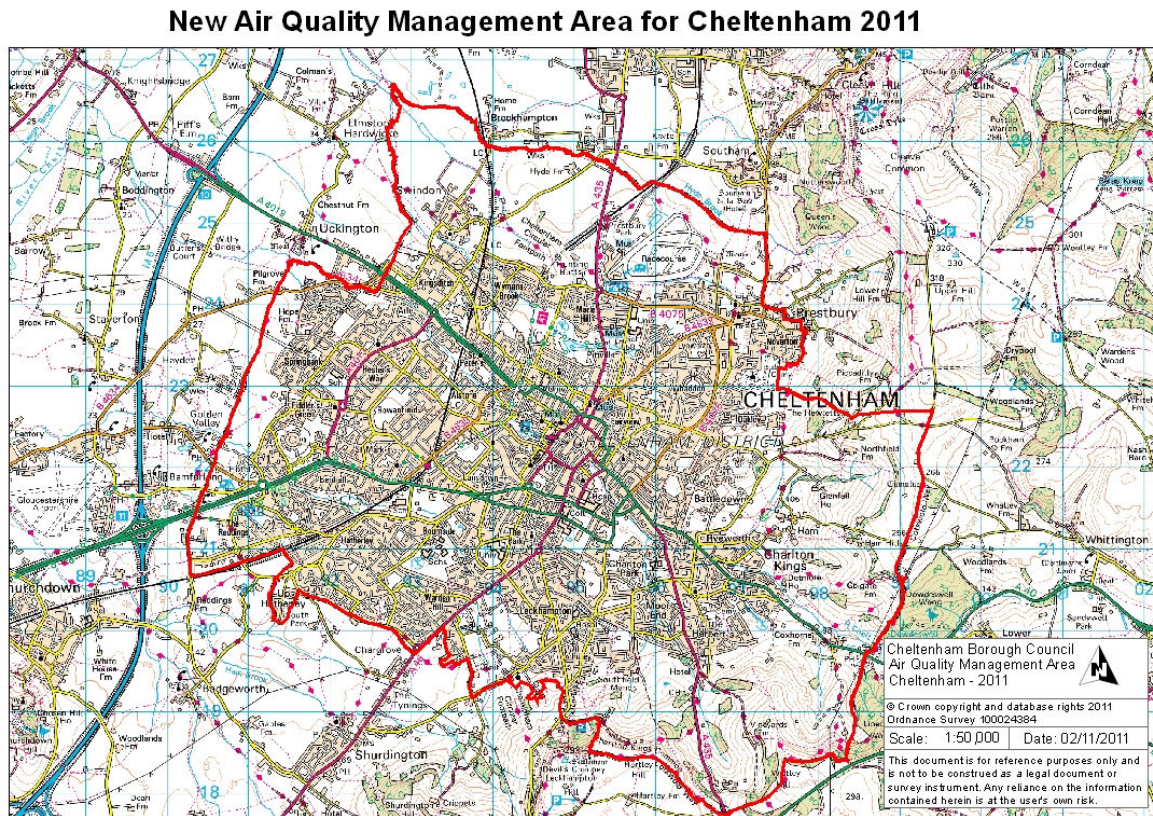
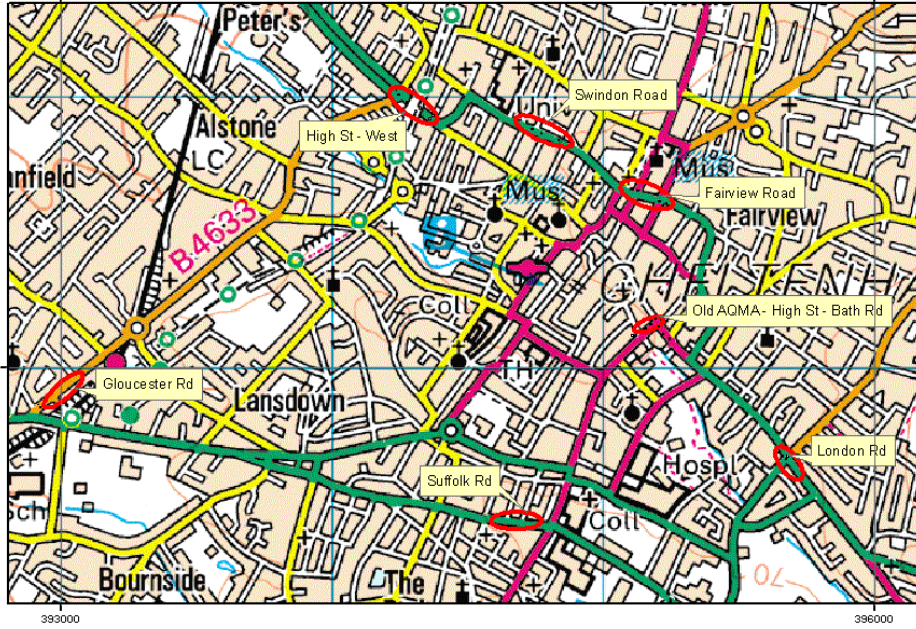
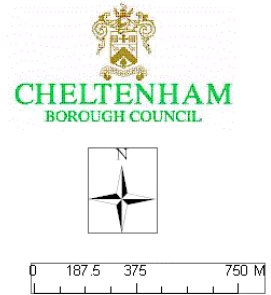


Figure 2.2 Areas where exceedance of the NO₂ annual mean occurred in 2010 and 2011

Areas of NO₂ exceedance in Cheltenham measured in 2010



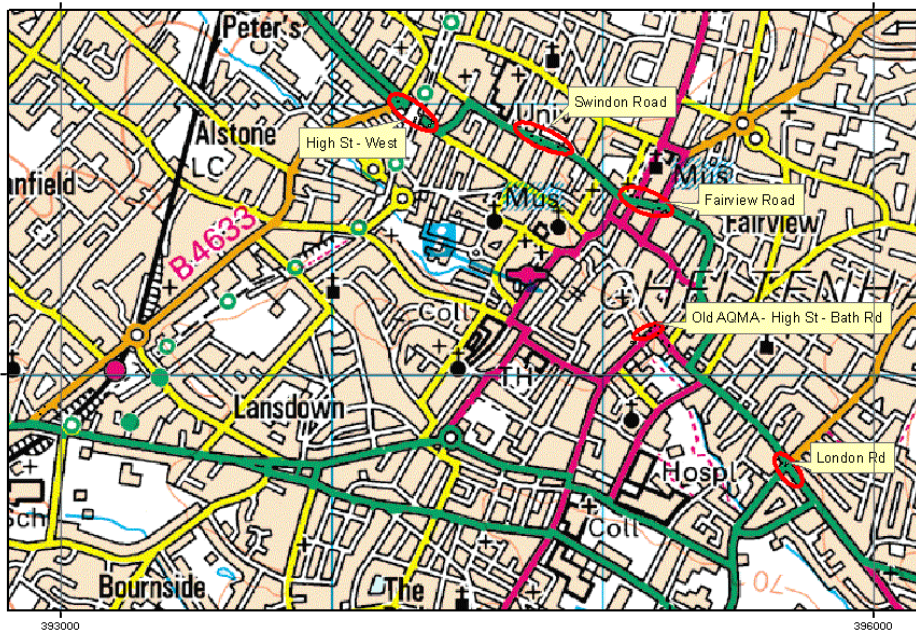
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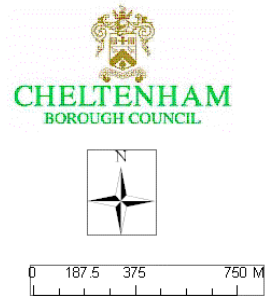
Legend

Contaminated Land Officer 2012

Areas of NO₂ exceedance in Cheltenham measured in 2011



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Contaminated Land Officer 2012

3 Air Quality Management in Cheltenham

In Cheltenham, the council has been carrying out air quality monitoring for a number of years and producing air quality reports in accordance with its duties under Part IV of the Environment Act (1995). Annual reports are submitted to the Department of Environment, Food and Rural Affairs (DEFRA). These reports, together with annual monitoring data, are available to view on our website www.cheltenham.gov.uk

3.1 Roadside monitoring

Cheltenham Borough Council carries out automatic monitoring of nitrogen dioxide at the junction of Swindon Road and St Georges Street where exceedance of nitrogen dioxide (annual mean) had been recorded nearby. The unit measures NO_x, NO₂ and NO. During 2012 the unit recorded an annual mean nitrogen dioxide level of 37ug/m³ with no exceedances of the hourly mean for nitrogen dioxide.

3.2 Diffusion tube monitoring

Cheltenham Borough Council also undertakes monitoring for nitrogen dioxide using diffusion tubes at a number of locations across the town. Many of the monitoring locations have been consistently below the annual mean objective limit for nitrogen dioxide (40ug/m³). Following a review at the beginning of 2010, new monitoring locations were added where there are known residential dwellings next to busy roads. Some of these locations indicated exceedance of the nitrogen dioxide (annual mean) objective of 40ug/m³ which resulted in declaration of the AQMA in 2011.

Monitoring during 2011 and 2012 confirmed nitrogen dioxide exceedance levels at 11 separate monitoring locations. These monitoring locations correspond to five distinct areas within Cheltenham. These areas are listed below and are described as;

Location 1: High Street - Bath Road

Location 2: Swindon Road – St Georges Street Junction

Location 3: Fairview Road – Winchcombe Street junction

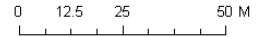
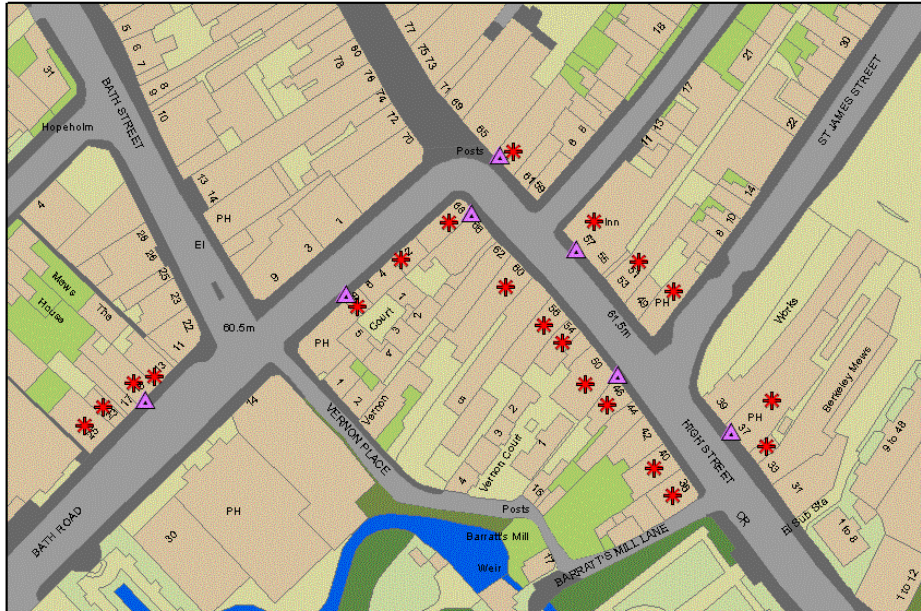
Location 4: London Road – Hales road junction

Location 5: High Street (western end) – junction with Gloucester Road

These areas are identified in the following plans;

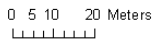
Figure 3.1 Maps of five areas where exceedance of the nitrogen dioxide (annual mean) has been recorded

High Street - Bath Road air pollution area



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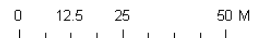
- NO2_Monitoring Locations
- Residential Exposure



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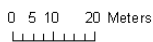
Environmental Protection 2013

Swindon Road - St Georges Street air pollution area



Legend

- NO2_2012_NewLocations
- NO2_2011_TubeLocations
- NO2_2010_TubeLocations
- Residential Exposure



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Environmental Protection 2013

Fairview Road - Winchcombe Street air pollution area



0 5 10 20 M

Legend

- NO2_2011_TubeLocations
- NO2_2010_TubeLocations
- Residential Exposure

03.75 5 15 Meters

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Environmental Protection 2013

London Road - Hales Road air pollution area



0 5 10 20 M

Legend

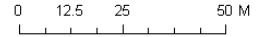
- NO2_2012_NewLocations
- NO2_2011_TubeLocations
- NO2_2010_TubeLocations
- Residential Exposure

03.75 5 15 Meters




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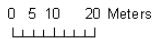
Environmental Protection 2013

High Street - Gloucester Road air pollution area



Legend

-  NO2_2011_TubeLocations
-  NO2_2010_TubeLocations
-  Residential Exposure



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Environmental Protection 2013

3.3 Monitoring data

During 2011, Cheltenham Borough Council monitored 40 nitrogen dioxide diffusion tube locations across the Borough. Further monitoring tubes were added to the monitoring network at the beginning of 2011 to enable more detailed assessment of locations where elevated levels of nitrogen dioxide were identified during 2010. These were the subject of detailed assessment towards the end of 2011 and justified the decision to declare a new AQMA for Cheltenham to cover the Borough area.

