



# CHELTENHAM

## BOROUGH COUNCIL

### Notice of a meeting of Council

**Monday, 14 December 2015**

**3.00 pm**

**Council Chamber, Municipal Offices**

<b>Membership</b>	
<b>Councillors:</b>	Duncan Smith (Chairman), Chris Ryder (Vice-Chair), Matt Babbage, Flo Clucas, Adam Lillywhite, Chris Mason, Dan Murch, Chris Nelson, John Payne, Max Wilkinson, Wendy Flynn, Andrew Chard, Paul Baker, Garth Barnes, Nigel Britter, Chris Coleman, Bernard Fisher, Jacky Fletcher, Colin Hay, Tim Harman, Rowena Hay, Sandra Holliday, Peter Jeffries, Steve Jordan, Andrew Lansley, Helena McCloskey, Andrew McKinlay, David Prince, John Rawson, Anne Regan, Rob Reid, Louis Savage, Diggory Seacome, Malcolm Stennett, Klara Sudbury, Pat Thornton, Jon Walklett, Simon Wheeler, Roger Whyborn and Suzanne Williams

### Agenda

<b>1.</b>	<b>APOLOGIES</b>	
<b>2.</b>	<b>DECLARATIONS OF INTEREST</b>	
<b>3.</b>	<b>MINUTES OF THE LAST MEETING</b> Minutes of the meeting held on 19 October 2015	(Pages 3 - 32)
<b>4.</b>	<b>COMMUNICATIONS BY THE MAYOR</b>	
<b>5.</b>	<b>COMMUNICATIONS BY THE LEADER OF THE COUNCIL</b>	
<b>6.</b>	<b>PUBLIC QUESTIONS</b> None received.	
<b>7.</b>	<b>MEMBER QUESTIONS</b>	(Pages 33 - 36)
<b>8.</b>	<b>TREASURY MID-TERM REPORT 2015/16</b> Report of the Cabinet Member Finance	(Pages 37 - 48)
<b>9.</b>	<b>LICENSING ACT 2003 LICENSING POLICY STATEMENT</b> Report of the Cabinet Member Development and Safety	(Pages 49 - 114)

10.	<b>CONTRACT RULES</b> Report of the Chair of the Constitution Working Group	(Pages 115 - 146)
11.	<b>CHELTENHAM BOROUGH COUNCIL NEIGHBOURHOOD PLANNING PROTOCOL</b> Report of the Leader	(Pages 147 - 164)
12.	<b>HOUSING REVENUE ACCOUNT NEW BUILD - SWINDON ROAD SITE</b> Report of the Cabinet Member Housing	(Pages 165 - 206)
13.	<b>NOTICES OF MOTION</b>	(Pages 207 - 210)
14.	<b>TO RECEIVE PETITIONS</b>	
15.	<b>ANY OTHER ITEM THE MAYOR DETERMINES AS URGENT AND WHICH REQUIRES A DECISION</b>	
16.	<b>LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS</b> The Council is recommended to approve the following resolution:-  “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 3, Part (1) Schedule (12A) Local Government Act 1972, namely:  Paragraph 3; Information relating to the financial or business affairs of any particular person (including the authority holding that information)	
17.	<b>FACILITATION OF AFFORDABLE ACCOMMODATION</b> Report of the Cabinet Member Finance	(Pages 211 - 218)

**Contact Officer:** Rosalind Reeves, Democratic Services Manager, 01242 774937  
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**Andrew North**  
**Chief Executive**

### Council

**Monday, 19th October, 2015**

**3.00 - 6.55 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Duncan Smith (Chairman), Chris Ryder (Vice-Chair), Matt Babbage, Flo Clucas, Chris Mason, Dan Murch, Chris Nelson, John Payne, Max Wilkinson, Wendy Flynn, Andrew Chard, Paul Baker, Garth Barnes, Nigel Britter, Chris Coleman, Bernard Fisher, Jacky Fletcher, Colin Hay, Tim Harman, Rowena Hay, Peter Jeffries, Steve Jordan, Helena McCloskey, Andrew McKinlay, David Prince, John Rawson, Anne Regan, Rob Reid, Louis Savage, Diggory Seacome, Malcolm Stennett, Klara Sudbury, Pat Thornton, Jon Walklett, Simon Wheeler, Roger Whyborn and Suzanne Williams

### Minutes

**1. APOLOGIES**

Apologies were received from Councillors Lillywhite and Holliday.

**2. DECLARATIONS OF INTEREST**

Councillor Wilkinson declared a personal interest in agenda item 12 as he worked in communications for the energy sector.

Councillor Babbage declared a personal interest in agenda item 12 as he worked for an energy company.

**3. MINUTES OF THE LAST MEETING**

The minutes of the meeting held on 20 July 2015 were approved and signed as a correct record.

**4. COMMUNICATIONS BY THE MAYOR**

The Mayor reminded Members that the Remembrance Service would take place on Sunday 8 November and encouraged all to attend.

The Mayor highlighted that a special Council meeting would be held on Monday 16 November to discuss devolution.

**5. COMMUNICATIONS BY THE LEADER OF THE COUNCIL**

The Leader took the opportunity to welcome back Chris Brierley, politics reporter at BBC News.

The Leader wished to put on record his thanks to Severn Trent for the way they had communicated with communities during the recent works.

The Leader informed Members that a planning application would be submitted this week for Pittville Play Area and further details of the scheme would be publicised the following week.

6. PUBLIC QUESTIONS

<b>1.</b>	<p><b>Question from Naturewatch Foundation to the Cabinet Member Development and Safety, Councillor McKinlay</b></p> <p>According to Battersea Dogs &amp; Cats Home at least 560,000 puppies are born in Britain each year. The Pet Food Manufacturer's Association estimates suggest a number closer to 800,000. At the time of writing 142 litters are currently listed for sale in Cheltenham by the top five online advertisers.</p> <p>Meanwhile reports such as BBC2's The Dog Factory, BBC1's Watchdog (broadcast 8th October) and those of national animal welfare charities, including Naturewatch Foundation, show a clear link between commercial, volume distribution of puppies and disease, distress and damage to families, communities and individual animals.</p> <p>Given that commercial traders and careful, considerate local breeders will both post adverts which look the same, what can Cheltenham Borough Council do to identify licensable trading and to ensure full adherence to specified conditions thereafter?</p> <p>Also, in the event that prospective puppy buyers in Cheltenham identify adverts or trading circumstances which they believe either warrant licensing, or breach licence conditions which have been applied by Council, how can they best help achieve the high standards local people and animals both need and deserve?</p>
	<p><b>Response from Cabinet Member Development and Safety</b></p> <ul style="list-style-type: none"> <li>• There are no licensed dog breeders in the district at the moment, although reports of licensable trading are followed up when received from the public. If Cabinet approve the recommended standards for dog breeders, the animal licensing service would proactively identify traders who should be licensed</li> <li>• The proposed procedure for <b>identifying licensable trading</b> in this respect (subject to the standards being adopted by Cabinet) is:             <ul style="list-style-type: none"> <li>a) Education and awareness of:                 <ul style="list-style-type: none"> <li>i. what kinds of trading are licensable in respect of dog breeding, how to apply for a licence and how to report someone who should be licensed (using media, local vets and council website for example). The key message is dog breeders with more than five breeding bitches need to be licenced. A list of licence holders will be available on the council website so that the public, vets etc can check the person/business they are interested in is licensed. (information about pet vendors and dog boarders are already listed for example). In addition, the licence holder should display</li> </ul> </li> </ul> </li> </ul>

	<p>their licence prominently so the public can see it, or produce it on request.</p> <ul style="list-style-type: none"><li>ii. the standards attached to animal licences so the public etc can report non-compliances</li><li>iii. the types of trading/activities that do not require a licence (so that we manage customer expectations and receive intelligence that we can take action on). The key message is that a small breeder with less than five breeding bitches does not need to be licensed.</li></ul> <p>b) All complaints, reports and intelligence relating to unlicensed dog breeders will be allocated to the animal licensing service for investigation and enforcement as appropriate.</p> <p>c) The team will proactively investigate any concerns they become aware of through local advertisements, websites etc.</p> <p>d) The team is part of a county wide animal welfare group which aims to raise standards and consistency in this field. The group have proposed a Gloucestershire project focussing on imports and illegal trade, subject to resource.</p> <ul style="list-style-type: none"><li>• In order to <b>ensure adherence to the specified conditions thereafter</b>, the animal licensing service would undertake an inspection regime, investigate complaints and concerns and have regard to the council's graduated enforcement policy throughout. For example, an inspection by a vet and Environmental Health Officer (EHO) is part of the licensing application process, with an annual EHO inspection thereafter when the licence is renewed. The council's enforcement policy does not prescribe a certain course of action with reference to specific legislative requirements but guides a 'most appropriate course of action'.</li><li>• Each case must be considered on its own merits, but a likely graduated course of enforcement action with regard to animal licensing could include:<ul style="list-style-type: none"><li>▪ Verbal warning</li><li>▪ Written warning</li><li>▪ Schedule of works required (informal)</li><li>▪ Schedule of works required by serving a legal Notice under the Animal Welfare Act 2006</li><li>▪ Prosecution under the Animal Welfare Act 2006 or under licensing legislation</li><li>▪ Revocation of licence</li></ul></li><li>• It is important to remember that the council only has Power of Entry into premises already licensed (this power does not extend to domestic premises but does include outbuildings where dogs may be bred). Depending on the facts of the case, a warrant would likely be requested from the Magistrates Court.</li><li>• No formal enforcement action has been taken so far with regard to animal licensing as outcomes were obtained through informal means</li></ul>
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	<p>eg through the use of compliance checks and written letters/warnings.</p> <ul style="list-style-type: none"> <li>• The key message for the public is <b>not to buy the puppy and to report any concerns to the council</b> for investigation. Although some people may feel they should buy the puppy to 'rescue' it, this would actually perpetuate the situation and provide financial incentive to offenders.</li> <li>• Puppies should normally be bought after they have been seen at least twice in their home with the mother (regardless of whether this is with a licenced breeder, a kennel club breeder or a non-licensable arrangement). The public can refer to the council's proposed standards, as well as noting observations such as if they are shown a puppy socialisation plan, and if the adult dogs seem happy and well cared for.</li> <li>• The standards themselves were chosen by the council as they represent best practice (<i>CIEH Model Licence Conditions and Guidance For Dog Breeding Establishments January 2014</i>) although it should be noted that the council will not have any standards under which to operate, should Cabinet choose not to adopt those that have been recommended to them.</li> </ul> <p>In a supplementary question, Mr Joel asked whether the council would consider raising awareness of the issue particularly in events that it organises such as Paws in the Park.</p> <p>The Cabinet Member thanked Mr Joel for this suggestion and said the council would be happy to raise public awareness in any way it could.</p>
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**7. MEMBER QUESTIONS**

<b>1.</b>	<b>Question from Councillor Harman to Cabinet Member Finance, Councillor Rawson</b>
	Can the Cabinet Member update the Council on whether there is any progress with regard to the North Place Site and whether any Car Parking Spaces can be secured for the important Christmas period?
	<b>Response from Cabinet Member Finance</b>
	<p>Now that the legal hearing has concluded between the developer and Morrisons, the council is working with the developer to explore the possibilities of bringing at least part of the site back into temporary use for parking in 2016, whilst the longer term situation continues to be addressed.</p> <p>Our information suggests that the car park at North Place will not be available for Christmas parking due to ground conditions and the need for reinstatement works before this could safely take place. As work commenced on the planned supermarket development before a legal dispute arose, the planning status of the site will also need to be addressed. However, the fact that the developer has stated its willingness</p>

	<p>seriously to consider re-opening the site as a car park on a temporary basis, represents encouraging progress.</p> <p>In a supplementary question, Councillor Harman asked the Cabinet Member whether he would consider that there was sufficient car parking space available in Cheltenham to cope with the Christmas demand?</p> <p>In response, the Cabinet Member said that the current car parking facilities served the town well last year and there were more than 2000 offstreet car parking spaces with rates starting at £1.20 an hour. Members should be careful about talking down the Cheltenham offer as the town was well positioned for Christmas shoppers and will be in a position to give them a warm welcome.</p>
<b>2.</b>	<b>Question from Councillor Harman to Cabinet Member Finance, Councillor Rawson</b>
	Can the Cabinet Member update the Council on the Plans announced in his budget on improvements to the Royal Well Bus station, shelters and public facilities?
	<b>Response from Cabinet Member Finance</b>
	<p>A planning application for the improvement scheme will be submitted in the next few days, hopefully this week. The tender process is about to begin with a view to awarding the contract in December and getting on site in January. The aim is to have the work completed in February or March.</p> <p>Some time has been spent over the past few months in looking at potential designs for the scheme. The aim has been to produce a design that fits the location and makes the best use of space. Given the importance and sensitivity of the site, I believe it has been time well spent. I believe Councillors and residents will like the resulting scheme, which consists of two four-bay shelters made of powdered aluminium and perspex together with space for a coffee pod to serve refreshments. The design aims to make a feature of the pod by using coloured tarmac for its base, so that it looks as if it is meant to be there, rather than seeming to have been dropped there merely to fill a space.</p>
<b>3.</b>	<b>Question from Councillor Harman to Cabinet Member Corporate Services, Councillor Walklett</b>
	<p>I attended an event on 8th October, also attended by the Mayor other Civic Leaders and many Business leaders, recognising the importance of our Reserve Armed Forces which also encouraged Employers to support members of Staff who volunteer for the Reserves of The Royal Navy, The Army and the Royal Air Force.</p> <p>Can the Cabinet Member inform Council how many of our staff are currently serving in the Reserves and what policies the Council has for supporting them and encouraging others to serve.</p>
	<b>Response from Cabinet Member Corporate Services</b>
	Reservists employed by the council are supported with paid leave. The Council's Employee Volunteering Policy has incorporated specific

	<p>reference to reserves since 2009. For interest any arrangement made for paid leave under this policy is on top of allowances made for participation in specific community roles such as Jury service, Magistrate and School governor.</p> <p>I am able to confirm that no CBC employees volunteer for the Army, Navy or RAF reserve forces at this present time.</p> <p>As Councillor Harman is no doubt aware the Ministry of Defence tends to periodically use national advertising, mostly via television campaigns to recruit reservists. Certainly this Council would respond positively to any approach made by the M.O.D to use posters or other soft point of sale materials in CBC properties.</p> <p>In recent times a reservist employee of one of CBC services did undertake a tour of duty in Afghanistan.</p> <p>In a supplementary question, Councillor Harman asked whether the Cabinet Member had given consideration to working closer with ARRC (Allied Rapid Reaction Corps) based at the former RAF Innsworth.</p> <p>The Cabinet Member said he hadn't but would take that suggestion forward with HR.</p>
<p><b>4.</b></p>	<p><b>Question from Councillor Wilkinson to Cabinet Member Clean and Green Environment, Councillor Coleman</b></p>
	<p>In the light of the recent missed bin collections in the St Stephen's Road area, would the cabinet member for clean and green environment please explain the process undertaken by Ubico and the county highways contractor when roadworks may prevent bins being collected? What can be done in future to ensure residents are not inconvenienced when highways works clash with bin collection days?</p>
	<p><b>Response from Cabinet Member Clean and Green</b></p>
	<p>Prior to and during a road closure the information Ubico receives can vary immensely and in some cases the contractors that plan on closing the roads don't provide notification at all.</p> <p>If Ubico do receive prior notification, a supervisor reviews the days that access may be a problem. If they have been provided with the contractors contact details they will make every effort to discuss the road closure prior to it happening so that they can arrange a mutually acceptable collection method.</p> <p>In cases where prior notification is not received, Ubico visit the site on the day the road closes and attempt at that point to make alternative arrangements. However, because of the nature of roads closures it is very rare that a single contractor will be responsible for all works. What is generally found is that one contractor digs up the road, another carries out the repairs and someone else may supply the fencing. Therefore ensuring all contractors appreciate the needs of the Ubico collection teams can be exceptionally difficult.</p>



	<p>This issue has been highlighted in the past when an arrangement has been made with the contractor digging up the road to assist in pulling out the bins/boxes only for the collection team to arrive on collection day and find that another contractor has fenced all of the bins/boxes in.</p> <p>Ubico collection crews try various methods to complete the collections as quickly and effectively as possible. Sometimes they are able to either pull/carry the receptacles out from each end of the road; other times they send a smaller vehicle on the collection day. However, given that all of the current fleet of vehicles are optimised with their own collection rounds each day, sometimes this option is unavailable.</p> <p>In instances where access cannot be gained, Ubico keep the customer service teams updated and attempt to gain access each day until the collections have been made. This information is put on the internet and in certain cases where there is likely to be an extended period of disruption customers are advised of remedial arrangements by letter drop.</p> <p>I anticipate that residents would expect Gloucestershire Highways to be able to inform Ubico of planned maintenance in good time to allow them to make the arrangements as detailed above. As a result of you question, I have therefore today written to the County Council Cabinet Member responsible for Highways to remind him of the importance of ensuring Ubico are kept fully informed and requesting his assistance in improving the current situation if possible.</p>
<b>5.</b>	<b>Question from Councillor Wilkinson to the Leader, Councillor Jordan</b>
	<p>I'm sure all members will welcome the news that John Lewis has announced it will open a shop in Cheltenham. Please would the leader of the council outline the role of the borough council in bringing this flagship retailer to town?</p>
	<b>Response from the Leader</b>
	<p>It is indeed welcome news and will have a positive impact of that part of the High Street. The Cheltenham Development Task Force, in particular its MD Jeremy Williamson, has been exploring potential opportunities in Cheltenham with senior representatives of John Lewis for several years. Equally discussions have been on-going with Blackrock, as owners of the Beechwood Shopping Centre, about its future. Over the last couple of years I have personally had a number of meetings with the parties involved. The Task Force, Cabinet and CBC staff have undertaken a facilitating role supporting both parties to address challenges associated with achieving a new store on the High Street and we are grateful to our colleagues at GCC for unlocking a key impediment which was the approval of the Cheltenham Transport Plan. Additionally the Council approved £450k spend for High Street public realm as a demonstration of this Councils commitment to meeting the expectations of retailers and to improve the area for residents and visitors alike. This money will be spent in co-ordination with GCC maintenance allocations.</p>
<b>6.</b>	<b>Question from Councillor Savage to Cabinet Member Clean and Green Environment, Councillor Coleman</b>
	<p>Has the Council considered installing bins in public spaces for recyclable</p>

	as well as general waste?
	<b>Response from Cabinet Member Clean and Green Environment</b>
	<p>Sixteen recycling litter bins are installed at various locations in the town centre to encourage people to segregate cans and plastic bottles from other general litter.</p> <p>In the main, these are used reasonably well however there are large levels of contamination which lowers the quality of the recyclables collected. Each of the bins is emptied three times a day and the contents of both the recycling compartment and litter compartment are taken back to the Swindon Road recycling centre where the recyclables are placed into the recycling containers.</p> <p>These bins are very costly to purchase and so are only used in areas which have high levels of footfall and where they are going to be frequently used.</p> <p>I can confirm however that I have asked for consideration to be given in installing these bins in our parks and gardens. I consider this to be the next logical step in improving recycling facilities in our public spaces.</p> <p>In addition, one of the first things I asked for having taken over this Cabinet Portfolio was a strengthening of the Land Use Agreement to compel all of those who run public events in our parks and gardens to have a recycling scheme in place. These changes have been made and Ubico is now able to offer a recycling collection service for such events.</p> <p>In a supplementary question Councillor Savage suggested the council should be leading by example if they were expecting householders to sort their recyclable waste. He asked whether the Cabinet Member accepted that increasing the number of recycling litter bins would help to prevent grot spots and improve the image of the town.</p> <p>In response the Cabinet Member said that since taking up his portfolio he had done all he could to promote recycling on the doorstep and in public spaces and he would agree that having more visible recycling bins would encourage people to recycle more.</p>
<b>7.</b>	<b>Question from Councillor Payne to Cabinet Member Healthy Lifestyles, Councillor R. Hay</b>
	<p>As a member of the Overview and Scrutiny Task Group that reported on the relocation of the Shopmobility Service I am very disappointed at the Cabinet decision on 15<sup>th</sup> September to re-locate the service to the Horse and Groom, in St George's Place.</p> <p>This location fails to recognise the criteria put forward by the staff and current users of the facility. It is:</p> <ul style="list-style-type: none"> <li>- not a town centre location</li> <li>- it does not provide ready access from buses</li> <li>- it does not have easy access from parking facilities for the disabled.</li> </ul>

	<p>The proposed location does not provide a sufficiently high profile that would attract third party providers to support the service.</p> <p>There is no mention in the proposal that the reception area of The Wilson would provide a portal for the service, something the Task Group believed The Wilson was keen to pursue.</p> <p>The consequence of the chosen location will inevitably lead to a reduction in the number of customers, a fact that was highlighted in the Community Impact Assessment.</p> <p>This decision will disadvantage vulnerable members of our society, and says little about Cheltenham's commitment to make Cheltenham an accessible place for tourists.</p> <p>My question is this, giving that the number of customers has been in decline, and will with this relocation decline further, at what point will this administration say, enough is enough and withdraw support for the service.</p>
	<p><b>Response from Cabinet Member Healthy Lifestyles</b></p>
	<p>As Councillor Payne is aware, it is not this administration's intention to withdraw support for the Shopmobility service.</p> <p>In the consultation over the summer, only 2 of the 143 respondents thought that the service should be withdrawn. And the strategy we have adopted acknowledges this strength of support. That strategy ensures that Shopmobility has a home at the Horse and Groom; once that is achieved we will seek expressions of interest from third parties for continuing its provision.</p> <p>It is a strategy intended to secure continuation of the service in the town so that it can continue to benefit the vulnerable users which Councillor Payne mentions.</p> <p>The relocation to the Horse and Groom is the only relocation option achievable within current budgets.</p> <p>Contrary to the statements in Councillor Payne's introduction it offers a town centre site which is closer to the High Street and the Promenade than the current office.</p> <p>In terms of access to buses, the new site is an improvement over the Beechwood office. It is significantly closer to the main town centre bus hubs at High Street, Clarence Street and the Promenade; only the Pittville Street hub is further away - an additional 20 metre trip.</p> <p>With regard to car parking, in the last full year, 40% of users did <u>not</u> park in the Beechwood car park when using Shopmobility. They came by other means – predominantly taxi or bus – for these people the new site will be an improvement. For the 60% who did use the car park, the new site is very convenient for both on-street blue badge parking and off-street parking; and for the many users who are driven by friends there is drop-</p>

	<p>off/pick-up zone.</p> <p>As Councillor Payne is aware, there is potential interest in a commissioned Shopmobility service. Its new location just off the High Street, close to the regenerated Brewery, the TIC and other town centre facilities positions it favourably in respect of the commissioning process.</p> <p>If there is interest in linking the operation to the Wilson, that would need to come forward through the commissioning process, which I anticipate commencing in the new year.</p> <p>Councillor Payne has spoken previously at the Overview and Scrutiny Committee about the positive and caring attitude of the Shopmobility staff and the summer consultation was similarly very positive about their attitude and approach. It is their intention to use the relocation as a positive opportunity to reinvigorate the service – I think we should all get behind them in that endeavour so that Cheltenham can continue to have a Shopmobility service of which the town can be proud.</p> <p>You are quite wrong to suggest the Cabinet's decision is designed to manage the decline and then closure of Shopmobility. On the contrary we are actually looking to maintain and improve the provision. The Horse &amp; Groom allows us to look at suitable long term solutions. To have made a quick decision, forced on us by the closure of Beechwood, would not have been in my opinion in the long term interest of the service.</p> <p>In a supplementary question, Councillor Payne, highlighted that the proposal for relocation of the service referred to the necessary renovations being financed from existing budgets. Could the Cabinet Member confirm the amount of cost involved and whether this would impact on staff.</p> <p>In response the Cabinet Member advised that she did not have the figure to hand but would confirm in writing to Councillor Payne. She reassured him that the renovation work would not be done at the expense of staff.</p>
<p><b>8.</b></p>	<p><b>Question from Councillor Fletcher to Cabinet Member Development and Safety, Councillor McKinlay</b></p>
	<p>Following the excellent news that John Lewis is locating to The Beechwood, which I believe will bring shoppers from adjoining counties and beyond to Cheltenham, isn't now the right time to consider lowering our parking charges both in our car parks and 'on street' parking in negotiations with Gloucestershire County Council. These charges are considered by many to be extortionate, and surely we want to encourage more visitors and shoppers to Cheltenham?</p>
	<p><b>Response from Cabinet Member Development and Safety</b></p>
	<p>No, now is not the right time. The Cabinet Member Working Group on Car Parking will be considering the issue of pricing policy as part of its terms of reference. I believe it would be inappropriate to pre-empt any recommendations that the working group might make.</p> <p>In a supplementary question, Councillor Fletcher asked when would be</p>

	<p>the right time? The working group appeared to have been set up at the 11th hour and she wanted to know when the outcome of the working party would be known given that members had been waiting so long.</p> <p>The Cabinet Member suggested that how long it would take for the working group to make their recommendations was in the hands of the working group and he would not want to rush them in this process. He reminded Members that the current parking strategy had been produced four years ago and it was reasonable to review it after that period of time and hence there was nothing unusual about the timetable being set for this review. He reminded Members that car parking charges had been frozen since 2010 and when the MTFs had been discussed at the last Cabinet Meeting there were no assumptions made about car parking fees rising in the next three years. There were a lot of competing factors to be assessed in making any reductions or increases in car parking charges which had been explained to the working group at their first meeting.</p>
<p><b>9.</b></p>	<p><b>Question from Councillor Regan to Cabinet Member Clean and Green Environment, Councillor Coleman</b></p>
	<p>Will the Cabinet member ensure our streets and paved areas are regularly cleaned of chewing Gum which encompasses the whole of the town centre and inform us when the last time chewing gum was cleaned off our streets?</p> <p>Will the member agree it is ugly, unsightly, and that spitting out gum is unacceptable?</p> <p>Is he aware that the whole pavement length of the promenade outside our prestigious shops is covered in discarded gum?</p> <p>Will he approach the manufacturers for funding towards removal of this unpleasant habit?</p> <p>Can he look at the possibility of installing Gum Bins?</p>
	<p><b>Response from Cabinet Member Clean and Green Environment</b></p>
	<p>I am aware of the problem of chewing gum on our pavements and agree with your observations on its ugly and unsightly nature.</p> <p>I am advised that the removal of chewing gum from our pavements is a more difficult job than one would expect and at the current time has to be carried out by specialist contractors. The Promenade, High Street and Bus Station were all targeted in a stand-alone cleanse which was undertaken in 2008 by such a contractor at a cost of £12,500.</p> <p>In respect of installing additional bins, I am not persuaded that the few anti-social people who drop/spit their chewing gum on the floor would be any less likely to do so should further bins be installed. There are already a number of bins available in and around the town centre and I would urge people to use them.</p> <p>I am certainly prepared to make representations to the manufacturers in</p>

	<p>accordance with your suggestion but I consider that it would also be beneficial to lobby central government on this point. I would add that it is exactly this sort of service that becomes difficult to provide as a result of the cuts to local government funding.</p> <p>I do want to assure you that the Cabinet is actively looking at ways of removing chewing gum from the pavements that you refer to. I am also exploring with Officers whether the expansion of Ubico would now allow for the purchase of the specialist equipment needed to remove chewing gum across all partner Authorities although I am mindful that this would likely bring additional cost to the Council.</p> <p>In a supplementary question, Councillor Regan, asked whether the Cabinet Member would consider finding a sum of money in 2016 for this purpose before the town hosted dignitaries from our twin town in Annecy.</p> <p>The Cabinet Member responded that he agreed with the thrust of the question and reassured the member that Cabinet were were considering every possible solution for sorting this problem.</p>
10.	<p><b>Question from Councillor Wilkinson to Cabinet Member Healthy Lifestyles, Councillor R. Hay</b></p>
	<p>Please could the cabinet member for healthy lifestyles make a statement on the appointment by Cheltenham Poetry Festival of a Poet in Residence for Cheltenham?</p>
	<p><b>Response from Cabinet Member Healthy Lifestyles</b></p>
	<p>I am very pleased to take this opportunity to say how good it is that the Cheltenham Poetry Festival have appointed a Cheltenham Poet in Residence.</p> <p>I would like to thank Anna Saunders the Festival founder &amp; director for inviting me to formally announce Angela France as the Poet in Residence at an open Mic event at Smokey Joes on National Poetry Day the 8<sup>th</sup> October.</p> <p>Having a Poet in Residence is a unique initiative and the formal announcement has generated a huge twitter response. The Forward Poetry Organisation alone has circa 24 thousand followers promoting internationally through their networks, the story has also been promoted by the poetry press Nine Arches and many more local poetry groups across the County, generating something in the region of 64 thousand tweets.</p> <p>Cheltenham Poetry Festival media sponsor Gloucestershire media have supported the project not only covering the event but also publishing poems by the town's bard.</p> <p>The whole initiative is designed to make Cheltenham a poetry destination, which will not only raise the profile of poetry within the town but also attract internationally acclaimed spoken word performers to perform in our community.</p>

	<p>As with all Festivals, the value to the town's recognition within the country and internationally is hugely positive. It increases our town as a destination, bringing economic value and enhancing the cultural richness and wellbeing for our residents.</p> <p>I am very happy to say, that having spoken to next year's Mayor, Councillor Chris Ryder, a poem about Cheltenham by Angela France will be read. Angela will also be formally recognised as the Poet in Residence for next year at the Mayoral Inauguration. I believe a very suitable addition to the town's annual civic celebration and I am grateful for Councillor Ryder's support in this.</p> <p>In a supplementary question, Councillor Wilkinson, asked the Cabinet Member whether she agreed that all members should be supporting this initiative.</p> <p>The Cabinet Member yes.</p> <p>On a point of clarification, the deputy Mayor, Councillor Ryder, welcomed the initiative and although the arrangements for the Mayoral inauguration had not yet been agreed she would ensure that the appointment was recognised in some way at the event.</p>
<p><b>11.</b></p>	<p><b>Question from Councillor Lillywhite to the Leader, Councillor Jordan</b></p>
	<p>Question for Steve Jordan following his recent comments in the Echo;</p> <p>Why would John Lewis want Boots Corner closed? It is the principle access to their proposed Car Park for the majority of Cheltenham's population, possibly 70% of which live south of the High street.</p> <p>The alternate route through Rodney Road is also likely to be severed by a 'rising bollard'. So that 'dispersed' traffic does not travel along the High Street to Winchcombe Street, at 'Thomas Cook Corner', a far greater severance than Boots Corner with a much higher impact on the new store.</p> <p>Will he please outline how traffic that would have used Boots Corner would now reach the new store from the South of town, specifying road names.</p>
	<p><b>Response from the Leader</b></p>
	<p>My comments reflected discussions with representatives of Blackrock (owners of the Beechwood Shopping Centre) and John Lewis Partnership who believe that removing traffic is positive for High Street performance. In fact JLP stipulated GCC approval of the Cheltenham Transport Plan and the specific changes to return Albion Street to two way working before finalising the deal.</p> <p>Access to the new store from the South of town could be through a variety of routes. On the assumption that the Boots Corner trial progresses then traffic will choose to disperse around the town centre in either an easterly or westerly direction thus accessing Albion Street via London Road and St James's Street or from North Street.</p>

<b>12.</b>	<b>Question from Councillor Lillywhite to the Leader, Councillor Jordan</b>
	<p>The Council leader refers to 'The County's endorsement' of the Transport Plan. Had he attended the Cabinet meeting he would understand in no uncertain terms and direct from Mark Hawthorne, their leader, that they do not approve and were going to throw it out as the Traffic Authority were unable to answer so many of the questions formally raised and opposition was so strong. However, they were stopped by the last minute interjection of 'strong voices from the Cheltenham business community'. They had to fashion a means of implementing it in a conditional, phased manner each one subject to the 'success' of the last.</p> <p>The 'strong voices' were of the Brewery Scheme developer and a spokesman for the Chamber of Commerce, who claimed 99% support, which is yet to be substantiated despite requests.</p> <p>The impression the leader has given to the general public in his statements regarding the 'County endorsement' is misleading, is he intending to correct this?</p>
	<b>Response from the Leader</b>
	<p>Whilst there may have been robust debate at the GCC Cabinet meeting on 22/07/15 the outcome was approval to progress the Cheltenham Transport Plan so my comment stands as a factual interpretation of the decision.</p> <p>My understanding is that there was and remains significant business community support. My response above (Q11) clearly demonstrates how significant investors, other than promoters of the Brewery also supported implementation of the plan. I am aware that retailers and traders such as Supergroup, Yo!Sushi, Specsavers, Trespass, Tesco, Bar &amp; Wok and many more, plus the Chamber of Commerce and Stagecoach all supported the position.</p> <p>So to suggest that the "strong voices" emanated solely from one scheme is clearly incorrect.</p>

**8. 2020 VISION**

The Mayor invited Members to consider suspending standing orders to enable the Leader to speak for longer than the 10 minutes laid down in the Council Procedure Rules. Upon a vote this was agreed.

