



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Cabinet

Tuesday, 16 September 2014
6.00 pm
Pittville Room - Municipal Offices

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 July 2014	(Pages 1 - 12)
4.	PUBLIC AND MEMBER QUESTIONS AND PETITIONS	
	SECTION 2 :THE COUNCIL <i>There are no matters referred to the Cabinet by the Council on this occasion</i>	
	SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE <i>There are no matters referred to the Cabinet by the Overview and Scrutiny Committee on this occasion</i>	
	SECTION 4 : OTHER COMMITTEES <i>There are no matters referred to the Cabinet by other Committees on this occasion</i>	
	SECTION 5 : REPORTS FROM CABINET MEMBERS AND/OR OFFICERS	
5.	THE CHELTENHAM TRUST-CONTRACT AWARD Report of the Cabinet Member Healthy Lifestyles to follow as a supplement to this agenda	(Pages 13 - 46)

6.		ASSET MANAGEMENT PLAN AND CAPITAL STRATEGY-UPDATE Report of the Cabinet Member Finance	(Pages 47 - 54)
7.		UPDATE ON CBC/CBH CONSULTATION AND PROPOSALS TO UPDATE THE CBH ARTICLES OF ASSOCIATION Report of the Leader	(Pages 55 - 66)
8.		LOCAL COUNCIL TAX SUPPORT SCHEME Report of the Cabinet Member Finance	(Pages 67 - 72)
9.		POLICY ON SEXUAL ENTERTAINMENT VENUES Report of the Cabinet Member Development and Safety	(Pages 73 - 104)
10.		FOOD SAFETY DELIVERY PLAN Report of the Cabinet Member Development and Safety	(Pages 105 - 124)
11.		HEALTH AND SAFETY DELIVERY PLAN Report of the Cabinet Member Development and Safety	(Pages 125 - 140)
12.		SCRUTINY TASK GROUP REVIEW - CEMETERY AND CREMATORIUM Report of the Cabinet Member Clean and Green Environment	(Pages 141 - 152)
13.		MIXED PLASTICS BRING BANK RECYCLING Report of the Cabinet Member Clean and Green Environment	(Pages 153 - 166)
14.		UBICO-TERMS FOR NEW JOINERS AND CHANGES TO GOVERNANCE ARRANGEMENTS Report of the Leader	(Pages 167 - 178)
		SECTION 6 : BRIEFING SESSION • Leader and Cabinet Members	
15.		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	
16.		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 paragraphs 1, 2 and 3, Part (1) Schedule (12A) Local Government Act 1972, namely:</p> <p>Paragraph 1; Information relating to any individual.</p> <p>Paragraph 2; Information which is likely to reveal the identity of an individual</p> <p>Paragraph 3; Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p>	
17.		<p>EXEMPT MINUTES Minutes of the meeting held on 15 July</p>	(Pages 179 - 182)
		<p>Section 10: BRIEFING NOTES</p> <ul style="list-style-type: none"> • Rickshaws • Future Development of the Cemetery and Crematorium: Update 	

Contact Officer: Rosalind Reeves, Democratic Services Manager, 01242 774937
Email: democratic.services@cheltenham.gov.uk

This page is intentionally left blank

Cabinet

**Tuesday, 15th July, 2014
6.00 - 7.15 pm**

Attendees	
Councillors:	Steve Jordan (Leader of the Council), John Rawson (Cabinet Member Finance), Rowena Hay (Cabinet Member Healthy Lifestyles), Peter Jeffries (Cabinet Member Housing), Andrew McKinlay (Cabinet Member Development and Safety), Jon Walklett (Cabinet Member Corporate Services) and Chris Coleman (Cabinet Member Clean and Green Environment)

Minutes

1. **APOLOGIES**
There were no apologies.

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

3. **MINUTES OF THE LAST MEETING**
The minutes of the last meeting held on 7 April 2014 were approved and signed as a correct record.

4. **PUBLIC AND MEMBER QUESTIONS AND PETITIONS**
There were no questions or petitions.

5. **THIRD SECTOR RENT REQUEST FROM 10TH CHELTENHAM ALL SAINTS SCOUT GROUP**
The Cabinet Member Finance introduced the report and explained that the council had a system whereby rent reductions were available to charitable or voluntary organisations in the town and there was a scoring system in place to ensure that these were made on a rational and fair basis. He made reference to the positive outcomes that the Scout Movement has on children and young people in the town and this proposed rent reduction would provide them with the opportunity to continue to flourish.

RESOLVED THAT

the recommendation of the 3rd Sector Panel be accepted and that the Director of Resources be authorised to administer a rent reduction of 80% against the lease between Cheltenham Borough Council and 10th Cheltenham All Saints Scouts Group.

6. **THIRD SECTOR RENT SUBSIDY REQUEST FOR THE 1ST HATHERLEY SCOUTS GROUP**

The Cabinet Member Finance introduced the report and explained that the council had a system whereby rent reductions were available to charitable or voluntary organisations in the town and there was a scoring system in place to ensure that these were made on a rational and fair basis. He made reference to the positive outcomes that the Scout Movement has on children and young people in the town and this proposed rent reduction would provide them with the opportunity to continue to flourish.

RESOLVED THAT

the recommendation of the 3rd Sector Panel be accepted and that the Director of Resources be authorised to administer a rent reduction of 80% against the lease between Cheltenham Borough Council and 1st Hatherley Scouts Group.

7. FINANCIAL OUTTURN 2013/14 AND QUARTERLY BUDGET MONITORING REPORT TO END MAY 2014

The Cabinet Member for Finance introduced the report as circulated with the agenda and highlighted the following :

- There was a £490k underspend which equated to less than 1% of the council's gross annual budget. This was due to a robust system of financial control.
- The HRA was in a very satisfactory position with reserves which would be carried forward higher than expected
- It was being proposed that £100k of the underspend should be used to resource ICT in order to ensure that there was an efficient delivery of the five year programme of investment.
- £100k of the underspend would be put towards the restoration of the war memorial in the Promenade which would be in addition to the £50 k allocated in the planned maintenance budget. The total cost of restoration was up to £450 k. An appeal would be launched and it was hoped that other funding would be sourced via the Heritage Lottery Fund, the Memorials Trust and sponsorship by local organisations and individuals. Work on the first phase would start on the 21 July which concerned the renewal of paving and lighting.
- £97k would be held back to strengthen reserves.
- It was proposed to earmark £22 k to carry out a feasibility study into the potential for creating a solar PV farm on council owned land. The purpose would be to assess the preferred site's financial feasibility in terms of return on investment and also offer recommendations for progressing the project to the subsequent stages of development. The Council would then be in a stronger position to negotiate a joint venture with potential commercial partners.
- A number of budget allocations amounting to £327 k were being carried forward where projects overlapped into the next financial year or where there had been unavoidable delays.
- The move to local business rates retention was expecting to deliver more income than expected and officers were thanked for their vision on this.

On behalf of the Cabinet the Cabinet Member Finance thanked the Director Resources and the Head of Finance and officers across the organisation for their innovation in delivering savings.

The Cabinet Member Housing explained that the variation in actual spend in the HRA arose primarily from project delays. He also explained that the bad debt provision set up for helping tenants through welfare reform was not taken up. This was testament to the good work of One Stop and CBH.

RESOLVED THAT Council be recommended to approve the following recommendations :

1. That Council receive the financial outturn performance position for the General Fund, summarised at Appendix 2, and note that services have been delivered within the revised budget for 2013/14 resulting in a saving (after carry forward requests) of £489,998.
2. That furthermore Council:
 - 2.1 Approve £327,500 of carry forward requests (requiring member approval) at Appendix 5.
 - 2.2 Approve the use of the budget saving of £489,998 as detailed in Section 3.
3. Note the annual treasury management report at Appendix 7 and approve the actual 2013/14 prudential and treasury indicators.
4. Approve the revision to the Treasury Management policy to reflect the revised borrowing facility to support the newly created Leisure and Cultural Trust (Appendix 7).
5. Note the capital programme outturn position as detailed in Appendix 8 and approve the carry forward of unspent budgets into 2014/15 (section 9).
6. Note the position in respect of Section 106 agreements and partnership funding agreements at Appendix 10 (section 10).
7. Note the outturn position in respect of collection rates for council tax and non-domestic rates for 2013/14 in Appendix 11 (section 11).
8. Note the outturn position in respect of collection rates for sundry debts for 2013/14 in Appendix 12 (section 12).
9. Receive the financial outturn performance position for the Housing Revenue Account for 2013/14 in Appendices 13 to 14 (section 13).
10. Delegate to the Section 151 Officer the power to act as accountable officer for the transformational challenge funding, as outlined in section 14.
11. Note the budget monitoring position to the end of May 2014 (section 15).

8. BUSINESS RATES RETAIL RELIEF SCHEMES

The Cabinet Member Finance introduced the report and explained that the Government had announced in the Autumn that it would provide two types of business rates relief to certain occupied retail properties for 2014-2015 and 2015-2016. The first relief would provide up to £1 000 in each of the financial years for qualifying retail properties which are occupied and have a rateable value of £50 000 or less. The second, Reoccupation Relief, would provide 50 %

relief for up to 18 months when a property which has previously been occupied for retail use is reoccupied between 1 April 2014 and 31 March 2016.

RESOLVED THAT

- 1. a business rates retail relief scheme and business rates reoccupation relief scheme be approved in line with the detailed guidance in appendix 2 to remain in place whilst 100% reimbursement is available from the Government**
- 2. Due to the high volume of cases decisions relating to the application of the reliefs be delegated to Revenues Service officers, with the final decision in the event of dispute being taken by the Director of Resources**

9. REVIEW OF LICENSING POLICY, GUIDANCE AND CONDITION FOR PRIVATE HIRE AND TAXIS WITHIN THE BOROUGH OF CHELTENHAM

The Cabinet Member Development and Safety introduced the report and explained that the Council's current Licensing policy, guidance and conditions for private hire and taxis (taxi policy) was adopted by Council in October 2010.

The Cabinet Member explained that there was a commitment set out in the policy to review taxi policy at least once every three years to ensure it remained up to date and relevant. A draft policy for consultation was approved by Cabinet in November last year and Cabinet was now being asked to consider the consultation feedback and approval of the amended draft policy. Appendix 3 detailed the proposed changes. These included the following :

- the introduction of new safety requirements
- the requirement that all applicants demonstrated a sufficient proficiency in English
- the introduction of the Driving Standards Agency Assessment for all applicants
- not accepting any type of re-cut tyres and only accepting remould tyres under very limited circumstances
- preventing advertising of tobacco and alcohol on the side of vehicles
- proposal for a uniform colour for taxis.

The Cabinet Member informed that as there was no unanimity of view on the colour issue, further consultation would take place and dark green, the corporate colour of the council, would be proposed as a starting point. In terms of the high standards test for applicants this had been raised with partner councils and a common approach would be adopted to ensure that the policy was effective.

RESOLVED THAT

- 1. the consultation comments received be noted;**
- 2. the amended draft policy as outlined in Appendix 2 be approved including the adoption of a uniform colour for Hackney Carriage vehicles;**

3. **subject to resolution 2, further consultation on the colour and implementation date of the uniform colour scheme policy be approved; and**
4. **authority be delegated to the Director of Environmental & Regulatory Services, in consultation with the Cabinet Member of Development and Safety, to approve a colour and an implementation date for the uniform colour scheme policy following the further consultation.**

10. OLDER PEOPLES' HOUSING SUPPORT SERVICE PROVISION UNDER CHELTENHAM BOROUGH HOMES

The Cabinet Member Housing introduced the report and explained that Gloucestershire County Council's Supporting People Team commissioned Cheltenham Borough Council to provide housing-related support services to older people in sheltered housing. Cheltenham Borough Homes delivered this service through the management agreement. He reported that in October 2013 CBC entered into an agreement with Gloucestershire County Council to commence a 12 month consultation and development process with a view to deciding upon either Option 1-to develop and deliver an integrated housing management and related support service model or Option 2 to develop and deliver a Community Asset service model.

The Cabinet Member explained that a successful pilot of a community hub had been undertaken in one of CBC's sheltered housing schemes in the south of Cheltenham (Wallace House) and it was proposed that CBC develop and deliver the Community Asset Model until October 2015.

Members supported the proposal and agreed that this "hub and spoke" approach used existing assets to their best advantage and provided tailored services to individuals based on changing needs. Both the financial efficiencies and value for money were effective and this proposal represented a positive way forward.

RESOLVED THAT

1. **The development and delivery of Option 2, the Community Asset Model, be agreed, and that the Deputy Chief Executive be authorised to enter into either a new contractual arrangement from October 2014 or to vary the existing contract as appropriate with Gloucestershire County Council in consultation with the s151 Officer and on terms approved by the Borough Solicitor.**
2. **a further report be brought to cabinet to seek approval for the development and delivery of the Community Asset Model from October 2015.**

11. REVIEW OF THE COUNCIL'S PERFORMANCE AT END OF 2013-14

The Cabinet Member Corporate Services introduced the report and reported that 72 % of the targets had been achieved, 20 % had not been met but there were firm plans in place to deliver the milestone in a reasonable timescale and 7 % of targets had not been completed by year end.

The Cabinet Member reported the following :

- Gloucestershire Enterprise hubs were proving successful
- Cheltenham Development Task Force projects were making progress and Brewery Phase 2 was due to start this summer
- 214 affordable homes had been delivered and the St Paul's Phase 2 development had received awards for excellence
- The Wilson, Cheltenham Art Gallery and Museum had recently received awards
- The new Leisure and Culture Trust had officially been registered

Members believed there had been credible results in a difficult year and the Bridging the Gap work was continuing on sharing services, and invest to save projects, such as the town hall.

The Leader added that the focus of the performance report was on areas where the Council was not meeting its targets.

RESOLVED THAT

the review of performance in 2013-14 be endorsed

12. ALLOCATION OF COMMUNITY PRIDE FUNDS 2014-15

The Leader introduced the report and explained that as part of the 2014-15 budget, agreed by Council on 14 February 2014, £50 000 was set aside for the community pride scheme from the New Homes Bonus and a further £4 000 was added to the pot from the community development budget to create a community building grant fund.

The Community Pride fund was a popular scheme with applications which collectively were requesting just over £116 000. He gave thanks to the assessment panel which assessed the degree to which the applications met the criteria of this year's fund. He explained that the emphasis was on more modest schemes as, in some cases, the amount which could be awarded would not really make a difference to whether the scheme could take place or not.

The Leader made particular reference to the major scheme on the restoration of the war memorial to mark the 100th anniversary of the outbreak of WW1. It was proposed that any remaining funds from the scheme were rolled over to create a small pot of funding to support community events and activities to commemorate WW1.

RESOLVED THAT

- 1. the list of projects to be funded from community pride funds as set out in Appendix 2 and community building grants as set out in Appendix 3 be approved.**
- 2. authority be delegated to the Strategy and Engagement Manager, in consultation with the Leader of the Council, to decide how best to award the remaining funds to support community events and activities to commemorate the centenary of the start of the First World War.**

13. ALLOCATION OF POSITIVE ACTIVITIES FUNDING 2014

The Cabinet Member Sport and Culture introduced the report and explained that for the fourth year running, Gloucestershire County Council had agreed to invest £50 k in each of the 6 Gloucestershire districts in 2014-15 to support positive activities for young people, to be delivered by voluntary and community sector organisations. CBC led the allocation process although as part of its commitment to working in partnership with others, it sought advice and support from the Positive Participation Partnership and the Positive Lives Partnership.

Four priorities had been identified for the 2014 round as outlined in paragraph 1.3. This year the County Council had indicated that up to £5000 of the £50 000 pot could be used to develop and improve the quality of voluntary and community sector organisations as providers of youth activities and to that end it was proposed that up to £5000 would be allocated towards making training opportunities more accessible for volunteers, workers and members of management committees and embedding safeguarding into the work of VCS youth work providers and into their youth work provision.

The Cabinet Member also informed Members of a smaller pot of funding to enable providers of youth activities, schools and colleges get better at helping their young people lead healthy lives.

RESOLVED THAT

- 1. the allocation of positive activities funding as set out in appendix 2 be agreed.**
- 2. Authority be delegated to the Strategy and Engagement Manager, in consultation with the Cabinet Member Healthy Lifestyles, to award the remaining funds to projects to deliver youth activities.**

14. CABINET APPOINTMENT TO OUTSIDE BODIES

The Leader of the Council introduced the report. He noted that at the last Cabinet meeting approval had been given to specific portfolio holder appointments. All members of the council had had an opportunity to input into the outside body process. There were now three appointments where agreement could not be reached between the groups. Therefore the nominations relating to St Margaret's Hall User Group, Third Sector Services and the observer nomination on the Ubico board would be determined by Council on 21 July.

The Leader also stated that the current 5 members of the board of CBH would not be fully allocated as CBH was currently in the process of consulting on reducing the number of board members so that in the future it was likely that CBC would have 2 nominees rather than 5. This position had been endorsed by all the political groups.

The updated nominations are attached to these minutes for information.

RESOLVED THAT

1. Cabinet make nominations/appointments to the bodies in Appendix A respectively in accordance with the following principles:

- **all nominations are made on the basis that the nominee/appointee is a representative of Cheltenham Borough Council insofar as that is compatible with any overriding legal duty to the outside body; and**
- **Cabinet reserves the right at any time to withdraw/terminate a nomination/appointment which it has made**

2. the nominations/appointments for St Margaret's Hall User Group, Third Sector Services and Ubico be referred to Council for determination as consensus cannot be achieved between all the political groups on the Council

15. BRIEFING FROM CABINET MEMBERS

The Cabinet Member Clean and Green Environment reminded Members that the Cemetery and Crematorium was shut for a period of 2 weeks. Work was currently underway and the facility would reopen on 28 July. He referred to the decision which had been taken to offer families free use of the chapel during the closure and was pleased to report that 16 families had taken up this opportunity. He thanked the funeral directors for passing on this information to the families concerned.

Further to the question from Councillor Ryder at the previous cabinet meeting the Cabinet Member then confirmed the project management team as follows : Mark Woodward, Project Manager, Garrie Dowling, Technical Advisor, Dave Padfield, Health and Safety Advisor and Operations Rob Hainsworth and Ben Jenkins.

The Cabinet Member Housing referred to the plethora of awards that the St Paul's Phase Two project had received. He thanked Paul Stephenson, CBH Chief Executive and congratulated CBH on this achievement.

The Cabinet Member Corporate Services made reference to the iPad trial which had been highly successful and explained that all new councillors had been offered an iPad and Democratic Services had submitted a carry forward bid to extend the offer to existing councillors.

The Leader of the Council informed members that he had recently attended the LGA conference and given a presentation jointly with Cotswold District Council on the 2020 vision. He then explained that following the publication "Rewiring Public Services" last year, the LGA had now published "Investing in our nation's

future: the first 100 days of the next government”, which was available on the LGA website and a copy of which would be placed in the Members’ room.

The Leader then reported that the Communities and Local Government (CLG) Select Committee on the National Planning Policy Framework (NPPF) had visited Cheltenham as part of the review, which the Leader felt was significant. The visit had been good for the CLG Committee and useful for the Council. He thanked those that had arranged the visit.

Finally, the Leader informed that Gloucestershire LEP had been successful in all requests for funding agreed by Government as part of the Growth Deal. However, funding for the A417 missing link had not been incorporated at this stage. The Gloucestershire Shadow Joint Economic Growth committee which was a meeting of local authorities with the LEP was proposing to create a post to coordinate the economic plan and this could be potentially funded by business rate pooling which was predicted to increase significantly next year.

16. DECISIONS TAKEN BY CABINET MEMBERS SINCE THE LAST MEETING

The Cabinet Member Development and Safety informed Members that he had taken a decision relating to the approval of the fees for the Tattoo Hygiene Rating Scheme as follows :

Application and initial inspection	£100
Request for a revisit to re-score	£50
Annual inspection	£100

**17. 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 paragraphs 2 and 3, Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 2; Information which is likely to reveal the identity of an individual

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

18. EXEMPT MINUTES

The exempt minutes of the meeting held on 24 June 2014 were approved and signed as a correct record.

19. 205 LECKHAMPTON ROAD

The Cabinet Member Finance introduced the report and explained that approval from Cabinet was sought to sell the land locked parcel of land with planning permission. It was a complicated deal involving the current leaseholder but the purchaser would be looking to potentially develop 14 units on the site.

RESOLVED THAT

The Head of Property and Asset Management be authorised to transfer the freehold interest in the area of land numbered 2 on the plan to this report to the purchaser at a sum which the Head of Property Services and Asset Management is satisfied reflects the best consideration that can reasonably be obtained, and upon such other terms as he considers appropriate.

20. ACQUISITION OF PROPERTIES AT CAKEBRIDGE PLACE

The Cabinet Member Finance introduced the report and explained that this was a complicated deal which involved securing the freehold interests of three owner occupiers and exchanging land with a third party.

Subject to approval CBC would be able to proceed with the wider development scheme.

The Cabinet Member Finance thanked all those who had been involved in working up the schemes and the ingenuity involved in delivering the objective for housing and for capital receipt. He thanked CBH for their contribution and work on the Cakebridge Walk Scheme.

RESOLVED THAT

- 1. The purchasing, pursuant to Section 227 of the Town and Country Planning Act 1990, of the 3 freehold interests in private ownership at Cakebridge Place be approved subject to the total costs of acquisitions not exceeding the recommended amount.**
- 2. Authority be delegated to the Head of Property, in consultation with the Borough Solicitor, to negotiate and conclude the terms of the acquisitions of the 3 freehold interests at Cakebridge Place.**

21. REVIEW OF GOVERNANCE ARRANGEMENTS FOR GLOUCESTERSHIRE AIRPORT

The Leader introduced the report and explained that York Aviation Limited (YAL) had been jointly commissioned by CBC and Gloucester City Council, as joint shareholders, to undertake an independent review of Gloucestershire Airport Limited governance arrangements. This was a follow up from the recommendations contained within their previous report commissioned in 2013. He reported that as part of their review, YAL had consulted with the Shareholders, the Joint Airport Scrutiny Working Group and the Airport Board,

to discuss the current state of the governance arrangements and capture their concerns and were supportive of the recommendations.

The Leader explained that the report included the following :

- recommending a 10 year strategy for the airport, including a 5 year rolling business plan
- replacing the Joint Airport Working group with a Shareholder forum with joint representation from members and officers, to guide and approve the Strategy and Business Plan for the Airport
- retaining an 8 person Airport Board consisting of 2 Executive Directors, 2 independent specialist non-executive Directors with financial management and aviation/airport management skills, 2 non executive Directors from Gloucester City Council and 2 non-executive Directors from CBC

The Leader said that it was uncertain at this stage whether it was necessary to offer an allowance to non-executive Directors to attract the necessary skills. More work was necessary to implement the recommendations and understand the order in which they should be taken. The Leader explained that a further piece of work would be commissioned on revising the Memorandum and Articles. It was important that this work was progressed with Gloucester City to ensure that the Airport was a success and that it produced dividends to both shareholders.

RESOLVED THAT

The recommendations as laid down in the report be approved

Chairman

This page is intentionally left blank
Page 12

Cheltenham Borough Council

Cabinet – 16 September 2014

The Cheltenham Trust – Contract Award

Accountable member	Cabinet Member for Healthy Lifestyles, Councillor Rowena Hay
Accountable officer	Pat Pratley, Deputy Chief Executive
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>In December 2012, Cabinet agreed that it would create a charitable trust to sustain and develop the good work of the council's in-house leisure and culture services. As well as leading to significant financial benefits to the Council and the town, a trust will be in a strong position to promote healthier lives, to create inspirational experiences and to promote the town as a great place to be.</p> <p>Cabinet received an update report in June recommending it note the intention to award a contract to The Cheltenham Trust (the Trust) from 1 October 2014. Since then a great deal of work has been done by the Programme Board, the Cheltenham Trust Board of Trustees and the Leisure and Culture Executive Team.</p> <p>The purpose of this report is principally to obtain the agreement of Cabinet to the award of a contract to the Trust for the leisure and culture services from 1 October 2014 and for the Council to enter into the various legal agreements and conclude the necessary documentation.</p> <p>The trust has applied to the Charity Commission to register The Cheltenham Trust as a charitable body. The Charity Commission is currently processing the application and it is hoped that registration will be achieved before the Cabinet meeting. If however that is not the case, or another critical issue arises preventing transfer of services to the Trust by 1 October, a recommendation as to next steps is included for Members consideration.</p>
Recommendations	<p>1. Subject to The Cheltenham Trust being registered as a charity by the Charities Commission before 1 October 2014, I recommend that:</p> <p>1.1 Cabinet agrees that the following services will be undertaken by The Cheltenham Trust, or where relevant its trading subsidiary, Cheltenham Leisure and Culture Limited:</p> <p style="text-align: center;">Leisure@ Cheltenham Prince of Wales Stadium Town Hall Pittville Pump Room The Wilson (Cheltenham Art Gallery and Museum) Tourism Services and Tourist Information Centre Sport, Play and Healthy Lifestyles</p>

1.2 Cabinet approves the proposed management fee, and the arrangements for varying it, as set out in sections 8.1 and 8.2 of this report.

1.3 Cabinet delegates authority to the Deputy Chief Executive, in consultation with the Cabinet Member for Healthy Lifestyles, S151 Officer and Borough Solicitor to finalise and complete the contract, leases, licences and all other relevant contracts and legal documentation as necessary to enable the Trust to commence business from 1 October 2014.

1.4 Cabinet delegates authority to the Deputy Chief Executive, in consultation with the Cabinet Member for Healthy Lifestyles, S151 Officer and Borough Solicitor for the Council to enter into a service level contract with The Cheltenham Trust for the provision of property services as outlined in section 5.4.3 of this report.

2. I recommend that, in the event of The Cheltenham Trust not being registered as a charity before 1 October 2014, or another critical issue preventing the transfer of services by that date that

2.1 Cabinet delegates authority to the Deputy Chief Executive, in consultation with the Cabinet Member for Healthy Lifestyles, the Cabinet Member for Finance, S151 Officer and Borough Solicitor for the Council to complete the transfer, if all impediments are removed, at any date up to and including 1 November 2014.

2.2 In the event that services are not transferred in accordance with recommendation 2.1 that a further report be brought to the Cabinet meeting on 11 November 2014.

3 Cabinet notes that The Cheltenham Trust has been granted Admitted Body status to the Local Government Pension Scheme and that, as previously advised to Cabinet in the June report, this Council will be liable for any pension deficit on former employees of the Council who transfer to the Trust.

Financial implications

The original 'Bridging the Gap' savings target for the Trust was £700k by 2017/18.

The creation of the Trust will deliver annual savings in its management fee of £1.025m by 2018/19 as a result of activity which will generate both savings and additional income, including external fundraising, as outlined in the business plan put forward by the Trustees. The projections and assumptions have been subject to a due diligence process and, assuming charitable status is obtained, are considered to be prudent and deliverable.

There will be some additional costs to the council as a result of the creation of the Trust including additional client management and pension costs. The net savings to the council are £125k in 2014/15 rising to £833k by 2018/19.

**Contact officer: Mark Sheldon
Mark.Sheldon@cheltenham.gov.uk, 01242 264123**

<p>Legal implications</p>	<p>The report indicates the position the Council is currently at with the project and that there is one issue that may hold matters up, the granting of charitable bodies status. This is a matter that is in the hands of the Charity Commission and it is hoped this will be granted before the Cabinet meeting.</p> <p>The current position has been reached following consideration, by way of a PQQ process, whether there was a currently developed market for the services. It was clear that there was not following that process and thus there was no requirement to go through any tendering procedure. This is not an 'EU' tendering process, therefore the Public Contracts rules are not applicable. This has not been challenged and the Cabinet noted the intention to award the contract in its June meeting.</p> <p>The services are being contracted to the current 'in house team' following the formation of a Limited Company, and detailed discussions on the contractual relationship with that company and the Council are taking place. That Company should be registered shortly as a Charitable body</p> <p>The contract will be with a separate legal entity which is independent of the Council. The relationship will be dependent on the Contractual documentation as would any other independent company. The Contract has been subject to long and detailed consideration and generally follows normal contractual principles.</p> <p>The Contract contains the Specification on what the Council wants, and the Trust Proposal on how they will provide them. It also contains details of how the Council will monitor and enforce the contract, as well as provisions for varying the contract and what will be done if there is a default.</p> <p>The Contract is for 10 years which can be extended for an extra five and this links, as is mentioned in the report, to the Leases which are for 15 years with a break clause at 10 years.</p> <p>The documentation for the TUPE transfer and the pension arrangements will be standard.</p> <p>Contact officer: Gary Spencer Gary.Spencer@tewkesbury.gov.uk, 01684 272691</p>
<p>HR implications (including learning and organisational development)</p>	<p>GOSS HR has been secured by the Trust to provide HR, Payroll, Learning and Organisational Development and Corporate Health and Safety Services. This will ensure that any HR implications outlined in sections 11 and 12 of the report are monitored closely before and after the transfer of services. For the employees who will transfer this will also mean that they are already familiar with the HR team and who to contact for support and advice should they need it in the future.</p> <p>Contact officer: Julie McCarthy Julie.McCarthy@cheltenham.gov.uk, 01242 264355</p>

<p>Key risks</p>	<p>A full analysis of risks has been undertaken by the Council’s Programme Board and is shown in Appendix 3.</p> <p>The key risk is that if the Trust fails to deliver on the contract then the council’s desired outcomes (financial and non-financial) may not be achieved. The risk is mitigated by the agreement of</p> <ol style="list-style-type: none"> 1. A robust contract based on an agreed specification with performance measures and a framework of contract governance 2. A partnership approach based on agreed principles <p>as set out in the relevant sections of this report.</p>
<p>Corporate and community plan Implications</p>	<p>The creation of The Cheltenham Trust supports the following strategic objectives:</p> <ul style="list-style-type: none"> • Enhancing the provision of arts and culture; and • People are able to lead healthy lifestyles <p>The outcomes specified for the Trust will also help the council deliver other strategic outcomes:</p> <ul style="list-style-type: none"> • Cheltenham has a strong and sustainable economy • We will meet our ‘Bridging the Gap’ targets for cashable savings and increased income
<p>Environmental and climate change implications</p>	<p>The 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.</p> <p>The Council will initially support the Trust to develop the strategy and an action plan. The Trust will then be responsible for its implementation and will formally report on progress against the action plan as part of the Trust’s Annual Performance Report.</p>
<p>Property/Asset Implications</p>	<p>The property implications are as outlined in the body of the report and the Heads of Terms as set out in Appendix 1.</p> <p>Contact officer: David Roberts David.Roberts@Cheltenham.gov.uk; 01242 264151</p>

1. Background

- 1.1 Following an appraisal of the needs and priorities of the Council and the communities of Cheltenham for leisure and culture, Cabinet agreed in December 2012 that a charitable trust should be created to operate its services in this sector.
- 1.2 By transferring services to The Cheltenham Trust (the Trust), the Council seeks:
- A sustainable future for the services based on a tried, tested and trusted delivery model
 - Increased capability to deliver the outcomes of importance to the Council and others
 - A reduced Council subsidy for services and a substantial contribution to the Council's achievement of a balanced budget
 - Retention of the synergies between leisure and culture, i.e. their common link to healthy lifestyles, their overlapping customer base, their shared strategic partners, and the economies of scale achievable by streamlining common functions.
 - Delivery of its priority outcomes (listed in section 4.1.2 below)
- 1.3 Cabinet received a report in June recommending that it note the intention to award a contract to the Trust from 1 October 2014.
- 1.4 Since then a great deal of work has been done by the Council's Programme Board, the Cheltenham Trust Board of Trustees and Leisure and Culture Executive Team.
- 1.5 The purpose of this report is principally to obtain the agreement of Cabinet to the award of a contract to the Trust for the leisure and culture services from 1 October 2014. In order to assist Cabinet in its decision making the following information/updates are provided:
- 1.5.1 An update on progress with the creation of the Trust including the position with regard to charitable registration (**Section 2**)
- 1.5.2 Confirmation of the services to be transferred to the Trust and the buildings to be leased or licensed by the Trust (**Section 3**)
- 1.5.3 A brief explanation of the outcomes based specification and the response to it termed the "Trust proposal" (**Section 4**)
- 1.5.4 Principle information relating to the contract and leases being entered into between this Council and the Trust (**Section 5**)
- 1.5.5 A brief summary of the performance management arrangements for the contract (**Section 6**)
- 1.5.6 Details regarding support services arrangements (**Section 7**)
- 1.5.7 An explanation of the management fee to be payable to the Trust by the Council and noting the position with regard to variations and dealing with revenue surpluses (**Section 8**)
- 1.5.8 An explanation of arrangements to be put in place to support any short-term cash flow problem the Trust may encounter, as a new business with no working capital, together with an explanation of how the Council might support the Trust in the case of any deficits in funding arising during the contract term (**Section 9**)
- 1.5.9 An update on arrangements with regard to the TUPE provisions (**Section 10**) and the Trust's admittance to the Local Government Pension Scheme (**Section 11**)
- 1.5.10 An explanation of the Council's due diligence process and the outcome, together with any specific matters highlighted but which do not impede contract award (**Section 12**)

1.5.11 A summary of the outcome of the Community Impact Assessment (**Section 13**)

2. The Cheltenham Trust - Update

- 2.1 Cabinet will recall that in March it received a report on the Trust's Memorandum and Articles of Association. As recommended by Cabinet the wording was finalised, in consultation with the Cabinet Member for Healthy Lifestyles, in preparation for company registration. The Cheltenham Trust was incorporated as a company limited by guarantee on 1 May 2014. The Trust has recruited for a Chief Executive.
- 2.2 Successful delivery of the Council's contract will require the Trust to carry out non-charitable activities, that is, activities which do not fall within the 13 charitable 'purposes' listed in the Charities Act 2011. The Trust has therefore set up a trading company named 'Cheltenham Leisure and Culture Limited (CLCT Ltd) which was incorporated as a private limited company on 16 July 2014. CLCT Ltd has a Board of Directors consisting of three Trustees including the Chair and Vice Chair and it is proposed that additional commercial expertise be brought in to join the Board at some future date to further develop the company.
- 2.3 It is well established that charities may create non-charitable trading companies to undertake non-charitable activities for the purposes of generating profits that can be used by the charity. This is reflected in Charity Commission and Her Majesty's Revenue and Customs (HMRC) guidance. The trading company will carry out activities such as weddings at the Town Hall and Pump Room, Tourism and catering activities.
- 2.4 The Trustees and the executive team have also been working on developing the Trust's brand and marketing strategy in response to the Council's outcomes specification but also in recognition of the role of the Trust as an independent charitable body delivering leisure and arts provision in Cheltenham. In particular the Trust is seeking to develop its brand in accordance with its vision which is about enhancing and enriching people's lives in Cheltenham through the provision of leisure and cultural services.
- 2.5 The Trust has expressed a willingness to take a contract for the provision of services outlined in **Section 3.2**, and to enter into the various leases and licences for the associated buildings and properties. A contract has been drafted under which the Trust will provide the services and the Trust board has concluded its own due diligence.
- 2.6 The trust Board met on 5 September and:
- Approved the trust's business plan;
 - Delegated authority to nominated trustees to finalise all contractual matters
 - Approved its trustee code of conduct, its audit committee terms of reference and the trust's policies and procedures
 - Reviewed the progress made on the development of the trust's brand
- 2.7 The trust Board also received an update on Charity Commission registration. The Commission has asked some questions of clarification which are being responded to by the trust. The view is that there should be no impediment to the Trust being registered as a charitable body and, it is hoped that, by the time Cabinet meets that charitable status will have been granted. However, as the matter is outstanding at the point of issuing this report, Recommendation 1 is subject to the trust being awarded charitable status before 1 October 2014.
- 2.8 In the event that charitable registration not being confirmed by 1 October, or another currently unforeseen critical issue arises which prevents transfer of services by 1 October, the Council and the Trust will then seek to work together to deal with the impediment. It should be noted that a significant delay to the transfer may have implications for set-up costs, the Trust's business plan, the realisation of benefits and the deployment of Council and partner resources.