Automatic Monitoring Data

In 2011 Cheltenham Borough Council decided that the installation of a roadside monitoring box would be useful to help confirm elevated levels of nitrogen dioxide measured in the area from diffusion tubes. The location of the roadside monitoring box was selected on the basis of relevant exposure being present and proximity to nearby diffusion tube monitoring points, where elevated levels of nitrogen dioxide had been recorded. It was located at the junction of Swindon Road and St George's Street where traffic congestion is a problem.

Results obtained indicate mean annual nitrogen dioxide at the unit is below the national objective and measured 37 $\mu\text{g}/\text{m}^3$ for 2012.

Table 3.1 Table showing data from roadside air quality monitoring unit

Air Quality Statistics

Pollutant	NO ₂	NO	NO _x
Number Very High #	0	-	-
Number High #	0	-	-
Number Moderate #	0	-	-
Number Low #	8765	-	-
Maximum 15-minute mean	185 $\mu\text{g m}^{-3}$	435 $\mu\text{g m}^{-3}$	806 $\mu\text{g m}^{-3}$
Maximum hourly mean	141 $\mu\text{g m}^{-3}$	321 $\mu\text{g m}^{-3}$	621 $\mu\text{g m}^{-3}$
Maximum running 8-hour mean	114 $\mu\text{g m}^{-3}$	233 $\mu\text{g m}^{-3}$	454 $\mu\text{g m}^{-3}$
Maximum running 24-hour mean	90 $\mu\text{g m}^{-3}$	150 $\mu\text{g m}^{-3}$	304 $\mu\text{g m}^{-3}$
Maximum daily mean	88 $\mu\text{g m}^{-3}$	132 $\mu\text{g m}^{-3}$	282 $\mu\text{g m}^{-3}$
Average	37 $\mu\text{g m}^{-3}$	26 $\mu\text{g m}^{-3}$	77 $\mu\text{g m}^{-3}$
Data capture	99.8 %	99.8 %	99.8 %

Daily Air Quality Index (DAQI) as defined by COMEAP 1st January 2012

Mass units for the gases are at 20°C and 1013mb

NO_x mass units are NO_x as NO₂ $\mu\text{g m}^{-3}$

Air Quality Exceedences

Pollutant	Air Quality (England) Regulations 2000 & (Amendment) Regulations 2002	Max Conc	Number	Days	Allowed	Exceeded
Nitrogen Dioxide	Annual mean > 40 $\mu\text{g m}^{-3}$	37 $\mu\text{g m}^{-3}$	0	-	-	No
Nitrogen Dioxide	Hourly mean > 200 $\mu\text{g m}^{-3}$	141 $\mu\text{g m}^{-3}$	0	0	18 hours	No

Diffusion Tube Monitoring Data

The results for monitoring during 2012 are identified in Table 4.2 below. In all cases, data are bias adjusted using the adjustment factor of 0.99 obtained from the triplicate co-location study at the roadside air quality monitoring station on St George's Street/Swindon Road junction.

The results indicate that the annual mean nitrogen dioxide objective is being exceeded at 11 locations although these correspond to five distinct areas where relevant exposure exists as illustrated in Fig 3.1.

Table 3.2 Results of Nitrogen Dioxide Diffusion Tubes in 2012

Site ID	Location	Site Type	Annual mean concentration (Bias Adjustment factor = 0.99) 2012 ($\mu\text{g}/\text{m}^3$)	Relevant exposure
1	Westal Green	Roadside	31.4	Yes
2	179 Bath Road	Roadside	30.8	Yes
3	51 Upper Norwood	Background	18.8	Yes
4	56 Church Road	Roadside	22.4	Yes
5	81 London Road	Roadside	42.5	Yes
6	104 London Road	Roadside	39.0	Yes
7	1 Bath Road	Roadside	39.4	Yes
8	17 Chelsea Close	Background	17.0	Yes
9	Prestbury Post Office	Roadside	35.5	Yes
10	91Tewkesbury Road	Roadside	31.0	Yes
11	124 Gloucester Road	Roadside	30.5	Yes
12	264 Gloucester Road	Roadside	37.1	Yes
13	338 Gloucester Road	Roadside	37.2	Yes
14	340 Gloucester Road	Roadside	39.6	Yes
15	Miserden Road	Roadside	27.7	Yes
16	P.E. Roundabout	Roadside	28.7	Yes
17	Telstar Road GCHQ	Kerbside	35.4	Yes
18	233 Hatherley Rd	Roadside	28.3	Yes
19	7 Suffolk Road	Roadside	31.6	Yes

Site ID	Location	Site Type	Annual mean concentration (Bias Adjustment factor = 0.99) 2012 ($\mu\text{g}/\text{m}^3$)	Relevant exposure
20	St Georges Street	Kerbside	31.6	Yes
21	2 Gloucester Road	Roadside	35.9	Yes
22	Opposite White Hart Street	Roadside	44.3	Yes
23	452 High Street	Roadside	45.1	Yes
24	443 High Street	Roadside	39.1	Yes
25	422 High Street	Roadside	49.8	Yes
26	Church Hill Court	Roadside	30.4	Yes
27	New Rutland - Swindon Rd	Roadside	43.3	Yes
28	Saracens Court	Roadside	41.3	Yes
29	2 Swindon Road	Kerbside	40.3	Yes
30	North Place West	Urbancentre	27.8	No
31	5 St Margaret's Terrace	Roadside	35.2	Yes
32	North Place East	Roadside	33.0	No
33	Portland St/Fairview Rd	Roadside	37.7	Yes
34	Millenium Plaza - Fairview	Kerbside	33.5	Yes
35	Winchcombe St/Fairview	Roadside	37.7	Yes
36	Regency Hall - Fairview	Roadside	42.0	Yes
37	7 Berkeley Place	Roadside	31.3	Yes
38	1 Hewlett Road	Roadside	40.3	Yes
39	The Swan	Roadside	30.8	Yes
40	Pisa Pizza	Roadside	33.1	Yes
41	The Restoration	Roadside	40.5	Yes
42	YMCA Shop	Roadside	38.0	Yes
43	Cutting Room	Roadside	37.9	Yes
44	8a Bath Road	Roadside	42.0	Yes
45	15a Bath Road	Roadside	35.0	Yes
46	Co-location – St Georges Street	Roadside	34.5	Yes
47	Co-location – St Georges Street	Roadside	35.0	Yes
48	Co-location – St Georges Street	Roadside	34.7	Yes

Figure 3.2 Levels of nitrogen dioxide at five locations that are in exceedance of the annual mean objective in Cheltenham

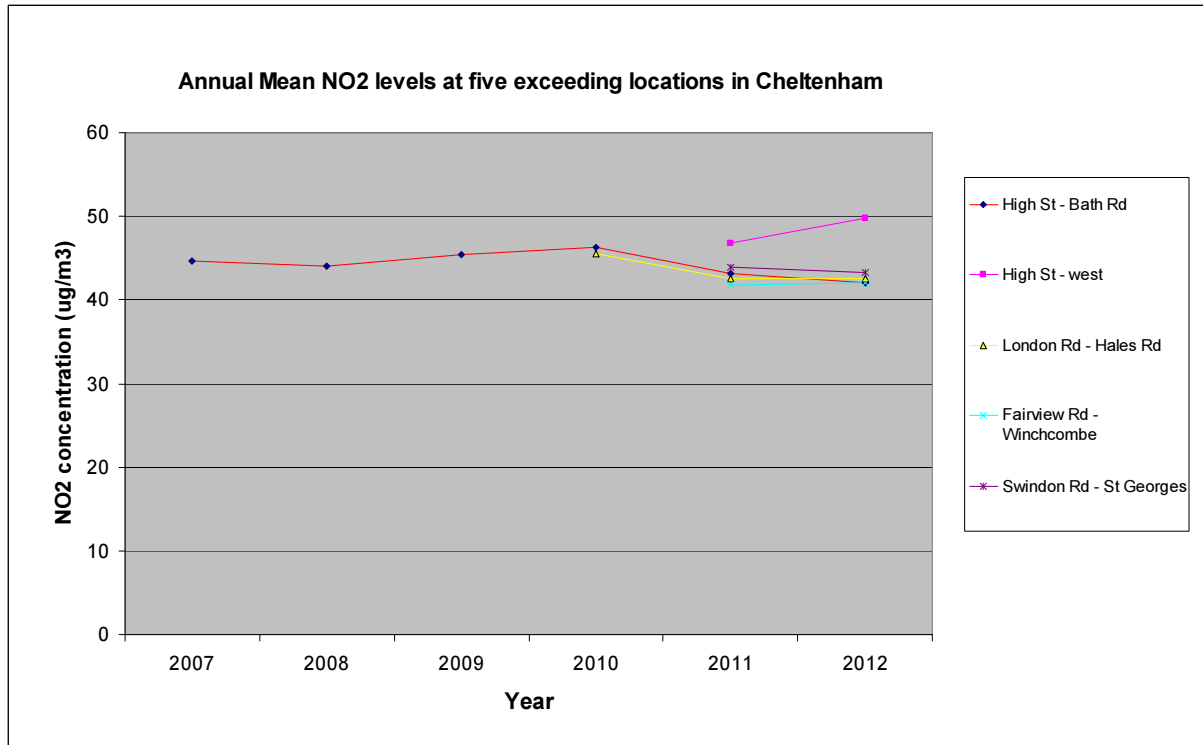
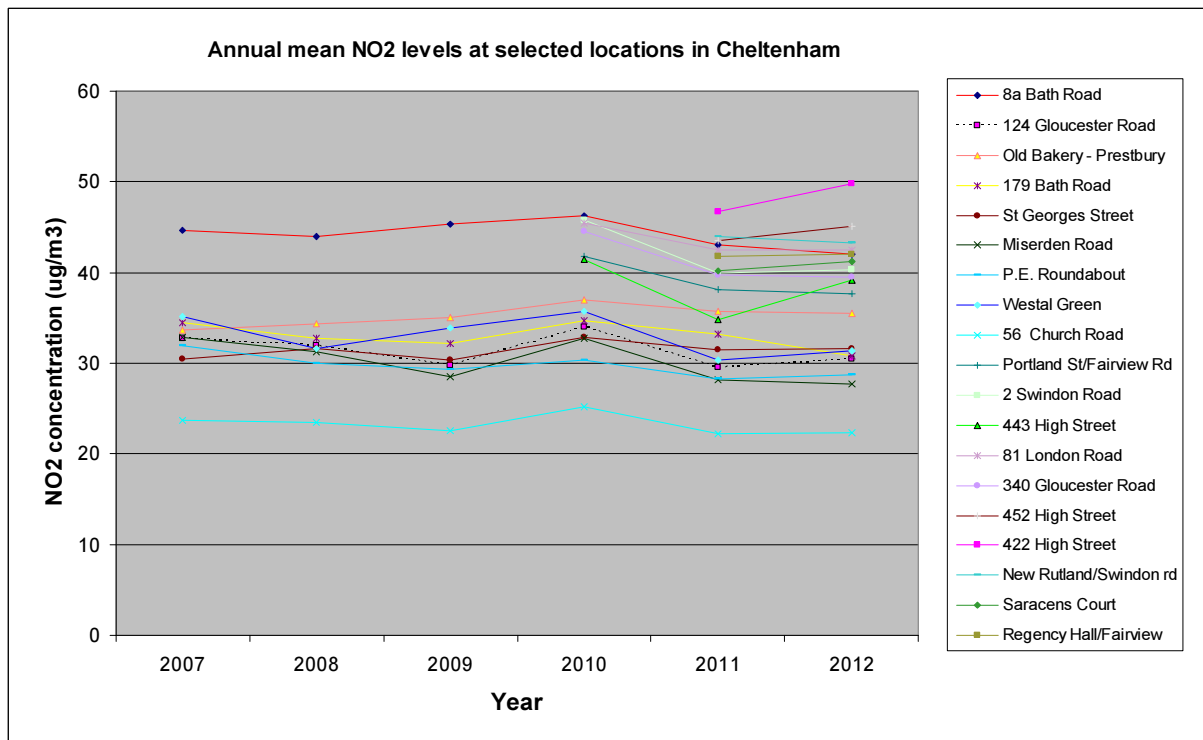


Figure 3.3 Levels of nitrogen dioxide at various locations in Cheltenham



4 Local Sustainable Transport Fund

Since declaration of the AQMA in November 2011, Gloucestershire County Council has been successful in obtaining significant funding from Government to implement transport related measures to encourage sustainable transport and modal shift within the county. Modal shift is the movement away from using one particular form of transport to another. In the case of Gloucestershire and Cheltenham in particular, the overriding aim is to encourage more sustainable travel choice through movement away from single occupancy private vehicle use to public transport, cycling and walking. This is to be achieved through the implementation of a number of schemes that are identified under the local sustainable transport fund (LSTF) project plan.