The Leader started by thanking Members and Officers across the council for their contribution in enabling him to bring this report today in support of what was a very key decision for this Council.

He began by responding to the question of why he was recommending to Council that they enter into the 2020 Vision partnership structure (2020).

The first reason was financial and with the ongoing financial pressures on local government budgets it was necessary to look at alternative solutions in order to avoid future cuts in services. The 2020 report detailed the significant projected



savings over the period of the MTFS with potential additional savings from the formation of a local authority company.

The second reason was that this council had a track record of sharing services and with the success of GO and ICT shared services it was the logical step to build on these existing arrangements in 2020.

He acknowledged that there were concerns about the potential political and cultural differences across the four councils and also that Cheltenham was an urban authority going into partnership with three rural authorities. However he could reassure members that services that were special or unique to Cheltenham, in particular those delivered by REST and the Cheltenham Trust, were not going into the 2020 arrangements.

Customer services, revenues and benefits and property services had been identified within the project as the next services to be considered for sharing. He added that this detailed work would begin shortly with a report being brought to Cabinet at some stage in the New Year. He highlighted that members would be involved in this process.

He emphasised that before any future services were moved into 2020 there would need to be a full report to Cabinet, including a business case and alternative options, which would have to be agreed before any future transfer of services takes place. The recommendation agreed by Cabinet stated that Cabinet would receive and have to approve further business case briefings and proposed Service Level Agreements for these services under consideration.

There was the potential for staff to be transferred into a Local Authority company which would assist with the pensions' deficit and a further business case for this would be brought back next year.

He stressed the importance of Cheltenham maintaining its own democratic governance in the new arrangements.

He explained that 2020 would be governed by a Joint Committee with two members represented from each authority. Cabinet proposed that the current Cabinet Member Corporate Services, Councillor Walklett, undertake one of these roles. He was the current council representative on the member governance board and the CBC representative on the Joint Monitoring and Liaison Group for GOSS. The Leader highlighted the suggestion from Overview and Scrutiny Committee that the second member on the Joint Committee could be a cross party representative. He had raised this with the other councils but he hadn't had any responses in support of this. Consequently he proposed that Councillor Flynn, as the chair of the Appointments Committee, should be the Council's second representative. He would welcome the formation of a cross-party group of members to look at how effective scrutiny might be operated in the new arrangements.

The Joint Committee would be responsible for overall financial policies and potential HR policies. The Leader referred members to the amended recommendation 5 which now included the introduction of a protocol which would require the Joint Committee to defer any item relating to changes to employment terms and conditions where it was unlikely to be passed by

unanimous decision in order to seek a resolution to the matter. The Leader added that whilst rationalisation of HR terms and conditions would be useful, to have a mechanism in place to deal with any issues was a sensible approach. As indicated in the report, senior staff at this council would be excluded from the delegation of HR functions to the Joint Committee.

The Leader reported that the post of Managing Director of the Partnership had been ringfenced to the Chief Executives of Cheltenham and Cotswolds/West Oxfordshire Councils. He explained that the current Chief Executive of Cheltenham had not expressed an interest in being considered for this position. The position of CEX would be deleted at the council but as a consequence the post of Head of Paid Service would be required at Cheltenham and would be the subject of an internal recruitment process by the Council's Appointments Committee. A key role for the Head of Paid Service would be to ensure that Cheltenham gets the services they expect from 2020.

If the recommendations in the report were agreed by Council today, the existing shared service arrangements for GO Shared Services and ICT Shared Services would be undertaken by the Joint Partnership Structure from April 2016.

He concluded that it had been a long process to get to this stage and he appreciated that members still had some concerns. He felt that the review by Overview and Scrutiny had been very useful in stepping back and reviewing the whole process and he felt members should be comforted by the O&S conclusions that they should support 2020 going forward. The current recommendations did not exclude other partners joining the arrangements in the future. On that basis he commended the report to Council.

The Mayor invited members to ask questions on the report and the following responses were given by the Leader:

- In response to a request for clarification, the Leader confirmed that the second recommendation agreed by Cabinet did not predetermine future Cabinet decisions and a report would have to be brought to Cabinet and agreed prior to any delegation of further services to the 2020 Vision Joint Committee.
- There was a proposed mechanism for call-in by scrutiny of a decision made by the Joint Committee and if such a call-in was requested by more than one authority this would automatically trigger some type of shared call-in arrangement.
- The reference in the Legal Implications referred to the amendment of arrangements with Ubico, The Cheltenham Trust and CBH. This would be necessary as those organisations were currently making use of services which were already shared and in future they would be provided by 2020 hence this needed to be reflected in the formal agreements.
- He advised that there was no clash with devolution plans for Gloucestershire, even though one of the 2020 partners was outside the county. This was because 2020 Vision was concerned with the delivery of services. He added that it would be important for this council to ensure it had the capacity to negotiate with the County Council on devolution proposals, particularly with regard to any delegation of powers or funding to the districts.
- A Member commented that it was unusual to be making the Chief Executive redundant and at the same time recruiting a new Managing Director for REST and asked whether any thought had been given to internal reallocation of

responsibilities. Another Member questioned why the appointment to the Head of Paid Service should be an internal recruitment process?

In response, the Leader advised the internal recruitment was partly due to the fact that this was a temporary situation which required an interim process. There were complications regarding the government funding and the advice received was that a chief executive post should be made redundant. The appointment of the MD for REST would strengthen the structure and provide resilience.

- A Member highlighted that the redundancy costs for the Chief Executive's post amounted to £180,000 of public money and there was a lot of public disquiet about senior officers being made redundant and then taking up work with another council. Was there a compromise agreement in place which would prevent the Chief Executive coming back to work with any council in Gloucestershire either as a consultant or a paid employee? The Leader advised that he would be happy to check that out and advise members accordingly.

Having completed questions, the Mayor invited members to debate the report.

Councillor Tim Harman spoke as Leader of the Conservative Group and Chair of Overview and Scrutiny. He acknowledged the great financial challenges facing the council and the solution that 2020 offered in balancing the MTFs. He felt the proposals in the report had not gone unquestioned and there had been a robust debate.

He referred to the request from scrutiny that a member of the non-ruling party at the council should be represented on the Vision 2020 Joint Committee to ensure that scrutiny had a stake in the process. He appreciated that the Leader had discussed this with the other councils in the partnership and he would not object to the recommendation that Councillor Flynn was appointed to the Joint Committee provided the council's own scrutiny arrangements were robust.

He noted that the issue of devolution had been raised and he accepted that it was a different process. However he felt that 2020 would put this council in a better position for the future in any new arrangements for devolution. There would be shared expertise across the councils in addition to the financial savings from 2020 and the arrangements would ensure that the people of Cheltenham will have value for money from their council services. On that basis his group would support the recommendations.

The Cabinet Member Finance referred to the fact that existing shared services with Ubico and GOSS made the council an annual saving of £2.7 m annually. With Government core funding reduced from £8.8 m to £4.6 m between 2009 and 2015 and likely to be further cut between 25 % and 40 % over the next 4 years, further radical efficiency savings needed to be made without cutting services. With evidence that the four councils concerned were already making shared services work so well 2020 Vision represented further new ways of working which had been supported by Government via the £3.8 m Transformation Challenge Fund. He reported that Vision 2020 would generate £581 000 of savings annually increasing to £800 000 per annum if a Teckal company was established and these figures had been endorsed by CIPFA. The Cabinet Member paid tribute to the hard work invested in the 2020 project by all officers involved.

A Member referred to 2020 as Goplus as it was building on the the success of GO and four years ago when GO was first agreed, the options for sharing further services and becoming a local authority company had already being suggested. The government funding had now made this option possible and he stressed the extra resilience and opportunities for staff that the new arrangements would bring. It was important that there would be a decision point before any service was moved into the new arrangements and that had been clearly addressed in the recommendations. He highlighted that the Constitution allowed for reports from joint committees at Council and he felt that there should be regular reports from all joint committees in future.

Some Members felt they could support the recommendations but still had concerns. One Member said that whilst it seemed sensible for the existing GOSS and ICT Shared Services to be transferred to the Partnership, he expressed a note of caution regarding other services such as Revenue and Benefits and Customer Services. He considered that one of the strengths of the current Customer Services team was that they knew the town well and so were in a good position to respond to telephone enquiries. He contrasted this with the potential scenario of a shared call centre in Witney as a money-saving exercise but one where staff would not know the area. He was pleased that REST services remained with the council and Cheltenham focussed as they had little in common with the three rural authorities involved and delivery of those services had a key impact on the people of Cheltenham. A member also suggested that the appointment of the Head of Paid Service should be undertaken quickly as in his view the council could not afford to be left with a power vacuum. This would also enable early resolution of any potential conflict between that role and the role of the current Head of Paid Service. He felt the organisation needed a very clear head to avoid confusion and in order to get the best out of the new structure.

Another Member indicated that although he would support the recommendations he was still on the sceptical list. His major concern was that given his experience as a backbench Councillor for a party in administration or opposition, he sometimes found this a frustrating role because of the way the democratic process operated. His fear was that there would be more power and influence in the hands of the Joint Committee and the ability of a backbench Councillor to get involved would be moved further away from them. He supported the move of ICT and GO into the new arrangements and highlighted the need for improvements to the scrutiny process to support 2020. He was disappointed with the result that opposition groups would not be represented on the Joint Committee but accepted that it had to be reciprocal across all four councils before this could be put in place. He welcomed the Leader's suggestion that a cross party group should be set up alongside the Joint Committee to consider the scrutiny arrangements. He also welcomed the confirmation that a report would be brought back to Cabinet on any future services being considered for 2020, as 2020 may not be the best option in every circumstance. He considered REST was a set of very Cheltenham focused services which must be retained on that basis. There was a role for scrutiny in ensuring that REST delivered benefits from the extensive systems thinking work that had been carried out. Similarly the cemetery and crematorium service should remain with this council.

Another member echoed this note of caution that there should be a very sound business case before any service was moved into 2020. There would also need to be a great deal of care in setting up the scrutiny arrangements to ensure they were effective in a new larger organisation.

A Member spoke in support of 2020 in terms of the budget savings and highlighted the need for the role of the non-Cabinet member to be considered alongside the Joint Committee. He felt that it was important that the council continued to look for other ways of balancing the budget and suggested that the council should look carefully at the use of the land west of Cheltenham which could help safeguard future employment.

In his summing up the Leader thanked Members for their comments. He agreed to continue to explore the membership of the Joint Committee with the partner councils and he encouraged members to talk to their party colleagues in other councils and seek to persuade them of the value of this proposal. He supported the suggestion that joint committees should report regularly to Council and he would also consider other ways of maximising information to all Members.

Upon a vote the recommendations in the report with the addition of Councillor Flynn in recommendation 15 were carried.  
Voting (For 32 with 2 abstentions)

### **RESOLVED THAT**

1. The Authority enter into the shared services partnership structure described in **Appendix 2**.
2. the consequential revised senior management structure for this Authority as set out in **section 7** be endorsed.
3. the 2020 Vision Business Case at **Appendix 3** be approved.
4. the Commissioning Strategy at **Appendix 5** be adopted.
5. the 2020 Vision Joint Committee be established in accordance with Sections 101 and 102 of the Local Government Act 1972, and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012 made under Section 9EA, 9EB and 105 of the Local Government Act 2000, with draft Constitution at **Appendix 6** including a protocol which requires the Joint Committee to defer any item relating to changes to employment terms and conditions where it is unlikely to be passed by unanimous decision in order to seek a resolution to the matter.
6. authority be delegated to the Chief Executive in consultation with the Leader, the Section 151 Officer and the Borough Solicitor to finalise and complete the Inter Authority Agreement (including the Constitution) and other documentation on terms to be approved by the Borough Solicitor and to take all necessary steps to create the 2020 Vision Joint Committee by April 2016.
7. It be agreed that the existing 2020 Vision Member Governance Board arrangements will continue until the 2020 Vision Joint Committee is created.

8. Upon establishment of the 2020 Vision Joint Committee
  - 8.1 To authorise the delegation to the 2020 Vision Joint Committee those functions of the Authority as described in the draft Constitution for the 2020 Vision Joint Committee, subject to retained decisions as set out in **section 10** of this report
  - 8.2 To agree to appoint Forest of Dean District Council as Administering Authority to provide administration support to the Joint Committee
  - 8.3 To agree to appoint Cotswold District Council as the Accountable Body to provide financial support to the Joint Committee and enter into any contracts required on behalf of the Joint Committee
  - 8.4 To agree to appoint the following councils to provide the following functions of the Joint Committee;  
  
Forest of Dean District Council – Monitoring Officer  
  
Cotswold District Council – S151 Finance Officer  
  
Forest of Dean District Council – Clerk to the Joint Committee
9. the appointment of David Neudegg as Partnership Managing Director be confirmed.
10. It be agreed to make available such of this Authority's staff as are necessary for the 2020 Vision Joint Committee to fulfil the functions which the Authority delegates to it
11. the revised senior management structure for this Authority as set out in **section 7** (which includes the deletion of the post of Chief Executive and consequential costs) be approved for consultation with affected staff and recognised trade unions with a proposed implementation date of 28 March 2016.
12. the Chief Executive be authorised to undertake all necessary processes for the introduction of the revised senior management structure and to make any changes to the structure arising from consultation provided that such changes fall within the budget and overall parameters of the structure (as referenced in this report).
13. It be agreed to internally recruit to the post of Head of Paid Service (who it is anticipated will also become the Returning Officer/Electoral Registration Officer from 23 May 2016) and it be noted that the appointment to the post will be undertaken by Appointments and Remuneration Committee with final approval resting with Council.
14. It be agreed that, in the event of it being necessary to second any of the Authority's staff in order to facilitate the functions which it delegates to the 2020 Vision Joint Committee, the Head of Paid Service be authorised to approve such secondment.

15. Councillor Walklett and Councillor Flynn be appointed as the Authority's Members on the 2020 Vision Joint Committee.

16. the Democratic Services Manager, in consultation with the Borough Solicitor, be authorised to make such changes to the Constitution as are necessary to reflect and facilitate the implementation of the recommendations in this report.

**9. INTERIM REVIEW OF POLLING DISTRICTS, POLLING PLACES AND POLLING STATIONS FOR LANSDOWN WARD**

The Cabinet Member Corporate Services introduced the report and explained that the council had a duty to ensure that all electors have such reasonable facilities for voting as practicable and to ensure that the polling stations are accessible to all electors including those with special needs. He explained that a consultation exercise had been completed for Lansdown Ward.

Members supported the proposal of rationalising Polling District HB to Polling District HA as the situation for some electors had been rather anomalous.

**RESOLVED (unanimously) that the following changes to polling districts HA and HB be approved :**

**Move Douro Road, Drakes Place, Lansdown Terrace, Lansdown Terrace Lane, Malvern Place and Malvern Road from Polling District HB to Polling District HA**

**10. RECOMMENDED OPTION FOR THE FUTURE PROVISION OF THE CHELTENHAM CREMATORIUM SERVICE**

The Cabinet Member Clean and Green Environment introduced the report. He was delighted that he was able to bring this report to Council and he gave thanks to the excellent team of officers who had made a tremendous input to the project. He also acknowledged the contribution made by Councillors Reid, McCloskey and Ryder as members of the Cabinet Member working group who had been a very useful sounding board to himself and the rest of the team.

The Cabinet Member explained that it had been acknowledged that investment was needed to improve public facilities and in particular, the reliability of the cremators at Cheltenham's cemetery and crematorium. This follows the poor quality cremator installation which took place in 2011, during which the main contractor went into liquidation, leaving a number of authorities with sub-standard equipment issues. At this point he thanked the scrutiny task group which had produced an excellent report on the issues. To ensure that the best solution was secured, architects Robert Potter and Partners were commissioned to look at a number of options ranging from installing new cremators in the current building, to building a new chapel and crematorium. The options identified were diverse and had different operational, customer service and financial implications.

The report set out the results of the detailed public consultation process in addition to the member seminars which had been held. The Cabinet Member reported that there had been an overwhelming response in favour of option E. He explained that very detailed work had been undertaken on the business

case for Option E and having assessed and benchmarked Cheltenham's charges and level of service against other local providers there was scope for increasing fees to cover the cost of the borrowing required to invest in a new facility on land currently identified for expansion of the cemetery site.

In summing up the Cabinet Member acknowledged that this was an ambitious project but was considered to be the best approach to secure the long term success and viability of the service.

Members praised the work done in bringing this project to this stage, in particular the way that officers had engaged with members of the public in the consultation which was reflected in the consultation responses. They welcomed the prospect of an enhanced, fit for purpose facility which would benefit Cheltenham residents and those in surrounding areas. Key officers at the crematorium were praised for their professionalism. The valuable work of the cross party Cabinet Member working group was also recognised.

Whilst Members supported the financial implications of Option E they did however emphasise the importance of keeping project costs under close scrutiny. In response to this the Cabinet Member reported that the Cabinet Member working group would maintain a role in monitoring this.

### **RESOLVED (unanimously)**

**To allocate the budgets for financing Option E as detailed in Appendix 4 (exempt).**

#### **11. SCRUTINY ANNUAL REPORT 2014-15**

The Chair of Overview and Scrutiny introduced the annual report and gave thanks to officers who had supported the work of the committee and the task groups over the year. Scrutiny had covered a wide range of issues and the committee had also invited representatives of community groups to speak to the committee about the valuable services they provide.

He encouraged members to bring forward any issues which they felt would be worthy of scrutiny and to put themselves forward for O&S task groups. He also encouraged Members to complete the Members Skills Audit so those with the appropriate experience are invited to join the relevant group.

It was noted that the membership of the Cycling and Walking Scrutiny Task group was incorrect and should read Councillors Wilkinson, Lillywhite, Murch and Williams with co-optees John Mallows, Bronwen Thornton and John Newbury.

### **RESOLVED**

**To note the Annual Report of Overview and Scrutiny 2014-15.**

#### **12. NOTICES OF MOTION Motion A**



Proposed by: Councillor Wilkinson and seconded by: Councillor Clucas

**“Council notes with concern the Government's antipathy to the renewable energy industry. In particular, council condemns the removal of support for popular technologies such as solar and wind which, between 2010 and 2015, helped the UK become a world leader in renewable energy. Council resolves to write a letter to the Secretary of State for Energy and Climate Change encouraging her to reconsider the decision to make such drastic cuts to the subsidy for the industry.”**

In proposing the motion Councillor Wilkinson said that between 2010 and 2015 renewable energy generation soared. There were dramatic increases in the amount of energy generated from solar, wind and other renewable sources, largely thanks to government support for these initiatives. The UK was now exceeding renewable energy targets set by European directives. However, he expressed concern that in the past few months things have changed and he was extremely concerned about the direction of government policy on renewable energy with reduced support for wind generation, solar power generation, a U-turn on a pledge to ban fracking in national parks, axing regulations encouraging zero carbon homes, closing the green deal energy efficiency scheme, scrapping the tax reductions on less polluting vehicles and adding a climate change levy to renewable energy generation.

Councillor Wilkinson referred to an opinion survey produced by the Department for Energy and Climate Change - the government department charged with energy generation policy and tackling climate change which highlighted that solar was supported by more than 80% of people and opposed by less than 5%, Offshore wind was supported by almost 75% and opposed by fewer than one in ten and Onshore wind was supported by almost 70% and opposed by only 10%.

He said that according to the leading think tank Policy Exchange only 1% of the average household bill went towards paying the feed in tariffs but despite this, and despite the fact that subsidies make up a relatively small proportion of spending by the DECC and a small proportion of overall public spending, the government was planning subsidy cuts which were likely to have profound implications for the future of the energy generation industry.

Councillor Wilkinson reminded Members that solar panels installed by Cheltenham Borough Homes gave energy bill savings of between £100 and £200 per year per tenant. Whether this success could be replicated in future council housing developments would seem in doubt.

Councillor Wilkinson made reference to the potentially ground-breaking project in Bath Terrace car park and explained that part of the scheme involved installing solar panels, which would generate electricity to be consumed locally. He warned however that unfortunately, the renewable energy aspect of the project may now not be affordable due to proposals to cut the Feed in Tariff..

Councillor Wilkinson highlighted that these subsidy cuts were taking place while the government progressed with new nuclear generation at Hinkley Point.

He urged Members to support the motion to demonstrate that Cheltenham was a forward thinking town that cared about the biggest threat to human existence.

In debating the motion the following points were raised :

- There was a consultation currently running on the feed in tariff with the closing date of 23 October;
- The feed in tariff consultation process was triggered by the EU in investigating whether the private sector could be subsidised by Government under EU state aid laws; Members recognised the importance of the consultation and the Leader pledged to respond to it in the form of a letter containing this motion if adopted; it was important to do this to reflect the views of residents and tenants who had benefited from having solar energy panels installed on their properties;
- The excellent work being undertaken in Bath Road Terrace car park was commended;
- The motion was deemed by some to be political and not factually correct;
- Some members mentioned the impact the reduction in feed in tariff would have on the solar panel industry and the resultant lack of a stable policy framework;
- Members highlighted the importance of the work Cheltenham Borough Homes had done in investing £3 million to install solar panels on its properties leading to annual savings in energy bills for tenants;
- 1000 households in Cheltenham had benefited from the feed in tariff and the opportunities for green energy; renewable energy was vital to the future of all residents;
- Some members believed that the subsidies put in place by Government were too generous in the first place and thought that industries should now be in a position where they were self-funding;
- The council did buy green energy but some questioned whether Combined Heat and Power should be considered renewable.

Upon a vote the motion was CARRIED (For: 22; Against: 4; Abstention: 9)

### **Motion B**

Councillor Harman proposed the following motion. This was seconded by Councillor Mason :

“That this Council commends the initiative of the "Wombles" group of volunteers and other groups of volunteers in tackling the issues of litter and general grot which plagues our Town and calls upon the Borough Council to raise its game in tackling these issues.

Whether litter, graffiti, etc. is on public or private land it detracts from our splendid Town and it is surely the duty of all of us to show leadership backed by practical steps I hope that Council will support this motion today and instruct the Cabinet to bring forward an action plan.”

In proposing the motion Councillor Harman paid tribute to the work the Wombles, the Friends of the Honeybourne Line, Benhall Open Space and other volunteers made to tackling the litter issues in the town. It was generally acknowledged that there was a problem with litter on both public and private

land which detracted from the attractiveness of the town. Cabinet was asked to draw up an action plan to address the issues and it was suggested that one low tech solution would be to install more bins and to educate the people where litter should be disposed of.

An amendment, proposed by Councillor McKinlay, seconded by Councillor Baker, to the motion had been circulated and read as follows :

Delete all of notice of motion B after:-

"that the Council commends the initiative of the "Wombles" group of volunteers and other groups of volunteers in tackling the issues of litter and general grot which plagues our town."

And replace with:-

"Council notes with concern that one of the high profile "grot spots" identified in the press is owned by Gloucestershire County Council.

Council supports the proactive stance being taken by Cheltenham Borough Council's enforcement team under Section 215 and 219 of the Town and Country Planning Act 1990 and other legislation to tackle the problem of both land and buildings that are in poor condition in the Borough.

Council supports the use of all legal powers available to officers to ensure that land owners maintain their property in a satisfactory condition."

As proposer of the motion Councillor Harman spoke to the amendment. He believed every person who is part of our community should raise their game. A bigger challenge was tackling the problem where it was on private land as it was not known who was responsible for clearing the litter. Councillor Harman was disappointed that the amendment deleted reference to the action plan.

The proposer of the amendment, Councillor McKinlay, said that he did not want the motion to suggest that the council was not fulfilling its role in tackling litter and that it relied solely on volunteers to address the problem. This was simply not true. He accepted however to retain the inclusion of the action plan in the motion. With this addition to the amendment this became the substantive motion.

In the debate that ensued the following points were addressed:

- Councillor McKinlay outlined the Council's achievements and actions in this area over the last 12 months;
- Tribute was paid to the hard work undertaken by the Friends of Springfield Park in Springbank; **all** volunteers should be publicly commended on their efforts;
- The Cabinet Member Clean and Green Environment said that the action plan was an important piece of work. Grot spots in the town did give a negative impression but in general Cheltenham was a clean and tidy town. The street cleaners were exceptional and routinely praised, particularly after events such as The Festival.
- Residents and businesses should work in partnership with the council;
- One Member suggested there should be an increase in the number of enforcement officers to tackle the littering issue;

- It was acknowledged that many council sites were cleaned on a regular basis but there was concern with those sites that were privately owned. It was also important to discuss with partners such as the County Council.
- Education of the public in preventing littering in the first place was key;
- Shops and businesses should be encouraged to look after their frontages and take pride in their premises.

In summing up the debate, the proposer of the motion, Councillor Tim Harman, said that the council did indeed play its part in addressing the problem but the wonderful volunteer resource in tackling the issue should be recognised. He believed however that there should be some new thinking in terms of engaging with the utilities companies, health and the County Council to improve the situation.

Upon a vote the amended motion was unanimously approved.

**“That this Council commends the initiative of the "Wombles" group of volunteers and other groups of volunteers in tackling the issues of litter and general grot which plagues our Town. Council notes with concern that one of the high profile "grot spots" identified in the press is owned by Gloucestershire County Council.**

**Council supports the proactive stance being taken by Cheltenham Borough Council's enforcement team under Section 215 and 219 of the Town and Country Planning Act 1990 and other legislation to tackle the problem of both land and buildings that are in poor condition in the Borough.**

**Council supports the use of all legal powers available to officers to ensure that land owners maintain their property in a satisfactory condition.**

**Council instructs Cabinet to bring forward an action plan on this issue.”**

#### **Motion C- WITHDRAWN**

Proposed by: Councillor Whyborn and seconded by Councillor Flynn

“Cheltenham Borough Council notes that many councils across the country, of various party political control, have implemented or are now implementing 20mph speed limits over wide areas without traffic calming. Over 14 million people now live in areas, where 20 mph has become the default speed limit in residential and urban streets, except for arterial roads.

Council recognises that 20 mph limits have the potential to promote increased road safety, particularly for young and elderly pedestrians and cyclists, as well as to enable active and sustainable travel. Nationally Public health and other bodies such as NICE, Public Health England, the LGA and the WHO all support such a policy. It is described as the most cost-effective way to improve health equality by tackling inactivity, obesity and isolation, whilst also being child, disability, elderly and dementia friendly.

Council notes that the report of the Cycling and Walking Scrutiny Group includes recommendations to "initiate a review to assess the appetite for a 20 mile speed limit across town from residents, businesses, and visitors".

Council requests that Cabinet consider the recommendations of the Cycling and Walking Scrutiny Group, and include provision for a consultation exercise in the 2016/17 corporate work plan to establish where there is potential for 20 mile per hour limits in Cheltenham and that the Council use its best endeavours in conjunction with Gloucestershire County Council to work towards trials in suitable areas where public support exists."

**13. TO RECEIVE PETITIONS**

None received.

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

At this point the Deputy Mayor left the chamber.

The Mayor reported that a motion had been submitted by Councillor Chris Nelson in relation to the call in on the SD2 site/decision. He explained that he had determined the motion as urgent as it could not be delayed to another meeting of Council and related to business and matters already under consideration in terms of the Joint Core Strategy.

Councillor Chris Nelson then proposed the following motion which was seconded by Councillor Chard :

This Council requests the Leader of the Council to write urgently to the National Planning Casework Unit in support of the SD2 Call-In request by Alex Chalk MP and Laurence Robertson MP, highlighting the need to await the recommendation of the JCS Examination in Public on Local Green Space.

The following amendment had been proposed by Councillor McKinlay and seconded by Councillor Jordan and circulated prior to the meeting:

Delete working of motion and replace with:

"This Council requests the Leader of the Council to write urgently to the National Planning Casework Unit in support of a SD2 call in request, in relation to Tewkesbury Borough Council Planning decision 14/00838/FUL consistent with the original letter of objection to this application sent by the Borough Council on the 6<sup>th</sup> July 2015"

As the amendment was accepted in full by Councillor Nelson, he then spoke to the amended substantive motion. He explained that it was important that the council wrote to the NPCU in support of the call in request as this would add weight to it and highlight the cross border issues which it raised. He explained that it had been supported by LEGLAG, CPRE and 3 Parish Councils. Whilst the amended motion referred to the Borough Council's original letter of objection to the application on 6 July a previous letter had been submitted on 1 December 2015. Councillor Nelson explained that the original motion had made specific reference to the local green space issue and referred to the fact that when Council signed up to the JCS in April 2014 the Leader spoke about the

importance of the Local Green Space Application and the wish to see this considered in Leckhampton and North West Cheltenham. He reported that there had been agreement in principle of the need to examine Local Green Space in the ongoing JCS examination in public and an interim statement on Local Green Space was expected in January 2016.

He believed that if the council wanted the JCS process to be conducted in a proper manner, there was a need for the examination in public to take place and be concluded so the Secretary of State could consider the issues strategically.

Councillor Nelson stated that given the Council's emphasis on Local Green Space and the Local Green Space consultation exercise which had taken place across the borough, there was a good case for it to be included in the letter.

As proposer of the accepted amendment Councillor McKinlay expressed his support for cross party working. It was important that Council did support the request to be consistent with the fact that it was fighting a planning appeal on the rest of the site. He believed his amendment had provided that consistency and highlighted that representations had been made to Tewkesbury Borough Council in December 2014 and July 2015. In terms of references made thus far to green space he believed the amendment was consistent with previous statements to Tewkesbury which made specific references to the green infrastructure strategy rather than Local Green Space.

The Director Planning, Tracey Crews, was invited to address Council. She confirmed that Local Green Space had not been referenced in the letters to Tewkesbury to date as the issue related to a more comprehensive green infrastructure strategy. The Local Green Space argument could however be used in the context of the recent appeal. She made reference to the long debate which Planning Committee had had when discussing their approach to defending their reasons for refusal at Leckhampton and whilst the Committee believed the green space argument should be included, the legal advice was not to include this as this was well defined by the Parish Council and LEGLAG. She explained however that if the Secretary of State were to accept the call-in there would be a further opportunity to raise it.

In the debate that followed it was recognised that the decision taken by Tewkesbury Borough Council directly affected and was of great concern to the residents of Leckhampton. They acknowledged that being consistent was a sensible approach and was a natural progression of Cheltenham's position. Some Members believed that partners in Tewkesbury had not fully understood the sensitivities of the site.

A Member recognised the issues but highlighted the housing need in the town with 3000 people on the housing waiting list and thus it was vital that the JCS kept moving forward.

The Director Planning was invited to address Council on the impact supporting the call-in request would have on the progress of the JCS and the Local Plan. She explained that signing up to the principle of the objection would not undermine progress.

In his closing remarks Councillor Nelson thanked Councillor McKinlay and the Director Planning but again highlighted his belief that TBC did not give thorough consideration of a complex issue. It was important to support the call in request to ensure that there was review at a strategic level. He understood the issue of consistency in the council's approach but requested that emphasis was given in the Leader's letter to the density argument and the importance of Local Green Space areas.

**RESOLVED THAT**

**This Council requests the Leader of the Council to write urgently to the National Planning Casework Unit in support of a SD2 call in request, in relation to Tewkesbury Borough Council Planning decision 14/00838/FUL consistent with the original letter of objection to this application sent by the Borough Council on the 6<sup>th</sup> July 2015"**

**15. LOCAL GOVERNMENT ACT 1972 -EXEMPT INFORMATION  
RESOLVED**

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

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

**16. EXEMPT MINUTES**

The exempt minutes of the meeting held on 20 July 2015 were approved and signed as a correct record.

