



Exeter City Council

To the Chair and Members
of the Executive

Philip Bostock, Chief Executive

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A meeting of the **EXECUTIVE** will be held in the Rennes Room, Civic Centre, Paris Street, Exeter at **5.30 pm** on **TUESDAY 24 MARCH 2009** to consider the following business. If you have an enquiry regarding any items on this agenda, please contact Rowena Whiter, Member Services Manager on **Exeter 265110**.

Entry to the Civic Centre can be gained through the Customer Service Centre, Paris Street.

Pages

AGENDA

Part I: Items suggested for discussion with the press and public present

1

MINUTES

To sign the minutes of the meetings held on 27 January and 10 February 2009.

2

DECLARATIONS OF INTEREST

Councillors are reminded of the need to declare personal and prejudicial interests, including the nature and extent of such interests, in relation to business on the agenda, before any discussion takes place on the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

3

GRANTS COMMITTEE

To receive the minutes of the meeting held on 26 February 2009.

1 - 4

(Minutes circulated)

4

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - EXCLUSION OF PRESS AND PUBLIC

RECOMMENDED that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the consideration of items 14 and 15 on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1, Schedule 12A of the Act.

5 **SCIENCE PARK UPDATE**

To consider the report of the Director Economy and Development. 5 - 10

(Report circulated)

6 **HOUSING REVENUE ACCOUNT BUSINESS PLAN 2009 - 2039**

To consider the report of the Head of Housing Services. 11 - 18

Scrutiny Committee – Community considered the report at their meeting on 10 March 2009 and their comments will be reported.

(Report circulated)

7 **HOUSING ASSET MANAGEMENT STRATEGY 2009 - 2015**

To consider the report of the Head of Housing Services. 19 - 24

Scrutiny Committee – Community considered the report at their meeting on 10 March 2009 and their comments will be reported.

(Report circulated)

8 **DRAFT EMPTY HOMES STRATEGY 2009 - 2014**

To consider the report of the Head of Housing Services. 25 - 26

Scrutiny Committee – Community considered the report at their meeting on 10 March 2009 and their comments will be reported.

(Report circulated)

9 **PRIVATE SECTOR HOUSING RENEWAL POLICY - ANNUAL REVIEW**

To consider the report of the Head of Environmental Health Services. 27 - 32

Scrutiny Committee – Community considered the report at their meeting on 10 March 2009 and their comments will be reported.

(Report circulated)

10

EXETER AIR QUALITY STRATEGY 2009 - 2014

To consider the report of the Head of Environmental Health Services. 33 - 34

Scrutiny Committee – Community considered the report at their meeting on 10 March 2009 and their comments will be reported.

(Report circulated)

11

REVIEW OF THE NJC JOB EVALUATION SCHEME

To consider the report of the Head of Human Resources. 35 - 38

(Report circulated)

12

OMBUDSMAN REPORT

To consider the report of the Ombudsman concerning a finding of maladministration in the way the Council pursued a Council Tax debt. 39 - 58

(Report circulated)

13

LORD MAYORALTY

To nominate the Lord Mayor Elect and the Deputy Lord Mayor Elect for the 2009/2010 Municipal Year.

Part II: Item suggested for discussion with the press and public excluded

14

EXTRALET SCHEME PROGRAMME REPORT AND RESTRUCTURE

To consider the report of the Head of Housing Services on the progress of the Extralet scheme and a proposed restructure. 59 - 66

Scrutiny Committee – Community considered the report at their meeting on 10 March 2009 and their comments will be reported.

(Report circulated to Members)

15

RAMM AND THE RENAISSANCE PROGRAMME

To consider the report of the Head of Leisure and Museums seeking approval to align the RAMM operation with changes in Renaissance funding. 67 - 70

Scrutiny Committee – Community considered the report at their meeting on 10 March 2009 and their comments will be reported.

(Report circulated to Members)

DATE OF NEXT MEETING

The next scheduled meeting of the Executive will be held on **Tuesday 7 April 2009** at 5.30 pm in the Civic Centre.