2.9 Therefore this report contains recommendations as to next steps which would enable officers, in consultation with relevant Cabinet Members, to continue to progress the award of a contract to the Trust, within the timescales stipulated, so long as all impediments to such a contract award had been removed. If, however, a contract has not been entered into, and the services have not been transferred to the Trust by 1 November, a further report will be brought back to Cabinet at its November meeting.

2.10 **CABINET IS THEREFORE RECOMMENDED that in the event of The Cheltenham Trust not being registered as a charity before 1 October 2014, or another critical issue preventing the transfer of services by that date to**

2.10.1 **Delegate authority to the Deputy Chief Executive, in consultation with the Cabinet Member for Healthy Lifestyles, the Cabinet Member for Finance, S151 Officer and Borough Solicitor for the Council to complete the transfer, if all impediments are removed, at any date up to and including 1 November 2014 (Recommendation 2.1); and**

2.10.2 **In the event that services are not transferred by 1 November 2014 that a further report be brought to the Cabinet meeting on 11 November 2014 (Recommendation 2.2)**

3. **Services to be Transferred to The Cheltenham Trust**

3.1 As per the original business case, the Trust, by entering into a contract with the Council, will take over the management of the services currently operated by the Council. The Trust will also enter into individual leases or licences with the Council for the relevant buildings.

3.2 The services and buildings in question are as follows:

Leisure@ Cheltenham
Prince of Wales Stadium
Town Hall
Pittville Pump Room
The Wilson (Cheltenham Art Gallery and Museum)
Tourism Services and Tourist Information Centre
Sport, Play and Healthy Lifestyles

3.3 **CABINET IS THEREFORE RECOMMENDED subject to The Cheltenham Trust being registered as a charity to agree that the services identified above will be undertaken by The Cheltenham Trust, or where relevant its trading subsidiary, Cheltenham Leisure and Culture Limited (Recommendation 1.1)**

4. **Specification and Trust Proposal**

4.1 **Specification**

4.1.1 The specification sets out the partnership principles which will underpin the Council's relationship with the Trust. These are:

1. **Strategic focus:** concentration on maximising the contribution of leisure, culture and tourism to the future success of Cheltenham.
2. **Supportive relationships:** work to encourage and foster positive working relationships with the council as well as local, regional and national partners.
3. **Creativity:** encouragement of new ideas for improving Cheltenham's creative offer and quality of life and for projecting its vibrancy.

4. **Accountability:** the Council must be assured that its partner's services are safe, protect the town's heritage and provide value-for-money.

4.1.2 The Council has prepared its specification based on 3 high level target outcomes agreed by Cabinet:

1. People in Cheltenham lead healthier, fulfilling and active lives.
2. People in Cheltenham are inspired to take part and gain valuable skills and experiences.
3. Cheltenham is seen as a world class place to live, work, study and visit.

4.1.3 Whilst the specification provides further detail on these outcomes, it is not intended that the Council dictates precisely what the Trust is to provide. Rather, the focus is on allowing the experts (the Trust) to design and deliver services, activities and events and produce measures which enable the Council and the Trust to track progress towards meeting the outcomes.

4.1.4 The specification sets out how contract governance will be organised, it specifies the minimum operating standards expected of the Trust, for example. Regarding the availability of facilities, it outlines the communication protocol between the Trust and the Council as well as placing requirements on the Trust regarding environmental management, business continuity planning and quality assurance process.

4.1.5 The specification also sets out a number of Protected Activities which are concessions and activities that the Council believes are crucial to the delivery of the outcomes. If the Trust wishes to vary the Protected Activities in any way it would need to obtain prior agreement of the Council.

4.2 The Cheltenham Trust's Proposal

4.2.1 The Trust has prepared a proposal document in response to the specification. The proposal confirms the Trust's commitment to work in partnership with the Council to deliver the outcomes specified, sets out the services it expects to provide and the measures it will use to monitor performance. The proposal also contains the baseline data and targets for where it aspires to be at the conclusion of the initial management fee period.

4.2.2 Assuming a contract commencement date of 1 October 2014 the initial management fee period, contractually termed the funding period, will be 4.5 years, i.e. 1 October 2014 to 31 March 2019. This has been necessary in order to align the Trust's financial and operating year with that of the Council, i.e., both run from April to March. This also means that the Trust's Annual Performance Report and Annual Development Plan process will align to the Council's budget and performance reporting cycles.

4.3 Contractual obligations

4.3.1 Both the specification and the proposal are schedules to the contract and so the Trust will be contractually obliged to deliver against them.

4.3.2 Further information on the contract and leases is contained in the next section.

5. Contract, Leases and Licences

5.1 **Appendices 1 and 2** contain the current draft key commercial principles and heads of terms with regard to the contract, leases and licences.

5.2 The key principles for note are as outlined in the following sections.

5.3 The Contract

- 5.3.1 The contract will be for 10 years. As per the pre-qualification questionnaire process (PQQ) there is the potential for the Council to extend the contract by 5 years.
- 5.3.2 The management fee (**Section 8.1**) will be fixed for a 4.5 year period after which the funding period and management fee will be renegotiated. However, it is anticipated that the management fee will either be maintained at the reduced level (i.e. 2018/19) or reduced further as a result of further savings or additional income opportunities identified by the Trust. The Trust's financial plan will allow for reserves to be built up over time which can be used for reinvestment in the service. The contract will provide for dealing with surpluses based on the audited accounts.
- 5.3.3 The Trust has freedom to set prices at a level determined by it, except for those Protected Activities, as outlined in the specification (**Section 4.1.3**). The Trust can only set prices for Protected Activities above the rate of inflation (CPI – Consumer Price Index) in agreement with the Council.
- 5.3.4 Contract monitoring provisions exist within the contract and are outlined in **Section 6** of this report.

5.4 Leases and Licences

- 5.4.1 The Council will lease to the Trust the following buildings: Leisure@ Cheltenham, Prince of Wales Stadium, Town Hall, Pittville Pump Room, The Wilson (Cheltenham Art Gallery and Museum).
- 5.4.2 Leases will be for 15 years with a break clause after 10 years and charged at a peppercorn rent. The lease terms are longer than the contract term so that in the event of a contract extension the lease terms do not need to be renegotiated and new leases entered into. However the Council is protected by the break clause in case the contract is not extended for any reason.
- 5.4.3 The Trust will act as agents for the Council with regard to the day to day reactive property maintenance matters. The council will be responsible for all building and structural repair and maintenance including plant replacement and there will be a service level contract between the Trust and this Council with regard to Property Services.
- 5.4.4 Licences will be granted on storage unit 3 at The Swindon Road Depot together with the Telephone Kiosks on the Promenade.

5.5 CABINET IS THEREFORE RECOMMENDED to

- 5.5.1 **Delegate authority to the Deputy Chief Executive in consultation with the Cabinet Member for Healthy Lifestyles, S151 Officer and Borough Solicitor, to finalise and complete the contract, leases, licences and all other relevant contracts and legal documentation as necessary to enable the Trust to commence business from 1 October 2014 (Recommendation 1.3); and**
- 5.5.2 **Delegate authority to the Deputy Chief Executive, in consultation with the Cabinet Member for Healthy Lifestyles, S151 Officer and Borough Solicitor for the Council to enter into a service level contract with The Cheltenham Trust for the provision of Property Services. (Recommendation 1.4)**

6. Contract Management

- 6.1 The contract between the Council and the Trust makes provisions for managing the contract and contract governance and these are explained in summary below.
 - 6.1.1 The contract requires the Council to nominate an Authorised Officer and this will be the Deputy Chief Executive. The Trust will appoint its own Trust Representative. The Commissioning Division will perform the client role on behalf of the Council.

- 6.1.2** The Trust's proposal, as outlined in **Section 4.2**, describes how the Trust will deliver against the specification and the performance measures that will be used to monitor performance. The Trust will produce monthly and quarterly monitoring reports and submit these to the Council.
- 6.1.3** A Partnership Board will be created which will include representation from the Council and the Trust. Membership of the Partnership Board will include the Cabinet Member for Healthy Lifestyles, the Authorised Officer, the Chair of the Board of Trustees and the Trust Representative. The Partnership Board will undertake high level oversight of the performance of the contract between the Trust and the Council and importantly will provide a forum for strategic discussion regarding the Trust's plans for service development.
- 6.1.4** Following the end of each financial year the Trust will produce an Annual Performance Report setting out the overall performance of the Trust in the previous financial year in delivering the against the contract and its proposal. The Trust will also agree with the Council an Annual Development Plan setting out how it will deliver the specification outcomes in each forthcoming year. In addition to the ongoing contract monitoring throughout the year the Council will conduct an annual review of the Trust's performance by reference to the Annual Performance Report.
- 6.1.5** The contract also places obligations on the Trust to co-operate with the Council with regard to such matters as:
- Alerting the Council to serious and persistent complaints so these can be investigated appropriately
 - Co-operating with the Council where complaints are made to the Local Government Ombudsman
 - On request providing copies of health and safety risk assessments and allowing the Council to investigate the Trust's management of health and safety incidents.
- 6.1.6** Where either through ongoing contract monitoring, the annual review process or matters of a serious nature being identified to the Council, it is found that the Trust is failing materially, then the contract requires the Trust to prepare a Service Improvement Plan for agreement with the Council. If this cannot be agreed between the Authorised Officer and the Trust's Representative then it will be referred to the Partnership Board.
- 6.1.7** Where the performance of the Trust falls materially below the standards expected then the contract contains provisions for the serving of default notices and, where the matter is so serious and it cannot be resolved, contract termination provisions exist.

7. Support Services for the Trust

- 7.1** **Appendix 2** contains the draft heads of terms for support services. The Trust has taken time to consider its support service requirements and at its meeting on 6 August 2014 concluded that it would enter into the following service level contracts:
- 7.1.1** Financial services including procurement, human resources including payroll, learning and organisational development and health & safety support supplied by GO Shared Services (GOSS) – contracting authority Cotswold District Council
- 7.1.2** Legal services provided by One Legal – contracting authority Tewkesbury Borough Council

- 7.1.3** Internal audit services provided by Audit Cotswolds – contracting authority Cotswold District Council.
- 7.1.4** ICT services provided by the ICT shared service – contracting authority Forest of Dean District Council.
- 7.2** Whilst there is a risk should the Trust decide to source its support services from other providers, in the medium term this risk has been mitigated as much as possible through intensive engagement between the Trust and the support service providers to ensure that the service specification and standards will meet the needs of the Trust. Were the Trust to decide to source its support services from elsewhere then this would be dealt with under a variation to the contract including negotiation over the budget for procuring external support services. This will need to be subject to a business case which demonstrates advantages to both the Trust and the council of taking such a decision.
- 7.3** Regarding health and safety, GOSS will provide competent advice to support the development of the Trust's health and safety management system. Members should be aware that this contract places legal obligations on both parties with regard to health and safety compliance. The council will seek to ensure that the Trust is meeting its legal obligations by way of contract monitoring. Should the Trust wish to break away after 12 months it will need to provide assurances to the council that it has access to competent advice and that it is meeting its statutory requirements.
- 7.4** It should also be remembered that the Trustees are also company directors. Among their obligations as directors, Trustees have a duty to ensure the risks in their organisation are properly managed. Failure to comply with the Health and Safety at Work etc, Act 1974, is a criminal offence and can have serious consequences for both organisations and individuals. Sanctions include fines, imprisonment and disqualification.

8. Management Fee and Process for Variation

8.1 Management Fee

- 8.1.1** The December 2012 Cabinet report stated that not only was the aim of creating a new Trust to secure a viable and sustainable future for the services but there was also a financial imperative to reduce the cost to the public of the leisure and culture services by at least £700Kpa by 2017-18.
- 8.1.2** Since being appointed, the Board of Trustees, together with the Leisure and Culture Executive Team, has developed and refined its business plan and supporting 5 year financial plan. The Trust's financial year will run from April to March. The financial plan has been developed by analysing the existing performance of the services and translating this into future projections, based on identified growth and changes to the operation as a result of the services being operated by a charitable Trust.
- 8.1.3** The Trust has also carried out due diligence on the historical performance of the services in order to give it assurance that the proposed management fee payable will be sufficient to support its business objectives. Currently, the

services are delivering broadly on target with The Wilson projecting an over-spend of approximately £50k. Officers are working to mitigate this shortfall.

- 8.1.4** The Board of Trustees has developed its financial plan based on two scenarios; a sustainable base plan and a growth plan. Both plan projections allow for the Trust to develop a reserve which will be necessary for the Trust as it moves forward.
- 8.1.5** The financial plans have been shared with the Council as part of the Trust's Proposal and the Council's finance team has conducted its own due diligence. The review has concluded that the assumptions with the sustainable financial plan have been developed on relatively conservative projections.
- 8.1.6** Based on the period 1 April 2014 to 31 March 2019 and the sustainable base plan scenario the management fee payable by the Council under the contract with the Trust is:
- | | |
|--------------------------|---|
| April 2014 to March 2015 | £1.666M (full year) (part year fee will be residual budget for 2014/15) |
| April 2015 to March 2016 | £968K |
| April 2016 to March 2017 | £764K |
| April 2017 to March 2018 | £648K |
| April 2018 to March 2019 | £641K |
- 8.1.7** Therefore, based on the sustainable base plan the management fee reduces by £1.025M over the period 2014-15 to 2018-19.
- 8.1.8** It should be noted that with a start date of 1 October there will only be 6 months of operation through the Trust. Therefore at the end of September it is proposed that the Trust will take on the balance of the budget available and manage the overall budget for the remainder of 2014-15.
- 8.1.9** The Bridging the Gap (BtG) target for savings from the Trust was £181,700 for 2014-15. The latest version of the Trust's business plan identifies additional salary costs to the Trust in the first 2 years which are compensated for in later years through the growth plan. Taking these projections into account, there is a shortfall against the BtG target for 2014-15 of £55,800. However, the shortfall in 2014-15 may be offset by savings or additional income elsewhere in the council's budget and will be considered at the revised budget stage in the autumn of 2014.

8.2 Surpluses

- 8.2.1** The sustainable base plan allows for the creation of revenue surpluses which will be necessary for the Trust as a new business. The Trust will also wish to build reserves to support future business revenue fluctuations, cash flow and for investment in the facilities and this will be used to lever in additional external funding to deliver on its and the Council's key outcomes.
- 8.2.2** Surpluses will be based on the Trust's audited accounts. The trust will retain the first £100k of any surplus annually, above which, surpluses will be shared

equally i.e. 50:50 between the Council and the Trust until the Trust's reserves reach £500k. When this target is reached surpluses will be shared 50:50.

- 8.2.3** The contract will allow for the Trust to present a business case to the Council for the use of the Council's share of surplus.

8.3 Variation of the Management Fee

- 8.3.1** Requests to vary the contract can be made by either party and are not restricted to variations to the management fee. The variation process requires both parties to act reasonably in response to variations and in the case of variations which result in a reduction in the management fee payable these cannot be enacted until they have been agreed between the parties and sufficient notice is given to enable changes to take place. This provision is so that the Trust has time to make any necessary operational adjustments.

- 8.3.2** The Council needs also to acknowledge that in a scenario where the Council decides to reduce its management fee this may result in negotiation with the Trust as to the extent of service provision.

- 8.3 CABINET IS THEREFORE RECOMMENDED to approve the proposed management fee and the arrangements for varying it (Recommendation 1.2).**

9. Cash Flow Provision, Overdraft Facility and Ear-Marked Reserve

9.1 Cash Flow Provision

- 9.1.1** In the December 2012 Cabinet report reference was made to the fact that the Trust, as a new business, may require a facility to allow it to overcome cash flow issues (relating to matters of timing). It is intended that an advance of the management fee of £200k is to be repaid within 2 years from the start of the contract to support cash-flow.

- 9.1.2** In addition, an overdraft facility of £100,000 per annum will be available to the Trust, which was approved as part of the outturn report on the 2013-14 budget in July 2014. This will be reviewed annually in line with the Council's Treasury Management Policy.

9.2 Ear-Marked Reserve

- 9.2.1** As part of the 2014-15 budget an ear-marked reserve of £200K was created to be held in the Council's accounts to cover any operating deficit position that the Trust may face. Were the Trust to require the use of the deficit provision it would need to apply to the Council to access it and would also need to provide the Council with a financial plan as to how the business would be brought back into surplus within a timescale to be agreed between the Trust and the Council.

10. TUPE

- 10.1** There will be a requirement to transfer under TUPE (Transfer of Undertakings Protection of Employment) Regulations 2006 123 of Cheltenham Borough Council employees to The Cheltenham Trust. TUPE will apply in the creation of the Trust as it will constitute a separate undertaking, and the Council's business or undertaking will transfer as a going concern to the Trust.
- 10.2** Under TUPE all the employees who spend more than (as a guide) over 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.
- 10.3** 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.
- 10.4** Work has commenced to comply with TUPE regulations. Key steps in the process are as follows:
- 10.4.1** Identify which employees will be affected by the transfer.
- 10.4.2** There is a statutory requirement for full and proper consultation with employees and representatives from the two recognised trade unions, Unison and GMB. The TUPE regulations state that the transferor (Cheltenham Borough Council) must conduct a full and meaningful consultation with employees at the earliest practicable time. Failure to consult properly can result in payment of compensation of up to 13 weeks' pay. The transferor and The Cheltenham Trust (the transferee) are both liable for this award of compensation.
- 10.4.3** Consultation with TU representatives and employees impacted directly and indirectly has commenced regarding the TUPE transfer and will continue through to the proposed transfer date of 1 October 2014.
- 10.4.4** The transferor is obliged to give the transferee written information about the employees who are to transfer and all the associated rights and obligations towards them. This information includes, for example, the identity and age of the employees who will transfer, information contained in the employees' written particulars of employment under section 1 of the Employment Rights Act 1996 and details of any claims that the transferor reasonably believes might be brought. Wherever practicable information handed over to the new employer (the Trust) will be anonymised. The law states if the transferor does not provide this information, the transferee may apply to an employment tribunal for such amount as it considers just and equitable. Compensation starts at a minimum of £500 for each employee in respect of whom the information was not provided or was defective.
- 10.4.5** 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).

- 10.4.6** All relevant employees will transfer to the Trust with effect from 1 October 2014, the date that it is envisaged that the TUPE transfer will take effect, and will commence with the Trust at one minute past midnight on the 1 October 2014. 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.

11. Pension Provision

- 11.1** As reported to Cabinet in June the Gloucestershire County Council Pension Committee met on 16 May, and agreed the admission of The Cheltenham Trust as a transferee Admission Body into the Gloucestershire Local Government Pension Scheme (LGPS) Fund on the following basis:
- 11.1.1** The LGPS members transferring from the Council will do so on a fully funded basis and the Council will act as guarantor for all their pension liabilities. It was noted that the contract start date will be 1 October 2014 and the Admission Agreement would need to be agreed and sealed by the contract start date. For those employees transferring to the Trust, a new employer contribution rate will be calculated and this will be subject to triennial review
- 11.1.2** The Pension Committee made reference to the requirement for a bond to be put in place to cover early retirement costs were the Trust to go into liquidation. The Head of the Pension Fund at Gloucestershire County Council has subsequently advised that the requirement for a bond is optional. It is likely that the sourcing for a bond for a new entity could be difficult and the decision as to whether a bond is necessary needs to be made in the context of the services being commissioned. The services and buildings that the Trust will run and operate under contract with the Council are pivotal to the leisure and culture offer in Cheltenham. In the event that the Trust did cease trading then the services, buildings and employees would revert back to the Council and therefore no early retirement costs would materialise.
- 11.2** The Trust will also operate a stakeholder pension scheme for new employees recruited to the Trust. The contribution rates for the stakeholder scheme are 3% for the employer and 3% for the employee. It is anticipated that savings in pension contributions will accrue therefore when transferred employees leave the Trust and new employees join.
- 11.3** Savings from pension contributions through turnover of staff achieved by the LGPS pension contribution element will be treated outside of the management fee through a mechanism designed to reimburse the Trust for continued LGPS costs and to allow the council to deliver the savings to the LGPS arising from staff turnover.
- 11.4** **CABINET IS THEREFORE RECOMMENDED to note that The Cheltenham Trust has been granted Admitted Body status to the Local Government Pension Scheme and that, as previously advised to Cabinet in the June report, this Council will be liable for any pension deficit on former**

employees of the Council who transfer to the Trust.

12. Due Diligence

- 12.1** The Council's due diligence process was based on its standard approach to contract award with advice from the GOSS procurement team. Audit Cotswolds have provided independent support to the development and design of the due diligence process and the Head of Audit Cotswolds chaired the due diligence gateway review meetings.
- 12.2** The purpose of due diligence is to ensure that all material matters had been/will be considered and dealt with prior to the Council entering into any contractual arrangement with the Trust. The due diligence review concluded with a gateway review on 27 August 2014. The timing of the review was so that Cabinet could be advised of any other matters of significant impediment to contract award, other than charity registration.
- 12.3** Operational leads were identified and selected to undertake various element of the due diligence review and were chosen because of either;
- 12.3.1** Their professional role, for example, the S151 Officer led on the due diligence review of the Trust's financial plan, GOSS Health and Safety Manager led on the Trust's health and safety proposals, or
- 12.3.2** Their role within the project team, for example, the Client Officer led on the due diligence of non-financial elements of the Trust's proposal, the Director of Commissioning led on the review of support service arrangements as the project lead for that area.
- 12.4** Due diligence covered the following areas: Trust Proposal (including the Trust's financial plan), HR (including TUPE and Pensions), Property, Legal, Insurance, Health and Safety, Support Services (GOSS, ICT, Internal Audit, Legal), Contract and Client Management, Governance and Project Management.
- 12.5** The due diligence review of the Trust's financial plan was passed with the following two caveats. Firstly, there is no approved Trust management structure as the Chief Executive has yet to be appointed and therefore it is not possible for the Trust to provide this at this stage. However, the Section 151 Officer is confident that the Board understand the target for savings and the need to deliver the services within the proposed management fee / cost envelope. Secondly, the fund raising strategy has yet to be developed but is due in the autumn of 2014.
- 12.6** All other due diligence reviews were passed without any significant matters for note or report. However, as the review was conducted early, in order to provide assurance to Elected Members for the purposes of this report, there are a number of issues which need to be concluded and resolved. These issues have been collated and will be monitored to ensure their satisfactory conclusion prior to contract award.

13. Community Impact Assessment

13.1 The Council's Equality and Diversity Policy, commits the Council to using community impact assessments in order to:

- Take into account the needs, experiences and circumstances of those groups of people who use (or don't / can't use) our services.
- Identify any inequalities people may experience.
- Think about the other ways in which we can deliver our services which will not lead to inequalities.
- Develop better policy-making, procedures and services.

13.2 A community impact assessment template was undertaken for the transfer of the leisure and culture services into the new Trust by the Business Transformation Manager, the Strategy and Engagement Manager and the Trust Executive Team.

13.3 The assessment found that current leisure and culture provision is well regarded and is open and accessible to all groups and highlighted the positive work undertaken by the services to increase participation across all groups.

13.4 In terms of the key actions to be carried out, the assessment welcomed the fact that the council has sought to protect the tradition of open and accessible provision by identifying key groups where participation and engagement can be lower. So alongside the mainstream programme, the council will be expecting the Trust to address the needs of the priority groups identified below for all activities.

- Older people
- Children and young people
- Disabled people – both children and adults
- Black and minority ethnic groups
- People from lower socio-economic groups

13.5 Moving into the Trust, the assessment also noted that officers and Trustees will need to strike a balance between focussing on commercial activities that will help to deliver the business growth required to reduce the annual subsidy from the Council, whilst maintaining and hopefully expanding the targeted community outreach activities we provide to engage target groups. Each of the facilities have targeted programmes, projects and activities that engage schools, families, young people's groups, VCS groups, and older people, and the Council will expect the Trust to continue to develop new and innovative approaches that appeal to this broad spectrum of users and broaden the base of participation across their services.

13.6 In addition, the contract with the Trust will require it to make provision for equalities and diversity and to have its own policy or use the Council's policy where it does not have its own.

14. Reasons for recommendations

14.1 As detailed within the body of the report.

15. Alternative options considered

15.1 The option to create a new charitable Trust to deliver the services within the scope of this report was the output from an option appraisal and business case process previously reported to Cabinet.

16. Consultation and feedback

16.1 GO Shared Services HR team has continued to maintain ongoing and positive dialogue with the employee representatives of the Council as the project has progressed, this remains the case as the TUPE process draws to a conclusion. Elected Members have received briefings on the project as it has progressed, as have the Budget Scrutiny Working Group and the Audit Committee.

16.2 A Member Seminar will take place on 8 September 2014. Feedback from that seminar will be reported to Cabinet at the meeting.

17. Performance management – monitoring and review

17.1 **Section 6** describes the formal contract governance framework. Contract management provisions will form part of the contract and place expectations on the Trust to provide information with regard to meeting its contractual obligations.

17.2 Outside of the formal contract management framework Operational Programme Board, comprising the Council’s Senior Leadership Team, will receive quarterly updates on the performance of the contract.

17.3 In addition there will be informal strategic meetings of the Leader of the Council, Cabinet Member for Healthy Lifestyles, CBC Chief Executive and the Chair of the Board of Trustees. These have already commenced during the run up to the formal contract award. It is anticipated that the Trust’s Chief Executive will join these informal meetings once in post. Similar informal strategic discussions take place with other Council partners, for example, Cheltenham Festivals, and have proved very useful in bringing about effective informal engagement and information sharing.

Report author	Contact officer: Pat Pratley, Deputy Chief Executive Pat.Pratley@cheltenham.gov.uk; 01242 775175
----------------------	--

Appendices	<ol style="list-style-type: none">1. Draft Heads of Terms – The Cheltenham Trust – Leases and Licences2. Draft Heads of Terms – The Cheltenham Trust – Contract and Support Services3. Risk Assessment
Background information	<ol style="list-style-type: none">1. Due diligence report2. Community Impact Assessment

This page is intentionally left blank

**DRAFT HEADS OF TERMS FOR THE CHELTENHAM TRUST
LEASES AND LICENCES**

Properties:	The Wilson (Cheltenham Art Gallery and Museum.) Town Hall. Pump Room. Leisure@ and Prince of Wales Stadium.
Lease Area	There will be a lease for each property together with an agreed plan showing the extent each curtilage
Term	15 years
Break Clause	In year 10 to accord with the contract renewal date.
Rent	A Peppercorn.
Insurance	CBC to insure to take advantage of economies via the block policy and recover premium.
Tenancy Renewal	The lease will be excluded from the Landlord and Tenant Act and therefore the tenant lease will automatically cease at the term end.
Alterations	The Trust will not be able to undertake any alterations/new capital works/extensions without the L/L's formal licence of consent.
Utilities	CBC will be responsible for the awarding, managing the utility contract and payment of invoices.
Capital equipment	CBC to acquire all major items of capital equipment for VAT efficiency purposes. Such equipment investment will be identified and captured in the capital plan and be subject to a separate business case and Cabinet report.
Alienation	<p>The Trust will not be permitted to assign the whole or any part of the property and neither will the Trust be permitted to sub let the whole. The Trust will be permitted to sub let a part or parts of the property subject to landlords consent, such consent not to be unreasonably withheld. However the Trust will not be permitted to use the premises for anything which is illegal, immoral, dangerous or offensive. Or shall not carry out any hazardous act or any hazardous trade. The tenant (The Trust) will not allow anyone to reside or sleep at the premises except as permitted in the case of emergency incidents where the property is used as a rest centre or for local/general elections.</p> <p>Car Parking not to sublet car parking at the venues and facilities without authority from the Council</p>
Alterations	<p>The Trust will not be able to undertake any alterations/new capital works/extensions without the L/L's formal licence of consent.</p> <p>The Trust will not be permitted to drill holes into any part of the building without obtaining consent, which will not be unreasonably withheld.</p>
Redevelopment Break	Should circumstances arise that CBC and the L&CT mutually agree to substantial refurbishment or redevelopment works, subject to an approved feasibility study, with layout plans agreed and finances in place, then CBC can serve notice to break the lease in order to undertake the approved scheme.

DRAFT HEADS OF TERMS FOR THE CHELTENHAM TRUST**LEASES AND LICENCES**

Repairs and Maintenance	CBC will be responsible for all items of repair and maintenance to the building structure and fabric which will also include the mechanical and electrical installations. However the Trust will act on behalf of the Council as an agent with regard to minor reactive repairs, as set out in the respective schedules.
Primary Use	<ol style="list-style-type: none"> 1. Leisure@ Leisure Centre for community use with facilities for wet and dry site sports. 2. Prince of Wales Stadium A multi sport leisure facility for the provision of mainly external sporting activities. 3 Pittville Pump Room A community culture events venue for the provision of ceremonies, receptions, recitals, concerts, shows, exhibitions, meetings, parties, as well as the sale of food and drink including alcohol subject to licence. 4 Town Hall As the pump room. 5 The Wilson (Cheltenham Art Gallery and Museum) Incorporating the Tourist Information Centre for Community use purposes for the promotion and development, display and exhibition of the arts and artefacts, and including educational learning workshops.
Utilities	The Trust will use it's best and reasonable endeavours to use the properties in the most efficient way so as to ensure energy usage and consumption is kept to a minimum but not to the extent that it would be detrimental to the running and operation of the business
Tenanted Space	All tenants occupying space (and income derived there from) at the various venues occupied by the Trust will be assigned to the Trust , but the letting and management of the sub let space will be undertaken by CBC's Property Services Department in accordance with the service level contract.