Further details of the LSTF project plan can be obtained at

www.gloucestershire.gov.uk/lstf

Many of the schemes planned for Cheltenham under the LSTF project are in the process of being implemented. Where a reduction in vehicle use occurs there is likely to be a corresponding positive impact on air quality. Some modelling has been carried out to assess the effect on traffic flow with implementation of the LSTF transport proposals for Cheltenham. This suggests that some of the locations that currently have poor air quality should show some reduction in traffic flow following implementation, which should equate to an improvement in air quality. Therefore this Action Plan has incorporated several of the LSTF schemes within the list of proposed Air Quality actions. For a more thorough run down of all the LSTF schemes, please visit www.thinktravel.info

5 Source Apportionment

In Cheltenham it is known that the majority of nitrogen dioxide pollution (95%) comes from vehicle emissions. In order to develop an appropriate Action Plan it is necessary to identify the main local traffic type contributing to air pollution to inform any future traffic management decisions. Table 5.1 contains data on traffic related sources apportioned to the following categories;

- Cars
- Light goods vehicles
- Heavy goods vehicles
- Buses
- Motorcycles (2WMMV)

The five locations identified in Table 5.1 are those locations where nitrogen dioxide levels were locally in exceedance at one or more monitoring locations in the area and reflect those areas identified in Fig. 2.2.

The locations are;

Location 1: High Street - Bath Road

Location 2: Swindon Road – St Georges Street Junction

Location 3: Fairview Road – Winchcombe Street junction

Location 4: London Road – Hales road junction

Location 5: High Street (western end) – junction with Gloucester Road

Table 5.1 Annual Mean Nitrogen Dioxide concentrations in exceedance areas and the contribution of each traffic source type to the total monitored value.

Location	Annual Mean Concentration of NO ₂ (ug/m ³) - 2011						
	Background [#]	Cars	LGV's	HGV's	Buses	2WMMV	TOTAL
1*	19.91	12.16	4.76	4.73	4.65	0.08	46.3
2	20.33	11.49	3.65	6.27	2.24	0.02	44.0
3	20.33	9.33	3.48	6.63	2.01	0.03	41.8
4*	16.36	11.47	4.49	6.60	6.50	0.08	45.5
5	19.25	8.81	3.08	6.26	6.03	0.07	43.5

* using traffic count data & monitoring data from 2010

[#] Background levels are those calculated by DEFRA – and are mainly traffic derived sources of pollution.

Location	Percentage contribution of NO2 to total - 2011						
	Background [#]	Cars	LGV's	HGV's	Buses	2WMMV	TOTAL
1*	43.01	26.27	10.28	10.21	10.05	0.18	100
2	46.20	26.12	8.30	14.25	5.09	0.04	100
3	48.63	22.32	8.32	15.85	4.80	0.07	100
4*	35.97	25.21	9.87	14.50	14.28	0.17	100
5	44.25	20.25	7.09	14.40	13.85	0.16	100

* using traffic count data & monitoring data from 2010

[#] Background levels are those calculated by DEFRA – and is mainly a traffic derived source of pollution.

Figure 5.1 Relative contribution of each traffic source to the monitored annual mean concentrations of nitrogen dioxide (ug/m³) at five exceeding locations in Cheltenham

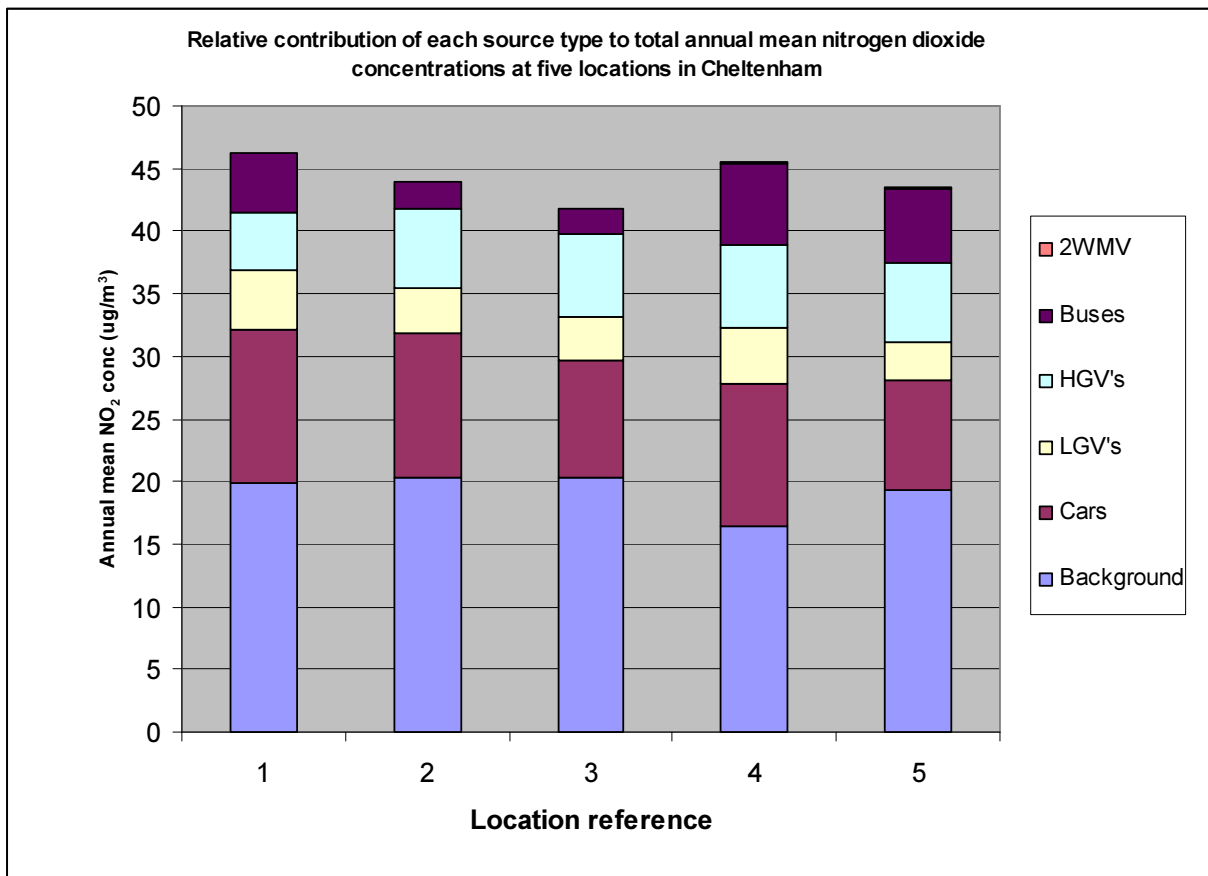
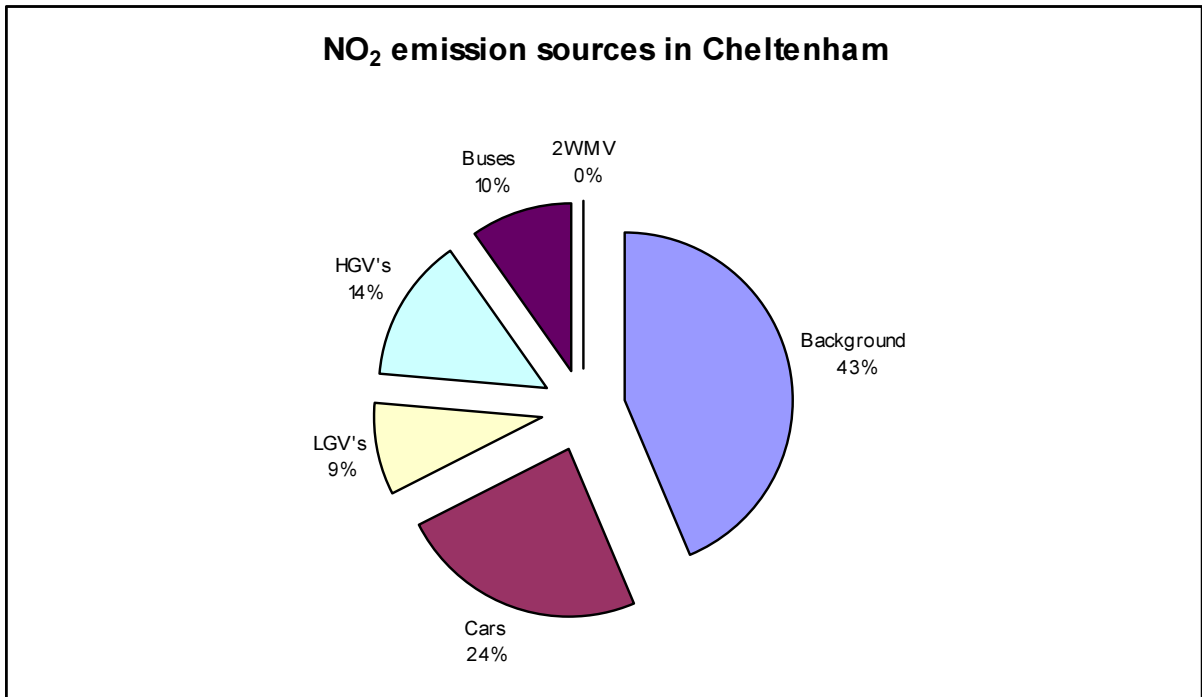


Figure 5.2 Average percentage contribution to NO₂ pollution by vehicle class



6 Air Quality Improvements Required

The degree of air quality improvement needed in order for the annual mean objective for nitrogen dioxide to be achieved is defined by the difference between the highest monitored concentration and the objective level (40 ug/m³) at each location where exceedance of the objective has occurred. Taking account of local background levels of pollution, it is clear that to meet the nitrogen dioxide objective levels in Cheltenham will require significant reductions in traffic generated NO₂.

Table 6.1 Required reduction in traffic NO₂ (%) at each location in Cheltenham exceeding the nitrogen dioxide annual mean objective

Location	Monitored annual mean concentration of NO ₂ (ug/m ³)	Required reduction in annual mean NO ₂ concentration (ug/m ³)	Percentage reduction in traffic generated NO ₂ required (%)
1	46.3	6.3	24
2	44.0	4.0	17
3	41.8	1.8	8
4	45.5	5.5	19
5	43.5	3.5	14

The contribution to total nitrogen dioxide levels varies according to vehicle type and proportionately HGV's, Buses and LGV's emit more nitrogen dioxide than cars and motorcycles for any given distance travelled per vehicle. However as can be seen in Figure 5.2, the relative contribution of nitrogen dioxide from each vehicle type shows that cars are still the largest contributor to overall traffic generated NO₂ levels due to the high numbers of cars measured during traffic count surveys.

This source data immediately suggests a significant reduction in traffic volume would be required to meet the nitrogen dioxide objective limits. However there are other solutions which can assist to reduce the amount of NO₂ emitted by vehicles other than just reducing vehicle numbers. Traffic management measures that improve vehicle flow and reduce vehicle waiting times and congestion can also help to reduce emissions.

7 Proposed Measures

In Cheltenham, vehicle pollution concentrations are influenced by vehicle volume and vehicle flow patterns including acceleration, braking and queuing. Action Plan measures are likely to include traffic management measures to reduce these flow problems together with measures that help to reduce the overall volume of vehicles using the road network.

Taking into account the relative contribution to nitrogen dioxide levels of each vehicle type, targeting a specific vehicle type is unlikely to have the desired impact of reducing nitrogen dioxide levels below the objective level. It is instead considered that an overall traffic management approach would be more beneficial due to the relatively significant contribution of each vehicle type to traffic generated nitrogen dioxide levels (with the exception of motorcycles).

As can be seen in Table 6.1, the largest reduction in vehicle generated NO₂ is required at Location 1, the High Street and Bath Road area. The other areas currently not meeting the air quality objective also require significant reduction but the overall requirement is somewhat less.

In terms of vehicle reduction at Location 1, the 24% reduction in traffic generated NO₂ required to comply with the annual mean objective (40ug/m³) can broadly be equated to a reduction in vehicle numbers of approximately 24% across the board. However this is a very blunt way of looking at the problem and this reduction is very unlikely to be achieved in the short term. Options to improve vehicle flow patterns, to reduce the amount of accelerating, braking and queuing, can also help to reduce emissions and contribute to meeting the annual mean air quality objective.

THE PROPOSED MEASURES

Cheltenham Borough Council in conjunction with the Gloucestershire County Council and the Local Sustainable Transport Fund (LSTF) team has produced a list of potential measures that should help to reduce air pollution within the Borough. The first 11 measures identified below are due to be delivered through the Cheltenham Transport Plan and associated smarter travel initiatives funded by the LSTF.

1. Highway improvements

A range of highway amendments are planned, subject to traffic regulation orders, to improve traffic flow and improve cycle and pedestrian provision within Cheltenham. It is proposed to allow 2-way traffic at certain junctions in town to break the stranglehold of the ring-road and allow easier access to car parks at point of entry to the town. These changes will allow the removal of through traffic at Boots Corner although it will remain open for buses. There will be a period of air monitoring to assess the impact of this measure. Service vehicles will have restricted access out of peak hours.

2. Air Quality Information

The proposal is to provide up to date information on local air quality and air quality forecasts, taking into account the proposed highways amendments identified above. There will also be links to sustainable travel options on the Council website. This will help to inform and educate visitors to the site and encourage more sustainable travel choices to be made.

3. Promotion of Park & Ride

The promotion of the existing Park & Ride schemes, improved signage together with significant improvement and expansion of facilities, to include the new Elmbridge scheme on the outskirts of Gloucester, will assist in reducing car travel to and from Cheltenham.

4. Promotion of Personalised Travel Plans (PTP's)

This proposal targets individuals directly by actively promoting and developing alternative travel options for them to allow a change in their transport behaviour. It aims to obtain a 10% shift away from car travel.