Duncan Smith  
**Chairman**

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### Council – 14 December 2015

#### Member Questions (12) – Responses will be circulated on the day of the meeting

<b>1.</b>	<b>Question from Councillor Andrew Chard to Cabinet Member Corporate Services, Councillor Jon Walklett</b>
	Would the Cabinet Member responsible for IT care to comment on the response which I have just received to an email sent to one of his colleagues, the reply to which was (and I quote) "I am currently unable to respond to emails, I have a limited inbox that quickly exceeds my allowance so your email may not be received at all".
	<b>Response from Cabinet Member Corporate Services</b>
<b>2.</b>	<b>Question from Councillor Jacky Fletcher to Leader, Councillor Steve Jordan</b>
	A petition signed by over 6,700 residents and people who regularly use this road opposing the proposed A40 Bus Lane was presented to a recent meeting of the County Council. I understand that at that time the position of Cheltenham's Liberal Democrat Cabinet on the proposal was unclear. Can the Leader confirm today whether or not his Cabinet support it or oppose the proposal?
	<b>Response from Cabinet Member</b>
<b>3.</b>	<b>Question from Councillor Tim Harman to Cabinet Member Clean and Green Environment, Councillor Chris Coleman</b>
	Does the Cabinet Member think that we have sufficient litter bins in Cheltenham to cope with demand?
	<b>Response from Cabinet Member</b>
<b>4.</b>	<b>Question from Councillor Flo Clucas to Cabinet Member Finance, Councillor John Rawson</b>
	What will the impact be on the Council's finances of the Chancellor's comprehensive spending review announcement on November 25th? What will the effect be on the Borough Council's services? How many Cheltenham families, older residents and young people would be affected by the government's changes?
	<b>Response from Cabinet Member</b>
<b>5.</b>	<b>Question from Councillor Flo Clucas to Cabinet Member Finance, Councillor John Rawson</b>
	The Government has recently announced significant changes to Housing Benefit, including the elimination of the family premium from the Housing Benefit calculation for new clients. Will these changes affect the local council tax support scheme, the Council's own scheme which provides financial assistance to some of the poorest members of our community?
	<b>Response from the</b>
<b>6.</b>	<b>Question from Councillor Matt Babbage to Cabinet Members Finance/Healthy Lifestyles</b>
	Can the Cabinet Members for Finance/Healthy Lifestyles give an update on the

	investigation into the Wilson Art Gallery & Museum gas and electricity bill overspend, and progress on rectifying the problem?
	<b>Response from Cabinet Member</b>
<b>7.</b>	<b>Question from Councillor Matt Babbage to Cabinet Member Development &amp; Safety, Councillor Andrew McKinlay</b>
	Can the Cabinet Member give an update on the situation around the Banksy mural in Fairview?
	<b>Response from Cabinet Member</b>
<b>8.</b>	<b>Question from Councillor Matt Babbage to Cabinet Member Corporate Services, Councillor Jon Walklett</b>
	Can the Cabinet Member comment on reports that some councillors' emails have been appearing to recipients as if they have been sent from other email addresses, and to confirm the extent of the problem?
	<b>Response from Cabinet Member</b>
<b>9.</b>	<b>Question from Councillor Adam Lillywhite to the Leader, Councillor Steve Jordan</b>
	At the last full Council meeting I asked the Leader to explain, "how traffic that would have used Boots Corner would now reach the new store (John Lewis) from the South of town, specifying road names" His response was "On the assumption that the Boots Corner trial progresses then traffic will choose to disperse around the town centre in either an easterly or westerly direction thus accessing Albion Street via London Road and St James's Street or from North Street." Respectfully, he has not answered the question, Firstly, North Street would only be accessible through Boots Corner, therefore the traffic would not have 'dispersed' and it would not have closed. Secondly, the route including St James street, accounts for traffic from the East, not how it gets there from the South. Can he please specify the roads to be used by the traffic travelling from the South of the town?
	<b>Response from Cabinet Member</b>
<b>10.</b>	<b>Question from Councillor Adam Lillywhite to Cabinet Member Development &amp; Safety, Councillor Andrew McKinlay</b>
	The CTP consultation did not include any traffic modelling data for All Saints Rd yet for the adjacent Fairview Rd there is an average increase of over 200%, When figures were finally released after many requests, All Saints Rd showed just a 6% increase, can He please explain how these figures have been 'capped', and how this has been explained to the residents when no such understanding could be gained from the 'consultation'?
	<b>Response from Cabinet Member</b>
<b>11.</b>	<b>Question from Councillor Adam Lillywhite to Cabinet Member Development &amp; Safety, Councillor Andrew McKinlay</b>
	Night time traffic figures, Given that the aim of the CTP is to remove traffic from the town centre and disperse it through other, mainly residential streets of the town, Day and night, can you please explain the refusal of the Highways Authority

	to give any night time traffic figures despite incessant requests over the last four years?
	<b>Response from Cabinet Member</b>
<b>12.</b>	<b>Question from Councillor Adam Lillywhite to Cabinet Member Development &amp; Safety, Councillor Andrew McKinlay</b>
	The OED definition of a Plan is, 'A method of achieving something that has been worked out in detail beforehand', Yet the 'CTP' fails to to consider the LTP or the JCS, indeed the only plan is to reduce the northbound road capacity by 30%, how can this be reconciled with the planned increase of 20% of households and jobs in the town when there is already such limited highway capacity, so clearly demonstrated at peaks times by the lack of resilience.
	In transport terms, what is the CTP aiming to achieve?
	<b>Response from Cabinet Member</b>

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**Cheltenham Borough Council  
Cabinet – 8<sup>th</sup> December 2015  
Council – 14<sup>th</sup> December 2015  
Treasury Mid-Term Report 2015/16**

<b>Accountable member</b>	<b>Finance &amp; Community Development , John Rawson</b>
<b>Accountable officer</b>	<b>Section 151 Officer, Paul Jones</b>
<b>Accountable scrutiny committee</b>	<b>Economy &amp; Business Improvement</b>
<b>Ward(s) affected</b>	<b>None</b>
<b>Key Decision</b>	<b>Yes</b>
<b>Executive summary</b>	The Treasury Management Strategy for 2015/16 has been determined by the adoption of the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2009 (revised 2011), which includes the requirement for determining a treasury strategy on the likely financing and investment activity for the forthcoming financial year. The Code also recommends that members are informed of Treasury Management activities at least twice a year. This report therefore ensures this authority has adopted the code and complies with its requirements.
<b>Consultation</b>	The Treasury Management Panel have considered this report on 23rd November 2015.
<b>Recommendations</b>	<b>Cabinet/Council are recommended to:</b>  <b>1. Note the contents of the summary report of the treasury management activity during the first six months of 2015/16.</b>
<b>Financial implications</b>	All financial implications are detailed throughout the report  <b>Contact officer: Andrew Sherbourne, andrew.sherbourne@cheltenham.gov.uk, 01242 264337</b>
<b>Legal implications</b>	None specific arising from the report recommendations.  <b>Contact officer: Peter Lewis, peter.lewis@tewkesbury.gov.uk, 01242 264216</b>

<b>HR implications (including learning and organisational development)</b>	No direct HR implications arising from this report  <b>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk. 01242 264355</b>
<b>Key risks</b>	see appendix 2
<b>Corporate and community plan Implications</b>	None
<b>Environmental and climate change implications</b>	None

## 1. Background

**1.1** The Treasury Management Strategy for 2015/16 has been developed by the adoption of the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2009 (revised 2011), which includes the requirement for determining a treasury strategy on the likely financing and investment activity for the forthcoming financial year. The Code also recommends that members are informed of Treasury Management activities at least twice a year. This report therefore ensures this authority has adopted the code and complies with its requirements, one of which is the provision of a Mid-year report to Members.

## 2. Economic update for the first six months

**2.1** The following key points have been provided by the councils Treasury Advisors, Capita Treasury Solutions.

**2.2** UK GDP growth rates in 2013 of 2.2% and 2.9% in 2014 were the strongest growth rates of any G7 country; the 2014 growth rate was also the strongest UK rate since 2006 and the 2015 growth rate is likely to be a leading rate in the G7 again, possibly being equal to that of the US. However, quarter 1 of 2015 was weak at +0.4% (+2.9% y/y) though there was a rebound in quarter 2 to +0.7% (+2.4% y/y). Growth is expected to weaken to about +0.5% in quarter 3 as the economy faces headwinds for exporters from the appreciation of Sterling against the Euro and weak growth in the EU, China and emerging markets, plus the dampening effect of the Government's continuing austerity programme, although the pace of reductions was eased in the May Budget. Despite these headwinds, the Bank of England August Inflation Report had included a forecast for growth to remain around 2.4 – 2.8% over the next three years, driven mainly by strong consumer demand as the squeeze on the disposable incomes of consumers has been reversed by a recovery in wage inflation at the same time that CPI inflation has fallen to, or near to, zero over the last quarter. Investment expenditure is also expected to support growth. However, since the report was issued, the Purchasing Manager's Index, (PMI), for services on 5 October would indicate a further decline in the growth rate to only +0.3% in Q4, which would be the lowest rate since the end of 2012. In addition, worldwide economic statistics and UK consumer and business confidence have distinctly weakened so it would therefore not be a surprise if the next Inflation Report in November were to cut those forecasts in August.

**2.3** The August Bank of England Inflation Report forecast was notably subdued in respect of inflation which was forecast to barely get back up to the 2% target within the 2-3 year time horizon. However, with the price of oil taking a fresh downward direction and Iran expected to soon re-join the world oil market after the impending lifting of sanctions, there could be several more months of

low inflation still to come, especially as world commodity prices have generally been depressed by the Chinese economic downturn.

- 2.4 There are therefore considerable risks around whether inflation will rise in the near future as strongly as had previously been expected; this will make it more difficult for the central banks of both the US and the UK to raise rates as soon as was being forecast until recently, especially given the recent major concerns around the slowdown in Chinese growth, the knock on impact on the earnings of emerging countries from falling oil and commodity prices, and the volatility we have seen in equity and bond markets in 2015 so far, which could potentially spill over to impact the real economies rather than just financial markets.

### 3. Portfolio position 1/4/2015 to 30/9/2015

Movements in the Council's borrowing during the first six months of 2015/16 financial year can be seen in the table below. Long term loans are deemed to be those repayable over a period of more than one year.

Source of Loan	Balance at 1 April 2015 £	Raised during Apr-Sept £	Repaid during Apr-Sept £	Balance at 30 Sept 2015 £
<b>Temporary Borrowing</b>				
- Local Authorities	0	13,020,000	13,020,000	0
Temporary Investment	21,000	0	0	21,000
<b>Total Short Term Borrowing</b>	<b>21,000</b>	<b>13,020,000</b>	<b>13,020,000</b>	<b>21,000</b>
<b>Long Term Borrowing</b>				
- Public Works Loan Board	43,030,000	6,950,000	256,270	49,723,730
- Market Loans	15,900,000	0	0	15,900,000
<b>Long Term Borrowing</b>	<b>58,930,000</b>	<b>6,950,000</b>	<b>256,270</b>	<b>65,623,730</b>
<b>Total External Borrowing</b>	<b>58,951,000</b>	<b>19,970,000</b>	<b>13,276,270</b>	<b>65,644,730</b>

- 3.1 In February 2015 the Council's borrowing costs for 2015/16 was set to be £2,067,400. This is now forecast to come in at £2,169,000 for the year, an increase of £101,600. The increase is due to an additional £4.75m borrowed from the PWLB to finance the purchase of Delta Place. This has increased borrowing costs by a further £83,200 and an additional £18,400 is expected to be repaid back to the HRA for reserves and balances held within the council investment balances. These balances are expected to come in higher than what was estimated in February 2015.

- 3.2** The PWLB remains an attractive source of borrowing for the Council as it offers flexibility and control. Due to downward moves in gilt yields in the first quarter, this resulted in PWLB rates falling across all maturities due to fear around the slowdown in China and Japan. In May 2015 a loan of £2.2m was taken out with the PWLB for 30 years at a rate of 3.08% on behalf of Cheltenham Borough Homes. The loan is cost neutral for the Council as Cheltenham Borough Homes are repaying the Council in line with the repayment schedule.
- 3.3** As highlighted in paragraph 3.1 the Council purchased Delta Place in June 2015 and went and borrowed £4.75m from the PWLB.

The loans drawn were:

Lender	Principal	Type	Interest Rate	Maturity
PWLB	£1.5m	Fixed interest rate	2.80%	15 years
PWLB	£1.75m	Fixed interest rate	3.07%	20 years
PWLB	£1.5m	Fixed interest rate	2.16%	10 years

#### 4. Investments

The DCLG's Guidance on Local Government Investments in England gives priority to security and liquidity and the Council's aim is to achieve a yield commensurate with these principles.

Security of capital remained the Council's main investment objective. This was maintained by following the Council's counterparty policy as set out in its Treasury Management Strategy for 2015/16 approved by Council on the 13th February 2015. This restricted new investments to the following

Investment	Max Sum per institution/group	Maximum period
<b>Debt Management Agency Deposit Facility*</b> (DMADF) <ul style="list-style-type: none"> <li>this facility is at present available for investments up to 6 months</li> </ul>	UNLIMITED	6 months
<b>UK Government Gilts</b>	£2m	2 years
<b>UK Government Treasury Bills</b>	UNLIMITED	1 year
<b>Term deposits</b> with the UK government or with UK local authorities (i.e. local authorities as defined under Section 23 of the 2003 Act) with maturities up to 1 year	£7m	2 years
<b>Term deposits</b> with credit-rated deposit takers (banks and building societies), including callable deposits, with maturities up to 1 year (UK & Non-UK)	£7m	1 year
<b>Money Market Funds</b> with UK/Ireland/Luxembourg domiciled	£1m	1 year



<b>Corporate Bonds</b> held in a broker's nominee account (King & Shaxson Ltd)	£2m	2 years to maturity
<b>T-Bills</b> issued by the DMO (Government)	UNLIMITED	1 year
<b>Certificates of deposit (CD's)</b> issued by banks and building societies covered by UK Government (explicit) guarantee	£7m	2 years

This Council applies the creditworthiness service provided by Capita. This service employs a sophisticated modelling approach utilising credit ratings from the three main credit rating agencies - Fitch, Moody's and Standard and Poor's. The credit ratings of counterparties are supplemented with the following overlays:

- Credit watches and credit outlooks from credit rating agencies;
- CDS spreads to give early warning of likely changes in credit ratings;
- Sovereign ratings to select counterparties from only the most creditworthy countries.

**4.1** It is a very difficult investment market in terms of earning the level of interest rates commonly seen in previous decades as rates are very low and in line with the 0.50% Bank Rate. As part of the 2015/16 Treasury Management Strategy investments have only been those which met the lending criteria set, and up to a maximum period of one year. Treasury officers have kept to this strategy for the period reported on. Given this risk environment, investment returns are likely to remain low.

**4.2 Investments** - Movements in the Council's investment portfolio during the first six months of 2015/16 can be seen in the table below.

Source of Loan	Balance at 1 April 2015 £	Raised during Apr-Sept £	Repaid during Apr-Sept £	Balance at 30 Sept 2015 £
<b>Short term Lending</b>				
Bank – Term Deposit	9,000,000	7,600,000	12,900,000	3,700,000
Building Societies	3,000,000	6,300,000	5,000,000	4,300,000
Call A/C's	6,590,000	69,200,000	69,910,000	5,880,000
Local Authorities	0	1,000,000	0	1,000,000
Glos Airport Ltd	210,000	0	35,000	175,000
Money Market Funds	2,000,000	2,000,000	2,000,000	2,000,000
Bonds	0	2,610,662	0	2,610,662
<b>Total Short Term Lending</b>	<b>20,800,000</b>	<b>88,710,662</b>	<b>89,845,000</b>	<b>19,665,662</b>

Icelandic Banks in administration	Balance at 1 April 2015 £	Raised during Apr-Sept £	Repaid during the year £	Balance at 30 Sept 2015 £
- Kaupthing Singer & Friedlander	522,486	0	0	522,486
- Glitnir	572,400	0	0	572,400
<b>Total Icelandic Banks</b>	<b>1,094,886</b>	<b>0</b>	<b>0</b>	<b>1,094,886</b>
<b>Total External Investments</b>	<b>21,894,886</b>	<b>88,710,662</b>	<b>89,845,000</b>	<b>20,760,548</b>

**4.3** In February 2015 the Council's Investment income for 2015/16 was budgeted to be £60,000. The average cash balances representing the council's reserves and working balances, was £16.88m during the period this report covers. The Council anticipates an investment outturn of £123,200 at a rate of 0.70% for this financial year as treasury officers have been able to gain some good rates with the Bonds and Certificate of Deposits purchased. Security of capital has remained the Council's main investment objective. This has been maintained by following the Council's counterparty policy as set out in its Treasury Management Strategy Statement for 2015/16.

**4.4** Included within the investments of £20.761m as at 30<sup>th</sup> September 2015, the Council has £1.095m deposited in the collapsed Icelandic banks.

**4.5** Glitnir's Winding-up-Board made a distribution to priority creditors back in March 2012, which amounted to 78p in the pound. The remaining balance is held in an escrow account in Iceland. The Central Bank of Iceland is controlling the movement of Icelandic Krona's, so the Council has been unable to gain access to these funds. The Council is working with the Local Government Association (LGA) and Bevan Brittan (appointed solicitors) to recover the remaining amount.

**4.6** Kaupthing Singer & Friedlander administrators have made distributions of 82.5p in the pound to date. Administrators currently estimate a total return of 85p-86.5p in the pound. No future date for the next dividend payment has been set yet.

## **5. Prudential Indicators**

**5.1** During the financial year to date the Council has operated within the treasury limits and Prudential Indicators set out in the Council's Treasury Policy Statement and Annual Treasury Strategy Statement. Appendix 1 attached highlights the major indicators.

## 6. Outlook

	Dec-15	Mar-16	Jun-16	Sep-16	Dec-16	Mar-17	Jun-17	Sep-17	Dec-17	Mar-18	Jun-18
Bank rate	0.50%	0.50%	0.75%	0.75%	1.00%	1.00%	1.25%	1.50%	1.50%	1.75%	1.75%
5yr PWLB rate	2.40%	2.50%	2.60%	2.80%	2.90%	3.00%	3.10%	3.20%	3.30%	3.40%	3.50%
10yr PWLB rate	3.00%	3.20%	3.30%	3.40%	3.50%	3.70%	3.80%	3.90%	4.00%	4.10%	4.20%
25yr PWLB rate	3.60%	3.80%	3.90%	4.00%	4.10%	4.20%	4.30%	4.40%	4.50%	4.60%	4.60%
50yr PWLB rate	3.60%	3.80%	3.90%	4.00%	4.10%	4.20%	4.30%	4.40%	4.50%	4.60%	4.60%

**6.1** Capita Asset Services undertook its last review of interest rate forecasts on 11 August shortly after the quarterly Bank of England Inflation Report. Later in August, fears around the slowdown in China and Japan caused major volatility in equities and bonds and sparked a flight from equities into safe havens like gilts and so caused PWLB rates to fall below the above forecasts for quarter 4 2015. However, there is much volatility in rates as news ebbs and flows in negative or positive ways and news in September in respect of Volkswagen, and other corporates, has compounded downward pressure on equity prices. This latest forecast includes a first increase in Bank Rate in quarter 2 of 2016.

Despite market turbulence since late August causing a sharp downturn in PWLB rates, the overall trend in the longer term will be for gilt yields and PWLB rates to rise when economic recovery is firmly established accompanied by rising inflation and consequent increases in Bank Rate, and the eventual unwinding of QE. Increasing investor confidence in eventual world economic recovery is also likely to compound this effect as recovery will encourage investors to switch from bonds to equities.

The overall balance of risks to economic recovery in the UK is currently evenly balanced. Only time will tell just how long this current period of strong economic growth will last; it also remains exposed to vulnerabilities in a number of key areas.

## 7. Performance management

**7.1** In compliance with the requirements of the Treasury Management CIPFA Code of Practice this report provides members with a summary report of the treasury management activity during the first six months of 2015/16. None of the Prudential Indicators have been breached and a prudent approach has been taken in relation to investment activity with priority being given to security and liquidity over yield.

<b>Report author</b>	<b>Contact officer: Andrew Sherbourne, andrew.sherbourne@cheltenham.gov.uk</b>  <b>01242 264337</b>
<b>Appendices</b>	Prudential Indicators Appendix 1  Risk Appendix 2
<b>Background information</b>	Treasury Management Strategy, Council 13th February 2015

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## The Council's Capital Position (Prudential Indicators)

This part of the report is structured to update:

- The Council's capital expenditure plans;
- How these plans are being financed;
- The impact of the changes in the capital expenditure plans on the prudential indicators and the underlying need to borrow; and
- Compliance with the limits in place for borrowing activity.

### Prudential Indicator for Capital Expenditure

This table shows the revised estimates for capital expenditure and the changes since the capital programme was agreed at the Budget.

<b>Capital Expenditure by Service</b>	<b>2015/16 Original Estimate</b>	<b>Current Position As at 30<sup>th</sup> Sept 2015</b>	<b>2015/16 Revised Estimate</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>
General Fund	2.309	14.552	23.838
HRA	6.688	2.748	6.780
<b>Total</b>	<b>8.997</b>	<b>17.300</b>	<b>30.618</b>

### Changes to the Financing of the Capital Programme

The table below draws together the main strategy elements of the capital expenditure plans (above), highlighting the original supported and unsupported elements of the capital programme, and the expected financing arrangements of this capital expenditure. The borrowing element of the table increases the underlying indebtedness of the Council by way of the Capital Financing Requirement (CFR), although this will be reduced in part by revenue charges for the repayment of debt (the Minimum Revenue Provision). This direct borrowing need may also be supplemented by maturing debt and other treasury requirements.

<b>Capital Expenditure</b>	<b>2015/16 Original Estimate</b>	<b>2015/165 Revised Estimate</b>
	<b>£m</b>	<b>£m</b>
Financed by:		
Capital receipts	847	7.809
Capital grants	306	660
Capital reserves	6.184	5.912
Third Party Contribution	50	893
Revenue	804	975
<b>Total financing</b>	<b>8.191</b>	<b>16.249</b>
<b>Borrowing need</b>	<b>806</b>	<b>14.369</b>

### Changes to the Prudential Indicators for the Capital Financing Requirement, External Debt and the Operational Boundary

The table shows the CFR, which is the underlying external need to incur borrowing for a capital purpose. It also shows the expected debt position over the period. This is termed the Operational Boundary.

### Prudential Indicator – Capital Financing Requirement

We are on target to achieve the revised forecast Capital Financing Requirement

## Prudential Indicator – External Debt / the Operational Boundary

	2015/16 Original Estimate	Current Position As at 30 <sup>th</sup> Sept 2015	2015/16 Revised Estimate
	£m	£m	£m
<b>Prudential Indicator – Capital Financing Requirement</b>			
CFR – non housing	38.470	25.975	51.950
CFR – housing	35.400	17.700	35.400
Total CFR	73.870	43.675	87.350
<b>Prudential Indicator – External Debt / the Operational Boundary</b>			
Borrowing	106.600	106.600	106.600
Other long term liabilities*	-	-	-
<b>Total debt 31 March</b>	<b>106.600</b>	<b>106.6000</b>	<b>106.600</b>

## Limits to Borrowing Activity

The first key control over the treasury activity is a prudential indicator to ensure that over the medium term, net borrowing (borrowings less investments) will only be for a capital purpose. Gross external borrowing should not, except in the short term, exceed the total of CFR in the preceding year plus the estimates of any additional CFR for 2015/16 and next two financial years. This allows some flexibility for limited early borrowing for future years. The Council has approved a policy for borrowing in advance of need which will be adhered to if this proves prudent.

	2015/16 Original Estimate	Current Position As at 30 <sup>th</sup> Sept 2015	2015/16 Revised Estimate
	£m	£m	£m
Gross borrowing	67.830	74.622	74.504
CFR* (year end position)	73.870	87.350	87.350

The Section 151 Officer reports that no difficulties are envisaged for the current or future years in complying with this prudential indicator.

A further prudential indicator controls the overall level of borrowing. This is the Authorised Limit which represents the limit beyond which borrowing is prohibited, and needs to be set and revised by Members. It reflects the level of borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term. It is the expected maximum borrowing need with some headroom for unexpected movements. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003.

<b>Authorised limit for external debt</b>	2015/16 Original Indicator £m	Current Position As at 30 <sup>th</sup> Sept 2015 £m	2015/16 Revised Indicator £m
Borrowing	60.827	65.619	65.501
Other long term liabilities*	0	0	0
Total	60.827	65.619	65.501

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	I	L	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	LOBO Loans - If £7m of these loans is recalled by the banks if they choose to exercise their option then we would need to have the resources on the day to repay. Alternative borrowing arrangements at today's current rates would be favourable for the Council	Section 151 Officer Paul Jones	24 <sup>th</sup> January 2012	1	2	2	Accept	If the loans are recalled the council could take out temporary borrowing which is currently much lower than the rates on these loans. Any capital receipts available could also be used to repay debt.	March 2016	Section 151 Officer Paul Jones	

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## Cheltenham Borough Council Council – 14 December 2015

### Licensing Act 2003 Licensing Policy Statement

<b>Accountable member</b>	<b>Councillor Andrew McKinlay, Cabinet Member Development and Safety</b>
<b>Accountable officer</b>	<b>Mike Redman, Acting Managing Director Place and Economic Development</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key/Significant Decision</b>	<b>No</b>
<b>Executive summary</b>	<p>Section 5 of the Licensing Act 2003 requires the Council to review, determine and publish its Licensing Act 2003 Policy Statement every three years.</p> <p>The current policy statement was adopted by Council on 10 February 2012. Whilst it is not technically necessary to review the adopted policy statement until 2016, it was deemed appropriate to undertake an early review to reflect various changes in law, good practice and changes in the local licensing landscape.</p> <p>Consultation has been undertaken and this report is asking Council to consider the consultation feedback and to adopt the revised policy.</p>
<b>Recommendations</b>	<p><b>Council is recommended to:</b></p> <ol style="list-style-type: none"> <li><b>1. Note the consultation feedback and officer comments;</b></li> <li><b>2. In accordance with paragraph 3.24, approve an amendment to Part 3C of the Council’s constitution to delegate authority to the Acting Managing Director Place and Economic Development to classify films up to a classification of 15 and higher classifications to the Licensing Committee; and</b></li> <li><b>3. Adopt the revised policy attached at Appendix 2.</b></li> </ol>
<b>Financial implications</b>	<p>No financial implications arising from this report.</p> <p><b>Contact officer: Sarah Didcote, sarah.didcote@cheltenham.gov.uk, 01242 26 4125</b></p>
<b>Legal implications</b>	<p>Contained in the body of the report.</p> <p><b>Contact officer: Vikki Fennell, Vikki.fennell@teWKesbury.gov.uk, 01684 272015</b></p>

<p><b>HR implications (including learning and organisational development)</b></p>	<p>While there are no direct HR implications as a result of the report, there may be additional monitoring work required or other work resulting from some of the changes. Workloads and working hours of officers should be reviewed regularly to ensure any additional demands are able to be met with the available capacity.</p> <p><b>Contact officer: Richard Hall, richard.hall@cheltenham.gov.uk, 01242 77 4972</b></p>
<p><b>Key risks</b></p>	<p><b>As identified in Appendix 1</b></p>
<p><b>Corporate and community plan Implications</b></p>	<p>Cheltenham has a strong and sustainable economy</p> <p>Communities feel safe and are safe.</p> <p>Our residents enjoy a strong sense of community and involved in resolving local issues.</p>
<p><b>Environmental and climate change implications</b></p>	<p>None</p>
<p><b>Property/Asset Implications</b></p>	<p>None</p> <p><b>Contact officer: David Roberts@cheltenham.gov.uk</b></p>

## 1. Background

- 1.1 Section 5 of the Licensing Act 2003 (“2003 Act”) requires the Council to review, determine and publish its Licensing Act 2003 Policy Statement (“policy statement”) every three years.

## 2. The Licensing Act 2003

- 2.1 The 2003 Act is the primary legislation that deals with the licensing requirements relating to:
- a) the sale by retail of alcohol,
  - b) the supply of alcohol by or on behalf of a club to, or to the order of a member of the club,
  - c) the provision of regulated entertainment, and
  - d) the provision of late night refreshment.
- 2.2 The licensable activities listed above are authorised through the issue of:
- a) a premises licence; or
  - b) a club premises certificate; or
  - c) a temporary event notice.
- 2.3 The council is obligated to promote the four licensing objectives when discharging its functions under the 2003 Act including setting policy. The licensing objectives are:
- a) the prevention of crime and disorder;
  - b) public safety;
  - c) the prevention of public nuisance; and
  - d) the protection of children from harm.

## 3. The Policy Statement

- 3.1 The draft proposed policy statement is attached at **Appendix 2** of this report.
- 3.2 The policy statement sets out the principles the council will apply when determining applications under the 2003 Act for up to the next five years. It also provides guidance to licence holders and applicants on how to make an application and advises them how the council will determine applications.
- 3.3 The draft amended policy reflects changes in primary legislation, case law and national guidance. Changes to the policy also draw from the council’s experience since the 2003 Act came in to force.
- 3.4 The profile of alcohol in particular has become a popular issue locally. Its availability has caused, and continues to cause, problems for the council and other regulatory partners in, for example, the prevalence of pre-loading, crime, disorder, street drinking, underage sales and public nuisance.
- 3.5 Equally however, there is recognition that the trade in alcohol has benefits for the town particularly in relation to the economic contribution made through, for example, a vibrant and popular night-time economy that draws thousands of people on most nights and investment in the town by

businesses selling alcohol.

- 3.6 This policy statement is a key document for the council in terms of how it seeks to address the challenges brought by the licensable activities whilst at the same time promoting the town as a safe place to visit and invest.
- 3.7 This policy statement also forms part of a wider night-time economy strategy to promote a greater diversity in the night time economy that is less focused on alcohol, supporting better management of licensed premises and public spaces, working to reduce alcohol related health harms by preventing vulnerability, promoting safe drinking limits and reducing pre-loading and working to promote a clean environment.
- 3.8 In the context of the wider night-time economy strategy, this policy statement sits alongside initiatives such as the adoption of the late night levy, the implementation of the Reducing Alcohol Related Violence (RARV) project, the alcohol coordination group and the REST outcomes and priorities.
- 3.9 Taking into account all of the measures above, the policy statement proposes a more proactive policy approach to the regulation of the licensable activities whereby the council is more proactive and prescriptive in shaping the licensing landscape in the town. For example, the proposed amended policy sets out measures to identify certain areas where more intensive intervention may be appropriate, proposes recommended core trading hours & admission times, better management of outside areas and seeks to introduce a best practice guide for drinks promotions.
- 3.10 This is a change from the current policy that is much more reactive in that it deals with matters on a case to case basis without being particularly prescriptive.
- 3.11 The amended new policy statement sets out a proposed policy vision to make Cheltenham a safe and clean town that offers a greater diversity in the night time economy that is not solely focused on alcohol and that protects the quality of life for residents. In order for the council to achieve this vision, it must become more proactive in shaping the licensing landscape in the town.

### Measures Proposed

- 3.12 **Designated area of concern** – The policy statement is proposing to designate the town centre as an area of concern. As set out in the policy, there are areas of the borough where evidence does not suggest that they should be designated as Cumulative Impact Areas but nonetheless will require regular review to establish whether the concentration of licensed premises is considered to have begun to cause cumulative impact on one or more of the licensing objectives.
- 3.13 Adopting such an area will enable the council and other partners to monitor the number of licensed premises in the designated area and any risk factors that may indicate that the area is reaching a point when a cumulative impact is likely or imminent. It will also provide the Council and its partners an opportunity to put measures in place to address the concerns highlighted.
- 3.14 **Core Hours for Licensable Activities** – Whilst the council will avoid arbitrary restrictions on licensing hours, at the same time it recognises that later opening hours has brought increased levels of crime, disorder and nuisance.
- 3.15 The draft policy statement is therefore proposing core trading hours for licensed premises. The council believes that licensable activities carried on within these hours will generally not have a harmful impact on the licensing objectives, address the concerns raised by local residents and businesses and are less likely to attract representations.
- 3.16 **Latest admission times** – Through the policy statement, the council does not want to encourage a practice whereby persons should seek to ‘top up’ their alcohol intake by seeking out those premises that are admitting customers at the latest times because persons moving between

venues late at night can lead to crime, disorder and public nuisance.

- 3.17** The policy statement therefore proposes, amongst other proposals, to restrict the latest admission time for licensed premises.
- 3.18 Takeaway food premises** – There is a propensity for takeaway premises open late at night to be associated with disorder as persons under the influence of alcohol having left, or in some cases being ejected from, late night venues congregate there.
- 3.19** As such, the policy statement proposes, amongst other proposals, to restrict the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises.
- 3.20 Pavement Cafes and External Areas** – Whilst the council wishes to promote a ‘cafe culture’ in Cheltenham because of the added life and vitality this brings to the town, there is also recognition of the fact that the use of such areas can cause nuisance to local residents and other premises in the vicinity. The policy statement therefore proposes to restrict the use of external areas to 23:00.
- 3.21 Code of Good Practice for Drinks Promotions** – It is a known fact that the price of alcohol does have an effect on the amount people consume and that people are more attracted to premises that offer low cost alcohol. This can, and does, cause people to consume more alcohol than they would normally and can lead to crime, disorder and public nuisance issues.
- 3.22** The issue of cheap alcohol and preloading is a complex one. The council does not wish to unnecessarily impose operational restrictions on licensed premises, but equally recognises that action is required to deal with the problem of the availability of cheap alcohol.
- 3.23** To this end and as a first proportional step, the policy statement is proposing the adoption of a code of good practice for drinks promotions. Based on the good relationship the council has developed with the on-trade through the work of Cheltenham Safe, there is confidence that the trade will be receptive. There is however recognition that more work will be required with the off-trade in terms of dealing with drinks promotions and the prevalence of preloading and street drinking.
- 3.24 Film Classifications** – The council has a statutory obligation to classify films for public screening. The BBFC is the nominated body that classifies films to be exhibited in cinemas on behalf of Licensing Authorities. Films that have not been classified by the BBFC and are to be screened in the borough must be submitted to the council for classification.