Licences

Properties	Unit 3 The Depot and Telephone Kiosks on the Promanade
Termination	Either party upon 1 months notice
Licence Fee	Peppercorn
Insurance Liability	CBC
Utilities	CBC
Alienation	Assignment/subletting is prohibited
Repairs/Maintenance	CBC
Alterations	Prohibited
Use	<ul style="list-style-type: none"> ➤ Unit 3 For storage of artefacts for display at The Wilson ➤ Telephone Kiosks To use for promotional display purposes.

**DRAFT HEADS OF TERMS – THE CHELTENHAM TRUST
CONTRACT AND SUPPORT SERVICES**

Cheltenham Borough Council & The Cheltenham Trust

Commercial Principles and Heads of Terms

3 September 2014

This document sets out the key commercial terms and heads of terms for the development and establishment of a new Leisure and Culture Trust for Cheltenham (TCT), and outlines the basis on which the Council is expecting to transfer the service. The memorandum and articles of association for the new organisation are dealt with separately. The principle agreements determining the relationship will be:

- Contract – sets out the basis of how the Council will fund the Trust and the key outcomes the Trust will deliver in return. Includes a specification of what the Council is seeking and the proposal from the TCT on how this will be delivered
- Leases and Licences – heads of terms for leases are set out in separate document
- Support Services Agreement – the basis on which the GO Shared Services (GOSS) and other providers will continue to supply services to the Trust

We set out in tables below the key principles which would be identified within each of the agreements, including the commercial arrangements.

1. Contract

Issue	Agreed Position
Scope of Services	<ul style="list-style-type: none"> • Operation of: <ul style="list-style-type: none"> ○ Leisure@ Cheltenham ○ Prince of Wales Stadium ○ Town Hall ○ Wilson Art Gallery & Museum (including Unit 3 at the Depot for storage of artefacts) ○ Pittville Pump Room ○ Sports, Play and Healthy Lifestyles Development ○ Tourism Services and Tourist Information Centre

**DRAFT HEADS OF TERMS – THE CHELTENHAM TRUST
CONTRACT AND SUPPORT SERVICES**

Issue	Agreed Position
Duty to Co-operate	<ul style="list-style-type: none"> • There is an overarching duty for both parties to work in partnership with each other and to collaborate in delivering the services and the outcomes, which are <ul style="list-style-type: none"> ○ People in Cheltenham lead healthier, fulfilling and active lives ○ People in Cheltenham are inspired to take part and gain valuable skills and experiences ○ Cheltenham is seen as a world class place to live, work, study and visit • In addition there are a number of partnership principles which both parties will work together to deliver <ul style="list-style-type: none"> ○ Strategic focus: concentrate on maximising the contribution of leisure, culture and tourism to the future success of Cheltenham. ○ Supportive relationships: work to encourage and foster positive working relationships with the council as well as local, regional and national partners. ○ Creativity: encourage new ideas for improving Cheltenham’s creative offer and quality of life and for projecting its vibrancy. ○ Accountability: the Council must be assured that its partner’s services are safe, protect the town’s heritage and provide value-for-money.
Services	<ul style="list-style-type: none"> • Management of the facilities, including operation, programming, events, catering, retail, sports and leisure activities, cultural activities, tourism, bookings. • Delivery of the key corporate outcomes – set out in the Specification • Operate in accordance with Good Industry Practice and Legislation • Requirement to continuously improve and deliver Best Value, to be demonstrated in Trust’s Proposal
Length of Term	<ul style="list-style-type: none"> • Contract to be 10 years, with a review of the funding every 5 years (or at other times if agreed by both parties), as set out below • Both lease and management agreement to be terminated if the other one is terminated. • Potential for the Council to extend the contract by five years • No assignment or sub contracting of the whole of the services (for example a facility) without the Councils approval but can sub contract part (for example, catering) subject to conditions

**DRAFT HEADS OF TERMS – THE CHELTENHAM TRUST
CONTRACT AND SUPPORT SERVICES**

Issue	Agreed Position
Level of Management Fee	<ul style="list-style-type: none"> • The management fee will be fixed for a five year period from 1 April 2014 and is to be as follows • The management fee is a cash sum and not indexed. • The management fee is fixed as above unless any of the following changes occur <ul style="list-style-type: none"> ○ NNDR relief ○ VAT rates change ○ Group Personal Pension Contributions ○ Any other change in law which has not been reflected in Proposal
Funding & Review of Funding	<ul style="list-style-type: none"> • To be fixed for first five year period from 1 April 2014 of the funding agreement prior to review. • Profiled Funding (based on cashflow) would be provided monthly in advance. • The Council will also make available an advance of the management fee of £200,000 in years 1 and 2 to enable the Trust to manage its cash-flow and an overdraft facility of up to £100,000 at 1% above base rate • The funding will be renegotiated in accordance with the following process (during every 5 year process) <ul style="list-style-type: none"> ○ In Year 4 [April] –Council confirms the funding, priorities and areas they wish to deliver for the subsequent 5 year period ○ Trust prepares a draft 5 year proposal in response to priorities by [September] in Year 4 ○ Proposal and funding discussed between parties ○ Seek to agree by [December] in Year 4 (15 months prior to end of existing funding period) based upon CBC financial year funding ○ Go to dispute resolution ○ If no agreement to future funding then Council voluntary terminates the agreement • Should there be a need to vary the service then the change process will be applied whjch may impact on the management fee. • There would be VAT applied to the management fee

**DRAFT HEADS OF TERMS – THE CHELTENHAM TRUST
CONTRACT AND SUPPORT SERVICES**

Issue	Agreed Position
Surplus Share	<ul style="list-style-type: none"> • Trust will prepare its Proposal which allows for reserves to be developed over time, which can be used for reinvestment in the service and to support the Trust during poor years. • Any surpluses will be shared between Council and Trust in the proportion of 50:50, annually, (unless the Trust reserves are below £500k, in which case the Trust will retain the first £100k of any surplus prior to sharing equally) based on audited management accounts and subject to the following key parameters <ul style="list-style-type: none"> ○ The definition of the surplus will be set out in the contract which will clearly define that surplus is only linked to the facilities and services within the agreement ○ The Trust has the ability to present a business case for the use of the Council's share of the surplus, which the Council would consider before allocating surpluses elsewhere
Insurance	<ul style="list-style-type: none"> • Council responsible for organising and paying for Building Insurance and Arts Collections Insurance • Trust responsible for organising and paying for Employers Liability, Public Liability, contents (including cover for transferred assets), all risks insurance for specific and valuable items, business interruption, engineering insurances, money and directors insurance
Opening Hours (as reflected in specification and proposal)	<ul style="list-style-type: none"> • Minimum opening hours will be specified in the agreement, broadly based upon the existing opening hours • Variations to the availability of facilities can only be made with the agreement of Council [so worded in spec because refers to opening hours <i>and</i> availability of sections within buildings, eg temp/permanent closure of the gym, swimming pool]
Programming and Bookings (as reflected in specification and proposal)	<ul style="list-style-type: none"> • Protected bookings to be identified, which could include protection of casual use at certain facilities and other groups rather than purely clubs. Schedule is identified in the Specification (Appendix 4) • Programmes of use to be reviewed and agreed annually by Council with any significant variations to this to be agreed by Council
Pricing (as reflected in specification and proposal)	<ul style="list-style-type: none"> • A list of core prices to be agreed by Council on an annual basis. These are prices which are for protected bookings and activities and are in the Specification (Appendix 4). This will include free car parking for customers. • Any other price increases – the Council should be informed and consulted with but there is no need to gain agreement from the Council
Council Use of Facilities	<ul style="list-style-type: none"> • All facilities have the potential to be emergency rest centres and Council to be able to use (Currently Leisure@ is the primary facility used) • Centres also to be available for use in line with Council's business continuity plan, with compensation being paid for loss of income (mitigated by any cost savings) • All facilities may be required for use at elections, mayor making (Town Hall) and for other meetings with the use to be paid for at the standard rate (or community rate for meetings) • Other use will be paid for at prevailing rate

**DRAFT HEADS OF TERMS – THE CHELTENHAM TRUST
CONTRACT AND SUPPORT SERVICES**

Issue	Agreed Position
Utilities	<ul style="list-style-type: none"> • Council will pay for utilities and this will be outside of the Trust responsibility • The specification also includes a requirement for the Trust to work with the Council to develop an environmental strategy and action plan, which will include energy management, which the Trust will be responsible for implementation and monitoring
Service Development	<ul style="list-style-type: none"> • Trust is responsible for the delivery of its proposal made in response to Council specification • The Proposal presented by the Trust will outline how the outcomes specified are delivered • Performance is monitored and reported monthly. • Annual performance report to be prepared and presented to CBC setting out how Trust has delivered against the outcomes and any improvements proposed including meeting with the CBC Leadership
Quality of Service	<ul style="list-style-type: none"> • Trust will be required to retain full Museum Accreditation, Designation Status for Arts and Crafts Collection and any other designation subsequently awarded and accreditation appropriate to the leisure sector • Compliance with standards will be reviewed by the Council
Customer Service	<ul style="list-style-type: none"> • The Trust must establish a customer relations policy and process which meet, as a minimum, the standards set in the council's Customer Service Standards Policy
Health & Safety	<ul style="list-style-type: none"> • Trust to be responsible for Health and Safety and will provide its initial H&S policy and operating plans and annual updates, which will be reviewed by Council • Trust to provide evidence of access to competent advice as required by section 7 of The Management of Health and Safety at Work Regulations 1999 • Trust to provide the Council with a quarterly report on health and safety performance (performance objectives to be agreed)
Marketing and Use of Council Logo	<ul style="list-style-type: none"> • Council logo required on some literature and '[Trust] working in partnership with Council' wording required in accordance with Council branding policy • The exact location and application to the marketing material to be discussed between the Parties
Change in Law	<ul style="list-style-type: none"> • Changes in Law to be discussed between both parties and a way forward to be agreed
Change Procedure	<ul style="list-style-type: none"> • Council can request change – Trust must respond with costs and if agreed then implemented with cost implications. If not agreed then dispute resolution or third party • Trust can request change with a business case– Council absolute discretion whether agreed or not

**DRAFT HEADS OF TERMS – THE CHELTENHAM TRUST
CONTRACT AND SUPPORT SERVICES**

Issue	Agreed Position
Monitoring & Performance	<ul style="list-style-type: none"> • Trust to report on the Proposal and progress on delivery of the agreed proposal, including against KPI's and Council to be able to monitor performance. Reports to be presented in a monthly report, the format of which is to be agreed. • Regular monthly meetings of officers (Client Officer: Relationship Manager) to monitor performance and cash flow and feed into • Formal six monthly Partnership Board meetings (Portfolio holder/Authorised Officer: Chief Executive/Chair) • Annual review of performance and delivery against outcomes – preparation of Proposal and service development • Deductions from funding possible if Trust fails to perform – through performance monitoring system. This would be linked to delivery of outcomes and allow Trust the opportunity to rectify performance failures, through improvement notices and potential defaults • Trust may need to attend Members presentations and meetings • Client Officer (Council) and Relationship Manager (Trust) will collaborate on operational and day to day issues
Contracting Outside of Council boundaries	<ul style="list-style-type: none"> • Trust allowed to contract outside of Council boundaries
Dispute Resolution	<ul style="list-style-type: none"> • Procedure as follows after negotiations between the parties at officer level <ul style="list-style-type: none"> ○ Trust Relationship Manager and Council Client Officer seek to agree ○ Chief Executive of Trust and Authorised Officer of Council seek to agree with reference to the Partnership Board] ○ Third Party determines through mediation ○ Going to court can only be implemented if mediation fails
Termination	<ul style="list-style-type: none"> • Can be terminated by either party based on default by the other party which would include the following <ul style="list-style-type: none"> ○ Trust default – material breach, insolvency, breach of deduction thresholds within the deduction regime ○ Council default – material breach, non payment of funding • Consequences of termination <ul style="list-style-type: none"> ○ To follow the requirements under exit and handover (see below) ○ Compensation <ul style="list-style-type: none"> ▪ Trust default – no compensation payable, except outstanding capital sums which Trust have invested ▪ Council default (and Voluntary Termination) – compensation for costs of Trust less losses deductible
Exit and Handover	<ul style="list-style-type: none"> • Trust will be required to <ul style="list-style-type: none"> ○ Deliver the assets associated with the service back to the Council (in the agreed state of repair) ○ Provide TUPE information ○ Apportion the costs/income ○ Cooperate with the Council including facilitation of handover of relevant information, eg membership, marketing data

**DRAFT HEADS OF TERMS – THE CHELTENHAM TRUST
CONTRACT AND SUPPORT SERVICES**

Issue	Agreed Position
Assets	<ul style="list-style-type: none"> • To be confirmed but expected to include <ul style="list-style-type: none"> ○ Equipment ○ Membership Data ○ ICT ○ Stock ○ Intellectual Property (if appropriate) • Principle is that Council would transfer assets (either through licence or title transfer) with expectation of assets returned in a similar condition (subject to any agreed changes) • Apportionment of income and expenditure allocations at the transfer date to be agreed with a long stop date of [2] months after date of transfer. • Joint stock take to be undertaken the day before transfer to agree valuation of stock. • Any payments for stock and apportionments to be made within 3 months of transfer.
Local Government Pension Scheme	<ul style="list-style-type: none"> • Trust to obtain admitted body status • Council to act as guarantor • The Pension scheme contribution rate will assume a fully funded scheme • Trust pays pension contribution to GCC and invoices CBC for the cost monthly. CBC assumes risk of contribution rate increase. • Scheme to be a closed scheme • Council will be responsible for any deficit on the pension scheme on exit from the scheme or contract • Trust not to do anything that would increase pension contributions without CBC consent
Existing Service Contracts	<ul style="list-style-type: none"> • Will be novated to Trust, including the existing catering contract • Consider if there are any contracts to be retained by Council
Staff	<ul style="list-style-type: none"> • Transferred under TUPE • Both parties will have a legal obligation to consult • An indemnity will exist in relation to existing liabilities • Council will meet all remuneration costs up to the point of transfer • The Trust will be required to recognise Unions
Liabilities	<ul style="list-style-type: none"> • Existing debts and liabilities will be excluded from the Transfer
Policies	<ul style="list-style-type: none"> • Comply with certain council policies (list of policies to be defined) • Comply with Council obligations to other Funders (eg Lottery Fund) • Ensure other policies are in place covering certain subjects (list of subjects to be defined)

DRAFT HEADS OF TERMS – THE CHELTENHAM TRUST

CONTRACT AND SUPPORT SERVICES

2. Support Services Agreement

Issue	Agreed Position
Services	<p>The following services to be provided (to be confirmed)</p> <ul style="list-style-type: none"> • [Financial Services (including accountancy, purchase and sales ledgers) • HR including payroll • Legal Services (to be confirmed) • IT Management • Health and Safety (to be confirmed) • Internal Audit (to be confirmed) • Property Services (not including Council responsibilities) • Learning and Organisational Development (to be confirmed) <p>Services to be provided by Council or its partners to be set out in specification with appropriate KPIs</p> <p>Services can only be provided where there is no conflict of interest.</p>
Cost of Service	<ul style="list-style-type: none"> • The overall cost of the support services is ring fenced in management fee
Length of Agreement	<ul style="list-style-type: none"> • 2 years – initial term • Potential to extend on agreement of both parties, with the need for 6 months notice if agreement is terminated • There is a break clause after 12 months
Termination	<ul style="list-style-type: none"> • During the initial term the agreement can only be terminated by either party through default on performance, except for the break clause • Trust can terminate if KPIs not delivered • GOSS (or other provider) can terminate for non payment of fees • Costs of termination to be borne by the party terminating
Charges & Payment	<ul style="list-style-type: none"> • The charges will be as specified in the pricing schedule, subject to review and subject to indexation (CPI) • Payment will include VAT • Timing of payment to be agreed
Dispute Resolution	<ul style="list-style-type: none"> • Procedure to be the same as that set out in the Management Agreement
Review	<ul style="list-style-type: none"> • To be reviewed as part of annual review process

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 Trust fails to deliver on the contract then the council's desired outcomes (financial and non-financial) may not be achieved.	Deputy Chief Executive	08/03/2013	5	2	10	Reduce	Review Trust business plan and governance as part of council's due diligence Put in place credit facility, reserve and overdraft facility accessible by Trust Effective contract and partnership management Use contract termination processes if necessary	Complete Complete Ongoing As necessary	Business Transformation Manager Director of Resources Business Transformation Manager Deputy Chief Executive		
2	If the council and Trust fail to form an effective partnership then the council's reputation or	Deputy Chief Executive	18/08/2014	3	2	6	Reduce	Apply agreed partnership principles	Ongoing	Business Transformation Manager		

	performance may be damaged.							Effective client management	Ongoing	Business Transformation Manager	
3	If the Trust and elected members or the Trust and its major stakeholders fail to establish a good relationship then support for the Trust may be lost and/or the image of the council may be damaged.	Deputy Chief Executive	18/08/2014	3	3	9	Reduce	Support the Trust in defining and carrying out effective member engagement processes Support the Trust engagement with its main stakeholders Apply agreed partnership principles	Ongoing Ongoing Ongoing	Deputy Chief Executive Deputy Chief Executive Business Transformation Manager	
4	If the council's role as client (including monitoring of the contract) is ineffective then the council's desired outcomes (financial and non-financial) may not be achieved	Deputy Chief Executive	18/08/2014	3	3	9	Reduce	Ensure client resources in place at all levels Design and apply effective monitoring processes	September 2014 and ongoing Ongoing	Business Transformation Manager Business Transformation Manager	
5	If the Trust does not use the support services from the council and its partners to the extent envisaged in the business case then there may be a negative	Deputy Chief Executive	20/03/2014	3	4	12	Reduce	Use best endeavours to promote good support services performance & relationships Renegotiate the	Ongoing As	Business Transformation Manager Deputy Chief	

	impact on the business case.							management fee	necessary	Executive / Director of Resources	
6	If the Trust does not take on the operation of the identified services on October 1st then the realisation of benefits will be delayed, and there may well be additional set-up costs and resource implications.	Deputy Chief Executive	18/08/2014	5	3	15	Reduce	Understand the impact of a delay Create contingency plans which minimise the likelihood of missing October 1st and the impact of any unavoidable delay.	September 2014 September 2014	Programme Manager Programme Manager	

Explanatory notes

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

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

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

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

This page is intentionally left blank

**Cheltenham Borough Council
Cabinet – 16th September 2014
Council – 13th October 2014**

Asset Management Plan and Capital Strategy – update

Accountable member	Cabinet Member for Finance, Councillor John Rawson
Accountable officer	Director of Corporate Resources (Section 151 Officer), Mark Sheldon
Accountable scrutiny committee	Overview and Scrutiny Committee
Ward(s) affected	All
Key Decision	Yes
Executive summary	This report outlines the progress made in developing the Council's Asset Management Plan and Capital Strategy and makes recommendations for funding some initial proposals at this stage.
Recommendations	<p>That Cabinet / Council</p> <ol style="list-style-type: none"> 1. Approve the principles on which the new Asset Management Plan and Capital Strategy will be based and the methodology for prioritising capital projects, outlined in sections 2 and 3 below. 2. Approve the funding of the projects outlined in paragraphs 4.2 to 4.4 below, totalling £891,700, to be funded from capital receipts.

Financial implications	<p>As contained in the report and appendices.</p> <p>Contact officer: Mark Sheldon.</p> <p>E-mail: mark.sheldon, mark.sheldon @ cheltenham.gov.uk</p> <p>Tel no: 01242 264123</p>
Legal implications	<p>None specific arising from the report recommendations save for any contractual arrangements required to deliver the immediate funding proposals.</p> <p>Contact officer: Peter Lewis</p> <p>E-mail: peter.lewis@tewkesbury.gov.uk</p> <p>Tel no: 01684 272012</p>

HR implications (including learning and organisational development)	<p>The proposals include funding to allow for the extension of a full time temporary contract and an increase in hours of another post within the urban design team to cover the period 2015/16 and 2016/17 in order to support the delivery of the public realm improvement programme.</p> <p>Contact officer: Julie McCarthy</p> <p>E-mail: julie.mccarthy@cheltenham.gov.uk</p> <p>Tel no: 01242 264355</p>
Key risks	As outlined in Appendix 1
Corporate and community plan Implications	The aim of the report is to direct resources towards the key priorities identified in the Council's Corporate Business Plan.
Environmental and climate change implications	None arising from this report.

Background

- 1.1 The Council's Asset Management Plan (AMP) and Capital Strategy (CS) outlines the Council's approach to managing its assets (buildings and infrastructure) and the decision making process in respect of these assets. The current plan ends on 31st March 2015 and is currently under review.
- 1.2 The Council has recently benefited from a significant capital receipt as a result of the sale of North Place and Portland Street car parks and also has unallocated capital receipts from the sale of Midwinter allotments and other assets including Montpellier lodge. The council has a once-only opportunity to ensure that these capital receipts are used wisely. The Asset Management Plan and Capital Strategy will propose how these receipts will be used and set a continuing framework for capital investment.
- 1.3 The original intention was that the AMP and CS would be presented to the Council in October 2014 for approval. However, there are a number of significant work streams that have yet to be concluded and therefore the capital investment / capital allocation required to deliver them has yet to be finalised. The outstanding workstreams include:
- 1.4 **Accommodation strategy:** Despite the Council's best efforts to acquire a major town centre property, the owners decided not to sell to the Council or indeed any other potential buyer. Work is continuing to identify and appraise the Council's options, including the potential to build offices on the Shopfitters site for the Council and other public sector partners.
- 1.5 **Boots Corner public realm:** Since the Transport Regulation Order (TRO) process has yet to be concluded, the Council is not in a position to progress with the public realm investment proposals. It is anticipated that the TRO process will be completed in the autumn of 2014, which will then determine whether or not the original plans for improvements to Boots Corner will take place.
- 1.6 **Car park strategy:** The development of the Council's car park strategy is under way. However, it is not yet completed because it is linked to the proposed Boots Corner closure, which will have an impact on where and how the Council should increase or decrease parking provision to improve traffic flows and serve the needs of residents and visitors.

- 1.7 Cemetery and Crematorium investment:** The issues with the Council's cremators have resulted in the need to take a longer term view about what investment is required at the crematorium to meet future needs. Work is being commissioned to consider a range of options including the replacement of the cremators in the existing building to the complete replacement of the crematorium and chapels in a new building the boundaries of the existing site.
- 1.8** Given that these significant projects are still work in progress, an allocation of money to them at this stage would be premature. The Cabinet Member for Finance is therefore proposing that the AMP and Capital Strategy will be aligned with the budget cycle for 2015/16 budget, at which time the Council may be clearer about the direction of travel for some of these projects.
- 1.9** Bringing the AMP and Capital Strategy forward at the same time of the budget for both Cabinet and Council approval and will also have the advantage that they can be fully aligned with the budget strategy and the MTFS; and that public consultation can be carried out on the Capital Strategy as part of the budget consultation.
- 1.10** However, there are some projects which require an early decision to fund in order to facilitate important key corporate objectives and these are set out in paragraphs 4.2 to 4.4 below.

2. Principles on which the new Asset Management Plan and Capital Strategy will be based

- 2.1** The Council owns a diverse portfolio of land and property assets. The Asset Management Plan (AMP) will set out the Council's approach to the management of its asset portfolio over the next 5 year period (2014/15 to 2019/20). It will outline how it will use these assets to deliver services to the public, outcomes for the community and support the objectives in the corporate plan.
- 2.2** The quality, condition, suitability and sustainability of the Council's operational assets have a direct bearing on the quality and deliverability of front line services. It is therefore extremely important that these assets are fit for purpose, safe to work in and visit and managed in a proactive and efficient way in response to the changing requirements of our customers, staff and legislation. The AMP will outline the Council's approach to planned maintenance and investment in the property portfolio.
- 2.3** Cheltenham is a unique town. The Council therefore has a responsibility to protect and where possible enhance the features that help to give the town its character and quality of life and contribute to its economic prosperity, including its street scene, its parks and gardens and its historic buildings. The AMP and the Capital Programme will set out ways in which the Council can meet this responsibility.
- 2.4** The Council is facing a challenging financial outlook as a result of the reducing government grant support and a shift towards rewarding councils for business and housing growth. The current Medium Term Financial Strategy (MTFS) forecasts that, even if the current budget strategy work streams are delivered, there will remain an unresolved budget gap of £1.2m. It is therefore essential that the AMP and the Capital Strategy should make a positive contribution to the MTFS. They can make this contribution either by helping to create additional revenue streams or by achieving reductions in the cost of the asset base.
- 2.5** Energy is an increasingly scarce commodity and will become ever more expensive. This is linked to the wider concerns regarding climate change, to which our buildings are major contributors. There is an ongoing need to mitigate and adapt to climate change through careful investment aimed at reducing energy consumption.

3. Methodology for developing the Capital Strategy

- 3.1** As part of the outturn report in July 2014, a list of potential capital projects was presented to the

Council for information and comment (Appendix 9). However the project listed substantially exceeded the amount of capital available.

- 3.2** Accordingly, Cabinet and officers have put a robust system of project appraisal process in place to establish an order of priority. All projects now require a Priority Assessment Tool (PAT) form to be completed which outlines the project and describes how it will meet the Council's corporate objectives. These projects are then evaluated against the Council's corporate plan, scored accordingly and ranked.
- 3.3** The key objectives against which projects are measured are as follows:
1. Enhancing and protecting our environment
 2. Strengthening our economy
 3. Strengthening our communities
 4. Enhancing the provision of arts and culture
 5. Delivering value for money services
- 3.4** An officer panel will assess bids for capital funding and their recommendations will be referred to the Budget Scrutiny Working Group and the Asset Management Working Group and subsequently onto Cabinet for approval. Where investment in leisure and cultural services concerned, the Cheltenham Trust will also be involved in the decision-making process.
- 3.5** It will be the responsibility of the Cabinet, acting on the advice from the Cabinet Member for Finance, following consultation with relevant officers and Cabinet portfolio holders, to decide whether or not to confirm or amend the recommended priority order.

4. Cabinet recommendations for immediate funding

- 4.1** Although the AMP and the Capital Strategy to Council will come to Council in the budget cycle, there are a number of items of capital spending which the Cabinet Member for Finance is proposing that the Cabinet and Council should approve now from the Capital Reserve. All of these projects score highly for meeting corporate objectives; and all of them have a degree of urgency about them.
- 4.2 High Street public realm improvement: £561,700.** The Borough and County Councils have worked very successfully to jointly fund high quality paving works in the town centre including the repaving of both sides of the Promenade. This new funding will help to secure much-needed investment in public realm including repaving work in the High Street and town centre as outlined in the High Street analysis report supported by the Cheltenham Development Task Force. It meets corporate objectives 1 and 2 (environment and economy) above. The investment (£244,400 in 2015/16 and £317,300 in 2016/17) will fund both the cost of public realm improvements plus the extension of contracts for temporary staff to 2016/17 in order to ensure that a range of projects within the town centre are delivered. This funding may be ultimately be substituted with or supplemented by external funding from other sources.
- 4.3 Car park investment: £250,000.** Much of the equipment in the town's off street car parks is old and needs to be replaced on a phased basis as part of a cyclical investment programme. On occasion there are breakdown failures which mean that the Council loses revenue and the cost of certain replacement parts can mean that replacement with a new machine is a more cost effective longer term solution. The procurement of new machines also allows additional functionality to be introduced for the benefit of customers, including the option of payment by credit/debit card and can incorporate software which provides real time information about

machine breakdowns, visitation and income. This approach will also allow the standardisation of equipment, making longer term maintenance less complex and gives data against which cash collection can be reconciled. This allocation will enable us to start a rolling programme of equipment renewal and will contribute to corporate objectives 1 and 5 (environment and value for money) above

- 4.4 Town Hall chairs: £80,000.** The chairs currently in use at the Town Hall have reached the end of their life and need replacing. It had been hoped that the chairs could be replaced as part of a first phase of the Town Hall redevelopment scheme which involved changes to the staging mechanics. However it now appears that, for technical reasons, the staging work cannot be done separately from the comprehensive redevelopment scheme. Accordingly it is proposed that the chairs should be replaced like for like. If the redevelopment scheme commences before the new chairs have reached the end of their useful life, they can be moved to Pittville Pump Room to substitute for older chairs that are in need of replacement; or else they can be sold on. This expenditure is business-critical and meets corporate objectives 2, 4 and 5 (economy, arts and culture and value for money) above.

5. Consultation

- 5.1** The Budget Scrutiny Working Group and Asset Management Working Group will be consulted in developing the Asset Management Plan and Capital Strategy.

6. Performance management – monitoring and review

- 6.1** Projects which deliver revenue savings will be monitored as part of the quarterly budget monitoring report to Cabinet.

Report author	Mark Sheldon, Director of Resources Tel. 01242 264123; e-mail address mark.sheldon@cheltenham.gov.uk
Appendices	1. Risk Assessment
Background information	1. Capital 'wish list' Appendix 9 July 2014 council

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 council does not use its scarce capital resources and invest wisely the "one off capital receipts to deliver its objectives then there is a risk that its performance objectives may not be met.	MS	1/9/14	4	3	12	Reduce	Funding bids will be objectively assessed against the corporate plan objectives and the 'BtG' programme board, Budget Scrutiny Working Group and Asset Management Working Group will be informed and consulted on the relative merits of each bid before recommending where to direct investment.	December 2014	Mark Sheldon	
2	If the council does not use its scarce capital resources and invest wisely the "one off capital receipts to support the MTFS budget gap then there is a risk that it may miss an opportunity to meet its longer term financial targets.	MS	1/9/14	4	3	12	Reduce	Funding bids will be assessed for the contribution they make to the MTFS and the 'BtG' programme board, Budget Scrutiny Working Group and Asset Management Working Group will be informed and consulted on the relative merits of each bid before recommending where to direct investment.	December 2014	Mark Sheldon	

This page is intentionally left blank

Cheltenham Borough Council Cabinet – 16 September 2014

Update on CBC/CBH Consultation and Proposals to Update the CBH Articles of Association

Accountable member	Leader, Councillor Steve Jordan
Accountable officer	Pat Pratley, Deputy Chief Executive
Ward(s) affected	None
Key Decision	Yes
Executive summary	<p>In June, Cabinet received a report regarding the future strategic direction, and associated governance framework, of Cheltenham Borough Homes (CBH). Among the matters considered was the principle of reducing the CBH Board size from 15 to 10 and also changing the composition of the Board. Cabinet also endorsed, again in principle, amending the term and content of the Management Agreement between CBC (the Council) and CBH to reflect the future focus of CBH's emerging 10 year business plan.</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. Cabinet therefore agreed to the Deputy Chief Executive making 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.</p> <p>This report explains the outcome of the stakeholder consultation and the proposals to amend the Articles of Association of CBH following the responses to the consultation.</p> <p>Regarding the proposals to update the Management Agreement, a small working group of CBC and CBH officers has been established to progress this. A further report will be brought back to Cabinet in December regarding this matter.</p>
Recommendations	<p>I therefore recommend that:</p> <ol style="list-style-type: none"> 1. Cabinet notes the outcome of the stakeholder consultation process 2. Cabinet authorises the Leader to take a decision, by way of a written resolution, to make the necessary amendments to the CBH Articles of Association and any subsequent amendments required by the HCA following CBH's Board meeting on 24 September 2014. 3. A further report to agree the proposed variations to the CBH Management Agreement is brought back to Cabinet for approval in December.

