

# ANNUAL COUNCIL MEETING

Wednesday, 16th May, 2012

at

11:00 am

Guildhall – Civic Centre

2.00 pm

Council Chamber - Civic Centre

## **This meeting is open to the public**

### **Members of the Council**

The Mayor – Chair

The Sheriff – Vice-chair

Leader of the Council

Members of the Council (See overleaf)

### **Contacts**

Director of Corporate Services

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<b>WARD</b>	<b>COUNCILLOR</b>	<b>WARD</b>	<b>COUNCILLOR</b>
<b>Bargate</b>	Bogle Noon Tucker	<b>Millbrook</b>	Furnell Laming Thorpe
<b>Bassett</b>	Hannides B Harris L Harris	<b>Peartree</b>	Keogh Lewzey Dr Paffey
<b>Bevois</b>	Barnes-Andrews Burke Rayment	<b>Portswood</b>	Claisse Norris Vinson
<b>Bitterne</b>	Letts Lloyd Stevens	<b>Redbridge</b>	McEwing Pope Whitbread
<b>Bitterne Park</b>	Baillie Inglis White	<b>Shirley</b>	Chaloner Kaur Mead
<b>Coxford</b>	Morrell Spicer Thomas	<b>Sholing</b>	Mrs Blatchford Jeffery Kolker
<b>Freemantle</b>	Moulton Parnell Shields	<b>Swaythling</b>	Mintoff Turner Vassiliou
<b>Harefield</b>	Daunt Fitzhenry Smith	<b>Woolston</b>	Cunio Payne Dr R Williams

# **PUBLIC INFORMATION**

## **Role of the Council**

The Council comprises all 48 Councillors. The Council normally meets six times a year including the annual meeting, at which the Mayor and the Council Leader are elected and committees and sub-committees are appointed, and the budget meeting, at which the Council Tax is set for the following year.

The Council approves the policy framework, which is a series of plans and strategies recommended by the Executive, which set out the key policies and programmes for the main services provided by the Council.

It receives a summary report of decisions made by the Executive, and reports on specific issues raised by the Overview and Scrutiny Management Committee.

The Council also considers questions and motions submitted by Council Members on matters for which the Council has a responsibility or which affect the City.

## **Public Involvement**

### **Representations**

At the discretion of the Mayor, members of the public may address the Council on any report included on the agenda in which they have a relevant interest.

### **Petitions**

Any Councillor may present a petition, on behalf of the signatories, about issues relating to Southampton. If you have such a petition you need to ask a Councillor to present it to the meeting.

The following opportunities also exist for the public to raise matters at Council meetings, but seven clear days' notice must be given before the meeting.

### **Deputations**

A deputation of up to three people can apply to address the Council.

A deputation may include the presentation of a petition.

## **Questions**

People who live or work in the City may ask questions of the Mayor, Chairs of Committees and Members of the Executive.

## **Southampton City Council's Seven Priorities**

- More jobs for local people
- More local people who are well educated and skilled
- A better and safer place in which to live and invest
- Better protection for children and young people
- Support for the most vulnerable people and families
- Reducing health inequalities
- Reshaping the Council for the future

**Smoking policy** – The Council operates a no-smoking policy in all civic buildings.

**Mobile Telephones** – Please turn off your mobile telephone whilst in the meeting.

**Fire Procedure** – In the event of a fire or other emergency, a continuous alarm will sound and you will be advised by Council officers what action to take.

**Access** – Access is available for disabled people. Please contact the Council Administrator who will help to make any necessary arrangements.

## **Proposed Dates of Meetings (Municipal Year 2012/13)**

<b>2012</b>	<b>2013</b>
16 May	13 February (Budget)
11 July	20 March
12 September	15 May
14 November	

## CONDUCT OF MEETING

### FUNCTIONS OF THE COUNCIL

The functions of the Council are set out in Article 4 of Part 2 of the Constitution

### RULES OF PROCEDURE

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

### QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 16.

## DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "personal" or "prejudicial" interests they may have in relation to matters for consideration on this Agenda.

## PERSONAL INTERESTS

A Member must regard himself or herself as having a personal interest in any matter:

- (i) if the matter relates to an interest in the Member's register of interests; or
- (ii) if a decision upon a matter might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers and inhabitants of the District, the wellbeing or financial position of himself or herself, a relative or a friend or:-
  - (a) any employment or business carried on by such person;
  - (b) any person who employs or has appointed such a person, any firm in which such a person is a partner, or any company of which such a person is a director;
  - (c) any corporate body in which such a person has a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - (d) any body listed in Article 14(a) to (e) in which such a person holds a position of general control or management.

A Member must disclose a personal interest.

/continued.....

## **Prejudicial Interests**

Having identified a personal interest, a Member must consider whether a member of the public with knowledge of the relevant facts would reasonably think that the interest was so significant and particular that it could prejudice that Member's judgement of the public interest. If that is the case, the interest must be regarded as "prejudicial" and the Member must disclose the interest and withdraw from the meeting room during discussion on the item.

It should be noted that a prejudicial interest may apply to part or the whole of an item.

Where there are a series of inter-related financial or resource matters, with a limited resource available, under consideration a prejudicial interest in one matter relating to that resource may lead to a member being excluded from considering the other matters relating to that same limited resource.

There are some limited exceptions.

Note: Members are encouraged to seek advice from the Monitoring Officer or his staff in Democratic Services if they have any problems or concerns in relation to the above.

## **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

Director of Corporate Services  
M R HEATH  
Civic Centre, Southampton, SO14 7LY

Tuesday, 8 May 2012

**TO: ALL MEMBERS OF THE SOUTHAMPTON CITY COUNCIL**

You are hereby summoned to attend the Annual Meeting of the COUNCIL to be held on in WEDNESDAY, 16TH MAY, 2012 the GUILDHALL, CIVIC CENTRE at 11.00 am at which meeting the business set out in items 1 and 2 are proposed to be transacted, and in the COUNCIL CHAMBER - CIVIC CENTRE in the afternoon at 2.00 pm when the business set out in items 3 onwards are proposed to be transacted:-

**1 TO ELECT A MAYOR FOR THE ENSUING YEAR**

**2 TO ELECT A SHERIFF FOR THE ENSUING YEAR**

**3 APOLOGIES**

To receive any apologies.

**4 MINUTES**

To authorise the signing of the minutes of the Council Meeting held on 14<sup>th</sup> March 2012, attached.

**5 ANNOUNCEMENTS FROM THE MAYOR**

Matters especially brought forward by the Mayor

**6 ELECTION OF THE LEADER**

**7 LOCALISM ACT - REVISED STANDARDS ARRANGEMENTS**

Report of the Head of Legal, HR and Democratic Services detailing changes to the standards regime brought about by the Localism Act 2011, attached.

**8 HAMPSHIRE POLICE AND CRIME PANEL - PANEL ARRANGEMENTS**

Report of the Head of Legal, HR and Democratic Services seeking approval for the arrangements of the Hampshire Police and Crime Panel, attached.

**9 CHANGES TO THE CONSTITUTION**

Report of the Head of Legal, HR and Democratic Services, seeking approval for changes to the City Council's Constitution, attached.

## **10 APPOINTMENTS TO COMMITTEES, SUB-COMMITTEES AND OTHER BODIES**

### **a Appointment of members**

The Leader to move that, subject to alterations as may from time to time be made by the Council, the necessary Committees, Sub-Committees and other bodies and external organisations be appointed by the Council with the number and allocation of seats to political groups as set out in a schedule to be tabled at the meeting.

### **b Appointment of Chair and Vice-Chair**

To appoint the Chair and Vice-Chair to each of the Committees and Sub-Committees appointed by the Council.

## **11 CALENDAR OF MEETINGS**

To approve the following dates for meetings of the Council in the 2012/13 Municipal Year:

11th July 2012  
12th September 2012  
14th November 2012  
13th February 2013 (Budget)  
20th March 2013  
15th May 2013

## **12 DEPUTATIONS, PETITIONS AND PUBLIC QUESTIONS**

To receive any requests for Deputations, Presentation of Petitions or Public Questions.

## **13 EXECUTIVE BUSINESS**

Report of the Leader of the Council, attached.

## **14 MOTIONS**

(a) Councillor Vinson to move: -

This Council urges the Executive to bring forward at the earliest opportunity costed proposals for the establishment of a Local Authority Trading Company or equivalent to deliver adult social care services in the first instance.

## **15 QUESTIONS FROM MEMBERS TO THE CHAIRS OF COMMITTEES OR THE MAYOR**

To consider any question of which notice has been given under Council Procedure Rule 11.2.

**16 ANNUAL STANDARDS AND GOVERNANCE BUSINESS REVIEW**

Report of the Chair of the Standards and Governance Committee giving an overview of the work of the Standards and Governance Committee from May 2011 to April 2012, attached.

**17 CITY COUNCIL ELECTIONS 2012**

Report of the Returning Officer detailing the results of the City Council elections on 3<sup>rd</sup> May 2012, attached.

**18 OVERVIEW AND SCRUTINY BUSINESS**

**a OVERVIEW AND SCRUTINY: SUMMARY OF CALL- IN ACTIVITY**

Report of the Director of Economic Development summarising the use of the Call-in procedure over the last six months.

**b OVERVIEW AND SCRUTINY: ANNUAL REPORT 2011 / 2012**

Report of the Chair of Overview and Scrutiny Committee detailing the Annual Report 2011 / 2012 in accordance with the Council's Constitution.

**19 LOCAL AUTHORITY MORTGAGE SCHEME**

Report of the Cabinet Member for Housing regarding the Local Authority Mortgage Scheme, attached.

**20 EXCLUSION OF THE PRESS AND PUBLIC - CONFIDENTIAL PAPERS INCLUDED IN THE FOLLOWING ITEM (IF NEEDED)**

To move that in accordance with the Council's Constitution, specifically the Access to Information procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of any consideration of the confidential appendix 1 to the following item.

Appendix 1 is considered to be confidential, the confidentiality of which is based on Category 3 of paragraph 10.4 of the Council's Access to Information Procedure Rules. The appendix includes details of a proposed transaction which, if disclosed prior to entering into a contract, could put the Council at a commercial disadvantage in the future. In applying the public interest test it is not considered appropriate to make public offers made as this could lead to a revision of bids. Therefore, publication of this information could be to the Council's financial detriment.



**21 TOWNHILL PARK REGENERATION FRAMEWORK : FINANCIAL MODEL AND PHASE 1 CAPITAL EXPENDITURE**

Report of the Cabinet Member for Housing seeking approval for the regeneration proposals for the regeneration framework for Townhill Park, attached.

NOTE: There will be prayers by the Mayor's Chaplain in the Mayor's Reception Room at 1.45 pm for Members of the Council and Officers who wish to attend.

A handwritten signature in black ink, appearing to read 'M R HEATH', with a large, stylized flourish at the end.

**M R HEATH**  
Director of Corporate Services

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## SOUTHAMPTON CITY COUNCIL

### MINUTES OF THE COUNCIL MEETING HELD ON 14 MARCH 2012

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#### Present:

The Mayor, Councillor Matthews

Councillors Baillie, Ball, Barnes-Andrews, Mrs Blatchford, Bogle, Capozzoli, Claisse, Cunio, Daunt, Fitzgerald, Fitzhenry, Fuller, Furnell, Hannides, B Harris, L Harris, Holmes, Jones, Kaur, Kolker, Letts, Mead, McEwing, Morrell, Moulton, Noon, Osmond, Dr Paffey, Parnell, Payne, Pope, Rayment, Smith, Stevens, Thomas, Thorpe, Turner, Vassiliou, Vinson, Walker, Wells, White, Willacy, P Williams and Dr R Williams

#### 73. APOLOGIES

Apologies for absence were submitted on behalf of Councillors Burke and Drake.

#### 74. MINUTES

RESOLVED that the minutes of the Council meetings held on the 16<sup>th</sup> November, 2011 and 15<sup>th</sup> February, 2012 be approved and signed as correct records.

#### 75. ANNOUNCEMENTS FROM THE MAYOR AND LEADER

##### Last meeting of Municipal Year

As this was the last meeting of the municipal year and the last meeting before the elections in May, the Mayor took the opportunity to say goodbye to those councillors who would not be standing for re-election and to those who would, but did not retain their seat. On behalf of the Council, the Mayor thanked them for their hard work and the contribution they had made during their period in office.

##### German Students

The Mayor welcomed to the meeting a number of German Students visiting from the University of Hoff who were studying for a degree in Public Administration and were in attendance to observe the proceedings.

##### Statement from the Leader

The Leader took the opportunity to explain that he had been informed of the employment transfer of Councillor Fitzgerald, which had resulted in his relocation to Los Angeles, and that he had taken the decision that Councillor Fitzgerald should not resign but should continue to carry out his duties.

He hoped that this would now conclude the matter.

76. DEPUTATIONS, PETITIONS AND PUBLIC QUESTIONS

- (i) The Council received and noted a deputation from Mrs Hersee on behalf of tenants at the Graylings;
- (ii) The Council received and noted a deputation from Steven Galton and Chris Jenkins on Behalf of No Southampton Biomass.

77. EXECUTIVE BUSINESS

The report of the Leader of the Council was submitted, setting out the details of the business undertaken by the Executive (copy of report circulated with agenda and appended to signed minutes).

The Leader and the Cabinet made statements and responded to Questions.

The following questions were then submitted in accordance with Council Procedure Rule 11.1:

**1. Blue Badge Parking Bays**

Question from Councillor Turner to Councillor Fitzhenry

Could the Cabinet Member comment on the failure to recognise the problems of very disabled people in accessing Gateway due to the absence of Blue Badge parking bays? Could he also comment on why this issue was not resolved when the West Marlands Road scheme came to him for approval?

Answer

The moving of Gateway to new premises in West Marlands Road coincided with the implementation of new traffic restrictions in this area as part of the Guildhall Square project. The pedestrian friendly environment in both West Marlands Road and Guildhall Square are essential to create a safe public space.

The previous limited parking bays in West Marlands Road were replaced with permit bays for essential delivery vehicles only. However, there are no restrictions on motorists setting down or picking up visitors to Gateway. The lack of designated parking for Blue Badge holders immediately outside Gateway was recognised during the project and a series of benches were incorporated in the immediate vicinity to help meet concerns. There are currently nine designated Blue Badge spaces in the Civic forecourt which are approximately 75 metres from the entrance to Gateway.

This matter has been under constant review and, I have recently commissioned an independent study of the situation to see if Blue Badge parking improvements can be made without compromising the Guildhall Square scheme principles.

## 2. Service Level Agreements

Question from Councillor Bogle to Councillor Moulton

Could the Cabinet Member for Children's Services provide a breakdown (scope and value) of the current Service Level Agreements between Southampton schools and Capita?

### Answer

There are no Service Level Agreements (SLA) between Southampton Schools and Capita. All SLAs are between Southampton City Council and Schools directly.

## 3. Tourist Information Centre

Question from Councillor Vinson to Councillor Hannides

Will the Cabinet Member inform Council as to the number of personal visits made to the Tourist Information Centre and the value of sales since its move, with comparable figures for the previous year?

### Answer

The Visitor Information Centre opened in the Central Library on Monday 28th November 2011.

The following data summarises usage for December – February inclusive for 2010/11 and 2011/12

measure	2010/11	2011/12
Sales (including Ticket sales)	£48,647	£37,912
Personal enquiries	8,743	6,227
Unique Web hits	82,871	87,059

Footfall into the Visitor Information area in the library is not measured separately to library visits.

The figures demonstrate a continued 'channel shift' to the Internet, which we hope to continue as the web interface is developed over the next year.

## 4. St Denys Water Treatment Works

Question from Councillor Vinson to Councillor Fitzhenry

Will the Cabinet Member liaise with Southern Water to achieve a permanent solution to the periodic release of foul odours from the Kent Road water treatment plant?

### Answer

The Regulatory Services will continue to liaise with Southern Water as necessary and monitor the complaint and odour levels to ensure that nearby residents do not suffer a statutory nuisance.

### **5. Westridge Road Car Park**

Question from Councillor Vinson to Councillor Hannides

Can the Cabinet Member give an assurance, in the light of Lidl's declaration that this site is unsuitable for their needs, that the Executive no longer has any intention of selling the car park, and that it will remain in Council ownership?

### Answer

We recognise the importance of the car park to shoppers in Portswood. There are no plans to dispose of the car park or put it to alternative use.

## 78. MOTIONS

### **(a) Campaign to end 'legal loan sharking'.**

Councillor Pope moved and Councillor McEwing seconded:-

"Full Council notes and welcomes the UK-wide campaign to end 'legal loan sharking'.

Full Council believes that the lack of access to affordable credit is socially and economically damaging. Unaffordable credit is causing a myriad of unwanted effects such as poorer diets, colder homes, rent, council tax and utility arrears, depression (which impacts on job seeking behaviour) and poor health.

Full Council further notes that unaffordable credit is extracting wealth from the most deprived communities.