The council has always had this statutory responsibility but never formalised its approach. The policy statement sets out a proposed approach.

In accordance with the above, it is proposed that the Council’s scheme of delegation be amended so to delegate authority to officers to classify films up to a classification of 15. Any higher classification will be referred to the Licensing Committee.

- 3.25 Pool of Model Conditions** – The council is also proposing to adopt a pool of model licence conditions as part of the policy statement. The purpose of the pool of model licence conditions would be to promote the use of clear, proportionate and enforceable conditions.

## **4. Statutory Guidance**

- 4.1** Section 4 of the 2003 Act states that, in carrying out its functions, the Council must ‘have regard to’ guidance issued by the Secretary of State under section 182.
- 4.2** The relevant section of the statutory guidance can be found in the background papers for this report.

**5. Reasons for recommendations**

- 5.1 To ensure that the Council complies with its duties under section 5 of the 2003 Act.
- 5.2 To ensure that the Council can effectively discharge its licensing function under the 2003 Act.

**6. Alternative options considered**

- 6.1 The Council can resolve not to adopt the revised policy statement. However this option would result in the Council failing to comply with its duty and function under the 2003 Act.

**7. Consultation and feedback**

- 7.1 Consultation on the revised policy was undertaken for 12 weeks between April and July this year.
- 7.2 Four responses were received. Attached at **Appendix 3** is the consultation feedback and officer response.
- 7.3 Cabinet has approved the revised policy attached at **Appendix 2** for adoption.

<b>Report author</b>	<b>Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk, 01242 26 4217</b>
<b>Appendices</b>	<ul style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Draft Policy Statement</li> <li>3. Consultation Feedback and Officer Response</li> </ul>
<b>Background information</b>	<ul style="list-style-type: none"> <li>1. Licensing Act 2003</li> <li>2. Revised Guidance issued under section 182 of the Licensing Act 2003 (October 2014)</li> <li>3. Cheltenham Borough Council's Licensing Act 2003 Licensing Policy Statement Approved by Council 10th of February 2012</li> </ul>

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	
	There is a risk that the council may not be able to properly regulate activities under the Act if it fails to adopt the revised policy.	Director of Environmental & Regulatory Services	October 2015	3	2	6	Accept	Adopt policy		Licensing Team Leader		
	This may also cause a risk to the council's reputation and the town's reputation as a safe, vibrant and desirable destination to work, live and visit.	Director of Environmental & Regulatory Services	October 2015	3	2	6	Accept	Adopt policy		Licensing Team Leader		
<p><b>Explanatory notes</b></p> <p><b>Impact</b> – 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><b>Likelihood</b> – 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><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close</p>												

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# Licensing Act 2003

## Licensing Policy Statement



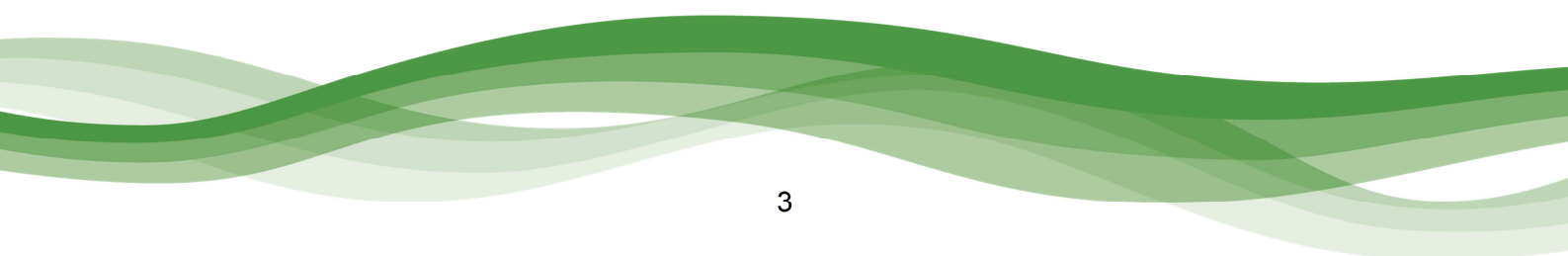
All enquiries should be directed to:

Licensing Section  
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CHELTENHAM  
GL50 9SA  
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Website: [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk)

This Policy was approved on xx.

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## **Policy Vision Statement**

We want Cheltenham to be a safe and clean town that offers a greater diversity in the night time economy that is less focused on alcohol and protects the quality of life for residents.

## 1. Introduction

- 1.1 This Licensing Policy Statement (“policy”) has been produced in accordance with the requirements of the Licensing Act 2003 (“the Act”) and is in line with guidance issued under Section 182 of the Act. Section 5 (as amended) of the Act requires Cheltenham Borough Council (“the council”), acting in its capacity as the Licensing Authority to prepare and publish a statement of its licensing policy at least every five years.
- 1.2 This policy was last reviewed in 2012. In determining the policy the council has taken into consideration any comments made by consultees. The council has also taken into consideration the statutory guidance, changes in legislation and the experience of administering and enforcing the Act since its introduction.
- 1.3 The main purpose of this policy is to provide clarity to applicants, responsible authorities, elected Members and other persons on how the council will determine applications for the sale/supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment and also to provide a basis for all licensing decisions taken by the council over the next five years. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 1.4 An effective licensing policy, alongside other initiatives, will work towards promoting the positive aspects of deregulation under the Act, such as promoting tourism, increasing leisure provision and encouraging the regeneration of the town centre as well as controlling the negative impacts such as increase in noise, nuisance, anti-social behaviour and crime and disorder.
- 1.5 Other matters also taken into account in formulating this policy:
  - a) Cheltenham Borough Council’s corporate strategy and outcomes.
  - b) Local planning policy in particular the Joint Core Strategy and the Cheltenham Plan.
  - c) Gloucestershire’s Police and Crime Plan.
  - d) Section 182 statutory guidance.
- 1.6 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and, therefore, beyond the direct control of the individual licensees. There are a range of mechanisms including:
  - a) Planning controls;
  - b) Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority, including the provision of Closed Circuit Television (CCTV);
  - c) Police enforcement of the general law concerning disorder and anti social behaviour, including the issuing of fixed penalty notices;
  - d) The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;

- e) The confiscation of alcohol from adults and children in designated areas;
  - f) Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance; and
  - g) The power to seek a review of the licence or certificate in question.
- 1.7 It should be understood that this policy and the statutory guidance cannot anticipate every scenario or set of circumstances that may arise and as such there may be circumstances where the policy or guidance may be departed from in the interests of the promotion of the licensing objectives and where it is deemed appropriate to do so. In such cases the council will give full reasons for departing from this policy.

## Licensing Principles and Process

- 1.8 This policy sets out the process the council will adopt in dealing with licence applications with particular regard to the various types of premises and permissions and the various conditions that can be attached to licences if relevant representations are made. It also highlights the council's undertaking to avoid duplication with other statutory provisions and its commitment to work in partnership with other enforcement agencies.
- 1.9 The council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates, personal licences and administering temporary events notices in the borough.
- 1.9 The objective of this policy is to:
- a) promote the four licensing objectives;
  - b) ensure that the premises are appropriate for their proposed use;
  - c) ensure the premises layout and condition is acceptable for the proposed use;
  - d) ensure that the premises are being managed responsibly; and
  - e) promote the policy vision statement.
- 1.10 This policy also seeks to promote the council's wider priorities, in particular that:
- Cheltenham has a clean and well-maintained environment;
  - Cheltenham has a strong and sustainable economy;
  - Communities feel safe and are safe;
  - People are able to lead healthy lifestyles; and
  - Our residents enjoy a strong sense of community and are involved in resolving local issues.
- 1.11 The council's powers and duties as the licensing authority are delegated by the council to its licensing committee, sub-committees and officers. The council approaches these delegations in accordance with the table of

delegation set out below or otherwise in accordance with the council's adopted constitution.

- 1.12 The policy will be used as a basis in coming to consistent and transparent decisions in respect of licence applications.
- 1.13 The policy does not:
- a) Undermine the right of any individual to apply for a variety of permissions and to have each application considered on its individual merits; or
  - b) Override the right of any person to make representations on an application, or seek a review of a licence or certificate, where the Act allows.

### Scope

- 1.14 This policy relates to the licensable activities defined by section 1(1) of the Act, namely:-
- a) retail sales of alcohol;
  - b) the supply of alcohol by or on behalf of a club;
  - c) the provision of regulated entertainment; and
  - d) the provision of late night refreshment.

### Licensing Objectives

- 1.14 The council will carry out its licensing functions under the Act with a view to promoting the four licensing objectives, which are:
- a) The prevention of crime and disorder;
  - b) Public safety;
  - c) The prevention of public nuisance; and
  - d) The protection of children from harm.
- 1.15 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives.
- 1.16 In determining a licensing application, the overriding principle adopted by the council will be that each application is determined on its merits. Licence conditions will be tailored to the individual application and only those necessary to promote the licensing objectives will be imposed.
- 1.17 The council will also have regard to wider considerations affecting the residential population and the amenity of the area. These include littering, noise, street crime and the capacity of the infrastructure.
- 1.18 Each of the four objectives is of equal importance and will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the operation of that business has on the vicinity.

## Consultation

- 1.19 In accordance with section 5 of the Act and prior to the publication of this Policy the Licensing Authority consulted with the persons and organisations stipulated in [Appendix A](#) of the policy.

## Duration and Review

- 1.20 The policy takes effect on **xxxx** and will remain in force for a period of no more than five years. During this time it will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation.



## 2. The Borough of Cheltenham

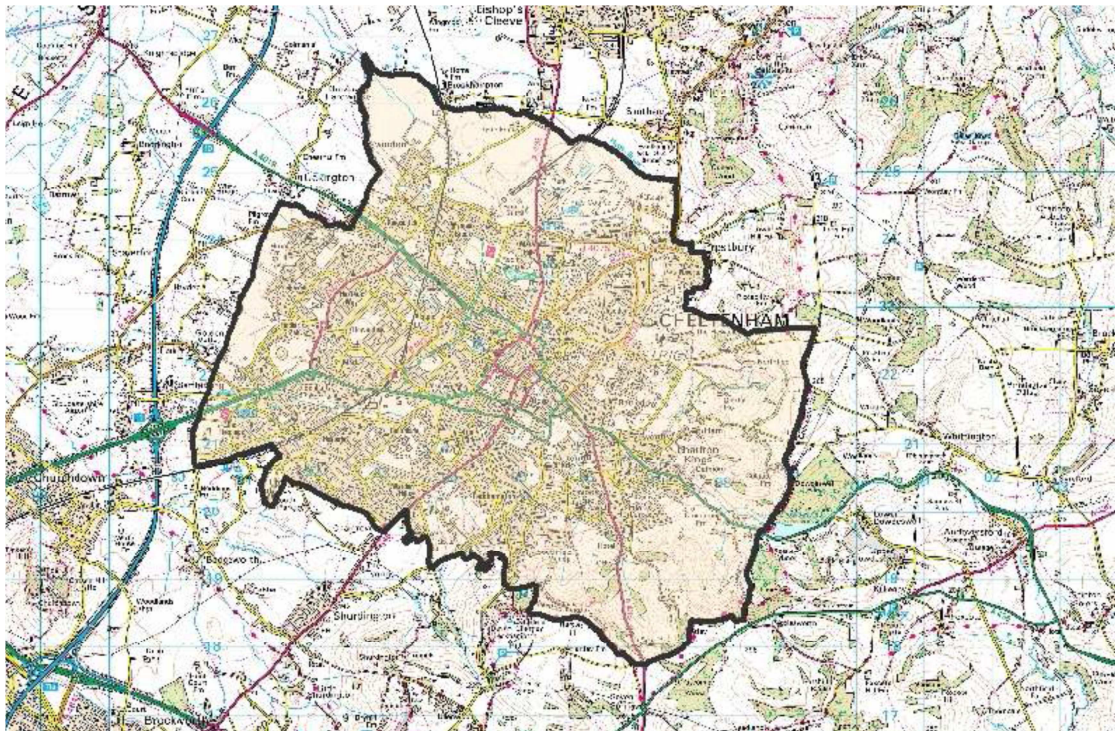
### The Area

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

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

### Demography

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



## 3. Licensing Process - Making an Application

### Premises Licences & Club Premises Certificates

- 3.1 The relevant application forms and associated documents are obtainable from the council's website at <http://www.cheltenham.gov.uk/licensing> or from the licensing section during normal office hours.
- 3.2 The council offers pre-application advice for certain licence application types. For more information on the pre-application advice, please visit the [website](#).

### The Operating Schedule

- 3.3 The operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. The council expects an operating schedule to indicate the steps that the applicant proposes to take to promote the licensing objectives.
- 3.4 All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application.
- 3.5 Applicants are strongly recommended to discuss their operating schedules with the responsible authorities prior to submitting them.
- 3.6 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises. For premises such as a public house where public entertainment is not provided, only a relatively simple document will be required. For a major public entertainment venue it will be expected that issues such as public safety and crime and disorder will be addressed in detail.
- 3.7 Applicants will also be expected to propose practical measures to prevent disturbance to local residents and to indicate what action will be taken to prevent or reduce noise emanating from the premises.
- 3.8 The operating schedule must be on the prescribed form and include a statement of the following:
  - a) Full details of the licensable activities to be carried on at and the intended use of the premises;
  - b) The times during which the licensable activities will take place;
  - c) Any other times when the premises are to be open to the public;
  - d) Where the licence is only required for a limited period, that period;
  - e) Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
  - f) Whether alcohol will be supplied for consumption on or off the premises or both; and

- g) The steps which the applicant proposes to promote the licensing objectives.

### **Guidance on Operating Schedule**

- 3.9 The following guidance is intended to assist applicants by setting out criteria and considerations that they should bear in mind when drawing up an operating schedule. They alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review.

#### **a) Crime and Disorder**

- 3.10 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in promoting this objective.
- 3.11 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.

### **Considerations**

- 3.12 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact on crime and disorder have been considered. These factors may include:
  - a) Underage drinking;
  - b) Drunkenness on premises;
  - c) Public drunkenness;
  - d) Drugs;
  - e) Violent behaviour; and/or
  - f) Anti-social behaviour.
- 3.13 In making their decision, regard should be given to the levels of crime and disorder in and around the venue, the level of compliance with conditions on existing licences and any available evidence on crime and disorder issues.
- 3.14 Applicants are recommended to consult the Reducing Alcohol Related Violence Codes of Practice when considering their operating schedule.
- 3.15 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for the prevention of crime and disorder.

**b) Public Safety**

- 3.16 The council in its role as licensing authority must try to ensure the safety of people visiting and working in licensed premises. The council will need to be satisfied that measures to promote public safety including risk assessments, setting safe capacities and adequate means of escape are put in place and maintained, if not adequately provided for by other regulatory regimes.
- 3.17 Consideration should be given to whether:
- a) appropriate and satisfactory general and technical risk assessments, management procedures and certificates have been made available to the relevant responsible authority and to the council, that demonstrate that the public will be safe within and in the vicinity of the premises;
  - b) the premises already has a licence or a fire certificate that specifies the maximum number of people that can attend it or be present and, if not, whether a risk assessment has been undertaken to assess the maximum number of people in terms of capacity in various parts of the premises, so that they can be operated safely and can be evacuated safely in the event of an emergency;
  - c) there are procedures proposed to record and limit the number of people on the premises with opportunities for going outside and readmission;
  - d) patrons can arrive at and depart from the premises safely;
  - e) music, dance and performance venues will use equipment or special effects that may affect public safety (i.e. moving equipment, pyrotechnics, strobe lights, smoke machines);
  - f) there are defined responsibilities and procedures for medical and other emergencies and for calling the emergency services; and/or
  - g) the levels of compliance with conditions on existing licences relating to public safety.
- 3.18 The council seeks to encourage the use of toughened glassware and polycarbonate where appropriate in licensed premises. Where a relevant representation is received the council will consider imposing a condition prohibiting the sale of alcohol in annealed glass containers and require the use of polycarbonate or other safer alternatives in order to promote public safety in licensed venues.
- 3.19 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for public safety.

### **c) Public Nuisance**

#### **Measures to limit nuisance**

- 3.20 The council will expect applicants to set out in their operating schedules the steps taken, or proposed to be taken, to deal with the potential for public nuisance arising from the operation of the premises.
- 3.21 Applicants should identify and describe through a risk assessment how these risks will be managed. Public nuisance could include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community.
- 3.22 Applicants will be expected to have included measures in their operating schedules that make adequate provision to:
- a) restrict the generation of noise within the premises and from activities associated with the premises in the vicinity, or from an open air site;
  - b) limit the escape of noise from the premises or open air site;
  - c) restrict noise emissions to below levels that could affect people in the vicinity going about their business, at work and when at home both while relaxing and while sleeping;
  - d) minimise and control noise from customers arriving at the premises, or open air site outside it and departing from it;
  - e) minimise and control noise from staff, contractors and suppliers and their activities;
  - f) minimise and control noise from vehicles associated with and providing services to the premises or open air site and their customers;
  - g) determine whether people standing or sitting outside premises are likely to cause obstruction or other nuisance;
  - h) whether the premises are under or near to residential accommodation;
  - i) the hours of the sale of alcohol in open containers or food for consumption outside the premises;
  - j) measures to make sure that customers move away from outside premises when such sales cease;
  - k) measures to collect drinking vessels and crockery, cutlery and litter;
  - l) the extent and location of areas proposed to be set aside for the consumption of food and alcoholic drink and for smoking;

- m) whether there is a need for door supervisors to prevent or to control customers congregating in outdoor areas to smoke, consume food or drink (whether supplied from the premises or not).
  - n) adequate measures to prevent the following arising from the proposed licensable activity that may cause disturbance to people in the vicinity:
    - a. litter, smells, fumes, dust, smoke, or other emissions;
    - b. street fouling;
    - c. light pollution.
- 3.23 The role of the council is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of residents and other users of the town including businesses, workers, shoppers and visitors.
- 3.24 Playing of music can cause nuisance both through noise breakout and by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. Other major sources of noise nuisance are vehicles collecting customers, the slamming of car doors and the sounding of horns. These noises can be particularly intrusive at night when ambient noise levels are lower.
- 3.25 Where relevant representations are received, the council may attach appropriate conditions to licences, necessary to support the prevention of undue noise disturbance from licensed premises. Where premises remain open after 23:00, the licence holder will be expected to provide facilities which are relevant to controlling noise and the patrons of those premises late at night. The council also expects that premises which produce noise generating licensable activities are acoustically controlled and engineered to a degree where the noise from the premises when compared to the ambient noise level will not cause undue disturbance.
- 3.26 The provision of tables and chairs outside the premises, either on the highway or on private land, and the provision of beer gardens, can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture and family friendly venues. However, late at night, tables and chairs and beer gardens can cause significant public nuisance to residents whose homes overlook these areas.
- 3.27 The 'smoke free public places' legislation in July 2007 has led to an increase in the number of people outside licensed venues. Where outside facilities are provided the council expects applicants to provide details in their application of:
- a) the location of open air areas; and
  - b) how the outside areas will be managed to prevent noise, smell, or obstruction and nuisance to neighbours and the public.
- 3.28 Licensees and their staff are expected to have sufficient measures in place to prevent such problems arising including a suitable litter and waste

management program to ensure that the area outside the premises is kept free of litter at all times.

- 3.29 Where the council receives relevant representations, or where a responsible authority or an interested party seeks a review, the council may consider imposing conditions to improve the management of the outside area or prohibiting or restricting the use of these areas in order to promote the public nuisance objective.
- 3.30 Conditions may include maximum noise levels over particular time periods, the installation of acoustic lobbies, provision of signs, publicity and dispersal policies.
- 3.31 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for the prevention of public nuisance.

### **d) Protection of Children from Harm**

- 3.32 The council needs to satisfy itself that there are appropriate measures in place to protect children from harm.
- 3.33 To this extent it will expect applicants, where necessary, to consider the measures necessary to promote the licensing objective of protecting children from harm when on the premises.
- 3.34 These measures may include staff training on how to control the entry of children and young people under 18 and the vetting of staff who will supervise them. Applicants will have to give particular regard to these measures in applications for licences involving:
  - a) the sale of alcohol;
  - b) children's performances; and
  - c) attractions or performances likely to attract children.
- 3.35 It is an offence to sell alcohol to children. In this context, children are defined as individuals under 18. The provisions of the Act are that unaccompanied children under 16 should not be on "premises being used exclusively or primarily for the supply of alcohol" (eg "alcohol led" premises such as pubs, bars and nightclubs). In addition, it is an offence to allow unaccompanied children under 16 on premises licensed to sell alcohol for consumption on the premises after midnight but before 05:00.
- 3.36 Issues for consideration include:
  - a) installing effective measures to check the age of those young people who appear under 21 to ensure that alcohol is not sold to those under 18 and those under 16 are accompanied in alcohol led premises;
  - b) exclusive or primary purpose of the services provided at the premises;

- c) accompanied children under 16 on the premises of which the primary purpose is supply of alcohol for consumption on the premises are taking a table meal or are being entertained by a live performance;
- d) the hour to which accompanied children under 16 are proposed to be on the premises where the exclusive or primary purpose of the services provided at the premises is the supply of alcohol for consumption on the premises;
- e) due regard is paid to industry codes of good practice on the labelling and display of alcoholic drinks;
- f) are there adequate procedures for identifying unaccompanied or lost children and ensuring that they are kept safe and adequately supervised until they can be handed over to a responsible adult;
- g) the likelihood of children being attracted to the premises by the nature of activities or facilities provided whether or not these are licensed;
- h) is there evidence of heavy, binge or underage drinking on the premises;
- i) if the premises commonly provides entertainment or services of an adult or sexual nature;
- j) is there a strong element of gambling on the premises;
- k) age restricted films are to be shown classified in accordance with the recommendations of the British Board of Film Classification;
- l) the number of adults required for the supervision of children and the suitability and vetting of those adults to ensure they pose no risk to children.

3.37 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for the protection of children of harm.

### **Plans**

3.38 A plan must also be attached to an application for a premises licence or a club premises certificate. The plan should be at a scale of 1:100. The plans do not have to be professionally drawn, however, they must be to scale and contain the relevant information as required under regulation. The council will accept plans of a scale other than 1:100, however this must be approved prior to submitting the application.



## 4. Determination of Applications

### Decision Making Process

4.1 Decisions on licensing matters will be taken in accordance with an approved scheme of delegation below:

<b>Matters to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/ club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/ club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence		If a police objection	All other cases

condition			
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases

### Unopposed Applications

- 4.2 If no relevant representations are received the licence will be issued automatically with, in the case of a premises licence or club premises certificate, such conditions attached as are mandatory or are consistent with the operating schedule accompanying the application. The council will have no discretion to refuse the application or to alter or add to the conditions offered through the operating schedule.

### Opposed Applications

- 4.3 Where relevant representations are made, the council must hold a hearing before a licensing sub-committee who will take such of the following steps as it considers necessary for the promotion of the licensing objectives.
- 4.4 The steps are:
- a) to grant the licence subject to the operating schedule modified to such extent as the sub-committee considers necessary for the promotion of the licensing objectives, and subject to the relevant mandatory conditions;
  - b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - c) to refuse to specify a person in the licence as the premises supervisor;
  - d) to reject the application.

### Representations

- 4.5 The council has discretion on whether to grant applications for licences and to impose conditions on granting and reviewing licences, only when relevant representations are made.
- 4.6 In brief "relevant representations" is the expression used in the Act for comments including objections on applications.
- 4.7 For a representation to be relevant it must:
- a) relate to the effect of the grant of the licence on the promotion of the licensing objectives;

- b) be made by a responsible authority or other persons;
- c) not be 'frivolous or vexatious' or, in the case of a review, 'repetitious' if made by other persons; or
- d) if it concerns the designated premises supervisor be made by a chief officer of police and include a statement explaining the reasons for the objection.

4.8 Representations can also be made in support of an application.

### **Appeals**

- 4.9 Anyone aggrieved by a decision of the council has a right of appeal. This is set out in schedule 5 of the Act.
- 4.10 The council will inform the appropriate parties of their right of appeal in accordance with the Act, when confirming a decision of the licensing sub-committee.
- 4.11 Aggrieved parties should lodge any appeal with the Magistrates' Court within 21 days of the notification of the decision.

## 5. Temporary Event Notices (TENs)

- 5.1 The Act enables certain organised events for less than 500 people to take place following notification to the council, the police and environmental health.
- 5.2 The limit on the number of TENs which may be given by any applicant is 5 within the same year, unless the applicant holds a personal licence, in which case the limit will be 50 within the same year.
- 5.3 A number of limitations are imposed on the use of TENs by the Act. The limitations apply to:
- the number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and five times in a calendar year for other people);
  - the number of times a TEN may be given for any particular premises (12 times in a calendar year);
  - the maximum duration of an event authorised by a TEN is 168 hours (seven days);
  - the maximum total duration of the events authorised by TENs in relation to individual
  - premises (21 days in a calendar year);
  - the maximum number of people attending at any one time (fewer than 500); and
  - the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user (24 hours).
- 5.4 Although the statutory legal minimum time required for the notification of a TEN to the council, police and environmental health is 10 working days, or 5 working days for a late temporary event, it is essential that proper consideration of the proposed event is given. Statutory guidance allows the council to publicise its preferred timescale for notification.
- 5.5 Where an existing premises licence is in operation the council would encourage a TEN to be submitted at least 4 weeks but not more than 12 weeks before an event. For applications where there is not a current premises licence, for example community events, 15 working days in advance of the event would be encouraged to allow for proper consideration of the event.
- 5.6 The council will encourage bona fide community events. A TEN for existing licensed premises will not be encouraged where the proposal is simply to extend the existing hours of operation.
- 5.7 Applicants are encouraged to consult responsible authorities prior to formal notices being submitted.
- 5.8 The council expects those who have given notice of a temporary event to have identified the particular issues having regard to their type of premises and/or activities, and to have in place written policies for addressing issues such as drunkenness, crime/disorder and drugs on their premises and for

ensuring staff are trained on these policies. The Reducing Alcohol Related Violence Codes of Practice contains guidance on promoting the licensing objectives including potential risks and possible solutions for the different types of licensable activities.

- 5.9 The processing of TENs by the council is controlled by a strict statutory timetable, therefore, the council will not accept a notice unless it is complete in all respects at the time of submission.

## 6. Integrating Strategies & Specific Policies

- 6.1 The council has established a good track record of partnership work and will continue to work in partnership with the police, local residents, businesses, licensees, communities and regulatory agencies towards safeguarding the quality of life for residents, and the creation of a safer and more pleasant environment for all.
- 6.2 In particular, Cheltenham has a vibrant night-time economy that far exceeds other towns of similar sizes. The town offers a rich choice of entertainment and facilities making it a destination attracting usually high numbers of visitors some travelling considerable distances to enjoy what the late night economy has to offer.
- 6.3 Although the vast majority of people visiting the town do so safely and responsibly, an active night-time economy nonetheless demands additional resource and cost for the council, police and other partners to deal with associated crime, disorder and other anti-social behaviour.
- 6.4 Although the challenges associated with the supply of alcohol are more prevalent during the night-time economy, there are nonetheless also challenges during other times of the days.
- 6.5 In addressing these challenges, the council will continue to work with partners in particular the licensed trade, licensing enforcement, the police, the noise pollution team, community safety partnerships, Gloucestershire fire service and planning enforcement.

### Late Night Levy

- 6.6 The council has resolved that the Late Night Levy (“LNL”) should be adopted in Cheltenham.
- 6.7 The council, Gloucestershire’s Police and Crime Commissioner and other partners will seek to use the levy income to:
  - a) Promote a greater diversity in the night time economy that is less focused on alcohol.
  - b) Support better management of licensed premises and public spaces.
  - c) Create a raft of measures that supports safe movement through the night time economy.
  - d) Work together to reduce alcohol related health harms by preventing vulnerability, promoting safe drinking limits and reducing pre-loading.
  - e) Work together to promote a clean environment.

## **Encouraging diversity in the night-time economy that is less focused on alcohol**

- 6.8 Cheltenham has a vibrant night-time economy that far exceeds other towns of similar sizes. It is recognised that the night-time economy plays an important part in creating a vibrant and sustainable economy but this must be balanced with the ambition to expand the offer for leisure, tourism and business by providing an attractive offer for all age and religious groups.
- 6.9 To this end, the council will explore and support opportunities to increase events, activities and businesses which are not necessarily alcohol led which are more socially-inclusive and drive the economy.

### **Designated area of concern**

- 6.10 There are areas of the borough where the evidence does not suggest that they should be designated as Cumulative Impact Areas but which will require regular review to establish whether the concentration of licensed premises are considered to have begun to cause cumulative impact on one or more of the licensing objectives.
- 6.11 The council has identified the town centre (Appendix D) as being an area of concern in that it is susceptible to alcohol related crime, alcohol hospital admissions and nuisance arising from or caused by the customers of licensed premises.
- 6.12 The council will monitor the number of licensed premises in the designated area and any risk factors that may indicate that the area is reaching a point when a cumulative impact is likely or imminent.
- 6.13 The designated area of concern will also provide the council and its partners an opportunity to put measures in place to address the concerns highlighted.

### **Joint Core Strategy and other planning policies**

- 6.14 There are a number of key planning policies that sets out a shared vision and proposes where future development in the borough.

### **Designated Public Places Order**

- 6.15 The council supports the use of DPPOs as a tool to prevent crime and disorder by tackling anti-social behaviour associated with consumption of alcohol in the street. The council would expect premises that operate in areas where DPPOs have been implemented to have measures in place to ensure their customers do not contribute to problems of anti-social drinking.
- 6.16 The DPPO was implemented of 1 March 2005 in the borough and requires any person who is consuming alcohol within a designated place to surrender or cease to consume intoxicating liquor when requested to do so by a police

constable. A full list of designated street is available from the Licensing Section.

## **Management of Licensed Premises**

- 6.17 A critical element of the proper control of licensable activity and a premises where such activity is provided is good management of those activities and the premises generally.
- 6.18 The council will encourage everybody involved in providing or are involved in licensable activities, to consider what skills and competencies are appropriate in the safe delivery of regulated activities and secure these. This applies to managers, musicians, door staff, bar staff, performers and contractors as well as everyone associated with the activities.
- 6.19 Good management also extends to the appropriate advertising of events and premises users and licensees are expected to control advertising content as part of their role.
- 6.20 The council undertakes proactive risk based inspections of all licensed premises to ensure that they are managed properly. Premises that consistently fail inspections may be subject to a licence review or other enforcement action.

### **Designated Premises Supervisor**

- 6.21 Any premises where alcohol is sold under a premises licence must have a designated premises supervisor (DPS). The DPS will be named in the premises licence, a summary of which must be displayed on the premises. A DPS must be a personal licence holder. Every sale of alcohol must be made or authorised by a person who holds a personal licence (or must be made or authorised by the management committee in the case of community premises).
- 6.22 The Act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the DPS and the premises licence holder remain responsible for the premises at all times. During times the DPS is not present on site, the council recommends that written delegation of duties are drawn up to ensure staff and regulators are clear about who is authorised to sell alcohol.
- 6.23 The council will normally expect the DPS to have been given the day-to-day responsibility for running the premises and as such it is expected that the DPS would usually be present at the licensed premises on a regular basis. The council expects that this will be in excess of 50% of a 7-day week.
- 6.24 The premises licence holder will be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.



- 6.25 Within all licensed premises, whether or not alcohol is to be sold, the council will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained/instructed persons at the premises to ensure the proper management of the premises and of the activities taking place, as well as adherence to all statutory duties and the terms and conditions of the premises' licence.

#### **Night safe**

- 6.26 The borough-wide Nightsafe network encourage its members to work together to promote the licensing objectives in their premises by providing a forum for sharing information, disseminating best practice and meeting with representatives of the council, the police and other responsible authorities. The council actively supports the scheme and is keen to support the development of more schemes where there is a demand.
- 6.27 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in the town. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

#### **Best Bar None**

- 6.28 Best Bar None (BBN) is a national award scheme supported by the Home Office and aimed at promoting responsible management and operation of alcohol licensed premises. It was piloted in Manchester in 2003 and found to improve standards in the night time economy, with premises now competing to participate.
- 6.29 The aim of BBN is to reduce alcohol related crime and disorder in a town centre by building a positive relationship between the licensed trade, police and local authorities. The council will actively encourage licensed premises to sign up to the BBN scheme.

#### **Reducing Alcohol Related Harm (RARV)**

- 6.30 In 2006 when the Reducing Alcohol Related Violence project, supported by funding from Government Office South West, was launched in Cheltenham a great deal of effort has gone into reducing alcohol related harm and disorder in the town.
- 6.31 The Codes of Practice launched in 2007 laying down common sense principles for all sectors of the night-time economy were the first such set of codes produced in the UK and were acknowledged as best practice by the Home Office.
- 6.32 The RARV Codes of Practice was revised in 2014 and republished in 2015.