Financial implications	<p>No direct financial implications arising from this report</p> <p>Contact Officer: Nina Philippidis Nina.philippidis@cheltenham.gov.uk, 01242 264121</p>
Legal implications	<p>The amendments to CBH's Articles of Association require the approval of the HCA which is currently in hand. As mentioned in the report to Cabinet in June, changes to the Management Agreement will require s27 Housing Act 1985 consent. Early contact has been made with the HCA and formal consent will be sought in due course following the Cabinet meeting in December.</p> <p>Authority to take a decision to amend the CBH Articles of Association has been sought from Cabinet because it is considered to be a key decision. In other cases, the Leader represents the Authority as shareholder or member in a company in which the Authority holds an interest.</p> <p>Contact Officer: Shirin Wotherspoon Shirin.Wotherspoon@teWKesbury.gov.uk, 01684 272017</p>
HR implications (including learning and organisational development)	<p>No direct HR implications arising for Cheltenham Borough Council as a result of the content of this report</p> <p>Contact Officer: Julie McCarthy Julie.McCarthy@cheltenham.gov.uk, 01242 264355</p>
Key risks	See attached risk register
Corporate and community plan Implications	<p>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. CBH also plays a vital role in people having access to both affordable and decent housing as well as creating vibrant and safe communities.</p>
Environmental and climate change implications	<p>There are no direct environmental and climate change implications arising from this report. However, it is noted that building affordable homes in Cheltenham is an important issue for tenants and this, together with other results from the consultation, has been used to inform the updated Articles of Association and will be used to inform the variation to the Management Agreement.</p> <p>It is essential that such affordable housing is built to a high quality standard which addresses environmental and climate change impacts (mitigation and adaptation) in both design and implementation. In addition to delivering environmental benefits such housing will also deliver social benefits, not only through affordable rental and ownership but in providing comfortable living space and also lower running costs, leaving tenants with greater disposable income.</p>
Property/Asset Implications	<p>There are no direct property implications.</p> <p>Contact Officer: David Roberts David.Roberts@Cheltenham.gov.uk, 01242 264151</p>

1. Background

- 1.1 Since the creation of CBH in 2003 the business has gone from strength to strength. Following a Cabinet report in July 2009 a new Management Agreement was entered into covering a 10 year period between 2010 and 2020 to allow for business stability and forward planning. At that time whilst the primary focus for CBH remained as a housing service provider, CBH was also applying to the Housing Corporation (now part of the Homes and Communities Agency (HCA)) to access grant to enable the development of new homes. The new Management Agreement was necessary to reflect this.
- 1.2 Whilst its housing service provider role will always be at the heart of the CBH business, as with any organisation it has sought to develop and grow and to diversify its service provision to meet the needs of its sole member, ie, the Council, its tenants/leaseholders and also the wider community of Cheltenham.
- 1.3 The development of the CBH 10 year business plan is consolidating this direction of travel and has required CBH to consider the fitness for purpose of its governance framework, ie, its Articles of Association, the Management Agreement between it and the Council, and consequently the composition of its Board. To inform the future governance framework for CBH, its tenants, leaseholders and other stakeholders have been consulted.
- 1.4 The purpose of this report is to:
 - 1.4.1 Report the outcome of the stakeholder consultation with regard to the 10 year vision for CBH, service prioritisation, service enhancement and proposals to change the composition and size of the CBH Board (**Section 2**)
 - 1.4.2 Explain the main proposals for updating the Articles of Association of CBH and the process for how this decision will be taken (**Section 3**)
 - 1.4.3 Explain how the feedback from the consultation with regard to the CBH business plan and service enhancement/new service provision will be used to inform the next phase which will be updating the Management Agreement. (**Section 4**)

2. CBC/CBH Consultation

- 2.1 Consultation started 7 July 2014 and concluded on 15 August 2014. The questionnaire was created jointly with input from CBC and CBH officers. The consultation invited CBH tenants, leaseholders and other stakeholders to have their say on 3 important business areas for CBH:
 - 2.1.1 The Management Agreement between CBC and CBH and a proposal to extend the agreement for 30 years.
 - 2.1.2 CBH Board size and composition – the proposal to reduce the number of Board members and appoint future Board members based on the skills needed to meet the growth of CBH.
 - 2.1.3 The development of the new CBH business plan and services for the future which CBH might undertake.
- 2.2 Fieldwork was undertaken during a six week period during July and August 2014. CBH sent a postal version of the questionnaires to all 4,563 CBH households. An online survey was also sent to 420 tenants via email. The online survey link was also made available via the CBC and CBH websites.
- 2.3 Face-to-face consultation took place at community events, coffee mornings, shopping outlets, community/public buildings and CBH/community clubs throughout the six week period. During the final week of the consultation, a number of telephone interviews also took place.

2.4 The following sections of this report provide a summary of consultation responses with the full report being provided as a background paper.

CBC/CBH Management Agreement and Proposal to Extend

2.5 The table below shows that over nine in ten (92%) respondents agreed with the proposal to extend the Management Agreement to 2044. Only 4% disagree with the proposal.

Response	Percentage of responses (%)
Yes	92%
No	4%
Other*	3%
Don't know	1%
Total	100%

*Could not conclude agree/disagreement based on comment provided.

2.6 The themes from respondents who agreed were to recognise that a longer agreement made sense in order to plan for future service delivery. Reference was made to current satisfaction and support for ongoing development.

2.7 The main themes from respondents who did not agree were related to their current satisfaction, that the proposal is a long time, that a lot might happen in that time and that a review process should be built into the agreement.

CBH Board Size and Composition

2.8 The table below shows that over eight in ten (83%) respondents agreed with the proposal to reduce the size of the Board to 10 members and to change the Board's composition. Only 10% disagreed with the proposal.

Response	Percentage of responses (%)
Yes	83%
No	10%
Other*	5%
Don't know	2%
Total	100%

Base: 885

*Could not conclude agree/disagreement based on comment provided.

2.9 The main theme from respondents supporting the proposals was related to modernising the Board and recognising the need to have appropriate skills to perform their role.

2.10 The main themes from respondents who did not agree related to the current Board doing a good job so why change it, that any change should not be a cost cutting exercise and the most consistent comment being that tenants and leaseholders should have a place on the Board as they know their communities.

CBH Business Plan and New Service Development

2.11 The table below shows that nearly nine in ten (87%) respondents agree with the development of the new CBH Business Plan (services for the future). Only 1% disagreed with the development of the Business Plan.

Response	Percentage of responses (%)
Yes	87%
No	1%
Other*	11%
Don't know	1%
Total	100%

Base: 535 (excluding all zeros)

*Could not conclude agree/disagreement based on comment provided.

- 2.12** The main theme from respondents supporting the proposal was recognition of a broader community role for CBH to support the core housing role.
- 2.13** The main theme emerging from those respondents who did not support the proposal was the opposite in that CBH should focus on being a housing provider.
- 2.14** Respondents were asked to rate nine services in order of importance, with one being important and nine being the least important. As the table below shows, 69% of respondents ranked 'Addressing ASB' in their top three most important services. This is followed by 'Repairs to their Property' (rated in the top three by 46% of respondents). Nearly four in ten also rated 'Improvements to their home' (39%) and Neighbourhood Warden Service (36%) in their top three most important services.

Service	Proportion of respondents rating service in their top 3
Addressing ASB (317)	69%
Repairs to your property (311)	46%
Improvements to your home (312)	39%
Neighbourhood Warden Service (312)	36%
Housing Management (314)	33%
Collecting rent (311)	28%
Support in getting a job (312)	25%
Welfare benefits and money advice (312)	23%
Opportunities to be involved in influencing services (312)	16%

- 2.15** Respondents were asked if there were any services that CBH should provide in the future. The most frequently mentioned services were as follows:
- Repairs/handyman or gardening services (60 mentions);
 - More activities and clubs (15 mentions)
 - Better recycling/rubbish services (13 mentions)
 - More help/support for elderly (10 mentions)
 - Better security/more wardens (8 mentions)
 - More housing (7 mentions)
 - More activities/facilities for children (7 mentions)
 - Better grounds maintenance/gardening services (5 mentions);

- 2.16** Finally, respondents were provided with a list of four 'enhanced services' and asked to rank them

in order of importance now and in the future. The table below shows that building new affordable homes in Cheltenham was the most important service now (48%) and in the future (44%). This is followed by enhanced services for older people (32% ranked this service as number one importance now and 35% in the future).

Service	Now	Future
Building new affordable homes in Cheltenham	48%	44%
Enhanced services for older people	32%	35%
Project activities for young people	21%	20%
Projects and activities to improve health and well being	17%	15%

Base:350-364

- 2.17 The results of the consultation have been used to inform the proposals to update the Articles of Association of CBH and will be considered when work commences to update the Management Agreement which will be brought to Cabinet in December.

Using the Consultation Results

- 2.18 The consultation responses with regard to the CBH Board composition and size have been used to inform the updating of the Articles of Association of CBH (**Section 3**). Response results and feedback relating to the proposals to extend the Management Agreement, CBH Business Plan, new service development and service prioritisation will be taken into account when updating the Management Agreement.
- 2.19 **IT IS THEREFORE RECOMMENDED THAT Cabinet notes the outcome of the stakeholder consultation process**

3. Updating the Articles of Association of CBH

- 3.1 Cabinet may recall that in June it endorsed the principle of reducing the CBH board size from 15 to 10. Regarding the proposals to make changes to the CBH Board composition and size the consultation responses demonstrate support with 83% of those surveyed in favour of the changes proposed. Cabinet will recall that respondents were asked to give their views on:
- 3.1.1 The size of the Board to be 9 members, plus the Chair, so a reduction in total from 15 to 10;
- 3.1.2 2 Council nominated Members
- 3.1.3 A minimum of 3 tenant representatives with the aspiration that 1 of the 3 would be a leaseholder;
- 3.2 The Articles have therefore been updated to reflect the responses and this is explained in 3.3 below. Officers from CBC and CBH, with the advice from Trowers and Hamlin, have also reviewed the Articles to ensure they are fit for purpose for CBH and its future business direction. This has resulted in an update to the Objects to allow for a wider scope of activity as envisaged by the CBH Business Plan and this is explained in 3.3.1. The opportunity has also been taken to update the Articles for changes in legislation and for other minor drafting matters.
- 3.3 The updated Articles are included as a background paper to this report with the main areas for change being summarised below.
- 3.3.1 **The Objects** – in particular Article 2.3.4 which now refers to CBH “*carrying out any activity which contributes to the regeneration or development*”. This Article previously limited the scope of activity to Cheltenham Borough and has been updated to reflect the aspirations of CBH regarding future development and housing management opportunities.

3.3.2 CIPFA Prudential Code for Capital Finance in Local Authorities – references to repealed legislation have been deleted from Article 2.6.

3.3.3 Number of Board Members – The updated Articles reflect the positive response to the proposal to reduce the size and alter the composition of the CBH Board. It is proposed that Article 14 should read:

“There shall be 10 Board Members, of which

14.1 2 Board Members shall be Council Board Members

14.2 A minimum of 3 Board Members shall be Tenant Board Members, of whom 1 may be a Leaseholder Board Member

14.3 The remaining Board Members shall be either Tenant or Independent Board Members”*

** Note: the definition of Tenant means an individual who holds a secure or assured (as in the case may be) tenancy of a residential property from and occupies a property belonging to the Organisation or Cheltenham Borough Council, or a Leaseholder.*

3.3.4 Appointment of Board Members – whilst it is accepted that it is beneficial to reduce the size of the CBH Board and appoint Board members on the skills needed for the business, it was also felt important that appointment panels should be balanced in terms of representation. Therefore the proposal is that Article 14.5 should stipulate that appointment panels should comprise:

“The Chief Executive of the Organisation (CBH) and up to four current Board Members, one of which must be the Chair, and the remaining members of such panel must include:

(a) At least one Council Board Member

(b) At least one Tenant Board Member

(c) At least one Independent Board Member”

The above process does not relate to Council Board Members who will be appointed in accordance with Article 15 having been nominated as CBH Board Members in accordance with the Council's Constitution.

3.3.5 Quorum – Article 27.1 proposes that the quorum be reduced from six to five and that to ensure balanced representation that at least 1 Council Board Member and 1 Tenant Board Member (which includes a leaseholder) be present.

3.4 Process for Updating the Articles of Association of CBH

3.4.1 Cabinet is being asked to authorise the proposals to amend the Articles because the decision is considered to be a key decision. In other cases the Leader, as the representative of the sole member (the Council), has authority to take the decision under his retained powers. Therefore, Cabinet is asked to authorise the Leader to take a decision, by way of a written resolution, to amend the CBH Articles of Association subject to any subsequent amendments required by the HCA following CBH's Board meeting on 24 September 2014.

3.4.2 Members will be aware that CBH is a Registered Provider (RP) and as such there are requirements set by the Homes and Communities Agency (HCA) with regard to consulting tenants on Board changes. The legal advisers to CBH, Trowers and Hamlins, advise that there should be no major impediment to the HCA giving its approval. They base this view in particular on the fact that the Council and CBH have undertaken a robust consultation process. CBH has also asked its Tenants' Scrutiny Panel (TSIP) to comment on the proposed changes to the Articles.

3.4.3 IT IS THEREFORE RECOMMENDED THAT the Cabinet authorises the Leader to take a decision by way of a written resolution, to make the necessary amendments to the CBH Articles of Association, and any subsequent amendments required by the HCA following

CBH's Board meeting on 24 September.

4. Updating the CBC/CBH Management Agreement

- 4.1** In June, Cabinet also endorsed the principle of amending the CBC/CBH Management Agreement in order to facilitate the delivery of the HRA and CBH business plans. Cabinet also recommended that early contact be made with the Secretary of State, given the total nature of the proposed changes and the fact that when CBH was set up in 2003 the Council sought and obtained the Secretary of State's consent in accordance with s27 of the Housing Act 1985. Early contact has therefore been made.
- 4.2** A small working group of CBC and CBH officers has been established to progress updating the Management Agreement, taking account of responses to the consultation. It is also proposed that both the Tenants Scrutiny Improvement Panel (TSIP) and the CBC Overview and Scrutiny Committee will be asked to be involved in the updating of the Management Agreement.
- 4.3** **IT IS THEREFORE RECOMMENDED THAT a further report to agree the proposed variations to the CBH Management Agreement is brought back to Cabinet for approval in December.**

5. Reasons for recommendations

- 5.1** As explained in the body of the report.

6. Alternative options considered

- 6.1** The Council could have decided to reduce the board membership but to keep the board composition as it was, ie, equally between the 3 categories of board members (Council Board Members, Tenant Board Members, Independant and Leaseholder Board Members). However, this might have meant that the Board would not necessarily have all the skills and capacity needed to deliver the strategic ambitions of CBH. Furthermore the consultation process has now provided comfort that those responding to the consultation see the merit in the proposed changes and the vast majority support the proposal for changing the Board composition and size.

7. Consultation and feedback

- 7.1** Section 2 of this report has summarised the results of the 6 week consultation process. In addition, the CBH Chief Executive is meeting with the TSIP on 11 September to outline the proposed updates to the Articles. An update will be provided to Cabinet.
- 7.2** A members' seminar was held on 3 September and any feedback from that will be circulated to Cabinet in advance of the meeting.

8. Performance management –monitoring and review

- 8.1** The Management Agreement with CBH is monitored through regular officer meetings and update meetings with the Cabinet lead member. The CBH Chief Executive Officer and Chair of the Board meet with the Council's Chief Executive and Leader on a regular basis to ensure company issues are dealt with in a timely manner.
- 8.2** The changes to the Board composition are proposed to be made following the CBH Annual General Meeting in October and the Chair will no doubt undertake a review of how the new Board arrangements are working at a suitable time.

Report author	Contact officer: Pat Pratley, Deputy Chief Executive Pat.Pratley@cheltenham.gov.uk, 01242 775175
Appendices	1. Risk Assessment
Background information	1. CBC/CBH Consultation 2014 – Full Report 2. Articles of Association of CBH as amended

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	The HCA may not give their approval to the changes to the CBH Board Composition	Pat Pratley	16.9.14	4	2	8	Reduce	Advice from Trowers and Hamlin received and robust tenant consultation has taken place	Ongoing	Paul Stephenson		
2	Tenants and stakeholders may not accept the changes to the CBH Board composition and size	Pat Pratley	16.9.14	4	2	8	Reduce	Tenant consultation has occurred and TSIP will be consulted on the proposed changes to the Articles	Ongoing	Paul Stephenson		
3	CBH Board representation may not be achieved in terms of Board selection processes and quoracy	Pat Pratley	16.9.14	4	1	4	Reduce	Relevant Articles have been amended to ensure that Board representation is achieved	30.9.14	Paul Stephenson		
4	The Articles are not sufficiently flexible to enable CBH to deliver its increasing portfolio of services	Pat Pratley	16.9.14	4	1	4	Reduce	The Articles objects have been updated to achieve the flexibility required	30.9.14	Paul Stephenson		
<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

This page is intentionally left blank

Cheltenham Borough Council

Cabinet – 16th September 2014

Local Council Tax Support Scheme (LCTS) 2015/16 – 2016/17

Accountable member	Councillor John Rawson, Cabinet Member Finance
Accountable officer	Mark Sheldon, Director of Resources
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>In December 2012 Cabinet approved a new working age local council tax support scheme for 2013/14 and in September 2013 it agreed to keep the scheme unchanged for 2014/15, other than annual uprating of premiums, allowances and non-dependant deductions.</p> <p>Delays in welfare reforms, lack of clarity about long term funding of the scheme and political uncertainties arising from a general election in May 2015 could put the Council at risk if we consulted on and approved a new local support scheme that continued after March 2015.</p> <p>On 12th May 2014 a joint working group meeting of section 151 officers and finance officers from across the county reviewed the shortfall in Government funding of the LCTS scheme and the additional income generated during 2013/14, following changes to council tax empty property discounts . They agreed to recommend a further year of no changes.</p> <p>Approval is being sought to keep the LCTS scheme unchanged for 2015/16 and 2016/17 other than the annual uprating of premiums, allowances ,non-dependant deductions and annual changes to the national pension age scheme, which need to be reflected in the local working age scheme.</p>
Recommendations	<p>To recommend that Council</p> <p style="margin-left: 40px;">a) Keeps the Local Council Tax Support scheme unchanged for 2015/16 and 2016/17, other than the annual uprating of premiums, allowances, non-dependant deductions and any changes to the national pension age scheme that need to be reflected in the local working age scheme.</p>

Financial implications	<p>Due to a reduction in people claiming council tax support, the actual shortfall for Cheltenham Borough Council (district/parish share) between support awarded and government funding was £20,797 in 2013/14.</p> <p>In the same year changes to empty property discounts generated approximately £100,000 additional income for Cheltenham</p> <p>In 2014/15 the Government confirmed that the local council tax support funding will no longer be separately identified and will form part of the overall funding available to local authorities, leaving it entirely up to local authorities to decide how much they are prepared to spend on council tax support.</p> <p>Delays in welfare reforms and policy changes arising from a general election in May 2015 could change the long term funding arrangements for any council tax support scheme.</p> <p>Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123</p>
Legal implications	<p>The procedures for making and revising council tax reduction schemes are prescribed in schedule 1A Local Government Finance Act 1992.</p> <p>Contact officer: Peter Lewis, peter.lewis@tewkesbury.gov.uk, 01684 272012</p>
HR implications (including learning and organisational development)	<p>None arising from this report</p> <p>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242 264355</p>
Key risks	See appendix 1
Corporate and community plan Implications	None
Environmental and climate change implications	None
Property/Asset Implications	<p>None</p> <p>Contact officer: David Roberts@cheltenham.gov.uk</p>

1. Background

- 1.1 The Welfare Reform Act 2012 abolished council tax benefit. Under the Local Government Finance Act 2012 local authorities had to design their own Local Council Tax Support (LCTS) scheme for working age customers and administer the national council tax support scheme for pensioners.
- 1.2 Cheltenham Borough Council adopted the default scheme for working age customers which mirrored the old council tax benefit scheme, and which set the maximum help a person could claim due to low income at 100%. It also made a commitment to review the scheme in the future, when the long term funding arrangements had been clarified by the Government.
- 1.3 In 2013/14 the Council received approximately 90% of the cost of the previous year's national council tax benefit scheme for Cheltenham, with a commitment to pay the same amount for 2014/15 and then to review the long term funding of the scheme.
- 1.4 In 2014 the Government confirmed , that there would be no reduction in funding for local council tax support in 2014/15, but they would not separately identify the allocation as it would form part of the overall funding available to local authorities. This would leave councils to decide how much they are prepared to spend on a council tax support scheme.
- 1.5 Billing authorities are the lead authorities in the design and implementation of a local scheme but have a duty to consult with major preceptors and other interested parties. Regular meetings have taken place with all six district councils, the County and Police to monitor the financial implications of the current scheme.
- 1.6 On 12th May 2014 a joint working group meeting of section 151 officers and finance officers from across the county considered the shortfall in government funding of the LCTS scheme and the additional income generated during 2013/14, following changes to council tax empty property discounts. . They agreed to recommend a further year of no significant changes.
- 1.7 Delays in welfare reforms and policy changes arising from a general election in May 2015 could change the long term funding arrangements and local authority responsibilities for any future council tax support scheme.

2. Funding of the council tax support scheme

- 2.1 The Government funding for the LCTS scheme was expected to be cut by approximately 10% in 2013/14.
- 2.2 Since April 2013 the cost and the funding of the local council tax support scheme has been split between District/Parish, Police and County Council.
- 2.3 Due to a reduction in people claiming help with their council tax, the actual shortfall for Cheltenham Borough Council (district/parish) between council tax support paid in 2013/14 and the amount received from the Government towards the scheme in the same year was £20,797.
- 2.4 In 2013/14 changes to empty property discounts generated approximately £100,000 additional council tax income for Cheltenham which helped to offset the shortfall in funding of the local council tax support scheme.
- 2.5 Current indications appear to suggest that council tax support awarded in 2014/15 and the additional income from the changes to empty property discounts will not be significantly different from 2013/14

3. Reasons for recommendations

- 3.1 Based on actuals for 2013/14 and current projections for 2014/15 the shortfall in funding for the local council tax support scheme can be offset from the additional income being generated by the changes to empty property discounts. Assuming there is a small, or no increase, in the level of council tax for 2015/16 or 2016/17 and the economic climate remains the same, this position should not change significantly
- 3.2 A general election in 2015 could see changes to the planned welfare reforms, funding arrangements and local council tax support, so it would be premature to carry out a full review of the long term scheme along with a public consultation at this stage.

4. Alternative options considered

- 4.1 Officers considered the potential for a cut in benefit levels but this was not supported because of the impact on low paid residents, as well as the additional administrative costs and potential increased level of write offs involved in issuing a large number of small bills to residents who had not been used to paying council tax.
- 4.2 No other alternatives were considered as the joint working group confirmed they were happy to support a further year of the current scheme

5. Consultation and feedback

- 5.1 Council officers have been working with all Gloucestershire district councils on these proposals and have consulted with the County Council and Gloucestershire Police Authority.

6. Performance management –monitoring and review

- 6.1 The benefits service will monitor any increase/decrease of council tax support and any significant changes will be reported to cabinet.

Report author	Contact officer: Paul Aldridge, Paul.Aldridge@cheltenham.gov.uk, 01242 264196
Appendices	1. Risk Assessment
Background information	

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the council tax charge is increased in 2015/16 or 2016/17 then there is a financial implications and risk to the council as government funding towards the local council tax scheme will not change.	Mark Sheldon		3	3	9	Accept	Consider the risk in any decision about increasing the council tax charge in 2015/16 and 2016/17			

Explanatory notes

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

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

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

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

Guidance

Types of risks could include the following:

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

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

Risk ref

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

Risk Description

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

Risk owner

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

Risk score

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

Control

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

Action

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

Responsible officer

Please identify the lead officer who will be responsible for the action to control the risk.
For further guidance, please refer to the [risk management policy](#)

Transferred to risk register

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

Cheltenham Borough Council Cabinet – 16 September 2014 Policy on Sexual Entertainment Venues

Accountable member	Councillor Andrew McKinlay, Cabinet Member Development and Safety
Accountable officer	Mike Redman, Director of Environmental & Regulatory Services
Ward(s) affected	All
Key Decision	No
Executive summary	<p>Sexual Entertainment Venues (“SEVs”) are regulated under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009.</p> <p>The amended provisions were adopted by Council on the 11th of October 2010 and current policy statement was adopted by the Licensing Committee on the 4th of February 2011.</p> <p>On the 18th of March 2014, Cabinet considered a report on proposed changes to the current SEV policy. At that meeting, Cabinet approved further consultation on whether it is appropriate for the Council to limit the number of SEVs it should licence in the borough.</p> <p>Consultation was undertaken and Cabinet is now asked to consider the feedback and policy implications.</p>
Recommendations	<p>Cabinet is recommended to:</p> <ol style="list-style-type: none"> 1. Note the consultation feedback; 2. Approve the amendments to the policy as outlined in the draft policy attached at appendix 4; and 3. Recommend to Council the adoption of the amended policy.
Financial implications	<p>There are no financial implications arising from this report</p> <p>Contact officer: Sarah Didcote, sarah.didcote@cheltenham.gov.uk, 01242 264125</p>
Legal implications	<p>As outlined in the report</p> <p>Contact officer: Vikki Fennell, Vikki.fennell@tewkesbury.gov.uk, 01684 272015</p>

HR implications (including learning and organisational development)	There are no direct HR implications resulting from this report. Contact officer: Richard Hall, Richard.hall@cheltenham.gov.uk, 01242 774972
Key risks	As identified in Appendix 1
Corporate and community plan Implications	Communities feel safe and are safe. Our residents enjoy a strong sense of community and involved in resolving local issues.
Environmental and climate change implications	None
Property/Asset Implications	None Contact officer: David Roberts@cheltenham.gov.uk

1. Background

- 1.1 Sexual Entertainment Venues (“SEVs”) are regulated under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“1982 Act”) as amended by Section 27 of the Policing and Crime Act 2009 (“2009 Act”).
- 1.2 The amended provisions were adopted by Council on the 11th of October 2010 when it also approved a draft policy statement for consultation.
- 1.3 The current policy statement was adopted by the Licensing Committee on the 4th of February 2011.
- 1.4 On the 18th of March 2014, Cabinet considered a report on proposed changes to the current SEV policy. At that meeting, Cabinet approved further consultation on whether it is appropriate for the Council to limit the number of SEVs it should licence in the borough.
- 1.5 Consultation was undertaken and Cabinet is now asked to consider the feedback and policy implications.

2. Statutory Context

- 2.1 Section 27 of the 2009 Act amended schedule 3 of the 1982 Act to introduce a new type of sex establishment known as a sexual entertainment venue.
- 2.2 Any premises that want to offer “relevant entertainment” can only do so by obtaining a SEV licence.
- 2.3 Relevant entertainment is defined as any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- 2.4 Under the 2009 Act, a premises can provide relevant entertainment on an *infrequent* basis without the need for a SEV licence. Infrequent relevant entertainment is defined as relevant entertainment offered for no longer than 24 consecutive hours on no more than on 11 occasions a year. Any premises that want to offer relevant entertainment more frequently are required to apply for a SEV licence.
- 2.5 This report and the Council’s policy are concerned with the regulation of frequent sexual entertainment.
- 2.6 The relevant legislation does not require the Council to adopt a policy in relation to SEVs but it is considered good practice because it sets out guidance to potential applicants, the public and Members in terms of how the Council intends to discharge its functions under the relevant legislation.

3. Current Policy

- 3.1 The Council’s current policy statement was adopted on the 4th of February 2011.
- 3.2 The current policy does not set a limit on the number of SEVs the Council will licence in the borough. Instead, it deals with each application on a case to case basis. The rationale for this is that, up to recently, there have been no SEVs licensed in Cheltenham to warrant a limit.

4. Consultation

- 4.1 Following the recent grant of a SEV licence that attracted significant local opposition, the Council deemed it appropriate to undertake consultation on whether it would be appropriate to limit the number of licensed SEVs in the borough.
- 4.2 A public consultation has already been undertaken to gather the views of mainly the town's local residents. Attached at **Appendix 2** is a summary breakdown of the responses.

Petition

- 4.3 Members must also be mindful of the petition that was submitted to the Council calling for it to adopt a zero limit. The petitioner has requested that the petition be submitted as his, and the signatories', response to the consultation.
- 4.4 The petition was debated in Council on the 21st of July 2014 where Members resolved to refer the matter to Cabinet for consideration.
- 4.5 The petitioner submitted a number of points to Council attached at **Appendix 3**.
- 4.6 Whilst the points raised are generally relevant, officers urge caution in attaching too much weight to them. This is primarily because there is no evidence that the points raised are relevant locally but also there are several external factors that have an influence on their prevalence elsewhere which are not relevant to Cheltenham based on the evidence.
- 4.7 In relation to the three reports cited by the petitioner, Members must note that these date between 2003 and 2006. This is relevant because prior to 2009 there was simply no adequate legislation in place to properly regulate sexual entertainment. In recognition of this, the Government introduced the 2009 Act that, for the first time, created legislation specifically aimed at the regulation of SEVs.
- 4.8 The 2009 Act substantially changed the regulatory landscape. The new legislation gave local authorities and the police substantial new powers to regulate this form of entertainment in their local areas, including powers to impose conditions, limit the number of SEVs and new enforcement powers.
- 4.9 Furthermore, against the background of the comments made by Devon & Cornwall Constabulary, officers have also sought advice from Gloucestershire Constabulary.
- 4.10 PC Jaine Simner, Force Licensing Manager, stated in her response "I don't believe we or any other force have statistics that suggest that SEVs are responsible for or increase the likelihood of sexual offences. It is my opinion that SEV's if well run like any other licensed premises cause us very little problem and are not known for crime and disorder."

5. Setting a Limit & Relevant Locality

- 5.1 There is an implied power in Schedule 3 paragraph 12(4) of the 1982 Act (as amended) for the Council to set a limit on the number of licensed SEVs permitted in the relevant locality, of which zero is appropriate.
- 5.2 It is important to note that the power to set a limit relates to the relevant locality and it is therefore necessary for the Council to decide how it defines the relevant locality.
- 5.3 Relevant locality is defined in the current policy as the ward in which an application for a SEV licence has been made.
- 5.4 The legislation does not define relevant locality apart from saying that it is the locality in which a

premises is based. It leaves it to local authorities to define because they have the appropriate local knowledge to properly define where it would be appropriate to licence SEVs.

- 5.5 However, Members are to note that the borough as a whole is too large an area to be defined as the relevant locality (R v Cheltenham Borough Council, ex parte Quietlynn Ltd (1985) 83 LGR 461).

6. Policy Options

- 6.1 There are several policy options for Cabinet to consider.

6.2 **No change to the current policy** – Cabinet can form a view that the current policy is adequate and should remain unchanged, in other words, that the Council will not impose a limit on licensed SEVs and each application will be determined on its individual merits.

6.3 **Change policy** – Cabinet can form a view that it would be appropriate to set a limit on the number of permitted SEVs in the borough. In this case, it must also consider:

6.3.1 What the appropriate limit should be; and

6.3.2 Where a limit should apply (i.e. continue to define it by ward and set a limit for each ward or propose to redefine “relevant locality” and set the limit in accordance with this.)

7. Proposed Amendments to Policy

7.1 Taking into account the matters above, it is proposed that the Council does change its policy. It is proposed that the status quo be maintained for the town centre but that the Council adopt a zero limit for the rest of the borough which is predominantly residential in nature.

7.2 The Council has already resolved that it is inappropriate to licence SEVs in or in the vicinity of residential areas so a zero limit would be consistent with that approach.

7.3 The Council recognise however that the town centre offers a more unique situation in as much as it has a much wider mix on offer particularly in the night time economy and it may therefore not be inappropriate to consider applications for SEVs in the town centre. To this extent, the Council is not proposing a limit on the number of SEVs in the town centre. Instead, applications will be considered on individual merits against policy restrictions and guidelines. It is proposed that the town centre be defined as the adopted Core Commercial Area.

7.4 The proposed amendments to the policy will in effect redefine relevant locality as the core commercial area as one locality and the rest of the borough as the other.

7.5 Members must bear in mind that any change in policy does not change the fact that the Council must always retain some measure of discretion. Therefore, whilst the changes to the amended policy may create a presumption against the grant of an SEV licence the Council will still be obligated to determine applications even if these are in areas in which the policy restricts the number of SEVs.

7.6 A copy of the amended policy is attached at **Appendix 4** for the information of Members.

8. Reasons for recommendations

8.1 To ensure the Council is able to properly discharge its statutory functions in relation to the regulation of sexual entertainment in the borough.

9. Consultation and feedback

9.1 Public consultation feedback is attached at **Appendix 2**.

9.2 Members must also be mindful of the comments made in Council when the SEV petition was subject to debate and referred to Cabinet for further consultation.

10. Performance management – monitoring and review

10.1 The performance of this policy will be monitored by the Licensing Committee in terms of the decisions they make in promoting this policy.

Report author	Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk, 01242 775010
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Consultation Feedback 3. Points raised by petitioner – Capt. Steve Smith 4. Draft Amended Policy
Background information	<ol style="list-style-type: none"> 1. Officer report and minutes of Full Council meeting on Monday, 21st July 2014. 2. Current adopted Sexual Entertainment Venue Policy Statement (Adopted 4 February 2011). 3. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. 4. Section 27 & schedule 3 of the Police & Crime Act 2009.