Full Council believes it is the responsibility of all levels of government to try to ensure affordable credit for all, and therefore pledges to use best practice to promote financial literacy and affordable lending. This will help to ensure that wealth stays in the local economy. Full Council also pledges to promote credit unions in Southampton, community based organisations offering access to affordable credit and promoting saving.

Full Council calls on the Government to introduce caps on the total lending rates that can be charged for providing credit.

Full Council further calls on the Government to give local authorities the power to veto licences for high street credit agencies where they could have negative economic or social impacts on communities."

UPON BEING PUT TO THE VOTE THE MOTION WAS DECLARED CARRIED

RESOLVED that the motion as submitted be approved.

**(b) Cultural Quarter and SeaCity Museum**

Councillor Hannides moved and Councillor Smith seconded:-

“This Council welcomes the huge progress made towards the development of the Cultural Quarter in Northern Above Bar and in particular notes the success and popularity of the new Guildhall Square. Council welcomes and supports the SeaCity Museum which is due to open on 10th April and is committed to delivering the New Arts Complex on the former Tyrell and Green site.”

UPON BEING PUT TO THE VOTE THE MOTION WAS DECLARED CARRIED  
RESOLVED that the motion as submitted be approved.

**(c) Trade Union Facilities**

Councillor Smith moved and Councillor Moulton seconded:-

“This Council recognises that in these tough financial times, local authorities need to make difficult decisions about spending priorities and therefore supports the Executive in reviewing the merits of fulltime union officials funded by the taxpayer and the provision of office facilities to trade unions.”

UPON BEING PUT TO THE VOTE THE MOTION WAS DECLARED CARRIED  
RESOLVED that the motion as submitted be approved.

**(d) Electoral Register**

Councillor Dr R Williams moved and Councillor Thorpe seconded:-

“Council resolves to maximise its efforts to ensure all Southampton residents are registered to vote.”

UPON BEING PUT TO THE VOTE THE MOTION WAS DECLARED CARRIED  
RESOLVED that the motion as submitted be approved.

**(e) NHS and Social Care Bill**

With the consent of the meeting, Councillor Rayment altered and moved her motion and Councillor Thorpe seconded:-

“Southampton City Council urges the Government to listen to the overwhelming majority of the City's doctors, nurses and patients and to remove those controversial parts of the NHS and Social Care Bill which promote a bigger role for the private sector in Southampton.”

Amendment moved by Councillor White and seconded by Councillor Baillie:-

Delete from 2<sup>nd</sup> line '.....to remove those controversial parts of the...'

Replace with '.....ensure that the...'

Delete from 3<sup>rd</sup> line '....and Social Care Bill which promote a bigger role for the private sector.'

Replace with '.....becomes more democratically accountable, hands power to patients to make decisions about their care and puts doctors and nurses rather than politicians and bureaucrats in charge.'

Add a new paragraph at the end of the Motion 'Full Council supports the Coalition government's commitment to an NHS that delivers quality outcomes, that is free at the point of use and available to everyone based on need, not the ability to pay.'

AMENDED Motion to read:

"Southampton City Council urges the Government to listen to the overwhelming majority of the City's doctors, nurses and patients and ensure that the NHS becomes more democratically accountable, hands power to patients to make decisions about their care and puts doctors and nurses rather than politicians and bureaucrats in charge.

Full Council supports the Coalition government's commitment to an NHS that delivers quality outcomes, that is free at the point of use and available to everyone based on need, not the ability to pay."

UPON BEING PUT TO THE VOTE THE AMENDMENT WAS DECLARED CARRIED

UPON BEING PUT TO THE VOTE THE MOTION AS AMENDED WAS DECLARED CARRIED

RESOLVED that the motion as amended be approved.

79. QUESTIONS FROM MEMBERS TO THE CHAIRS OF COMMITTEES OR THE MAYOR

**2011 Remembrance Service**

Question from Councillor Mrs Blatchford to Councillor Matthews

Can the Mayor explain to Full Council why the Humanists were not part of the 2011 Remembrance Service at the Cenotaph?



## Answer

As you are aware it is customary for the Mayor of Southampton to lead the procession of Councillors, Council Officials and Faith Leaders to the Cenotaph for the Service of Remembrance each November.

As you are also aware, the service of remembrance is held in order that all people of faith in the City can gather together in the one place to pray. Their prayers are for those who have died in war, and collectively, we pray that their souls may rest in peace. The two minutes' silence is held so that this generation can take time to reflect upon the sacrifice that previous generations have made.

I took the decision that the service is, and always has been, an act of collective prayer for people of faith. Humanists by their own definition are not people of faith.

Just as a point of interest, there are words to The Last Post and one of the lines read "As we go. This we know. God is nigh".

Obviously, I did take advice on this, and I am sorry if there have been any misunderstandings over my decision, but I could not see what part a Humanist could play in the City's Christian, Muslim etc., act of prayer.

## 80. APPOINTMENTS TO COMMITTEES, SUB-COMMITTEES AND OTHER BODIES

It was noted that Councillor Les Harris had replaced Councillor Fitzgerald on the Overview and Scrutiny Management Committee and Councillor Willacy had replaced him on the Health Overview Scrutiny Panel.

## 81. LOCALISM ACT 2011 – PAY POLICY

The report of the Head of Legal, HR and Democratic Services was submitted regarding the requirement under the Localism Act 2011 for the Council to prepare and publish a pay policy statement for the financial year 2012/13 and then for each subsequent financial year (copy of report circulated with the agenda and appended to signed minutes).

RESOLVED:

- (i) That Council considers and approves the Pay Policy Statement, attached as appendix 1 to the report; and
- (ii) That delegated authority be granted to the Head of Legal, HR and Democratic Services, following consultation with the Cabinet Member for Resources, Leisure and Culture, to make any minor revisions deemed necessary to the Pay Policy should further Guidance be received.

82. DEVELOPMENT OF THE FORMER CIVIL SERVICE SPORTS GROUND

The report of the Cabinet Member for Children's Services and Learning was submitted regarding the development of the former Civil Service Sports Ground (copy of report circulated with agenda and appended to signed minutes).

Amendment moved by Councillor Letts and seconded by Councillor Dr. R. Williams:

Add recommendations (ii) and (iii):

- (ii) Council notes and gives thanks for the contribution made by both council officers and members of the local community to saving this land from development as housing.
- (iii) Council agrees to consult fully with the local community on all aspects of the proposed development and urges the Executive to investigate the setting up of a community trust to own and manage the land in the future.

AMENDED RECOMMENDATIONS TO READ:

- (i) Transfer, in accordance with Financial Procedure Rules, a sum of £550,000 from the Leader's Capital Programme to the Children's Services and Learning Capital programme to carry out works at the former Civil Service sports ground.
- (ii) Council notes and gives thanks for the contribution made by both council officers and members of the local community to saving this land from development as housing.
- (iii) Council agrees to consult fully with the local community on all aspects of the proposed development and urges the Executive to investigate the setting up of a community trust to own and manage the land in the future.

UPON BEING PUT TO THE VOTE THE AMENDMENT WAS DECLARED CARRIED

UPON BEING PUT TO THE VOTE THE MOTION AS AMENDED WAS DECLARED CARRIED

RESOLVED:

- (i) that in accordance with Financial Procedure Rules, a sum of £550,000 be transferred from the Leader's Capital Programme to the Children's Services and Learning Capital programme to carry out works at the former Civil Service sports ground;
- (ii) that Council notes and gives thanks for the contribution made by both council officers and members of the local community to saving this land from development as housing: and
- (iii) that Council consults fully with the local community on all aspects of the proposed development and urges the Executive to investigate the setting up of a community trust to own and manage the land in the future.

83. APPROVAL TO SPEND CAPITAL FUNDING ON ENVIRONMENT AND TRANSPORT PORTFOLIO SCHEMES 2012/13

The report of the Cabinet Member for Environment and Transport was submitted seeking approval to Capital variations and additional funding on schemes within the Environment and Transport Capital Programme for 2012/13 (copy of report circulated with agenda and appended to signed minutes).

RESOLVED:

- (i) that the capital variations totalling £1,230,000 in 2012/13 to the programme agreed at Council on 15<sup>th</sup> February 2012, as detailed in Appendix 4 to the report be approved;
- (ii) that the addition of £317,000 to the Environment and Transport Capital Programme funded from additional Local Transport Plan Government Grant, as detailed in Appendix 4 to the report be approved;
- (iii) that as part of the above resolutions, it be noted that a major scheme to resurface Redbridge Roundabout is created with a budget of £1,200,000; and
- (iv) that it be noted that the £1,871,000 scheme for City Centre Improvements includes a Local Transport Plan contribution of £412,000 towards the Platform to Prosperity Project.

84. EXCLUSION OF THE PRESS AND PUBLIC - CONFIDENTIAL PAPERS INCLUDED IN THE FOLLOWING ITEM

RESOLVED that in accordance with the Council's Constitution, specifically the Access to Information procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of any consideration of the confidential appendix attached to the following item.

Appendix 1 of the report is not for publication by virtue of category 7A of paragraph 10.4 of the Council's Access to Information procedure Rules, as contained in the Council's Constitution. Appendix 1 contains confidential information, which in this context means information provided to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

85. "PLATFORM TO PROSPERITY" - PLATFORM ROAD IMPROVEMENT SCHEME

The report of the Senior Manager, Planning, Transport and Sustainability was submitted seeking approval to receive and add to the capital programme £5.595m of capital grant funding from the Department of Business and Skills towards the "Platform to Prosperity" project to deliver a road improvement scheme in Platform Road to improve access to and from the Port of Southampton. The report also sought a commitment from the Council of £1.255m of match funding in 2014/15 (copy of report circulated with the agenda and appended to the signed minutes).

RESOLVED:

- (i) that subject to due diligence, the award of £5.595m of Regional Growth Fund capital grant funding from Department of Business and Skills (BIS) towards the “Platform to Prosperity” project be accepted;
- (ii) that £6.850m be added to the Environment and Transport Capital Programme for the “Platform to Prosperity” capital scheme, funded by £5.595m from the Regional Growth Fund (phased £1.241m in 2012/13 and £4.354m in 2013/14) and £1.255m from the Council (phased £0.412m in 2012/13, £0.411m in 2013/14 and £0.432m in 2014/15) and that it be noted that Council funding would be met from the confirmed 2012/13 Local Transport Plan (LTP) grant funding and the indicative 2013/14 and 2014/15 LTP funding;
- (iii) that any shortfall in the 2013/14 and 2014/15 funding be underwritten from general capital resources, should the confirmed LTP funding be insufficient to meet the total requirement of £0.843m for those two years;
- (iv) that the Associated British Port (ABP) contribution of £1.0m towards the “Platform to Prosperity” scheme be noted; and
- (v) that the contractual obligations on the Council from BIS, including requirements to demonstrate job increases and potential claw back of monies be noted.

# Agenda Item 7

<b>DECISION-MAKER:</b>	COUNCIL
<b>SUBJECT:</b>	LOCALISM ACT 2011 – REVISED STANDARDS ARRANGEMENTS
<b>DATE OF DECISION:</b>	16 MAY 2012
<b>REPORT OF:</b>	HEAD OF LEGAL, HR AND DEMOCRATIC SERVICES
<b>STATEMENT OF CONFIDENTIALITY</b>	
None	

## **BRIEF SUMMARY**

This report informs members of the changes to the standards regime brought about by the Localism Act 2011 which makes fundamental changes to the system of regulation and recommends proposals for the drawing up of a revised Code of Conduct for adoption by Council, together with arrangements for dealing with complaints where a Member has breached the Code. The report has been considered by the Standards and Governance Committee at its meeting on 16<sup>th</sup> April 2012 and Audit Committee informally on 16<sup>th</sup> April 2012 and endorsed. The only recommended addition is that of an appeal process regarding a finding against a member.

## **RECOMMENDATIONS:**

- i. That it delegates to the Head of Legal, HR and Democratic Services authority to:-
  - (a) prepare a Code of Conduct based upon a draft that is currently being prepared by the Association of Council Secretaries and Solicitors (ACSeS) and that this is considered by the Standards and Governance Committee prior to it being presented to Council for adoption;
  - (b) advertise for and appoint two Designated Independent Persons;
  - (c) appoint two independent co-opted members from the current appointees to serve on the proposed Governance Committee on standards issues only from 1st July 2012.
- ii. once the new standards regime comes into force;
  - (a) the role of the current Audit Committee be extended to one of overall governance to be called the “Governance Committee” in accordance with the draft terms of reference (appendix 1) and from which (i) Standards Sub Committee and (ii) Standards Appeals Sub Committee be formed;
  - (b) that both the Standards and Appeals Sub Committees consist of three Members, politically balanced, together with one co-opted and non voting independent member (as (c) above) to deal with any Code of Conduct issues that may be referred to it by the Monitoring Officer and that they have the terms of reference as attached at appendix 2 ;

- (c) delegates authority to the Monitoring Officer, after consultation with a Designated Independent Person, to where appropriate (i) determine whether a complaint in relation to Member misconduct merits formal investigation (ii) refuse to accept complaints that are trivial, vexatious, repetitive or political and at his discretion to refer such decisions on investigation to the Standards Sub Committee (iii) agree local settlements;
  - (d) delegate to both the Standards and Appeals Sub Committees power to take such actions as it lawfully can in respect of a Member who is found to have failed to comply with the Code of Conduct;
  - (e) delegates to both the Monitoring Officer and Standards Sub Committee the authority to grant dispensations under the Act;
  - (f) that the Designated Independent Persons be paid an annual retainer of £645.00 each and that this be reviewed and agreed after the first year of operation by the Head of Legal, HR and Democratic Services after consultation with the Leader of the Council;
  - (g) that the current Code remain in place until a revised code of conduct is adopted by Council;
- iii. That once further clarification has been received regarding the remaining detail of the revised standards regime including the role of the Designated Independent Person, a further report is presented setting out the position relating to that appointment.

## **REASONS FOR REPORT RECOMMENDATIONS**

1. As a result of the Localism Act 2011 the current standards regime is radically changing which requires the Council to put in place new arrangements to deal with matters of ethics, probity and Members conduct

### **DETAIL (Including consultation carried out)**

2. Previously a report has been presented to the Standards Committee in respect of the Localism Act proposals for the standards regime. At the meeting of the Committee on 13th December 2011, it discussed the Act and its ramifications as far as it could bearing in mind that at that stage much was unclear as to how matters would work in practice. This report seeks to both update Members and recommend options for a way forward. At that stage the Committee felt that a robust system was still needed and some form of committee should remain to deal with complaints etc. Members also felt that it was important that independent members, appointed by the Council, were included to assist the Council in demonstrating that it has high standards and transparency.
3. The Localism Act received royal assent on 15 November 2011. The Act brings about a number of fundamental changes to the standards regime and it will be necessary for the Council to make arrangements which comply with the new legal requirements.

4. It makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes was proposed to be 1 April 2012, but the Department of Communities and Local Government (CLG) confirmed that this has been put back until 1<sup>st</sup> July 2012. In the meantime, the Standards for England quango (SfE) ceased its regulatory functions on 31st January 2012 and was to be abolished on 31st March 2012.
5. The remaining elements of the current regime including the model Code of Conduct and the statutory Standards Committees with the power to suspend councillors will be abolished on 1 July 2012. There still remain numerous unanswered questions as to some aspects of the new regime and both secondary legislation and statutory guidance is awaited which will inform much of the detail of the processes etc to be followed. For example, DCLG has recently indicated that it may permit current independent members to become the new “designated independent person(s)” notwithstanding the current bar in the Act. It is not known how this can happen lawfully given the constraints of the Act but serves to illustrate the complexities of the new regime.
6. From 1st July all standards matters will be handled under new “arrangements”. 1st July will also see new standards arrangements which include a “Nolan-based” Code, the involvement of a Designated Independent Person and a new criminal offence for failing to declare or register certain interests coming into force.
7. In order to implement the standards provisions the Council will need to consider the following:-
  - a. What Code of Conduct should be put in place and adopted by the Council;
  - b. Whether the Council should establish a new Standards Committee or use another committee in the Council to deal with Standards issues and if not, how should Standards issues be deal with;
  - c. What “Arrangements” the Council should adopt and put in place to investigate complaints that a Member has failed to comply with a Code of Conduct and within these “Arrangements” what sanctions can lawfully be imposed where a Member has failed to comply with a Member Code of Conduct;
  - d. The need to arrange for the recruitment of the Designated Independent Person and to decide whether more than one will be required.
8. The following sections of this report describes the changes to the Standards regime in more detail and the actions that are now required to make sure that arrangements are in place by 1st July 2012 when these changes are indicated to come into effect.
9. The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members and the following set out what is now required in order for the Council to meet this duty.