### **Sexual Entertainment**

6.33 The council has adopted the amended provisions of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 ('the 2009 Act') with respect to "relevant entertainment", that is:

- a) any live performance; or
- b) 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).

6.34 The adopted provisions came into effect on the 1st of December 2010 in Cheltenham.

6.35 Any premises that want to offer relevant entertainment on a regular basis, that is more frequent than 24 hours once a month on no more 11 occasions a year, can no longer offer this under the provisions of the Act as a result of the abovementioned adoption. These premises must apply for a Sexual Entertainment Venue (SEV) licence.

6.36 Premises that want to offer relevant entertainment on an irregular basis can still do so under the provisions of the Act. These premises must be authorised for the performance of dance and the performance of recorded music.

6.37 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 and safety, an increased likelihood of associated crime & disorder and an inability of regulatory bodies to respond accordingly.

6.38 Whilst the council cannot legitimately impose restrictions on infrequent sexual entertainment, it has formulated an exempt sexual entertainment code of practice outlined in its adopted SEV policy. 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.

### **Core Hours for Licensable Activities**

6.39 The council will avoid arbitrary restrictions on licensing hours that undermine the principles of flexibility and consideration of each application is on its own merit.

6.40 The council believes that licensable activities carried on within the core hours set out below will generally not have a harmful impact on the licensing objectives, address the concerns raised by local residents and businesses and are less likely to attract representations.

6.41 Furthermore, earlier closing will result in less alcohol consumption and drunkenness and would also be consistent with the ability to get crowds dispersed from the town centre.

**Table 1: Core Hours for Licensable Activities**

Type of premises	Commencement Hour No earlier than	Terminal hour No later than
Off licence	09:00	23:00
Restaurants	10:00	01:00
Theatres, cinemas and other performance venues	10:00	00:00
Pubs/Bars/Nightclubs	<u>Town centre</u> <sup>1</sup> 10:00	03:00
	<u>Local Neighbourhood Areas</u> 10:00	00:00
Takeaways	n/a	04:00

6.42 Where relevant representations have been made, it will take the following matters into consideration when making a decision. These are not a definitive list and other matters may be considered:

- a) Operating schedules - demonstration of compliance with management standards to support each of the licensing objectives.
- b) Proximity to residential accommodation - the likelihood of the operation to have an adverse impact on the peace and quiet of local residents.
- c) Potential noise and nuisance from people leaving and entering the premises.
- d) Ability to demonstrate that systems in place to ensure timely dispersal of customers away from residential areas.
- e) Use of external areas for carrying out the licensable activities and potential noise impact on local residents.
- f) Proposed hours of the licensing activities and general opening times for the public – The use of winding down periods to enable more efficient dispersal.
- g) Type of use – alcohol led premises such as pubs, bars and nightclubs, off licenses and hot food take away premises are more likely to be associated with crime and disorder and public nuisance than other premises such as seated restaurants, theatres, cinemas and other cultural activities.

<sup>1</sup> As defined in Appendix D.

- h) Availability of public transport to assist in the timely dispersal of customers from the vicinity and to ensure safe travel home.
  - i) The potential for contamination of the street environment through increased litter and other pollution of the streets by customers.
- 6.43 The hours of existing licensed premises will remain unchanged unless there are good reasons, based on the licensing objectives, for restricting these hours, and then they can be changed by a licensing sub-committee following a review of the premises licence.

#### **Latest admission times**

- 6.44 The council considers it undesirable that persons should seek to 'top up' their alcohol intake by seeking out those premises that are admitting customers at the latest times because persons moving between venues late at night can lead to crime, disorder and public nuisance.
- 6.45 Establishing last entry times can reduce the tendency of customers to concentrate at those premises which remain open the latest, without restricting the hours of trading. This will encourage dispersal and reduce the pressure on late-night refreshment outlets and transport facilities which will assist with objectives to prevent public nuisance and crime and disorder in certain circumstances.
- 6.46 It is therefore this council's policy that the latest admission time, for licences premises open past midnight, to be no less than:

- a) one hour for nightclubs & late night bars; and
- b) half an hour for pubs and other licensed premises

before the terminal hour for licensable activities.

#### **Takeaway food premises**

- 6.47 It is recognised that takeaway premises open late at night can be associated with disorder as persons under the influence of alcohol having left, or in some cases being ejected from, late night venues congregate there.
- 6.48 As such the council considers that it will normally be inappropriate to grant a premises licence permitting the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises.
- 6.49 Applicants for licences are recommended to have written policies for dealing with disorder and nuisance and should give consideration to the issues regarding takeaways.
- 6.50 The council will normally require licensed premises principally used for selling hot food for consumption off the premises to have suitable CCTV installed and may impose a requirement to employ SIA doormen where such a requirement is deemed necessary.

- 6.51 Operators (including mobile units) must have suitable arrangements in place for the containment and disposal of their waste in accordance with the Environmental Protection Act 1990 and subsidiary regulations. Operators of premises where food or drink is provided in disposable containers for consumption elsewhere than on the premises are expected to consider the potential for litter near their premises and take steps to actively reduce the amount of litter generated from their premises.
- 6.52 Where the council considers it appropriate, it may impose conditions on a premises licence to require the operators of premises serving customers with hot food or drink to provide litter bins in the vicinity of the premises in order to prevent the accumulation of litter from its customers.

### **Pavement Cafes and External Areas**

- 6.53 The council wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town.
- 6.54 Whilst the provision of tables and chairs outside a premises can enhance the attractiveness of a venue, regard should be had to the need to ensure that the use of such areas will not cause nuisance to local residents and other premises in the vicinity. To this end, the council will normally restrict the use of external areas to 23:00.
- 6.55 Premises that make use of external areas are expected to manage those areas in such a way that its use does not impede access to the premises, obstruct the highway and does not cause disturbance.
- 6.56 In particular the council will expect premises to provide ash trays or wall mounted cigarette bins for patrons, be aware of the possibility of breakages of drinking glasses and glass bottles in outside areas.

## **Promoting safe drinking limits**

### **Irresponsible Drinks Promotions and Drunkenness on Premises**

- 6.57 Low cost alcohol sold in on and off trade premises increases alcohol consumption which can lead to crime and disorder issues. Through this policy the council would like to encourage the responsible consumption of alcohol and where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the council will consider imposing controls on drinks promotions to deal with localised problems.
- 6.58 However, the council would prefer an approach whereby it, along with the licensed trade and other partners, are able to promote responsible retailing of alcohol instead of having to dealing with the effects of irresponsible drinks promotions and drunkenness.

**Code of Good Practice for Drinks Promotions**

- 6.59 It is a known fact that the price of alcohol does have an effect on the amount people consume. It is also the case that people are more attracted to premises that offer low cost alcohol and low cost alcohol is likely to cause people to consume more alcohol than they would normally have done. Both of these situations can lead to crime, disorder and public nuisance issues.
- 6.60 The council does not wish to unnecessarily impose operational restrictions and freedoms on licensed premises. It would therefore like to encourage a voluntary code of good practice in relation to drinks promotions and to encourage licence holders and others working at the premises to familiarise themselves with the mandatory conditions relating to drinks promotions.
- 6.61 To this end, the council will encourage all licence holders to apply the following principles in relation to any drinks promotions:

<b>Principle</b>
Align pricing with Alcohol by Volume (ABV).
Start the sale of alcohol later in the day and not align it purely with opening hours.
Refrain from all inclusive offers.
Promotional information should clearly display: <ul style="list-style-type: none"> <li>- Factual information on the alcoholic strength of a drink(s);</li> <li>- That no-one under the age of 18 years may take part in the promotion;</li> <li>- display Drink Aware logo/information.</li> </ul>
Promotions should not: <ul style="list-style-type: none"> <li>- focus on the strength of any alcohol product as the principle theme;</li> <li>- condone or encourage illegal, excessive or irresponsible drinking (such as binge-drinking, drunkenness or drink-driving);</li> <li>- refer in any favourable manner to the effects of intoxication or consumption;</li> <li>- suggest that alcohol consumption enhances sexual attractiveness or include promotion material that is linked to sexual imagery implying sexual success or prowess.</li> </ul>
Restrict multi buy promotions.
No advertisements for alcohol in the shop window.

Alcohol should not be given away for free as part of a promotion or as an incentive.
--

Actively promote designated driver schemes where a driver is offered discounted or free non-alcoholic drinks.
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Make food and hot drinks available in late venues.
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## Shops Selling Alcohol (Off Licences)

- 6.62 There has been a trend towards more alcohol being purchased from shops and consumed at home and less being purchased and consumed in traditional pubs, restaurants and night clubs than used to be the case in the past. The growing practice of “pre-loading” has the potential to create specific problems and detriment to the licensing objectives.
- 6.63 Furthermore, the availability of alcohol for consumption off the premises has the potential to cause other problems that include ease of access to alcohol by children, ease of thefts, encouragement of street drinking, and increase of crime and disorder and public nuisance.
- 6.64 There are a number of ways in which licence holders and the council can address these concerns.

### Hours of Operation

- 6.65 See Table 1: Core Hours for Licensable Activities on page 27.

### Layout and Operation of Premises

- 6.66 In most cases a licence holder will be able to address the potential problems and detriment to the licensing objectives, through the layout and the operation of the premises.
- 6.67 The council will encourage all licence holders licensed for off sales to:
- Store high strength alcohol behind the shop counter;
  - Not store or display any alcohol at the entrance/exit points of the premises;
  - Not advertise alcohol in a shop window;
  - Not sell single cans of beer or bottles of beer under 1 litre;
  - Not sell beer or cider over 5.5% ABV;
  - Not store or display any alcohol at or near check-outs; and
  - Refuse to sell alcohol to persons known to be persistent offenders (where the offence(s) relates/associated with alcohol) or street drinkers.

### Licence Conditions & Reviews

- 6.68 Where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the council will consider imposing

appropriate restrictions on a licence. This may include, although not limited to, restricting the hours for licensable activities, restricting the sale of alcoholic beverages over a specified limit of alcohol by volume and/or of specified quantities.



## 7. Film Classifications

- 7.1 The council has a statutory obligation to classify films for public screening. The BBFC is the nominated body that classifies films to be exhibited in cinemas on behalf of Licensing Authorities. Films that have not been classified by the BBFC and are to be screened in the borough must be submitted to the council for classification.
- 7.2 All requests to classify a film must be accompanied by a synopsis of the film and a full copy of the film in DVD or other appropriate format. Requests shall be assessed by officers of the council against the BBFC guidelines and the licensing objectives. Officers shall view the entire film and make a recommendation with regards to the appropriate classification. Officers do however reserve the right to refer the classification of a film to a licensing sub-committee in instances deemed necessary.
- 7.3 All requests must be submitted at least 28 days before the proposed screening. Failure to submit a request in time may result in the council being unable to classify the film.

## 8. Events on Council Land

- 8.1 The council wants to encourage cultural and community events in the borough but at the same time also protect the quality of life for residents.
- 8.2 In accordance with the provisions of the Act, the council has made applications and been granted premises licences for areas of public land.
- 8.3 Persons wishing to carry on licensable activities on licensed public land will not be required to obtain a premises licence or give a temporary event notice themselves but must seek permission from the council to use the premises licence to put on their event unless the nature of the event is such that it does not fall within the terms of the licence.
- 8.4 The council has an adopted process for considering requests for events to be held on public land. In the first instance, persons wishing to use council land for event must complete and submit an [application form](#).
- 8.5 In addition, a Safety Advisory Group (SAG) may be established in order to consider any safety issues related to an event. The event organiser must produce an event plan and must incorporate an operating schedule, risk assessments and address any safety issues before the council allows the use of its licence.

## 9. Enforcement

- 9.1 In terms of regulation, our aim is to target those premises which are causing problems within our communities whilst supporting well managed premises and community activities, which provide worthwhile opportunities for the enjoyment of leisure time without having a negative impact. Premises associated with disorder, threaten public safety, generate public nuisance, or threaten the well being of our children will be targeted for enforcement action.
- 9.2 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act.
- 9.3 The council will monitor compliance with the licensing objectives through a programme of inspection visits. The proactive inspection visits are risk based so that those premises that are at a higher risk of adversely affecting the licensing objectives are more frequently inspected.
- 9.4 The council will also establish enforcement protocols with the police and other enforcement agencies to ensure efficient and targeted joint enforcement is undertaken on a regular basis.
- 9.5 This does not prevent action being taken by any individual authority at any time should offences become apparent.
- 9.6 The council will take in to account its adopted corporate enforcement policy when deciding what appropriate action to take.

### Reviews

- 9.7 At any stage, following the grant of a premises licence, a responsible authority, or other person, may ask the council to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 9.8 In every case, the application for review must relate to particular premises for which a licence is in existence and must be relevant to the promotion of the licensing objectives.
- 9.9 The necessary forms and documents is available from the Council's website at <http://www.cheltenham.gov.uk/licensing> or from the licensing section during normal office hours.

## Appendix A –Consultees

This document has been developed by the Council in consultation with representatives of the following key stakeholder groups and organisations:

- Chief Officer of Police
- Other responsible authorities
- Gloucestershire Police & Crime Commissioner
- Premises Licence Holders
- Parish Councils
- Cheltenham Borough Council's Licensing Committee
- Bodies representing holders of premises licences, club premises licences and personal licences in the Council's area
- Bodies representing business
- Director of Environmental & Regulatory Services
- Head of Public Protection
- Trade Associations
- Local residents
- South Western Ambulance Service
- Cheltenham Safe

## Appendix B – Responsible Authorities

### **Gloucestershire Constabulary**

Licensing Unit,  
No 1 Waterwells, Waterwells Drive,  
Quedgeley  
Gloucester  
GL2 2AN

Direct line: 01452 754482 Switchboard: 101  
Fax: 01452 754797  
Email: [licensing@gloucestershire.police.uk](mailto:licensing@gloucestershire.police.uk)

### **Gloucestershire Fire and Rescue Service**

Service Delivery Support  
Waterwells Drive  
Quedgeley  
Gloucester  
GL2 2AX

Tel: 01452 753333  
Fax: 01452 753304  
Email: [fire.safety@glosfire.gov.uk](mailto:fire.safety@glosfire.gov.uk)

### **Pollution Prevention**

Environmental Protection  
Public Protection  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Tel: 01242 264135  
Fax: 01242 264210  
Email: [ehbusinesssupport@cheltenham.gov.uk](mailto:ehbusinesssupport@cheltenham.gov.uk)

### **Health and Safety Enforcement**

**Where the local authority is the enforcing authority**

Cheltenham Borough Council  
Health and Safety – Environmental Health  
Public Protection Division  
Municipal Offices  
Promenade  
Cheltenham  
GL50 9SA

Tel: 01242 775178  
Fax: 01242 264210  
Email: [ehbusinesssupport@cheltenham.gov.uk](mailto:ehbusinesssupport@cheltenham.gov.uk)

**Where the HSE is the enforcing authority**

Health and Safety Executive  
4th Floor, The Pithay  
All Saints Street  
BRISTOL  
BS1 1ND

Telephone: 0117 988 6000

Fax: 0117 926 2998

Email: (i) For service employment e.g. Central and Local Government, NHS etc. the contact is [paula.johnson@hse.gsi.gov.uk](mailto:paula.johnson@hse.gsi.gov.uk)

(ii) For other employment e.g. manufacture and repair, agriculture, transport, the contact is [nigel.chambers@hse.gsi.gov.uk](mailto:nigel.chambers@hse.gsi.gov.uk)

**Local Planning Authority**

Planning Enforcement  
Built Environment Division  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Tel 01242 264138

Fax 01242 227323

Email: [planning@cheltenham.gov.uk](mailto:planning@cheltenham.gov.uk)

**Child Protection**

Gloucestershire Safeguarding Children Board  
Block 4, 1st Floor, Room 133B,  
Shire Hall,  
Westgate Street,  
Gloucester,  
GL1 2TH

Tel: 01452 583629

Email: [gscb@gloucestershire.gov.uk](mailto:gscb@gloucestershire.gov.uk)

**Trading Standards**

Gloucestershire County Council, Trading Standards,  
Hillfield House  
Denmark Road  
Gloucester  
GL1 3LD

Tel: 01452 426201

Fax: 01452 426274

Email: [tradstds@gloucestershire.gov.uk](mailto:tradstds@gloucestershire.gov.uk)

**Responsible Authority for Health**

Public Health Department

Block 4, 2nd Floor

Gloucestershire County Council

Shire Hall, Westgate Street, Gloucester GL1 2TG

Tel: 01452 328699

Email [publichealth@gloucestershire.gov.uk](mailto:publichealth@gloucestershire.gov.uk)

## Appendix C – Pool of Model Conditions

### Introduction

The conditions shall not be regarded as “standard conditions” which are to be automatically imposed on premises licences and certificates in all cases. The following are designed to provide a range of possible conditions which may need to be attached to premises licences or club premises certificates, depending upon differing situations.

All conditions attached to a premises licence and club premises certificate must be appropriate and proportionate to the application received.

The wording of the conditions may need to be modified to suit a particular premise and/or situation.

This is not an exhaustive or exclusive list of conditions.

Additional conditions may be drafted and attached to such licences and certificates to meet individual circumstances, both by the applicant in question, any responsible authority, or the Licensing Authority as deemed appropriate.

The majority of conditions refer to the ‘premises licence holder’ however, in some circumstances, it may be more appropriate for the designated premises supervisor to be responsible for complying with the condition. In these circumstances, the conditions can be amended to read ‘the designated premises supervisor or a competent person nominated by the designated premises supervisor’.

**C&D** – The Prevention of Crime & Disorder | **PN** – The Prevention of Public Nuisance | **CP** – Protection of Children from Harm | **PS** – Public Safety

Reference	Model Condition	Primary Licensing Objective*
<b>Sale of Alcohol</b>		
	There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.	C&D CP
	No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.	C&D CP
	No single cans or bottles of beer or cider shall be sold at the premises.	C&D CP
	No more than x% of the sales area to be used at any one time for the sale, exposure for sale, or display of	C&D CP



	alcohol.	
	Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to, a take-away meal.	C&D CP
	Alcohol shall only be sold to a person sitting down eating a meal and for consumption with that meal.	C&D
	Alcohol may only be sold to persons having a table meal or those waiting to be seated prior to having a table meal.	C&D
	Alcohol shall be sold to customers by waiter/waitress service only.	C&D
	There shall be no sales of alcohol for consumption off the premises.	C&D CP
	Alcohol consumed outside the premises shall only be consumed by patrons seated at tables.	C&D PN
	Any alcohol supplied for consumption off the premises must be in a sealed container.	C&D
	Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises during the periods when alcohol is authorised for sale.	C&D
<b>Management of the Premises</b>		
	A 'Winding-down and Dispersal' policy shall be adopted that includes measures to achieve a gradual and orderly dispersal of customers at the end of the trading session. These measures shall commence at least 15 minutes before the bar closes, and shall include slowing down the tempo of music, a significant reduction in the volume of music and announcements requesting customers to leave the premises quietly and respect the peace and quiet of the local residents.	C&D PN
	A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents in the vicinity.	C&D PN
	The Designated Premises Supervisor or premises license holder shall bring the contents of the licence and licence conditions to the attention of all door	C&D PN CP

	supervisors and other staff employed at the premises.	PS
<b>CCTV</b>		
	A CCTV system consisting of a minimum of <b>x</b> cameras shall be installed at the premises. The CCTV system shall be maintained in good working order, shall record at all times the premises are open, and recordings shall be kept for a minimum of 14 days and be provided on DVD to officers of the council, Trading Standards or Police on request.	C&D
	A staff member from the premises, who is conversant with the operation of the CCTV system, shall be on the premises at all times when the premises are open to the public. This staff member must be able to show the Police or Licensing Officer recent data or footage with the absolute minimum of delay when requested to do so.	C&D
	No alcohol shall be sold if the CCTV equipment is inoperative for any reason.	C&D CP
<b>Radios</b>		
	<p>The premises licence holder shall join the Night Safe radio scheme or any similar scheme operating in the town and ensure that:</p> <ul style="list-style-type: none"> <li>• The communication equipment is kept in working order at all times. If the communication equipment breaks then the Police shall be notified and the equipment shall be repaired within a reasonable time period;</li> <li>• The communication equipment shall be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;</li> <li>• Any police instructions/directions are complied with whenever given; and</li> <li>• All instances of crime and disorder are reported via the communication equipment by the designated premises supervisor or a responsible member of staff to an agreed police contact point.</li> </ul>	C&D

<b>Best Practice Scheme</b>		
	The Designated Premises Supervisor shall maintain an active membership of the Night Safe (or successor 'pubwatch') including operation of the Nightsafe radio link.	C&D
<b>Door Supervisors</b>		
	A minimum of x SIA licensed door supervisor shall be on duty at the premises at all times whilst it is open to the public [or after xx.xx / until the last admission time for the public].	C&D
	If door supervisors are required to undertake body searches then at least one female supervisor shall be available to undertake the body searches of female customers.	C&D
	A written search policy that aims to prevent customers or staff bringing illegal drugs, weapons or other illegal items onto the premises at any time shall be in place and operate at the premises.	C&D
	Where door supervisors are required the premises licence holder [or Designated Premises Supervisor] shall keep records showing the names of the supervisor, their SIA badge number & expiry date, and the date/time that they were employed. A copy should be available immediately upon request to an authorised officer of Gloucestershire Constabulary or the council.	C&D CP
	All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility jackets or vests.	C&D
	For a period of 30 minutes following the closure of the Bar, or until all customers have dispersed from the immediate vicinity if longer, there shall be a minimum of x door supervisors on the street outside the premises wearing high-visibility clothing to ensure the safe, orderly and quiet dispersal of customers in the immediate vicinity.	C&D PN
<b>Hours</b>		
	Consumption of alcohol shall cease x minutes after the	C&D

	time authorised for its <b>sale or supply/provision of licensable activities</b> .	PN
<b>Entry to Premises</b>		
	No public access to the premises shall occur through the <b>[specify doors/area]</b> . This condition shall not restrict the use of the doors in the event of an emergency.	C&D CP PS
	There shall be no entry or re-entry, other than staff members, to the premises after <b>xx.xx</b> save for customers using the agreed smoking area at the premises.	C&D PN
	On occasions where licensable activities are carried on past <b>xx:xx</b> hours, admission of customers will be restricted to <b>[enter restriction e.g. a particular entrance, a particular area of the licensed premises etc]</b> .	C&D
	In relation to the specified function room there shall be no admission after <b>x</b> other than to:  (1) residents of the hotel and their bona fide guests; or (2) persons attending the pre-booked function	C&D
	All functions in the <i>specified function room</i> shall be pre-booked or ticketed events.	C&D PN
	No events solely for those under 18 will be permitted on the premises.	C&D CP
	The rules of admission to the premises shall be clearly and prominently displayed at each entrance to the Premises.	C&D CP
<b>Alcoholic Containers</b>		
	No glass bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff serving away from the bar.	C&D PS
	No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.	C&D
	<b>The premises licence holder/designated premises supervisor</b> shall ensure that no customers shall take glasses or open bottles from the premises other than	C&D PN

	into the outside area shown and edged [red] on the plan forming part of the premises licence.	
	The premises licence holder shall ensure that only plastic or toughened glass containers will be used for the supply of beverages.	C&D
	There shall be no sale of alcohol in unsealed containers for consumption off the premises.	C&D
<b>Notices/Signage</b>		
	The premises licence holder shall ensure that a sign, indicating the hours during which licensable activities are permitted to take place, is displayed in, on or immediately outside the premises in a position where the notice can be conveniently read by members of the public.	C&D PN
	The premises licence holder shall ensure that a sign, detailing any restrictions on the admission of children, is displayed on or immediately outside the premises in a position where the notice can be conveniently read by members of the public.	CP
<b>Drugs</b>		
	The Designated Premises Supervisor shall complete/attend a recognised 'drug awareness' training course [within **** weeks/by **** date, or the DPS shall have completed/attended such training].	C&D
	Staff shall be provided with 'drug awareness training', and be briefed on the drugs policy applicable to the premises.	C&D
	Any person found with illegal drugs must be reported to a Police officer immediately.	C&D
	Whilst licensable activities are taking place, the toilets at the Premises must be checked at least hourly for illegal drug use or supply. A written log of all checks must be kept at the Premises for at 31 days and made available for immediate inspection on the request of an authorised officer of Gloucestershire Constabulary or the Licensing Authority.	C&D

<b>Promotions</b>		
	There shall be no promotional sales of alcohol at the premises where alcohol is sold at a price lower than that at which the same or similar alcoholic drinks are sold, or usually sold, on the premises.	C&D
	There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.	C&D
	28 days' notice shall be given to Gloucestershire Constabulary and the licensing authority of any events held which are organised by an outside promoter, including full details of the nature of the event and of the promoter.	C&D
<b>Records</b>		
	<p>An incident log shall be kept at the premises and made available on request to the Police or an authorised officer of the council. The log will record the following:</p> <ul style="list-style-type: none"> <li>• all crimes reported to the venue</li> <li>• all ejections of customers</li> <li>• any incidents of disorder (disturbance caused either by one person or a group of people) [There is no requirement to record the above incidents (a), (b) or (c) where they do not relate to a licensable activity]</li> <li>• seizures of drugs or offensive weapons</li> <li>• any faults in the CCTV system or searching equipment or scanning equipment</li> <li>• any refusal of the sale of alcohol during the hours the premises is licensed to sell it</li> </ul>	C&D
<b>Premises Layout</b>		
	<p>The following alcoholic beverages shall be placed behind a staffed counter:</p> <ul style="list-style-type: none"> <li>• mixed alcoholic beverages under 10% a.b.v.</li> <li>• beers or ciders over 5.5% a.b.v.; and</li> <li>• all spirits in bottles less than 70cl.</li> </ul>	C&D CP
	At least <b>x</b> members of staff shall be on duty on the shop floor between **** hours until closing time.	C&D

	The physical location of alcohol displays shall be in an area within sight of staff as identified on the plan of the premises annexed to the licence.	C&D CP
	The XX area shall be designated as a “chill-out” area whilst music and dancing are permitted on the premises which shall include adequate ventilation or fresh air; ready access to free drinking water; suitable seating accommodation; and access to First Aid facilities	C&D
	Seating for no less than [specify number] persons shall be provided in the premises at all times the premises are [specify “open” or “are providing any licensable activity”].	C&D
<b>Use of Outdoor Area</b>		
	The designated premises supervisor shall ensure that tables are cleared of all bottles and glasses on a regular basis during trading hours to avoid an accumulation of glassware.	C&D PN
	Customers will not be permitted to drink outside the premises save for in any seated area authorised under a pavement licence.	C&D PN
<b>Disabled People</b>		
	The premises licence holder shall ensure that, when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency and that disabled people on the premises are made aware of those arrangements.	PS
<b>First Aid</b>		
	The premises licence holder shall ensure that an adequate and appropriate supply of first aid equipment and materials is available on the premises and at least one suitably trained first aider shall be on duty when the public are present and if more than one suitably trained first aider that their respective duties are clearly defined.	PS
	The Licensee shall ensure that at all times when the public is present there is at least one competent person able to administer First Aid, that an adequate and	PS

	appropriate supply of First Aid equipment and materials is available on the Premises and that adequate records are maintained in relation to the supply of any First Aid treatment.	
<b>Lighting</b>		
	The premises licence holder shall ensure that, in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully operational when the public, members or guests are present.	C&D PS
<b>Special Effects</b>		
	Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, performers and staff.	PS
	The following special effects will only be used on 10 days prior notice being given to the Licensing Authority and Environmental Health where consent has not been previously been given: <ul style="list-style-type: none"> <li>• dry ice machines and cryogenic fog</li> <li>• smoke machines and fog generators</li> <li>• pyrotechnics including fireworks</li> <li>• real flame</li> <li>• fire arms</li> <li>• motor vehicles</li> <li>• strobe lighting</li> <li>• lasers</li> <li>• explosives and highly flammable substances</li> </ul>	PS
	These special effects must only be used on the provision of a suitable and sufficient risk assessment and prior notification to the Licensing Authority and Environmental Health.	PS
	All escape routes and exits shall be kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified.	PS
	All exit doors shall be regularly checked to ensure that they function satisfactorily and a record of the checks shall be kept on the premises.	PS



<b>Noise Nuisance (regulated entertainment)</b>		
	The lobby doors at the premises shall be kept closed except for access and egress during the provision of regulated entertainment. Door staff, where employed, shall ensure that the doors are maintained closed as far as possible when regulated entertainment is taking place.	PN
	A noise limiting device shall be installed, fitted and maintained in such a manner so as to control all sources of amplified music at the premises during the provision of regulated entertainment. The noise limiting device shall be set at a limit determined by the Local Authority's Authorised Officer, such level being confirmed in writing to the premises licence holder.	PN
	Whenever any regulated entertainment occurs past 22:00 indoors all windows and doors shall be kept shut during these activities.	PN
	Loudspeakers shall not be located in the entrance lobby, [or specify another location if appropriate] or outside the premises.	PN
	Live music shall be provided by no more than two (2) performers on any day.	PN
	After 23:00 hours all windows shall be closed and remain closed.	C&D PN
	Unless otherwise specified on this licence no regulated entertainment shall take place at the premises with the exception of pre-booked private events limited to the provision of music and dancing for pre-invited guests.	C&D PN
	Where any regulated entertainment occurs at the premises, the Designated Premises Supervisor, or a person nominated by them, will ensure that noise from such activities is effectively inaudible inside the nearest noise sensitive premises.	PN
<b>Noise Nuisance (people)</b>		
	Prominent, clear notices shall be displayed at [all exits / in the beer garden] requesting customers to respect the needs of local residents and leave the premises and the area quietly.	PN

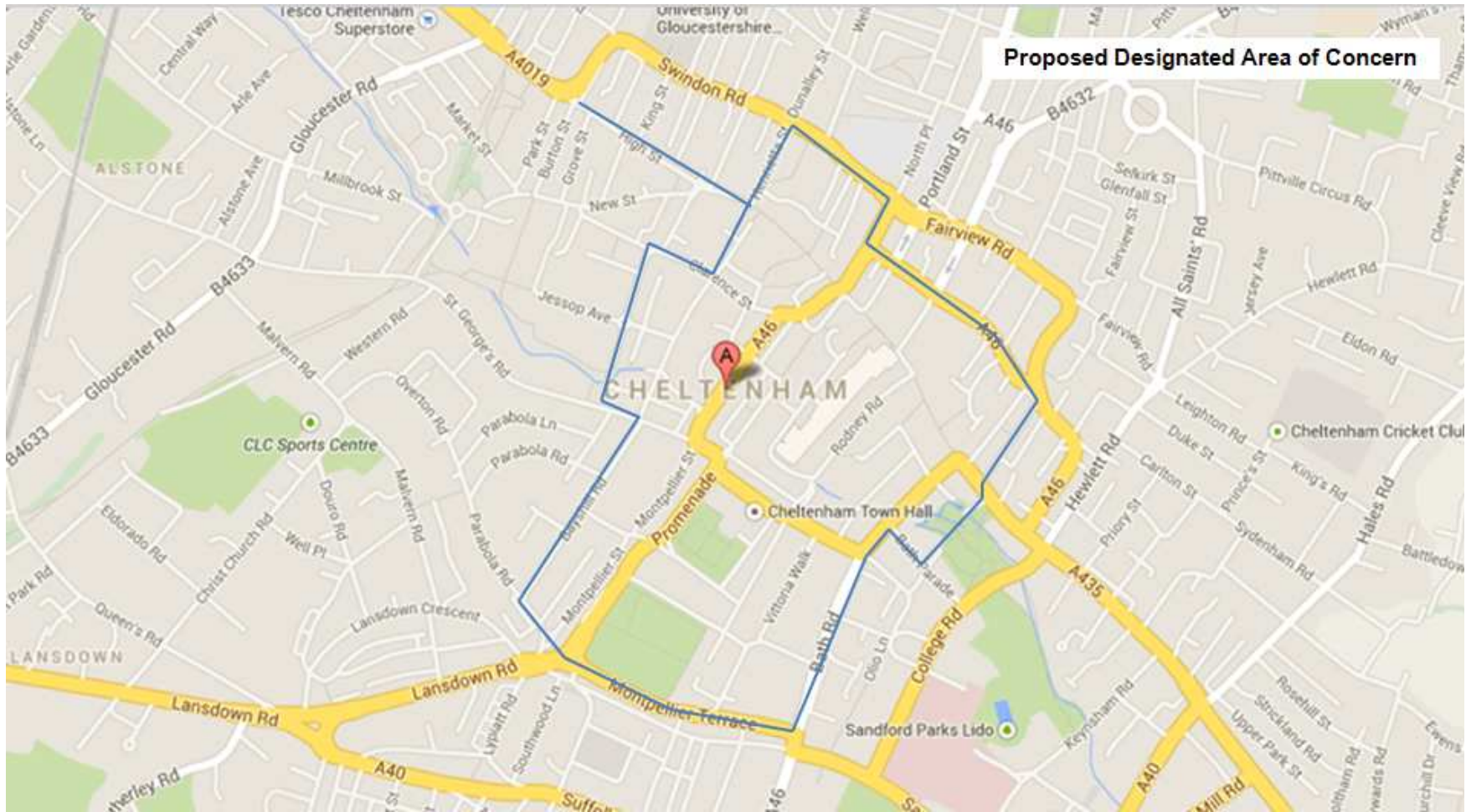
	The premises licence holder shall monitor the activity of persons leaving the premises [after xx:xx/are closed to the public] and remind them of their public responsibilities where necessary.	PN
	Customers permitted to temporarily leave and then re-enter the premises e.g. to smoke, shall not be permitted to take drinks or glass containers with them.	C&D PN
	Deliveries to the premises shall only be made between **:** hours and **:** hours on Mondays to Saturdays only.	PN
	The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.	PN
<b>Lighting</b>		
	Internal and external lighting provided for the purpose of customer and staff safety and for the security of the premises shall be positioned so as not to cause nuisance to neighbouring or adjoining properties.	PN
	Lighting associated with regulated entertainment shall be positioned so as not to cause nuisance to neighbouring or adjoining properties.	PN
	Lighting provided externally to promote advertising of the premises or activities associated with the premises shall be of an intensity such as not to cause nuisance to neighbouring or adjoining properties.	PN
<b>Open Spaces</b>		
	The area within which alcohol is served or consumed shall be clearly and effectively delineated using barriers, ropes, or similar so that the extent of the Designated Place where the licensable activity is temporarily permitted shall be clearly defined and notices shall be conspicuously placed in the area.	C&D PN
	Music noise levels from outdoor regulated entertainment must not exceed those defined in the Code of Practice on Environmental Noise Control at Concerts' (The Noise Council 1995 ISBN 0 900103 51	PN