A statement of the executive decisions taken at this meeting will be produced and made available as soon as reasonably practicable after the meeting. It may be inspected on application to the Customer Service Centre at the Civic Centre or by direct request to the Member Services Manager on 01392 265110. Minutes of the meeting will also be published on the Council's web site as soon as possible.

Membership -

Councillors Fullam (Chair), S Brock, Cole, Edwards, Fullam (Chair), R M Hannaford, Mrs Henson, Mitchell, Mrs J Morrish and Wadham

Find out more about Exeter City Council services by looking at our web site <http://www.exeter.gov.uk>. This will give you the dates of all future Committee meetings and tell you how you can ask a question at a Scrutiny Committee meeting. Alternatively, contact the Member Services Officer on (01392) 265115 for further information.

Individual reports on this agenda can be produced in large print on request to Member Services on 01392 265111.

Agenda Item 3

GRANTS COMMITTEE

Thursday 26 February 2009

Present:-

Councillor Vanessa Newcombe (Chair)
Councillors S Brock, A Hannaford, Robson, Sheldon and Winterbottom

Also Present

Director Community and Environment, Principal Accountant (SH), Community Inclusion and Engagement Officer, Festival and Events Manager and Member Services Officer (SJS)

1 MINUTES

The minutes of the meeting held on 4 December 2008 were taken as read and signed by the Chair as correct.

2 DECLARATIONS OF INTEREST

A Member declared the following personal interest:-

COUNCILLOR	MINUTE
Councillor Robson	4 (trustee of Exeter Relate)

3 SAVINGS IN THE GRANTS BUDGET

The Director of Community and Environment informed Members that at Council on 24 February 2009 it had been resolved to reduce the grants budget by £50,000 per annum as part of the savings required to achieve a balanced budget. Provided that there was a sufficient resource in the closing of the Council's 2008/09 revenue accounts, there was currently an unallocated balance of £4,093 for grant-making purposes over the 2008/09 and 2009/10 financial years.

Members agreed that the remaining funds would be used to support applicants for the Individual Talent Scheme whose families were on means tested benefits.

4 NEW CORE GRANT

Councillor Robson declared a personal interest as a trustee of Exeter Relate.

RESOLVED to recommend to Executive that the decision as set out below be implemented in respect of the body indicated;

NEW CORE GRANT	RECOMMENDED	COMMENTS
Community/Social Need		
Exeter Relate	Refuse	Exeter City Council awarded a rent grant of £11,600 in December 2008

5

SERVICE AGREEMENTS WITH STRATEGIC ARTS ORGANISATIONS

The City Arts Officer presented the report to approve the Service Profiles, targets and measures which would be the basis of Service Agreements with the Exeter Northcott Theatre, Theatre Alibi, Spacex Gallery, Wren Trust, Bournemouth Symphony Orchestra, and Exeter Phoenix for 2009/10 and to also approve their grant funding for 2009/10.

RESOLVED to recommend to Executive that:-

- (1) the Service Profiles and Agreements for Theatre Alibi, Spacex Gallery, Wren Trust, Bournemouth Symphony Orchestra and Exeter Phoenix for 2008/09 be agreed as the basis for approval of the release of 80% of the grants detailed in paragraphs 5.2 and 5.3 of the circulated report;
- (2) final approval and release of the grant for the Exeter Northcott would depend on subsequent agreement of the Service Profile to be presented to the Chair of this Committee, the Portfolio Holder of Economy and Tourism and the Head of Economy and Tourism by the end of March 2009;
- (3) final approval and release of the grant instalments for Exeter Barnfield Theatre would depend on subsequent agreement of the satisfactory implementation of the Theatre's Business Plan that resolves current concerns as to the clear and transparent governance of the Theatre. Regular progress reports commencing in April 2009 would be presented to and approved by the Chair of this Committee and the Portfolio Holder of Economy and Tourism and the Head of Economy and Tourism; and
- (4) the remaining 20% of the grants be released in January 2010 subject to a report being submitted to the Grants Committee in December 2009 and the Committee being satisfied with the actions being proposed.

(Report circulated)

6

EXETER CITY COUNCIL GRANTS FOR YOUNG PEOPLE – INDIVIDUAL TALENT SCHEME

The Director Community and Environment outlined the criteria for the Individual Talent Scheme application which reflected the budget savings in the Grants Budget.