## THE CODE OF CONDUCT

10. The current ten General Principles and Model Code of Conduct will be repealed, however the Council will be required to either revise its existing code or adopt a new Code of Conduct governing elected and co-opted members' conduct when acting in that capacity. The Council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles :-
  - Selflessness
  - Objectivity
  - Openness
  - Leadership
  - Integrity
  - Accountability
  - Honesty
11. The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. However, regulations to be made under the Act will require the registration and disclosure of "Disclosable Pecuniary Interests" (DPIs). There will be no definition of what constitutes a DPI until the regulations are made, but they are expected to broadly equate to the current registerable financial interests.
12. The Act also requires the Code to contain appropriate requirements for the registration (and disclosure) of "pecuniary interests and interests other than pecuniary interests", but it does not define what these shall be. It is therefore for the Council to decide what other pecuniary and non-pecuniary interests should be included in the Code in addition to DPIs.
13. The result is that it is not possible yet to draft the Code provisions which reflect the definition of DPIs which will appear in regulations. The Regulations are not expected to be published until late June. It may be that the Code requires registration and disclosure for those interests which would today amount to personal and / or prejudicial interest under the current Model Code.
14. The Head of Legal, HR and Democratic Services is currently working on a draft code which will be presented to Standards and Governance Committee in late June before being presented to Council in July for adoption. It will be necessary to produce a Code that takes account of advice received from the Government, ACSes, the Local Government Association and elsewhere to ensure consistency in its application across Hampshire at least bearing in mind the different bodies that Members are appointed to ie Fire and Police, all of which require new codes.
15. The Act prevents Members with a DPI in any matter which is under consideration at a meeting from taking part in any discussion of that matter or taking part in any vote. Under the Act, the Council can also choose to adopt a Standing Order excluding a Member from a meeting if they have a DPI. There is no similar power under the Act to exclude a Member from a meeting merely because they have some other pecuniary or non-pecuniary interest.
16. The Council's new Code of Conduct will have to deal with the following matters:-
  - General conduct rules, to give effect to the seven principles. This corresponds broadly with paragraphs of the current Code of Conduct.



In practice, the easiest course of action could be simply to re-adopt paragraphs of the existing Code of Conduct. Members are familiar with this and the Council can amend its Code of Conduct subsequently if the need arises. Alternatively, the Council could adopt a Code of Conduct drafted by ACSeS and / or the LGA. The ACSeS version is recommended as this appears to be the approach being taken by other authorities.

- Registration and disclosure of pecuniary interests and non-pecuniary interests – effectively, replacing the provisions on personal interests contained in the current Code. The Act requires that the Code contains “appropriate” provisions for the registration and disclosure of pecuniary and non-pecuniary interests but leaves it up to each authority to decide what these should be. It would seem sensible therefore, as stated above, to simply retain the existing financial and other interests contained in the current Code. Provisions for the registration and disclosure of DPIs will have to be added in later when the regulations have been published.

### **Standards Committee**

17. The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. So, there will be no requirement for the Council to appoint a Standards Committee in the future. However, there will still be a need for the Council to uphold standards of ethics and probity and receive and deal with complaints that a Member may have breached the new Code, so that it may remain convenient to have some form of a Standards Committee. The alternative is that all matters will need to be referred to full Council which is not considered either appropriate or expedient.
18. The Council must have some form of governance arrangements that are able to deal with standards issues particularly where there have been investigations, so as to determine the allegations and either dismiss or impose sanctions.
19. If Members were minded to recommend a Standards Committee it is important to note that any such committee would be a normal committee of Council, without the unique features which were conferred by the previous legislation. Committees as well as adhering to the rules on proportionality may have co-opted members that are purely advisory and non voting; normal schedule 12A exempt information rules apply.
20. An alternative to having a separate Standards Committee could be to consider extending the terms of reference of the Audit Committee and the Committee become an overall “Governance Committee” that could then also deal with Standards issues by way of a Sub Committee. A similar analogy is the way the Licensing Committee has Panels that deal with Licensing matters.
21. If the functions and responsibilities of the Audit Committee were extended as suggested above, the Committee would still adhere to the rules on proportionality, any co-opted members would purely be non-voting and advisory, normal schedule 12A exempt information rules would apply. Any Standards Sub Committee for example, could be made up of three Members

appointed from the Members that make up the Audit Committee whilst still maintaining the political proportionality. Additionally, the Standards and Governance Committee at its meeting on 16<sup>th</sup> April 2012 considered this draft report and proposals and recommended an Appeals Sub Committee in relation to findings of a breach against a member, such sub committee to have the same numbers of members. It is therefore recommended that this is the simplest way forward.

22. In addition, the current co-opted independent members will cease to hold office. This is a significant change and could be seen as a retrograde step as they currently add both transparency and obviously an element of independence to the process. Consideration therefore needs to be given as to whether there should still be independent members co-opted to the new Committee bearing in mind it will now become comprised solely of elected Members. To do so would retain the element of “independence” that would otherwise be lost. Such members would not be able to vote but would play a significant part in the process. It is recommended that one non voting co-opted independent member also sits on the Sub Committees.
23. The Act establishes a new specific category of Designated Independent Persons (DIPs) who must be consulted at various stages, but the existing co-opted independent members cannot serve as Independent Persons for 5 years, although as referred to above this may possibly change. ACSes has sought Leading Counsel’s opinion on this point which confirms that it is not permissible for a past Independent member who has served as an Independent Member in the past 5 years to serve as a DIP under the Act. The position is therefore currently confusing and unresolved.

## **DEALING WITH MISCONDUCT COMPLAINTS**

### **“Arrangements”**

24. The Act requires that the Council must have in place “arrangements” under which allegations that a Member may have breached the Code of Conduct can be investigated and under which, decisions on allegations can be made. The arrangements must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a Member who is found to have failed to comply with the relevant Code of Conduct.
25. The advantage is that the Act repeals the requirements for separate Referrals, Review and Hearings Sub Committees, and enables the Council to establish its own, perhaps simpler, process which can include delegation of decisions on complaints.
26. The statutory provisions no longer give a Standards Committee or Monitoring Officer special powers to deal with complaints, so it will be necessary for Council to delegate appropriate powers to any Standards Committee or such other Committee that may be given the remit and to the Monitoring Officer.
27. A brief overview of the current Standards process is as follows:-
  - a. An Initial Assessment Sub Committee of the Standards Committee chaired by an independent member is formally convened within 20 working days of receiving a complaint and decides whether to take no

action/refer the matter for “other action”/refer to the SfE for investigation/refer for local investigation.

- b. If the decision is to take “no action” the complainant has a right of appeal (within 30 days) to a Review Sub Committee.
- c. Where the matter is referred for a local investigation a detailed report must be produced within 6 months. The subject Member and complainant have the opportunity to comment on the draft report.
- d. The Investigating Officer concludes whether there has been a breach of the Code on the balance of probabilities but makes no recommendation as to sanctions.
- e. If the report finds there has been no breach of the code, a Hearings Sub Committee of the Standards Committee is formally convened to decide whether or not to accept the recommendations.
- f. It may conclude that there may have been a breach in which case a separate meeting must take place to hear the evidence and determine any appropriate action.
- g. If the report finds that there has been a breach a Hearings Sub Committee must be convened within 3 months. Witnesses may be called and the investigator and subject Member are present and may make representations.
- h. There is a right of Appeal against the decision to the 1st tier tribunal (Standards for England).
- i. The Hearing is in public and the outcome should be made public.

### **Decision whether to investigate a complaint**

28. In practice, the SfE guidance on initial assessment of complaints which we have been familiar with for some years now has provided a reasonably robust basis for filtering out trivial and tit-for-tat complaints. However, the criteria does not go far enough to stop vexatious, repetitive or clearly solely political complaints. It would appear prudent to take advantage of the new flexibility and delegate to the Monitoring Officer the initial decision on whether a complaint requires investigation, subject to consultation with the DIP and the ability to refer particular complaints to a Standards Committee or Sub Committee, where the Monitoring Officer feels that it would be inappropriate for him to take a decision on it.
29. These arrangements would also offer the opportunity for the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation, Members will need to consider who should take a decision on whether the complaint merits formal investigation, for example:
  1. The Monitoring Officer
  2. The Monitoring Officer in consultation with the DIP
  3. A Committee / Sub Committee

### **Investigations which result in a finding of no breach of the Code**

30. Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, the current requirement is that this is reported to a Hearings Sub Committee of the Standards Committee and the Committee take the decision to take no further action. In practice, it would be reasonable to delegate this decision to the Monitoring Officer, but with the power to refer a matter to a Committee or Sub Committee if they think appropriate.

### **Investigations which result in a finding of a breach of the Code**

31. Where a formal investigation finds evidence of failure to comply with the Code of Conduct, the Monitoring Officer should still explore the opportunity for local resolution if appropriate, avoiding the necessity of a local hearing. Sometimes the investigation report can cause a Member to recognise that his/her conduct was at least capable of giving offence, or identify other appropriate remedial action, and the complainant may be satisfied by recognition of fault and an apology or other remedial action. However, it is suggested that at this stage it would only be appropriate for the Monitoring Officer to agree a local resolution after consultation with the Independent Person and where the complainant is satisfied with the outcome.
32. In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary for the Standards Committee / Sub Committee to hold a hearing at which the Member against whom the complaint has been made can respond to the investigation report. The Committee / Sub Committee can then determine whether the Member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result.

### **SANCTIONS - Action in response to a Hearing finding or failure to comply with the Code**

33. The Act removes the previous array of sanctions and does not give the Council or its committees or officers any powers to impose sanctions such as suspension or requirements for training or an apology. So, where a failure to comply with the Code of Conduct is found, the range of actions which the Authority can take in respect of the Member is limited to censure and such other actions which are permitted under general local government law.
34. ACSeS has sought advice from Leading Counsel on the nature and scope of any action lawfully available to authorities in respect of those Members found to have failed to comply with an Authority's Code of Conduct.
35. Leading Counsel has indicated that the following are lawfully available subject of course to the particular facts and circumstances and a lawful and proportionate manner of application:
- Reporting its findings to Council for information;
  - Recommending to the Member's Group Leader that he/she be removed from any or all committees or sub committees of the Council subject to statutory and constitutional requirements;
  - Formal letter from the Authority or one of its committees to a Member.
  - Formal censure through a Motion.

36. Therefore, the Council would need to delegate to the Standards Committee or Sub Committee such powers as set out above in order that the appropriate action can be taken against a Member who is found to have failed to comply with the Code of Conduct.

## **APPEALS**

37. There is no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the Authority had no power to impose. As indicated above the Standards and Governance Committee recommend that an appeals sub committee be included in the new arrangements.

## **DESIGNATED INDEPENDENT PERSON(S)**

38. The Council's current Standards Committee includes three independent Members. The requirement to have a Standards Committee in this form will cease, however the requirement to have an independent element will remain albeit in a different form.
39. The Act specifies that "Arrangements" adopted by Council must include provision for the appointment by Council of at least one DIP. The DIP must be appointed through a process of public advertisement, application and appointment.
40. A person is considered not to be "Independent" if –
- He/she is, or has been within the last 5 years, an elected or co-opted member or an officer of the Council.
  - He/she is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub Committee of the Council (which would preclude any of the co-opted independent members of Standards Committee from being appointed as an Independent Person); or
  - He/she is a relative or close friend of a current elected or co-opted member or officer of the Council.

## **Statutory functions of the Designated Independent Person**

41. The functions of the DIP(s) are:–
- They must be consulted by the Authority before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that Member.
  - They may be consulted by the Authority in respect of a standards complaint at any other stage; and
  - They may be consulted by a Member or co-opted member of the Council against whom a complaint has been made.

## **How many?**

42. The Act gives discretion to appoint one or more DIP, but appears to provide that the DIP must be consulted before any decision is taken on a complaint which has been investigated. In light of the ability for both the complainant

and the Members complained of to consult the DIP, it may well be that on occasions there could be a conflict of interests and accordingly it may be prudent to appoint at least two.

### **Remuneration**

43. As the DIP is not a member of the Authority or of its committees or sub committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can be determined without reference to the Independent Remuneration Panel. Accordingly, it is suggested that an initial annual retainer of £645.00 be paid and that it would be appropriate to undertake a proper review of the function before setting the remuneration next year. This is the sum, rounded up, that is currently paid to co-opted members.

### **THE REGISTER OF MEMBERS' INTERESTS**

44. The Act abolishes the concepts of personal and prejudicial interests. Instead regulations will define "Disclosable Pecuniary Interests" (DPIs). The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and be available on the Council's website.
45. At present we do not know what Disclosable Pecuniary Interests will comprise, but they are likely to be broadly equivalent to the current financial interests. The intention was to simplify the registration requirement, but in fact the Act extends the requirement for registration to cover not just the Member's own interests, but also those of the Member's spouse or civil partner, or someone living with the Member in a similar capacity.
46. The provisions of the Act in respect of the Code of Conduct require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

### **Registration on election or co-option**

47. Each elected or co-opted member must register all DPIs within 28 days of becoming a member. Failure to register is made a criminal offence, but would not prevent the member from acting as a member.
48. In so far as the Code of Conduct which the Council adopts requires registration of other interests, failure to do so would not be a criminal offence, but merely a failure to comply with the Code of Conduct.
49. Members will be expected to register new interests as they arise. When additional notifications are given, the Monitoring Officer has to ensure that they are entered into the register.
50. The Monitoring Officer is required to prepare and maintain a register of these interests and to ensure that all Members are informed of their duty to register.

### **DISCLOSURE OF INTERESTS AND WITHDRAWAL FROM MEETINGS**

51. As set out above, as far as officers are aware DPIs are to be broadly equivalent to prejudicial interests.
52. The duty to disclose and withdraw arises whenever a Member attends any meeting of Council, a committee or sub committee, or of Cabinet, and is aware that he/she has a DPI in any matter being considered at the meeting.

53. Where the Member does make a disclosure of a DPI, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can go on the register of interests.
54. If a Member has a DPI in any matter, he/she must not –
  - (a) Participate in any discussion of the matter at the meeting; or
  - (b) Participate in any vote on the matter,unless he/she has obtained a dispensation allowing him/her to speak and/or vote.
55. Failure to comply with the requirements becomes a criminal offence, rather than leading to sanctions.
56. The Council's Code of Conduct must make "appropriate" provisions for disclosure and withdrawal for interests other than DPIs, but failure to comply with these requirements would be a breach of the Code of Conduct but not a criminal offence.

### **Sensitive Interests**

57. The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests.
58. So, where a Member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of Members' interests would lead to the Member or a person connected with him/her being subject to violence or intimidation, he/she may request the Monitoring Officer to agree that the interest is a "sensitive interest".
59. If the Monitoring Officer agrees, the Member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of Members' interests.

### **Dispensations**

60. The provisions on dispensations are greatly changed by the Act. In future, it will be much easier to obtain a dispensation and the power to grant a dispensation can be delegated to the Monitoring Officer. This will enable dispensations to be granted at short notice, if for example where business cannot be transacted at a meeting because a majority of Members are conflicted out leaving the meeting inquorate.

### **CONCLUSION**

61. This report sets out the changes to the standards regime brought about by the Localism Act 2011, as understood by officers at the current time and recommends proposals for the drawing up of a revised Code of Conduct for Members for adoption by Council, together with arrangements for dealing with complaints that a Member has breached the Code.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

62. All options are considered in this report.

## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

63. There will be a cost arising from the requirement to appoint DIP(s) as such persons will be entitled to receive an allowance and expenses but this will be offset by the remuneration that is currently paid to the existing Independent Members of the Standards Committee.

64. A decision will need to be made about the remuneration or payment of expenses of the newly appointed DIP(s) which is outside the scope of the Members' allowances scheme and which can be agreed locally.

### **Property/Other**

65. N/A

## **LEGAL IMPLICATIONS**

### **Statutory Power to undertake the proposals in the report:**

66. Chapter 7 Localism Act 2011

### **Other Legal Implications:**

67. None

## **POLICY FRAMEWORK IMPLICATIONS**

68. None

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**SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

**Appendices**

1.	Draft terms of reference for the Governance Committee
2.	Draft terms of reference for the Standards Sub Committee

**Documents In Members' Rooms**

1.	None
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**Integrated Impact Assessment**

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	No
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**Other Background Documents**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None	
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**Integrated Impact Assessment and Other Background documents available for inspection at:**

<b>WARDS/COMMUNITIES AFFECTED:</b>	None
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# Agenda Item 8

<b>DECISION-MAKER:</b>	FULL COUNCIL
<b>SUBJECT:</b>	HAMPSHIRE POLICE AND CRIME PANEL – PANEL ARRANGEMENTS
<b>DATE OF DECISION:</b>	16 <sup>TH</sup> MAY 2012
<b>REPORT OF:</b>	HEAD OF LEGAL, HR & DEMOCRATIC SERVICES
<b>STATEMENT OF CONFIDENTIALITY</b>	
None	

## **BRIEF SUMMARY**

The Police Reform and Social Responsibility Act 2011 (“the Act”) introduces changes to the arrangements for governance of the Policing Service. In November 2012, police authorities will be abolished and replaced by a Police and Crime Commissioner (“the Commissioner”) for each policing area. The Commissioner will be responsible for securing the maintenance of an efficient and effective police force for the area, and hold the Chief Constable to account for the exercise of his/her functions. The Commissioner will also be responsible for issuing and keeping under review a Police and Crime Plan, setting out local policing priorities and how policing is to be resourced. The Act also requires the local authorities for each policing area to establish a Police and Crime Panel to review and scrutinise the Commissioner’s actions and decisions, with a view to supporting the work of the Commissioner.