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 Cabinet fails to approve necessary amendments to the policy there is a risk that it will become out of date and irrelevant. This may result in the Council being unable to effectively discharge its functions which could have an adverse affect on public protection.	Licensing & Business Support Team Leader	16/09/14	2	3	6	Reduce	Report recommendations		Licensing & Business Support Team Leader	
	If cabinet fails to give due regard to the consultation feedback, it has the potential to undermine confidence in the local democratic process.	Licensing & Business Support Team Leader	16/09/14	2	4	8	Reduce	Report recommendations		Licensing & Business Support Team Leader	
Explanatory notes											
<p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

This page is intentionally left blank

Summary: SEV Consultation Responses

1. We asked which types of areas it would not be suitable to licence a SEV:

Type of area	% of people who <u>strongly agreed</u> that it would not be suitable to licence a SEV in these areas
The town centre	82.86%
A mixed use area (mixed residential/commercial)	84.06%
A busy late night economy area	80.29%
A residential area	86.33%
An industrial area	76.26%
A deprived area	83.45%
A conservation area	84.06%
It would not be acceptable to have a lap dancing club in any locality	82.86%

2. We asked which wards it would not be suitable to licence a SEV:

Ward	% of people who <u>strongly agreed</u> that it would not be suitable to licence a SEV in these wards
All Saints	89.40%
Battledown	89.66%
Benhall & Reddings	88.51%
Charlton Kings	89.73%
Charlton Park	88.89%
College	89.66%
Hesters Way	89.04%
Lansdown	90.34%
Leckhampton	90.41%
Oakley	88.97%
Park	90.28%
Pittville	90.48%
Prestbury	88.97%
Springbank	89.73%
St. Marks	88.97%
St. Pauls	87.84%
St. Peters	88.36%
Swindon Village	88.97%
Up Hatherley	88.67%
Warden Hill	89.80%

3. We asked what, if any, the number of permitted SEVs should be for types of areas:

Type of area	0	1	2	3	4	5
The town centre	94.37%	4.23%	1.41%			
A mixed use area (mixed residential/commercial)	97.87%	1.42%	0.71%			
A busy late night economy area	95.04%	4.26%	0.71%			
A residential area	99.30%	0.70%	0.00%			
An industrial area	90.14%	7.75%	1.41%	0.70%		
A deprived area	98.58%	1.42%	0.00%			
A conservation area	99.30%	0.70%	0.00%			
It would not be acceptable to have a lap dancing club in any locality	94.37%	4.23%	1.41%			

4.

We asked what, if any, the number of permitted SEVs should be for each ward:

Ward	0	1	2	3	4	5
All Saints	98.68%	0.66%				
Battledown	98.68%	0.66%		0.66%		
Benhall & Reddings	99.34%	0.66%				
Charlton Kings	99.34%	0.66%				
Charlton Park	98.68%	0.66%		0.66%		
College	99.34%	0.66%				
Hesters Way	99.34%	0.66%				
Lansdown	99.34%	0.66%				
Leckhampton	99.34%	0.66%				
Oakley	99.34%	0.66%				
Park	98.68%	0.66%		0.66%		
Pittville	99.34%	0.66%				
Prestbury	98.68%	1.32%				
Springbank	99.34%	0.66%				
St. Marks	99.34%	0.66%				
St. Pauls	98.68%	1.32%				
St. Peters	98.68%	1.32%				
Swindon Village	99.34%	0.66%				
Up Hatherley	99.34%	0.66%				
Warden Hill	99.33%	0.67%				

5. We asked whether the Council should limit the number of SEVs:

89.83% of respondents said yes.

Evidence and Information in Support of a Zero Limit on Sexual Entertainment Venues in the Borough of Cheltenham

Many people who objected to the opening of a Lap Dancing Club in Bath Road, and those who are now calling for a zero limit by signing the relevant petition cited concerns over sexually charged and alcohol-fuelled men posing an increased risk to female members of the public.

It is my understanding that the Licencing Committee granted the Bath Road SEV licence based, partly at least, on their belief that there was no evidence to support this concern. Indeed, Andrew Wood, solicitor for the licensee, clearly stated at the Licencing Meeting that these concerns were 'unsubstantiated and without foundation'.

However, the concerns are strongly supported and substantiated...

The empirically verified psychological principles of Classical and Operant Conditioning clearly shows that attitudes and actions are strongly influenced by experience. Therefore, the Psychological conditioning effect of the purchase of 'sexual entertainment' reinforces the illusion that a female is available to the client for the purpose of sexual gratification.

Therefore, when the conditioning has taken place (by means of the client purchasing services at a SEV) the client's attitude towards females will unequivocally be altered in the direction of women being viewed as objects of sexual gratification, the client is then most definitely at a higher risk of committing sexually related crime, not just immediately after leaving the SEV, but at any time following the conditioning experience¹. (Aggrawal, 2009 studies the conditioning effect on sexual behaviour in some detail²). Add to this the inhibition-reducing effect of alcohol and then also the further effect of bravado on a group of men and the probability of sexual crime and harassment in, but not limited to, the locality of the SEV will increase.

¹ Information about Psychological Conditioning can be found in any good Psychology textbook or on the internet.

² Aggrawal, A. 2009 *Forensic and Medico-legal Aspects of Sexual Crimes and Unusual Sexual Practices*. Boca Raton, FL: CRC Press

Experience and observation of this psychological phenomenon corroborate:

- Inspector Ian Drummond-Smith of Devon & Cornwall Constabulary was reported by the Daily Telegraph as raising concerns to his local Licencing Authority that the presence of a lap dancing club in Newquay may have contributed to as many as fourteen rapes and 34 sexual assaults. Five rapes and 16 sexual assaults were committed within a one mile radius of the club.³
- Research clearly shows that the instances of reported rape in the vicinity of sexual entertainment venues has increased by anything up to 50%, and that groups of sexually stimulated men are far more likely to engage in sexually threatening behaviour and sexual crime.^{4&5}
- The Licensing Authority of the London Borough of Westminster, which has a great deal of experience of Sexual Entertainment Venues, ‘recognises the inherent risks posed to woman’s safety and wellbeing by venues offering nude entertainment, including antisocial behaviour, increased prostitution and touting, and incidents of coercion on-site [in SEVs]’⁶.

Conclusion:

Cheltenham Borough Council is requested - in the light of the empirical evidence available which substantiates the concerns of 1,122 petitioners, the clear response to the public consultation, and the four licencing objectives, (particularly the prevention of crime and disorder, public safety, and the prevention of public nuisance) – to set a zero limit on Sexual Entertainment Venues in the Borough of Cheltenham.

³ The Daily Telegraph – 23 May 2012. Available online at <http://www.telegraph.co.uk/news/uknews/law-and-order/9284609/Lapdancing-clubs-encourage-rape-and-sexual-assaults-claims-police-chief.html>

⁴ Eden, I. 2003 *The Lilith Report on Lapdancing and Striptease in the Borough of Camden*. London: Eaves

⁵ Bindel, J. 2004 *Profitable Exploits: Lap Dancing in the UK*. London: Child and Woman Abuse Studies Unit

⁶ Westminster City Council, 2006. *The Licencing Act: Background*. (Quoted by Eden, I. 2007 *Inappropriate Behaviour: Adult Venues and Licencing in London* (Page 69). London: Eaves



SEXUAL ENTERTAINMENT VENUE POLICY STATEMENT

Schedule 3 Local Government (Miscellaneous Provisions Act 1982), as amended by
Section 27 Policing and Crime Act 2009

****Please note that changes are shaded in this document****

Contents

Preface

The Borough of Cheltenham

1. Introduction
2. Definitions
3. Making and Application
4. Application for Grant of a Licence
5. Plans
6. Public Notices
7. Variation of a Licence
8. Renewal of a Licence
9. Transfer of a Licence
10. Determination
 - 10.1 Mandatory Grounds for Refusal
 - 10.2 Discretionary Grounds for Refusal
11. Location of premises
12. Granting a Licence
13. Objections
14. Hearings
15. Appeals
16. Fees
17. Standard Conditions
18. Specific Conditions
19. Duration of Licence
20. Exempt Sexual Entertainment Code of Practice
21. Review

APPENDIX 1 - Standard Conditions for Sexual Entertainment Venues

APPENDIX 2 - Sexual Entertainment Code of Practice

Preface

This Policy Statement sets out the Council's requirements for premises to be licensed as Sexual Entertainment Venues ("SEVs") within the meaning of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("1982 Act") as amended by Section 27 of the Policing and Crime Act 2009.

Adoption of Schedule 3 also allows the Council to set terms and conditions and fees for the grant, variation, renewal and transfer of such licences and the number of premises to be licensed in an area, which may be nil.

The Council adopted the original provisions of Schedule 3 of the 1982 Act for Sex Cinemas and Sex Shops on 25th April 1983 and the new provisions for SEVs under the amendments of the Policing and Crime Act 2009 on 11th October 2010.

Consultation was conducted with local residents, existing and future potential holders of SEV licences in the Borough, the statutory responsible authorities under the Licensing Act 2003, and holders of Premises Licences and Club Premises Certificates under the Licensing Act 2003 in the Borough.

The Council does not take any moral stand in adopting this policy. The Council recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is this Council's role as the Licensing Authority to administer the licensing regime in accordance with the law.

In formulating this policy statement consideration has been given to:

- a) The legal requirements of the 1982 Act (as amended);
- b) The Home Office Sexual Entertainment Venues Guidance for England and Wales;
- c) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the Borough;
- d) The Regulators Compliance Code; and
- e) The Provisions of Services Regulations 2009 and associated Department for Business, Innovation & Skills guidance.

The legislation may be viewed here:

<http://www.legislation.gov.uk/ukpga/1982/30>

Local Government (Miscellaneous Provisions) Act 1982 Chapter 30

<http://www.legislation.gov.uk/ukpga/2009/26/section/27>

Policing & Crime Act 2009 Part 2 Section 27 – Regulation of lap dancing and other sexual entertainment venues etc

The Borough of Cheltenham

The Authority is one of six district councils within Gloucestershire.

The Area

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

The borough, which includes 5 parishes, has a population of approximately 115,000 who live in 20 wards. The borough is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares of which 17 % is designated as green belt and 22 % as an area of outstanding natural beauty.

1. Introduction

- 1.1 This policy statement sets out the Council's guidance, application procedure, terms and conditions relating to the regulation of SEVs.
- 1.2 This policy statement will guide current licence holders, potential licence holders and the Council when considering applications for SEVs.
- 1.3 This policy statement applies to every type of SEV (as defined in the Act) unless an exemption applies.
- 1.4 Whilst each application will be considered on its individual merits, this policy statement is intended to give prospective applicants an early indication of whether their specific application is likely to be successful and the material facts that will be taken in to consideration when determining the application. This policy statement also sets out the expectations of the Council on the applicant when receiving an application.
- 1.5 Applications for grant, variation and opposed applications to renew and/or transfer will be determined by the Council's Licensing Committee. Unopposed applications to renew and/or transfer will be determined by the relevant director in accordance with the Council's constitution and scheme of delegation.

2. Definitions

The 1982 Act

This refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009.

SEV

Means Sexual Entertainment Venue as defined by section 27(3) of the Policing and Crime Act 2009.

The Policy Statement

This refers to this policy statement.

The Relevant Locality

Refers to the locality in which an application for a SEV licence has been made in respect of a premises, vehicle, vessel or stall.

The Character of the Relevant Locality

The character of the Relevant Locality where the premises is situated will be instrumental in determining whether or not the grant of a licence will be appropriate. This is a proper matter for the Council to consider based on local knowledge, factors and circumstances.

The Council

Means Cheltenham Borough Council.

The Premises

This is the premises, vessel, vehicle or stall which is subject to a SEV licence. The premises will be in possession of all appropriate consents and permissions required to operate.

Permitted Hours

These are the hours of activity and operation that have been authorised under the SEV licence.

3. Making an Application

- 3.1 An application for the grant, variation, renewal or transfer of a SEV licence must be made in writing to the Council in accordance with the requirements set out below.
- 3.2 The address at which the Council will accept applications and notices is:-
- a) By post/personal service to Licensing Section, Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham, GL50 9SA;
 - b) By e-mail to licensing@cheltenham.gov.uk;
 - c) By facsimile to 01242 77 4924;
 - d) On-line via the gov.uk website.
- 3.3 For all enquiries please contact the Licensing team on 01242 77 5200.

4. Application for the Grant of a licence

- 4.1 The Council may grant to any applicant a licence for the use of a premises as a SEV on such terms and conditions as specified by the Council.
- 4.2 To apply for the grant of a SEV licence an applicant must:-
- a) Complete an application form;
 - b) The relevant fee
 - c) Submit a plan of the premises to which the application relates showing, amongst other things, all means of ingress and egress to and from the premises, parts used in common with any other building, and
 - d) Details of how the premises lie in relation to the street. (See below)
 - e) Submit a site plan scale 1:1250;
 - f) Submit drawings showing the front elevation as existing and as proposed to a scale of (1:100) (see below);
- And must also;
- g) Display a notice on or near the premises (see below);
 - h) Advertise the application in a local newspaper no later than 7 days after the date of the application; and
 - i) Send a copy of the application and plan to the Chief Officer of Police for the area within 7 days of making the application to the council.

- 4.3 Application forms are available from www.cheltenham.gov.uk

5. Plans

- 5.1 The plan of the building, unless agreed in writing beforehand, must comply with the following:

Page 91

The plan shall be drawn at a scale of 1:100 and shall show:

- (a) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- (b) The location of points of access to and egress from the premises;
- (c) If different from paragraph (1)(b), the location of escape routes from the premises;
- (d) In a case where the premises is used for more than one existing activity the area within the premises used for each activity;
- (e) Fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- (f) In a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) In a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (h) The dressing room of performers;
- (i) The area where performances take place;
- (j) Any private screened area where a performance(s) take place;
- (k) In a case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (l) The location and type of any fire safety and any other safety equipment; and
- (m) The location of a kitchen, if any, on the premises.
- (n) The area(s) to be licensed must be clearly identified by outlining these areas in red.

5.2 The plan must include a legend through which the matters mentioned are sufficiently illustrated by the use of symbols on the plan.

6. Public Notices

6.1 A notice must be displayed at or on the premises to which the application relates for a period of no less than 21 consecutive days beginning with the date of the application, where it can be conveniently read from the exterior of the premises.

6.2 Where the premises cover an area of more than 50 square metres, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.

6.3 The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.

6.4 The notice must state:

- a) the details of the application and activities that it is proposed will be carried on or from the premises,
- b) the full name of the applicant,
- c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
- d) the date, being 28 days after that on which the application is given to the council, by which objections may be made to the council and that the objections should be made in writing,
- e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£20,000) for which a person is liable on summary conviction for the offence.

- f) A similar notice must be published in a local newspaper circulating in the area within 7 days of giving the application to the Council (example The Gloucestershire Echo).

7. Variation of a Licence

- 7.1 The holder of a SEV licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
- 7.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.
- 7.3 Application forms are available from www.cheltenham.gov.uk

8. Renewal of a Licence

- 8.1 The holder of a SEV licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires.
- 8.2 The process of applying for the renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.
- 8.3 The Council will determine renewal applications on individual merits taking into account the facts of the application and any objections received. Opposed applications will be referred to the Council's licensing committee for determination. The Courts have confirmed that Councils are entitled to look afresh at renewal applications and, accordingly, it is open to the Council to refuse to renew a licence even where there has been no change in the character of the relevant locality or in the use to which any premises in the locality are put.

9. Transfer of Licence

- 9.1 A person may apply for the transfer of a licence at any time.
- 9.2 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

10. Determination

10.1 Mandatory Grounds for Refusal

10.1.1 A licence will not be granted:

- a) to any person under the age of 18 years;
- b) to any person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;

- c) to any person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application made; or
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to any person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

10.1.2 If the Council finds any of these grounds apply then it must refuse the application.

10.2 Discretionary Grounds for Refusal

10.2.1 A licence may be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of SEVs in the relevant locality at the time the application is made is equal to or exceeds the number which the Council consider is appropriate for that locality (nil may be an appropriate number for these purposes);
- d) that the grant or renewal of the licence would be inappropriate, having regard-
 - to the character of the relevant locality; or
 - to the use to which any premises in the vicinity are put; or
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

10.2.2 Applications for the transfer of an issued SEV licence may only be refused on grounds (a) and (b) above.

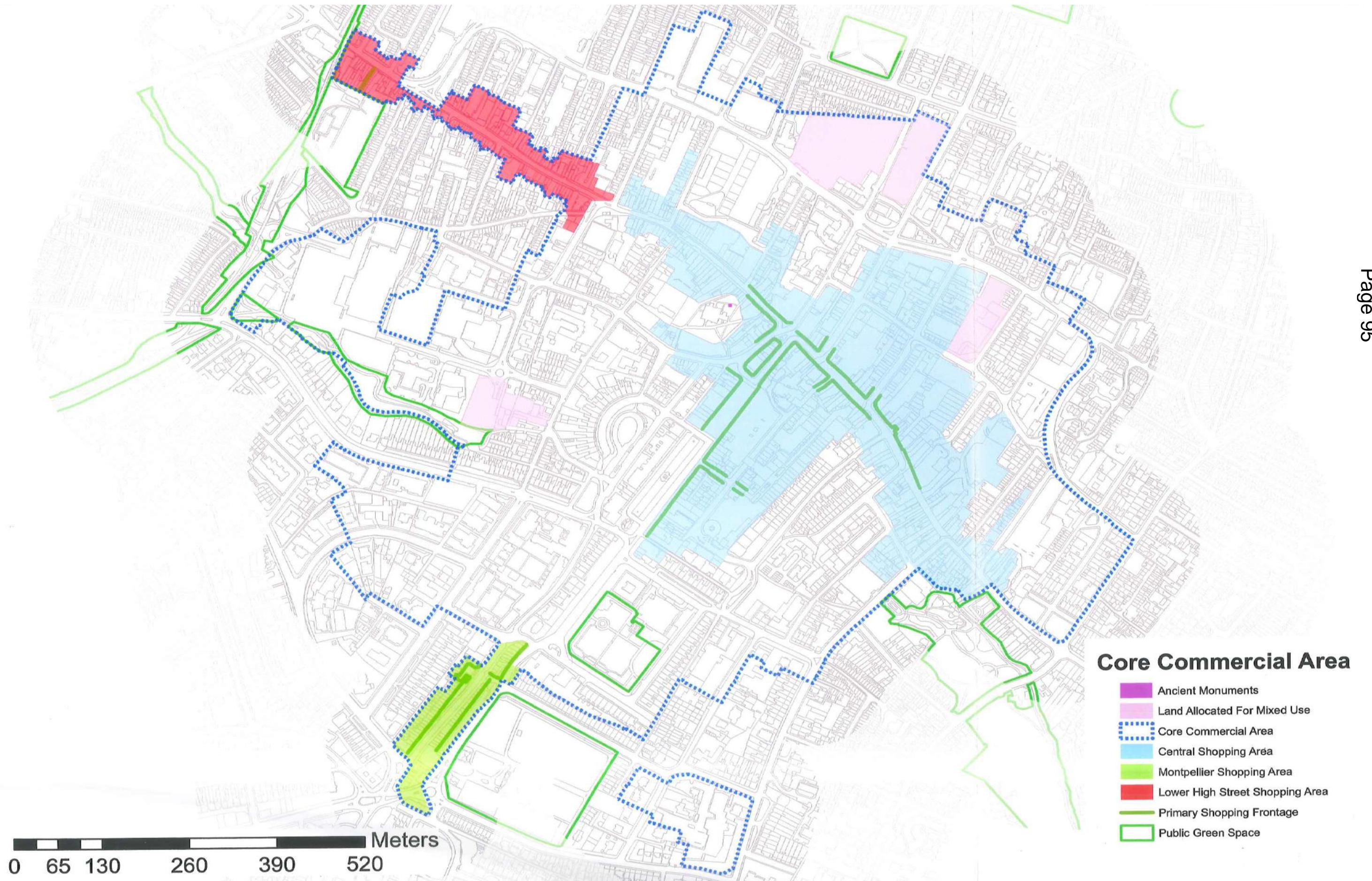
10.2.3 Any decision to refuse a licence must be relevant to one or more of the above grounds.

11. Location of Premises

11.1 In deciding the appropriate number of premises to be licensed, the Council must consider the character of the relevant locality and what is the appropriate number of SEVs for the relevant locality. The number can be 'nil'.

11.2 It is the Council's policy that there is no locality outside of the adopted Core Commercial Area in which it would be appropriate to license a SEV. Accordingly the appropriate number of SEVs for outside of the adopted Core Commercial Area is nil.

11.3 The Council has resolved that it will not set a limit on the number of permitted SEVs in the adopted Core Commercial Area providing those premises are not near properties with sensitive uses or in sensitive locations (see 11.4).



0 65 130 260 390 520 Meters

Fig 1 – Adopted Core Commercial Area

Properties with sensitive uses or in sensitive locations

- 11.4 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Council shall consider, inter alia, whether the grant of the application would be appropriate, having regard to:
- a) The fact that the premises are sited in a residential area;
 - b) Whether the premises are sited near shops used by or directed to families or children, or on frontages frequently passed by the same;
 - c) Whether the premises are sited near properties which are sensitive for religious purposes e.g. churches, mosques, temples; and/or
 - d) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets.
- 11.5 When determining an application for the grant of a SEV licence, the Council shall have regard to the policy statement, the relevant guidance issued by the Home Office and provisions set out above but subject to the overriding principle that each application will be determined on its merits.
- 11.6 Applications in respect of premises must state the full address of the premises.
- 11.7 Applications in respect of a vehicle, vessel or stall must state where it is to be used as a SEV.
- 11.8 The Council would normally expect that applications for licences for permanent commercial premises would have planning consent for the property concerned.

12. Granting a Licence

- 12.1 All applications for the grant of a new SEV licence will be referred to the Council's Licensing Committee for determination.
- 12.2 In determining the application the Licensing Committee will have regard to this policy statement, any limitation on the number of permitted SEVs, the merits of the application and any objections, if any, that have been made.

13. Objections

- 13.1 When considering an application for the grant, renewal, variation or transfer of a SEV licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory consultation period.
- 13.2 Any person can object to an application provided that the objection is relevant to the discretionary grounds for refusal of a licence.

- 13.3 Objections should not be made on moral grounds or values and the Council will not consider objections that are not relevant to the grounds mentioned above.
- 13.4 Objectors must give notice of their objection in writing, stating the general terms of the objections.
- 13.5 Where the Council receives notices of any objections it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the person making the objection reveal their name or address to the applicant.
- 13.6 Objections may only be made within the period of 28 days following the date on which the application was made to the Council.

14. Hearings

- 14.1 Where applications are referred to a Licensing Committee, the hearing will take place within 20 working days of the end of the period in which objections may be made.
- 14.2 The hearing provides all parties to the application, including those making objections, the opportunity to air their views openly and those views will be considered by the Licensing Committee.

15. Appeals

- 15.1 There is no right of appeal:
 - a) Against the mandatory grounds for refusal as detailed in section 10.1.1 (a), (b), (c), (d), and (e) above, unless the applicant can prove that the ground of refusal does not apply to them, and
 - b) Against the grounds as detailed in Section 10.2.1 (c) and (d) which can only be challenged by the applicant by way of judicial review.
- 15.2 All relevant grounds for appeal, other than these detailed at point (a) and (b) above can be made to the Magistrates Court within 21 days from the date on which the person is notified of the decision.

16. Fees

- 16.1 The fees set are deemed to be reasonable to cover the cost of administration, enforcement against licensed operators, inspections and any hearings and are not refundable.

17. Standard Conditions

- 17.1 The Standard Conditions for Sexual Entertainment Venues are attached at Appendix 1.

18. Specific Conditions

- 18.1 Under schedule 3(8) of the 1982 Act the Council may grant to an applicant, and from time to time renew, a licence for SEV on such terms and conditions and subject to any restrictions

as may be specified. These specific terms and conditions will be tailored for each individual premises and each type of SEV licence.

19. Duration of Licence

- 19.1 The Council, unless there are exceptional circumstances for doing so, shall grant a licence for the maximum duration of one year at a time, to provide certainty to those persons operating businesses.

20. Exempt Sexual Entertainment Code of Practice

- 20.1 The Government has seen it fit to exempt infrequent sexual entertainment from requiring a licence. Whilst the Council recognises and accepts this, it is also acutely aware that unless it is properly managed there are risks to public protection & safety, an increased likelihood of associated crime & disorder and an inability of regulatory bodies to respond accordingly.
- 20.2 Whilst the Council cannot legitimately impose restrictions on infrequent sexual entertainment, it has formulated an Exempt Sexual Entertainment Code of Practice. The intention of the code of practice is to promote responsible and properly managed exempt sexual entertainment. The Council expects any premises wishing to offer infrequent sexual entertainment to adhere to the code of practice.
- 20.2 A copy of the code of practice is attached at **Appendix 2** of this policy statement.

21. Review

- 21.1 This policy statement will be reviewed at least once every three years.

APPENDIX 1

STANDARD CONDITIONS REGARDING SEXUAL ENTERTAINMENT VENUES

General Conditions:

1. The premises shall only permit adult entertainment between the hours of hours and hours the following morning as determined by the licensing committee.
2. Only activities which have previously been agreed in writing by the Council shall take place.
3. The agreed activities shall take place only in designated areas approved by the Council.
4. There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements, photographs or images that indicate or suggest that striptease-type dancing takes place on the premises.
5. Any flyers advertising the adult entertainment must not display any photographs or images of the entertainment and any images must be approved by the Advertising Standards Agency and not be handed to persons who look under the age of 21. Any handbills must only be distributed after 19.00hrs with the exception of race days. Examples of the handbills that are in use shall be lodged with the licensing authority prior to their distribution.
6. No flyers or similar promotional material for the premises shall be distributed within the Town.
7. Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.
8. A clear Notice shall be displayed inside the entrance to the premises in the following terms:
"Striptease-style entertainment takes place on these premises. No persons under 18 shall be permitted in the premises."
9. The performance must not be visible from the street, and any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily-clad individuals employed in the premises must not exhibit themselves in the entrance or in the vicinity of the premises.
10. When the premises are open for Striptease/Lap/Pole Dancing no person under the age of 18 shall be permitted to be on the premises. Anyone appearing to be under the age of 21 years shall be asked to produce valid photographic identification. If this is not produced the individual shall be refused access.
11. The premises shall maintain a Refusals Log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Council.

Conditions regarding Performers:

Page 101

12. Striptease and similar entertainment may only take place in 'designated areas' that are marked on the plan of the premises.
13. The entertainment shall be provided by professional performers only. The audience must at all times remain fully-clothed.
14. Performers shall be aged not less than 18 years and the licence holder (or his nominated deputy who is authorised in writing) shall satisfy him/herself that this is the case by requesting valid photographic ID, if necessary, prior to the performance.
15. A 'Signing-in' Register shall be kept at the premises that records the time that the performer starts and finishes at the premises. This shall be made available for immediate inspection by a Police Officer or authorised Officers of the Cheltenham Borough Council (who will carry identification).
16. During any performance there must be no physical contact between the performer and any member of the viewing public.
17. No performances shall include any sexual act with other performers.
18. No performances shall include any sexual act with objects.
19. There shall be no nudity by performers in public areas of the premises, unless the Council has agreed in writing that area may be used for performances of sexual entertainment.
20. At the completion of the relevant entertainment the performers shall dress themselves immediately and leave the designated performance area. Performers not engaged in performing shall not remain in any area in a state of undress.
21. Performers are not to solicit, exchange addresses or telephone numbers with customers, liaise with customers of the premises, or incite customers to purchase alcoholic drinks.
22. An appropriate room shall be set aside to provide changing and rest area for performers. Access to this room shall be restricted to performers only, whilst the performers are on the premises and shall be marked on the plan of the premises.
23. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.
24. Entertainers or performers not performing must not be in a licensed area in a state of undress.
25. There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices in respect of relevant entertainment, including any charge for the company of any person working at the premises, which shall be placed in such a position that it can at all times be easily and conveniently read by persons inside the premises.

Briefing:

26. Prior to performers carrying out any activity on the premises, they shall be briefed (verbally or in writing) by the licence holder or his nominated deputy who is authorised in writing as to the conditions that pertain to these particular premises, including the fact that their activities will be recorded on CCTV. The performer(s) shall sign in the Register that they have been briefed.

Door-Supervisors:

27. Subject to a minimum of two, SIA-registered door-supervisors shall be employed at a minimum ratio of 1:50 customers on the premises whilst Striptease/Lap/Pole-dancing activity is taking place.
28. The licence holder, or his nominated deputy who is authorised in writing, or door-supervisors, shall carry out regular monitoring of all areas of the premises to which the public have access, and shall intervene promptly, if necessary, to ensure compliance with Licence conditions by customers and performers.
29. Door-supervisors shall regularly monitor the area immediately outside the premises for a distance of 30 metres in all directions and shall take steps to deal with (by alerting the Police if appropriate) any unsavoury activity that may be attracted to the vicinity due to the nature of the business.
30. A dedicated SIA-registered door supervisor shall remain at all times in any 'private' performance area where performers are performing nude, and shall intervene promptly, if necessary, to ensure compliance with the Licence conditions.
31. When performers leave the premises they are to be escorted to their cars or taxi by a door-supervisor or member of staff.

CCTV System:

32. A digital CCTV system shall be installed and be maintained in good working order, shall record at all times the premises are open, and recordings shall be kept for 14 days. The CCTV system is to be installed in all areas as recommended by the Police Crime Reduction Officer
33. The CCTV recording device, controls and recordings shall be kept under suitable security to prevent unauthorised access/tampering. Access shall be restricted to the licence holder or his nominated deputy who will be authorised in writing and no more than two designated persons.
34. Unaltered CCTV recordings shall be provided on request (as soon as possible and in any event within 24 hours) to the Police or authorised Officers of the Cheltenham Borough Council (who will carry identification.)
35. No CCTV footage is to be copied, given away or sold (except as required by Police/Council for investigation/enforcement purposes).
36. Except in accordance with the requirements for CCTV as described above, no photographs, films or video recordings shall be taken of the performances. Nor shall electronic transmissions of performances take place.
37. Notices shall be displayed informing customers of the presence of CCTV.

APPENDIX 2 - Sexual Entertainment Code of Practice

1. Operators/licenseses will notify the Council & Police Licensing Sections of events where sexual entertainment is due to take place.
2. All sexual entertainment should only take place in one designated area inside the premises, and this shall not be visible from outside the premises.
3. Private performances should only take place inside screened-off private booths. However, the front of these booths must not be covered or obstructed, so that managers and SIA door-supervisors are able to monitor activity inside the booths.
4. A clear notice should be displayed inside the entrance to the designated area stating: "Sexual entertainment takes place on these premises. No persons under 18 shall be admitted."
5. Scantily clad individuals performing in the premises must not exhibit themselves in the entrance to or in the vicinity of the premises and individuals not performing shall not remain in any area in a state of undress.
6. Customers must at all times remain fully-clothed.
7. During any performance there must be no physical contact between the performer and any member of the viewing public/private customer.
8. No performance shall include any sexual act with other performers, customers or viewing public.
9. An appropriate room shall be set aside to provide changing and rest area for performers. Access to this room shall be restricted to performers only.
10. A minimum of one SIA registered door supervisor shall be employed in the designated area where sexual entertainment is taking place and they shall intervene promptly to ensure compliance with these rules.
11. The area in which sexual entertainment is to take place shall be covered by CCTV from which footage shall be stored for a minimum of 14 days and produced to Police or Council officers on request.
12. A list of all performers shall be available on the premises for immediate production if requested by Police or Council officers. This list shall contain full names, dates of birth and contact details (address or telephone number).
13. Rules 2, 3, 5,7,8,9 and 10 shall be drawn to the attention of all performers and promoters prior to activity commencing.
14. Rules 6, 7 and 8 shall be prominently displayed to customers at appropriate locations within the premises.

**Cheltenham Borough Council
Cabinet – 16th September 2014
Food Safety Service Plan**

Accountable member	Councillor Andrew McKinlay, Cabinet Member for Development & Safety
Accountable officer	Head of Public Protection (Barbara Exley/Yvonne Hope)
Ward(s) affected	All
Key Decision	No
Executive summary	<p>The Food Standards Act 1999 requires the Council to produce a Food Safety Service Plan</p> <p>The Food Safety Service Plan is the Council’s expression of commitment to the delivery of an improving cost effective and efficient regulatory food service.</p> <p>This Food Safety Service Plan is an annual operational plan giving details of how Cheltenham is going to execute its statutory food safety functions within the Public Protection service under the Director of Environmental & Regulatory Services.</p>
Recommendations	I therefore recommend that Cabinet approve the attached Food Safety service plan for 2014-15.