5. Bike-It officer

The officer appointed will work in a number of schools across Cheltenham between 2013 until 2015 with the aim of encouraging parents and children to cycle and walk to school where possible. This will reduce the number of school run car trips and help to reduce congestion in Cheltenham during term-time.

6. Promotion of Greener Vehicles

This proposal will encourage electric vehicle use through the installation of charging points in car parks or on-street. Cheltenham and Gloucestershire County councils will also investigate the potential for differential parking charges for electric and hybrid vehicles on street and in car parks.

7. HGV & LGV restrictions

The aim of this proposal is to encourage deliveries during the quieter footfall periods of the day to reduce the pedestrian – HGV interface and reduce congestion during peak traffic hours.

8. Increase Car Sharing

The existing car share website will be upgraded and re-launched to promote the benefits of car sharing such as reduced single occupancy journeys, reduced costs and lower emissions. Improved roadside signage and flyers will also be provided to encourage car-sharing.

9. School Travel Grants

Schools will be able to apply for funding from LSTF for initiatives to encourage more sustainable transport choices by parents, pupils and teachers to reduce the traffic and parking issues during term associated with the 'school run'

10. Business Travel Grants

Businesses in Cheltenham will be able to apply for funding from LSTF to fund initiatives to encourage employees and visitors to travel more sustainably

11. Wayfinding Initiative

This proposal is to improve signage and routing for bus users and pedestrians across the town which will help to encourage the uptake of bus travel and walking.

12. Promote the development of Workplace Travel Plans

Cheltenham Borough Council will develop its own workplace 'smarter' travel plan where resources allow and encourage larger businesses in Cheltenham to develop and implement similar plans. This will encourage more sustainable transport choices such as bus travel, car-sharing, cycling and walking.

13. Planning Policy for Air Quality

An Air Quality Policy will be adopted as part of the emerging Cheltenham Local Plan, to ensure that air quality impacts of all significant developments are properly assessed and mitigation actions taken where necessary.

14. Traffic Light appraisal

Following a traffic light switch off trial on Swindon Road, Cheltenham Borough Council will work with the County Council to investigate the potential for further traffic light trials with a view to removal of those considered to be non-essential. Evidence suggests that where traffic lights have been removed, traffic often flows better with less congestion thereby reducing air pollution.

15. Bus and Taxi Quality Partnership

This proposal is to obtain an agreement with the main taxi and bus operators to encourage fuel efficient driving, no-idling when stationary and training in safe driving practices. This will assist in reducing vehicle emissions. The Council will also look at bus routing and location of bus stops in light of the proposed junction priority changes under the LSTF scheme.

16. Twenty is Plenty

Cheltenham and Gloucestershire County Council will look at the potential for reducing urban traffic speed limit to 20mph in some areas to reduce congestion and improve traffic flow on busier roads, which may improve highway safety for cyclists and pedestrians as well as improve air quality.

17. Encourage a low emission bus fleet

Cheltenham Council will continue to encourage the improvement of bus fleets to meet latest Euro emission standards which will assist in reducing emissions and improve air quality. The Council will also investigate the feasibility of using traffic regulation conditions to control bus emissions within Cheltenham AQMA through emission checks.

18. Promotion of green planting in urban areas

Cheltenham Borough Council will seek to encourage green planting through planning control to help off-set potential pollution impacts where developments occur in areas of poorer air quality.

19. Vehicle Management Signage

This proposal is for the installation of electronically operated signs to inform drivers of the nearest available car parking spaces and alert drivers of possible congestion. This may encourage more sustainable transport choices and reduce traffic queues which will improve air quality.

20. Cycle safety improvements

The Council will encourage as far as possible the improvement of road layouts and associated infrastructure to improve the safety of cyclists in Cheltenham and reduce the potential conflicts between cyclists and other road users. This will help to encourage the uptake of cycling and improve cycle safety at key junctions.

References

1. Local Air Quality Management – Technical Guidance LAQM.TG(09) – DEFRA (2009)
2. Updated Screening Assessment (2012) - Cheltenham Borough Council
3. Progress Report (2011) - Cheltenham Borough Council

**Cheltenham Borough Council
Cabinet – 24th June 2014
Council – 21st July 2014
Corporate Enforcement Policy**

Accountable member	Councillor Andrew McKinlay, Cabinet Member Development and Safety
Accountable officer	Mark Nelson
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>The policy seeks to promote proportionate, consistent and targeted regulatory action through the development of transparent and effective dialogue and understanding between the Council and those they regulate.</p> <p>The policy takes full account of the Department for Business, Innovation and Skills' Regulators Code 2013 and the associated statutory principles of enforcement action.</p>
Recommendations	<p>1.1 Approve the amendments to the current Corporate Enforcement Policy attached in Appendix 2 and to recommend the Policy for adoption by full Council.</p> <p>1.2 Authorise the Director of Environmental and Regulatory Services to make amendments to the adopted Policy as required to reflect changes in legislation or guidance and codes of practice where a full review of the Policy is not warranted.</p>
Financial implications	<p>None.</p> <p>Contact officer: Nina Philippidis, Accountant nina.philippidis@cheltenham.gov.uk, 01242 264121</p>

<p>Legal implications</p>	<p>Section 21 of the Legislative and Regulatory Reform Act 2006 (the “Act”) imposes a duty on any person exercising a specified regulatory function to have regard to the five principles of good regulation. This principle provides that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.</p> <p>Section 22 of the Act provides for the issue of code of practice relating to the exercise of regulatory functions, (the “Regulators’ Compliance Code”). This section imposes a duty on any person exercising a specified regulatory function to have regard to the Regulators’ Compliance Code when determining general policies or principles by reference to which that person exercises those functions.</p> <p>Under Section 22(3) of the Act, where a person exercises a regulatory function of setting standards or giving general guidance about the exercise of other regulatory functions, the duty to have regard to the Regulators’ Compliance Code applies directly to the exercise of setting that function of setting standards or giving general guidance.</p> <p>Contact officer: vikki.fennell@tewkesbury.gov.uk, 01684 272015</p>
<p>HR implications (including learning and organisational development)</p>	<p>None</p>
<p>Key risks</p>	<p>See appendix 1</p>
<p>Corporate and community plan Implications</p>	<p>Effective dialogue and appropriate enforcement action, promoted by this enforcement policy, underpins Corporate objectives and community planning</p>
<p>Environmental and climate change implications</p>	<p>This policy positively contributes to the Council’s corporate objectives in respect of the environment and climate change.</p>

1. Background

- 1.1 The Policy is being reviewed and updated to take account of changes in legislation and the introduction of a new Regulators Code. Due to statutory requirements the policy must be approved by both Cabinet and Council. (See point 2.1 below). The intention of the new policy is to create a clearer, consistent approach covering all regulatory service across the Council.

2. Reasons for recommendations

- 2.1 The review of the Corporate Enforcement Policy is being submitted to Cabinet for consideration prior to adoption by full Council. The Local Authorities (Functions & Responsibilities) (England) Regulations 2000 sets out a scheme for dividing the Council's regulatory functions into either Council side or Executive (Cabinet) functions. The regulatory functions which come under the remit of the Corporate Enforcement Policy consist of both Council and Executive functions and it is therefore appropriate for Cabinet to consider the Policy and make recommendations prior to approval by full Council. A copy of the revised Policy is attached as Appendix 2.
- 2.2 The current Policy was approved in 2007.
- 2.3 Under the provisions of the Legislative and Regulatory Reform Act 2006 (the "Act") the Council are required to have regard to the principles of good regulation in regards to certain specified regulatory activities. The principles are that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed. The Act also requires the Council to comply with a statutory code of practice (the "Regulators' Compliance Code"). The Council must have regard to this Code when developing standards, policies or procedures that guide their regulatory activities.
- 2.4 The Council is responsible for enforcing a wide range of legislation within the Borough of Cheltenham. The Corporate Enforcement Policy summarises the Council's overall approach to the use of enforcement powers generally, and outlines what residents, businesses, consumers and workers can expect from enforcement officers. This could range from criminal prosecution at one end of the spectrum to informal warnings and advice at the other.
- 2.5 A Corporate Enforcement Policy will promote a consistent approach and ensure that all departments involved in enforcement are complying with its principles. At the same time it allows the flexibility for each service area to develop its own enforcement mechanisms, taking on board the legal and operational differences between the service areas.

3. Consultation and feedback

- 3.1 All departments who carry out enforcement activity have been consulted on the content of the policy and the policy was published on the Council's website for comments.

4. Risk Management

- 4.1 The adoption of the Corporate Enforcement Policy will mean that enforcement action is less likely to be challenged during legal proceedings. This should reduce the likelihood of costs orders being awarded against the Council.
- 4.2 Without a suitable enforcement policy there will be no standard against which officers can judge their enforcement decisions. There is a risk that this could lead to the Council being open to legal challenge or an appeal against enforcement decisions and being non-compliant with the Regulators code.

4.3 This Policy provides a clear framework and has taken account of the new regulators code and covers all the required specified regulatory functions and mitigates any risk of legal challenge regarding the exercise of the Council's regulatory enforcement functions.

4.4

Report author	Contact officer: Mark Nelson, mark.nelson@cheltenham.gov.uk, 01242 264165
Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Corporate Enforcement Policy

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
	<p>The Council is expected to fulfil its duties and responsibilities when considering and taking enforcement action. This policy helps ensure that, where necessary, appropriate enforcement action is taken, that such action is proportionate, consistent and targeted and that there has been transparent and effective dialogue between the Council and those subject to regulation.</p> <p>Failure to adopt and follow this enforcement policy may result in inequitable enforcement, associated damage to the Council's reputation and failed action, resulting in wasted officer time and potentially legal expenses and court costs.</p>	Council		4	2	8	reduce	Approve revised policy for officers to follow		Mark Nelson	
Explanatory notes											
<p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p>											

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

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

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

Guidance

Types of risks could include the following:

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

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

Risk ref

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

Risk Description

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

Risk owner

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

Risk score

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

Control

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

Action

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

or new controls or actions may also be needed.

Responsible officer

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

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

Transferred to risk register

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

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CHELTENHAM
BOROUGH COUNCIL

Corporate Enforcement Policy

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1. Introduction

- 1.1 Cheltenham Borough Council is responsible for enforcing a wide range of legislation. This document sets out the Council's Enforcement Policy. It outlines what businesses, consumers, workers, residents and others can expect from enforcement officers.
- 1.2 All enforcement action will be undertaken without regard to the race, faith or religious belief, age, disability, gender or sexual orientation of the person against whom the action is being taken. Enforcement action taken against an individual or organisation will be consistent with the council's commitment to equality and diversity, (namely to eliminate discrimination, promote equality of opportunity and enhance good community relations).
- 1.3 All enforcement action will be carried out by duly authorised staff in accordance with this policy. We will apply the principles of good enforcement as set out in the Enforcement Concordat and other guidance issued by Central Government. This Council signed the Concordat on 13 December 1999. The policy is available to interested parties in order to help ensure that the Council's approach to enforcement is as open and fair as possible. It is published on the Council's website.
- 1.4 The Council will take full account of the Department for Business, Innovation and Skills. Regulators Code 2013 and the statutory principles of transparency, accountability, proportionality and consistency when taking enforcement action. Regulatory activity will only be targeted at cases where action is needed.

Aims

- 1.5 The policy reflects the Council's corporate aims and objectives. In particular we aim to:
 - Reduce crime and disorder, and the fear of crime in our communities
 - Protect and improve heritage and the environment
 - Maintain the quality of the housing stock to fulfil our legal duty
 - Protect the health, safety, welfare and consumer interests of those who live, work, or are affected by activities taking place within the Borough
 - Seek to maintain a fair trading environment for those businesses operating within the Borough
 - Carry out enforcement in a fair, practical and consistent manner
 - Provide a service which embodies good practice, Best Value, and individual Human/Legal Rights, in accordance with our Principles and Procedures for Good Enforcement
 - Whenever possible, enforcement objectives will be met through the provision of advice and information. The Council supports the Primary Authority Principles. We believe that prevention is better than cure

- Where the degree of risk or prejudice to residents, consumers, businesses, or the law demands a robust approach, statutory remedies will be used

Definition

- 1.6 Enforcement is any formal and informal action taken to prevent or rectify infringements of legislation. The Enforcement Options will differ where different pieces of legislation are used, but the principles of application should remain constant. Enforcement includes visits, verbal and written advice on legal requirements and good practice, assistance with licensing compliance, written warnings, the service of statutory and fixed penalty notices, prohibitions, formal cautions, attachment to earnings (including some benefits and allowances), prosecution, seizure and detention, works in default, injunctions and liaison and cooperation with other enforcement authorities where appropriate (including "Enforcement Orders" injunctions).

2. Principles and Procedures for Good Enforcement

2.1 Standards

- 2.1.1 We will draw up clear standards setting out the level of service people can expect to receive in our Service Plans and our approach to providing information, guidance and advice. We will monitor and report on our performance against these standards.