This report outlines the statutory role of a Police and Crime Panel, and recommends the basis on which it is proposed that a Panel should be established for the Hampshire Policing Area (i.e. Hampshire County Council, the 11 district councils in Hampshire, and the unitary authorities for Isle of Wight, Portsmouth and Southampton). The development of these terms has been the subject of discussion and agreement at HIOWLA leaders’ meeting on 27th January 2012, and with the other 14 constituent authorities.

## **RECOMMENDATIONS:**

That Council RESOLVES that:

- (i) The recommended terms on which the Police and Crime Panel should be established are endorsed.
- (ii) Subject to (iii) the Panel arrangements in Appendix 1 to this report are approved.
- (iii) The Head of Legal, HR and Democratic Services be authorised to agree any further minor amendments to the Panel arrangements necessary to ensure statutory compliance, once the Home Secretary’s regulations and guidance have been published.
- (iv) A member be appointed as the Council’s Appointed Member to the Panel.
- (v) A member be identified to act as “Deputy Member” and, where the Appointed Member is temporarily unable to attend a Panel meeting or otherwise undertake Panel business, the Head of Legal, HR and Democratic Services be authorised to give notice of temporary change of membership for a period of up to 28 days, to enable the Deputy

Member to deputise in the Appointed Member's absence.

## **REASONS FOR REPORT RECOMMENDATIONS**

1. The arrangements are a statutory requirement.

### **DETAIL (Including consultation carried out)**

#### **Contextual information - Statutory Functions of a Police and Crime Panel**

1. These comprise duties and powers. All functions are to be exercised with a view to supporting the effective exercise of the Commissioner's functions.
2. Duties:
  - To review the draft Police and Crime Plan, or draft variation, and make a report or recommendations on it to the Commissioner;
  - On receipt of the Commissioner's annual report, to meet in public to ask the Commissioner questions on the report, to review the report and make a report or recommendations on it to the Commissioner;
  - To review or scrutinise decisions made, or other action taken, by the Commissioner in the discharge of his/her functions, and make reports or recommendations thereon to the Commissioner (Note: the Panel's role therefore is to scrutinise the Commissioner in the discharge of his/her functions – not the Chief Constable);
  - To review and make recommendations to the Commissioner on proposals to appoint senior staff and Chief Constable;
  - To make a recommendation to the Commissioner on any proposal to remove the Chief Constable;
  - To review and report to the Commissioner on his/her proposed precept;
  - To publish any reports or recommendations made to the Commissioner, and send copies to local authorities in the Panel's area;
  - To appoint an Acting Commissioner (from amongst the Commissioner's staff) where the Commissioner is incapacitated or suspended;
3. Powers
  - To require the Commissioner and members of his/her staff to attend before the Panel (at reasonable notice) to answer any question which appears to the Panel to be necessary in order for it to carry out its functions;
  - Where it requires the Commissioner to attend before the Panel, it may also request the Chief Constable to attend on the same occasion (at reasonable notice) to answer any question which appears to the Panel to be necessary in order for it to carry out its functions;
  - To require the Commissioner to respond in writing (within a reasonable period determined by the Panel) to any of the Panel's reports or recommendations;

NB. The Commissioner and his/her staff are under a duty to comply

with the above requirements;

- To suspend the Commissioner where s/he is charged with an offence punishable by a maximum term of imprisonment of more than two years;
- To veto the proposed appointment of Chief Constable (subject to two thirds of members voting in support);
- To veto the Commissioner's proposed precept (subject to two thirds of members voting in support);

Note: Secondary legislation makes provision for the involvement of the Panel in the handling of complaints against the Commissioner. Serious complaints will be handled by the Independent Police Complaints Commission, and other complaints dealt with by the Panel via local resolution.

### **Membership**

4. The Panel for the Hampshire Policing Area must consist of:
  - A minimum of 2 co-opted members appointed by the Panel. These cannot be members of local authorities within the Hampshire Policing Area;
  - Up to 3 additional co-opted members may be appointed by the Panel, subject to the agreement of the Secretary of State. These may be, but do not have to be, members of local authorities within the Hampshire Policing Area;
  - All Panel members are equal voting members;
  - In the unlikely event that an authority fails to appoint a member, there are provisions enabling appointment of a member of that authority by the Secretary of State;
  - The Panel is established as a "joint committee" and there is provision for the Secretary of State to apply (by statutory instrument) existing local government legislation to its business. This will mean that well-established provisions in the Local Government Act 1972 on the holding of meetings in public, advance publication of agendas etc are applied;
5. Although appointment of co-opted members is a matter for the Panel, authorities may wish to bring to the attention of the Panel any potential candidates with relevant skills, knowledge and experience, for their consideration.

### **The Balanced Appointment Objective**

6. This is the objective that the local authority members of a Panel (when taken together):
  - Represent all parts of the Police Area;
  - Represent the political make-up of the local authorities in the Police Area (when taken together);

- Have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively;

### **Duty to Produce a Balanced Panel**

7. In making appointments to the Panel, local authorities must secure that (as far as reasonably practicable) the balanced appointment objective is met. The qualification of “as far as reasonably practicable” allows some flexibility in achieving strict mathematical proportionality.
8. In co-opting persons who are members of local authorities, the Panel must secure that (as far as reasonably practicable) the “balanced appointment objective” is met.
9. The Panel must, from time to time, decide whether exercising its power to co-opt up to 3 additional members would contribute to the balanced appointment objective being met (or met more effectively).
10. This means that, once each authority has appointed its representative, the Panel has the flexibility to co-opt up to 3 further local authority members (e.g. from the minority parties) to achieve overall political balance (subject to Secretary of State consent).
11. Local authorities may rely on the Panel exercising its co-option power to ensure the balanced appointment objective is achieved i.e. on this basis an authority may not normally be required to appoint other than its preferred member.
12. Following elections in May 2012, information on political balance across the 15 local authorities will be circulated to the authorities to enable appointments to be made in line with the balanced appointment objective.

### **Panel Arrangements**

13. In establishing the Panel, the local authorities have a duty to make “Panel Arrangements”.
14. This will be a joint agreement in writing setting out the position on various aspects of how the Panel carries out its business. It will require approval by all 15 local authorities.
15. Note that although the Panel Arrangements must make provision about the co-option of, and holding of office by, the co-opted members, actual decisions as to the co-option of members, including the appointment of an initial two co-opted members, and a decision as to whether up to three additional members should be co-opted (subject to Secretary of State consent), are decisions for the Panel to make once constituted.
16. In co-opting members who are not members of relevant local authorities, a Panel must secure that (as far as is reasonably practicable) the appointed and co-opted members of the Panel (when taken together) have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.
17. The draft Panel Arrangements proposed by the Hampshire authorities are set out in Appendix 1. These have been the subject of wide consultation and discussion. The main provisions are summarised below.

## **Panel Rules of Procedure**

18. The Act distinguishes between matters to be agreed by the 15 local authorities in the Panel Arrangements, and those matters that are to be determined by the Panel itself, once constituted. The following matters will not therefore be predetermined in the Panel Arrangements, but would be agreed at the inaugural meeting of the Panel:
- Appointment, resignation and removal of the Panel Chair;
  - The method of making decisions (e.g. adoption of standing orders on meeting procedures);
  - Formation of Sub-committees.

## **Panel Arrangements – Term of Office**

19. The Act requires that Panel Arrangements include provision about the term of office of appointed members and co-opted members, and about the conditions for re-appointment.
20. **It is proposed that** all Members are appointed to the Panel for a four year term, and are eligible for re-appointment on the expiry of that term. This is subject to the rules on change of membership summarised at paragraph 9 below. There would be no restriction on the number of terms of office that could be served.
21. Other options considered and rejected: consideration has been given to the possibility of making appointments for different periods, to avoid all appointments expiring at the same time, which could make for a loss in continuity. The possibility of placing a restriction on number of terms has also been assessed. However, it is felt that retaining flexibility over the making of re-appointments would avoid risk of loss in continuity. The proposal accords with the current position with police authorities, where an appointment would normally be for a four year term.

## **Panel Arrangements – Resignation and Removal of Members**

22. The Act requires that Panel Arrangements include provision about the resignation and removal of appointed members and co-opted members.
23. It is proposed that:
- any member may resign at any time, by notice in writing to the Panel Chair and their appointing authority;
  - any appointed member may be removed by their appointing authority at any time;
  - an authority may authorise another of its members to deputise for their appointed member, where the appointed member is unable to attend a Panel meeting or otherwise undertake Panel business, for a period of up to 28 days. As the Act makes no reference to “deputy members”, unless appointed, this will be achieved by the relevant officer having delegated authority to give notice of temporary change of appointed member. This is intended to provide a quick and flexible way of ensuring that the element of the balanced appointment objective, that requires all local authority members (when taken together) to represent

all parts of the police area, remains met in the event that an authority's normal representative is temporarily unavailable.

24. Other options considered and rejected: consideration has been given to having less flexibility in the removal of Members, to avoid loss of skills and experience at short notice, and to protect the independence of a Member to act and vote as they consider appropriate. However, it was felt that flexibility was necessary to enable membership to be reviewed as required to ensure that the balanced appointment objective (see paragraphs 5 and 6 above) remained met (for example, following change in political control of an authority).

### **Panel Arrangements – the Costs of the Panel**

25. The Act requires that Panel arrangements make provision about how the relevant local authorities are to meet the costs of the Panel, and how any funds paid by the Secretary of State to meet the costs of the Panel are to be distributed between the authorities.
26. The Home Secretary has confirmed that the Government is making available £53,300 per annum for the costs of supporting and maintaining the Panel, and a further £920 per annum per member, to fund necessary expenses. This will provide an overall budget for the panel of around £72k in a full year, and around £36k in 2012-13.
27. The Government has asked that one authority in the police area acts as Lead Authority for the receipt of the funding and co-ordination of the establishment of the Panel. It was agreed at HIOWLA Leaders meeting on 27th January 2012 that Hampshire County Council would act in this capacity.
28. It is proposed that:
- The general objective shall be that the total costs of running the Panel are contained within the Government funding. The Panel will receive and approve a budget, and monitor expenditure against it;
  - To the extent that the Government funding is exceeded, the excess will be borne by the authorities in equal shares, unless they agree otherwise.

### **Panel Arrangements – Payment of Members' Allowances**

29. The Act provides that Panel Arrangements may make provision about the payment of allowances to Members. As indicated above, the Government is making available £920 per annum (£460 in 2012-13) towards expenses incurred by each Panel member. No specific provision is made for payment of further allowances.
30. It is proposed that:
- Panel members claim travel and subsistence from their own authority in accordance with that authority's usual scheme of allowances. Actual sums claimed on Panel business would be reimbursed by the Lead Authority to the appointing authority, up to a limit of £920 per annum (£460 in 2012-13);
  - Where the member elected as Panel Chair is not already in receipt of a



Special Responsibility Allowance, their appointing authority shall explore amending its scheme of allowances to provide for this, in acknowledgement of the responsibilities of Panel Chair;

- The Lead Authority will explore amending its scheme of allowances to provide for the payment of a Co-optee's allowance to any of the Panel's co-opted members who is not also an authority member;

### **Panel Arrangements – Promotion of the Work of the Panel**

31. The Act requires that Panel arrangements must make provision for the role of the Panel to be promoted.
32. It is proposed that the Panel's terms of reference include the functions of promoting its work and engaging stakeholder involvement.
33. No other options have been considered. The recommended way forward leaves it for the Panel to decide in detail how it wishes these functions to be performed.

### **Panel Arrangements – Administrative and Other Support to the Panel and Members**

34. The Act requires that Panel Arrangements must make provision for administrative and other support to the Panel and its Members and for support and guidance to members and officers of local authorities in the Panel's area in relation to the Panel's functions. This includes support with arranging meetings and minute-taking, communications, policy advice and support with scrutiny functions, legal and financial advice.
35. It is proposed that an interim arrangement is put in place for the Panel's first year of operation, pending the carrying out of a commissioning process. This would meet the immediate needs of the Panel while allowing it to consider, specify and commission the support it requires for the longer term.
36. Other options considered and rejected: sharing policy advice with the Commissioner's Office is not considered tenable due to the need for objectivity in scrutiny of the Commissioner. Further, there is the possibility that members of the Commissioner's staff may be required to attend before the Panel to answer questions.

### **Panel Arrangements – Date of Commencement**

37. The minimum legal requirement is for the Panel to be in operation by November 2012 when the Commissioner is elected.
38. It is proposed that the Panel be established by June 2012.
39. There are some key issues for the Panel to address over the winter period of 2012-13, including scrutinising the newly-elected Commissioner's first draft Police and Crime Plan and proposed precept for the 2013-14 financial year. It is felt therefore that the Panel would benefit from having an initial period, before taking on its statutory responsibilities, to deal with items of "start-up" business, such as induction of Members in police policy issues, agreeing Panel procedures and appointing its Chair and co-opted Members. The intention would be for the Panel to be ready to operate effectively from November 2012.

40. Further, the Secretary of State retains default powers under the Act to impose a Police and Crime Panel if the authorities for the Police Area do not establish one. Indications are that the Secretary of State will wish to see evidence of action on the part of the authorities well in advance of November 2012, in order not to use her default powers.

### **Next Steps**

41. To enable a Panel to be established from June 2012, all 15 constituent authorities are being asked to approve the Panel arrangements at their annual meetings in May 2012, and to appoint a Panel Member and Deputy. Following the local elections on 3rd May 2012, updated information as to the political make-up of the 15 authorities (when taken together) will be made available, so that authorities can appoint their member in line with the political balance requirements of the balanced appointment objective. The date set provisionally for the first meeting of the Panel is 29th June 2012.
42. At the date of preparing this report, the Home Secretary has not yet published regulations and guidance on the establishment of police and crime panels, which was previously stated to be due for publication in March. However, relevant Home Office staff have had sight of the draft Panel Arrangements for Hampshire, and have indicated that the regulations and guidance, when they are published, will be “light touch”. It is unlikely therefore that these will give rise to any need for fundamental change of the proposed Panel Arrangements.
43. Nevertheless, it is felt advisable for Council to grant delegated authority to the Head of Legal, HR and Democratic Services to agree any further minor amendments to the draft Panel Arrangements that may be necessary to ensure statutory compliance, once the regulations and guidance have been published.

### **Conclusion**

44. This report summarises the legal framework relevant to the new police and crime panels and sets out the terms on which it is recommended a Panel be established for the Hampshire Policing Area.

### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

45. All options within the statutory framework are included in this report.

### **RESOURCE IMPLICATIONS**

#### **Capital/Revenue**

46. None. Allowances to members are budgeted for.

#### **Property/Other**

47. None

### **LEGAL IMPLICATIONS**

#### **Statutory Power to undertake the proposals in the report:**

48. Police Reform and Social Responsibility Act 2011

**Other Legal Implications:**

None

**POLICY FRAMEWORK IMPLICATIONS**

49. None

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**SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

**Appendices**

1.	Panel Arrangements for the Police and Crime Panel for the Hampshire Police Area
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**Documents In Members' Rooms**

1.	None
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**Integrated Impact Assessment**

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out?	No
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**Other Background Documents**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None	
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**Integrated Impact Assessment and Other Background documents available for inspection at:**

<b>WARDS/COMMUNITIES AFFECTED:</b>	N/A
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# Agenda Item 9

<b>DECISION-MAKER:</b>	FULL COUNCIL
<b>SUBJECT:</b>	CHANGES TO THE CONSTITUTION
<b>DATE OF DECISION:</b>	16 MAY 2012
<b>REPORT OF:</b>	HEAD OF LEGAL, HR AND DEMOCRATIC SERVICES
<b>STATEMENT OF CONFIDENTIALITY</b>	
None	

## **BRIEF SUMMARY**

This report sets out the annual review of the Constitution. This was considered and discussed by Standards and Governance Committee on 16<sup>th</sup> April 2012 in its governance role. In light of the significant revisions made last year only minor revisions are contemplated this time. Full Council is the ultimate decision-making body as to the Council's Constitution.

## **RECOMMENDATIONS:**

- (i) to agree the changes to the Constitution as set out in this report;
- (ii) to authorise the Head of Legal, HR and Democratic Services to finalise the arrangements as approved by Full Council and make any further consequential or minor changes arising from the decision(s) of Full Council; and
- (iii) to approve the City Council's Constitution, as amended, including the Officer Scheme of Delegation for the municipal year 2012/13.

## **REASONS FOR REPORT RECOMMENDATIONS**

1. It is appropriate for the Council to keep its Constitution under regular review and to amend it, both to reflect experience and changing circumstances.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

2. The Council resolved in May 2002 to review its Constitution on an annual basis. Therefore, it is appropriate that this report is considered by Members. There are a range of recommendations set out within the report. Members have a range of options about various changes recommended to them, not least of which is to reject some or all of them.