- (i) **Katie Leck - Age: 8 - Sport/Activity: Tennis**

This application did not meet the Council's criteria for the individual talent scheme.

RESOLVED to recommend to Executive that this grant be refused.

- (ii) **Robert Leck - Age: 10 - Sport/Activity: Tennis**

This application did not meet the Council's criteria for the individual talent scheme.

RESOLVED to recommend to Executive that this grant be refused.

(iii) **Katie McGinley - Age: 17 - Sport/Activity: Netball**

A previous grant of £500 had been made in 2007/08.

This application met the Council's criteria for the individual talent scheme.

RESOLVED to recommend to Executive that a grant of £750 be made as this applicant meets the Council's criteria.

(iv) **Lyell Fuller - Age: 13 - Sport/Activity: Squash**

This application did not meet the Council's criteria for the individual talent scheme.

RESOLVED to recommend to Executive that this grant be refused.

(Report circulated)

(The meeting commenced at 4.30 pm and closed at 4.50 pm)

Chair

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EXETER CITY COUNCIL

EXECUTIVE

24 MARCH 2009

EXETER SCIENCE PARK UPDATE

1. PURPOSE

To update Members on progress with the development of Exeter Science Park.

2. BACKGROUND

- 2.1 Executive on 19 June 2007 approved an investment of £750,000 as a contribution towards the equity required to progress the first stage of the development of the science park. The City Council is part of a partnership involving East Devon District Council, Devon County Council, the University of Exeter, the Met Office and the South West of England Regional Development Agency, all of whom are providing significant levels of funding for this project.
- 2.2 The establishment of a science park in the Exeter economy is a priority in sub-regional and regional economic strategies. The Exeter and Heart of Devon Economic Partnership's Economic Development Strategy has this as one its main objectives, as does the Exeter Vision. The Regional Economic Strategy prepared by the South West of England Regional Development Agency and the draft Regional Spatial Strategy both underline the value of innovation and of the exploitation of "knowledge" for the region's economy and refers to an Exeter Science Park as a very important development. The science park is considered by all the partners involved to be an important contribution to the recovery of the sub-regional economy, after this current difficult time.
- 2.3 The benefits to be derived from the development of the science park include:
- the creation of a high value employment location and the consequent injection of higher incomes and expenditure into the local economy
 - the further positioning of the city as a serious regional business centre with specialist scientific and technological activities which have a national and international standing
 - providing a focus for the Met Office's desire to secure scientific and commercial spin-offs from their core work, generating new business and jobs
 - a means for the University to attract further research funding, which can stimulate the commercialisation of scientific knowledge and applications
 - the development of small and medium sized science companies employing people with a range of skills from technicians (with school level skill levels) to high grade scientists

- the development of businesses providing services to science park businesses in turn sustaining existing and creating additional, new employment at all levels in the sub-region
 - the provision of grow-on space for tenants of the Innovation Centre requiring larger accommodation
 - the potential of creating some 2,500 – 3,000 jobs in the first fifteen years or so
- 2.4 The economy of the city and sub-region is heavily dependent on the public and service sectors which may well decline or have limited growth in future years, leading to loss of employment and less economic activity than has recently been experienced. The City's economy is also disproportionately made up of low wage employment, limiting standards of living, career opportunities and aspirations. It is important, particularly in the current economic climate to take a longer-term view, to build upon those existing assets of the city, in particular the University, the Met Office, and the Peninsula College of Medicine and Dentistry with their national and international reputations, and the city's advantageous location. They provide a basis for creating and attracting knowledge-based businesses that have the potential to bring higher quality employment opportunities.

3. PROGRESS

- 3.1 The report in June 2007 updated Members on the preparation of the Business Plan setting out the vision for the science park, proposals for the structure of the delivery organisation, site and access issues, provided a broad project timeline and a financial forecast setting out the initial investment required. Reference was also made to progressing planning related issues in view of the need to eventually secure planning permissions.