Financial implications	<p>There are no financial implications arising from this report. The Food Service plan will be met within the financial resources detailed in the plan.</p> <p>Contact officer: Sarah Didcote, Sarah.Didcote @cheltenham.gov.uk, 01242 775154</p>
Legal implications	<p>It is a statutory requirement to produce this plan on an annual basis.</p> <p>Contact officer: Vikki Fennell, vikki.fennell@tewkesbury.gov.uk, 01684 272015</p>
HR implications (including learning and organisational development)	<p>There are no HR implications arising from this report.</p> <p>Contact officer: Richard Hall, Richard.hall@cheltenham.gov.uk, 01594 812634</p>

<p>Key risks</p>	<ul style="list-style-type: none"> • Impact of service transformation/shared service progression – currently being managed through REST project. Likely impact could include reduction in resource, and re-prioritisation of services. • Reactive services will given their inherent nature always contain the potential for an element of risk. An unplanned event (e.g. a food poisoning outbreak) will require the diversion of resources away from scheduled plans. However, this is and will remain the essence of the service we deliver and will be tolerated and monitored throughout the plan with priority given to the appropriate control of high risk issues.
<p>Corporate and community plan Implications</p>	<p>The Food Service Plan supports the following of the council's priority outcomes:</p> <ul style="list-style-type: none"> • Cheltenham has a strong and sustainable economy • Communities feel safe and are safe. • People are able to lead healthy lifestyles. <p>The food safety service's outcomes include improved food safety and hygienic premises, high rating food businesses in the national food hygiene rating scheme, control of foodborne diseases – all of which help promote the local economy as well as protecting the health of the people who live, visit or work in Cheltenham.</p>
<p>Environmental and climate change implications</p>	<p>None</p>
<p>Property/Asset Implications</p>	<p>None</p> <p>Contact officer: David Roberts, 01242 264151, David Roberts@cheltenham.gov.uk</p>

1. Background

- 1.1 The White Paper “The Food Standards Agency – A Force for Change” identified the Food Standards Agency as having a key role overseeing local authority enforcement activities. This plan is required by the Food Standards Agency (FSA) as part of their monitoring and auditing systems.
- 1.2 Service plans are seen to be an important part of the process to ensure national priorities and standards are addressed and delivered locally. Service plans also:
 - ⦿ focus debate on key delivery issues;
 - ⦿ provide an essential link with financial planning;
 - ⦿ set objectives for the future, and identify major issues that cross service boundaries; and
 - ⦿ provide a means of managing performance and making performance comparisons.
- 1.3 The plan follows a standard format provided by the FSA and is required to be submitted to Members for approval. Whilst overdue, the Council has received a dispensation allowing late submission.

2. Reasons for recommendations

- 2.1 It is a statutory requirement to produce a Food Service Plan.
- 2.2 Planning improves performance of operational services.

3. Alternative options considered

- 3.1 No other alternatives are available as this plan relates to the delivery of a statutory function.

4. Consultation and feedback

- 4.1 A copy of the plan is made available on the Council website

5. Performance management –monitoring and review

- 5.1 Performance against the Food Service Plan takes place on a monthly basis with the production of an annual statutory data return.

5.2

Report author	Contact officer: Sarah Clark, Public & Environmental Health Team Leader, sarah.clark@cheltenham.gov.uk, 01242 264226
Appendices	<ul style="list-style-type: none"> 1. Risk Assessment 2. Food Safety Service Plan
Background information	<ul style="list-style-type: none"> 1. Food Safety Service Plan

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	Any risks associated with equality impact	Head of Public Protection	11.08.14	1	1	1	A	N/A – acceptable risk		SC	
2	Any environmental risks	Head of Public Protection	11.08.14	1	1	1	A	N/A – acceptable risk		SC	
3	If insufficient staffing resources are available to investigate fatalities/accidents/health and safety related incidents and deliver interventions (e.g. as a result of illness or competing service priorities), there is a risk of not achieving targets set out in the plan, resulting in a poor annual return and increased risk of investigation and intervention by the Health and Safety Commission. This would result in an adverse impact on the Council's reputation.	Head of Public Protection	11.08.14	4	2	8	R	Contingency plan: a) re-deployment of dual-competency staff to cover short-term resource issues (eg from EP, Food Safety or management) b) temporary contract with agency staff (as they will be suitably qualified and competent) c) use of resource from neighbouring district short term (mutual aid) d) request authorisation to recruit into vacant post if situation occurs e) re-prioritisation of work plan to focus	In place	SC	Already on dept risk register

								on most risky activities			
4	Lack of resource due to major emergency or food/infection related incident resulting in failure to deliver statutory function and protect employees and the public from risk of injury or illness	Head of Public Protection	11.08.14	3	3	9	R	Likely to be short-term if risk is realised so can reduce risk with mitigation: a) mutual aid from neighbouring districts to cover high risk notifications or complaint investigation (arrangement through Glos H&S Liaison Group) b) notification to HSE of incident and possible impact on performance c) use of agency contract staff to backfill if necessary	In place	SC	Yes - dept
5	Loss of Idox Uni-Form as a stable case management system (ie risk data relating to any business in Cheltenham cannot be accessed, complaint information cannot be retrieved and priority based interventions cannot be	Head of Public Protection	11.08.14	5	2	10	R	Reduce risk by: a) reporting all issues to ICT and user group rep b) have now produced paper versions of inspection forms and Legal Notices etc c) reliance on paper files d) ICT	Determined by ICT	SC	Yes – dept but also flagged on business continuity etc for past 2-3 years as

	planned)							have planned to invest heavily in infrastructure including virtual hosting of Uni-Form			this is an ongoing issue.
6	Conflicting priorities could result in less businesses being inspected each year overall – examples of these other priorities are commercially orientated eg Primary Authority Partnership with Edwards & Ward initially (income generator), Food Hygiene Rating Scheme administration; consistency, revisits etc; sampling; and Food Standards Agency projects.	Head of Public Protection	11.08.14	2	3	6	A	Accept risk as inspection schedule performance has been adjusted. 100% of highest risk businesses to be inspected according to annual programme – some resource diverted from lowest risk premises to be used on other priorities eg PAPs, sampling, infectious disease investigation.	In place - alternative enforcement strategy and revised inspection targets	SC	On dept register



CHEL TENHAM
BOROUGH COUNCIL

FOOD SAFETY SERVICE PLAN 2014–2015

1. FOOD SAFETY SERVICE AIMS AND OBJECTIVES

1.1 Background, Aims and objectives

Background

The requirement to have a Service Plan is laid down by the Food Standards Agency (FSA) in its *Framework Agreement on Official Feed and Food Law Controls by Local Authorities, Amendment number 5*. The FSA is an independent monitoring and advisory body that issues guidance to ensure local authorities' delivery of official controls is 'effective, risk-based, proportionate and consistent'.

Aim

The key food safety function of Cheltenham Borough Council is to ensure that the food sold, offered and stored for sale and entering the Borough is wholesome and fit for human consumption.

Our objectives include:

The regular control of food premises within the Borough.

The investigation of the safety and fitness of food including all complaints about the operation of businesses within the Borough.

To sample foods within the Borough whilst participating in local, regional and national food sampling programmes.

To ensure we license, approve and register all food premises within the Borough as required by legislation.

To undertake appropriate and proportionate food safety enforcement action within the Borough.

To undertake Home and Originating Authority duties within the Borough.

To promote food safety by way of advice and assistance to all food businesses, citizens and visitors of the Borough.

To administer and promote the national Food Hygiene Rating Scheme

To undertake Primary Authority Partnership arrangements

To control foodborne infectious diseases through the investigation of notifications

1.2 Links to Council Strategy 2010-2015

The Council strategy sets out three community objectives:

- Enhancing and protecting our environment;
- Strengthening our economy; and

- Strengthening our communities.

Our food safety service contributes to all three of these objectives in the overall improvement in the wellbeing of those who live, visit and work in Cheltenham.

The work of the team also supports the following outcomes identified in the Corporate Business Plan 2013-14:

- Cheltenham has a strong and sustainable economy
- Communities feel safe and are safe
- People are able to lead healthy lifestyles

The cross-cutting objective of ensuring we provide value for money services that effectively meet the needs of our customers is at the core of our food service delivery plan.

2. BACKGROUND

2.1 Profile

Cheltenham is an attractive and vibrant town serving an extensive catchment area in central and eastern Gloucestershire and the South Midlands. It is ranked in the top thirty regional shopping centres in the UK, third in the South West and has the eighteenth highest consumer expenditure in Great Britain.

The Borough is based on the town of Cheltenham and is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares and has a population of over 110,000.

Cheltenham has an ever-increasing wealth of restaurants and eating places. Twice a month it hosts a farmers market offering a valuable opportunity to sample local produce. The town offers a wide range of educational and employment opportunities, a year-round programme of festivals and events plus a strong cultural and sporting profile.

2.2 Organisational Structure

The food safety service is within the Public and Environmental Health team of the Public Protection Department. The structure is shown in Appendix 1.

2.3 Scope of the Food Service

The Council is not a Unitary Authority and therefore shares its duties under the Food Safety Act with the Trading Standards Department of Gloucestershire County Council. Cheltenham Borough Council aims to provide a full range of services within its remit offering a balanced approach between education and enforcement.

The Borough Council food safety service is provided by three appointed and authorised officers in accordance with the requirements of the FSA code of practice. These officers are also responsible for infectious disease control along with other environmental health functions in all food premises within the Borough. These activities usually include health and safety inspections, accident investigation, complaint investigation and drainage issues. The officers are also responsible for food safety advice at events and festivals in the district of Cheltenham.

Specialist services such as public analyst and food examiner are provided externally by Worcester Scientific Services, Worcester and The Public Health England Food, Water & Environmental Laboratory, Birmingham, respectively.

Also within the scope of the food service are the following functions: sampling (food, water and environmental); primary authority partnerships and the local administration and promotion of the national food hygiene rating scheme.

Demands on the Food Safety Service

The Service Delivery Point:

Address	Hours	Contact details
Cheltenham Borough Council Municipal Offices Promenade Cheltenham GL50 9SA	Mon, Tue, Thurs and Fri (09.00-17.00) Wed (09.30- 17.00)	01242 775020 env.health@cheltenham.gov.uk

There is an out of hours emergency service available which addresses the emergency closure of premises, food product withdrawal and outbreaks of food associated disease.

On 31st March 2014 there were 1016 food businesses on our database - the profile is given in the table below:

	NO. OF PREMISES
PRIMARY PRODUCERS	1
MANUFACTURERS + PACKERS	9
IMPORTERS/EXPORTERS	1
DISTRIBUTORS/TRANSPORTERS	10
RETAILERS	166
RESTAURANTS AND CATERERS	829

As is expected for a town like Cheltenham the hospitality and catering sector predominates, the majority being small or medium sized enterprises.

With such a small team, the programmed food hygiene intervention plan for any given year can be severely disrupted by food poisoning investigations, national food alerts, food sampling and non food related matters such as health and safety accident investigation.

2.4 Enforcement Policy and Regulatory Reform

Cheltenham Borough Council has adopted and published a corporate enforcement policy which will form the basis of all enforcement action undertaken by the Food Safety Service.

In recent years there have been a number of reviews conducted that have resulted in a change to the nature of regulation. The emphasis being that the regulatory system as a whole should use comprehensive risk assessment to concentrate resources in the areas that need them most.

In terms of food safety, this means concentrating efforts on those businesses that do not meet the minimum legislative standards, with alternative interventions in those that generally comply. This was further developed in the Regulatory Reform Act 2006 Compliance Code, which encompasses the criteria of the Enforcement Concordat of being transparent, accountable, proportionate and consistent with the additional element of being targeted only at cases in which action is needed.

There is a suite of interventions that focus on outputs and continued improvements in food safety. This allows us to choose the most appropriate action to be taken to drive up levels of compliance of food establishments with food law. In addition, we operate an Alternative Enforcement Strategy (compliant with Annex 5) which allows us to target resource at the highest risk premises.

3. SERVICE DELIVERY

3.1 Food Premises Regulation

The regulation of food premises is undertaken in accordance with the Food Safety Act 1990 Code of Practice. The interventions are focused on guidance issued by the Food Standards Agency to reduce the risk of e-coli 0157 from cross-contamination between raw and ready to eat foods. All food premises are subject to a detailed assessment based on particular criteria including types of food and method of handling, consumers at risk, level of current compliance in terms of practices, procedures including cleanliness and confidence in management.. This numerical calculation is transferred into the categorisation of premises from A to E. Category A premises are inspected a minimum of every 6 months, category B every year, category C every 18 months, category D every two years and category E premises every 3 years.

The food safety team aim to inspect all non-compliant food businesses within our area within 28 days of the due date. This includes all newly registered premises as they are deemed non-compliant until the first visit and a risk assessment has been undertaken. All non-compliant category A and B premises, i.e. those that fall significantly short of broad compliance will be visited by the due date. Other categories of premises that are broadly compliant will be addressed by a combination of official controls and other interventions.

Further official control visits are made to premises where there are food safety concerns, in particular where the level of current compliance in food safety practices and procedures fall below satisfactory or there is little or no confidence in management. Other visits to food premises may follow a request for advice, complaint or an alleged food poisoning incident. Visits are primarily unannounced with evening/weekend inspections undertaken when required to accommodate the needs of some food businesses, e.g. those that do not open during office hours and markets and festivals held at weekends.

In line with current guidance and the necessity to target ever scarce resource at higher risk activities, we operate an alternative enforcement strategy for low risk businesses.

Performance monitoring

Each local authority must submit a statutory return to the FSA on their official food controls each year through the Local Authority Enforcement Monitoring System. Monitoring tables can be viewed on the FSA website: <http://www.food.gov.uk/enforcement/monitoring/laems/mondatabyyear> although it can take some time for the latest data to be published.

The national performance indicator (NI 184) which looked at the level of broad compliance within food businesses has been discontinued and has not been replaced. However, the intention of the food service is still to target resources where

they are needed, i.e. at those premises that are not broadly compliant. The driving up of standards year on year must be demonstrated in the delivery of improvements for the community.

This can now be demonstrated through Cheltenham's participation in the national Food Hygiene Rating Scheme, which is a public interface to food hygiene standards in premises that sell food direct to the final consumer. Each food business in the scheme is given a food hygiene rating ranging between 0 (urgent improvement necessary) and 5 (very good) after it has been inspected, and the level of compliance with food safety and hygiene legislation is reflected in the rating - a rating of 3 and above indicates the premises is broadly compliant. The website can be viewed at www.ratings.food.gov.uk

2008/2009 was a baseline year with less than 70% of our food premises being broadly compliant. There followed a year on year increase in this figure, and on 31st March 2013, 98% of food premises in Cheltenham in the food hygiene rating scheme were broadly compliant, i.e. achieved a rating of 3 or above. This year, the figure currently stands at 91% (n=731/809 premises in scope). The slight drop is thought to reflect Cheltenham's high standards in implementing E Coli 0157 guidance and will be reviewed through consistency training and liaison with the Food Standards Agency.

The '**broadly compliant**' target for 2014-15 (set locally) is 98%. A 100% target is not considered realistic as all unrated new businesses are automatically non-compliant before first intervention.

A **target number of interventions** is not set on an annual basis as the number of premises opening and closing or changing food liability throughout the year means such a target would not be meaningful. However, it is useful to assess the percentage of planned interventions delivered per risk rating category. Therefore, the following targets apply for the **percentage of interventions** achieved for 2014-15:

- 100% of unrated new food premises inspected within 28 days of registration/opening
- inspect 100% of Category A premises due for intervention
- inspect 100% of Category B premises due for intervention
- inspect 96% of Category C premises due for intervention*
- inspect 94% of Category D and E premises due for intervention*

*lower targets are given for Category C-E premises as they present a lower risk to public health and are more likely to contain a higher mix of seasonal premises.

Benchmarking

The aim is to establish baseline data and agree useful local indicators for future use as part of a county group. For example, the comparison of food hygiene ratings.

3.2 Food Complaints

Food complaints are investigated in accordance with the FSA Code of Practice. The number of food complaints fully investigated by the food safety team remains in the region of 20 per year with around 50 receiving at least partial investigation depending on evidence available.

Performance target: to instigate investigation of 96% of food safety complaints received within three working days. A target has not been set for the resolution of these complaints as that depends upon the most appropriate course of enforcement action for each complaint on a case by case basis. In 2013-14 we achieved 93% against target (n= 135/146).

3.3 Primary Authority Principle

The Council will consult at an appropriate level with the Primary Authority for any food business, in accordance with the principles laid down in The Food Safety Act 1990 Code of Practice and BDRO guidance.

3.4 Advice to Businesses

It is the policy of the Section to provide assistance to local food businesses when requested to help them comply with the legislation and to encourage the use of best practice. This is achieved through a range of activities including:

- Advice given during inspections and other visits to premises
- Provision of advisory leaflets
- Responding to service requests and enquiries
- Attendance at Event Consultative Groups to advise on food safety at public and community events.

Whilst the resources of the Food Safety Service will always be used in proportion to the risk to public health, every effort will be made to accommodate requests for advisory visits to food premises.

3.5 Food Sampling

The food service participates in Public Health England coordinated cross-regional food sampling programmes as well as national studies. In 2013-14 this included: soda from dispensers; dish cloths; salad from restaurants and takeaways; imported ready to eat foods; and dishwashers hand washing and the hygiene of recently washed items. In addition, the county food safety liaison group were successful in obtaining funding for ATP (Adenosine triphosphate) monitors for each district. These were used to assess the effectiveness of cleaning regimes. Foods are also sampled in response to complaints and food poisoning investigations when necessary.

The sampling plan for 2013-14 includes ready to eat platters; takeaways with a food hygiene rating of 3 or less; lightly cooked beef products; soft fruits; and soft ice cream.

Performance target: : to participate in 100% of local, sub-regional and national sampling studies as agreed by Gloucestershire Food Safety Liaison Group and to follow up 100% of any unsatisfactory results with the respective businesses. 100% performance was achieved for 2013-14 and this target remains for 2014-15.

3.6 Control & Investigation of Outbreaks & Food Related Infectious Disease

The measures to be taken to control the spread of infectious diseases are contained in various acts of Parliament and their associated Regulations. This legislation places a duty on local authorities to control the spread of food poisoning and food and water borne diseases.

Annual notifications vary from year to year with a noticeable increase in Norovirus outbreaks in recent years. These outbreaks are often associated with care homes, day nurseries and other similar settings which have a more vulnerable group of clients. Intervention in these outbreaks takes up a significant amount of officer time.

The objectives in respect of this service are:

- To administer and implement our statutory responsibilities relating to the control of infectious disease.
- Investigate all notifications of food poisoning cases and likely sources of infection whether confirmed or not at the earliest opportunity.
- Where a source is identified take appropriate action to ensure risk of spreading is controlled.
- Protect the well-being of individuals at risk by taking action to contain the spread of infection and provide advice and information regarding personal hygiene, food handling and control of infection.
- Exclude food handlers and people working with high-risk groups in consultation with the Consultant for Communicable Disease Control (CCDC).
- A Countywide "Outbreak Control Plan" is operated including standardised food poisoning investigation questionnaires.

Performance target: to action 100% of infectious disease notifications within one working day (with the exception of *Campylobacter* which has been put on reduced surveillance by the local health protection unit – however the food safety team are contributing to FSA's acting together on campylobacter project in 2014-15). Performance for 2013-14 was 100%.

3.7 Food Alerts

The Food Standards Agency operates a system to alert the public and food authorities to serious problems concerning food that does not meet food safety requirements.

Food alerts vary in significance and require an appropriate response. Some are of high priority and require immediate action. This may involve contacting and/or visiting food premises and taking immediate action under powers contained in the Food Safety Act 1990. Others are for information only.

All alerts are received directly from the Food Standards Agency via a secure dedicated computer network system and via the Public and Environmental Health Managers mobile phone text messaging service. The Manager will instigate the necessary response and provide the necessary out of hours cover for this service.

Where the Council becomes aware of a serious localised incident or a wider food safety problem, it will notify the Food Standards Agency in accordance with the Code of Practice.

It is estimated that around 100 food alerts requiring various levels of action will be received on an annual basis. It is difficult to estimate the resource required to meet this responsive element of the service as the work associated with individual alerts can vary significantly.

3.8 Liaison with Other Organisations

The Council is committed to ensuring that the enforcement approach it adopts is consistent with other enforcing authorities. This takes place through regular meetings and attendance by the manager at the Gloucestershire Food Safety Group. This group comprises of peer representatives of each of the six District and Borough Councils in the County, the County Council Trading Standards Service, the Food Standards Agency, the local FSA vet and PHE Laboratory Service.

The forum provides a mechanism for discussion of relevant food matters, the provision of training on a county-wide basis, the formulation of policy, documentation and guidance and co-ordinated responses to Government and Central Agencies.

The Council attends the Gloucestershire Public and Environmental Health Forum (previously known as the Consultant in Communicable Disease Committee). By means of this forum, which meets half yearly, members are kept informed about relevant subjects and are able to benefit from the valuable and very necessary liaison between public health and medicine.

A Divisional Veterinary Officer is part of the Forum and is able to brief the group on local and national issues regarding animal welfare, disease control and food safety.

Within the Council, the Food Service is also a consultee for the planning, building control and licensing functions.

4. RESOURCES

4.1 Financial Allocation

The Food Safety Service budget for the coming year is £184,000 which includes staffing, travel subsistence, I.T. development, legal action and office overheads necessary as part of the food safety enforcement function. Specific Food Safety related insurances. Recharges for I.T. support, Human Resources, accountancy and audit. Corporate insurances, communications, E government and asset management.

The Council always seeks to recover costs following successful legal proceedings wherever possible.

4.2 Staffing Allocation

All food safety officers are appropriately trained and competent to work within this field. Officers are authorised according to their competency and experience. There are 3 FTEs dedicated to the delivery of the food safety service.

The food safety service is led by Sarah Clark who is EHRB registered.

There are two SEHOs and one senior technical officer in the food safety team. Chris Fawcett is EHRB registered and widely experienced in food safety. Bernadette Reed is an experienced officer with over 25 years experience in local authority environmental health. The senior technical officer is Stephen Edwardson. Stephen is EHRB registered and specialises in food safety enforcement.

Additionally, the Public Protection Heads of Service, Barbara Exley and Yvonne Hope, are EHRB registered and widely experienced in food safety enforcement.

4.3 Staff Development Plan

The Council has an annual review system of staff, this process includes training needs. The food safety team holds regular meetings to review and distribute workloads in addition to monthly 1-2-1 meetings for all the team. Any training needs required for new legislation, guidance etc are discussed and actioned at these meetings.

Food safety regulators are required to achieve a minimum of 20 hours of continued professional development every year. The service encourages cascade training as a mechanism to disseminate new guidance and further staff development.

5. QUALITY ASSESSMENT

Local and national performance indicators are reviewed annually.

All officers use standard inspection/audit forms and have undergone consistency training. Further training is planned in the coming year.

Customer satisfaction surveys are provided to businesses we deal with in accordance with National Indicator 182 (the percentage of customers satisfied with regulatory services - Environmental Health is one such regulatory service). In 2012-13, 88% of customers were satisfied with the food safety service they received. In 2013-14 this figure was 92%.

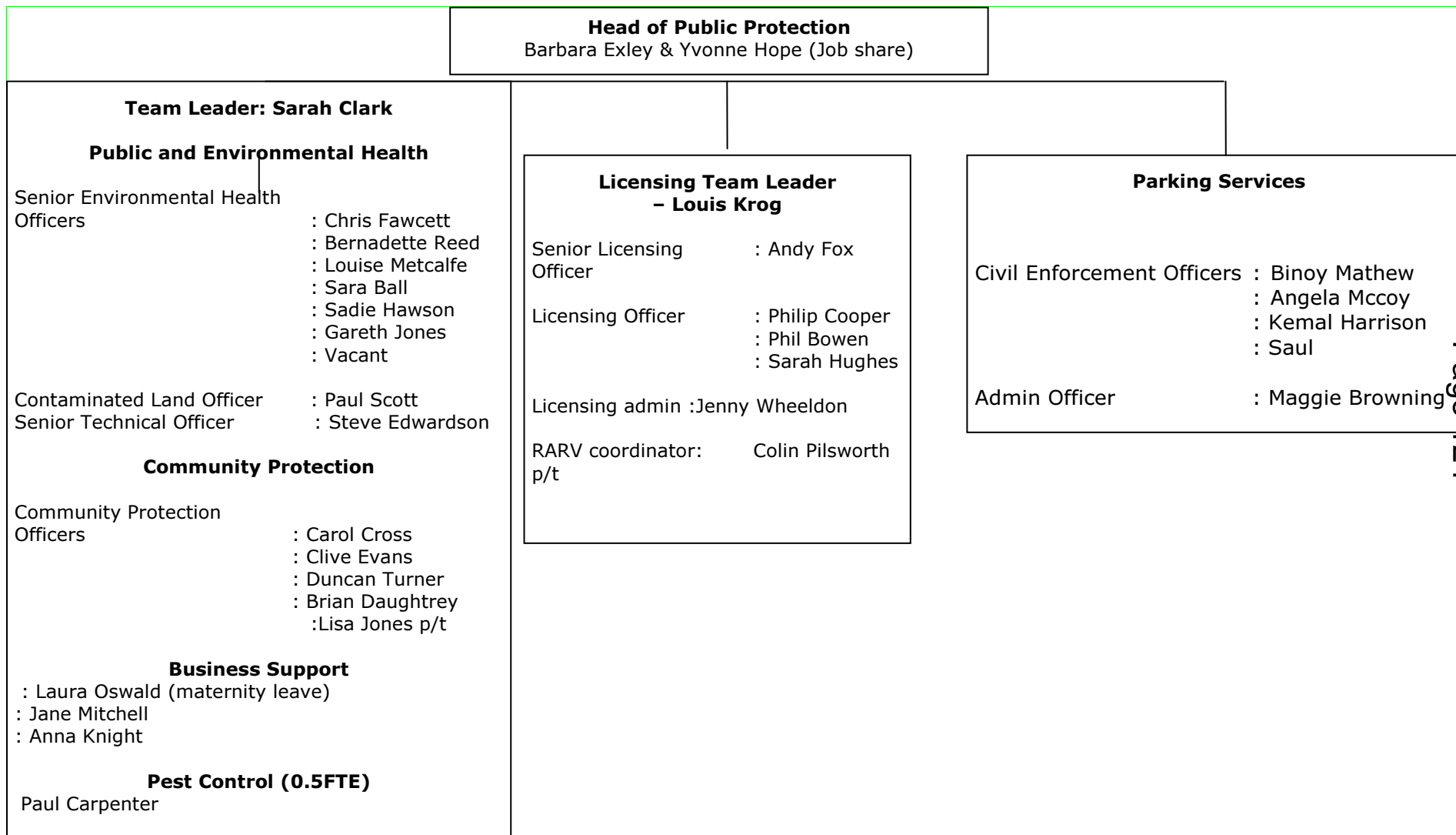
Performance target: to achieve 90% customer satisfaction with EH regulatory service. This was met in 2013-14 (92%).

The Uni-Form database (which also forms the Public Register of food premises) is audited on a monthly basis for data accuracy before upload to the Food Hygiene Rating Scheme portal.

6. REVIEW

Last year's progress in food safety includes:

- continuing a high standard of broadly compliant businesses included in the food hygiene rating scheme (at time of report publication there were no 0 rated premises)
- intervention at the majority of premises scheduled for inspection
- prioritisation of visits to non-compliant food businesses and use of alternative enforcement strategy
- 419 written warnings of non-compliance with food hygiene legislation
- one voluntary closure of a food premises because of food safety risk
- participation in national and regional food sampling programmes and development of staff competencies in this area
- 627 food safety related visits carried out to businesses
- received and actioned 189 infectious disease notifications.



**Cheltenham Borough Council
Cabinet – 16th September 2014
Health and Safety Service Plan**

Accountable member	Councillor Andrew McKinlay, Cabinet Member for Development & Safety
Accountable officer	Head of Public Protection (Barbara Exley/Yvonne Hope)
Ward(s) affected	All
Key Decision	No
Executive summary	<p>The Food Standards Act 1999 and The Health & Safety at Work etc Act 1974 requires the Council to produce a Health & Safety Service Plan.</p> <p>The Health & Safety Service Plan is the Council’s expression of commitment to the delivery of an improving cost effective and efficient regulatory service.</p> <p>This service plan is an annual plan detailing how Cheltenham is going to undertake its statutory health & safety regulatory functions. It is an operational plan falling within the Public Protection service delivery under the Director of Environmental and Regulatory Services.</p>
Recommendations	I therefore recommend that Cabinet approve the attached Health and Safety Service Plan service plan for 2014-15.

Financial implications	<p>There are no financial implications arising from this report. The Health & Safety plan will be met within the financial resources detailed in the plan.</p> <p>Contact officer: Sarah Didcote, Sarah.Didcote @cheltenham.gov.uk, 01242 775154</p>
Legal implications	<p>It is a statutory requirement to produce this plan on an annual basis.</p> <p>Contact officer: Vikki Fennell, vikki.fennell@teWKesbury.gov.uk, 01684 272015242</p>
HR implications (including learning and organisational development)	<p>There are no HR implications arising from this report.</p> <p>Contact officer: Richard Hall, Richard.hall@cheltenham.gov.uk, 01594 812634</p>

<p>Key risks</p>	<ul style="list-style-type: none"> • Impact of service transformation/shared service progression – currently being managed through REST project. Likely impact could include reduction in resource, and re-prioritisation of services. • Reactive regulatory services will given their inherent nature always contain the potential for an element of risk. An unplanned event (e.g. a serious injury or fatality) will require the diversion of resources away from scheduled plans. However, this is and will remain the essence of the service we deliver and will be tolerated and monitored throughout the plan with priority given to the appropriate control of high risk issues.
<p>Corporate and community plan Implications</p>	<p>The Health & Safety Service Plan supports the following of the council's priority outcomes:</p> <ul style="list-style-type: none"> • Cheltenham has a strong and sustainable economy • Communities feel safe and are safe. • People are able to lead healthy lifestyles. <p>The Health & Safety Service's outcomes include topic based interventions in risk areas such as legionella, large scale events, warehouse and distribution premises, falls from height, cutting machinery, lifting equipment, gas safety in commercial premises, the beauty sector, radon, workplace health and wellbeing, duty to manage asbestos, and violence at work.</p>
<p>Environmental and climate change implications</p>	<p>None</p>
<p>Property/Asset Implications</p>	<p>None</p> <p>Contact officer: David Roberts, David.Roberts@cheltenham.gov.uk, 01242 264151</p>

1. Background

- 1.1 Section 18 of the Health and Safety at Work etc Act 1974 (HSWA) puts a duty on Local Authorities (LAs) to make adequate arrangements for enforcement.
- 1.2 The Section 18 Standard sets out the broader requirements for Enforcing Authorities (EAs) when complying with this duty.
- 1.3 Full compliance with this standard is mandatory for all EAs from 31 March 2011. This was achieved here in Cheltenham by the successful introduction of flexible warranting as part of a County wide project.
- 1.4 Service plans are seen to be an important part of the process to ensure national priorities and standards are addressed and delivered locally. Service plans also:
 - focus debate on key delivery issues;
 - provide an essential link with financial planning;
 - set objectives for the future, and identify major issues that cross service boundaries; and
 - provide a means of managing performance and making performance comparisons
 - Implement national statutory guidance, such as the recently released National Local Authority Enforcement Code.
- 1.5 The plan follows a standard format provided by the Health and Safety Executive and is required to be submitted to Members for approval. Whilst overdue, the Council has received a dispensation allowing late submission.

2. Reasons for recommendations

- 2.1 It is a statutory requirement for Local Authorities to make adequate arrangements for enforcement under the Health and Safety at Work Act 1974.
- 2.2 Planning improves performance of operational services.

3. Alternative options considered

- 3.1 No other alternatives are available as this plan relates to the delivery of a statutory function.

4. Consultation and feedback

- 4.1 County and regional initiatives and priorities are discussed with HSE and other LAs in the South West region. There is a Gloucestershire workplan for occupational health and safety as well as Cheltenham Borough Council specific plan.
- 4.2 A copy of the plan is made available on the Council website

5. Performance management – monitoring and review

- 5.1 Performance against the Health & Safety Service Plan takes place on a monthly basis with the production of an annual statutory data return.