## **DETAIL (Including consultation carried out)**

3. This report was considered by Standards and Governance Committee on 16th April 2012. The committee's comments and amendments are embodied within this report and the appendices.

## **Background Information**

4. The Constitution of the Council describes the way in which the Council conducts its business. It contains not only the Articles of the Constitution, but also the various rules and procedures for decision-making, access to information, Overview and Scrutiny, the Codes of Conduct, the Officer / Member Protocol, as well as other specific rules relating to contracts and finance.
5. The Constitution forms the cornerstone of effective corporate governance. Whilst Southampton City Council's constitutional arrangements continue to be

recognised as being of a high standard, Full Council agreed in May 2002 that it would on an annual basis robustly review the Constitution and its operation. The purpose of this report is to bring forward proposed changes to the Constitution, these having been considered by Standards and Governance Committee (in its governance role) with a view to build upon the constitutional arrangements for the Council.

### **Executive arrangements**

6. The legal responsibility for determining Executive arrangements, namely who are the Executive Members, the Portfolios and any Executive delegations to officers, lie in the hands of the Leader. The Leader will be elected by the Annual General Meeting (AGM), at which point s/he will determine this issue. This will have constitutional impact, since the arrangements will need to be incorporated within the Council's Constitution after the AGM.

### **Appointment of Members to various bodies: Schedule 3 of Part 3 of the Constitution**

7. The AGM will determine the composition of the Committees and Sub-Committees, in terms of political proportionality, and it is then a matter for the Group Leaders to notify the Democratic Services Manager on behalf of the Head of Legal, HR and Democratic Services of their representation in accordance with that calculation upon the Council's committees and sub-committees. In addition, there will be non-Executive appointments to various bodies and organisations which will also be addressed. This will then be incorporated within Part 3 of the Constitution to reflect the decisions of Full Council. New appointments will include those to the shadow Health and Well-being Board as a precursor to the transfer of health responsibilities to the Council next year and the shadow Police and Crime Panel (the arrangements for which are subject to a separate report on the Council agenda) again in preparation for the new arrangements that come in to being after the Police Commissioner elections in November 2012.

### **The Localism Act 2011**

8. The Localism Act is now in force although many sections still await commencement orders. There are a number of aspects which will or may have a constitutional impact. Specific details of these areas will be brought forward in due course as and when more detail emerges. Based on the content of the Act, there may need to be constitutional amendments to reflect:
  - a. any decision-making route enabling the authority to return to the pre-Local Government 2000 committee system;
  - b. any specific provisions relating to either obligations to or options to adopt a directly-elected Mayor model by a different route;
  - c. the requirements for a statutory petition schemes which could now be ceased;
9. A separate report will be considered by Council at this meeting in relation to standards issues and the significant changes required pursuant to Chapter 7 of the Localism Act 2011 including the deletion of the Standards and Governance Committee and expansion of the current Audit Committee to include the revised ethics, probity and standards obligations, adoption of a new Members Code of Conduct, new register of interests and appointment of independent members

## **Use of Resources**

10. The Use of Resources by Members Guidance was approved by Standards and Governance Committee, which last considered amendments to the guidance at its meeting on 20<sup>th</sup> April 2009. The Use of Resources by Members Guidance is linked to the Member Code of Conduct and is therefore part of the Council's Constitution.
11. The document has now been reviewed in respect of changes that have occurred, especially in response to the Council's current budgetary position and the efficiency savings that have been required which have highlighted a need for greater clarification of rules and procedures and a tightening up of the interpretation of these rules under the "use of resources" by Members. This will mean that some of the work previously undertaken on behalf of Members which duplicates work undertaken in other departments is an inefficient use of resources or which is used solely to effect public support will cease. Examples include Planning letters, hard copy letters which could be sent by email or other media, letters which are unconnected to case work, or in the case of Cabinet Members, portfolio enquiries. Full details of the changes are highlighted in Appendix 1 and in the revised Constitution of the Use of Recourses document available in Group Rooms and published on the web.

## **Employment and Appeals Panel**

12. In light of the increase of matters that require determination by the Panel, consideration has been given as to whether revisions are required to the constitution of the Panel, the frequency of meetings and indeed, whether it is needed to discharge the employment and other functions of the Council as a final internal appeal body. It is the intention to formulate proposals for a more streamlined process whilst still closely adhering to the ACAS codes on employment issues and protocols and consult with the unions before bringing an item to Council.

## **Overview & Scrutiny Management Committee and the arrangements for Overview and Scrutiny**

13. No changes are currently proposed to scrutiny arrangements.

## **Financial Procedure Rules**

14. Changes have been made to the Financial Procedure Rules to reflect the new organisational arrangements and also to strengthen and more clearly define the requirements in response to key changes in the financial landscape. These changes relate to the revenue virement rules which have been amended such that all virements in excess of £200,000 will be presented to Cabinet for approval in order to ensure adequate scrutiny of changes in the use of resources as befits the current financial climate in which Local Government is operating. Additionally, specific rules which have been included to explicitly cover the Housing Revenue Account in response to the introduction of self financing. See Appendix 3.

## **Officer Scheme of Delegation**

15. The existing Constitution enables the Head of Legal, HR and Democratic Services to vary the current Officer Scheme of Delegation by moving delegations between officers when there are organisational restructures taking place. The recent reorganisation of the senior management structure of the

Council and the resultant changes to the structure of the directorates have resulted in a significant change in the current Officer Scheme of Delegation, as delegations have been realigned to fit within the new organisational structure.

16. In addition it is considered that it would be expedient to revise the delegation scheme to include the matters detailed in Appendix 2.

### **Petition Scheme**

17. Whilst the Localism Act 2011 has repealed the statutory obligation on the Council to have a petition scheme it is considered that it remains useful for the public to use this route should they wish, to bring to the Council's attention significant issues. Therefore no changes to the scheme are proposed save for the removal of an appeal to Overview and Scrutiny Committee if they feel their petition has not been dealt with properly.

### **RESOURCE IMPLICATIONS**

#### **Capital/Revenue**

18. If Council is minded to delete the Standards Committee and include its role within a revised Governance Committee there will be a minor revision to the members allowance scheme. In addition a set payment will need to be made to the Designated Independent Person(s). Such changes can be met from within existing budgets.

#### **Property/Other**

19. None.

### **LEGAL IMPLICATIONS**

#### **Statutory power to undertake proposals in the report:**

20. The Executive Arrangements and Constitution are required under the Local Government Act 2000 (as amended). Other matters referred to in the report are addressed in the Local Government Act 1972 as well as the Local Government and Public Involvement in Health Act 2007 and Localism Act 2011.

#### **Other Legal Implications:**

21. None.

### **POLICY FRAMEWORK IMPLICATIONS**

22. None.



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**KEY DECISION?** Yes/No n/a

<b>WARDS/COMMUNITIES AFFECTED:</b>	None
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### **SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

#### **Appendices**

1.	Proposed changes to the Use of Resources
2.	Proposed Changes to the Officer Scheme of Delegation
3.	Proposed Changes to Financial Procedure Rules

#### **Documents In Members' Rooms**

None.

#### **Integrated Impact Assessment**

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	No
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#### **Other Background Documents**

**Integrated Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None.	
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<b>DECISION-MAKER:</b>	<b>COUNCIL</b>
<b>SUBJECT:</b>	EXECUTIVE BUSINESS REPORT
<b>DATE OF DECISION:</b>	16 MAY 2012
<b>REPORT OF:</b>	LEADER OF THE COUNCIL
<b>STATEMENT OF CONFIDENTIALITY:</b>	
None	

## **BRIEF SUMMARY:**

This report outlines Executive Business conducted since the last Council meeting and highlights some of the positive developments and achievements.

## **RECOMMENDATIONS:**

- (i) That the report be noted.

## **REASONS FOR REPORT RECOMMENDATIONS:**

1. This report is presented in accordance with Part 4 of the Council's Constitution.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:**

2. Not applicable

## **DETAIL (Including consultation carried out):**

3. As Leader of the Council, I identified in July 2010, two priorities for the Council: achieving Value for Money and Strong Leadership in facilitating economic growth for prosperity for the city. This report highlights the business undertaken by the Executive, particularly good news stories which demonstrate the progress we are making towards our objectives. A list of Cabinet decisions taken since the last Full Council meeting in March 2012 is attached as Appendix 1.

## **LEADERS PORTFOLIO**

4. Centenary Quay

The regeneration of a shipyard at Centenary Quay, Woolston has reached a major milestone with a family moving into the hundredth new home on the site. Planning permission for phase two of the Woolston site which includes a new library and community facilities as well as 168 new homes was granted in March 2012.

5. City Centre Master Plan

The successful launch of the City Centre Master Plan is an extremely important development for the city. It sets out a very clear vision for the city's future with key projects amounting to an inward investment of £3 billion, bringing around 23,000 new jobs. Many of the components of the Master Plan are already being delivered – such as SeaCity Museum. The Council should all be ambassadors for the Master Plan – it points at a tremendous future direction for the city.

## **ADULT SOCIAL CARE AND HEALTH PORTFOLIO**

6. Our joint approach with other local authorities will be progressing in Adult Social Care through the leadership of Margaret Geary who is now the Joint Director for Portsmouth City Council.
7. Public Health  
The Transition Plan for the integration of Public Health function by March 2013 is now in place and the Director of Public Health and his staff are now located in the Civic Centre
8. Using Department of Health Winter Pressures Funding  
Allocation of the Department of Health funding of £717k to Southampton City PCT for immediate transfer to local authorities for investment in social care services has been agreed. This includes
  - £370k towards the conversion of existing units at Graylings to be “dementia friendly” and to promote the option of independent living within this setting for users, families and carers.
  - £200k to increase equipment availability in nursing and residential homes. Smaller projects to be funded include
  - £20k for increasing accessibility of information for self funders, as there delayed discharges can be created as a result of family choice and family delay whilst they search for information.

## **CHILDREN’S SERVICES AND LEARNING PORTFOLIO**

9. Council finally secures former Civil Service sports ground  
Young people at schools in Shirley can soon look forward to enjoying their own dedicated sports pitches after the council secured the former Civil Service sports ground for the local community. Southampton City Council has finally become the owner of the eight-acre site in Shirley which means that its future is safe from development and it can be returned for use by local schools and the wider community.
10. Council seeks residents’ views on school rebuilds  
The Council will be asking residents for their views on the proposed rebuilds of three schools in the city at a series of events. Under the proposals Banister Infant School and Nursery in Banister Park and Wordsworth Infant School in Shirley will be completely rebuilt and will become ‘all through’ primary schools. The new school buildings should be ready by September 2013. Moorlands Primary School in Bitterne will benefit from a significant extension, with a view to doubling its capacity.
11. Bitterne Park is chosen to become a National Teaching School  
Bitterne Park School has been granted teaching school status. The designation by the National College for School Leadership entitles the school to lead the training and professional development for staff. Staff from the successful school will now be invited to the National College’s Learning and Conference Centre in Nottingham for a formal induction.

12. Troubled Families

Southampton is working with The Troubled Families Unit at the Department for Communities and Local Government to support approximately 680 families with the most complex problems so this will include helping parents to improve school attendance, reduce anti-social behaviour as well as support parents to be ready to return to work.

13. Isle of Wight and Southampton City Council partnership updated

From April 2012, the Council started delivering Educational Psychology service across the Isle of Wight as well as Southampton under the new partnership arrangements. We have appointed an acting Senior Education Psychologist who will be working closely with the Special Educational Needs team on the Isle of Wight to ensure that we can continue to deliver a high quality psychological service to children, young people, families and schools on behalf of both local authorities.

14. Inspire update

Inspire is the business unit that delivers non statutory education services. Inspire are delighted to have won a contract, on behalf of the Council with Service Children's Education (SCE). This is effectively the local authority for the Ministry of Defence and responsible for the education of all children in service families posted overseas.

**ENVIRONMENT AND TRANSPORT PORTFOLIO**

15. Better Bus Area Bid

The Council has been successful in securing £4.472M through the Better Bus Bid working with Transport for South Hampshire (TfSH). Officers in the Economic Development Directorate did an outstanding job on the bid, in partnership with bus companies. As well as enhancing Southampton's bus transport offer the Council will be delivering 16 apprenticeships as part of the bid. This is a further building block for delivering the masterplan for the city.

16. City's recycling rate

The Council has submitted an expression of interest to Communities and Local Government to retain weekly household waste collections, introduce a glass collection service for residents and businesses along with incentivising residents who recycle with 'green points', which would expand the use of the Council's Smartcities card. The purpose of the bid is to increase the City's recycling rate, reduce waste generated and support wide council agenda's such as channel shift, partnership working, use of social media and innovative working practices.

17. New work Placement Scheme

Parks and Street Cleaning work placement scheme was launched in April. Working with the Nordic Pioneer training agency, twelve 6 month paid training placements to work have been created, with the aim of achieving at the end of 6 months a level 2 NVQ in street cleaning. Twelve young people (previously not in education, employment and training - NEET have started the 6 month course with the Parks and Street Cleansing and work is underway to secure a full apprenticeship scheme in October for at least two of the twelve.

18. Higher Level Stewardship (HLS) Fund

The Council has recently secured funding through the Higher Level Stewardship (HLS) fund to help improve the wildlife in its most important parks and open spaces. The main objectives of HLS are to conserve biodiversity, maintain and enhance landscape quality, protect historic environment, promote public access and understanding, and protect natural resources. The funding will vastly improve Southampton's performance against the national performance indicator measuring its fulfilment of the biodiversity duty.

19. No Cold Calling Zones

There has been unprecedented demand from over 20 groups of residents across the city wanting to establish No Cold Calling Zones to cover their immediate neighbourhood. 4 Zones have been established to date giving residents additional confidence to say no to persons knocking on doors selling goods and services.

20. Air Alert System

The Council's Air Alert System was used recently to warn and advise vulnerable residents of poor air quality associated with the dock fire at Millbrook Road. Residents with respiratory or other health problems made worse by air pollution are able to receive free warnings by text message or email, linked to the Council's air quality monitoring network.

### **HOUSING PORTFOLIO**

21. Grant opportunities for community groups in the City

Local Improvement Grants are a small capital grant scheme for community led projects to make physical improvements in local areas, such as improving green spaces and community buildings. The Council will match fund 25% of the total project costs up to a maximum of £20,000. The closing date for the first round of the Local Improvements Grants is 15<sup>th</sup> June.

22. Estate Regeneration

We continue to make progress with our ambitious estate regeneration programme and have approved the Townhill Park Regeneration Framework, the Financial Model, Delivery Framework and funding for the implementation of Phase 1. This means we have agreed that the HRA capital programme to fund the site preparation costs set out in this report, currently estimated at £10.7M.

23. Weston Shore tower blocks have Photovoltaic installed

As part of the refurbishment of the Tower Blocks in Weston installation of PV panels on the roof of all five blocks was completed in time to take advantage of the highest rate of Feed in Tariff available. Panels were operational in Mid March and are now supplying free electricity to help run the communal lights and lifts in the blocks

24. Community Alarm Service achieves re-accreditation

The City's community alarm service based at City Depot has recently been subjected to its annual inspection from the Telecare Services Authority (TSA). This service provides support and reassurance to over 5,000 of the

most vulnerable residents across the City. The service achieved excellent marks in its assessment and has been re-accredited in the three areas of Installation, monitoring and response making it one of only a few organisations in the Country that is accredited in all three areas.

25. Millbrook Towers

As part of the City's investment in improving its local neighbourhoods, Millbrook Towers has received a dramatic facelift around the block including new planting, paving, car parking, bin areas and most eye catching are the murals around the base of the block which has really transformed its appearance both from the road and Mansell Park. Feedback from the residents has been excellent and a celebration event is being arranged for late May.

26. Junior Neighbourhood Wardens

At the end of the year the scheme was able to celebrate its most successful year ever with over 340 young people now part of the scheme and making a real difference on our estates. Their achievements were recognised by the Mayor in April with the annual Junior Warden of the year awards which recognised outstanding work by young people in the city. In the same week the Mayor also unveiled the Flower Power project in Watts Park which has been a project supported by Solent University and Open Spaces the design and plant flower beds in Watts Park. This was the culmination of two years of work by the Junior Wardens from choosing the seeds to planting the beds.

27. Capital Programme update

Following agreement by Cabinet and Council of the Housing Revenue Account business plan scheme approval has been given for over £70m of investment in Council Housing stock over the next four years which will help significantly improve residents homes in the coming years. Highlights of work underway include:

- All single glazed windows across the City's housing stock will be replaced with double glazing by April 2013
- Commencement of the new Housing refurbishment programme which will continue the investment in new kitchens and bathrooms across the city
- Replacement of all old boilers in the city including inefficient back boilers with modern energy efficient systems, and
- Replacement and upgrading of lifts and a number of Supported Housing schemes and the Itchen View estate.