	Use of the outdoor area will cease at 23:00 everyday.	PN
<b>Other Nuisance</b>		
	A public refuse bin shall be installed outside the premises subject to any necessary planning permission or listed building permission.	PN
	The premises licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.	C&D PN
<b>Litter</b>		
	At the termination of business on each day the outside area immediately to the front of and adjacent to the premises shall be cleared of debris and litter.	PN
<b>Other</b>		
	In cases of an event involving a significant number of unaccompanied children, the premises licence holder shall have a child protection policy in place to carry out suitable checks on staff before they take up employment.	CP
	A Challenge [21/25/or any other suitable age] policy shall be operated at the premises at all times. All staff shall require identification of all customers who appear to be less than [21/25/ or any other suitable age] years old and wish to purchase alcohol. Acceptable proof of age will be a PASS approved proof of age card, UK passport or a UK photographic driving licence.	CP
	Challenge [21/25/ or any other suitable age] materials shall be displayed at the premises, including at the point of sale of alcohol, to inform customers of the operation of the scheme.	CP
	A log shall be kept at the premises and record all refused sales of alcohol for reasons that the person(s) is, or appears to be, under x years of age. The log shall record the date and time of the refusal and the name of the member of staff who refused the sale. The log will be made available on request by the Police or an	CP

	authorised officer of the council.	
	Children under the age of x years shall not be allowed on the premises after **: ** hours unless accompanied by an adult.	CP
	Children under the age of x years shall not be allowed on the premises.	CP
	No single cans or bottles of beer or cider shall be sold at the premises.	C&D CP
	Clearly visible signage is to be displayed at the entrances and at points of sale indicating it is illegal to sell alcohol to people under the age of 18.	CP
	The licence holder or the licence holders, servants, or agents, shall ensure that no flyposting is undertaken by the licence holder or on behalf of the licence holder in respect of any performance or event taking place at the premises.	PN C&D
<b>Queuing</b>		
	Any designated queuing area shall be enclosed within appropriate barriers to ensure that the highway is kept clear.	C&D
<b>Dispersal</b>		
	A minimum 30 minute 'drinking-up' time shall be provided to allow appropriate dispersal, use of lavatories etc.	C&D PN
	A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.	C&D CP
	Freephones or payphones shall be made available to all customers and have displayed contact telephone numbers for selection of hackney carriages and private hire services.	PN
<b>Boxing &amp; Wrestling</b>		
	At least 28 days' notice of any event involving boxing or wrestling entertainment events shall be provided to the	C&D

	licensing authority and the health and safety enforcing authority.	
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## Appendix D – Designated Area of Concern



### Appendix 3 - Consultation Feedback and Officer Response

Feedback	Officer Response
<p><b>Chapel Spa</b></p> <p>I would like to give you some feedback on the area in which I have a business called Chapel Spa, 10 North Place Cheltenham.</p> <p>The area around North Place has become a troubled area in town, with on street drinking in Warwick Place, and the smashing of bottles against the walls and drunken shouting and arguments. My business is beside Warwick Place.</p> <p>There are no street lights, and the roadway is blocked off both ends, and the drinkers seem to like it.</p> <p>My Spa closing times vary during the week between 8.30pm and 10pm and my staff, who are all young ladies have to navigate Warwick Place in the dark. I am very worried about this and have complained to CBC.</p> <p>The whole area of both car parks resembles a bomb site, and the walking surface of Warwick Place is very uneven, potholed and broken up, making it dangerous to walk on. It has been abandoned by the Council.</p> <p>This is not the kind of area that should represent Cheltenham, or at the very least if the car parks cannot be developed soon, at least some lighting should be installed in the Portland Street car park, and Warwick Place should be well lit to protect the public, and the road surface of Warwick Place should be made safe.</p> <p>I applaud your intention to: Reduce crime, disorder and anti-social behaviour;</p>	<p>The proposed policy approach is one that is much more proactive than that of the existing policy.</p> <p>It, in conjunction with other initiatives, aims to address and reduce the issues identified by the response submitted by Chapel Spa.</p> <p>The other issues mentioned in the response do not fall within scope of the policy and can therefore not be address through it. For the avoidance of doubt, these are the state of the car park, street lighting, potholes and dangerous highway.</p>

<p>Promote public safety; Prevent public nuisance; Protect children from harm</p> <p>I hope my feedback is of use, and you will take steps to improve the area.</p>	
<p><b>Beaumont House</b></p> <p>I refer to the letters addressed to my wife and myself regarding licensing policy and the changes instituted on 1<sup>st</sup> April last year.</p> <p>Our business, Beaumont House is a 16 bedroom Guesthouse and until 31st March last year we stocked mini bars in our rooms with both alcoholic and none alcoholic beverages. Faced with a bill of £1,000 plus to maintain this point of sale we removed alcoholic beverages from the mini bars. At that time I communicated with both the Leader of the Council and Martin Horwood. Mr Horwood was very surprised with the charge and impact on a business such as ours.</p> <p>Whilst understanding the Council's position, I do not believe that businesses such as ours should be penalised and asked to subsidise policing costs for town centre clubs and pubs.</p> <p>I would ask that in the forthcoming review an exception is made for hotels and guesthouses enabling them to sell alcoholic beverages in room mini bars 24 hours a day.</p> <p>I hope that this view will be fairly represented to councillors. I am copying this email to both our new MP Mr Alex Chalk and Councillor Max Wilkinson. We live in the Park area and I have previously spoken with Mr Wilkinson about this matter.</p>	<p>Whilst officers note the comments, a review of the late night levy is not within scope of this policy review and therefore these comments have not been deemed relevant for the purpose of the policy review.</p>



## **Licensing Committee**

### **Late Night Levy**

Some Members of the Licensing Committee expressed a need for permitted exemptions under the levy to be reviewed to also include premises offering overnight accommodation. It was felt that the levy unfairly affected hotels who only offer alcohol to residents.

### **Designated Public Places Order**

Members recommended that more details of the DPPO be included in the policy particularly the adoption date and the implications of the order.

### **Core Hours for Licensable Activities**

The committee recommended that the terminal hours for takeaways be extended so that they are open for an hour past the terminal hour for pubs/bars and nightclubs. The committee recommended a proposed 04:00 terminal hour for takeaways.

### **Last Admission Times**

The committee commented that the proposed terminal hours should only apply to premises licensed past midnight.

### **Film Classifications**

The committee recommended that officers be delegated authority to classify films up to a 15 rating. Anything over a higher classification will be referred to the committee.

### **Events on Council Land**

The committee commented that that the requirement to submit documents at least 3 months in advance of an event is too onerous for small events. They recommended that the minimum time limit be based on predicted numbers attending.

Whilst officers note the comments, a review of the late night levy is not within scope of this policy review and therefore these comments have not been deemed relevant for the purpose of the policy review.

Addressed through amending the policy. See paragraph 6.16.

Addressed through amending the policy. See table 1 after paragraph 6.41.

Addressed through amending the policy. See paragraph 6.46.

The necessary changes to the constitution will be made to reflect this.

Further work will be required but this will be done through the Events Consultative Group. Reference to time scales have been removed as there are already stipulated in the council's adopted events approval process.

**CBC Planning Enforcement**

In recent weeks there has been a spate of nightclubs in our area undertaking flyposting.

I would like the licensing policy to be revisited with a view to including a general condition for the licence holder not to undertake flyposting.

Suggested wording along the lines of:

“The licence holder or the licence holders, servants, or agents, shall ensure that no flyposting is undertaken by the licence holder or on behalf of the licence holder in respect of any performance or event taking place at the premises.”

Whilst the council is not able to lawfully attach blanket conditions to premises licences, officers have added the suggest condition to the pool of model conditions.

## Cheltenham Borough Council Council – 14 December 2015 Contract Rules

<b>Accountable member</b>	Councillor Colin Hay - Chairman Constitution Working Group
<b>Accountable officer</b>	Mark Sheldon - Director of Resources
<b>Ward(s) affected</b>	<b>None</b>
<b>Key/Significant Decision</b>	<b>No</b>
<b>Executive summary</b>	To ensure that the Council's Contract Rules reflect the latest statutory requirements GO Shared Services have designed a common Procurement and Contract Management Strategy for all of the partner councils. This will be supported by a new common set of Contract Rules prepared by One Legal which has been considered by the Constitution Working Group and recommended to Council for approval.
<b>Recommendation</b>	<b>That the Contract Rules be approved.</b>

<b>Financial implications</b>	<p>None directly from the report, although compliance with the Contact Rules will support the Council's aim of securing value for money and protect the Council from legal challenge on procurement processes.</p> <p><b>Contact officer: mark.sheldon@cheltenham.gov.uk, 01242</b></p>
<b>Legal implications</b>	<p>The Contract Rules have been updated to reflect the new Public Contract Regulation 2015 and the requirements contained in the Public Services (Social Value) Act 2012, the Community Right to Challenge (Localism) Act 2012 and the Local Government Transparency Code 2015.</p> <p><b>Contact officer: sarah.halliwel@teWKesbury.gov.uk, 01684 272692</b></p>
<b>HR implications (including learning and organisational development)</b>	<p>All staff will need to be trained and briefed on the new processes.</p> <p><b>Contact officer: Julie McCarthy @cheltenham.gov.uk, 01242 264355</b></p>
<b>Key risks</b>	Should the Council not approve the updated Rules, the Council may be found to be not complying with legislation.
<b>Corporate and community plan Implications</b>	None

<b>Environmental and climate change implications</b>	None
<b>Property/Asset Implications</b>	<b>Contact officer:</b> @cheltenham.gov.uk

## **1. Background**

**1.1** GO Shared Services (GOSS) provides procurement support to the following organisations:-

- Cheltenham Borough Council;
- Cotswold District Council;
- Forest of Dean District Council;
- West Oxfordshire District Council;
- Cheltenham Borough Homes Ltd.;
- Ubico Ltd;
- The Cheltenham Trust Ltd.

**1.2** The GOSS Councils designed a common Procurement and contract management strategy for all of the GOSS Partner Councils. This was approved and adopted by this Council in July 2015.

**1.3** The GOSS Procurement Team is now developing a common approach to effective procurement across all Partner Councils by focusing on activities which lead to financial savings and improved practices. As part of this work, a common Procurement and Contract Management Strategy was adopted by all Partner Councils earlier this year. Standardised processes and documentation, intranet and internet publications are currently being developed on behalf of the Councils. The aim is to make it easier to engage with, and improve the experience for all suppliers especially Small and Medium Enterprises (SMEs).

**1.4** The Contract Rules attached at Appendix 2 incorporate recent changes to legislation including; The Public Services (Social Value) Act 2012 and Community Right to Challenge (Localism) Act 2012, The Public Contracts Regulations 2015 (PCR2015) and the Local Government Transparency Agenda 2015 .

**1.5** Application of the Procurement and Contract Management Strategy, together with compliance with the Council's Financial Rules and Contract Rules, will ensure that the Council conducts its procurement activity in compliance with statutory regulations and will help to mitigate the risk of fraud and corruption in procurement activity.

## **2. Reasons for recommendations**

**2.1** Cotswold District Council, West Oxfordshire District Councils and Forest of Dean District Council have all approved the Contract Rules; the recommendation to Council to approve a Cheltenham Borough Council version will help with continuity across the partners and compliance with legislative requirements.

## **3. Alternative options considered**

**3.1** None

## **4. Consultation and feedback**

**4.1** All four Go Partners and their section 151 officers were consulted and their views taken on-board. The Constitutional Working Group was also consulted on the 12 November 2015 and their views and comments were incorporated.

## **5. Performance management –monitoring and review**

**5.1** The GO Shared Services procurement team will develop a Procurement Code and a toolkit of self-service guidance documents, consistent with the aims of the Procurement and Contract Management Strategy, as a guide to best practice and processes for achieving best value. The GO Shared Services Client Officer Group will oversee implementation of the Code and tool kit.

<b>Report author</b>	<b>Contact officer Mark Sheldon@cheltenham.gov.uk, 01242 264123</b>
<b>Appendices</b>	<ol style="list-style-type: none"><li>1. Risk Assessment</li><li>2. Contract Rules</li></ol>
<b>Background information</b>	

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	Any risks associated with equality impact										
	Any environmental risks										
<p><b>Explanatory notes</b></p> <p><b>Impact</b> – 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><b>Likelihood</b> – 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><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

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**Contract Rules**

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**CONTRACT RULES**

**SECTION 1: GENERAL COMPLIANCE AND SCOPE**

**1. COMPLIANCE**

1.1 Every contract entered into by the Authority shall be entered into pursuant to or in connection with the Authority's functions and shall comply with:

1.1.1 All relevant statutory provisions including codes and statutory guidance e.g. transparency code;

1.1.2 The relevant European procurement rules when applicable (i.e. the EC Treaty, the general principles of EC law and the EC public procurement directives implemented by the UK Regulations);

1.1.3 The Authority's Constitution including these Contract Rules, the Authority's Financial Rules and Scheme of Delegation;

1.1.4 The Authority's strategic objectives, Procurement Strategy, Procurement Code (which includes template documentation) and relevant policies

1.2. The policy of the Authority, and the objective of these Contract Rules, is to ensure that all works, goods and services:

1.2.1 Are obtained with probity and propriety to ensure the proper expenditure of public funds;

1.2.2 Are appropriate for the purpose for which they are obtained;

1.2.3 Ensure Best Value for Money.

**2. SCOPE**

2.1 These Contract Rules apply to any arrangement made by, or on behalf of, the Authority for the carrying out of works or for the supply of goods or services.

2.2. These Contract Rules do not apply to:

2.2.1 contracts of employment which make an individual a direct employee of the Authority;

2.2.2 the acquisition, disposal, or transfer of land (which must be carried out by the Head of Property Services) except where services or works are required by the Authority as part of the land transaction. E.g. regeneration projects

2.2.3 contracts relating to the placement of deposits or raising of loans under the treasury management strategy;

2.2.4 purchases made at public auction.

2.2.5 the giving of grants

## **SECTION 2: COMMON REQUIREMENTS**

### **3. CALCULATION OF CONTRACT VALUES**

3.1 Unless otherwise stated, the calculation of the estimated value of a procurement shall be based on the total amount payable in pounds sterling, net of VAT, as estimated by the Authority over the entire contract period, including any proposed extension to the initial contract period.

3.2 The estimated value is to be calculated as at the date the contract is first advertised or the Candidates are contacted, whichever occurs first.

3.3 Contracts should be for a fixed term, but where this is not possible (e.g. hire agreements) the contract value should be calculated by multiplying the monthly value by 48.

3.3 Contracts must not be artificially under or over-estimated or divided into two or more separate contracts where the effect is to avoid the application of the Contract Rules.

### **4. AUTHORISED OFFICERS AND THEIR RESPONSIBILITIES**

4.1 Authorised Officers are persons responsible for carrying out the procurement in question and who have received corporate training on these Contract Rules, and the Procurement Code

4.2 The Authorised Officer must proceed with the procurement in a manner commensurate with its complexity and value, by:

4.2.1 appraising the need for the expenditure and its priority;

4.2.2 defining the objectives of the procurement;

4.2.3 assessing the risks associated with the procurement and how to manage them;

4.2.4 considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium and frameworks;

4.2.5 consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring;

4.2.6 Checking to see if a corporate contract already exists. E.g. stationery contract.

4.2.7 Where the procurement involves a potential change to services provided by the Authority the Authorised Officer ensuring compliance with

- the Authority's duty to consult under Section 3 Local Government Act 1999
- the Authority's duties under the Equality Act 2010.
- The Public Social Value Act 2012 for contracts for services over the EU threshold to ensure how the procurement might improve the economic, social and environmental well-being of the geographical area the Authority serves

4.2.8 Ensuring the Budget Holder has sufficient budget to sustain the contract for the life of the contract.

4.2.9 for Quotes and Tenders below £10,000.00 attaching the relevant standard terms and conditions to the purchase order or otherwise draw the attention of the Supplier to these standard terms and conditions;

4.2.10 for Quotes and Tenders above £10,000.00, instructing the Council's Solicitor in writing to draft or approve the formal written contract terms and conditions that are to apply to the proposed contract;

4.2.11 ensuring that a purchase order is raised for the contract.

4.3 Where any procurement may result in any employee either of the Authority or of a service provider being affected by any transfer arrangements, Authorised Officers must ensure that the application of the Transfer of Undertaking Protection of Employment Regulations 2006 (TUPE) is considered and obtain legal advice before proceeding with inviting Tenders or Quotes.

4.4 Any procurement that is:

- over EU threshold and TUPE applies or
- is over budget

shall be referred to the Cabinet for decision, unless otherwise stated elsewhere in the Authority's Constitution..

**5. CONTRACT VALUES**

5.1 Where the total value for a purchase is within the values in the first column below, the award procedure in the second column must be followed:

<b>Estimated Total Contract Value</b>	<b>Contract Letting Requirements &amp; Forms of Contract</b>
Up to £10,000	<p>The Budget Holder can purchase from the source that offers the Best Value for Money to the Authority.</p> <p>This could be demonstrated by the obtaining of 2 written Quotes, where this is possible.</p> <p>Contracts shall be by purchase order with standard terms and conditions attached.</p>
From £10,001 to £50,000	<p>Shall be advertised on the website of the Authority (and/or other public advertisement as determined by the Authorised Officer) unless, in consultation with the S151 officer, and the Council's Solicitor, it is agreed to approach suppliers on an ad hoc basis (in which case 3 written quotes shall be sort).</p> <p>Any procurement opportunity over £25,000.00 that is advertised shall also be advertised on Contract Finder using the Authority's e-procurement system within 24 hours of any other adverts appearing together with unrestricted and full direct internet access to relevant contract documents.</p> <p>Procurement opportunities advertised on Contract Finder shall be procured using the Open Procedure.</p> <p>A formal written contract approved by the Council's Solicitor must be utilised.</p>
From £50,001 to EU Threshold	<p>Shall be advertised on the website of the Authority and on Contract Finder using the Authority's e-procurement system (within 24 hours of any other adverts appearing) (and/or other public advertisement as determined by the Authorised Officer) together with unrestricted and full direct internet access to relevant contract documents</p>

	<p>An open procedure shall be followed for goods and services.</p> <p>Pre-Qualification Questionnaires (PQQ's) can be used in procurements above the lower EU threshold for goods and services for tender opportunities for <b>works</b> contracts.</p> <p>A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p>
<p>EU Threshold and Above</p>	<p>Shall be advertised in the Official Journal of the European Journal (OJEU), on the website of the Authority and on Contract Finder using the Authority's e-procurement system (within 3 days of the receipt of OJEU notice at publications office or within 24 hours of the OJEU notice being published) (and/or other public advertisement as determined by the Authorised Officer)</p> <p>Pre-Qualification Questionnaires (PQQ's) can be used in procurements above the lower EU threshold for goods and services for tender opportunities for goods, services <b>and works</b>.</p> <p>The Procurement Adviser in consultation with the Council's Solicitor shall advise on the most appropriate EU procurement procedure to be used for the relevant goods, services and/or works to be procured. The two most common procedures are:</p> <ul style="list-style-type: none"> <li>• Open Procedure – anyone can submit a tender</li> <li>• Restricted Procedure – following receipt of expressions of interest a pre-qualification questionnaire (PQQ) is used to shortlist Candidates who are then invited to submit a tender.</li> </ul> <p>The following procedures can only be used in certain circumstances. See the Procurement Code for further detail.</p> <ul style="list-style-type: none"> <li>• <b>Innovation Partnership;</b> This may be used when the Authority is seeking innovative ideas where solutions are not already available on the market and there is also an intention to include</li> </ul>

both the development of the outcome and its subsequent purchase (subject to meeting agreed performance levels and maximum costs) in the procurement.

A structured partnership will be established for the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, provided that they correspond to the agreed performance levels and costs.

- **Competitive dialogue**

This can be used where either of the following apply:

(i) the need of the Authority cannot be met without adaptation of readily available solutions;

(ii) they include design or innovative solutions;

(iii) specific circumstances related to the nature, the complexity or the legal and financial makeup or because of risks attaching to them;

(iv) the technical specifications cannot be established with sufficient precision with reference to a standard, European Technical Assessment, common technical specification or technical reference;

(v) where, in response to an open or a restricted procedure, only irregular or unacceptable tenders were submitted, provided that the Authority includes in the procedure all of, and only, the tenderers that meet certain criteria and submitted tenders in accordance with the formal requirements of the failed procedure

- **Competitive Procedure with negotiation.**

This procedure can be used for the same reasons as competitive dialogue. With this procedure the Authority can negotiate with



	<p>Candidates who have submitted tenders to seek improved offers.</p> <p>A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p>
<p>Light Touch Regime</p>	<p>Contracts involving the following goods and services are subject to a 'light touch' regime if the value of the contract is below the prescribed threshold contained in the EU Regulations;</p> <ul style="list-style-type: none"> <li>• Health, social and related services</li> <li>• Administrative social, educational, healthcare and cultural services</li> <li>• Compulsory social security services</li> <li>• Benefit services</li> <li>• Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services</li> <li>• Legal services</li> <li>• Other administrative services and government services</li> <li>• Provision of services to the community</li> <li>• Prison related services, public security and rescue services</li> <li>• Investigation and security services</li> <li>• International services</li> <li>• Postal services</li> <li>• Miscellaneous services listed in schedule 3 of the Public Contract Regulation 2015</li> </ul> <p>Advice must be sought from the Procurement Adviser before undertaking a light touch regime procurement.</p>

	A formal written contract prepared/approved by the Council's Solicitor must be utilised.
Concessions	A concession contract is an agreement where Suppliers are given the right to exploit works or services provided for their own gain. Suppliers can either receive consideration for their services solely through third party sources or partly through payment from the contracting authority along with income received from third parties e.g. a services concession is where a supplier has a contract to manage an Authority's catering services for its staff. The Authority doesn't pay the Supplier to run the services and its income is solely through the staff using the facilities. The risk in the concession making a profit is with the Supplier and not the Authority.
Disposal of assets (other than land)	Where the Authority is selling or disposing of assets without the provision of services then the Authority's obligation is to achieve the best value for the items. This could be achieved by obtaining quotes or conducting a full tender depending upon the items being disposed of. Any disposal must be in accordance with the Authority's Finance Rules.
Disposal of Land	These contract rules apply where the Authority is disposing of or acquiring land and there is an element of services or works required by the Authority as part of the transfer (E.g. regeneration projects)

**6. EXEMPTIONS AND WAIVERS**

6.1 Subject to the written approvals referred to in Contract Rule 6.2 below, waivers of any of these Contract Rules shall only be given in the following exceptional circumstances:-

6.1.1 Where the goods, materials, works or services are of a unique or specialised nature or are identical or similar to or compatible with an existing provision so as to render only one or two sources of supply appropriate, including:

- an upgrade or
- where the contract concerns, wholly or mainly, repairs to or the supply of parts for existing proprietary machinery, plant or equipment and the repairs to or the supply of parts cannot be carried out practicably by alternative Contractors;

or

- 6.1.2 The goods or materials to be purchased are proprietary articles or are sold only at fixed prices; or
- 6.1.3 The price of services, goods or materials to be purchased is controlled by trade organisations, or if for other reasons there would be no genuine competition; or
- 6.1.4 Where in the opinion of the Authorised Officer in consultation with the s151 Officer and the Council's Solicitor considers that the services to be provided or the work to be executed or the goods or materials to be purchased are urgent; (subject to the action being reported to the next Cabinet Meeting) or
- 6.1.5 Specialist consultants, solicitor, barrister, agents, artist or professional advisers are required and:
  - There is no satisfactory alternative; or
  - Evidence indicates that there is likely to be no genuine competition; or
  - It is, in the opinion of the Authorised Officer, in the Authority's best interest to engage a particular consultant, solicitor, barrister, agent, artist or adviser;

or

- 6.1.6 The goods or materials to be purchased are within a bulk purchasing agreement made between the Authority and a consortium or other organisation approved by the Authority; or
- 6.1.7 The works to be executed or the goods or materials to be purchased can only be carried out or supplied by a statutory body.

- 6.2 These Contract Rules cannot be waived for the procurements above the relevant EU Threshold.

Where it is possible to waive these Contract Rules, any such waiver must be agreed by:

- 6.2.1 Cabinet for contracts above £100,000.00 or the Head of Paid Service in consultation with the Leader of the Authority if the matter requires an urgent decision and a meeting of the Cabinet cannot be called; or
- 6.2.2 The Budget Holder, in consultation with the Section 151 Officer and the Council's Solicitor if the contract is £100,000.00 or less.

- 6.3 A record of the decision and the reasons for it shall be kept and the waiver itself shall be kept by the Council's Solicitor.

**SECTION 3: TENDERING AND QUOTATION PROCESS**

**7. ADVERTISING (above £10,000.00)**

7.1 Adverts shall include as a minimum:

- Date and time response to be received by the Authority
- How and to whom the Supplier must respond
- Any requirements for participating in the procurement

7.2 Where adverts are placed on Contract Finder unrestricted and full direct internet access to relevant contract documents shall be available on the Authority's website and the Authority's e-procurement system free of charge when the advert is placed.

7.3 Opportunities with a value over the relevant EU Threshold must also be advertised in the Official Journal of the European Union (OJEU) by submitting a Contract Notice using the Authority's e-procurement system

**8. SUITABILITY ASSESSMENT (under EU threshold) AND PRE-QUALIFICATION (above EU threshold only)**

8.1 Authorised Officers are responsible for ensuring that all Candidates for a contract are suitably assessed.

**Under EU Threshold**

8.2 As part of the tender or quotation process Authorised Officer shall establish that the potential Candidates meet minimum requirements or minimum standards of :

- Suitability.
- Capability.
- Legal status; and
- Financial standing
- 

8.3 The assessment questions must be

- relevant to the subject matter of the procurement and
- proportionate

8.4 For works contracts above the lower EU threshold (supply and services level) a Pre-Qualification Questionnaire (PQQ) stage is permitted. Officers must use form PAS91 or such other required PQQ template.

**Above EU Threshold**

- 8.5 Procurements above the EU threshold can use a Pre-Qualification Questionnaire (PQQ) stage. Officers must use the PQQ form issued by the Government or for works contract form PAS91 or such other required PQQ template. As any deviations the standard form must be reported to the Cabinet Office changes to the form are not permitted without the consent of the Procurement Adviser, S151 Officer and the Council's Solicitor.
- 8.6 Any Candidate eliminated from a procurement where a PQQ has been undertaken must be notified following the evaluation of that stage in the process.
- 8.7 Financial and due diligence checks must be undertaken for all contracts where the value of the contract is above £10,000.00
- 8.8 Any procurement subject to the EU Regulations shall comply with the appropriate EU Regulations.

**9. ELECTRONIC TENDERING**

- 9.1 Until electronic tendering becomes compulsory, the Authorised Officer following consultation with the Procurement Adviser or Council's Solicitor may authorise:
  - 9.1.1 the transmission of Quotes and Tenders by electronic means;
  - 9.1.2 the carrying out of an electronic auction where satisfied that it is in the interests of the Authority to do so;
  - 9.1.3 the carrying out of the whole tendering process and the award of the contract by electronic means, using the Authority's e-procurement system, where satisfied that it is in the interests of the Authority to do so .

**10. DIVIDING TENDERS INTO LOTS**

- 10.1 Authorised Officers may decide to award a contract in the form of separate lots and may determine the size and subject-matter of such lots.
- 10.2 For an above EU threshold procurement, If the contract is not split into lots the main reasons for this decision shall be included in the procurement documents and the Regulation 84 Report.
- 10.3 Authorised Officers shall include in the notice and or tender documents:

10.3.1 if tenders can be submitted for one, for several or for all of the lots.

10.3.2 if there is a limit on the numbers of lots that can be tendered for.

10.4 Where more than one lot may be awarded to the same tenderer, Awarding Officers may award contracts combining several or all lots where they have specified in the contract notice or in the invitation to tender that they reserve the possibility of doing so and indicate the lots or groups of lots that may be combined.

**11. INVITATION TO TENDER**

11.1 The Invitation To Tender shall state that no Tender will be considered unless it is received by the date and time stipulated in the Invitation To Tender. Subject to Contract Procedure Rule 11.3 below, no Tender delivered in contravention of this Contract Procedure Rule shall be considered.

11.2 No Tenders received after the specified date and time for receipt of Tenders shall be accepted or considered by the Authority unless the Authorised Officer, after consulting the Procurement Adviser, s151 Officer and the Legal Adviser, is satisfied that there is sufficient evidence for the Tender having been despatched in sufficient time for it to have arrived before the closing date and time

**12. SUBMISSION AND OPENING OF TENDERS AND QUOTES**

12.1 Tenders and Quotes shall be submitted in accordance with requirements set out in the Invitation to Tender or Request to Quote as appropriate.

**Tenders (over £50,000.00)**

12.2 All Tenders received shall be addressed to the Procurement Adviser in a plain sealed envelope endorsed with the words "Tender – Do Not Open" followed by the subject matter to which it relates (but no other name or mark indicating the sender). Tenders shall be kept in a safe place by the Procurement Adviser and remain unopened until the time and date specified for their opening.

12.3 Where tenders are submitted electronically via the Authority's e-procurement system, authorised officers shall ensure that they are kept secure and un-opened until the specified date and time.

12.4 Tenders shall be opened by at least one officer nominated by the Budget Holder and the Procurement Adviser or their nominated officer. An immediate record shall be made of the Tenders received including names, amount of tender and the date and time of opening.

**Quotes (over £10,000.00)**

- 12.5 All quotes received shall be addressed to the Authorised Officer in a plain sealed envelope endorsed with the words "Quote – Do Not Open followed by the subject matter to which it relates (but no other name or mark indicating the sender). Quotes shall be kept in a safe place by the Authorised Officer and remain unopened until the time and date specified for their opening.
- 12.6 Quotes shall be opened by the Authorised Officer who shall keep a note on file of the names, amount of tender and the date and time of opening.
- 12.7 If the submission of quotes is electronically under Contract Rule 9.1, the Authorised Officer shall ensure that the quotes are not opened until the time and date specified for their opening.
- 12.8 No Tenders or Quotes received after the specified date and time for receipt shall be accepted or considered by the Authority unless the Authorised Officer, after consulting the s151 Officer and the Council's Solicitor, is satisfied that there is sufficient evidence for the Tender or Quote having been despatched in sufficient time for it to have arrived before the closing date and time

**13. ARITHMETICAL ERRORS, POST TENDER CLARIFICATION AND ABNORMALLY LOW TENDERS**

- 13.1 Candidates can only alter their Tenders or Quotes after the date specified for their receipt but before the formal acceptance of the Tender or Quote, where examination by officers of the Tender or Quote reveals arithmetical errors or discrepancies which affect the Tender or Quote figure. The Candidate shall be given details in writing of such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing their offer in writing.
- 13.2 In an EU Procurement the Authority must require tenderers to explain the price of costs proposed in the tender where the tender appears to be abnormally low in relation to the works, supplies or services.
- 13.3 All other post-tender clarifications shall:
- 13.2.1 only be undertaken following consultation with the Procurement Adviser and the Council's Solicitor; and
  - 13.2.2 not disclose commercially sensitive information supplied by other Candidates for the contract

**14. TENDER EVALUATION**

- 14.1 Tenders shall be evaluated in accordance with the relevant regulations and the award criteria set out in the Invitation to Tender.