2.2 Openness

- 2.2.1 Information and advice will be provided in plain language on the laws/rules that we apply and we will disseminate through a variety of commonly used media, including translation into different languages, braille or use of the Council's minicom service where appropriate or resources allow. We will take whatever reasonable steps are necessary to make ourselves understood and make it clear how those we regulate can communicate with the Council.
- 2.2.2 We will be open about how we set about our work, including any charges we set. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties. We will clearly distinguish between statutory requirements and advice or guidance about what is desirable but not compulsory. As appropriate, advice will be put in writing. We will explain what remedial work is necessary, and why, and will indicate an appropriate time scale for completion.

2.3 Helpfulness

- 2.3.1 We recognise that most businesses and individuals want to comply with the law. Our role involves actively working with residents, consumers and businesses, especially small and medium sized businesses, to advise and assist with compliance. We will provide a courteous, helpful and efficient service and our staff will identify themselves by name.
- 2.3.2 A contact point and a range of contact options will be provided for further dealings with us and we will encourage people to seek advice/information from us. Applications for approval of establishments, licenses, registrations, etc will be dealt with efficiently and promptly.

- 2.3.3 We will ensure that, wherever practicable, our enforcement services are effectively coordinated internally and with outside bodies to minimise unnecessary overlaps and time delays.

2.4 Proportionality

- 2.4.1 When making a decision on appropriate enforcement action officers will, where discretion is allowed, consider both the circumstances of the case and history of the parties involved. We will ensure that remedial action required is proportionate to the risks/disadvantage created by the non-compliance and that it reflects any advice issued by Central Government or other co-ordinating bodies. Where formal cautions or prosecutions are being considered the requirements of the Home Office Guidance and The Code for Crown Prosecutors respectively will be borne in mind.
- 2.4.2 We will take particular care when working with individuals, small businesses and voluntary organisations so that they can meet their legal obligations without unnecessary expense, where practicable. However we recognise this does not diminish their obligations.

2.5 Consistency

- 2.5.1 Enforcement staff will carry out their duties in a fair, equitable and consistent manner. While officers are expected to exercise judgement in individual cases, we will make arrangements to promote consistency. The Council will take full account of the Primary Authority statutory guidance (September 2013) when taking enforcement action (Appendix C).
- 2.5.2 Wherever possible officers will be provided with a suite of enforcement powers, to a level appropriate to the position of the officer within the Authority, in accordance with the Council's Constitution.
- 2.5.3 We will participate in liaison with other Authorities and enforcement bodies to ensure consistency and to explore and develop best practice.
- 2.5.4 Unless immediate enforcement action is required, action will not normally be taken in matters which fall under the control of other agencies and authorities without prior consultation.
- 2.5.5 When it is appropriate to give advice and where that advice impinges on the enforcement role of another agency, the recipient will also be advised to contact that agency.
- 2.5.6 Where appropriate the Council may work with or assist other enforcing authorities/agencies with their investigations. The Council may also provide data to or obtain data from other enforcing authorities. When data sharing between authorities/agencies occurs this will be done in accordance with the principles on data protection.

2.6 The Use of Formal Action

- 2.6.1 Where legislation provides, an opportunity may be offered to an offender to discharge their liability to prosecution by paying a charge prescribed by Fixed Penalty Notice (FPN).

- 2.6.2 Without prejudice to the provisions for fixed penalty notices, before formal enforcement action is taken officers will, where appropriate, provide an opportunity to interested parties to discuss the circumstances of the case and, if possible, resolve points of difference. In some cases this will be via notice of intention to proceed. This will not, however, fetter the authority's ability to proceed with a prosecution where it is deemed appropriate.
- 2.6.3 This opportunity for discussion will not be given when the situation is so serious that immediate action is necessary or may prejudice later proceedings (see Appendix D for examples). Where immediate action is taken the officer who initiated it will write to interested parties (wherever possible within five days and always within ten days) explaining why the action was required.
- 2.6.4 Where rights of appeal exist against formal action we will clearly state this. Information on the appeal process will be set out in writing at the time the action is taken.

2.7 Conflicts of Interest and Undue Influence

- 2.7.1 We will take steps to ensure that legislation is enforced in an impartial way. The Council has in place procedures to deal with any potential conflicts of interest, and undue influence, being brought to bear on enforcement decisions or actions. Any complaints made in connection with these matters will be investigated. Appendix A sets out the Council's procedure for dealing with conflicts of interest and undue influence.
- 2.7.2 Where the Council is responsible for enforcement action that impinges on matters, which are the responsibility of the Authority, there may be a possible conflict of interest. All such matters will be considered by the relevant Director, in consultation with the One Legal, who will ensure interested parties are informed of possible conflicts. Where there is joint enforcement responsibility with other agencies consideration will be given to involve those parties. The Council Monitoring Officer will be informed about issues which do not appear to have been resolved.

2.8 Human Rights

- 2.8.1 All enforcement action and investigations will be carried out in a manner which complies with the requirements of legislation and codes of practice governing the collection of evidence and investigatory powers.
- 2.8.2 Officers will take care not to take any action which contravenes rights conferred by the Human Rights Act 1998 or any other legislation unless it is necessary and proportionate to do so.

2.9 Powers

- 2.9.1 Council enforcement staff have a range of powers to help them enforce criminal legislation. Officers must not be prevented from carrying out their duties and must be given reasonable assistance and correct information. **Obstruction** is a criminal offence.
- 2.9.2 Officers will not exceed their powers and will keep within the legal framework governing their activity. They will comply with the requirements of the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996 and the Regulation of Investigatory Powers Act 2000.

2.9.3 Wherever possible the Council will adopt a multi-disciplinary approach to enforcement with officers authorised in accordance within the provisions of section 2.5.2 of this policy.

2.10 Targeting

2.10.1 The Council accepts that its enforcement resources are limited and where appropriate they should be focused on those persons, or companies whose activities give rise to the risks which are most serious or least well controlled on their own premises or public open space.

2.10.2 Officers will, therefore, carry out a programme of inspections on a risk rating basis, premises or activities with the highest hazards, greatest risks, poorest compliance and worst management being inspected more frequently than low risk premises. Some low risk premises may not form part of the inspection programme at all but generally will be given literature or guidance to help them run their business safely and with the least impact on their local environment.

2.10.3 Enforcement is informed through intelligence arising from investigation of complaints and planned projects, special surveys and enforcement initiatives – some may result in departures from the programme of inspections.

2.10.4 Some of the Council's enforcement work is carried out as a requirement of Government Departments which set timescales for, amongst other things, such matters as the determination of applications, variations and revocations of permits to operate.

2.11 Referrals

2.11.1 In some circumstances breaches found at the retailer end of the supply chain may best be dealt with by the manufacture/importer. Technical breaches may be referred to the authority where the product originated for them to deal with as they see fit, subject to their agreement. For those companies with a "Primary Authority" arrangement, such referrals would normally follow.

2.11.2 We regularly consult and work with other agencies, including:

- the Gloucestershire Fire and Rescue service
- Severn Trent Water and Thames Water
- the Police
- the Environment Agency
- the Department of Work and Pensions
- Health & Safety Executive
- the County Council
- other council departments
- liaison with other agencies such as the police and/or Cheltenham Borough Homes or other Registered Providers will be carried out whenever necessary,

particularly on such matters as entering premises to seize equipment and dealing with anti-social behaviour orders.

- 2.11.3 Information of allegations outside the remit of this Council may be referred to the appropriate enforcement authority with the witness contact details (if the witness agrees) to enable that agency to investigate the allegation.
- 2.11.4 The Council may also provide data to or obtain data from other enforcing authorities. When data sharing between authorities/agencies occurs this will be done in accordance with the principles on data protection.

2.12 Prosecutions

- 2.12.1 We will use discretion in deciding whether to initiate a prosecution. Other approaches to enforcement can sometimes promote compliance with legislation more effectively. However, where the circumstances warrant it, prosecution without prior warning and recourse to alternative sanctions may be appropriate.
- 2.12.2 The decision to prosecute will take into account the criteria set down in the Code for Crown Prosecutors, issued by the Crown Prosecution Service.
- 2.12.3 In considering whether a prosecution might be appropriate consideration will be given to the following:-
 - Is there a risk or danger to public or personal safety?
 - Is fraud, gross negligence or an otherwise "guilty mind" involved?
 - Is there failure in following our advice concerning legal requirements?
 - Are there persistent breaches following warnings from the authority?
 - Is there significant (potential or actual) financial loss?
 - The attitude of the offender
- 2.12.4 In addition, consideration will be given to guidance and advice offered by Government Departments and Agencies, Local Authority Associations and other relevant bodies.
- 2.12.5 Where there has been a breach of the law enforced by the Council leading to a death, we will consider whether the circumstances of the case might justify a charge of manslaughter. We will liaise with the Police, Coroners and the Crown Prosecution Service (CPS) and other agencies as necessary.

2.13 Prosecution of Individuals

- 2.13.1 The laws we enforce place responsibilities not only on businesses (including sole proprietors & partners) but also on employees and private individuals. Subject to the above criteria, officers responsible for recommending prosecution will not distinguish their actions or decisions on the basis of status alone. If it is considered warranted by the circumstances, we will prosecute those individuals responsible for the offence (including company directors and managers where the law allows).

3. Enforcement Options

3.1 The method of enforcement selected should be calculated to produce the highest reasonable standards of compliance within the least time. Any formal action will be considered in accordance with this prosecution policy. Some initial action will be dependant on the urgency of the situation.

3.2 **Options Available**

- informal action & advice - written or oral
- a range of statutory notices generally requiring some remedy within a specified timescale (or possibly immediately)
- fixed penalty notices
- letter of warning
- formal caution
- administrative penalty
- prosecution
- prohibition
- injunctive restraint ("Enforcement Orders")
- seizure of goods, equipment, articles or records (paper or computer)
- execution of work in default i.e. works required by a statutory notice where the recipient has not complied
- a range of statutory orders - e.g. management orders and empty dwelling management orders under the Housing Act 2004; liability orders
- compulsory purchase and enforced sale of properties or land within the Borough
- attachment to earnings (inc. some benefits)
- County Court enforcement i.e. judgment and charging orders
- Bankruptcy and liquidation petitions

3.3 The appropriate method of enforcement, whether formal or informal, will be selected on the basis of the nature of the action, breach or non compliance, the conduct, including the previous history, of the offender and the public interest.

4. Prosecution Policy

4.1 **Instituting legal proceedings**

4.1.1 The prosecution of offenders will be used judiciously, but without hesitation, against those businesses or individuals where the law is broken and the health, safety, well being or amenity of the public, employees and consumers are subject to serious risk

4.2 **Simple and Conditional Cautions as an Alternative to Prosecution**

4.2.1 As an alternative to legal proceedings subject to the same considerations as legal proceedings.

4.2.2 The guidelines above endorse the principle that suspected criminal offences should not automatically be the subject of prosecution. Where there is sufficient evidence but the public interest does not require prosecution a caution may be administered.

4.2.3 A simple or conditional caution may be issued subject to the procedures and guidance contained in the Ministry of Justice, Simple Cautions for Adult Offenders (November 2013) and the Ministry of Justice Code of Practice for Adult Conditional Cautions (part 3 Criminal Justice Act 2003) (April 2013).

Cautions are formally recorded and may be cited in subsequent court proceedings (within specified time limits) and can only be administered where the offender agrees to be so cautioned and admits the offence.

In formulating the decision to prosecute, caution or pursue another remedy the following criteria will be used.

4.3 Sufficiency of Evidence

4.3.1 In considering the institution of legal proceedings, or the issuing of a caution whether formal or informal, the immediate consideration is the sufficiency of available, admissible evidence to substantiate the allegation that a criminal offence has been committed. The test to be applied is whether there is a reasonable prospect of a conviction, bearing in mind any statutory defences available to the defendant, and any other factors which would preclude a successful conviction.

4.3.2 In determining the sufficiency of evidence, consideration should be given to the following factors.

- i) availability of essential evidence;
- ii) credibility of witnesses - are they likely to be seen as credible witnesses and whether they are likely to be consistent and fair under cross-examination – are they willing to attend as witnesses - could they be 'hostile' witnesses;
- iii) where the case depends in part on admissions or confessions, regard should be had to their admissibility;
- iv) where two or more defendants are summonsed together, the sufficiency and admissibility of evidence available against each defendant, in the event that separate trials are ordered.

4.3.3 In determining the admissibility of evidence, regard should be given to the requirements of the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigations Act 1996 and associated Codes of Practice.

4.4 The Public Interest Criteria

4.4.1 When satisfied that sufficient evidence is available, consideration must be given to whether the public interest requires a prosecution. Suspected criminal offences should not automatically be the subject of prosecution, but that prosecution should follow wherever it appears that the offence or its circumstances is or are of such a character that a prosecution is required in the public interest.

4.4.2 The factors which can properly lead to a decision not to prosecute will vary from case to case, but generally, the more serious the offence, the less likelihood there will be that the public interest will be served otherwise than by prosecution. The Investigating Officer uses a check list to ensure compliance with this procedure.