Site Issues

- 3.2 The 24 hectare site at Redhayes, immediately adjacent to Junction 29 of the M5, has been purchased by Devon County Council on behalf of the Science Park Partnership with funding provided by the South West of England Regional Development Agency (SWRDA). The £19m grant provided by SWRDA has also procured an additional 2 hectares of land required for necessary improvements to Junction 29, which is key to progressing the development of Skypark, the airport enhancements and the new settlement at Cranbrook. The remainder of the funding is being used for the first phase of the access and services infrastructure for the science park site. Devon County Council has also submitted various major infrastructure bids to help fund the road infrastructure improvements.
- 3.3 The previous owner of the land, Eagle One, is the preferred developer for the first phase of the science park and future phases will be developed in open competition. Negotiations are currently underway to determine the detailed requirements for the first building and the selection of a suitable hotel operator to provide conferencing and meeting facilities for science park occupiers. The first building of about 30,000sq ft is intended to be the central hub of the park as the base for the science park management, business support services and first commercial occupants. The viability and timing of progressing the first phase of the development of the science park will depend greatly on the terms of these negotiations.

- 3.4 Master planning of the site was completed last year and the completed Master Plan has been published on East Devon District Council's website from January 2009. The Master Plan reflects the aspirations of project partners and their desire to create a commercially and environmentally attractive environment for innovation and investment that will strengthen the sub-regional economy.

Planning Applications

- 3.5 A series of public exhibitions and briefings are being held at locations near and around the site in late February and early March, to display and invite comments on the pre-planning application proposals. An explanatory leaflet has been produced with a closing date of 20th March for receipt of comments. Responses to the exhibitions and briefings will form the basis of the Statement of Community Involvement, which is also required in support of the Planning Application.
- 3.6 Preparatory work for the submission of an Outline Planning Application in June 2009 is progressing well. The necessary Transportation Assessment is currently the subject of discussion between the County Council, the City Council and the Highways Agency, but is anticipated to be completed in time. The draft Energy Options Appraisal which will contribute to another component of the Outline Planning Application, the Sustainability Strategy. This requires further investigatory work in order that optimum solutions can be found to satisfy the requirements for cost and environmentally efficient energy supply solutions. The Strategy will also look at the wider needs of adjacent major developments that will be coming forward in the near future.
- 3.7 Other necessary documents to support the Outline Planning Application are being progressed with the aim of completing them in May, including the Flood Risk Assessment, Development Framework, Design Codes and Access Statements.
- 3.8 The Steering Groups timescale for progressing to the construction of the first building is ambitious and is as follows:-

Activity	Date
Company formation	April 2009
Outline Planning Application submitted	June 2009
Start marketing to tenants	September 2009
Planning Application determined	December 2009
Detailed Planning Application determined for central hub building	December 2009
Site advance works	January 2010
Central hub building construction starts	March 2010

Business Plan

- 3.9 As with any business plan, circumstances change and the original version of the business plan is currently being revised. Fundamental component parts of the financial case within the business plan relate to the funding of the first building(s), in particular the central hub building. The current value of land and the likely contribution from other developments on the site, including the development of a hotel, also have a bearing on the viability of proposals for the first central hub building to establish the presence and early operation of the park. Negotiations are currently underway to set out in detail the way forward.

Governance

- 3.10 The project is currently overseen by a Steering Group chaired by the University of Exeter, comprising representatives from all the partners and when appropriate attended by the preferred developer. Executive on 19 June 2007 supported the concept of the formation of a Company Limited by Shares to continue overseeing the development of the park and to be represented on the Board, to ensure that the City Council has representation and influence over its delivery organisation commensurate with the level of its investment.
- 3.11 The detailed arrangements for the company including a Shareholders' Agreement are currently being drawn up, and include arrangements for all partners, including the City Council, to have one directorship. There will also be an appointed independent non-executive director who will be the chairman of the company. Recruitment for this position is currently underway. The Board may in time appoint executives to run the company on a day-to-day basis, who shall report to the Board.
- 3.12 The Head of Economy and Tourism is the City Council's representative on the Science Park Steering Group and, following the agreement of the Leader of the Council and Portfolio Holder, will become the Council's director on the Board of the new company once formed by April 2009.