- 14.2 All contracts shall be awarded on the basis of the offer which represents the most economically advantageous, taking into account price and/or quality, to the Authority.
- 14.3 The award criteria shall be predetermined and listed in the Invitation to Tender documentation. In addition, the criteria shall be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.
- 14.4 For all Contracts regardless of value, no person with a personal or financial interest in any of the Contractors submitting a proposal should be involved in any way in influencing the decision as to which Contractor is to be awarded the Contract. A declaration of interest form must be completed by each officer involved in the evaluation process and held on file by the Authorised Officer.
- 14.5 Where Authorised Officers intend to carry out site visits, presentations or interviews as part of the evaluation process, this must be made clear in the invitation to tender and include whether this will be scored separately to the tender submission or used to moderate scores. If scored separately, Candidates must be informed of the evaluation criteria and weighting in the Tender documents.

**15. AWARDING CONTRACTS (Over £10,000.00)**

- 15.1 The Authority shall only accept a tender and award a contract to the Candidate submitting the Most Economically Advantageous Tender/Quote
- 15.2 Depending on what is being procured and whether or not it is an EU procurement, the Most Economically Advantageous Tender/Quote can be assessed as follows;
- Price (i.e. the lowest bid)
  - Cost (where the assessment is based on cost-effectiveness basis such as an asset life-cycle assessment (cost of the asset, maintenance costs, end of life costs)
  - Best Price/Quality Ratio. (the award criteria can include quality, including technical merit, aesthetic and functional characteristics, delivery date, delivery process, after-sales service and technical assistance as well as environmental and/or social matters and any other matters relevant to what is being procured.

The award criteria and the scoring methods must be disclosed in the Invitation to Tender/Quote.

- 15.3 A contract may only be awarded by an Awarding Officer with the requisite



delegated authority to award contracts. Prior to award, the Authorised Officer should ensure that the Budget Holder responsible for the contract has sufficient funds in place to sustain the contract.

15.4 Where the contract award opportunity was advertised, a contract award notice containing the name of the Contractor, the date the contract was entered into and the value of the contract must be published on Contract Finder no later than 90 days after contract award. If below EU Threshold include whether or not Contractor is a Small and Medium-sized Enterprise (SME) or voluntary, community and social enterprise (VCSE)

15.5 A Contract Award Notice must be published in OJEU where there has been an above EU Threshold Procurement and the relevant standstill period observed. The contract shall not be completed or Purchase Order issued unless the standstill period passes with no challenges. Authorised Officer shall notify the Procurement Adviser and the Council Solicitor immediately following receipt of a challenge.

15.6 For contracts over £10,000.00 the purchase order shall not be issued until the formal written contract has been completed.

**16.. DEBRIEFING**

16.1 The Authorised Officer shall provide a written debriefing to unsuccessful Tenderers as required by the law.

**17. EXECUTION OF CONTRACTS**

17.1 All contracts not exceeding £10,000.00 shall be signed by the relevant Budget Holder, unless the Council's Solicitor requires that the contract be sealed.

17.2 All contracts exceeding £10,000.00 but not exceeding £50,000.00 shall be signed by the Council's Solicitor unless the Council's Solicitor requires that the contract be sealed.

17.3 All contracts exceeding £50,000.00 shall be executed as a deed by the Council's Solicitor and the common seal affixed to the contract.

**18. RECORDS OF TENDERS AND CONTRACTS**

18.1 The Procurement Adviser shall maintain a list of all Tenders received.

18.2 A Contracts Register of all contracts awarded over £5,000.00 shall be maintained by the Authority

18.3 All contracts over £10,000.00 shall be kept by the Council's Solicitor

**19. BONDS AND PARENT COMPANY GUARANTEES**

- 19.1 Bonds or Parent Company Guarantee will be required on all works contracts above £1,000,000.00 or for a contract of a lesser value if considered appropriate by the Section 151 Officer following consultation with the Council's Solicitor
- 19.2 Bonds or Parent Company Guarantee may be required for any contract if considered appropriate by Section 151 Officer following consultation with the Council's Solicitor
- 19.3 Bonds shall be a minimum of 10% of the contract value.

**20. EMBEDDED LEASES & EMBEDDED DERIVATIVES**

- 20.1 Prior to the award of a contract the Authorised Officer must notify the S151 officer where under the contract:
  - 20.1.1 the Authority will have use or control of or will be paying for the use of a specific asset or group of assets; or
  - 20.1.2. contains a clause that caps the price the Authority has to pay for supplies or services or there is floor price on the price the Authority has to pay for supplies or services; or
  - 20.1.3 the prices the Authority has to pay under the contract, increase by more than 2 times RPI; or
  - 20.1.4 the prices the Authority has to pay, increase by some other form of Indices or commodity price.

**SECTION 5: SPECIFIC TYPES OF TENDERING**

**21. FRAMEWORK AGREEMENTS**

- 21.1 **FRAMEWORK AGREEMENTS SET UP BY OTHER CONTRACTING AUTHORITIES**
- 21.2 External Framework Agreements, where the Authority is named or identified as part of a class of permitted users, can be used where the Authority wishes to contract for the sourcing of supplies, services or works without conducting a new procurement exercise.
- 21.3 The Framework Agreement may include within its terms a requirement for a mini competitive exercise between some or all of those Suppliers who are parties to the Framework Agreements and can provide the goods/services being tendered. Other Framework Agreements may allow for a direct award or the choice of either direct award or mini completion. Any Call-Off from a Framework Agreement shall be tendered in accordance with the procedure set out in the Framework Agreement.

21.4 The approval of the Procurement Adviser or Council's Solicitor shall be sought before signing up to a new Framework Agreement.

21.5 A Call-Off contract as set out in the Framework Agreement will need to be entered into. If no pre agreed contract is provided for a contract approved by the Council's Solicitor, shall be entered into.

#### **FRAMEWORK AGREEMENTS SET UP BY THE AUTHORITY**

21.6 The Authority may carry out procurement exercises to set up Framework Agreements to allow it to choose contractors or suppliers who meet its pre-qualification requirements. The Authority can then Call-Off Suppliers from the Framework Agreement without having to carry out a further procurement exercise. This could be useful where the Authority has need to call on Contracts urgently or often. The Authority could also set up a framework agreement for itself and other local authorities to use in order to make efficiency savings.

21.7 Once a Framework Agreement is established, Quotes and Tenders for contracts may be invited from Suppliers included on Framework Agreement up to the limit stated in the Framework.

21.8 The Authority will need to carry out a procurement exercise to select the Suppliers to include on the Framework. This procurement will need to be advertised in accordance with these Contract Rules. The Contract Value is to be determined by the anticipated level of spend per Framework Agreement.

#### **PUBLISHING THE AWARD OF CALL-OFF CONTRACTS UNDER ALL FRAMEWORK AGREEMENTS**

21.10 The call off of a contract under a framework with a value of £25,000.00 or over shall be published on Contract Finder

#### **22. DRAW DOWN AGREEMENTS**

22.1 Authorised Officers may award Draw Down Agreements to individual suppliers where services, supplies or works are required on an ad hoc basis. E.g. JCT measured terms agreements. More than one Draw Down Agreement may be awarded to different Suppliers for the same services supplies or works.

22.2 Authorised Officer shall carry a procurement process for the award of the Draw Down Agreement in accordance with these contract rules

#### **23. COLLABORATIONS AND JOINT PROCUREMENT**

23.1 The Authorised Officer may participate in any collaborative or joint

procurement arrangements with other Local Authorities or public bodies including membership or use of a Purchasing Consortia subject to the prior approval of the relevant Director and Procurement Adviser.

**24. PROCUREMENT BY CONSULTANTS**

24.1 Any consultants used by the Authority shall be appointed in accordance with these Contract Rules. The Authorised Officer shall ensure that the consultant's performance is monitored.

24.2 Where the Authority uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultant carries out any procurement in accordance with these Contract Rules.

24.3 Consultants may advise the Authorised Officer as to the most suitable candidate. The Authorised Officer can use the advice given by the Consultant to make their recommendation to the Awarding Officer.

24.4 No Consultant shall make any decision on whether to award a contract or who a contract should be awarded to. This decisions rests with the Awarding Officer who should sign the Tender Acceptance Form

**25. NOMINATED AND NAMED SUB-CONTRACTORS**

25.1 Tenders for sub-contracts to be performed or goods and materials to be supplied by nominated suppliers shall be dealt with in accordance with the provisions of theses Contract Procedure Rules

**SECTION 6**

**CONTRACT MANAGEMENT AND AMENDMENTS TO CONTRACTS DURING THEIR TERM**

**26. AMENDMENTS TO CONTRACTS**

26.1 A contract may be changed in any of the following circumstances:

- a) The contract contains a clear review or option clause which specifies the conditions as to when an amendment can be made. The scope and the nature of the change and the overall nature of the contract must not change
- b) Additional works, services or goods that have become necessary and a change of supplier would not be practicable for economic or technical reasons or would involve substantial inconvenience/duplicate cost (limited to 50% of original contract price).
- c) the need for change could not have been foreseen by a diligent contracting authority; and

- the changes do not affect the overall nature of the contract; and
  - any increase in price does not exceed 50% of the price of the original contract.
- d) where a new contractor replaces the one to which the contracting authority had initially awarded the contract as a consequence of—
- (i) an unequivocal review clause or option in conformity with Rule 26(1) (a), or .
  - (ii) universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not involve other substantial changes to the contract and is not aimed at circumventing the application of the EU Regulations
- e) The changes, irrespective of their value, are not Substantial (see the Definitions section for the definition of Substantial)
- f) It is a change that does not affect the overall nature of the contract or Framework Agreement and the value of the change does not exceed
- The relevant EU Threshold
  - 10% (goods and/or services) 15% (works) of the initial value of the contract.

26.2 Where successive changes are made, the value shall be the net value of the successive changes.

26.3 Where changes to a contract have been made under Contract Rule 26.1 b) or c) above and the initial contract value exceeded the EU Threshold, a modification of contract notice shall be published in the OJEU

## 27. CONTRACT MANAGEMENT

27.1 Authorised Officers need to actively monitor and manage Contractor's performance throughout the contract life to ensure milestones, KPI's, deliverables and outcomes are achieved and risks and, where appropriate, business continuity is managed as detailed in the tender and Contract documentation. Management data needs to be published in accordance

with the Government's Transparency Code.

- 27.2 Plans should be made well in advance to re-procure the contract (if applicable) and an exit strategy included in the tender and procurement documentation and the contract.

<b>DEFINITIONS</b>	
<b>Authorised Officer</b>	An officer who is authorised to undertake the procurement in question and who has received corporate training on these Contract Rules.
<b>Awarding Officer</b>	The officer with the delegated authority to award the contract
<b>Best Value for Money</b>	The best solution for the Authority taking into account price, quality and deliverability.
<b>Bond</b>	An insurance policy: if the Contractor does not do what it has promised under a contract with the Authority, the Authority can claim from the insurer the sum, of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Authority against a level of cost arising from the Contractor's failure.
<b>Budget holder</b>	The officer responsible for the budget for the relevant procurement
<b>Candidate</b>	Any person who asks or is invited to submit a Quote or Tender.
<b>Call-Off Contract</b>	Means a contract awarded to a supplier under a Framework Agreement
<b>Concessions</b>	an agreement where Suppliers are given the right to exploit works or services provided for their own gain.
<b>Consultant</b>	Someone appointed (but not under a contract of employment) for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role.
<b>Contracting Authorities</b>	Bodies which are subject to the EU Regulations.
<b>Contractor</b>	any person, company or supplier who has been awarded a contract in accordance with these contract rules.
<b>Council's Solicitor</b>	Means the senior legal Adviser for the Authority
<b>Director</b>	Means the chief officers for the Authority, director or the Council's Solicitor
<b>Draw down contract</b>	A contract with a single supplier where goods, services or works are requested on an ad hoc basis
<b>EU Regulations</b>	The UK regulations implementing the EC public procurement directives.
<b>EU Threshold</b>	Means the values set by the European Commission which determine whether a procurement has to be carried out in

	accordance with the EU Regulations.
<b>Framework Agreement</b>	An agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
<b>Head of Paid Service</b>	Means the officer designated as head of paid for the Authority under section 4 of the Local Government and Housing Act 1989
<b>Invitation to Tender (ITT)</b>	Invitation to tender documents in the form required by these Contract Rules.
<b>Most Economically Advantageous Tender</b>	The most economically advantageous tender will be evaluated on the basis of either <ul style="list-style-type: none"> <li>• Price (i.e. the lowest price)</li> <li>• Cost (on the basis of a cost-effectiveness approach e.g. life-cycle costing)</li> <li>• Best price/quality ratio</li> </ul>
<b>OJEU</b>	Official Journal of the European Union – where notices for all above EU Threshold procurements opportunities and contract awards must be placed.
<b>Parent Company Guarantee</b>	A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Authority, the Authority can require the company to do so instead.
<b>Procurement Adviser</b>	The procurement officer for the Authority
<b>Quote</b>	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
<b>Regulation 84 Report</b>	Means the report about the procurement required to be compiled under Regulation 84 of the Public Contracts Regulations 2015
<b>Substantial</b>	In relation to a change to an existing contract of framework agreement means where one of the following conditions is met:- <ol style="list-style-type: none"> <li>(a) the change renders the contract or the framework agreement materially different in character from the one initially concluded; .</li> <li>(b) the modification introduces conditions which, had they been part of the initial procurement procedure, would have— . <ol style="list-style-type: none"> <li>(i) allowed for the admission of other candidates than those initially selected, .</li> <li>(ii) allowed for the acceptance of a tender other than that originally accepted, or .</li> </ol> </li> </ol>



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	(iii) attracted additional participants in the procurement procedure; .
(c)	the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement; .
(d)	the modification extends the scope of the contract or framework agreement considerably; .
(e)	a new contractor replaces the one to which the contracting authority had initially awarded the contract in cases other than those provided for in Rule 28(1)(d).
<b>Supplier</b>	A person or body of persons providing, or seeking to provide, supplies, services or works to the Authority.
<b>Tender</b>	A Candidate's proposal submitted in response to an Invitation to Tender.

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## Cheltenham Borough Council Neighbourhood Planning Protocol

<b>Accountable member</b>	<b>Councillor Jordan – Leader</b>
<b>Accountable officer</b>	<b>Tracey Crews – Director of Planning</b>
<b>Ward(s) affected</b>	<b>Potentially several</b>
<b>Executive summary</b>	<p>The report is asking Council to approve and publish a protocol that will provide :</p> <ul style="list-style-type: none"> <li>a) A general overview and advice to parishes and interested local community groups on the neighbourhood planning process;</li> <li>b) Guidance on how the Council will support and process neighbourhood plans and orders; and</li> <li>c) A coordinated approach within the Council in relation to neighbourhood planning.</li> </ul>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. <b>That the Council approves the Cheltenham Borough Council Neighbourhood Planning Protocol and publish on the Council’s website.</b></li> </ol>

**Financial implications**

The Department for Communities and Local Government (DCLG) have provided a breakdown of cost to the parish council or neighbourhood forum and local planning authority (see link) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6041/1829678.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6041/1829678.pdf). Based on this guidance the direct costs to Cheltenham Borough Council is estimated to be:

- Arranging and covering costs of independent examinations £5,000 to £10,000;
- Holding the referendum £1,800 to £30,000;
- Officer time requirements in providing expertise and advice to local councils on Neighbourhood Plans;
- Administrative costs and legal fees for processing the statutory elements of a Neighbourhood Plan; and
- Loss of income from planning application fees for development covered by a neighbourhood development order.

DCLG do not provide a specific financial cost in terms of officer, administrative and legal time and resources. These costs are likely to vary based on the complexity of the issues the neighbourhood plan or order is seeking to address and the expertise/technical resources available to the parish council or neighbourhood forum.

The resource implications to the Council are corporate-wide including Environment and Regulatory Services, Commissioning, Financial Services, Democratic Services and One Legal. Chiefly, resources will be focussed on advising communities in the preparation of a neighbourhood plan/order; checking a submitted Plan meets legal requirements, arranging for the independent examination of the Plan; determining whether the neighbourhood plan/order meets the basic conditions and other legal requirements, arranging a referendum, and, subject to the results of the referendum, bringing the plan/order into force.

Financial contributions are available from DCLG to support Neighbourhood Planning. This is in recognition of the legal obligations placed upon the Council to provide advice and support to those seeking to introduce neighbourhood development plans (NDP). This advice and support also includes arranging for the examination of the NDP and the referendum on the NDP. The Council may submit claims to the DCLG to cover the expenditure within the set limits. **At present a local authority may submit claims of up to £30,000 for each completed NDP** for consideration by the DCLG. The financial support is subject to general limits whereby a Council may only claim up to £100,000 per annum for up to 20 area designations and up to £25,000 per annum for up to 5 forum designations.

There is no Council budget to administer neighbourhood planning. Appropriate claims to the DCLG will need to be made to ensure the additional cost burden to the Council is mitigated. It is clear from DCLG evidence that government financial contributions might not cover the local planning authority's costs on every plan that it supports. Where this is the case the Council will need to make up the short fall from its own reserves and resources. As a Neighbourhood Plan comes forward budgetary provision will need to be made available taking into account available grant funding from DCLG. The total budget for each Neighbourhood Plan will need to be approved in line with the Council's financial rules considering the net impact on the Council's finances in each instance given the £30k cap on DCLG contributions and the range of potential costs outlined above.

It should be noted that those promoting an NDP may also apply for funding of up to £7,000 for the costs of preparing an NDP.

**Contact officer: Nina Philippidis, Business Partner Accountant  
nina.philippidis@cheltenham.gov.uk, 01242 264121**

<b>Legal implications</b>	<p>It is a statutory requirement to support the preparation of neighbourhood plans and for the Council to adopt, or 'make them', if supported by the referendum. The Regulations are contained in the Neighbourhood Planning ( General ) Regulations 2012 as amended by the Neighbourhood Planning ( General ) ( Amendment ) Regulations 2015. Failure to support the parish councils and neighbourhood forums to prepare neighbourhood plan or orders could result in legal challenge with subsequent consequences for the council.</p> <p><b>Contact officer: Michael Jones, <a href="mailto:Michael.jones@tewkesbury.gov.uk">Michael.jones@tewkesbury.gov.uk</a>, 01684 272013</b></p>
<b>HR implications (including learning and organisational development)</b>	<p>There are no staffing or Trade Union implications.</p> <p><b>Contact officer: Julie McCarthy, <a href="mailto:julie.mccarthy@cheltenham.gov.uk">julie.mccarthy@cheltenham.gov.uk</a>, 01242 777249</b></p>
<b>Key risks</b>	<p>As a statutory process, failure to adhere to Neighbourhood Planning Regulations runs the risk of the parish councils and Neighbourhood Forums being unable to proceed with the neighbourhood plans.</p>
<b>Environmental/ Social/ Equality Implications</b>	<p>There are no known implications at this stage; however a neighbourhood development plan may require a strategic environmental assessment (SEA) under the EU Regulations and/or a Habitat Regulations Assessment (HRA). This will depend on the content of the neighbourhood plan.</p> <p>Preparation of Neighbourhood Development Plans could have implications for biodiversity, habitats, energy usage, waste and recycling and/or protected species. These would need to be considered by the body preparing the Plan as appropriate.</p> <p>The responsibility resides with the Parish Council however the Council may wish to support the Parish Council to undertake a SEA/HRA screening of draft plans to determine whether a SEA and/or HRA will be required.</p>

## 1. Background

- 1.1 Neighbourhood planning is one of the central elements of the Localism process and the preparation and adoption of neighbourhood plans accords with the Council's 2015/16 Corporate Strategy, as adopted in March 2015. Neighbourhood plans can play a valuable role in helping to deliver outcomes identified in the environmental chapter of the corporate strategy.

## 2. Reasons for recommendations

- 2.1 The Council recently approved the Leckhampton with Warden Hill Neighbourhood Area and it became immediately apparent that the Council would benefit from establishing a set of guidelines on how it will process future neighbourhood planning applications, plans and orders.
- 2.2 The protocol provides a general overview and advice to interested local community groups on the Neighbourhood Planning process. Critically it sets out how the Council will determine, validate and approve key stages of the neighbourhood planning process (a summary table is provided below). The protocol also helps to establish a framework that supports a more coordinated approach within the Council.
- 2.3 The protocol also helps to explain:
- a) the Council's role as the local planning authority;

- b) the role of the community
- c) how to establish a Neighbourhood Forum in Cheltenham Borough
- d) What communities need to consider when preparing a Plan or Order; and
- e) What resources the Council can offer.

STAGE	COUNCIL ROLE
<b>Publicising Neighbourhood Area / Forum Applications</b>	Cabinet, the Planning and Liaison Member working group and local ward members for the areas concerned are to be notified.
<b>Designating Neighbourhood Areas</b>	<b><u>Cabinet to decide</u></b> on whether to designate Neighbourhood Area.
Designating Neighbourhood Forums	<b><u>Cabinet to decide</u></b> on whether to designate Neighbourhood Forum.
<b>Pre-submission consultation and publicity</b>	Officers to provide comments. Consideration of the plan/order will also be made via the Planning and Liaison Member Working Group.
<b>Submission of Neighbourhood Development Plan</b>	<b><u>Council to decide</u></b> whether the Neighbourhood Plan and Order should be submitted for examination.
<b>Examination</b>	Cheltenham Borough Council will publish the examiner's report and <b><u>Council to decide</u></b> whether to approve the plan for referendum.
<b>Referendum</b>	The council will run the referendum on behalf of the parish council/forum.
<b>Adoption</b>	The decisions to adopt a Neighbourhood Development Plan and a Neighbourhood Development Order are <b><u>made by Cabinet</u></b> .

- 2.4 Officers with the support of the Planning and Liaison Member Working Group have identified which committees are considered appropriate to be given delegated powers to approve key stages of the neighbourhood planning process.
- 2.5 Cabinet is the appropriate committee for early stages of the planning making process. Once the Parish Council or Neighbourhood Forum has progressed their plan or order to the submission stage it is considered appropriate for the Council to determine whether the Plan or Order should be submitted to examination. This is an important stage and the Council will need to be confident the plan or Order is compliant with its own development plans as well as national planning policy and practice guidance, regulations and European Union obligations.
- 2.6 Following the Examination, Council should determine whether the Plan or Order should be approved for a referendum. Subject to a successful referendum, the Council's Cabinet is considered the most appropriate committee to decide whether to adopt a Neighbourhood Plan or Order. At this final stage the Borough Council will ultimately be determining whether the neighbourhood plan should form part of the Council's statutory Development Plan, which is the starting point for determining planning applications.

### 3. Alternative options Considered

- 3.1 There are no suitable alternative to its production.

### 4. Consultation and feedback

- 4.1 Neighbourhood planning regulations<sup>1</sup> require the Council to publish and publicise neighbourhood

<sup>1</sup> The Neighbourhood Planning (General) Regulations 2012; and The Neighbourhood Planning (General)

area applications, forum applications, plans and orders at several stages. As a statutory requirement the council must ensure adherence to the neighbourhood planning regulations.

## 5. Performance management –monitoring and review

5.1 The main consideration for the Council is to establish a protocol for determining and processing neighbourhood plans and orders in Cheltenham Borough.

<b>Report author</b>	<b>Contact officer: James Brain, Senior Planning Policy Officer</b> <b>james.brain@cheltenham.gov.uk,</b> <b>01242 774988</b>
<b>Appendices</b>	1. Risk Assessment 2. Cheltenham Borough Council Neighbourhood Planning Protocol
<b>Background information</b>	All background information regarding the application will be made available on the Council's website.

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
	There are no equality impact risks related to the document										
	There are no environmental risks related to the document										
	There are no legal risks associated with this document										
	<p>There are potentially financial risks to the authority. Additional funding is made available to the Council to help cover neighbourhood planning costs. In some instances this funding will not cover the full cost to the Council.</p> <p>As a statutory process there are potential impacts on officer resources. The amount of resources required will vary depending on the nature / complexity of each plan and the number of plans that need to be administered by the Council.</p>	Tracey Crews	01/12/15	3	2	5	Accept	Monitor the situation. Officers to investigate sharing resources with neighbouring authorities	N/A	Tracey Crews	N/A
<p><b>Explanatory notes</b></p> <p><b>Impact</b> – 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><b>Likelihood</b> – how likely is it that the risk will occur on a scale of 1-6</p>											



(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



# Neighbourhood Planning Protocol

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## 1.0 Introduction

The Localism Act and the Neighbourhood Planning (General) Regulations 2012 (as amended) offers a new opportunity for local communities to lead and prepare statutory plans for their localities and to prepare Orders giving planning permission for specific development. This opportunity requires communities to take on new roles and responsibilities for preparing statutory planning documents.

To support communities the Council has produced a Protocol for Neighbourhood Planning in Cheltenham. This is intended to:

- Provide general overview and advice to interested local community groups on the Neighbourhood Planning process;
- Provide guidance on how the Council will support and process neighbourhood plans and orders; and
- Provide a coordinated approach within the Council in relation to Neighbourhood Planning.

The Protocol will be kept under review.

## 2.0 What is Neighbourhood Planning?

Neighbourhood Planning offers three planning tools.

### Neighbourhood Development Plans

These Plans allow communities to establish general planning policies for the development and use of land within a defined neighbourhood area and so influence the type, design, location and mix of new development. These plans must be in conformity with adopted district level plans and national planning policy and guidance. They should also support the strategic development needs set out in the Local Plan, plan positively to support local development and **should not promote less development** than set out in the Local Plan or undermine its strategic policies.<sup>12</sup>

### Neighbourhood Development Orders

This is a community led “order” that grants planning permission in relation to a Neighbourhood Area for development specified in the Order. An order cannot relate to ‘excluded’ development (for example transport or road works) and does not grant building regulations approval.

### Community Right to Build Orders

This is a particular type of Neighbourhood Development Order that grants planning permission for small-scale, site-specific, community-led developments. Building Regulations approval is still required.

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<sup>1</sup> National Planning Policy Framework, Paragraph 16 and 184

<sup>2</sup> National Planning Practice Guidance [Paragraph: 044 Reference ID: 41-044-20140306](#)

The Neighbourhood Planning process is based on community led proposals being subject to an independent examination. Subject to the Examiner recommending approval a local referendum will then determine whether the plan or order should be used to help decide planning applications in the neighbourhood area. The local referendum will be open to residents on the electoral register within the designated neighbourhood area. If the Plan or Order is supported by over 50% of the turnout, the local authority must adopt the plan and include it within its suite of development plans<sup>3</sup>; or in the case of orders, “make” the Order so removing the need for separate planning permission.

Neighbourhood planning proposals must be:

- In line with local and national planning policies;
- In line with other laws (e.g. European obligations<sup>4</sup>); and
- In accordance with the local planning authority plans for growth.

Cheltenham’s plans for growth are included in the emerging Gloucester, Cheltenham and Tewkesbury Joint Core Strategy; all statutory planning documents for the area including Neighbourhood Development Plans must be consistent with this strategic plan.

There is no requirement for communities to undertake neighbourhood planning. For groups interested in using these planning tools there are a number of publications from organisations funded by government to assist communities in neighbourhood planning. These details are available in the Council’s Neighbourhood Planning webpage.

It is important for local communities to know what neighbourhood planning can and cannot do. A quick summary is provided below:

<b>A Neighbourhood Plan can...</b>	<b>A Neighbourhood Plan cannot...</b>
<ul style="list-style-type: none"> <li>✓ Decide where and what type of development should happen in the neighbourhood;</li> <li>✓ Promote more development than is set out in the Joint Core Strategy and Cheltenham Plan; and</li> <li>✓ Include policies that take precedence over policies in the adopted Local Plan (and in time the non-strategic parts of the Cheltenham Plan), provided the Neighbourhood Plan policies do not conflict with the Joint Core Strategy.</li> </ul>	<ul style="list-style-type: none"> <li>✗ Conflict with the strategic parts of the development plan (Joint Core Strategy and Cheltenham Plan) or supersede its policies;</li> <li>✗ Be used to prevent development that has been identified in the Council’s adopted development plan; and</li> <li>✗ Be prepared by a body other than a parish council or a neighbourhood forum.</li> </ul>

<sup>3</sup> Planning law requires that applications for planning permission must be determined in accordance with development plans (this includes local plans and neighbourhood plans), unless material considerations indicate otherwise (National Planning Policy Framework, paragraph 2).

<sup>4</sup> National Planning Practice Guidance [Paragraph: 078 Reference ID: 41-078-20140306](#)

### 3.0 The Council's role as the local planning authority

Cheltenham Borough Council is the local planning authority and it is required to:

- Accept, publicise and determine applications for the designation of Neighbourhood Forums and Neighbourhood Areas;
- Publish a map of all its designated Neighbourhood Areas;
- Publicise at key stages a Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build Order;
- Provide technical support for the Plan or Order;
- At submission check that a submitted Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build Order meets the basic requirements;
- Arrange and fund an independent examination and publish the Examiner's decision;
- Decide whether to submit for referendum and the referendum boundary (taking into account the recommendation of the Examiner) and arrange and fund a referendum in accordance with the Neighbourhood Planning (Referendum) Regulations 2012 (as amended); and
- Bring the Plan or Order into force i.e. adopt the Plan and include it as part of the Council's statutory development plan<sup>5</sup> or make the Order, subject to a positive referendum result.

### 4.0 The Role of the Community

Principally the community's role is plan maker or order promoter and their responsibilities include:

- Forming a group. The neighbourhood planning process recognises town and parish councils as 'relevant bodies'<sup>6</sup> capable of carrying out neighbourhood planning. In non-parished areas Neighbourhood Forum can be formed, these are subject to strict regulations;
- Making an application to the Council for designation as the Neighbourhood Forum (This does not apply to parish councils wishing to designate their full parished area);
- Making application for the Neighbourhood Area;
- Preparing the draft Plan or Order in accordance with the Localism Act, the regulations and national planning policy and guidance and the Council's statutory development plan;
- Resource the drafting of plan and undertake public consultation in accordance with the Regulations; and
- Submit the draft Plan or Order, which has been prepared in accordance with the Regulations, to Cheltenham Borough Council.

### 5.0 Establishing a Neighbourhood Forum

For non-parished areas within Cheltenham the Regulations require that Neighbourhood Development Plans and Orders are prepared by designated Neighbourhood Forums for a defined Neighbourhood Area. It is anticipated that a new Neighbourhood Planning Forum is

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<sup>5</sup> The 'statutory development plan' can consist of more than one plan

<sup>6</sup> Section 61G of the 1990 Town and Country Planning Act

constituted specifically to use the Neighbourhood Planning tools. Regulations require neighbourhood forums:

- To have a written constitution;
- To be established for the express purpose of promoting or improving the social, economic and environmental wellbeing of an area that consists of or includes the neighbourhood area concerned;
- Ensure its membership is open to, individuals who live and/or work in the neighbourhood area;
- Its membership includes a minimum of 21 individuals each of whom live or work in the area; membership should include an elected ward member for the area;

The Council will use these regulations to help review applications seeking to establish a Neighbourhood Forum. The Council will require neighbourhood forums to provide evidence it has attempted to engage local stakeholders including existing community and residents groups, local businesses and local ward members. Local Member support for the Forum will be helpful in this process.

In making the application for a Neighbourhood Area the reasoning for the boundary needs to be given.

Cheltenham Borough Council will accept applications for designation of a Neighbourhood Forum and a Neighbourhood Area at the same time, however in accordance with the Regulations **there cannot be more than one designated group for a Neighbourhood Area**. Where two applications for designation of Neighbourhood Planning Forums for the same Neighbourhood Area are received, the applications will be determined by the Council's Cabinet.

The designation is valid for five years from the date it was made and ceases after that. This does not affect the validity of a Plan or Order brought into force within the five year period. The Council may also withdraw a designation before this time if the designated group no longer meets or does follow conditions attached to the designation.

## **6.0 Preparing a Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build Order**

In preparing the Plan or Order the Parish Council and/or designated Neighbourhood Forum should have regard to the following:

- The Plan or Order should set out policies in relation to the development and use of land within the neighbourhood area;
- The Plan should have regard to the National Planning Policy Framework and national Planning Practice Guidance;
- Proposals must be in general conformity with the strategic policies contained within the Joint Core Strategy<sup>7</sup>, the Cheltenham Plan and other key policy documents;
- Proposals must be compatible with EU obligations and the Human Rights Act;

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<sup>7</sup> All policies in the Joint Core Strategy are strategic

- Neighbourhood Planning is intended as a tool for communities to promote and unlock development; and
- The specific requirements of the Localism Act Neighbourhood Planning (General) Regulations 2012 (as amended).

## 7.0 Resources

There is no requirement or expectation by Government for local authorities to fund communities to undertake Neighbourhood Planning. Cheltenham Borough Council does not have a budget to fund Neighbourhood Planning and it will not write the plan or order for the local community. Any funding the Government provides to the Council to support Neighbourhood Planning will be kept by the Council to support the cost of the required independent examination and referendum.