4.4.3 The following considerations should apply:-

- i) seriousness of the offence - the degree of detriment or potential detriment to consumers, employees or the environment. The likely penalty may be indicative as will current public attitudes to particular breaches of the law;

- ii) the age of the offence (staleness) - regard must be had not only to the date when the offence was committed but also to the length of time which is likely to elapse before the matter can be brought to court. Less regard will be paid to staleness if it has been contributed to by the defendant themselves, the complexity of the case or the particular characteristics of the offence that have contributed to the delay in its coming to light;
- iii) the age, circumstances or mental state of the offender - the age whether young or old will have a bearing on the decision whether to prosecute unless there is a real possibility of repetition or the offence is of a serious nature. One must also consider whether the defendant is likely to be fit enough to attend court;
- iv) complainant's attitude - in some cases it will be appropriate to have regard to the attitude of a complainant who later expresses a wish that no action be taken;
- v) the willingness of the offender to prevent a recurrence of the problem. If the circumstances that give rise to the offence have subsequently been rectified and there is little likelihood of a recurrence then the case may be dealt with more appropriately by other means;
- vi) the 'newness' of the legislation transgressed may be a consideration, especially where the offence is of a technical nature, and future compliance may be obtained by less formal means;
- vii) important but uncertain legal points may have to be tested by way of prosecution.

4.4.4 Before any proceedings are issued the case file will be passed to One Legal for consideration. The Borough Solicitor and Monitoring Officer has the responsibility for the issuing and conduct of all court proceedings.

5. Administration of Policy

5.1 Confidentiality

5.1.1 We will ensure that the identity of persons contacting us, and any information supplied by them, is not revealed to a third party except:-

- Where the law requires or
- where the case goes to court or tribunal or
- with the prior written agreement of the person supplying the information

5.2 Complaint Procedures

5.2.1 We will respond to complaints about the service we provide in accordance with the Corporate Complaint Procedure. This procedure is publicised in the Council's corporate customer feedback system. Such a response will not be initiated in respect of complaints about a decision to prosecute as this is a matter for the Courts.

5.2.2 Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and confirmed in writing in most cases within 5 working days and in all cases, within 10 working days.

5.3 Implementation and Review

- 5.3.1 Implementation of the policy is the responsibility of all enforcement officers. The implementation of the policy will be monitored by the Service Heads for the relevant Services.
- 5.3.2 Departures from this policy will not occur without full consideration of all the circumstances by the responsible Director in consultation with One Legal, save in exceptional, or unforeseeable circumstances where adherence to this policy would put public or individual health or safety at risk.
- 5.3.3 This policy will be reviewed and updated if any changes in legislation, guidance or other circumstances have a significant impact on the enforcement principles set out in this document.
- 5.3.4 As part of the ongoing development of this policy we will consult with those affected by it including groups with particular needs and interests, consumers, businesses, their employees and the public.

5.4 Monitoring of the Policy

- 5.4.1 We will set up a monitoring system whereby we will examine a sample of the enforcement action taken by our officers to monitor against this policy. This will be done by in-process monitoring and discussion at regular one-to-one meetings. The results will be reported on at Divisional Management Team meetings and considered at the quarterly review performance. If changes are found to be needed an objective will be built into the Service Plan.

APPENDIX A

Conflicts of Interest and Undue Influence

The enforcement role of the Council is an impartial one. However, within the Council, as with any organisation, there is the possibility of a real or perceived conflict of interest or undue influence arising. It is, therefore, important to the integrity of the enforcement services of the Council that people seeking to use it are neither discriminated against nor granted advantageous treatment because of their status.

Circumstances which may give rise to a real or perceived Conflict of Interest

There may be circumstances short of a criminal offence which could give rise to a conflict of interest between an employee and a customer, for example:-

- Where the customer is socially acquainted with or related to the officer. Under these circumstances it would be difficult for the officer to act in an impartial manner and unreasonable to expect this.
- Where an employee receives a request for advice or assistance which falls outside the normal remit for the service from a Council Member, Council employee or an agency who they have close working contact with.

Undue Influence

Undue influence arises where a party exercises a dominant influence over the mind of another so that person is unable to exercise a free and independent will in the matter. For example, when an employee knows that a client is a Councillor or a more senior Council Employee, they should ask him/herself whether, if this were publicly known, it might be perceived as affecting the judgement or actions of the advisor.

Where an employee believes that there is potential for Conflict of Interest or Undue Influence then the matter should be referred to their line manager for appropriate action/advice.

Information Indicating the Commission of a Criminal Offence

If it becomes apparent to an employee from information received from a client, that either a client or a third party may have committed a criminal offence, the appropriate service manager, in consultation with One Legal, will take a view on the appropriateness or otherwise of adjourning the proceedings and will take appropriate action which may include:-

- Obtaining more details.
- Advising the client that no service can be given due to the possible illegality of past events and/or conflict of interest.
- Advising the client to contact the appropriate enforcement agency.
- Informing the police or other enforcement agency of the information received.

In the case of information indicating an offence by either the Cheltenham Borough Council, a Councillor, or an employee of the Cheltenham Borough Council, the appropriate Strategic Director and the Borough Solicitor and Monitoring Officer will be informed immediately.

APPENDIX B

REFERENCES

a) Crown Prosecution Service: The Code for Crown Prosecution, 7th edition published in January 2013, issued under section 10 of the Prosecution of Offences Act 1985 & is available from Crown Prosecution Service Headquarters – 6th floor, 50 Ludgate Hill, London EC4M 7EX.

Find at www.cps.gov.uk (Publications)

(b) Enforcement Concordat, June 2003 is found at <http://webarchive.nationalarchives.gov.uk/> and <http://www.berr.gov.uk/files/file10150.pdf> and the Compliance Code 17 December 2007 which can be found at <http://www.berr.gov.uk/files/file45019.pdf> is wider than the Enforcement Concordat in terms of their substantive provisions, however there are many local authority regulatory functions to which it does not apply whereas the Enforcement Concordat applies across all the regulatory functions of an enforcement body

(c) Cheltenham Borough Council's complaints, comments and compliments (customer feedback). Available from the Customer Relations and Research Manager, Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham GL50 9SA

Tel. 01242 264350 or email customerrelations@cheltenham.gov.uk

Find at www.cheltenham.gov.uk

(d) Information relating to Local Authorities Co-ordinating Body on Food and Trading Standards is found at <http://products.ihf.com/Ohis-SEO/LOCALAUTHORITIESCOORDINATINGBO.html> and is part of the Occupational Health and Safety Information Service's online subscription. Providing a comprehensive selection of legislation, regulations, guidance, standards, including BSI and best practice which is updated daily, documents can be found on a wide range of subject areas such as Food and Drink, Environmental Health, Environmental Management, Fire and Offshore Safety.

(e) Food Safety Act Codes of Practice and Practice Guidance. The Food Standards Agency, Aviation House, 125 Kingsway, London, WC2B 6NH

Tel. 020 7276 8000 Find at www.food.gov.uk

(f) LACORS revised guidance on cautioning of offenders – Issue 3 March 2009 can be found at <http://www.lacors.gov.uk/lacors/upload/20889.doc> and has been produced for local authority regulatory services. It follows the principles set out in Home Office Circular 016/2008 Cautioning of Adult Offenders produced by the Office for Criminal Justice Reform, which replaced Home Office Circular 30/2005 on the Cautioning of Adult offenders.

(g) Department for Business Innovation and Skills, Regulators Code 2013

<http://www.bis.gov.uk/brdo/publications>

(h) Department for Business Innovation and Skills Primary Authority Statutory Guidance

<http://www.bis.gov.uk/brdo/publications>

APPENDIX C

The Primary Authority Scheme

The Primary Authority Scheme has been designed to improve consistency of enforcement for those businesses that trade across local authority boundaries. In order to achieve this, notification of proposed enforcement action must be made to the primary authority, which is entitled, in certain circumstances, to direct the enforcing authority not to take the action. Where a compliance issue is identified that requires immediate action in order to prevent harm, and in other specific circumstances defined in the secondary legislation, the requirement to notify in advance of the action is waived, although retrospective notification is still required.

The Primary Authority Scheme is the key to achieving better regulation at local level, promoting consistency across council boundaries.

Primary Authority Statutory Guidance was produced in September 2013 by the Department for Business Innovation and Skills. <http://www.bis.gov.uk/brdo/publications>

APPENDIX D

Examples where immediate action will be taken

NB This list is neither exhaustive nor exclusive and is produced by way of example only.

- Closure of a food business where an imminent risk to health exists.
- Detention or seizure of goods and/or equipment where food has not been produced, processed or distributed in compliance with the Hygiene Regulations.
- Service of prohibition orders where there is a risk of serious personal injury.
- Stop notice where unauthorised works are being carried out to a listed building causing irreparable harm

Cheltenham Borough Council

Cabinet – 24 June 2014

Cheltenham Leisure and Culture Trust – Intention to award contract and update on admittance to Local Government Pensions Scheme and on TUPE

Accountable member	Councillor Rowena Hay, Cabinet Member for Healthy Lifestyles
Accountable officer	Pat Pratley, Deputy Chief Executive
Ward(s) affected	All
Key Decision	No
Executive summary	<p>In December 2012 Cabinet endorsed recommendations to create a charitable trust to operate the leisure and culture services currently provided by the Council. Cabinet also recommended that the trust should have broad objects to advance health, arts, sports and education.</p> <p>Subsequently trustees were appointed in December 2013 and, in March this year, Cabinet received a report on the Memorandum and Articles of Association for the new trust which enabled the company, Cheltenham Leisure and Culture Trust to be registered in May. The trust is a company limited by guarantee.</p> <p>Progress on a range of topics required to allow the Trust to take on the services on 1st October 2014 has continued satisfactorily and it is recommended that Cabinet now notes its intention to award a contract to the Trust.</p> <p>Cabinet should be aware of the TUPE and Pensions implications of the transfer of services and an update is included on these topics.</p> <p>A further report will be brought to Cabinet to confirm the transfer of services once the Council's due diligence process is complete and before the contract is formally awarded.</p>
Recommendations	<p>1. Cabinet notes the Council will award a contract to Cheltenham Leisure and Culture Trust (Cheltenham LCT) from 1 October 2014 to operate the following council services:</p> <ul style="list-style-type: none"> • Leisure@ • Prince of Wales Stadium • Town Hall • Pittville Pump Room • The Wilson (Cheltenham Art Gallery and Museum) • Tourism service and the Tourist Information Centre <p>Sport, Play and Healthy Lifestyles</p>

2. **Cabinet notes the intention to transfer staff, as appropriate, from the Council to Cheltenham LCT under the Transfer of Undertaking (Protection of Employment) legislation and that consultation with staff will be initiated.**
3. **Cabinet notes the admittance of Cheltenham LCT to the Local Government Pension Scheme (LGPS).**
4. **Cabinet notes that the Council will act as guarantor for LGPS liabilities arising from those staff who transfer to Cheltenham LCT.**

<p>Financial implications</p>	<p>Employees pay contributions to the LGPS, with the employer making contributions to pay the balance of the cost of providing employee benefits after taking into account investment returns. Every three years, an independent actuary calculates how much the employer should contribute to the scheme. The amount will vary and the proposal to address the funding of future ‘potential’ liabilities will be set out in the contract between the Trust and the Council.</p> <p>At the point of TUPE transfer, an actuarial assessment will be made to ensure that the proposed contribution rates are enough to pay for benefits accrued which should mitigate, as far as is practicable, future liabilities.</p> <p>The administering authority (Gloucestershire County Council) will require the Council to act as guarantor for any pension fund deficit which might accrue over the contract period. It should be noted that this is also the case for any deficits that are held by Cheltenham Borough Council as an employer within the LGPS. Further explanation is detailed in Section 4.</p> <p>Contact officer: Paul Jones, GO Shared Services Head of Finance Paul.Jones@cheltenham.gov.uk, 01242 775154</p>
<p>Legal implications</p>	<p>The Council intends to award a contract for the provision of its Leisure and Cultural facilities based upon those premises indicated in the recommendations to the Cheltenham Leisure and Culture Trust a Trust limited by guarantee which is in the process of being registered as a charity. There is no requirement to go through a procurement process, as indicated within the report, however, the Council did run a PQQ process to see if there was a developed market for the services and the outcome is covered in the report.</p> <p>The staff will transfer under the TUPE legislation as detailed in the report and the Trust is to be an admitted body within the Local Government Pension Scheme again as detailed below.</p> <p>All the appropriate documentation is currently being considered and will be formally entered into in advance of the “go live” date of the 1st October 2014. A further report will be brought to Cabinet before the contract commencement date to update on progress.</p> <p>Contact officer: Gary Spencer, One Legal Gary.Spencer@tewkesbury.gov.uk; 01684 272691</p>

HR implications (including learning and organisational development)	HR implications are identified in sections 3 and 4 of this report. Contact officer: Julie McCarthy, HR Manager GO Shared Services (West) Julie.McCarthy@cheltenham.gov.uk, 01242 264355
Key risks	<ol style="list-style-type: none"> 1. If the contract is not awarded or if award is delayed then the Council may not realise the intended benefits of the creation of the Trust or benefits may be delayed. 2. If the Council fails to follow TUPE legislation then it may be exposed to compensation claims. 3. If the Council does not act as pension guarantor then the trust will not be granted admitted body status to the LGPS
Corporate and community plan Implications	The creation of the new trust for leisure and culture services supports the following Council's strategic objectives; <ol style="list-style-type: none"> 1. Enhancing the provision of arts and culture; and 2. People are able to lead healthy lifestyles.
Environmental and climate change implications	This report does not have direct environmental and climate change implications. However, the contract the Council will enter into with the Trust will require the Trust to develop and deliver an environmental management strategy to ensure environmental and climate change impacts are considered in service delivery and in business planning. Contact officer: Gill Morris, Climate Change & Sustainability Officer gill.morris@cheltenham.gov.uk; 01242 264229
Property/Asset Implications	This report does not have any property implications but the subsequent transfer and management of the properties will be subject to formal leases. Contact officer: David Roberts, Head of Property Services David.Roberts@cheltenham.gov.uk; 01242 264151

1. Background

- 1.1 In December 2012 Cabinet endorsed recommendations to create a charitable trust to operate the leisure and culture services currently provided by the Council. Cabinet also recommended that the trust should have broad objects to advance health, arts, sports and education.
- 1.2 As members will be aware, the project has progressed such that trustees were appointed in December 2013. In March this year, Cabinet received a report regarding the creation of the Memorandum and Articles of Association which were required in order for company registration to take place. The trust is now a company limited by guarantee being registered in May this year.
- 1.3 In the same March report, Cabinet was also advised that Gloucestershire County Council Pensions Committee were due to meet in May and would be considering granting admitted body status to the new trust. The report also outlined the fact that staff who transfer under TUPE (Transfer Undertakings Protection of Employment) Regulations 2014 would do so on the terms and conditions of employment that they enjoyed at the point of transfer.
- 1.4 Progress on a range of topics required to allow the Trust to take on the services on 1st October 2014 has continued satisfactorily and it is recommended that Cabinet now notes its intention to award a contract to the Trust. Cabinet is also being asked to note the current position with regard to pensions and TUPE matters.
- 1.5 A further report will be brought to Cabinet to confirm the transfer of services once the Council's due diligence process is complete and before the contract is formally awarded.