Marketing

- 3.13 A sub-group of the Steering Group has been developing a marketing strategy and plan for the science park in anticipation of a successful planning application, and in order to start to build its profile against the background of the difficult economic climate,
- 3.14 The approach will be based on promoting the intended quality of the built and landscaped environment, the locational advantages of the park, as well as the research strengths of the University, the Peninsula College of Medicine and Dentistry and the Met Office. This marketing plan is likely to involve two stages. Firstly, contacting those businesses that have already expressed an interest, those who are located at the Innovation Centre, or are science, technology and knowledge-based businesses located within 30 miles or so of the city. The second stage will be based on assessments of the potential markets for the leading research undertaken by the University, PCMD and the Met Office.

4. FINANCIAL IMPLICATIONS

- 4.1 In line with the funding target of a least £3m set out in the initial Business Plan, the City Council approved an investment of £750,000 as an equity contribution on the basis that this target was achieved together with contributions from the other partners. A total of £3,355,000 was achieved. This funding is being used to fund initial operating costs and towards the cost of the first building, until the first income streams are generated from lettings or other sources.

5. RECOMMENDED that:

- 5.1 Members note the report.

**RICHARD BALL
HEAD OF ECONOMY AND TOURISM**

ECONOMY AND DEVELOPMENT DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)

Background papers used in compiling the report:

1. Committee Report to Executive 19 June 2007 - "Proposed Science Park"

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EXETER CITY COUNCIL

SCRUTINY COMMITTEE – COMMUNITY 10 MARCH 2009

EXECUTIVE 24 MARCH 2009

HOUSING REVENUE ACCOUNT BUSINESS PLAN 2009-2039

1 PURPOSE OF THE REPORT

- 1.1 To inform Members of the outcome of the annual review of the Housing Revenue Account Business Plan.

2 INTRODUCTION

- 2.1 All local authorities which have retained their housing stock have a statutory obligation to produce a 30 year Housing Revenue Account (HRA) Business Plan that is passed as 'fit for purpose' by their local Government Office. The plan sets out the financial position for the HRA and apportions funding to both revenue and capital spending. The plan also sets out the services priorities in terms of service improvements and capital investment.
- 2.2 The current HRA Business Plan has been reviewed to ensure financial models and funding predictions match current levels of subsidy and other income. The current review has been undertaken following receipt of the draft HRA subsidy determinations for 2009/10. The total finance available has been checked against our housing capital programme, including the Decent Homes Programme, to ensure sufficient resources are available to meet these commitments. The levels of capital resources available, and the investment plans for the housing stock are set out in detail in the Housing Asset Management Strategy (see separate agenda item).

3 2006-2036 HRA BUSINESS PLAN

- 3.1 Following the Options Appraisal exercise in 2004/05 the Council committed enough housing capital resources to ensure that we not only met the Decent Homes Standard by 2010, but also a higher 'Exeter Standard' by 2015. This was agreed with residents following extensive consultation and the Government Office for the South West (GOSW). The Options Appraisal was signed off by the GOSW in July 2005.
- 3.2 The 2006–2036 Business Plan predicted that the HRA will continue to make a surplus over the lifetime of the plan. This surplus would be used to maintain and, where possible, increase reserves and to make significant revenue contributions (almost £2 million per annum by 2015) to the housing capital programme. It also predicted that our HRA Subsidy contribution to central Government would remain at or around £3.3 million per annum.
- 3.3 Despite this, the plan also predicted that the amount of capital resources available would fall short of the expenditure required by 2008/09. At that time we planned that this shortfall would be made up by improved procurement of materials and the use of some reserves. This has proved to be the case. However, the plan also recognised that the level of shortfall would rise significantly by 2015 when any future capital programme would need to be severely reduced, unless other means of funding the programme could be found.