Report author	Contact officer: Sarah Clark, Public & Environmental Health Team Leader, sarah.clark@cheltenham.gov.uk, 01242 264226
----------------------	---

Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Health & Safety Service Plan
Background information	<ol style="list-style-type: none">1. Health & Safety Service Plan

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	Any risks associated with equality impact	Head of Public Protection	11.08.14	1	1	1	A	N/A – acceptable risk		SC	
2	Any environmental risks	Head of Public Protection	11.08.14	1	1	1	A	N/A – acceptable risk		SC	
3	If insufficient staffing resources are available to investigate fatalities/accidents/health and safety related incidents and deliver interventions (e.g. as a result of illness or competing service priorities), there is a risk of not achieving targets set out in the plan, resulting in a poor annual return and increased risk of investigation and intervention by the Health and Safety Commission. This would result in an adverse impact on the Council's reputation.	Head of Public Protection	11.08.14	4	2	8	R	Contingency plan: a) re-deployment of dual-competency staff to cover short-term resource issues (eg from EP, Food Safety or management) b) temporary contract with agency staff (as they will be suitably qualified and competent) c) use of resource from neighbouring district short term (mutual aid) d) request authorisation to recruit into vacant post if situation occurs e) re-prioritisation of work plan to focus on	In place	SC	Already on dept risk register

								most risky activities			
4	Lack of resource due to major emergency or food/infection related incident resulting in failure to deliver statutory function and protect employees and the public from risk of injury or illness	Head of Public Protection	11.08.14	3	3	6	R	Likely to be short-term if risk is realised so can reduce risk with mitigation: a) mutual aid from neighbouring districts to cover high risk notifications or complaint investigation (arrangement through Glos H&S Liaison Group) b) notification to HSE of incident and possible impact on performance c) use of agency contract staff to backfill if necessary	In place	SC	Yes - dept
5	Loss of Idox Uni-Form as a stable case management system (ie risk data relating to any business in Cheltenham cannot be accessed, complaint information cannot be retrieved and priority based interventions cannot be planned)	Head of Public Protection	11.08.14	5	2	10	R	Reduce risk by: a) reporting all issues to ICT and user group rep b) have now produced paper versions of inspection forms and Legal Notices etc c) reliance on paper files d) ICT have planned to	Determined by ICT	SC	Yes – dept but also flagged on business continuity etc for past 2-3 years as this is an

								invest heavily in infrastructure including virtual hosting of Uni-Form			ongoing issue.
6	Further change of direction in guidance from central Government or HSE e.g. priority planned inspections or poor performers	Head of Public Protection	11.08.14	2	2	4	A	Accept risk as must follow statutory guidance. National re-prioritisation of 'high risk' is followed at district level through Work Well Gloucestershire	In place	SC	On dept register

This page is intentionally left blank



HEALTH & SAFETY SERVICE PLAN 2014-15

Service Obligations

The Council has a statutory duty to enforce the provisions of the Health and Safety at Work etc Act 1974, and associated regulations in all premises for which it has enforcement duties under the Health and Safety (Enforcing Authority) Regulations 1998. It also has a duty to adequately discharge its function in accordance with mandatory guidance from the Health and Safety Executive – section 18 standard.

Background to Health & Safety Service Plans

This Health and Safety Service Plan is a statutory document required under Section 18 guidance issued by the Health & Safety Executive (HSE).

This Service Plan sets out how Cheltenham Borough Council (CBC) will fulfil its statutory duty within the financial year 2014-2015 and details the priorities, aims and objectives for the enforcement of health and safety along with the mechanisms and arrangements for ensuring the effective delivery of the service.

Section 18 Standard

Section 18 of the Health and Safety at Work etc Act 1974 (HSWA) puts a duty on the Health and Safety Executive (HSE) and Local Authorities (LAs) to make adequate arrangements for enforcement. The Standard sets out the arrangements that LAs should put in place to meet this duty.

In complying with their duties under Section 18, Enforcing Authorities (EAs) are required to follow the HSE Enforcement Policy Statement (EPS) on the purpose, method and principles of enforcement.

The Section 18 Standard adds to the EPS, setting out the broader requirements for EAs when complying with their duty to make 'adequate arrangements for enforcement'.

Full compliance with the standard was mandatory from 1st April 2011. This was achieved in Cheltenham by working in partnership with neighbouring authorities and the HSE in the delivery of the Work Well Gloucestershire project.

Service Aims and Priorities

Overall **Aim** of the Service

“To work with others to protect people's health and safety by ensuring risks in the changing workplace are managed properly.”

Our **key priorities** are:

- To manage the risk in high risk, poor performing and/or rogue trader businesses - a targeted approach to risk in line with the Better Regulation agenda
- Investigating major injury incidents and fatalities
- To ensure enforcement decisions are consistent with our Enforcement Policy, the HSE's Enforcement Policy Statement and the Enforcement Management Model - ensures proportionate, consistent, transparent and accountable enforcement
- Train and develop our staff to ensure competence - encourages staff retention/recruitment and ensures credibility with local businesses

Links to Council Strategy

The Council strategy sets out three community objectives:

- Enhancing and protecting our environment;
- Strengthening our economy; and
- Strengthening our communities.

Our health and safety service contributes to all of these in the overall improvement in the wellbeing of those who live, visit and work in Cheltenham.

The health and safety service also supports these outcomes from the council's business plan:

- Cheltenham has a strong and sustainable economy
- Communities feel safe and are safe.
- People are able to lead healthy lifestyles.

A key driver is that we provide value for money services that effectively meet the needs of our customers.

Scope of the Service

The Health and Safety (Enforcing Authority) Regulations 1998 determine which businesses are enforced by the Council and which are enforced by the Health and Safety Executive (HSE). The Council aims to provide a full range of services offering a balanced approach between education and enforcement for all work places within our enforcement remit. This Service does not cover Health and Safety for the Council itself which is enforced by HSE and does not form part of this plan.

The majority of commercial premises in the Borough are small or medium sized enterprises (SMEs) employing less than 50 staff with retail and office premises accounting for a high percentage. These businesses have fewer resources to carry out in-house monitoring and do not have access to the support and training provided by multi-national companies. Health and Safety Officers may, therefore, find themselves spending a disproportionate amount of time working with smaller businesses than they would with much larger companies.

National, regional and local statistics provide evidence that the topics identified as priorities are those that cause injury and ill health at work and the aim is to concentrate time and effort on these areas where an impact on the reduction of work related accidents and ill health can be shown.

The estimated economic cost of health and safety ill health incidents (accidents and ill health) in Cheltenham is between £24.7 million and £37.8 million. The estimated cost for accidents in Cheltenham is between £7.6 million and £13.8 million.

Service Delivery

The Health and Safety function is delivered by the Public Protection Department which includes two FTEs dedicated to H&S regulation and health & safety licensing/registrations (these include animal licensing and the beauty sector).

Competence is an essential aspect of service delivery and must comply with the Section 18 standard. All regulators undertake the RDNA (regulators development needs analysis tool) which is mirrored in the Council's Learning Gateway which captures their development needs as part of the annual appraisal process.

Officers delivering the service are responsible for the following work areas:

- health and safety regulation, including inspections and requests for service
- investigation of reported accidents, dangerous occurrences and cases of occupational ill health
- advisory and promotional activities
- investigation of complaints relating to premises, practices and procedures
- the responsible authority in relation to public safety for licensing applications
- responsible authority for planning applications
- attendance at Event Consultative Groups or Safety Advisory Groups as necessary to advise on matters of public safety and health and safety at work
- registration/licensing of practices such as tattooing, skin piercers, acupuncture, electrolysis and the provision of advice to emerging sectors such as novel beauty treatments
- animal licensing including dangerous wild animals, boarding establishments, pet shops and riding schools.

We will deliver our H&S service in accordance with recently reviewed Advice/Guidance to Local Authorities on Targeting Interventions (now on revision 4): <http://www.hse.gov.uk/lau/lacs/67-2.htm>. This guidance gives national priorities for both proactive and reactive intervention. National guidance published in the last few years was that local authorities must reduce proactive inspections by a third. As a result, the emphasis is much more on topic-based inspections according to risk and at only visiting a premises when there is a genuine reason to do so. As part of central government's red tape challenge, the Health and Safety Executive have released a Local Authority National Code for enforcement which is a risk based approach for targeting health and safety interventions and recognises the respective roles of business and the regulator in the management of risk. The Code contains a list of activities and sectors suitable for targeting proactive inspection by local authorities. This list has been considered by the County Health and Safety Group when formulating the 2014-15 workplan. (see below).

Performance monitoring and review

There are no national indicators relating to health and safety enforcement and guidance from central government is that proactive inspections are to reduce by a third year a year. Therefore, local performance indicators have been chosen that reflect service standards for incident and complaint investigation and statutory return fields.

A review of performance against the district and county workplan is carried out as part of officer 121s, team meetings and Work Well Gloucestershire meetings. Performance is also discussed at team meetings and management meetings as well as at the county health and safety liaison group (at which the HSE is represented).

Investigation of Complaints

Complaints received about workplace activities we regulate are dealt with in accordance with the criteria of the Section 18 standard. A complaint is a concern, originating from outside CBC, in relation to a work activity for which we are the enforcing authority, that is sufficiently specific to enable identification of the issue and the dutyholder and/or location and that either:

- has caused or has potential to cause significant harm, or alleges the denial of basic employee welfare facilities, or
- appears to constitute a significant breach of law for which we are the enforcing authority

Investigation of Injuries, Diseases and Dangerous Occurrences at Work

Around 80 accidents, work related ill health or dangerous occurrences at work are reported to CBC each year under the Reporting of Injuries and Dangerous Occurrences Regulations 1995 (RIDDOR). Reported accidents and incidents are investigated in accordance with LAC 22/13 – Incident Selection Criteria Guidance <http://www.hse.gov.uk/lau/lacs/22-13.htm>

Liaison with other organisations

The Health and Safety Service actively participates in liaison arrangements with a number of other local authorities, agencies and professional organisations in order to facilitate consistent enforcement, share good practice and reduce duplication of effort.

The service represents and actively participates in the Gloucestershire Health and Safety Group, comprising of peer representatives from each of the six District and Borough Councils in the County and also a local representative from the Health and Safety Executive. The group have produced a workplan to tackle cross-county issues and these proactive inspections will be compliant with the new national Code for L.A.s. **The priority areas for Gloucestershire in 2014-15 are:** legionella, large scale events, warehouse and distribution premises, falls from height, cutting machinery, lifting equipment, gas safety in commercial premises, the beauty sector, radon, workplace health and wellbeing, duty to manage asbestos, and violence at work. An inter-authority audit is also planned.

Service Performance Review

The following table summarises the interventions undertaken in 2013-14:

Intervention	Number of businesses reached
Reactive complaint investigations	17 visits
RIDDOR accident investigations	6 visits
Duty to manage asbestos interventions	10
Legionella registration visits	3
Licensing and planning consultations	14
Requests for advice	6 visits
Tattooist interventions	15 visits
Animal licensing visits	8 visits

Performance Monitoring review

Intervention	Targets 2013-14	Performance 2013-14
Reactive complaint investigations	Initial investigation within 3 working days for 95% of actionable complaints/requests for service	90.2%
RIDDOR accident investigations	98% actioned within 2 working days of notification where investigation criteria are met	Met
Event safety advice	100% attendance at relevant Event Consultative Groups 100% of requests for advice actioned within 3 working days	100%
Legionella interventions	95% of planned interventions delivered	Project continued to 2014-15 – county decision
Beauty sector project	95% of target premises to receive specific guidance and/or visits	Achieved
Asbestos	Action 100% of all ASB5 notifications (for asbestos removal) within 3 working days or before the 10 day notification period begins (whichever is soonest) Action 98% of Duty to Manage Asbestos service requests (DTM) within 3 working days	Met
Gas safety in commercial premises	Action 98% of referrals of matters of evident concern within 3 working days.	100%
Work related violence	Action 100% of referrals from Gloucestershire Police where the criteria have been met.	100%
Planning & licensing consultations	98% response within the statutory consultation period (varies according to application)	100%

Performance outcomes and targets for 2014-15

Intervention	Targets 2014-15
Reactive complaint investigations	Initial investigation within 3 working days for 95% of actionable complaints/requests for service
RIDDOR accident investigations	98% actioned within 2 working days of notification where investigation criteria are met
Event safety advice	100% attendance at relevant Event Consultative Groups 100% of requests for advice actioned within 3 working days
Legionella interventions	95% of planned interventions delivered
Warehouse and distribution workplace transport interventions	95% of interventions to be delivered
Asbestos	Action 100% of all ASB5 notifications (for asbestos removal) within 3 working days or before the 10 day notification period begins (whichever is soonest) Action 98% of Duty to Manage Asbestos service requests (DTM) within 3 working days
Industrial/retail/wholesale interventions relating to falls from height, cutting machinery and lifting equipment	95% of interventions to be delivered
Workplace health/healthy eating awards	Trial an award system (subject to resource allocation from PHE)
Planning & licensing consultations	98% response within the statutory consultation period (varies according to application)
Gas safety in commercial premises	95% of interventions to be delivered and training for enforcement officers to be held

This page is intentionally left blank

Cheltenham Borough Council

Cabinet – 16th September 2014

Scrutiny Task Group Review – Cemetery and Crematorium

Accountable member	Councillor Chris Coleman - Cabinet Member Clean & Green Environment
Accountable officer	Mike Redman Director of Environmental and Regulatory Services
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>This report sets out the response to the final report and recommendations of the Cemetery and Crematorium Scrutiny Task Group, which were received by Cabinet on 24 June 2014.</p> <p>At its meeting on 25 November 2013, the Overview and Scrutiny Committee commenced a review of the Cheltenham Cemetery and Crematorium cremator project. A Scrutiny Task Group was set up and the findings and recommendations of that Group were endorsed by the O&S Committee at its meeting on 3rd April. On June 24th, Cabinet requested that a report responding to the recommendations be brought back to the September meeting of Cabinet.</p>
Recommendations	<p>The Cabinet is recommended to:</p> <ol style="list-style-type: none"> 1. Consider and note the officer response and comments in relation to the recommendations of the Cemetery & Crematorium Scrutiny Task Group, as set out within Appendix 2 2. Approve the creation of a Cabinet Member Steering Group to consider a longer term solution for the Cemetery and Crematorium service, including members of the Scrutiny Task Group, to help ensure effective implementation.
Financial implications	<p>There are no direct financial implications arising from this report. Some of the recommendations refer to the council's contract and procurement rules and indicate where these need to be strengthened and highlighted to support officers in undertaking future exercises.</p> <p>Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123</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>The winding-up of the Crawford Equipment Europe Limited was completed on 12 August 2014 and the liquidator reported that there were no funds to distribute to creditors.</p> <p>Contact officer: Peter Lewis@tewkesbury.gov.uk, 01684</p>
<p>HR implications (including learning and organisational development)</p>	<p>HR implications arising from this review are contained in appendix 3.</p> <p>Contact officer: Julie McCarthy</p> <p>Julie.mccarthy@cheltenham.gov.uk Tel: 01242 264355</p>
<p>Key risks</p>	<p>As set out within Appendix 1</p>
<p>Corporate and community plan Implications</p>	<ul style="list-style-type: none"> Cheltenham's natural and built environment is enhanced and protected.
<p>Environmental and climate change implications</p>	<p>Appendix 3, point three (xv) refers to mercury abatement. There is no statutory requirement for mercury abatement equipment to be fitted at crematoria; the cremation sector operates a 'burden sharing' approach (the CAMEO scheme) whereby those crematoria without abatement equipment make a financial contribution to the scheme for every cremation undertaken. The scheme was introduced because the government set a target for cutting mercury emitted into the environment which could be met without the need for all crematoria to fit abatement equipment. National, rather than local, targets for mercury emissions were set because the 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 to ensure that abatement equipment is fitted at an appropriate time.</p> <p>Contact officer: Gill Morris, Climate change and sustainability officer, Gill.morris@cheltenham.gov.uk, 01242 264229</p>

<p>Report author</p>	<p>Contact officer: Sonia Phillips, Director, sonia.phillips@cheltenham.gov.uk, 01242 774973</p>
<p>Appendices</p>	<ol style="list-style-type: none"> Risk Assessment Response to the Scrutiny Task Group Review

Background information	O&S Committee : Scrutiny Task Group - Cemetery & Crematorium Final Report : 3 April 2014 Cabinet Report : Scrutiny Task Group Review – Cemetery and Crematorium : 24 th June 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
1.0	If a long term solution to the existing cremator issues is not found, the council will be the subject of negative / poor PR as the existing cremators are unable to deliver the standard and reliability of service required by our customers, with a higher risk of business continuity failures and consequential impacts on bereaved families and local funeral directors.	Director Environmental & Regulatory Services	28.8.14	4	4	16	Reduce	Ensure communication is in place with key stakeholders throughout the interim period and that they are consulted as part of the long term appraisal project.	01.04.15	Head of Property & Asset Management	Yes
2.0	If the actions identified within the response report are not implemented, future projects will be at increased risk of not delivering their agreed outcomes and outputs with consequential financial and reputational risks.	Director Environmental & Regulatory Services	28.8.14	4	2	8	Reduce	Ensure response report actions are included within relevant corporate processes/policies and procedures.	31.03.15	Relevant Service Managers identified in the O&S response report to Cabinet	Yes
3.0	If a long term solution to the existing cremator issues is delayed, there is a significant risk that service interruption would have a negative impact on income levels & the	Director Environmental & Regulatory Services	28.8.14	4	4	16	Reduce	Increase financial provision for the cemetery and crematorium in the interim period whilst the long term solution is considered.	01.04.15	Head of Property & Asset Management	Yes

	need for further unplanned expenditure on maintenance / plant repair.										
4.0	If a long term crematorium solution is not implemented in the medium term, the existing site will require increasing resources to keep it operational, as the efficiency and reliability of the operation decreases.	Director Environmental & Regulatory Services	28.8.14	4	4	16	Reduce	Approve and fund a long term solution.	01.04.15	Head of Property & Asset Management	Yes
5.0	If a long term solution to the existing cremators issue is not found, the Council will continue to perform poorly in relation to environmental standards relating to mercury abatement and carbon dioxide emissions are likely to be higher than necessary, contrary to the Council's environmental objectives.	Director Environmental & Regulatory Services	28.8.14	4	4	16	Reduce	Approve & fund a long term solution ensuring inclusion of addressing issues in relation to environmental standards	01.04.15	Head of Property & Asset Management	Yes
6.0	If a long term solution to the existing cremators issue is not found, the Council will continue to incur significant costs through the CAMEO scheme to offset the failure to abate mercury emissions.	Director Environmental & Regulatory Services	28.8.14	2	4	8	Reduce	Approve & fund a long term solution ensuring inclusion mercury abatement	01.04.15	Head of Property & Asset Management	Yes

O&S Recommendation to Cabinet	Response
1. The recommendations in relation to procurement (i-v below) be accommodated within the Authority's Procurement Strategy	<ul style="list-style-type: none"> Accept recommendation but already considered to be best practice. GOSS are reviewing procurement guidance and will ensure that the points raised are emphasised in the guidance to ensure that officers are more aware.
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	<ul style="list-style-type: none"> Accept recommendation. The evaluation criteria and weightings are requested by service areas and are generally based on complexity, risk, profile and value of the project. GOSS will advise on where the criteria needs to be adjusted.
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 recommendation, whilst being cautious as to their own agendas.	<ul style="list-style-type: none"> Accept recommendation. Procurement guidance already recommends that specifications / project briefs should be formulated from input from all stakeholders. In this particular case, dialogue with the funeral directors will be taking place
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 % of money retained for this purpose is more significant than the 5% held back on this project.	<ul style="list-style-type: none"> Accept recommendation although evidence from reference sites and tender evaluation and scoring are a critical part of the tender acceptance process. Any variation to the standard contractor payment terms is considered appropriate, this will need to be set out in the initial tender documents and agree with the contactor ahead of the commencement of the project. Retentions up to 10% are negotiable, over which the tender price is likely to be impacted upon
iv) Consideration should be given to putting in place a maintenance contract at the same time as agreeing the purchase contract.	<ul style="list-style-type: none"> Accept recommendation. This is normal practice which will be re-enforced in the review of the guidance.
v) On future projects of this size, at least 2 site visits are carried out to a preferred supplier and preferably another visit to then supplier with the second	<ul style="list-style-type: none"> Accept recommendation. This is considered to be best practice and will be re-enforced in the review of the procurement guidance.

Page 146

highest score	
<p>2. the recommendation in respect of staff management (ix and x below) be implemented by the appropriate Director</p> <p style="text-align: center;">_____</p> <p>ix The wellbeing 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</p> <p>x When dealing with such a significant contract in the future managers should receive full support from their Directors</p>	<ul style="list-style-type: none"> • Whilst there have been changes to line management arrangements at the Cemetery and Crematorium during the duration of the cremators project, this situation has now been stabilised, with Ubico providing operational line management and the new Environmental and Regulatory Services division providing the client-side overview. • The wellbeing of staff is paramount and will not be put at unacceptable risk as a result of demands arising from operational or maintenance needs. • Ubico will be reviewing risk assessments and helping to ensure that safe working conditions are maintained in the course of normal operations, or during the course of project-related activities, which will in turn be subject to the Council's project management requirements. • Directors will ensure that support is provided to managers dealing with significant contracts, with external expertise being brought in where there is any shortfall in appropriate skills in house.
<p>3. the recommendation in respect of abatement (xv below) is taken forward by the responsible Cabinet Member</p> <p style="text-align: center;">_____</p> <p>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</p>	<ul style="list-style-type: none"> • The issue of mercury abatement is to be dealt with as part of a feasibility study which will examine a number of options for the future of the Crematorium service as a whole, given it is unlikely that the mercury abatement system will function within the existing facility and will need to be replaced. Financial provision will be made within the crematorium budget as part of the revised budget processes to address the payment into the CAMEO fund. • The Council is currently advertising for expressions of interest from suitably qualified Consultants to carry out this Study. • Once the Council has had the opportunity to study the contents of the Consultant's report, recommendations will be made as to the best way of dealing with the abatement issue. • The timescales for the options appraisal are as follows :- <p><i>Prequalification and tendering:</i> September 2014</p> <p><i>Pre-contract and award:</i> November 2014</p>

	Contract Period: November 2014 – February 2015
<p>4. the recommendation in respect of legal options (xii below) is taken forward by the Borough Solicitor.</p> <p style="text-align: center;">_____</p> <p>xii Legal options could continue to be explored particularly any joint claims with other authorities in the same position.</p>	<ul style="list-style-type: none"> • One Legal has contacted six other councils that purchased cremator equipment from Crawford Equipment (Europe) Limited. All have looked at the prospect of taking legal action but, as the Company had no assets or professional indemnity insurance, legal proceedings were considered as having little or no chance of success. One council had used a principal contractor who sub contracted the Company to install its cremators and that council is continuing to work with the principal contractor to complete the contract. • At the final meeting of creditors on 12 August 2014, a resolution 'That the Joint Liquidators be granted their release' was proposed and passed. The liquidation of the Company has accordingly been finalised and the liquidators' final report and receipts and payments summary has been filed at Companies House; that report does not show any realisable assets on the part of the Company to meet the claims of creditor councils.
<p>5. the recommendations in respect of project management (vi and vii and viii below) are included within the Authority's project management processes and procedures</p>	<ul style="list-style-type: none"> • The importance of recommendations vi vii and viii was emphasised at a meeting of the Senior Leadership Team and Service Managers on 14th July
<p>vi All Projects over a certain cost and timescale need to be fully managed according to the project management principles and procedures adopted by the Council</p>	<p>The meeting endorsed the following specific responses:</p> <ul style="list-style-type: none"> • There are clear project management procedures on the Intranet which identify the thresholds for the application of greater project management formality. Senior managers have been reminded that these must be consistently applied and failure to do so is likely to result in disciplinary action. The thresholds are based on both cost and risk and outline requirements for senior sponsorship, qualified project managers, composition of project boards, management of budget, decisions, risks and issues etc.
<p>vii On significant projects decisions are logged and brought to the Cabinet or Cabinet Member at the appropriate time so that an audit trail can be</p>	<ul style="list-style-type: none"> • The decision log is mandatory for all projects above the identified financial and risk thresholds. In many projects it will be good practice to include the relevant Cabinet Member on the project board. Either way the log should be shared with the Cabinet Member

<p>maintained.</p>	
<p>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</p>	<ul style="list-style-type: none"> • Management of risks is mandatory for all projects and 'Project Risks' should be a standard item on all project board agendas thus ensuring the sponsor has visibility. Risks scoring 16 or above and any other risks with corporate significance must be placed on the corporate risk register. SLT has recently (February 2014) re-committed to a culture where project risks are effectively identified, mitigated and communicated. A process of peer challenge has also been advocated in order to get an independent view from experienced project staff outside of the specific project being risk assessed.
<p>6. the recommendations in respect of risk management and the Corporate Risk Register (viii below) is endorsed by the Authority's senior leadership team.</p> <hr/> <p>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</p>	<ul style="list-style-type: none"> • Audit Committee agreed a revised risk management Policy April 2014. This Policy applies to all officers and Members involved in the work of the Council. • The Policy states that all project and programme managers will assess the strategic and operational risks associated with the programme or project objectives. This assessment should be carried out before the project commences and be reviewed as the project proceeds and included within the Corporate Risk Register if the risk is likely to impact upon the authority as a whole. • The Policy allows each service team, project/programme to have a risk register which capture risks to their respective objectives making sure that risks are discussed and debated at management teams. If the overall score for a divisional or project risk is 16 or over then it must be brought to the attention of SLT for consideration for inclusion of the Corporate risk Register. • The Policy also states that Actions to mitigate the risk need to be identified early on and the monitoring must consider if they are being effective. If they are not then the project team, programme board or SLT need to identify new mitigating actions • To emphasize the importance of the policy and to help embed the management of risk within the culture of the organisation a Risk Management training course has been arranged for October 2014 for all Directors, Service managers and Project managers. In addition there is an on-line risk awareness training tool on the Learning Gateway which all officers and Members involved in the management of risk are asked to complete.
<p>7. The remaining recommendations (xi,xiii, xvi) are actioned by Cabinet /appropriate Cabinet Member.</p>	<ul style="list-style-type: none"> • Members are required to approve the tender acceptance report recommendations where the project expenditure / contract award is over £100K, even though they may have approved the initial budget for the expenditure.

<p>xi The cabinet member should be involved throughout any significant projects in the area of their portfolio but particularly at the tendering stage</p>	<ul style="list-style-type: none"> • If project expenditure / contract award is under £100K members can still be consulted by the service area / project manager throughout the life of any project if deemed high risk, high profile or high value. • Members can always be updated / consulted on project specifications, issues, risks and via a tender acceptance report (signed by a service director) prior to any high risk or high profile or high risk contract award. If deemed appropriate this should be built into the project plan. • Members should not be involved in the tendering and evaluation stages of procurement
<p>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</p>	<ul style="list-style-type: none"> • The Cabinet and Senior management team are committed to transparency and making sure that members and service users are made aware of potential service impacts at the earliest opportunity, whilst also being mindful of the need to effectively manage the reputation of the Council
<p>xvi The crematorium staff are formally thanked by the Council for their significant contribution to overcome the problems with the cremators</p>	<ul style="list-style-type: none"> • Executive board visited the Cemetery and Crematorium on July 18th (TBC) to view first hand some of the challenges being faced by the bereavement services team. Whilst directly appreciative of the efforts of staff during the visit, a specific recognition event is being organised to thank staff for their dedication during a difficult period for the service.
<p>xiv. The following recommendations for improving the crematorium should be explored:</p> <ul style="list-style-type: none"> - online booking system - 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 	<ul style="list-style-type: none"> • online booking system & new music system : Investigation of the options of these systems will form part of the 2015/16 Bereavement service plan • new loop in the chapel: further information regarding the reasons behind this recommendation is still required; however an inspection of the functionality of the existing loop system will be undertaken with budget provision made within the Planned Maintenance Programme for 2015/16 as required. • improved parking facilities & improved drop off facilities for the disabled – these will be considered as part of the 'long-term' solution and included within the feasibility study and options appraisal. • introduce a policy on overhanging trees and shrubs : a policy will be included within the 2015-16 Bereavement Services service plan, in consultation with the Council's Tree Officer.
<p>xiv (continued) ringfencing any finance secured</p>	<ul style="list-style-type: none"> • Investment proposals for the crematorium need to be considered along with other capital bids and

from the sale of the lodge for the improvements

any decision to invest or to ring fence any funds from the sale of the lodge will be subject to council approval.

This page is intentionally left blank

Cheltenham Borough Council
Cabinet – 16th September 2014
Mixed Plastics Bring Bank Recycling

Accountable member	Cllr Chris Coleman
Accountable officer	Scott Williams – Strategic Client Officer, Joint Waste Team
Ward(s) affected	All
Key Decision	No
Executive summary	This report provides an update on the mixed rigid plastic recycling trial at the 12 larger bring sites in Cheltenham and recommends to implement as a permanent recycling service enhancement, and to close the 4 smaller infrequently used recycling sites, as detailed in the report which went to Joint Waste Committee (JWC) in April 2014.
Recommendations	That Cabinet approves the implementation of permanent mixed rigid plastic recycling at the 12 strategic bring sites used in the trial, as supported by the business case, listed in paragraph 1.5 of this report and to close the 4 smaller sites listed in paragraph 1.7 of this report.

<p>Financial implications</p>	<p>Costs: There were no increased operational costs in running the trial and providing that the 4 smaller recycling sites are removed, there would not be any additional operational costs going forwards.</p> <p>Promotional costs of £800 from the 2014/15 waste promotions budget were used to promote the trial and it is envisaged that up to this amount would be required again, if the permanent launch of the service is endorsed. This will be financed from within existing budget.</p> <p>Income: Going into the trial it was estimated that there would be a reduction of £5,563 in material income as a result of not continuing to collect plastic bottles separately, due to the fact that mixed plastics do not attract any income; with an estimated increase of £1,031 in recycling credits as a result of the increase in material.</p> <p>However since the trial, Printwaste have reported that the quality of the material was actually lower than thought under the old plastic bottle service, so due to the volume increase, overall income has actually risen by £70 for the month of June. If this is a representative, then the Council would see an increase in income of approximately £840 per annum. There will however be an estimated reduction of £174 in material income and £508 in recycling credits by permanently closing the 4 smaller bring sites.</p> <p>The scheme therefore has proved to be essentially cost neutral with a modest net gain of £158 and therefore has no budgetary impact.</p> <p>Contact officer: Nina Philippidis, Business Partner Accountant nina.philippidis@cheltenham.gov.uk, 01242 264121</p>
<p>Legal implications</p>	<p>Section 55 of the Environmental Protection Act 1990 gives the Council as a waste collection authority the power to acquire waste with a view to recycling it.</p> <p>Contact officer: Donna Ruck, Solicitor donna.ruck@tewkesbury.gov.uk, 01684 272696</p>
<p>HR implications (including learning and organisational development)</p>	<p>There are no direct HR implications for Cheltenham Borough Council associated with the recommendations contained within this report.</p> <p>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242 264355</p>

Key risks	<p>Due to the volatility of the current market, failure to secure an outlet for mixed rigid plastics on permanent introduction of the service enhancement may result in CBC having to suspend the service and/or stockpile/landfill the material. However, this low risk is further mitigated by CBC having a contract in place with Printwaste for it to accept the material and source the necessary re-processors. As the current contract with Printwaste ends in April 2015, the options for the sorting and purchasing of all recycling materials are being considered to ensure that security regarding the necessary outlets for all of the recycling material collected in Cheltenham including mixed plastics can continue.</p> <p>Failure to promote the permanent service enhancement properly may result in low participation, which may affect the business case for permanent bring site mixed rigid plastic recycling into the future. This low risk is mitigated by the experience gained during the trial and the Joint Waste Team (JWT) will work with the Council's communications team, project managing a specific communications programme to support the permanent launch of this service enhancement if endorsed by Cabinet.</p> <p>Failure to properly understand the likely yield of plastics being collected at the bring sites may result in Ubico not being able to cope with demand, which may lead to increased waiting times for bank emptying and associated complaints being received by the Council. This low/medium risk has been mitigated by the experience in the trial and the JWT has supported CBC and Ubico, in re-assessing the business case now that two months of results of the trial have been gained. Removing the 4 smaller bring sites, will help mitigate this risk.</p>
Corporate and community plan Implications	<p>Approval of this service enhancement supports the Council corporate plan within 'Enhancing and Protecting our Environment' under 'Improvements to Waste & Recycling Services'.</p>
Environmental and climate change implications	<p>The Council operated a plastic bottle bring site service before the mixed plastics trial and it is these containers which have been used for the purpose of the trial. Any increase in the carbon emissions created by the permanent introduction of mixed plastics banks being emptied more frequently, should be offset by the saving in not visiting the 4 smaller sites which this report recommends to close</p>
Property/Asset Implications	<p>None</p> <p>Contact officer: David Roberts@cheltenham.gov.uk</p>

1. Background

- 1.1 A large proportion of residents in Cheltenham are keen to see the opportunity to recycle mixed rigid plastics within their area and have made this clear to the Council and its Members.
- 1.2 Prior to the commencement of the mixed plastics trial in June 2014, the Council offered residents the opportunity to recycle plastic bottles at 12 bring sites across the borough.
- 1.3 Earlier this year Ubico presented a business case to the Joint Waste Team and the then Cabinet Lead which showed an opportunity to introduce mixed plastic recycling at 12 well used bring sites, provided that 4 smaller infrequently used sites were closed to free up the capacity required to

provide the enhanced service. This is because the skip vehicle drivers would not have to spend the time visiting each of these smaller sites periodically to check whether or not they needed emptying. Their availability would instead be concentrated on emptying the banks located at the larger sites.