2. Intention to award contract

- 2.1 The Council completed its market testing and commissioning review in May 2013 and all the companies and bodies which had expressed an interest in the provision of leisure and cultural services as had been identified in the PQQ (Pre-Qualification Questionnaire) were informed of its outcome. The Council considered, after careful evaluation of all the expressions of interest, that there was no developed market for the services proposed and no EU procurement process was applicable.
- 2.2 The "in-house team" that provide the services currently had expressed an interest in the future provision of the services, by way of a leisure and culture trust. In view of the undeveloped market the Council entered into discussions with them to work up an acceptable proposal that would allow the services to be run outside of the Council.
- 2.3 The Cheltenham Leisure and Culture Trust was formed as a legal entity and has expressed a willingness to take a contract for the provision of the services.
- 2.4 Discussions have been proceeding and a contract has been drafted under which the new Cheltenham Leisure and Culture Trust will provide the services as detailed in the Schedule thereto and which were included in the original PQQ. The contract will be awarded to the Trust and current discussions are continuing on the precise wording of the contract.

3. TUPE

- 3.1 The TUPE Regulations 2014, are envisaged to apply to the creation of the new Trust, as part of the council's business or undertaking will transfer as a going concern to the Trust. The contract will be based upon the wellbeing powers in section 2 Local Government Act 2000 and section 19 Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 On 1st October 2014, all Cheltenham Borough Council employees within the affected service areas will transfer to the employment of the Trust under the above legislation.

- 3.3** TUPE legislation requires that employees' main terms and conditions of employment are protected at the date of transfer. Where employees are members of, or were eligible to join, an occupational pension scheme before the transfer they are entitled to have a scheme provided for them after the transfer. The Local Authority Pension Schemes can allow existing members who are subject to TUPE transfer to remain in the LGPS under a facility called "admitted body status" (see section 4 below).
- 3.4** Under TUPE all the employees in the affected service areas who spend more than (as a guide) 50% of their work time on work transferring to the Trust will, unless they object, automatically transfer to the employment of the Trust under their existing terms and conditions of employment, along with continuity of service.
- 3.5** If any employees object to the transfer then they do not transfer, but equally they do not stay - instead the transfer itself terminates their employment and they usually have no rights against anyone in consequence. A refusal to transfer will usually mean that the employee has in effect resigned, i.e. no entitlement to redundancy.
- 3.6** Work will need to commence to comply with TUPE regulations. Key steps to be taken are as follows: (see also **Appendix 2**, Cheltenham LCT – key steps and timeline for TUPE transfer by CBC)
- (a) Identify which employees will be affected by the transfer.
 - (b) There is a statutory requirement for full and proper consultation with employees and any recognised trade unions. Consultation with representatives and employees impacted directly and indirectly needs to take place regarding the TUPE transfer. Formal consultation must take place in good time before the transfer, and is planned to commence 1st July 2014 through to 30 September 2014.
 - (c) Due diligence in passing employee information to the new employer (the Trust) must take place; any failure to carry out this step could cost Cheltenham Borough Council up to 13 weeks' gross pay per affected employee. Note that it is no defence that full information or consultation would make no difference to the end result, or that the staff suffered no loss as a result. There is no specified minimum period over which consultations must be conducted prior to a transfer taking place and it is important to note that there is no link between TUPE and redundancy provisions.
 - (d) Cheltenham Borough Council will need to give the Trust certain employee liability information about the transferring employees, essentially detailing the financial, legal and contractual information that comes with each. The information must be given no later than 28 days before the transfer and must include:
 - each transferring employee's name, age, terms and conditions;
 - information on any grievances they have lodged;
 - any claims they have brought or disciplinary action taken against them.

This is legally required by TUPE (to ensure all possible cost liabilities are known pre-transfer) therefore there are no data protection issues as it is covered by the legal obligation exemption in respect of the disclosure of this information (see The Employment Practices Data Protection Code). Wherever practicable information handed over to the new employer (the Trust) will be anonymised.

Employees will be advised that their employment records are to be disclosed to the new employer before transfer. Cheltenham Borough Council will need to obtain formal assurances regarding the use and safekeeping of the information and its return if the transfer does not in the event proceed.

There is a penalty of a minimum of £500 in respect of each employee for whom the required information was not provided or was defective, in addition to which the new employer (the Trust) can bring proceedings to recover any loss arising from its reliance on poor or incomplete information.

- (e) It is worth noting that if any employee is dismissed for reasons connected to the transfer, this dismissal may be automatically unfair. The new employer (the Trust) may, however, dismiss them post transfer from some other reason not connected with the transfer (e.g. for economic, technical or organisational reasons entailing a change in the workforce).
- (f) All relevant employees will transfer into the Trust with effect from 1 October 2014, the date that it is envisaged that the TUPE transfer will take effect, and will fall under the Trust management arrangements. No immediate staffing changes are envisaged before this date, nor on transfer. Any variations to operational arrangements post 1 October 2014 will be subject to separate discussions and consultation and be the responsibility of the Trust.

3.7 A significant piece of work has been scoped and will be carried out to set in place the relevant employment policy framework (including Health and Safety) and pensions arrangements (e.g. stakeholder pension for new employees) for the Trust to operate effectively as an employer in its own right.

3.8 There are significant employee relations implications, as detailed above and informal consultation has already commenced with the two recognised Trade Unions.

3.9 Human Resources including Payroll service provision to the trust will continue to be provided from the GO Shared Services with effect from 1 October 2014. A service level agreement has been drafted together with costs for the service provision.

4. Local Government Pension Scheme

4.1 With effect from 1 October 2012, the LGPS 2012 Miscellaneous Regulations introduced mandatory new requirements for all Admission Bodies brought into the Fund from that date.

4.2 Under these Regulations, all new Admission Bodies will be required to provide some form of security, such as a guarantee from the letting employer, an indemnity or a bond. The security is required to cover some or all of the following:

- The strain cost of any redundancy early retirements resulting from the premature termination of the contract;
- allowance for the risk of asset underperformance;
- allowance for the risk of a fall in gilt yields;
- allowance for the possible non-payment of employer and member contributions to the Fund;
- the current deficit.

4.3 For all new Transferee Admission Bodies, the security must be to the satisfaction of the Administering Authority as well as the letting employer, and will be reassessed on an annual basis. The Administering Authority and the LGPS 2012 Miscellaneous Regulations require all the Pension Fund liabilities of the Transferee Admission Body to be guaranteed by the letting Scheduled Body (i.e. Cheltenham Borough Council).

4.4 The Pensions Committee have agreed the admission request for Cheltenham LCT to join the Gloucestershire LGPS subject to the admission agreement being properly completed, a redundancy bond in place and pension liabilities being guaranteed by the transferring employer (Cheltenham Borough Council).

5. Reasons for recommendations

5.1 As detailed above.

6. Alternative options considered

6.1 As per the main body of the report

7. Consultation and feedback

7.1 The project team HR representatives have maintained ongoing and positive liaison with CBC employee representatives as the project has progressed and will continue to do so as the TUPE process progresses.

8. Performance management – monitoring and review

8.1 As reported previously, with specific regard to pension matters, the trust will be required to operate within the terms of its contract with the Council in particular with regard to matters relating to the LGPS and any admitted body status. The trust, as a charitable company will be regulated by both Companies House and the Charity Commission and will operate under a contract with the Council.

Report author	Contact officer: Pat Pratley, Deputy Chief Executive <i>pat.pratley@cheltenham.gov.uk; 01242 775175</i>
Appendices	1. Risk Assessment 2. Cheltenham LCT – Key steps and timeline for TUPE transfer by CBC
Background information	1. Cabinet Report 11 December 2012 2. Cabinet Report 18 March 2014

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 contract is not awarded or if award is delayed then the Council may not realise the intended benefits of the creation of the Trust or benefits may be delayed.	Pat Pratley	14/05/14	3	4	12	Reduce	Gain alignment to the heads of terms from all key stakeholders. Gain agreement to the full contract terms from the Council and the Trust	End July 2014 End September 2014	Pat Pratley Pat Pratley	
2	If the Council fails to follow TUPE legislation then it may be exposed to compensation claims	Julie McCarthy	14/05/14	3	2	6	Reduce	Ensure proven TUPE procedures are followed	October 2014	Donna Sheffield	
3	If the Council does not act as pension guarantor then the trust will not be granted admitted body status to the LGPS	Pat Pratley	14/05/14	3	2	6	Reduce	Ensure that liabilities are understood. Confirm Council willingness to act as guarantor	June 2014	Pat Pratley	
Explanatory notes											
<p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

Guidance

Types of risks could include the following:

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

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

Risk ref

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

Risk Description

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

Risk owner

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

Risk score

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

Control

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

Action

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

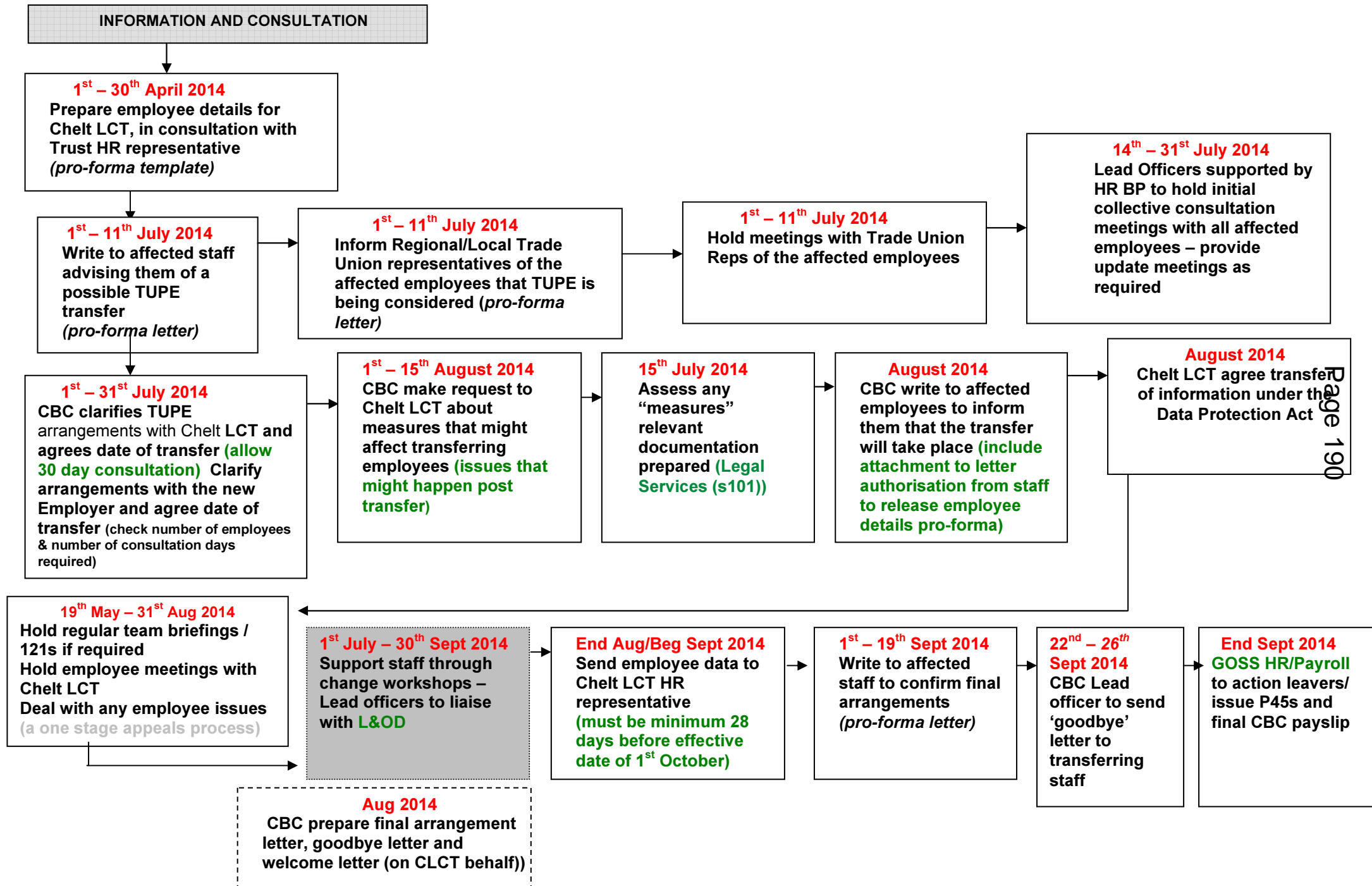
Responsible officer

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

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

Transferred to risk register

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



Cheltenham Borough Council
Cabinet–24 June 2014
Report of Cabinet Member Sustainability
Joint Waste Committee – inter-authority agreement