## **RESOURCES, LEISURE AND CULTURE PORTFOLIO**

28. Opening of SeaCity Museum

The public opening on Tuesday 10<sup>th</sup> April was a proud moment for Southampton. A huge amount of time and effort has gone into every stage of the museum's creation and to have finally reached the point where the Council can open the doors to visitors is a great achievement. Hundreds of Southampton schoolchildren marched in procession from the Titanic Engineers' Memorial to the new museum, carrying placards representing the crew members from the City. The opening afternoon and its first full day

were a complete sell out. At the time of this report, over 10,000 people have visited the Museum, including 1,000 residents.

29. Learning at the Library

The Learning Centre in Central Library has secured £7,500 funding from Ukonline to deliver training to 175 people receiving the Job Seekers Allowance. The training will enable them to use information technology for the first time and will be structured around seeking work. The training will last until April 2013.

**SOUTHAMPTON CONNECT UPDATE**

30. Following the 1<sup>st</sup> Anniversary Review of Southampton Connect in April 2012, it has been agreed to establish a rotating Chair. Jo Ash, Chief Executive of Southampton Voluntary Services, will be Chair for the next 6 months. The Vice Chair role will remain with Southampton City Council. The light touch refresh of the Southampton Connect Plan 2011-14 and Year 1 Progress Report will be available in June 2012.

In February 2012 Marketing Southampton's web portal project was granted £80,000 of funding through the Southampton Connect Development Fund. Linked to the Business Solent led Priority Project of 'Promoting Southampton as the connected city', this project will consolidate the city's current digital presence to create an engaging web portal which will better promote the city to residents, businesses and visitors. The new portal is due to go live in autumn 2012

For further information on Southampton Connect, visit:

[www.southampton-connect.com](http://www.southampton-connect.com)

**FORTHCOMING BUSINESS**

31. The Executive published its Forward Plan on the 16<sup>th</sup> April 2012 covering the period May to August 2012 and will publish its next plan on the 17<sup>th</sup> May covering the period June to September 2012. Details of the forthcoming executive decision items can be found at:

<http://www.southampton.gov.uk/modernGov/uuCoverPage.aspx?bcr=1>

**RESOURCE IMPLICATIONS:**

**Capital/Revenue:**

32. None

**Property/Other:**

33. None

**LEGAL IMPLICATIONS:**

**Statutory power to undertake proposals in the report:**

34. None

**Other Legal Implications:**

35. None

**POLICY FRAMEWORK IMPLICATIONS:**

36. None



<b>AUTHOR:</b>	Name:	Suki Sitaram	Tel:	023 8083 2060
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**KEY DECISION?** No

<b>WARDS/COMMUNITIES AFFECTED:</b>	N/A
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**SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

**Appendices:**

1.	Decisions by Cabinet on the 12 <sup>th</sup> March 2012 and 16 <sup>th</sup> April 2012
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**Documents In Members' Rooms:**

1.	None
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**Integrated Impact Assessment**

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	No
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**Other Background Documents**

**Integrated Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None	
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<b>DECISION-MAKER:</b>	COUNCIL
<b>SUBJECT:</b>	ANNUAL STANDARDS AND GOVERNANCE BUSINESS REVIEW
<b>DATE OF DECISION:</b>	16 MAY 2012
<b>REPORT OF:</b>	CHAIR OF STANDARDS AND GOVERNANCE COMMITTEE
<b>STATEMENT OF CONFIDENTIALITY</b>	
Not applicable.	

## **BRIEF SUMMARY**

This report gives an overview of the work of the Standards and Governance Committee and decisions made at its meetings from May 2011 to April 2012.

## **RECOMMENDATION:**

- (i) That the report be noted.

## **REASONS FOR REPORT RECOMMENDATIONS**

1. This report is presented in accordance with the agreed recommendations arising from the 2009 Ethical Governance Review.

## **DETAIL (Including consultation carried out)**

2. The 2011/12 municipal year has been an unremarkable one in terms of the regular business of the Standards and Governance Committee. We received, considered and approved reports in respect of the Council's governance procedures, accounts, audit findings and complaints statistics, and while the Council's performance in those fields inevitably fluctuates we found no particular cause for concern in those fluctuations. Rather, the Council performs generally well in comparison to its comparator authorities. That said, there is room always for improvement and never for complacency.
3. Three matters came to the Committee's attention during the year which stood out from its routine work: implementation of the Constitution regarding the role of the Mayor; the report of the Independent Remuneration Panel (IRP); and the Localism Act, particularly inasmuch as it affects the Committee itself and the Members' Code of Conduct.
4. Regarding the role of the Mayor, we noted that some events which were of a ceremonial nature had been attended by the Leader when the Constitution would indicate that the Mayor should be the one to attend. We asked the Solicitor to the Council to remind all Departments of the provisions of the Constitution so as to give proper respect to the office of Mayor and indeed to the Constitution itself.
5. We felt, and advised the Council, that some of the recommendations of the Independent Remuneration Panel would discourage people from standing for election (or co-option) and could thereby damage the democratic process in our community. In the event, the Council needed no encouragement to reject the IRP's report.

6. The Localism Act, among many other provisions, signals significant changes in the governance regime for local authorities, including the role and composition of standards committees. Once those provisions take effect, on 1 July 2012, Independent Members will not have a vote. It is a matter of opinion whether that strengthens or weakens democratic accountability, given that we are not elected, but it does tend to reduce the transparency of the Council's governance arrangements, and the consensus in the Committee is that it is a regrettable development. The Committee was, and remains, concerned at the proposal to abandon a national approach to a code of conduct for members, but it seems likely that collaboration between councils and the Local Government Association will lead to councils using a common model code, or possibly one of two model codes, and the existing national code will in effect be replaced by something which is not much different. Discussions continue about the role, if any, of co-opted Independent Members in the new arrangements.

## RESOURCE IMPLICATIONS

### Capital/Revenue

7. Not applicable.

### Property/Other

8. Not applicable.

## LEGAL IMPLICATIONS

### Statutory Power to undertake the proposals in the report:

9. Section 111 Local Government Act 1972 and Local Government Act 2000.

### Other Legal Implications:

10. Not applicable.

## POLICY FRAMEWORK IMPLICATIONS

11. None.

<b>AUTHOR:</b>	Name:	Brian Hooper		
	Independent Chair of the Standards and Governance Committee			

## SUPPORTING DOCUMENTATION

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

### Appendices

1.	None.
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### Documents In Members' Rooms

1.	None.
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**Integrated Impact Assessment**

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	No
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**Other Background Documents**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None.	
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**Integrated Impact Assessment and Other Background documents available for inspection at:** Not applicable

<b>WARDS/COMMUNITIES AFFECTED:</b>	None.
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<b>DECISION-MAKER:</b>	COUNCIL
<b>SUBJECT:</b>	CITY COUNCIL ELECTIONS 2012
<b>DATE OF DECISION:</b>	16 MAY 2012
<b>REPORT OF:</b>	THE RETURNING OFFICER
<b>STATEMENT OF CONFIDENTIALITY:</b>	
None	

## **BRIEF SUMMARY:**

Report detailing the results of the City Council Elections 3<sup>rd</sup> May 2012.

## **RECOMMENDATIONS:**

- (i) to note the report.

## **REASONS FOR REPORT RECOMMENDATIONS:**

1. To officially record the results of the elections at Council.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:**

2. Not to officially record the results of the elections at Council

## **DETAIL (Including consultation carried out):**

3. Elections in the 16 City Wards were held on Thursday 3<sup>rd</sup> May 2012 and the following candidates were elected unless otherwise indicated:
  - **Bargate Ward** - Matthew Tucker (Labour)
  - **Bassett Ward** - John Hannides (Conservative)
  - **Bevois Ward** - Stephen Barnes-Andrews (Labour)
  - **Bitterne Ward** – Mary Lloyd (Labour)
  - **Bitterne Park Ward** – John Inglis (Conservative) – 2 Years
  - **Bitterne Park Ward** - Ivan White (Conservative)
  - **Coxford Ward** – Sally Spicer (Labour)
  - **Freemantle Ward** - Dave Shields (Labour)
  - **Harefield Ward** – Edward Daunt (Conservative)
  - **Millbrook Ward** – Georgina Laming (Labour)
  - **Pear tree Ward** – Eamonn Keogh (Labour)
  - **Pear tree Ward** – Paul Lewzey (Labour) – 2 Years
  - **Portswood Ward** – Linda Norris (Conservative)
  - **Redbridge Ward** – Lee Whitbread (Labour)
  - **Shirley Ward** – Mark Chaloner (Labour)
  - **Sholing Ward** - Daniel Jeffery (Labour)
  - **Swaythling Ward** – Sharon Mintoff (Labour)
  - **Woolston Ward** – Richard Williams (Labour)

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**KEY DECISION?** No

<b>WARDS/COMMUNITIES AFFECTED:</b>	All
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**SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

**Appendices:**

1.	None
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**Documents In Members' Rooms:**

1.	None.
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**Integrated Impact Assessment**

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	No
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**Other Background Documents**

**Integrated Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None	
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<b>DECISION-MAKER:</b>	CABINET COUNCIL
<b>SUBJECT:</b>	LOCAL AUTHORITY MORTGAGE SCHEME
<b>DATE OF DECISION:</b>	16 APRIL 2012 16 MAY 2012
<b>REPORT OF:</b>	CABINET MEMBER FOR HOUSING
<b>STATEMENT OF CONFIDENTIALITY</b>	
Not applicable	

## **BRIEF SUMMARY**

First time buyers meet a number of challenges in the current housing market. This report outlines a scheme known as the Local Authority Mortgage Scheme (LAMS) which enables Local Authorities (LAs) to support first time buyers to obtain a mortgage from existing lenders.

## **RECOMMENDATIONS:**

### **Cabinet**

- (i) To consider the information about the Local Authority Mortgage Scheme and make any recommendations to Council that are considered appropriate, subject to resolving the outstanding legal issues to the satisfaction of the Director of Corporate Services.

### **Council**

- (i) That the Council adopt the Lend a Hand Mortgage scheme as an initial pilot scheme.
- (ii) The Lend a Hand Mortgage Scheme not to be implemented until the Director of Corporate Services is satisfied as to the lawfulness of the scheme.
- (iii) To operate outside of current Council Treasury Policy to allow money to be placed on deposit for an initial fixed period of 5 years. The investment of £1 million would be deposited with Lloyds TSB to potentially underwrite a minimum of 40 deposits for First Time Buyers.
- (iv) The maximum value of any loan under the scheme is set at £118,750.
- (v) That the Cabinet Member for Housing brings a further Executive report to Cabinet and Council once the pilot funding is exhausted, to allow evaluation of the pilot, and consideration of a wider scheme.
- (vi) That the Council indemnify the Monitoring Officer against all personal liability he will incur by providing Lloyds Bank with an opinion and by providing Lloyds Bank with a signed opinion letter.

- (vii) That the qualifying post codes will include all post codes within the LA boundary area and will exclude any that cross the boundary into a neighbouring authority. The qualifying post codes will be provided to the lender(s) in a schedule to the indemnity deed
- (viii) To delegate authority to the Director for Economic Development to enter into agreements with any financial institution pursuant to Section 435 and 442 of the Housing Act 1985 in furtherance of the scheme and in consultation with the Director of Corporate Services.

## **REASONS FOR REPORT RECOMMENDATIONS**

1. First time buyers within the city are struggling to obtain mortgages, largely due to the requirement for larger deposits.
2. The Local Authority Mortgage Scheme is a national scheme that works to enable first time buyers to access mortgages with smaller deposits.
3. Legal Services advise that a further view on the State Aid implications is required before the scheme is launched, this may include the Council filing an application requesting the UK Government make formal notification to the European Commission and seeking clearance on State Aid.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 4
  - (i) Not to fund the scheme locally. This would mean that the only help for first time buyers requiring financial assistance would be from the national scheme recently launched ('NewBuy'). However, the national scheme only applies to new build homes built by certain developers and the Lloyds scheme specifically excludes new build so they are complimentary in assisting first time buyers.
  - (ii) To fund mortgages direct.
  - (iii) Not to fund this scheme at the current time but reconsider this at a future time.

## **DETAIL (Including consultation carried out)**

### **Background**

- 5 Since the start of the credit crunch in 2007, banks and other mortgage lenders have tightened up on both their lending criteria and the amount of money being lent. At the peak in 2007, £362,632M was lent nationally; by 2009 this had fallen to £142,639M.
- 6 One change has been the move towards lower Loan to Value (LTV) values, which in practice means borrowers having to find higher deposits than have traditionally been required.
- 7 Whilst existing home owners may have equity in their homes or savings from another source to enable them to move, it is first time buyers who have felt the greatest impact of changed lending criteria.
- 8 The Council of Mortgage Lenders (CML) reported that at the end of 2010, the average first time buyer who bought a home, had a deposit of 24%.

- 9 The PUSH Housing Market Survey of 2010 reported that only 4 lenders nationally were offering mortgages with a LTV of 80% or more. Where lenders will lend higher LTV values, the interest rates tend to be higher, making the loan less affordable.
- 10 The Southampton Housing Need Survey, updated by DCA Associates (DCA) in 2010, identified that 98% of new households are unable to afford the deposit required to buy a home in the city. Only 21% prospective purchasers have savings of £1,000 to £5,000.
- 11 On average a deposit of around £25,000- £30,000 would be required to buy a 1 or 2 bedrooomed home in the city.
- 12 DCA have also reported that they found little evidence to support the idea that family members would be able to help first time buyers out in raising a deposit.
- 13 Lloyds TSB report that for every first time buyer purchase, there are 6 property transactions that take place on average. Without first time buyers coming into the market then, the rest of the property market stagnates and existing owners are unable to move.
- 14 In practice there are first time buyers in the city who could afford a mortgage, but are unable to find the required deposit

### **Background to the Local Authority Mortgage Scheme (LAMS)**

- 15 Nationally, a number of LAs started to consider ways that they could finance mortgages to potential buyers. However, issues of limited financial resources, limited staffing resources and expertise, and operational risk meant this option was not viable.
- 16 Rather than lending direct, some LAs began to explore the possibility of entering into partnership with existing mortgage lenders to miminise the financial impact on the LA and to take advantage of the existing expertise of mortgage providers.
- 17 In late 2009, Capita's Sector Treasury Services (Sector) set up a pilot scheme to assess the viability of a Local Authority Mortgage Scheme (LAMS). Sector, acting for Lloyds, investigated the legal and accounting issues involved. Eleven LAs sponsored the initial pilot.
- 18 Sector held discussions with potential funders which revealed that funders were only interested in a large national scheme rather than working separately with individual LAs. The idea of a national scheme was also supported by CML.
- 19 Following the successful completion of the pilot, Sector formally launched the scheme and others LAs are now able to join the scheme.

### **Details of the Local Authority Mortgage Scheme (LAMS)**

- 20 The scheme is aimed at first time buyers, providing help for potential buyers who can afford mortgage payments, but not the initial deposit. The scheme is standardised as much as possible nationally.

- 21 If the potential buyer meets the credit criteria applied by the lender to qualify for a mortgage, the LA will provide a top-up indemnity to the value of the difference between the typical LTV (i.e. 75%) and a 95% LTV mortgage. The potential buyer will thereby obtain a 95% mortgage on similar terms as a 75% mortgage, but without the need to provide 20% deposit usually required. Under the scheme, applicants must satisfy the Lender's current lending criteria.
- 22 To enter the scheme, the LA will need to invest a minimum of £1M, which will be held to the Bank's order for a minimum period of 5 years, which will be extended to 7 years if there are arrears in the last 6 months of the 5 year period.
- 23 When a LA agrees to participate in LAMS, a maximum limit for the total indemnity to be offered under the scheme is set by the LA – currently between £1-£3M. Once this figure has been decided and all the legal documentation completed, the mortgage lender should manage the operational side of the scheme without any direct input from the LA. Sector will undertake an annual audit of the scheme to ensure both parties are fully compliant with the agreement.
- 24 The indemnity remains on deposit with the Bank but during the lifetime of the agreement the LA will also have to make payments to Lloyds, on demand to cover any losses.
- 25 The indemnity would only be called upon if a loss is incurred by the lender, e.g. if a property valued at £100,000, with a mortgage of £95,000 and with LA indemnity of £20,000 is sold at £70,000, net of attributable costs, the full value of the £20,000 indemnity would be requested by the lender. If the property is sold at £90,000 net of costs, i.e. an actual loss of £5,000 is incurred by the lender, £5,000 would be requested from the LA. Any loss in excess of the value of the indemnity would be attributable to the lender. The lender would request payment from the LA, who would undertake to make payment within 30 days.
- 26 The initial £1M deposit is placed in a commercial deposit account where it receives the standard commercial rate of return plus 70 base points. After 5 years the initial deposit matures and a new deposit will be required to the value of any residual mortgages, less any mortgages repaid within the 5 year period. This second deposit account will receive interest at standard commercial rates with no enhancement. Experience from other authorities is that take-up is rapid and the recommendations for the Southampton scheme are quite limited so one might expect to have full take-up within 1 year. In this scenario the LA would be entitled to withdraw all of the second deposit within 1 year of it being made. If the conditions are met for the indemnity period on some mortgages to be extended to 7 years then with good initial take-up some of the second deposit may need to be kept in place for 3 years. In the extreme case where there was not full take-up on the scheme until the end of the 5 year and the indemnity period on some mortgages was extended to 7 years then the council would have to retain some money in the second deposit account for up to 7 years.