4 2009-2039 HRA BUSINESS PLAN

- 4.1 Since the publication of previous Business Plan the amount of finance available for the housing service has changed considerably and a full review of the situation has been undertaken by officers and residents on the Tenants and Leaseholders Committee (TALC). The result of this review is outlined in this report and the separate Housing Asset Management Strategy report elsewhere on the agenda.
- 4.2 The biggest impact on the amount of finance available has been the change to the Council's subsidy payment to central Government. The 2007/08 HRA Subsidy Determination produced a dramatic increase in our subsidy contributions from £3.3 million per annum to £4.4 million. In 2009/10 this will rise again to £4.7 million with further increases predicted, year on year, to approximately £5.6 million by 2015.
- 4.3 This change has affected the level of revenue contributions we are able to make to the capital programme (now reduced to approximately £800k in 2008/09) and meant a greater use of reserves to maintain the capital programme at sustainable levels. The Council's HRA reserves will reduce to approximately £1.8 million in 2009 and £1.5 million in 2010 to provide additional support to the capital programme. It is not recommended that these reserves are allowed to fall any further to ensure we have sufficient funds available to meet unexpected or emergency expenditure.
- 4.4 At the same time rents, although increasing above inflation, will not reach target rent therefore denying the HRA further resources. The level of capital receipts from Right to Buy sales has now reached an all time low and Government rules on the use of these receipts now mean we are only allowed to keep 25%, with the remainder being 'pooled' nationally. Historic receipts, accrued over many years, have been spent on decent homes investment in the housing stock. Finally, income from the interest on our investments has declined as interest rates have fallen and the size of our reserves has reduced. The full set of HRA estimates for the 30-year business plan period are attached as Appendix I.
- 4.5 At the time of writing this report the Council received information via a third party that ministers are considering a change to the way interest is charged to the HRA. This change would seek to treat negative subsidy authorities (as per Exeter) in the same way as positive subsidy authorities and is likely to have a positive effect on our HRA subsidy calculation. Any change in the Council's housing finances will be considered once their full effect is known and if significant will be reported back to members.
- 4.6 Following a comprehensive review of the Council's housing assets (both stock and land holdings), in particular the condition of the housing stock and its surrounding areas, the levels of cyclical work, planned maintenance and major improvements are forecast to increase. The current information from the stock condition survey database, other individual surveys such as those undertaken during the annual improvement programme and responsive maintenance data all show that the level of maintenance and improvement work required is far greater than originally predicted. In addition, in order to meet the Decent Homes and Exeter Standards the amount of external work to buildings and estates had been reduced to free up sufficient funding. Some of the external environment is now causing concern and has seen a rise in complaints from tenants. Many other components within our properties are nearing or are past their predicted natural life (eg boilers, electrical heating systems, water supply piping, windows etc) and budgets need to be created to meet the need to replace these. Additional expenditure is also required to ensure communal areas in blocks of flats meet new fire safety regulations.

- 4.7 At the same time it is expected that the Government will announce that the Decent Homes Standard will need to be maintained after the 2010 target has been met and possibly increased and expanded into other areas of work, for example, improving the energy efficiency of our stock.
- 4.8 Unfortunately, because of the changes in our financial position the revised HRA Business Plan is unable to allocate the amount of finance required to undertake the level of work identified. As a consequence the Exeter Standard, promised to tenants in 2005 cannot now be delivered within the timescales originally agreed. Other work such as re-roofing and re-wiring will now be done using an assessment based on condition rather than age, helping the Council to reduce levels of expenditure in these areas in order to maintain expenditure in others. The capital resources available annually over the full 30-year period of the business plan are set out in Appendix II.
- 4.9 The Housing Asset Management Strategy sets out in detail how expenditure of the available capital resources will be prioritised. It also sets out the work and levels of investment that is required to the stock that cannot be funded. These 'unfunded' works will continue to be monitored and included in future improvement programmes if and when resources become available.
- 4.10 The Business Plan will continue to seek improvements to the housing service overall. The latest tenant satisfaction survey showed that levels of satisfaction remain high (well above national averages) and that almost 50% of tenants have noticed real improvements to the service over the past two years. It is hoped these improvements will continue and that our overall value for money will increase. Such improvements may also generate further efficiency savings that can be recycled into improved services or an expanded capital programme. We will also ensure that our contracting arrangements continue to drive efficiencies in the service provided and improve the quality of the service over the lifetime of the contract.