Accountable member	Steve Jordan, Leader of council
Accountable officer	Pat Pratley, Deputy chief executive
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>In December 2012, the cabinet decided to join the Gloucestershire Joint Waste Committee (GJWC) which has a range of delegated functions relating to waste, recycling and street cleaning. As part of the establishment of the committee the council entered into an Inter Authority Agreement (IAA) which sets out the relationships between the parties to the GJWC and details the responsibilities, the scope, financial and staffing arrangements and constitution.</p> <p>The original vision was for all district councils and the county council to be members of the GJWC. Tewkesbury BC (TBC) at their meeting on 15 April has agreed to join the GJWC. We welcome the fact that they have joined. At the GJWC meeting on 1April it was formally acknowledged that TBC had prepared a report to make a decision to join and that arrangements should be put in place for them to join.</p> <p>In order to facilitate TBC joining the committee the IAA needs to be updated and reissued and all parties to this new agreement need to formally sign.</p>
Recommendations	To welcome Tewkesbury’s decision to join the Gloucestershire Joint Waste Committee and to note that the Deputy Chief Executive, in consultation with the s151 officer and Borough Solicitor will update and reissue the Inter Authority Agreement (IAA)

<p>Financial implications</p>	<p>There are no new costs arising from the addition of TBC to the JWC. TBC will continue to fund their client officer resource (1FTE) on TUPE transfer to the Administering Authority (GCC) on behalf of the Joint Waste Team (JWT).</p> <p>Senior management of the JWT will continue to be funded from a joint pot – which includes an existing contribution from TBC - and this is forecast to be sufficient to cover 2014/15 and, at the current rate of expenditure, two further years.</p> <p>It is anticipated that the inclusion of TBC will provide scope for operational savings for other partners in future years, depending on how far and fast service integration progresses.</p> <p>Contact officer: Paul Jones, GOSS head of finance Paul.Jones @cheltenham.gov.uk, 01242 775154</p>
<p>Legal implications</p>	<p>The legal process to allow TBC to join the GJWC requires the dissolution of the current Joint Committee and the immediate reconstitution of it with TBC as a member. In conjunction with this process the current IAA (dated 28th March 20113) will need to be updated to include TBC and to make minor changes as set out in this report.</p> <p>Contact officer: shirin.wotherspoon shirin.wotherspoon@tewkesbury.gov.uk, 01684 272017</p>
<p>HR implications (including learning and organisational development)</p>	<p>INo direct HR implications arising from this report</p> <p>Contact officer: Julie McCarthy, HR Manager julie.mccarthy @cheltenham.gcsx.gov.uk, 01242 264355</p>
<p>Key risks</p>	<p>There are no obvious new risks arising for the existing partners but, in bringing any new partners into an existing arrangement, there may be changes to the impact and probability of existing risks particularly around consensus and governance. However the JWT is already working with TBC and members attend and contribute to debate at JWC meetings, this risk is low.</p> <p>As additional partners join the JWC there are greater opportunities in areas including Joint procurement, projects and initiatives achieving cost savings, service efficiencies and increased resilience</p>
<p>Corporate and community plan Implications</p>	<p>None arising from this report</p>
<p>Environmental and climate change implications</p>	<p>None arising from this report</p>

Property/Asset Implications	<p>None arising from this report</p> <p>Contact officer: David Roberts, Head of property services 01242 264151</p> <p>David Roberts@cheltenham.gov.uk</p>
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1. Background

- 1.1 Cheltenham, Cotswold, Forest of Dean and Gloucestershire County Council established a Joint Waste Committee from 1st April 2013. Prior to this Tewkesbury Borough Council (TBC) had deferred a decision on whether to join the JWC subject to a clearer understanding of the potential benefits to the authority.
- 1.2 Following a review, TBC's Executive on 3 March 2014 resolved to bring a recommendation to join the JWC to its Full Council. This recommendation was approved by TBC's Full Council on 15th April 2014.
- 1.3 On 1st April 2014, the Joint Waste Committee, having welcomed TBC's Executive's decision, recommended that Partner Authorities seek the necessary authority to revise the Inter Authority Agreement (IAA) to include TBC as a formal member and make other changes as set out below.

2. Reasons for recommendations

- 2.1 The original IAA agreement included the following clause. *"If it is agreed by all Partner Authorities that another local authority should be permitted to join the GJWC then the GJWC shall be dissolved and this Agreement terminated with a view to a new GJWC being established and a replacement agreement on similar terms to this Agreement (as varied by agreement of the proposed Partner Authorities) being completed with effect from the date of termination of this Agreement"*.
- 2.2 The Process for inclusion of new members therefore requires all members to approve a revision of the Inter Authority Agreement (IAA) and Constitution. Upon all parties formally approving the new IAA, the existing JWC will be dissolved and replaced by the new JWC.
- 2.3 The JWC approved that One Legal be appointed as legal advisors to revise the IAA, in consultation with the JWT's Head of Service and to circulate it to the Partner Authorities' legal advisors for comment. This process is currently underway.
- 2.4 There are a number of minor amendments included in the revised draft. This includes, for example, reference to the "Joint Waste Team" instead of the "Joint Waste Management Unit" and updates each partner's particulars. The TUPE schedule will be revised to delete references to staff that transferred in April 2013 and to include the staff member who will be transferring from TBC to the JWT (Gloucestershire County Council as the Administering Authority).
- 2.5 Appendix 3 to Schedule 1 of the existing IAA consists of the first Annual Business Plan. This has since been superseded by the current Business Plan 2014-17. However the current Business Plan does not include TBC, who have a separate action plan. In view of the requirement for the JWC Business Plan to be a public document updated annually, it is proposed to remove Appendix 3 to Schedule 1 and any references thereto, without replacement. The original intention was to ensure partners knew the programme of work for the first year in agreeing the IAA. If the current version was attached it would itself be out of date within a year. Removing the appendix does not affect the requirement to produce and publish an Annual Business Plan.
- 2.6 The current IAA contains a cost sharing formula at Schedule 5 which it was intended would apply to future joint funding. This Schedule and formulae within it will need to be amended to include TBC. However, as the formula is not presently used, it is not proposed to amend the Schedule as it stands, but to bring recommendations to the Joint Committee on future cost sharing as part of the next iteration of the business planning and budget process for the period 2015-18.
- 2.7 Partner authorities shared the costs associated with the set up of the GJWC and of the Head of Service. They continue to carry the cost associated with the staff that they TUPE transferred into the JWT. TBC would fund equivalent staff costs and there would be no cross subsidy with or

between existing GJWP partners.

- 2.8 In the event that the JWC is recommended to jointly fund a project or programme, or realise savings prior to this, then apportionment of the costs/benefits between all five partners will be considered as part of the project proposal and not necessarily in accordance with the current formulae.
- 2.9 Should Stroud District Council and Gloucester City Council elect to join the Committee in the future it is expected that this would bring added benefits for existing partners without any additional key risks. .

3. Alternative options considered

- 3.1 The council could decide that it does not wish to see other councils join the committee and therefore not sign up to the new agreement, but this would be against the original strategic vision which was for all councils in Gloucestershire to join the committee.

4. Consultation and feedback

- 4.1 No consultation has been undertaken, as Tewkesbury joining the JWC was always the strategic ambition when the original report was taken to cabinet in 2012.

5. Performance management –monitoring and review

- 5.1 The Leader and lead cabinet member attend the JWC and oversees performance of the JWC and JWT for CBC. Officers from the borough council also attend a strategic management group with the head of service for the JWT to discuss the strategic direction and performance of the team. The performance of the JWC and JWT will also impact on performance targets for the waste service which are monitored and reported internally.

Report author	Contact Officer: Steve Read, Head of Service, Joint Waste Team, 07824 460588, steve.read@gloucestershire.gov.uk Contact officer: Jane Griffiths, Director, 01242 264126 jane.griffiths@cheltenham.gov.uk
Appendices	1. Risk Assessment 2.
Background information	1.

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	Any new partner will bring a change to the way in which the committee functions.	Pat Pratley	April 2014	2	2	4	R	All six district councils are members of the Joint Waste Partnership and therefore there is already a good working relationship and consensus amongst partner councils. TBC have been attending the JWC as observers and contributed to debates.	Sept 2014	Steve Read, Head of service JWT	
	If the council does not sign the new IAA then it will threaten the future of the JWC	Pat Pratley	April 2014	3	1	3	R	The council has always expressed its desire for all six district councils to be part of the JWC	June 2014	Pat Pratley	
	If the council did not accept TBC as a partner it would miss out on opportunities for the JWC to increase resilience, gain greater financial and service efficiencies	Pat Pratley	April 2014	3	1	3	R	The council has always expressed its desire for all six district councils to be part of the JWC	June 2014	Pat Pratley	
Explanatory notes											
Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)											
Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)											
Control - Either: Reduce / Accept / Transfer to 3rd party / Close											



Guidance

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

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Risk Description

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Risk owner

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

Risk score

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

Control

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Action

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

Responsible officer

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

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

Transferred to risk register

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

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Briefing Notes

Date 24 June 2014

Responsible officer Jane Griffiths

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

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

LGA Corporate Peer Challenge, 17 -19 September 2014

1. Background and purpose of the peer challenge

Following conversations with group leaders earlier in the year the council has requested a peer challenge to be undertaken by the LGA. It will focus on how effective the council is at identifying and tackling the big issues and challenges that affect the borough. The peer challenge is a way of helping to provide a reality check on what we are doing, and are planning to do and how effective we are likely to be in tackling those issues. The council want to test the direction it is taking through the use of critical friends to help ensure that priorities, plans and proposals are likely to have the impact wanted, including a view on whether we are being ambitious and bold enough.

It will give us an external perspective on whether we are targeting resources effectively on priorities and peer views on whether current priorities and interventions are addressing underlying causes and issues rather than simply responding to the symptoms of these.

The peer challenge will help us think through priorities for the future, helping to ensure a balance between short-term and long-term objectives, and ensuring the focus is on tackling the things that will make the most difference to the quality of life in Cheltenham.

The team will focus on scrutiny and wider decision making including behaviours and governance. Additionally, the opportunities to challenge, explore and consider new and different ways the council organises its services and structures will also be beneficial. The external peer view on these matters will be helpful to provide reassurance and confidence about the way ahead, or to help stretch and evolve thinking further.

In delivering this focus the peer team will also consider the core components that all corporate peer challenges cover:

- Understanding of local context and priority setting: Does the council understand its local context and has it established a clear set of priorities?
- Financial planning and viability: Does the council have a financial plan in place to ensure long term viability and is there evidence that it is being implemented successfully?

- Political and managerial leadership: Does the council have effective political and managerial leadership and is it a constructive partnership?
- Governance and decision-making: Are effective governance and decision-making arrangements in place to respond to key challenges and manage change, transformation and disinvestment?
- Organisational capacity: Are organisational capacity and resources focused in the right areas in order to deliver the agreed priorities?

Exploring these areas will help provide reassurance and an indication about the organisation's ability and capacity to deliver on its plans, proposals and ambitions. The purpose of the peer challenge should be to inform further improvement and learning. It is designed to be forward looking, facilitative and problem solving. Whilst it can be used to provide an external 'health-check', the peer challenge is not a form of inspection, and will not deliver a detailed diagnosis or scored assessment.

2. Peer Team make-up and roles

The full peer team will comprise:

- Lead Peer – Chief Executive from a District Council
- Elected Member Peer(s) – one liberal Democrat and one Conservative peer
- Senior Officer Peer(s) one or two – with a strong background in effective governance and experience of different models of organisational structures service delivery
- Challenge Manager – Paul Clarke, Senior Adviser, Local Government Association (LGA)

3. Onsite activity

Meetings and discussion sessions will take place with a range of officers, members and other stakeholders enabling the peer team to explore the issues relevant to the purpose, scope and suggested terms of reference for the peer challenge. At the end of the process they will provide an informal feedback which will be followed by their report at a later date. Once received, officers and members will need to consider the findings and agree what actions need to be taken to address the issues raised.

Contact Officer: Jane Griffiths
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