- 1.4** In order to test the viability of the business case a trial has been completed of mixed rigid plastic recycling at these larger bring sites in Cheltenham, and there is now the potential to introduce a permanent service enhancement following the positive results having been received which support the business case.
- 1.5** The trial began in June at the 12 sites listed below;
- Caernarvon Road, Morrisons
 - Priors Road, Sainsbury's
 - Manor Road, Sainsbury's
 - Bath Terrace car park
 - Hatherley Lane, Asda
 - Church Piece car park
 - Edinburgh Place car park
 - St James Street car park
 - Sixways car park
 - Everest Road, Old Patesians
 - Swindon Road recycling centre
 - Whaddon Road, CTFC
- 1.6** Following the analysis of two months of data from the trial the results support the business case and show that mixed plastic recycling can be introduced as a permanent service enhancement at the chosen bring sites.
- 1.7** As part of the permanent introduction and included in the business case, the 4 sites listed below would be closed;
- Tommy Taylor's Lane
 - QE II playing fields
 - St Marks Community Centre
 - Sandford Lido car park

2. Reasons for recommendations

- 2.1** Having tested the viability of the business case for mixed rigid plastic recycling in Cheltenham at the 12 larger bring sites, through the completion of two months of the trial, the results have shown that there has been a small increase (by weight) in the amount of material being collected with the Morrisons, Hatherley store being the most successful, along with the Swindon Road Recycling Centre - with Ubico reporting approximately twice as many uplifts per week now being made (compared to the plastic bottle skips previously used).
- 2.2** The data below shows the actual increase from the previous plastic bottles bring bank service in June 2013 to mixed plastics in June 2014 - even though the material composition hasn't changed, this increase can be attributed to the promotions which were completed as part of the launch of mixed plastics trial. It's also worth noting that the weight of plastic bottles collected as part of the kerbside collections has also increased slightly year on year for this period, which proves that the increase at the recycling banks during the trial isn't a transfer of material from that previously collected at the kerbside;

	Plastic Bottles	Mixed Plastics
	Jun-13	Jun-14
Bring Sites	5.98	6.17
Swindon Road	0.9	1.3
Kerbside	18.62	18.79

- 2.3** The material purchaser (Printwaste) has reported that there has not been any reduction in quality of the material being delivered compared with that before the trial began under the previous plastic bottle service. This leads us to believe that customers using the previous 'plastic bottle' banks across the town were using them to deposit all types of mixed consumer plastics anyway.
- 2.4** The customer service and communications teams at CBC have reported no press negativity or large numbers of public complaints during the trial of mixed plastic bring bank recycling at the bring sites.
- 2.5** The trial has demonstrated there is demand for the facilities and rationale to introduce mixed plastic recycling at the 12 selected larger bring sites as a permanent service enhancement. This should continue to deliver a small increase in recycling performance at cost neutrality.

3. Alternative options considered

- 3.1** The Council has previously explored the options available for collecting mixed plastics from the kerbside, with Ubico conducting a modelling exercise to assess the likely financial implications, but at this point any kerbside collection of this commodity is not financially viable within current budget constraints.

4. Consultation and feedback

- 4.1** The recommendations contained within this report have been endorsed by the Joint Waste Committee Senior Management Group which received this report as at its meeting held on 22nd August.

5. Performance management – monitoring and review

- 5.1** If the recommendations within this report are approved, then following the completion of a tailored communications and promotions campaign launch, the mixed plastics yield will be reviewed on a quarterly basis along with the other commodities as part of the Councils and JWT's performance management process.

Report author	Contact officer: scott.williams@cotswold.gov.uk, 07775 420943
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Report which was presented and approved by JWC on 1st April 2014 3. Ubico business case for mixed plastic bring site recycling
Background information	<ol style="list-style-type: none"> 1. None

The risk				Original risk score (impact x likelihood)			Managing risk					
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register	
1.1	Plastics market volatility	SW	22.08.14	3	3	9	Reduce	Contract in place with Printwaste for material sale until April 2015.	N/A	Scott Williams	No	
1.2	Lack of promotion of service on launch could result in low participation	SW	22.08.14	3	1	3	Accept	Communications and Promotions campaign to be complete at permanent launch	4-6 weeks following approval of recommendation	Scott Williams	No	
1.3	High material yield affecting Ubico's ability to deliver service	SW	22.08.14	3	3	9	Reduce	Closure of the four smaller sites to mitigate this risk and increased available operational capacity	Risk will continue to be monitored as part of contract management	Scott Williams No		
<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>												

Page 158

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

Joint Waste Committee

1st April 2014

Trial & Potential Permanent Service Enhancement of Mixed Rigid Plastics at Bring Sites in Cheltenham

Accountable Member

Cllr Roger Whyborn
Cabinet Lead CBC

Accountable Officer

Scott Williams
Strategic Client Officer - Joint Waste Team

Purpose of Report

To provide details of an opportunity to run a trial over a 12 week period of mixed rigid plastic recycling at a number of larger bring sites in Cheltenham, with the potential to introduce a permanent service enhancement if the results of the trial are favourable and support the business case.

Recommendation(s)

That the Joint Waste Committee;

Make the recommendation to Cheltenham Borough Council to complete a trial of mixed rigid plastic recycling at a number of the larger bring sites in Cheltenham.

Make the recommendation to Cheltenham Borough Council (CBC) to implement permanent mixed rigid plastic recycling at strategic bring sites if the results of the trial are supported by the business case.

Reason for Recommendation(s)

To test the viability of the business case for mixed rigid plastic recycling in Cheltenham at the larger bring sites and the potential to introduce as a permanent service enhancement, which should increase recycling performance for both CBC, JWC and the GWP.

Financial Implications

There is an estimated reduction of £5,563 in material income and £1,031 in recycling credits as a result of not continuing to collect plastic bottles separately.

There is an estimated reduction of £174 in material income and £508 in recycling credits by permanently closing the smaller bring sites.

The total estimated reduction in income is £7,276.

If the results of the trial are positive and the permanent service enhancement is introduced, it is anticipated that these reductions in income will be largely mitigated by the increase in all materials being collected at the larger bring sites, as a result of the permanent implementation of mixed rigid plastic recycling.

In which case, it would therefore be proposed to offset any reduction in income from within the current CBC waste management revenue budget.

Key Risks

The following risks are associated with the recommendation(s) within this report;

Due to the volatility of the current market failure to secure an outlet for mixed rigid plastics on permanent introduction of the service enhancement may result in CBC having to suspend the service and/or stockpile/landfill the material. However, this risk is mitigated by CBC having a contract in place with Printwaste for it to accept the material and source the necessary re-processors.

Failure to promote the trial and potential permanent service enhancement properly may result in low participation, which may affect the business case for permanent bring site mixed rigid plastic recycling. This risk should be mitigated by the Joint Waste Team (JWT) working with the Council communications team project managing a specific communications programme to support both the trial and the potential permanent launch of this service enhancement.

Failure to properly understand the likely yield of plastics being collected at the bring sites may result in Ubico not being able to cope with demand, which may lead to increased waiting times for bank emptying and associated complaints being received by the Council. The risk should be mitigated by the JWT supporting CBC and Ubico in re-assessing the business case once the results of the trial have been analysed.

Appendices

Attached at Appendix A is the business case for mixed rigid plastic bring site recycling in Cheltenham which has been prepared by Ubico.

Conclusion

A large proportion of residents in Cheltenham are keen to see the opportunity to recycle mixed rigid plastics within their area and have made this clear to the Council and its Members.

Whilst the implementation of permanent mixed rigid plastic recycling bring sites does carry its own risks both financially and reputationally, it is anticipated that these can be mitigated by careful assessment of the business case following the trial and through a tailored communications and promotion campaign for both the trial and potential permanent introduction of this service enhancement.



Cheltenham Borough Council
Expanded plastic recycling following a bring site review
January 2014

Ubico serves 18 'Bring Sites' on behalf of Cheltenham Borough Council. The materials collected in the council's banks are cardboard, paper, plastic bottles, glass and cans. Other materials are collected at the sites via third party and charity banks but these are outside the scope of this review.

Performance over two 12-month periods has been analysed (September 2011 to August 2012, and September 2012 to August 2013), with the analysis focusing specifically on the following areas:

- ◇ The number of empties undertaken at each site
- ◇ The total tonnage collected from each site
- ◇ The contribution of each site to the total arisings from all the bring sites

The total number of empties undertaken reduced from 2000 in 2011-12 to 1650 in 2012-13 (-350 per annum).

The total tonnage collected from all the sites also reduced by just over 80 tonnes.

Supermarkets are the most popular sites with Morrisons being the most serviced site. Bath Terrace car park is also very popular and is one of the most challenging sites due to space constraints and the depositing of commercial waste.

Tommy Taylor's Lane, QE2 Playing Fields, Quat Goose Lane (now closed), St Marks Community Centre, High St Car Park and Sandford Lido Car Park require only a handful of empties each year (1 to 6).

North Place car park site is being closed due to redevelopment and this will release additional capacity within the service (100 empties per annum, or 2 per week).

Plastic bottles account for a relatively small percentage by weight but due to the nature of the material there is a requirement for regular servicing of the skips. If the range of plastic were expanded to include mixed rigid plastic then it is recommended that a cautious approach is taken with only the busiest sites promoted as receiving mixed plastics.

The 350 per annum lift capacity plus the 100 from North Place, provide capacity for 9 additional lifts per week (based on 50 week operation). The table on page 2 suggests how this capacity may be utilised to introduce mixed rigid plastic to a limited number of bring sites.

Recycle Bank	Number of plastic skips	Number of empties Sept 12-Aug 13	Average per week (divided by 50)	Recommend sites and estimated number of additional collections
Caernarvon Road, Morrisons	2	50	1	2
Priors Road, Sainsbury's	1	42	0.84	3
Manor Road, Sainsbury's	1	39	0.78	2
Bath Terrace Car Park	1	30	0.6	2
Hatherley Lane, Asda	1	24	0.48	1
Church Piece Car Park	1	21	0.42	N/A
Edinburgh Place Car Park	1	19	0.38	N/A
St James Street Car Park	1	16	0.32	N/A
Sixways Car Park	1	14	0.28	N/A
Everest Road, Old Patesians	1	4	0.08	N/A
Q.E. II Playing Field	1	2	0.04	N/A
Whaddon Road, CTFC	1	1	0.02	N/A
Total	15	262	5.24	10.0

It is recognised however that providing mixed plastic collections at a limited number of sites might be confusing to the public. If a decision was taken to decommission the less frequently used sites (Tommy Taylor's Lane, QE II Playing Fields, St Marks Community Centre, High St Car Park and Sandford Lido Car Park) then the capacity generated would enable all current plastic bottle skips to be used for mixed rigid plastics (with the exception of QE II which would be closed). This is shown in the table below.

Recycle Bank	Number of plastic skips	Number of empties Sept 12-Aug 13	Average per week (divided by 50)	Recommend sites and estimated number of additional collections
Caernarvon Road, Morrisons	2	50	1	2
Priors Road, Sainsbury's	1	42	0.84	3
Manor Road, Sainsbury's	1	39	0.78	2
Bath Terrace Car Park	1	30	0.60	2
Hatherley Lane, Asda	1	24	0.48	1

Church Piece Car Park	1	21	0.42	0.5
Edinburgh Place Car Park	1	19	0.38	0.5
St James Street Car Park	1	16	0.32	0.5
Sixways Car Park	1	14	0.28	0.5
Everest Road, Old Patesians	1	4	0.08	0.5
Whaddon Road, CTFC	1	1	0.02	0.5
Total	13	260	5.20	13.0

The Joint Waste team have confirmed that Printwaste have committed to supporting CBC to run a trial of mixed plastics. The contract with Printwaste has not yet been finalised and this proposal is captured in the Heads of Terms which as yet have not been signed off. However Printwaste seem to be receptive of receiving this material.

The plastics market is quite volatile at the moment and therefore represents a risk to the ongoing provision of this service. Reports have been received of other authorities stockpiling mixed rigid plastics as they cannot find a market for them and do not want to pay the landfill costs (having already claimed recycling credits).

Without knowing the quality of the material being collected Printwaste estimate that they would charge between £20 and £30 a tonne to take mixed rigid plastic. This is in contrast to £70 per tonne that CBC currently receives for plastic bottles. In 2012/13 a total of 75 tonnes of plastic bottles were collected from bring sites. The table below shows the financial impact on material income if the change were made.

Material	Tonnage	Price	Impact
Plastic bottles	75	£70 (income)	- £5,250
Mixed plastics (incl. bottles)	75	£25 (est. expenditure)	- £1,875
Mixed plastics (growth)	20 (est.)	£25 (est. expenditure)	- £500
Recycling Credits Increase	20	£51.55	+ £1,031
		Total	- £6,594

In addition, closure of the smaller recycling sites would result in an anticipated reduction in income as follows;

Material	Tonnage	Price	Impact
Glass	9	£10.50	- £94.50
Cans	0.5	£110.00	- £55.00
Plastic Bottles	0.36	£70 (loss)	- £25

Recycling Credits Loss	9.86	£51.55	- £508
		Total	- £682.50

Conclusions

The closure of the less frequently used bring sites (Tommy Taylor's Lane, QE II Playing Fields, St Marks Community Centre, High St Car Park and Sandford Lido Car Park), along with the closure of the North Place car park site, will provide sufficient capacity to introduce mixed rigid plastic collections at the other sites within existing budget.

This would however leave a gap in bring site provision in the west end of the town centre area. To overcome this consideration should be given to retaining the High Street car park site as it is currently not a busy site and will need little attention.

Without agreed prices and handling charges for mixed rigid plastics it is not possible for Ubico to accurately determine the cost / benefit of expanding plastic recycling at bring sites but this report shows that the skip operation can be delivered within existing budget.

Risks

Financial - The market for recycled plastics is known to be volatile and this will impact on income budgets.

Financial – contamination and the percentage mix of plastic bottles to other rigid plastic containers may change and increase handling charges.

Reputation - If an end market cannot be found then the material may have to be landfilled.

Cheltenham Borough Council

Cabinet 16 September 2014

Ubico Ltd – revised governance arrangements for extended partnership and terms for new joiners

Accountable member	Cllr Steve Jordan
Accountable officer	Mark Sheldon, Director of Resources
Ward(s) affected	all
Key Decision	Yes
Executive summary	<p>Ubico was initially created as a result of work undertaken between Cotswold and Cheltenham Borough councils in 2011.</p> <p>A considerable amount of effort and some 'one off' set up costs were expended in the establishment of the company.</p> <p>In creating Ubico, the aspiration was for more councils to join the company in order to deliver a more joined up approach to waste and recycling across the county and to deliver further economies of scale that generate further savings to support the council's Medium Term Financial Strategy.</p> <p>In view of the potential expansion of the company, this report sets out the proposals for Governance of the company including decision making at Board meetings and the financial terms for new joiners to the company.</p>
Recommendations	<ol style="list-style-type: none"> 1. Authorise the Leader to take a decision, by way of a written resolution, to amend the Ubico Articles of Association and the Shareholder Agreement, based on the terms outlined in section 2 of the report and detailed at Appendix 2. 2. Delegate authority to the Director of Resources, in consultation with the Leader, to finalise and complete the Ubico Articles of Association and Shareholder Agreement on terms approved by the Borough Solicitor. 3. Approve the founder compensation payment of £45,333 to the founder councils for each new joiner to Ubico, as set out in section 4 of the report.

Financial implications	As set out in the report. Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123
Legal implications	The current governance arrangements require the agreement of both this Authority and Cotswold District Council to any changes to Ubico's Articles of Association and to the Shareholder Agreement. Discussions have taken place between the legal advisors of potential new shareholders and a common understanding has been reached on the implications of the proposed new governance arrangements set out in Appendix 2. Contact officer: shirin.wotherspoon@tewkesbury.gov.uk, 01684 272017
HR implications (including learning and organisational development)	None arising from this report Contact officer: Julie McCarthy, Julie.mccarthy@cheltenham.gov.uk, 01242 264355
Key risks	Appendix 1
Corporate and community plan Implications	The expansion of Ubico will support the delivery of key objectives in respect of waste and recycling targets and increase the potential to make further savings which contribute toward the councils MTFs funding gap.
Environmental and climate change implications	None arising from this report.
Property/Asset Implications	None arising from this report. Contact officer: David Roberts@cheltenham.gov.uk

1. Background

- 1.1 Ubico Ltd was created in 2011 as a two authority partnership. The company is owned equally and jointly by Cotswold District Council (CDC) and Cheltenham Borough Council (CBC) and the existing governance arrangements reflect the circumstances at that time.
- 1.2 A considerable amount of effort and some 'one off' set up costs were expended in the establishment of the company.
- 1.3 In creating Ubico, the aspiration was that more councils would join the company in order to deliver a more joined up approach to waste and recycling across the county and to deliver further economies of scale which, in turn, deliver further savings to support the council's Medium Term Financial Strategy savings.
- 1.4 This report sets out the proposals for revisions to the Governance arrangements of the company which are required to ensure that it remains effective following expansion. The report also covers the financial terms for new joiners to the company.

2. Revised Governance arrangements

- 2.1 To achieve growth via the inclusion of additional shareholders it is necessary to review company governance arrangements. Ubico's Managing Director has entered into discussions with potential new shareholders and Ubico's legal business partner has consulted with the legal officers of these potential new shareholders to discuss revisions to the current governance arrangements. The purpose of these discussions has been to seek a consensus between existing shareholders and potential new shareholders.
- 2.2 To achieve the company's strategic objectives, to continue to deliver efficiency savings and value for money, it is essential that the company grows via the inclusion of additional shareholders in the partnership.
- 2.3 As such, the original governance arrangements have been reviewed and the following key issues considered and recommendations made by Ubico's Board of Directors to shareholder councils.
- 2.4 Shareholder appointed Directors should continue to be officers of the shareholding council. Board membership should continue to be at officer level for the following reasons:
 - Key strategic decisions about the future of the company are retained by each council and exercised by the nominated shareholder.
 - Key strategic decisions about the contract and service delivery are retained by each shareholder council (or delegated to the Joint Waste Committee).
 - The role of a board member is prescribed in company law and their responsibility is to the company. Given that strategic decisions rest with the shareholder councils, it is clear that board business is predominantly operational and this sits better with officers.
- 2.5 Those matters reserved for approval by shareholders have been thoroughly reviewed. Some matters have been deleted as they were considered unnecessary given the breadth and depth of company law. Of those that remain, all are to be decided on a majority vote with some requiring a majority of not less than 75%.
- 2.6 The revisions to the governance arrangements are attached at Appendix 2. These revisions have

been formally considered by Ubico Board of Directors at a meeting on 11th August 2014 and are now recommended to the shareholders for approval. It is recommended that cabinet approve the revisions and to delegate authority to the Director of Resources, in consultation with the Leader, to finalise and complete the Ubico Articles of Association and Shareholder Agreement on terms approved by the Borough Solicitor.

3. Shareholders nominated observer

- 3.1** Cheltenham Borough Council requested that an informal Member Observer role was created to oversee the Ubico Board. This arrangement was not taken up by Cotswold District council.
- 3.2** Whilst a Member Observer from Cheltenham was agreed at the time of the establishment of Ubico it is now considered by Ubico Board of Directors that Member Observers are inappropriate given;
- a) the shareholder control over the appointment and removal of directors.
 - b) the contract monitoring arrangements in place via the Members Quarterly Performance Monitoring meetings.
 - c) the proven track record of the company.
- 3.3** In addition, their input would not be operationally feasible given the number of potential new shareholders. The Shareholder Board Directors have agreed to liaise with and brief Members as requested prior to or following Board meetings. Commissioners/client officers also receive the Board papers and may ask questions of any Director at any time.
- 3.4** This arrangement has been formally considered by Ubico Board of Directors at a meeting on 11th August 2014 and, in view of the potential for the company to grow, the recommendation of the Board is that the Member Observers role should be discontinued.
- 3.5** This issue will be discussed with Overview & Scrutiny Committee on 8th September, as board membership formed part of their previous review of Ubico operations, and I will report back verbally to Cabinet.

4. Set up costs

- 4.1** After taking the strategic decision to deliver environmental services under a different delivery model, Cheltenham and Cotswold councils incurred initial set up costs of £272,000 and invested significant officer time in managing the set up process whilst creating Ubico. As such, a lot of the 'hard work' in creating the company has previously been undertaken and new joiners will benefit from this work.
- 4.2** It is widely accepted that additional shareholders should compensate the founder councils for part of the original set up costs and the associated risk and time in undertaking such a transformational change. A figure of £45,333 for each additional shareholder has been calculated and considered to be a fair and reasonable contribution.

5. Client side review

- 5.1** Discussions are on-going on the client side to review performance management of Ubico given the number of potential shareholders.

6. Reasons for recommendations

6.1 The expansion of Ubico requires the governance arrangement of the company to be revisited to ensure that the company is able to operate efficiently and effectively with an increased number of councils.

7. Alternative options considered

7.1 Options for varying voting rights were considered by the Board of Directors.

8. Consultation and feedback

8.1 Potential partner councils have been consulted on the revised governance arrangements. Overview and Scrutiny committee will be consulted on 8th September 2014.

9. Performance management–monitoring and review

9.1 The Ubico board of Directors receive regular monitoring and performance reports and the overall performance of the company is monitored through the council’s client function and performance management framework. This includes reports to the overview and scrutiny committee and key performance indicators are included in the annual reports to council on the delivery of the council’s corporate plan.

Report author	Contact officer: Mark sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Revised governance arrangements
Background information	<ol style="list-style-type: none"> 1. Articles of Association for Ubico

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 governance arrangements for Ubico are not amended to accommodate new joiners, then the effectiveness of the company decision making and governance may be impacted.	MS	1/9/14	2	2	4	Reduce	Cabinet to approve the revised governance arrangements	30/9/14	Mark Sheldon	
	If the governance arrangements for Ubico are not amended to accommodate new joiners, then there is a risk that councils may be deterred from joining Ubico.	MS	1/9/14	2	2	4	Reduce	Cabinet to approve the revised governance arrangements	30/9/14	Mark Sheldon	
	If the member observer role arrangement is not discontinued, then the board of Directors meetings may become unworkable reducing the effectiveness of the Board of Directors and governance of the company.	MS	1/9/14	2	2	4	Reduce	Cabinet to approve the revised governance arrangements	30/9/14	Mark Sheldon	

Page 172

Explanatory notes

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

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

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

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

Guidance

Types of risks could include the following:

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

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

Risk ref

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

Risk Description

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

Risk owner

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

Risk score

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

Control

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

Action

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

Responsible officer

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

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

Transferred to risk register

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

UBICO LTD
BOARD OF DIRECTORS 11 AUGUST 2014
Revised governance for an extended partnership

TERMS FOR NEW JOINERS AND CHANGES TO GOVERNANCE ARRANGEMENTS

Following discussions with officers at the various councils currently interested in joining Ubico, the Board recommends the following Terms for New Joiners and Changes to the Governance arrangements:

A. General Terms for Joining Ubico

- Payment to CBC and CDC as a contribution towards set up costs including professional time spent on setting up the Company and associated risks taken by CBC and CDC.
- Upon receipt of at least 6 months prior written notice (unless otherwise agreed by the Shareholders) to the Shareholders and Ubico, a share will be issued if:
 - A convincing Business Case setting out the benefits to the Shareholders is submitted to and approved by the Shareholders;
 - There is no detrimental or negative impact to any Shareholder as a consequence of the New Joiner becoming a shareholder (to be evidence based); and
 - The New Joiner enters into a contract for services with Ubico upon the issue of a share in the Company.

B. Board Level

- Shareholder appointed Directors will continue to be Officers of the shareholding council.
- Member Observers should be discontinued. A Member Observer from Cheltenham was agreed at the time of the establishment of Ubico but Member Observers are now considered inappropriate given;
 - a) the shareholder control over the appointment and removal of directors.
 - b) the contract monitoring arrangements in place via the Members Quarterly Performance Monitoring meetings.
 - c) the proven track record of the company.In addition, their input would not be operationally feasible given the number of potential new shareholders. The Shareholder Board Directors have agreed to liaise with and brief Members as requested prior to or following Board meetings. Commissioners/client officers also receive the Board papers and may ask questions of any Director at any time.
- The quorum will comprise two thirds of shareholder appointed directors and half of other Directors of the Board.
- The aim will always be to achieve a consensus but the default position will be that decisions will be by majority.
- All Director votes will count.
- The Chair will be a Non Executive Director and will not have a casting vote.

C. Shareholder Level

- The quorum shall be 75% of shareholders.
- The Chair will be the Chair of the Board of Directors who will not have a vote.

- The aim will always be to achieve a consensus but the default position on reserved matters is detailed in section D – Reserved matters.

D. Reserved Matters

	In current agreement	Recommendation to Shareholders
1.	Varying in any respect the Articles or the rights attaching to any of the shares in the Company.	Delete (special resolution)
2.	Permitting the registration of any additional Shareholder of the Company.	Retain Decision- By majority
3.	Passing any resolution for its winding up or presenting any petition for its administration (unless it has become insolvent).	Delete (special resolution)
4.	Adopting or amending the Business Plan in respect of each Financial Year.	Retain Decision- By majority
5.	Forming any subsidiary or acquiring shares in any other company or participating in any partnership or joint venture (incorporated or not).	Retain Decision- By majority
6.	Amalgamating or merging with any other company or business undertaking.	Retain Decision: By Not less than 75%
7.	Entering into any arrangement, contract or transaction with either a capital or revenue value over £100,000.00.	Amend: Entering into any arrangement, contract or transaction with either a capital or revenue value over £250,000 which is not included in the current approved business plan Decision- majority
8.	Agreeing the appointment and the appointment terms (including any remuneration terms) of all directors of the Company other than Shareholder appointed directors.	Retain Decision- By majority
9.	Agreeing any remuneration terms for Shareholder appointed directors.	Retain Decision- By Not less than 75%
10.	Agreeing changes in employment terms and conditions which would be inconsistent with the National Joint Council Agreement on Pay and Conditions of Service and any changes to the pay and grading structure of employees of the Company.	Delete
11.	Entering into any arrangement, contract or transaction which is not within, ancillary or	Delete (see reserved matter 4 and 7)

	incidental to the Company's Business or is otherwise than on arm's length terms.	
12.	Increasing, reducing, sub-dividing, consolidating, re-denominating, cancelling, purchasing or redeeming any of the capital of, or allotting or issuing any shares or other securities in the capital of, the Company.	Retain Decision: By Not less than 75%
13.	Altering any rights attaching to any class of share in the capital of the Company, or creating any option, warrant or any other right to acquire or subscribe for any shares or other securities in the capital of the Company.	Retain Decision: By Not less than 75%
14.	Declaring, authorising or making dividends or distributions of assets of any kind to a Shareholder.	Delete

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Briefing Notes

Committee name: **Cabinet**

Date: **16 September 2014**

Responsible officer: **Licensing & Business
Support Team Leader**

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.

Rickshaws

On the 16th of April 2013, Cabinet considered a report referred from the Overview and Scrutiny Committee regarding its decision not to approve the licensing of rickshaws.

Cabinet resolved then that, amongst others, “The issue should be reconsidered when the outcome of the taxi and private hire licensing law reform review by the Law Commission is published.”

The Law Commission review has now been published with recommendations and a draft Taxi and Private Hire Services Bill.

In respect of rickshaws particularly, the Law Commission’s report states:

“The terminology used in current taxi legislation is outdated and archaic references to the stage coaches and stage carriages *have led to confusion as to whether pedicabs can be regulated as taxis.* (para 1.28)

As regards the substantive scope of the legislation, we propose that taxi and private hire regulation and licensing should cover the use of a vehicle to carry one or more passengers, where the vehicle and driver have been hired for that purpose. The draft Bill provides an exception for transport provided as part of a wider service, such as that provided in hotel courtesy cars or by carers, and of transport provided in connection with weddings and funerals, which is already exempted from regulation. *Significantly, we propose bringing “stretch limousines” and other novelty vehicles clearly within private hire regulation. The same is true of pedicabs, which are already regulated as taxis outside London, but will fall within taxi licensing in London for the first time, pursuant to our reforms.* (para 1.30)

Reference the above, the Law Commission has proposed to bring pedicabs clearly within the scope of licensing legislation. They propose to achieve this by introducing the concept of a “regulated vehicle” which, under section 2(3)(a) of the Bill will include “...a stretch limousine or *other novelty vehicle*” (i.e. a vehicle that is not a motor vehicle but it is constructed or adapted for use on roads).

Furthermore, the Secretary of State will be given power to decide at a national level whether pedicabs should be licensable as taxis or private hire vehicles and, if so, subject to what conditions. Consequently, vehicles (including pedicabs) prohibited at a national level would not meet national standards, and could not be licensed locally, whether as a taxi or private hire vehicle.

Having said that however, the position now is that the Bill has not changed and is unlikely to for a couple of years because the Government now has 12 months to consider the report and lay the Bill before Parliament.

The Taxi & Private Hire Services Bill was not included in the recent Queen's speech therefore it will not be tabled until after the next general election. There could be further delays after the general election depending on who is in power and what their legislative priorities are.

Given that the position with regards to the licensing of pedicabs has not changed in law and will not until the Bill becomes an Act, the Cabinet resolution stands. Cabinet will be briefed again as and when necessary.

Contact Officer: Louis Krog
Tel No: 01242 775004
Email: louis.krog@cheltenham.gov.uk

Briefing Note

All Members

16 September 2014

Cabinet Member – Cllr Chris Coleman
(Green and Clean Environment)

Future Development of the Cemetery and Crematorium: Update

1.0 Purpose of this Briefing Note

- 1.1 To update Members on the plans for the future sustainability and developments of the Cheltenham Cemetery and Crematorium.

2.0 Background

- 2.1 As part of Cabinet's approval of the Cemetery and Crematorium's Scrutiny Task Group's Final Report, it was agreed that there was need for a sustainable plan for the future development of the Crematorium. It was further agreed that an options appraisal should be undertaken.
- 2.2 It is hoped that the outcome of the review will be the delivery of a long term plan for the Cemetery and Crematorium by improving operational, financial and environmental performance. This is important because the previous cremator replacement project has not delivered the expected outcomes (environmentally, operationally and financially).
- 2.3 The reported difficulties with the previous project have resulted in increased maintenance costs, an annual CAMEO levy charge, operational complications and both partial and full closures of the service.
- 2.4 It is understood that the existing cremators will have at best a 5 year life span.

3.0 Options Appraisal

- 3.1 The Council are in the process of appointing a lead consultant, who will undertake the options appraisal. The provisional timeline for the tender process for the study is as follows:
- Prequalification and tendering: September 2014
 - Pre-contract and award: November 2014
 - Contract Period: November 2014 – February 2015
- 3.2 The tender brief for the appointment of the Consultant will be prepared in consultation with members of the Cemetery and Crematorium Scrutiny Task Group, who will be part of a newly created Cabinet Working Group.
- 3.3 Once the Council has had the opportunity to study the contents of the Consultants report, recommendations will be made to Cabinet. At this stage, it is envisaged that this will take place at the March 2015 meeting of Cabinet.

- 3.4 The options appraisal will consider the following four options identified by the Cabinet Member, although the tender brief will not be restricted to just these possibilities:
1. Install new cremators in the building which houses the existing cremators,
 2. Extend the building which currently houses the cremators to incorporate new equipment,
 3. Make use of an area of land known as the nursery in order to build a new structure in which to house new cremators,
 4. Build a new Chapel and Crematorium on a different part of the site and retain the existing cremators whilst work is being done to ensure business continuity. The current chapels would of course remain in place and would be available for use after any new building became operational.
- 3.5 A key requirement of the options appraisal will be the engagement and consultation with key stakeholders, including local funeral directors.
- 3.6 Whilst it is recognised that the feasibility study will determine the estimated total capital investment required to deliver the best option, an initial budget of £1m will be included within the 2015-16 Asset Management Plan towards the anticipated cost of this project. The potential for income growth to help offset the investment required to implement the preferred Crematorium option will also be evaluated.
- 4.0 Conclusion**
- 4.1 It is recognised that this is a significant project and will need the necessary resources for it to be successfully managed and delivered. Not all the expertise required will be available in-house. In addition to the input of the Bereavement Services team, it will require resource input from across the organisation, as well as from our GOSS and One Legal partners.
- 4.2 The project will be sponsored by the Director of Environmental and Regulatory Services, a member of the Executive, and updates will be regularly reported to the Senior Leadership Team as part of the Operational Programme Board.
- 4.3 It is the intention of the Cabinet Member to give regular updates on this project to Members and to seek the continued support of the Cabinet Working Group, which will be fully consulted prior to any option recommendations being put before Cabinet.