5 HRA SUBSIDY REVIEW

- 5.1 There are currently 206 stock holding local authorities across the country. Of these 156 are in 'negative subsidy', including Exeter. This means that the Government believes the amount of money we need to spend on our services is less than the income we generate. Therefore, any notional 'surplus' is paid into the national Housing Revenue Account and re-distributed by Government to those Councils (typically large urban authorities) where expenditure is high.
- 5.2 Over recent years the amount of subsidy paid by authorities such as Exeter has risen dramatically as illustrated in paragraph 4.2. This has caused concern amongst those negative subsidy authorities and prompted ministers to call for a comprehensive review of the current system. The Head of Housing Services sits on the national review body and has provided evidence to demonstrate that our expenditure needs are greater than the current HRA formulas allow. It is expected that the outcome of this review will be reported to ministers in the spring/summer of 2009 with any firm recommendations being considered during the next comprehensive spending review, due in 2010. Any change to the system will then be implemented from April 2011.
- 5.3 Whilst this review is welcome, and it is hoped will result in a fairer settlement for authorities such as Exeter, this does not help plug the gap in funding for our housing capital programme from 2010 onwards. Therefore, a short term solution is required to enable the capital programme to be sustained pending the outcome of the national HRA subsidy review.

5.4 Therefore, the revised Business Plan recommends that in order to maintain a sustainable capital programme the Council will borrow against the Housing Revenue Account. The total amount required will not be known until the draft HRA Subsidy Determination is received in November this year. However, the amount required is unlikely to exceed £1 million. Current interest rates are such that the cost of this borrowing is likely to cost approximately £40,000 per annum.

6 S151 OFFICER COMMENTS

6.1 The Head of Treasury Services has confirmed the accuracy of the financial information used in this report and can also support the conclusions presented below.

7 CONCLUSION

7.1 The HRA Business Plan continues to demonstrate that the Housing Revenue Account will generate a surplus, year on year, as a result of the low cost of managing and maintaining our housing stock. This surplus will continue to be used as a contribution to the housing capital programme.

7.2 The plan also demonstrates that due to increasing subsidy payments, reduced income from the Right to Buy and investments and annually capped rent rises, the amount of finance available to invest in the housing stock falls short of the total amount required over the period of the business plan.

7.3 In managing the housing stock it is important that improvements to services continue to be made and that any efficiency savings generated as a result are recycled into improved services and/or additional stock investment

7.4 That whilst the Council waits for the outcome of the national HRA subsidy review it agrees to borrow against the HRA in order to maintain a sustainable capital programme in the medium term.

8 RECOMMENDED

That Scrutiny Committee – Community supports and Executive approves

- 1) the conclusions in this report;
- 2) that if necessary the Council borrows against the HRA in 2010/11 to maintain the capital programme pending the outcome of the national HRA subsidy review;
- 3) that a further review is undertaken of the HRA Business Plan in 2010 and the findings reported to Members.