- 27 The table below illustrates how risk is shared between the Mortgagee, the Authority and the Bank on an individual property. It should be noted that it takes no account of costs associated with the sale.

House Price Fall	5%	10%	15%	20%	25%	30%
	Risk to Investment					
Mortgagee 5%	100%	100%	100%	100%	100%	100%
<b>Authority 20%</b>	<b>0%</b>	<b>25%</b>	<b>50%</b>	<b>75%</b>	<b>100%</b>	<b>100%</b>
Bank 75%	0%	0%	0%	0%	0%	7%

It should be noted that the table above is for illustrative purposes only to make the point that the Bank has complete protection under the scheme for a fall in house prices of up to 25%. It is likely that there will be claims on the indemnity where house prices fall by less than 5%. In the event of repossession and resale any costs incurred as a result of the resale will be added to the debt. These costs will include estate agent/auction fees, legal costs, administrative costs and any interest on arrears. It is likely that the majority of the Mortgagee's deposit will be used to cover these costs and that any repossession will result on a claim on the indemnity irrespective of the fall in house prices.

- 28 Due to the changing economic environment, further legal and / or accounting advice may be required during the life of the LAMS. Sector state that during the lifetime of the scheme, it may need to obtain updated advice. Any additional fees incurred by Sector in this respect will be payable by the LA in advance.
- 29 The scheme is currently supported by one major mortgage lender, Lloyds TSB. However, it is a requirement of the scheme that mortgage applicants should have a choice of mortgage providers and the scheme should be available to all lenders on a national basis. Lloyds TSB require a cash backed indemnity.
- 30 Sector is currently in dialogue with other new lenders who may join the scheme. Some of these lenders may not require a deposit and may offer a non-cash backed financial guarantee with a premium. Sector advise that due to the State Aid position, a non-cash backed guarantee without a premium is not an option.
- 31 By the end of May 2012, there will be 35 authorities in England that have launched LAMS and there have been about 230 mortgage offers. There are around 250 LAs looking at the scheme.

### The Southampton scheme

- 32 It is proposed that a pilot scheme is undertaken by the Council.
- 33 Currently, Lloyds TSB are the only main lender signed up to lend in this area. Most other lenders currently signed up to the LAMS scheme nationally are smaller local building societies working in restricted locations.

- 34 It is proposed that £1 million is placed with Lloyds TSB to facilitate lending. This is the minimum indemnity Lloyds TSB will accept.
- 35 Interest will be received on the deposit at a rate of 70 base points (bps) above normal commercial rates for a 5 year deposit. For a £1M indemnity there would be an annual income of £7,000 above normal interest rates. Over the 5 year period of the scheme there would be £35,000 available to contribute to the cost of claims against the indemnity.
- 36 There are limited aspects of the national scheme that the Council can influence. These are:-
- (i) Total level of investment i.e. £1-£3M;
  - (ii) Maximum loan size; and
  - (iii) The postcode where first time buyers can buy using the scheme, although these have to be within the city boundary.
- Nothing else can be altered.
- 37 It is proposed that the maximum value of any property under the scheme is set at £118,750. This is considered a reasonable level to find a suitable first home, whilst allowing adequate choice for purchasers.
- 38 The DCA study found that the city average for entry level 2 bed properties is £124, 950. Their evidence is that first time buyers do not generally buy the cheapest properties on the market because these homes often need work to bring them up to standard, and first time buyers lack both the capital and the experience to do such work.
- 39 Assessment of the local market in September 2011 (via the Rightmove property search website) showed that there were 323 properties for sale at £125,000 or less. 172 of these were 1 bedroomed homes, 132 were 2 bedroomed and 19 were 3 bedroomed.
- 40 At a purchase price of £125,000, the purchaser would need to find a 5% (£6,250) deposit. The Council will indemnify 20% (£25,000), with the purchaser taking out a £118,750 mortgage. These examples are indicative based on a 5% deposit.
- 41 If every purchaser on the scheme bought a property at the full value of £125,000 then the pilot scheme would be able to support 40 mortgages (£1m divided by £25,000 per mortgage). However, there may be purchasers who do not require the full amount, which would mean more first time buyers could be assisted.
- 42 It is proposed that there are no restrictions on the areas within the city where purchasers on the scheme can buy. This will allow maximum choice for purchasers. Purchases will however, be restricted to postcodes within the city.
- 43 Lloyds TSB will not lend on new build apartments - this is their general lending criteria and is not specific to this scheme.

## RESOURCE IMPLICATIONS

### Capital/Revenue

- 44 The Council has already paid a £3,000 “research and joining fee” to give access to legal advice written by Sector’s solicitors including a paper on State Aid. The funding also includes any support needed from Sector Treasury Services to help the Council set up the scheme and an annual audit where Sector Treasury Services will ensure the lender(s) have complied with requirements.
- 45 As noted above, the Council will receive an additional income of £7,000 per annum over and above Lloyds normal commission rates for a 5 year deposit, assuming a scheme value of £1M. Should there be no call on this money the Council may expect to see a small profit.
- 46 There are risks associated with the scheme, which the Council would need to consider how to manage and the mitigating controls to be put in place. A Risk Assessment, outlining the risks and potential mitigating controls has been produced by Sector and made available to Legal and Finance. Some of the risks though are inherent in the scheme and cannot be mitigated against.
- 47 A further Risk Assessment compiled by the Council with significant input from Finance and Legal Services is attached at Appendix 1. The main risks of entering the scheme are seen as:-
- the possibility of default by the borrower , causing a shortfall to be paid by the Council;
  - Lloyds assigning their interest to a 3<sup>rd</sup> party,
  - Lloyds or a 3<sup>rd</sup> party assignee changing their lending criteria,
  - Continuing falling house prices resulting in a shortfall upon sale.
- 48 Clearly the main risks are the possibility of default by the borrower and, if this happens, the costs of the guarantee that the Council would pay to the lender. Nationally, latest CML figures show 0.3% of first time buyers default on their mortgages in the early years. A £1M facility would assist around 40 purchasers. Historic trends indicate the number of defaults on 40 mortgages would be very low but clearly these trends do not necessarily indicate what might happen in the future.
- 49 The cost of a default depends on the way property values have changed since the purchase was made, and the table at paragraph 27, shows how the risk is split between mortgagee, authority and bank when property prices fall. Increasing property values would lead to a very low (if any) guarantee payment as the purchasers equity would have increased. However, if property prices fall rather than increase in the short term then this is the scenario where guarantee payments are more likely to arise.
- 50 The extent of the payment is capped at the maximum value of the guarantee for each property. The annual surpluses referred to in paragraph 45 above would be sufficient to fund 1 full guarantee payment over 5 years, after which there would be an unbudgeted cost to the General Fund.

- 51 The main marketing for the scheme will be carried out by Lloyds. The Council may need to make some funding available for the marketing of the scheme and this will have to be absorbed within existing budget lines as there is no separate provision for this activity.
- 52 There is no staffing resources implication for the Council. Any work required in monitoring the pilot will be undertaken within the existing Housing Development and Strategy Team.
- 53 The Treasury Management Strategy for 2012/13 to 2014/15, as approved by Council on the 15 February 2012, does not allow the Council to place money on deposit with any financial institutional for a fixed period of more than one year. The maximum length of time the Council would normally place money on deposit is determined by the prevailing economic conditions. Current advice from the Council's Treasury advisors is that money should not be placed on deposit with Lloyds for more than 3 months. The money placed on deposit to indemnify LAMS therefore requires a specific decision to operate outside the Council's approved Treasury Management scheme.
- 54 The table at Appendix 2 provides details of the 8 schemes currently known to the Council. The Co-op do not currently have a scheme but are looking into the possibility of launching something in the future or to join LAMS. Five of the remaining schemes are local based and do not cover the Southampton area. The only viable alternative scheme to Lloyds is with Leeds BS and this only offers 40 bps above normal commercial deposit rates so would provide a smaller contribution to the cost of any claims against the indemnity.
- 55 Lloyds is considered to be the bank with least risk as it is of national importance to the economy and likely to receive state support should it run into difficulties. The other banks are much smaller and of lesser national importance so are less likely to receive support if they were to get into difficulty.

### **Property/Other**

- 56 None

### **LEGAL IMPLICATIONS**

#### **Statutory power to undertake proposals in the report:**

- 57 The Council has powers under Section 435, and S442 of the Housing Act 1985 to enter into an agreement with a body making an advance on security of a house. There is a possible issue though of the lawfulness of the scheme if the Bank's interests were assigned but it is more likely than not that the Council would be empowered to enter into contractual relations with the assignee of the Bank's rights by section 111 of the Local Government Act 1972.
- 58 This scheme could amount to unlawful State Aid and Legal Services recommend that Cabinet/Council do not implement the scheme until the Council is satisfied that any State Aid issues have been resolved satisfactorily
- 59 There is a possibility that the Indemnity in the Deed falls inside the scope of the Public Contracts Regulations 2006 and Directive 2004/18. Further



information about the scheme is required before additional advice can be given.

- 60 The Monitoring Office (Mark Heath) has to sign an Opinion Letter and Indemnity Deed to the bank. This is a Mandatory requirement by the Scheme. This imposes personal liability on the Monitoring Officer who will need to be satisfied about all aspects of the scheme before signing the documents. The Council will need to sign an indemnity Deed which indemnifies the Monitoring Officer in respect of any personal liability.

**Other Legal Implications:**

- 61 There is a 3-party indemnity agreement between Lloyds, Sector and the Local Authority.
- 62 Legal services advise that Appendix 1 “Risk Table” is considered in detail in conjunction with this report.

**POLICY FRAMEWORK IMPLICATIONS**

- 63 There would be no policy implication to the scheme as all decisions about lending etc will be made by Lloyds TSB under strict Financial Services Authority regulations.

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**KEY DECISION?** Yes

<b>WARDS/COMMUNITIES AFFECTED:</b>	All
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**SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members’ Rooms and can be accessed on-line**

**Appendices**

1.	Risk Table
2.	Summary of banks and building societies involved

**Documents In Members’ Rooms**

1.	None
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**Integrated Impact Assessment**

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	No
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**Other Background Documents**

**Integrated Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s) Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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<b>DECISION-MAKER:</b>	CABINET COUNCIL
<b>SUBJECT:</b>	TOWNHILL PARK REGENERATION FRAMEWORK : FINANCIAL MODEL AND PHASE 1 CAPITAL EXPENDITURE
<b>DATE OF DECISION:</b>	16 APRIL 2012 16 MAY 2012
<b>REPORT OF:</b>	CABINET MEMBER FOR HOUSING

## **STATEMENT OF CONFIDENTIALITY**

Confidential Appendix 1 contains information deemed to be exempt from general publication by virtue of Category 3 of paragraph 10.4 of the Council's Access to Information Procedure Rules as contained in the constitution.

The appendix includes details of a proposed transaction which, if disclosed prior to entering into a contract, could put the Council at a commercial disadvantage in the future. In applying the public interest test it is not considered appropriate to make public offers made as this could lead to a revision of bids.

Therefore, publication of this information could be to the Council's financial detriment.

## **BRIEF SUMMARY**

On 12 March 2012 Cabinet approved a report on the regeneration of Townhill Park. Some of those recommendations were conditional on a further report on the outcome of an affordability assessment, the availability of Housing Revenue Account (HRA) and General Fund (GF) budgets and the completion of the assessment of delivery options. This report deals with these issues.

The "base case" analysis, which is based on the regeneration framework approved in March 2012 (the modified Central Park option), shows that there is a gross capital cost to the Housing Revenue Account of £10.7M (with a net cost of £8.1M after capital receipts) and that the 30 year HRA revenue surplus will be reduced by £21M. The General Fund (GF) will need to fund certain infrastructure improvements at an estimated cost of £2.8M, funding for which will need to be identified once the rules for the use of the Community Infrastructure Levy and the value of the GF capital receipts are known.

The report also sets out the implications of different redevelopment scenarios and options for the re-provision of the social housing. A scenario whereby 50% of the social housing is let at target rent has been recommended as the preferred approach. The subsidy from the council under this scenario, estimated at £3.9M, would be funded through a mixture of reduced HRA land receipts (£2.6M) and utilisation of uncommitted funding in the Housing GF capital programme (£1.3M). The net capital cost to the HRA would, therefore, increase from £8.1M to £10.7M, subject to legal advice.

## RECOMMENDATIONS:

### CABINET

Cabinet are recommended:

- (i) To agree that the HRA capital programme will fund the site preparation costs set out in this report, currently estimated at £10.7M, and:
  - To approve a virement of £10.7M from the uncommitted provision for Estate Regeneration which exists in the HRA capital programme and business plan to establish a specific budget for Townhill Park, the phasing for which is set out in appendix 2.
  - To approve, in accordance with Financial Procedure Rules, capital spending of £2.8M on phase 1 of the Townhill Park project, phased £0.3M in 2012/13, £1.6M in 2013/14 and £0.9M in 2014/15.
- (ii) To note that the General Fund capital programme will be required to fund highways infrastructure, open space improvements and replacement community facilities where appropriate, at an estimated cost of £2.8M with the method of funding this being agreed once the use of the Community Infrastructure Levy and the value of the GF capital receipts are known.
- (iii) To agree that the preferred approach for the provision of the new social housing is for this housing to be supplied by a Housing Association and that 50% of this new social housing provision will be provided for letting at target rents with a potential subsidy from the council, estimated at £3.9M, to be funded through a mixture of reduced land receipts (£2.6M) and utilisation of the uncommitted funding in the Housing GF capital programme (£1.3M), subject to legal advice on the potential financial implications for the HRA.
- (iv) To agree that the phase 1 regeneration of Townhill Park will be by way of a Development Agreement.
- (v) To agree to recommend to Council that:
  - £21M of the 30 year HRA revenue surplus is utilised to meet the long term revenue costs of the regeneration of Townhill Park which includes the requirement to repay the debt on the dwellings that have been disposed of from the general HRA revenue balance as there is no net capital receipt to fund this repayment.
  - The General Fund capital programme funds the highways infrastructure, open space improvements and replacement community facilities where appropriate, at an estimated cost of £2.8M with the method of funding this being agreed once the use of the Community Infrastructure Levy and the value of the GF capital receipts are known.

## **COUNCIL**

Council are recommended to:

- (i) Approve the use of £21M of the 30 year HRA revenue surplus to meet the long term revenue costs of the regeneration of Townhill Park, which includes the requirement to repay the debt on the dwellings that have been disposed of from the general HRA revenue balance as there is no net capital receipt to fund this repayment.
- (ii) Agree that the General Fund capital programme will fund the highways infrastructure, open space improvements and replacement community facilities where appropriate, at an estimated cost of £2.8M with the method of funding this being agreed once the use of the Community Infrastructure Levy and the value of the GF capital receipts are known.

## **REASONS FOR REPORT RECOMMENDATIONS**

1. To approve the financial implications of the regeneration framework for Townhill Park so that the regeneration proposals can proceed.

## **DETAIL (Including consultation carried out)**

### **Background**

2. On 12 March 2012 Cabinet approved a report on the regeneration of Townhill Park. Some of those recommendations were conditional on a further report on the outcome of an affordability assessment, the availability of Housing Revenue Account (HRA) and General Fund (GF) budgets and the completion of the assessment of delivery options. This report deals with these issues.
3. The financial assessment, covering affordability and budgets, can be divided into 2 distinct parts. One is the main regeneration activity involving the demolition of existing dwellings, the provision of new dwellings and other improvement works. The second concerns the provision of the new social housing and whether this is provided by the Council or a Housing Association and what rent levels are to be charged.
4. Trade Union representatives have been consulted on this report.

### **Main regeneration activity**

5. The overall financial assessment of the redevelopment has been prepared by the consultants (CBRE). Confidential appendix 1 provides a detailed report on the redevelopment. The following paragraphs highlight the key conclusions. It needs to be emphasised that the redevelopment costings are high level and based on current regional cost indices and will need to be updated on a regular basis and particularly when development briefs are prepared for specific sites and phases.
6. The approved Regeneration Framework involves the demolition of 380 HRA rented dwellings and also the acquisition and subsequent demolition of a further 48 homes sold under the Right-To-Buy (RTB). There is also the acquisition and subsequent demolition of 5 shop premises, a public house and a community centre where the HRA is the freeholder. All these costs will be met from the HRA. The gross cost over the 10 year regeneration

period of all these items is currently estimated at £10.7M. A more detailed analysis is provided in appendix 2, showing the initial assessment of when the spending will take place.