Government funding has been provided to a number of organisations to support community groups in Neighbourhood Planning. Where possible the Council provides signposting to Government funding these organisations via its Neighbourhood Planning webpage.

Council officer support will be prioritised for areas where there are opportunities for new development in support of the Joint Core Strategy and Cheltenham Plan aims and objectives.

The amount of support the Council is able to provide will be relative to the time the Parish Council or Neighbourhood Forum wish to achieve adoption; early engagement is vitally important in this regard. It allows the council to safeguard time and resources for a neighbourhood plan or order into its corporate project management systems.

The Council will use existing planning systems that record planning enquiries, responses and applications.

The Council will offer the following support to groups approved to progress Neighbourhood Development Plans and Orders:

- A lead officer from Planning will act as the Council's main point of contact;
- The Council will provide technical advice on the Neighbourhood Planning processes and planning issues;
- Provide available baseline data and make contacts with other parts of the Council as necessary;
- Provide advice on what supporting information will be required;
- Provide feedback on draft reports, etc. within an agreed timeframe; and
- Advise on consultation requirements.

## 8.0 The Council's Neighbourhood Planning Protocol

The following principles set out how the Council will manage the neighbourhood planning process at each stage. Supporting this protocol is a process checklist which is located in Appendix A.

### Publicising Neighbourhood Areas and Neighbourhood Forums

- a) Applications will be publicised on the Council's Neighbourhood Planning webpage;
- b) **Cabinet Member for Plan Preparation, the Planning and Liaison Member working group and local ward members** for the areas concerned are to be notified;
- c) Any known major stakeholders/landowners notified; and
- d) Democracy and Elections Office notified.

### Designating Neighbourhood Areas and Neighbourhood Forums

- a) Decision on applications for designation on Neighbourhood Areas/ Neighbourhood Planning Forum will be made by the **Cabinet**;
- b) Where there are competing applications for designation of a Forum/Neighbourhood Area the views of the **Cabinet and local ward members** for the areas concerned will be sought in making the decision;
- c) Decisions to de-designate existing Neighbourhood Planning Forums to be made by **Cabinet**; and
- d) Key Officers in the Council notified of decisions including Elections Office.

### Pre-submission consultation and publicity

- a) The parish council, relevant organisation or neighbourhood forum is required to consult the Borough Council (along with other relevant consultation bodies), the Council will provide comments to this consultation in its capacity as the local planning authority; and
- b) Officers will provide comments and consideration of the plan/order will also be made via the **Planning and Liaison Member Working Group**.
- c) The council strongly encourages Parish Councils and Neighbourhood Forums to request the Planning Inspectorate to peer review pre-submission plans. This is not a free service and Parish Councils and Neighbourhood Forums will have to fund this.

### Submission of Neighbourhood Development Plan

- a) The Council will validate Neighbourhood Plans against national planning policy, local planning policy and will flag up any issues in relation to other legislation e.g. Habitat Regulations in order to make sure it is ready to go to Independent Examination; and
- b) **Council** will determine whether the submitted Neighbourhood Plans and Orders should move to examination;

### Independent Examination, Referendum and Adoption

- a) Independent Examiner agreed by the Parish Council/Forum and appointed by the Council;
- b) Report of the Examiner published, approves or rejects the Plan or Order for referendum;



- c) Subject to a positive examination the **Council** will determine whether the plan should progress to a referendum by publishing a decision statement;
- d) The council will run the referendum on behalf of the parish council/forum;
- e) Decisions to adopt a Neighbourhood Development Plan and a Neighbourhood Development Order are made by **Cabinet**;
- f) Decisions to modify or revoke existing Neighbourhood Development Plans/Orders to be made by **Council**; and
- g) Key Officers in the Council notified of decisions including Elections Office.

### **Parish Councils and Designated Neighbourhood Forums will be expected to:**

- Form a steering group with terms of reference and representative stakeholder engagement;
- Set out a programme to undertake the Plan including date of submission to Cheltenham Borough Council. This should be discussed with the relevant officers to help the council safeguard time and resources<sup>8</sup>;
- Seek support from organisations funded by the Government to support Neighbourhood Planning;
- Seek opportunities for widespread stakeholder engagement;
- Create and maintain a website for the Plan or Order;
- Maintain contact with the Council at key stages in drafting the Plan and advise of changes to programme;
- Engage local governance structures such as the positive participation partnership and neighbourhood co-ordination groups;
- Adhere to the Neighbourhood Planning Regulations;
- If appropriate undertake a Sustainability Appraisal and a Habitats Assessment of the Plan to assess its viability\*;
- If appropriate undertake a Transport Impact Assessment\*;
- Demonstrate consultation on the draft plan through consultation plan and consultation record;
- To advise the Council if at any stage a decision is taken not to continue with the Plan and designation to be withdrawn; and
- Finally, maintain the principle of Neighbourhood Planning as a tool to promote growth.

\* The Council supported by Government and non-Government organisations will provide advice where possible.

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<sup>8</sup> Progress on the Plan and Order can only be achieved in a timely manner with early engagement with the council

## SIMPLIFIED NEIGHBOURHOOD PLANNING PROCESS

### STAGE ONE:

The council designates:

- Neighbourhood Area;
- Neighbourhood Forum

Application submitted by community group and/or Parish Council to Cheltenham Borough Council.

Applications publicised in line with regulations (4 to 6 weeks). Cheltenham Borough Council agrees or rejects application and decision is publicised on Council's website.

### STAGE TWO:

Community prepares draft Neighbourhood Plan or Order with technical advice from the Council

Community Group (Parish Council or Neighbourhood Forum) prepares draft Neighbourhood Development Plan or Order with Background documents, studies and assessments as required to support the Plan.

Undertake extensive consultation with local stakeholders, businesses and community.

Submit draft plan or Order to Cheltenham Borough

### STAGE THREE:

Independent Examination

Cheltenham Borough Council validates (at its Council committee) that the submitted draft Neighbourhood Development Plan or Order meets procedural requirements

Independent Examiner agreed by the Forum and appointed by Cheltenham Borough Council.

Report of the Examiner published, approves or rejects the Plan or Order for referendum. Final decision made by the Local Planning Authority.

### STAGE FOUR:

Local Referendum

Referendum must be open to those on the electoral register within the Plan Boundary. A wider Referendum area may be used if deemed necessary by Cheltenham Borough Council taking into account the recommendations of the Examiner.

### STAGE FIVE:

Adoption

If more than 50% of the votes support the Plan or Order, it is adopted or made by Cheltenham Borough Council via its Cabinet. Adopted Neighbourhood Development Plans form part of the Councils statutory Development Plan, which is the starting point for determining planning applications.

## **APPENDIX A: Neighbourhood Planning Process Checklist**

*This checklist has been produced with reference to the Neighbourhood Planning (General) Regulations 2012 and should only be used as a guide, please refer to the regulations to ensure your plan is compliant.*

This is a process checklist for those wishing to undertake neighbourhood planning to help ensure that the Regulations are met. The checklist focuses on those elements of the Regulations that need to be met.

### **1. Defining the Neighbourhood Area (Regulation 5)**

The first step in the process is the designation of a Neighbourhood Area. The Neighbourhood Area will define the area covered by the proposed Neighbourhood Development Plan. Neighbourhood Areas cannot overlap and the local planning authority must have regard to the desirability of maintaining the boundaries of other Neighbourhood Areas that have already been designated. There is no minimum or maximum size for a Neighbourhood Area. It may be the area administered by the Parish Council or an area proposed by a Neighbourhood Forum. In the following paragraphs of this checklist references shall be made to Neighbourhood Forum on the basis that this shall include, where appropriate, the Parish Council. Applications for the designation of a Neighbourhood Area must be made to the Council and it must include the following information:

- An Ordnance Survey map of the area · A statement explaining why this area is considered appropriate
- A statement that the organisation or body making the application is a 'relevant body' (i.e. The body or organisation making the application is or is capable of being designated as a Neighbourhood Forum).

The Council will publicise the application (Regulation 6), determine, and publish the decision (Regulation 7) in accordance with the Regulations.

### **2. Designating the Neighbourhood Forum (Regulation 8)**

The next step is to make an application for the designation of the Neighbourhood Forum. The application must include:

- The name of the proposed neighbourhood forum
- A copy of the written constitution of the proposed neighbourhood forum
- The name of neighbourhood area and a map identifying the area
- The contact details of at least one member of the proposed neighbourhood forum (these details will be made public);
- A statement that the organisation or body making the application is a 'relevant body' (To be a relevant body the Forum must be set up to promote or improve the social, economic and environmental well-being of the neighbourhood area; and must have

at least 21 members, with membership open to all those who live, work or are local authority elected members for that area<sup>9</sup>)

The Council will publicise the application (Regulation 9), determine and publish the decision (Regulation 10) in accordance with the Regulations.

### **3. Neighbourhood Development Plan**

The Neighbourhood Forum is then able to start work on the neighbourhood development plan. A neighbourhood development plan is a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any specified part of the neighbourhood area. Support is available from the Council.

#### **Pre-submission consultation and publicity (Regulation 14)**

Before submitting a Neighbourhood Plan to the Council the Neighbourhood Forum must publicise in an appropriate manner in the neighbourhood area:

- details of the proposals in a draft neighbourhood development plan
- details of where and when proposals for the neighbourhood development plan can be seen
- details of how to make representations
- the deadline for receipt of representations (minimum 6 week period)

The Neighbourhood Forum must also consult relevant consultation bodies that may be affected by neighbourhood development plan (a list of the relevant consultation bodies is attached as Appendix 1) and send a copy of proposals for the neighbourhood development plan to the Council.

#### **Submission of Neighbourhood Development Plan (Regulation 15)**

When a Neighbourhood Forum submits a Neighbourhood Development Plan to the Council it must include the following:

- a map or statement identifying the proposed neighbourhood plan area
- a consultation statement (which includes details of those persons and bodies consulted about the plan, explains how they were consulted, summarises the main issues raised by consultees and describes how issues have been considered and where relevant addressed in the proposed Neighbourhood Development Plan)
- the proposed Neighbourhood Development Plan; and
- a statement explaining how the proposed neighbourhood development plan meets the relevant legislation otherwise known as the Basic Conditions Statement.

The Council will, if satisfied that the above requirements have been met in accordance with the Regulations, then validate, publish the plan (Regulation 16), appoint an examiner, submit the plan for examination (Regulation 17), publish the examiner's report (Regulation 18), publish the decision (Regulation 19), conduct a referendum, and publicise the Neighbourhood Development Plan (Regulation 20) in accordance with the Regulations. The Plan then becomes part of the Statutory Development Plan.

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<sup>9</sup> Neighbourhood Forums should represent the character of the area, involving a range of people and groups. Ideally these should include local Councillors and local businesses, as well as resident groups, community organisations, faith groups, and groups representing

**Housing Revenue Account New Build – Swindon Road Site**

<b>Accountable member</b>	<b>Councillor Peter Jeffries, Cabinet Member Housing</b>
<b>Accountable officer</b>	<b>Martin Stacy, Lead Commissioner – Housing Services</b>
<b>Ward(s) affected</b>	<b>St Pauls</b>
<b>Key Decision</b>	<b>Yes</b>
<b>Executive summary</b>	In March 2015 Cabinet resolved that the Authority seek bids from contractors to build new homes on the redevelopment of the site at the corner of Swindon Road/Brunswick Street. Following a recent procurement exercise this report seeks approval to enter into a JCT Design and Build Contract with J Harper and Sons with Total Scheme Costs not to exceed £1,439,500. The scheme will deliver ten new homes.
<b>Recommendations</b>	<p><b>That Cabinet:-</b></p> <ol style="list-style-type: none"> <li><b>1. Subject to subsequent Council approval, authorise the Authority to accept the tender received from J Harper and Sons and enter into a JCT Design and Build Contract for the construction of ten new dwellings with Total Scheme Costs not to exceed £1,439,500.</b></li> <li><b>2. Delegate authority to the Head of Property and Asset Management, in consultation with the Borough Solicitor to:</b> <ol style="list-style-type: none"> <li><b>2.1. Conclude the JCT Design and Build contract with J Harper and Sons.</b></li> <li><b>2.2 Take all necessary steps and undertake all necessary procedures, including entering into any legal agreements or other documentation as may be required to implement or facilitate the developments.</b></li> </ol> </li> <li><b>3. Authorise the Authority to charge Affordable Rents to all ten dwellings at 80% of Market Rents.</b></li> </ol> <p><b>Cabinet recommends that Council:</b></p> <ol style="list-style-type: none"> <li><b>4. Authorise the allocation of up to £1,439,500 for the construction of ten new dwellings.</b></li> <li><b>5. Note that the total scheme costs of £1,439,500 (broken down in further detail in exempt appendix 3) will be funded by circa £430k of RTB receipts with the balance funded by the most appropriate combination of the other funding streams noted within the report – this decision being delegated to the Section</b></li> </ol>

151 Officer in accordance with Financial Rules B7 and B8.

6. Approves the Authority sourcing loan finance of up to £1.0m from the Public Works Loan Board to be used for the construction of ten new dwellings.

<p><b>Financial implications</b></p>	<p>As outlined in the report and exempt appendix.</p> <p>The development of an HRA new build programme will require an ongoing review of resource availability to ensure the most effective and timely use of each funding stream. The choice of funding streams is delegated to the Section 151 Officer.</p> <p><b>Contact officer: Paul Jones</b></p> <p><a href="mailto:Paul.Jones@cheltenham.gov.uk">Paul.Jones@cheltenham.gov.uk</a></p> <p><b>01242 775154</b></p>
<p><b>Legal implications</b></p>	<p>The Authority has the power under Section 9 of the Housing Act 1985 to build new housing accommodation on land it owns for that purpose. This site is held for housing purposes.</p> <p>Due to the value of the JCT contract, the Authority's constitution requires Cabinet approval to the Authority awarding the contract.</p> <p>As the Authority owns the land on which the dwellings are to be constructed, it will be the Authority entering into the contract. CBH will monitor the contract and the progress of the build on the Authority's behalf with assistance from Employer's Agents engaged by the Authority.</p> <p><b>Contact officer: Rose Gemmell, Solicitor</b></p> <p><a href="mailto:rose.gemmell@tewkesbury.gov.uk">rose.gemmell@tewkesbury.gov.uk</a> <b>01684 272014</b></p>
<p><b>HR implications (including learning and organisational development)</b></p>	<p>There are no direct HR implications arising from this report.</p>
<p><b>Key risks</b></p>	<p>Please see risk assessment at Appendix 1 of this report.</p>
<p><b>Corporate and community plan Implications</b></p>	<p>By increasing the provision of new affordable housing we will be supporting our key strategic objective of strengthening our communities</p>

<p><b>Environmental and climate change implications</b></p>	<p>The redevelopment of the site will improve the area as it currently consists of derelict commercial units.</p> <p>The quality of the proposed housing will have an impact on climate change. All of the dwellings will achieve a minimum of Code for Sustainable Homes level 3 adopting a 'fabric first' approach to energy efficiency. The intention is that Solar Photovoltaic panels will be installed to the houses to contribute towards the electricity generation in the dwellings.</p>
<p><b>Property/Asset Implications</b></p>	<p>The redevelopment of the site will bring back into use current underutilised land and add to the affordable housing stock.</p> <p>The potential party wall awards have been built into the £1.439m Total Scheme Costs.</p> <p>Should this HRA site not be developed for affordable housing then the only other development the planners would support will be commercial for which there would be limited demand.</p> <p><b>Contact officer: David Roberts, Head of Property Services</b>  <a href="mailto:david.roberts@cheltenham.gov.uk">david.roberts@cheltenham.gov.uk</a>, 01242 264151</p>

## 1. Background

- 1.1 In March 2015, Cabinet was provided with an update on the pipeline development programme for new build housing. Since then CBH has continued to work with Council Officers via the Joint Programme Group (JPG) to progress suitable sites for new build development within the Housing Revenue Account (HRA). The next tranche of dwellings will be owned by CBC rather than CBH to ensure Right to Buy (RTB) receipts are utilised, by their due date, to part fund the project.
- 1.2 The redevelopment of the site at Swindon Road resulted from a comprehensive survey of all CBC owned assets which considered their current use together with site redevelopment potential.
- 1.3 The site consists of a former car mechanics garage the lease of which has expired and the tenant has vacated the property.
- 1.4 CBH continues to progress a number of other sites which includes the redevelopment of 5 further garage sites and the regeneration of Cakebridge Place/Whaddon Road. In total these developments are expected to provide circa 26 new affordable dwellings.

## 2. Scheme Details

- 2.1 The Swindon Road scheme will provide 10 homes comprising of a range of house types as follows to meet local housing need: 5 x 1 bed 2 person flats; 3 x 2 bed 3 person flats and 2 x 2 bed 4 person semi-detached dwellings.

The site is in CBC's ownership and there is no acquisition cost.

- 2.2 Planning permission was granted for the redevelopment of the former commercial site on 16<sup>th</sup> July 2015.
- 2.3 Due to the proximity of the proposed new dwellings in relation to existing housing the Party Wall Act will apply to a number of adjoining properties. A Party Wall Surveyor has been appointed to ascertain the dwellings affected, serve the relevant Notices and negotiate Awards where necessary.

## 3. The Case for Redevelopment

- 3.1 One of the 3 key aims in the approved 30 year HRA business plan is to build new affordable homes in the Cheltenham area. This development proposal is important in meeting this aim.
- 3.2 The benefits of proceeding with this development include:
  - it aligns with CBC's housing strategy by helping to provide for current housing needs;
  - it ensures the redevelopment of underutilised land within the HRA;
  - it provides ten high quality homes; and
  - it will further strengthen the HRA through positive cashflows from Year 1 and a significant return on investment over 40 years (a present value contribution in excess of £0.4m assuming funding via £430k of RTB receipts, £700k of loan and £310k of HRA new build reserves).  
*It should be noted that the present value contribution may change depending on the final funding structure.*

## 4. Alternative Uses of RTB Receipts

- 4.1 Following the re-invigoration of the RTB policy in 2012, the Government introduced complex rules on how the proceeds from sales are distributed and used. The Council has signed a retention contract (in common with most local authorities) which allows a significant proportion of such receipts to be kept by the authority on the proviso they are used to finance new build expenditure (at a ratio of 30% of eligible expenditure) within 3 years of receipt.
- 4.2 Right to Buy sales in Cheltenham since April 2012 have generated a total of £1.716m of retention receipts as at 30 September 2015. The receipts are accrued on a quarter by quarter basis and the authority is required to use them within 3 years of the quarter in which they were realised. This would require total expenditure of £5.720m on new affordable housing by 30 September 2018 and the expenditure will also have to meet the phasing of the receipts. If the receipts are not



used by the due date the Council is required to pay them over to Government with interest.

- 4.3 The receipts can only be used to fund “additional” affordable rented housing. These new homes can be new build council homes, newly acquired council homes (existing homes bought on the open market but not those already owned by a registered provider), or social housing provided through local authority grant to registered providers (but not one controlled by the authority i.e. not CBH). While it is the Government’s intention to encourage an increase in the supply of new housing (new build always being the favoured option) the receipts can be used to buy existing properties for conversion into affordable rent.
  - 4.4 The 3 options noted above for use of RTB receipts have been considered in proposing this redevelopment. The considerations, relating to the 3 options, are set out below:
    - 4.4.1 Council officers have been working with CBH to identify new build schemes which will satisfy the criteria for retaining and using RTB receipts and meet current housing need. The scheme brought forward for approval in this report is one of a number currently under appraisal. Building new homes, in line with this scheme, provides the greatest financial contribution to the HRA of each of the 3 options for using RTB receipts set out above.
    - 4.4.2 Utilising the same level of funds, and RTB receipts, properties could be purchased from the open market and made available for affordable rent. This option could also provide additional council properties in line with housing need. However, full market price would need to be paid for stock that would be of a lower standard than this scheme provides. Depending on the age, price and availability of property purchased this could also result in fewer homes being provided and the financial contribution to the HRA would be lower than option 1 above.
    - 4.4.3 Granting the RTB receipts to an independent registered provider could provide new affordable rent properties in Cheltenham however there is no certainty that these will deliver additionality to existing development plans. In addition there would be no financial contribution to the HRA.
  - 4.5 Further to the 3 options for using RTB receipts above, the possibility of selling the site has been considered. An independent valuation of the site has been commissioned based on affordable housing development. This independent report shows that no additional value can be gained by selling this site. Therefore the recommended approach is to redevelop this site within the HRA.
- 5. Other Funding Available for New Build**
- 5.1 In addition to RTB receipts new build expenditure in the HRA can be funded from the following sources:-
    - 5.1.1 External borrowing financed by the HRA – the level of borrowing was restricted by Government as part of the self- financing settlement in 2012, the “debt cap” for Cheltenham being set at £52.862m. Current HRA debt totals £44.75m, leaving £8.112m available to finance new expenditure.
    - 5.1.2 Capital Receipts from HRA asset disposals not arising from RTB. These receipts are exempt from pooling regulations and can be used to finance any capital expenditure without time restraint or the conditions related to use of retention receipts as described above. The sum available at 31<sup>st</sup> March 2015 was £532,000. This is being increased by proceeds from the disposal of the St Pauls Phase 2 site in the current year (approximately £1.4m in total) and proceeds from the sale of three additional properties (approximately £0.4m), having been approved by Cabinet for market disposal.
    - 5.1.3 Revenue contributions from the HRA. The Council has previously resolved to transfer £2m from HRA reserves to an earmarked reserve for new build development. After using a proportion of the reserve to fund preliminary costs in 2014/15, the balance remaining at 31<sup>st</sup> March 2015 was £1.903m. This is currently being used to finance new build expenditure in 2015/16 prior to a final funding decision by the Section 151 Officer.
    - 5.1.4 The Council can also consider funding the delivery of affordable housing schemes through the use of commuted sums received from developers.
  - 5.2 The total scheme costs of £1.439m (broken down in further detail in exempt appendix 3) will be funded by circa £430k of RTB receipts with the balance funded by the most appropriate

combination of the other funding streams noted above – this decision being delegated to the Section 151 Officer.

### 6. Consultation and feedback

- 6.1 These proposals have been developed through consultation with key stakeholders including Ward Councillors.
- 6.2 Local residents surrounding the site were written to confirming the intention to redevelop to provide new affordable housing. Prior to the formal submission of the planning application two information sessions were arranged at a local facility to give residents and local stakeholders the opportunity to review the proposals.
- 6.3 Pre-application planning advice was sought and the scheme has been amended to incorporate comments from the Planning Department. The proposals submitted to the Planning Department reflect the feedback received from the information sessions, CBC Planning department and CBC and CBH staff members.
- 6.4 CBC Councillors have been consulted on the proposals via the Asset Management Working Group.
- 6.5 Prior to the commencement of construction works, all affected residents will be written to and a further drop in session will be arranged, to include meeting the contractor to unveil the intended site traffic plan etc.

### 7. Tender Validation

The report on tender from the project appointed Employers Agent and Quantity Surveyor, PMP, confirms that the tender from J Harper and Sons is competitive in the current market and represents value for money for the size and scope of the works proposed. Please see exempt Appendix 2.

### 8. Indicative Programme

- **Planning achieved:** 16th July 2015
- **Tenders returned:** 16<sup>th</sup> October 2015
- **Required approvals:** Cabinet (8<sup>th</sup> December) and Council (15<sup>th</sup> December)
- **Contract start date:** Pending the outcome of Cabinet and Council approval the intention is to award the contract to J Harper and Sons to follow.
- **Start on site:** Assuming a 12 week lead in time the likely start on site date will be March 2016.
- **Practical Completion:** Anticipated January 2017.

### 9. Performance monitoring and review

- 10.1 JPG will continue to oversee the delivery of the forward programme of housing development. An Operational Group has been created consisting of key Officers from CBH and CBC to deliver day-to-day management and to provide JPG with performance monitoring and reporting data.
- 10.2 The performance of the contractor will be monitored informally each week at regular site visits and formally each month at the monthly site meetings to ensure compliance with the contractual obligations of the JCT Design and Build contract.
- 10.3 Close financial monitoring of the scheme will continue with costs monitored on a monthly basis to ensure budgets are not exceeded. Should any issues be encountered these will be discussed to ensure appropriate action is agreed.

### 10. Forward Actions

Following approval of the recommendations contained herein, CBH to progress completion of the overall legal documentation and CBC enter into the Build Contract.

<p><b>Report authors</b></p>	<p><b>Contact officers:</b></p> <p><b>Alison Salter, CBH Development Project Manager</b>  <a href="mailto:Alison.Salter@cheltborohomes.org">Alison.Salter@cheltborohomes.org</a> 01242 774612</p> <p><b>Martin Stacy, Lead Commissioner for Housing Services CBC</b>  <a href="mailto:Martin.Stacy@cheltenham.gov.uk">Martin.Stacy@cheltenham.gov.uk</a> 01242 775214</p>
<p><b>Appendices</b></p>	<ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Site location plan</li> <li>3. Report on Tender from PMP (confidential)</li> <li>4. Financial Assessment (confidential)</li> </ol>
<p><b>Background information</b></p>	<p>Cabinet Report 17<sup>th</sup> March 2015</p>

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 capital receipts held from RTB sales under the retention agreement with DCLG are not used within 3 years of receipt they are repayable with interest to the Government	Pat Pratley	December 2013	3	2	6	Reduce	CBC and CBH to work closely via JPG to monitor the programme to enable construction on the first sites to commence in the Autumn 2015; Acquire properties off the open market to utilise RTB receipts as approved by Cabinet November 2015.	March 2016	Martin Stacy	
	If the contractor and/or its sub-contractors become insolvent or otherwise cease to trade, then this will adversely impact on the delivery of the programme	Pat Pratley	June 2015	3	3	9	Reduce	Effective contract management; inclusion of retention monies in contract; include Liquidated and Ascertained damages within the contract in the case of delays to the programme; ongoing dialogue with the contractor to monitor labour and resources	January 2017	Martin Stacy	
	If significant adverse ground conditions and site contamination is identified, then this will impact on the delivery of the programme	Pat Pratley	April 2015	3	4	12	Reduce and/or transfer to a 3 <sup>rd</sup> party	A Site investigation has been completed and issued to the contractor, assume asbestos containing materials will be found in the existing buildings.  If additional unknowns are identified which require further specialist intervention, issue the contractor with the report findings and engage in	March 2016	Martin Stacy	

								detailed discussions with the specialist as to how to manage the risk. Include a contingency in the scheme costs.			
	The logistics of the site (restricted access into the site and limited capacity on site) pose issues for construction traffic and have an adverse impact on construction and adjoining residents.	Pat Pratley	September 2015	3	4	12	Transfer to 3 <sup>rd</sup> party	Contractor was issued with site details at tender stage and visited the site numerous times. The Contractor is to issue a pre construction health and safety plan prior to commencing works which will address their approach to the site access constraints	From March 2016	Martin Stacy	
	The cost of services connections is in excess of the provisional sums allowed. Issues with the timing as to when the services are connected are encountered causing a delay to the programme.	Pat Pratley	September 2015	3	3	9	Transfer to 3 <sup>rd</sup> party	Include a contingency to account for additional costs associated with services connections. Engage with the contractor following approval to enter into contract to enable critical pre construction work to commence and services applications.	From March 2016	Martin Stacy	

**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

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Francis Close Hall

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Lodge

ST PAUL'S LANE

ST PAUL'S STREET NORTH

BRUNSWICK STREET

SWINDON ROAD

NORMAL TERRACE

UTH

COURT

Club

St George's

El Sub Sta

PH

47 Works

BM 58.97m

**key**

— site boundary

**N O T E S**

Only figured dimensions to be used for construction. Check all dimensions on site.



**R E V I S I O N S**

**P R O J E C T**

Brunswick Street  
Cheltenham

**C L I E**

Cheltenham Borough  
Homes

**T I T L E**

Site Location Plan

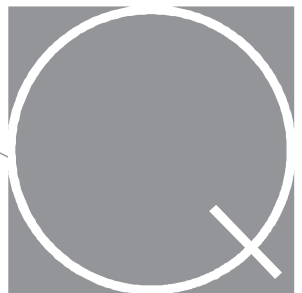
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**Quattro**  
designarchitect

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### Council – 14 December 2015

#### Motions (3)

Motion A	Proposed by: Councillor Whyborn	Seconded by: Councillor Flynn
	<p>Cheltenham Borough Council notes that many councils across the country, of various party political control, have implemented or are now implementing 20mph speed limits over wide areas without traffic calming. Over 14 million people now live in areas, where 20 mph has become the default speed limit in residential and urban streets, except for arterial roads.</p> <p>Council recognises that 20 mph limits have the potential to promote increased road safety, particularly for young and elderly pedestrians and cyclists, as well as to enable active and sustainable travel. Nationally Public health and other bodies such as NICE, Public Health England, the LGA and the WHO all support such a policy. It is described as the most cost-effective way to improve health equality by tackling inactivity, obesity and isolation, whilst also being child, disability, elderly and dementia friendly.</p> <p>Council notes that the report of the Cycling and Walking Scrutiny Group includes recommendations to "initiate a review to assess the appetite for a 20 mile speed limit across town from residents, businesses, and visitors", and also notes the County Council report "Draft Local Transport Plan Policy Document PD 2 (Cycle)" in which implementation of a 20 mph zones programme are described as an operational priority.</p> <p>Council requests that Cabinet consider the recommendations of Overview and Scrutiny committee of 26th Oct 2015 regarding Cycling and Walking, and include provision for a consultation exercise in the 2016/17 corporate work plan to establish where there is appetite for 20 mile per hour limits in Cheltenham and that the Council use its best endeavours in conjunction with Gloucestershire County Council to work towards trials in suitable areas where public support exists.</p>	
Motion B	Proposed by: Councillor Savage	Seconded by: Councillor Harman
	<p>As a Council we have a responsibility to work to reduce inequalities in mental health, tackle discrimination on the ground of mental health and work to support positive mental health in our community.</p> <p>This Council will work with local partners to support people with mental health needs, particularly in areas such as housing and community safety.</p> <p>This Council resolves to sign the Local Authorities' Mental Health Challenge run collaboratively by the Centre for Mental Health, Mental Health Foundation, Mental Health Providers Forum, Mind, Rethink Mental Illness, YoungMinds and the Royal College of Psychiatrists."</p>	

Motion C	Proposed by: Councillor Wilkinson	Seconded by: Councillor Jeffries
	<p><b>RIGHT TO BUY AND THE FORCED SELL OFF OF COUNCIL HOUSING</b></p> <p>This Council notes:</p> <ul style="list-style-type: none"> <li>• the Government’s proposal to extend the Right to Buy to Housing Association tenants, to be paid for by a forced sell off of the most expensive Council Housing stock;</li> <li>• with alarm the shortage of affordable rented homes in Cheltenham with 2,500 households on our council’s housing waiting list and is very concerned that the Housing and Planning Bill risks making matters worse.</li> <li>• the LGA “First 100 Days” campaign which highlighted there are 1.7 million households on waiting lists for affordable housing across England and that more than 3.4 million adults between 20 and 34 live with their parents.</li> </ul> <p>Council opposes the forced sell off of council housing to pay for this plan and is concerned that the Government also:</p> <ul style="list-style-type: none"> <li>• Fails to address the situation for many local authorities which no longer have any housing stock to sell as they have transferred theirs to housing associations;</li> <li>• Fails to address the situation in areas of high housing demand, like Cheltenham, where there are often few suitable sites to build replacement social housing stock;</li> <li>• Fails to recognise that this means housing associations will simply be trying to catch up with replacing homes rather than building affordable housing to give more people homes they need</li> </ul> <p>Council notes that even the Mayor of London has said he did not want to see councils “deprived at a rapid rate of their housing stock” if more homes were not being built to replace them.</p> <p>Council also regrets the following decisions of the Government that will reduce the amount of good quality social housing for rent to local families:</p> <ul style="list-style-type: none"> <li>• The decision that the focus on building “affordable homes” is on homes to buy for £250,000, a price unaffordable for most families trying to get on the property ladder, rather than affordable homes to rent.</li> <li>• That a tax will be imposed by the Government on the rents of council tenants to fund discounts for housing association tenants who are rich enough to buy their properties. Taxing families on the lowest incomes to fund discounts for people who may well be much better off.</li> <li>• The cuts to section 106 payments from developers which will see fewer social housing properties offered to residents in the town from new builds.</li> </ul>	

	<p>These actions will mean that there is less money for the provision of new social rented properties and less money available to provide services to tenants such as repairs, estate services, youth clubs or play centres that significantly improve the life of families.</p> <p>Council resolves:</p> <ul style="list-style-type: none"><li>• to work with other neighbouring authorities to oppose the current government proposals to force councils to sell off high value stock (or any equivalent charge based on estimates of high value stock);</li><li>• to write to Alex Chalk MP asking him to support the Council's position; to speak up in parliament for more social housing and to push for a genuine "one for one" replacement but not at the cost of losing more council housing.</li></ul>
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# Agenda Item 17

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