7. There is no General Fund contribution required for this site assembly activity. There are two GF sites in the regeneration area but there are no costs involved in preparing these sites for redevelopment.
8. As part of the provision of 675 new homes the regeneration framework includes the re-provision of 380 new dwellings for letting at social rents so that there is no loss of affordable housing as a result of the regeneration activity. The “base case” assessment has been prepared on the basis that all these dwellings are provided by a Housing Association and let at affordable rents.
9. This base case assessment gives a capital receipt to the HRA of £2.6M from the sale of the redevelopment land, leaving a net cost to the HRA capital programme of approximately £8.1M once the costs of preparing the sites for sale have been taken into account. The HRA business plan and capital programme has an uncommitted provision of £20M to support Estate Regeneration activity. This would therefore leave a balance of £11.9M to support future schemes.
10. Estate wide regeneration also has capital implications for the General Fund. These cover highway works, improvements to open spaces and re-provision of community facilities. This expenditure is estimated at £2.8M. There is currently no provision in the GF capital programme to meet these costs. However, two of the sites to be sold are held under GF powers so the capital receipts from the sale of these sites would accrue to the GF. These receipts are estimated at £0.5M and it is assumed that they will be applied towards the GF funding of £2.8M.
11. The redevelopment costings have also allowed for payment of the new Community Infrastructure Levy (CIL). This has been assessed using the fee structure that is currently out for consultation. A provision of £2.3M has been included in the redevelopment costings. This means that the council will potentially receive income from CIL of £2.3M from this redevelopment. This represents non ring fenced additional resources for the GF which could be used to fund the type of infrastructure included in the Townhill Park redevelopment plans. At this stage it is not possible to formally ring fence this CIL income for funding the expenditure at Townhill Park because the CIL arrangements are still under discussion. However, the GF will need to fund infrastructure improvements estimated at £2.3M and, if it were possible to utilise the CIL income, there would be no net cost for the GF capital programme.
12. In addition to the CIL payments, a broad assessment has been made of the potential Section 106 developer contributions, which indicates that a site specific transport contribution in the region of £0.4M could be sought. This potential expenditure has been allowed for in the modelling work.
13. The new infrastructure is not expected to have any material impact on GF revenue budgets.

14. For the HRA however, the impact of the loss of 380 dwellings has been assessed over the life of the 30 year HRA business plan. This shows that the projected 30 year surplus of £76M would be reduced by approximately £21M. The main reasons for this are:
- The loss of 380 dwellings represents a reduction in stock of approximately 2%. This reduction is not sufficient to enable a number of the costs associated with the general management of the HRA to be reduced.
  - There is no net capital receipt from the sale of the sites so there are no resources to enable the debt on these properties of approximately £4M to be repaid. This debt therefore has to be repaid from the projected 30 year revenue surplus.
  - The capital spending requirements included in the business plan for these dwellings is less than the average for the stock as a whole.
15. Whilst the capital and revenue costs for the HRA associated with the regeneration of Townhill Park are affordable within the context of the 30 year business plan it is clear that careful consideration will need to be given to the impact on the HRA of future phases of Estate Regeneration as the financial model for Townhill Park is not sustainable in the long term.
16. The above financial analysis has been based on a number of assumptions regarding costs and income that will clearly need to be updated on a regular basis, particularly when detailed development proposals are prepared for each phase and site. Further reports will be made to Cabinet / Council as appropriate if this analysis shows that net costs to the HRA or GF have increased.
17. A number of alternative scenarios to the approved regeneration framework have been assessed to see what impact each has on the overall financial viability of the regeneration framework. The scenarios are:
1. Redevelop Dewsbury Court
  2. Refurbish the shop units and the Ark.
  3. No development on Frogs Copse
  4. Higher code for sustainable homes
  5. 50% of new socially rented homes let at target rents rather than affordable rent
  6. 100% of new socially rented homes let at target rents rather than affordable rent
  7. Allowance for price and construction costs growth
  8. Interest costs increase by 0.5%

It should be noted that the consultants model has treated interest costs on council spending as a capital cost in the same way that a developer would approach funding a new project. In practice this is not the case and appendix 3 shows the HRA and GF capital position excluding interest costs.

18. The conclusion from the analysis is that scenarios 1, 2, 3 and 8 do not have a material effect on the financial position of the redevelopment. These therefore remain viable options for the future when detailed designs are prepared. Scenario 4 would render the redevelopment financially unviable whilst scenario 7 shows a substantially improved position, although there is still a net cost to the HRA. Scenarios 5 and 6 are examined below.

### **Options for the reprovision of social housing**

19. The regeneration framework includes the reprovision of socially rented housing on a one for one basis. Within this overall approach the key questions are:
- Will the reprovision be funded through the HRA or undertaken by a Housing Association?
  - What proportion of the newly rented homes will be made available at target rents as opposed to affordable rents?
20. The issue of what rent levels to charge is a significant one. In April 2002 the Government introduced rent reforms for tenants of all social landlords, which included local authorities and housing associations. Each property has a “target rent” calculated. Most housing association rents have now reached target rent but in the HRA, 2012/13 rent levels are still 5.5% below target. Over the next few years this shortfall will be made good, meaning that rent increases will need to exceed inflation for some time to come. By the time the redevelopment takes place most existing HRA rents will have reached their full target rent level (see table in paragraph 19).
21. In October 2010 the Government announced the introduction of a new social housing tenure called Affordable Rent as part of the Comprehensive Spending Review. Affordable Rent is not subject to the national rent regime but is subject to other rent controls that require a rent of no more than 80 per cent of the local market rent. Affordable rent applies to new build (and some relets) of existing Housing Association owned social rented housing. These homes continue to be let through the council’s Homebid scheme. As part of the proposals for Townhill Park properties developed for affordable rents would have substantially higher rents than target rents. The table below, which uses 2011/12 data, compares the current average rents paid by tenants in Townhill Park for different property types with the comparable rents a Housing Association would charge for a similar new dwelling and also with the new affordable rents:



	Average Actual Rents 2011/12	Target rent for new HA dwelling 2011/12 (^)	Affordable Rent 2011/12	% increase of affordable rent over target rent
	£ per week	£ per week	£ per week	%
1 Bed Flat	60.72	73.11	101.54	38.9%
2 Bed Flat	67.83	84.25	120.00	42.4%
2 Bed House	75.48	89.69	144.00	60.6%
3 Bed House	80.44	101.92	166.15	63.0%
^ - Target rents for HRA dwellings would be 2.96% lower for flats and 5% higher for houses.				

22. Affordable Rent is part of the new funding regime to provide new social housing development. Housing Associations (now known as Registered Providers) have, from 2011, bid for resources to develop social housing based on the fact that these developments would be at Affordable Rent. The introduction of Affordable Rent tenure is a resourceful way of achieving more with less, but the new rent levels are significantly higher. In general terms this means new clients having to pay significantly more for their accommodation than existing clients. If Affordable Rent is the only tenure available following Estate Regeneration, existing clients could be squeezed out of the area. This is significant for a regeneration project such as Townhill Park where it will be important that existing social tenants have the opportunity to remain in the regenerated area. At the same time it will be equally important that a range of tenures of properties are available to encourage the creation of a balanced and sustainable community that moves away from deprivation.
23. Given that the affordable rents model is now the one main vehicle for generating investment in new social housing supply, realistically there is no alternative way of providing the new social housing at target rents other than by the local authority providing some subsidy. It is proposed that regeneration in Townhill provides social housing at 50% Affordable Rent and 50% Target Rent.
24. The base case assessment undertaken by the consultants (CBRE) assumed that all the new dwellings would be owned by a housing association and let at affordable rent. If 50% of these dwellings were let at target rent the housing association would require a subsidy from the council. This has been estimated at £3.9M (scenario 5). If 100% of these dwellings were let at target rent the housing association would require a subsidy from the council estimated at £7.8M (scenario 6).
25. A direct contribution from the Council to a Housing Association for the provision of new social housing is a cost to the GF capital programme. This programme has an uncommitted sum of £1.7M available to support affordable housing. This funding must be used to help fund the costs of new housing provision so it would be possible to use it to help pay this subsidy.

26. An alternative approach could be for the development brief to specify that a certain percentage of dwellings must be let at target rents. This would mean that the housing association would pay less to the developer to acquire the properties. This in turn would reduce the capital receipt the developer would pay to the Council for the land. Care would be needed with this approach to ensure that the redevelopment did not become financially unviable. Legal advice would also be needed on the financial implications for the HRA as this course of action could reduce the HRA capital receipt by up to £2.6M. This would leave the HRA with no capital receipt and increase the net capital costs to £10.7M.
27. As the preferred way forward is for 50% of the new social housing to be let using target rents it would be possible, subject to legal advice, to adopt a mix of the above funding approaches so that the subsidy is funded through a mixture of reduced HRA land receipts and utilisation of the uncommitted funding in the Housing GF capital programme. Three funding options are set out below for meeting the £3.9M anticipated subsidy required to deliver 50% of the reprovision at target rent:
28. **Option A:** the General Fund capital programme funding of £1.7M for affordable housing is utilised, which would leave a gap of £2.2M to be met by the GF for which there is currently no funding available. There is no impact on the HRA from this option.
- Option B:** as option A, but a reduction in the HRA capital receipt is used to meet the £2.2M funding gap (so no GF pressure).
- Option C:** the full anticipated HRA capital receipt of £2.6M is utilised. The balance of funding of £1.3M would be met from £1.7M available in the General Fund capital programme.

Based on the current options presented above, the impact on the HRA and General Fund of each option is set out below:

**Impact on GF: Housing Association 50% Target Rent**

OPTION	A	B	C
	£M	£M	£M
Subsidy Required	3.9	3.9	3.9
Contribution from GF Capital Prog.	(1.7)	(1.7)	(1.3)
Reduction in HRA Capital Receipt	0.0	(2.2)	(2.6)
<b>GF Funding Gap</b>	<b>2.2</b>	<b>0.0</b>	<b>0.0</b>

**Impact on HRA: Housing Association 50% Target Rent**

OPTION	A	B	C
	£M	£M	£M
HRA Capital Cost	10.7	10.7	10.7
Capital Receipt (Base Case)	(2.6)	(2.6)	(2.6)
HRA Capital Receipt reduction to offset HA 50% Target Rent	0.0	2.2	2.6
<b>Revised HRA Net Capital Outlay</b>	<b>8.1</b>	<b>10.3</b>	<b>10.7</b>

### Remaining HRA Capital Sum Available for Estate Regeneration: Housing Association 50% Target Rent

OPTION	A	B	C
	£M	£M	£M
HRA Capital Sum for Estate Regeneration	20.0	20.0	20.0
Capital Outlay Townhill Park	(8.1)	(10.3)	(10.7)
<b>Revised HRA Capital sum for Estate Regeneration</b>	<b>11.9</b>	<b>9.7</b>	<b>9.3</b>

29. Alternatively the new dwellings could be owned by the HRA. There would be no reduction in capital receipts for the HRA or use of GF budgets. It is however, necessary to assess the impact on the HRA business plan of the acquisition of these dwellings. This has been assessed using the current 30 year HRA business plan. The following variations are in addition to the £21M reduction in the 30 year surplus referred to in paragraph 12:

- If the HRA let all the new dwellings at affordable rent there is no impact on the HRA surplus – in other words the income covers the expenditure involved.
- If the HRA let 50% of the new dwellings at target rent then the HRA surplus would reduce by £11M – in other words it would take longer than 30 years for the HRA to recover its costs.
- If the HRA let all the new dwellings at target rent then the HRA surplus would reduce by £22M.

30. The above analysis has been done on the basis that the extra borrowing the HRA would need to undertake to fund the new build programme has been repaid by the end of the 30 year business plan. Therefore the new properties are debt free so there is a higher long term annual surplus for the HRA under any of the new build options but it takes longer than 30 years for there to be an increase in the cumulative surplus.

31. It is therefore proposed that all the new provision is provided by a housing association with 50% to be let at target rent. It is further recommended that **Option C** is adopted to fund the additional cost to the council, due to the need to avoid a further General Fund pressure and a desire to retain part of the GF capital provision for future affordable housing projects.

#### Other financial assumptions / issues

32. The financial assessment has assumed that there will be no grant from the Homes and Communities Agency towards the social housing provision. This is a prudent assumption as the new provision will take place after the current HCA grant regime has finished and there is no information available about what might replace it after 2015.

33. Similarly, no income has been assumed from the New Homes Bonus as beyond 2014/15 this will come from formula grant. Whilst the government have indicated this funding is intended to be a permanent feature of the local government finance system, given the current review of local government financing, there is no certainty as to the mechanism and methodology by which this will be calculated and distributed.
34. It needs to be emphasised that the redevelopment costings are based on current regional cost indices and will need to be updated on a regular basis and particularly when development briefs are prepared for specific sites and phases. These updates will also include the impact of Section 106 costs, final CIL arrangements and the availability of grant as these issues become clearer.
35. It has also now been possible to undertake a detailed “zone by zone” assessment of the master plan. This has shown that there are a few zones where the redevelopment costs are comparatively high compared to the number of new homes provided. As the detailed development briefs are produced it would be sensible to review the detailed plans for these zones to see if the financial position can be improved without compromising the regeneration of the area.

### **Assessment of Delivery Options**

36. The delivery options are:
  - Using a development agreement,
  - Setting up a Joint Venture with one or more private sector partners
  - The council acting as a developer and undertaking all the work itself.
37. Confidential appendix 1 gives a full assessment of these options. In summary the option of the council acting as a developer is considered to expose the council to undue risks and this is not the council’s area of expertise. This option is therefore not recommended for further consideration.
38. The Development Agreement is the route the council has adopted in previous schemes and it is proposed that this route is adopted for phase 1 at Townhill Park. The option of a Joint Venture needs further consideration, particularly in light of the potential regeneration of further parts of the city, the master planning for which was agreed by Cabinet in February.

### **Planning Strategy**

39. The consultants’ report recommends that the Council consider obtaining either outline planning consent or adoption of the Regeneration Framework as a Supplementary Planning Document (SPD). The Council will investigate the benefits of these approaches as the work moves forward.

### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

40. The option of not approving the financial contributions to meet the cost of delivering the regeneration framework has been rejected as it would not enable the regeneration of Townhill Park to proceed.
41. The option of the HRA providing the new social housing has been rejected as it would increase the impact on the 30 year HRA revenue surplus.

## RESOURCE IMPLICATIONS

### Capital/Revenue

42. The overall capital and revenue implications of the regeneration framework have largely been set out above. However, one of the principles agreed by council for developing the HRA business plan is that the debt outstanding on a dwelling should be repaid from the proceeds of the sale when it is sold. This is not possible at Townhill Park as there is no net capital receipt. The debt on these dwellings will need to be repaid from the projected 30 year revenue surplus which is one of the reasons why the 30 year surplus is lower than reported in the budget. This is a matter which needs the approval of Council.
43. In order to progress with phase 1 once a development brief has been agreed it is also proposed that Cabinet agree to the capital expenditure involved in getting the sites in phase 1 ready for development. A more detailed assessment of these costs is set out below:

	2012/13	2013/14	2014/15	Total
	£000	£000	£000	£000
Demolition	0	0	596	596
Tenant compensation	66	453	66	585
Leaseholder compensation	157	1,069	159	1,385
Project management	77	78	79	234
Total	300	1,600	900	2,800

44. It is therefore recommended that capital expenditure of £2.8M is approved, in accordance with Financial Procedure Rules, provision for which exists within the approved HRA capital programme.

### Property/Other

45. There are no additional implications above those set out in the report to Cabinet in March 2012.

## LEGAL IMPLICATIONS

### Statutory Power to undertake the proposals in the report:

46. The capital receipt the council receives from the land sale will vary depending from the differing levels of social housing provision that is specified for letting at target rent. It will be necessary to seek legal advice on the accounting implications for the HRA of this approach before financial implications for the council can be fully assessed. It is also necessary to ensure that the sale represents best consideration for the Council; otherwise it would be necessary to obtain the Secretary of States consent to the disposal.

### Other Legal Implications:

47. None.

## POLICY FRAMEWORK IMPLICATIONS

48. The updated Housing Strategy 2011-15 and Housing Revenue Account Business Plan 2011-2041 approved by Cabinet on 4<sup>th</sup> July 2011 (and Council on 13<sup>th</sup> July 2011) confirm estate regeneration as a key priority for the Council. The proposals in this report will contribute towards the achievement of these objectives.

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### **SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

#### **Appendices**

1.	Confidential – Detailed draft consultants report giving financial assessment of the regeneration proposals
2.	Townhill Park Capital Expenditure and Income – all phases
3.	Impact on overall Financial Position of different scenarios.

#### **Documents In Members' Rooms**

1.	None.
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#### **Integrated Impact Assessment**

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	Yes/No
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#### **Other Background Documents**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None	
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**Integrated Impact Assessment and Other Background documents available for inspection at:**

<b>WARDS/COMMUNITIES AFFECTED:</b>	Harefield and Bitterne Park
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Document is Confidential

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