HEAD OF HOUSING SERVICES

S:PA/LP/ Committee/309SCC4
24.2.09

COMMUNITY & ENVIRONMENT DIRECTORATE

**Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling this report:**

Housing Revenue Account Estimates 2009-2039

	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	Total
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s
Rent Income	15,306	16,016	16,322	16,577	16,771	16,871	16,970	17,070	17,171	17,269	17,370	183,713
Non Dwelling Rents	589	618	639	662	682	703	724	746	769	787	812	7,731
SP Grant	170	170	170	170	170	170	170	170	170	170	170	1,870
Housing Subsidy	(4,744)	(5,092)	(5,374)	(5,528)	(5,603)	(5,654)	(5,680)	(5,707)	(5,732)	(5,758)	(5,781)	(60,653)
Total Income	11,321	11,712	11,757	11,881	12,020	12,090	12,184	12,279	12,378	12,468	12,571	132,661
General Management	3,318	3,375	3,434	3,494	3,502	3,511	3,520	3,529	3,538	3,547	3,556	38,324
Bad Debt Provision	20	20	20	20	20	20	20	20	20	20	20	220
Repair and Maintenance	3,909	3,948	3,987	4,027	4,067	4,108	4,149	4,190	4,232	4,274	4,317	45,208
Depreciation	3,273	3,381	3,443	3,505	3,533	3,561	3,591	3,620	3,651	3,681	3,712	38,951
Total Expenditure	10,520	10,724	10,884	11,046	11,122	11,200	11,280	11,359	11,441	11,522	11,605	122,703
Net Cost of Services	801	988	873	835	898	890	904	920	937	946	966	9,958
Interest	222	166	181	191	258	295	299	304	309	314	317	2,856
Operating Income/ Expenditure	1,023	1,154	1,054	1,026	1,156	1,185	1,203	1,224	1,246	1,260	1,283	12,814
Revenue Contribution to Capital	1,562	1,500	1,000	970	1,080	1,100	1,110	1,130	1,140	1,200	1,220	13,012
Surplus/ Deficit	(539)	(346)	54	56	76	85	93	94	106	60	63	(198)
Reserves Brought Forward	2,400	1,861	1,515	1,569	1,625	1,701	1,786	1,879	1,973	2,079	2,139	2,400
Surplus/ Deficit	(539)	(346)	54	56	76	85	(614)	94	106	60	63	(198)
Reserves Carried Forward	1,861	1,515	1,569	1,625	1,701	1,786	1,879	1,973	2,079	2,139	2,202	2,202

	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	Total	2026-27	2027-28	2028-29	2029-30	2030-31	Total
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s
Rent Income	17,475	17,572	17,688	17,819	17,921	18,039	106,514	18,175	18,313	18,443	18,581	18,721	198,747
Non Dwelling Rents	671	698	726	755	785	817	4,452	850	884	920	957	996	9,059
SP Grant	170	170	170	170	170	170	1,020	170	170	170	170	170	1,870
Housing Subsidy	(5,804)	(5,826)	(5,977)	(6,129)	(6,295)	(6,460)	(36,491)	(6,625)	(6,800)	(6,968)	(7,139)	(7,311)	(71,334)
Total Income	12,512	12,614	12,607	12,615	12,581	12,566	75,495	12,570	12,567	12,565	12,569	12,576	138,342
General Management	3,397	3,405	3,413	3,421	3,429	3,437	20,502	3,445	3,453	3,461	3,469	3,477	37,807
Bad Debt Provision	20	20	20	20	20	20	120	20	20	20	20	20	220
Repair and Maintenance	4,360	4,404	4,448	4,492	4,537	4,582	26,823	4,628	4,674	4,721	4,768	4,816	50,430
Depreciation	3,743	3,774	3,806	3,837	3,875	3,908	22,943	3,942	3,982	4,021	4,062	4,102	43,052
Total Expenditure	11,520	11,603	11,687	11,770	11,861	11,947	70,388	12,035	12,129	12,223	12,319	12,415	131,509
Net Cost of Services	992	1,011	920	845	720	619	5,107	535	438	342	250	161	6,833
Interest	321	325	329	333	337	342	1,987	346	351	355	359	364	3,762
Operating Income/ Expenditure	1,313	1,336	1,249	1,178	1,057	961	7,094	881	789	697	609	525	10,595
Revenue Contribution to Capital	1,240	1,260	1,170	1,100	970	870	6,610	790	700	600	510	420	9,630
Surplus/ Deficit	73	76	79	78	87	91	484	91	89	97	99	105	965
Reserves Brought Forward	1,516	1,589	1,665	1,744	1,822	1,909	1,516	2,000	2,091	2,180	2,277	2,376	1,516
Surplus/ Deficit	73	76	79	78	87	91	484	91	89	97	99	105	965
Reserves Carried Forward	1,589	1,665	1,744	1,822	1,909	2,000	2,000	2,091	2,180	2,277	2,376	2,481	2,481

	2031-32	2032-33	2033-34	2034-35	2035-36	2036-37	Total	2037-38	2038-39	Total
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s
Rent Income	18,864	18,997	19,132	19,275	19,421	19,569	115,258	19,707	19,845	154,810
Non Dwelling Rents	1,036	1,078	1,121	1,166	1,213	1,262	6,876	1,313	1,366	9,555
SP Grant	170	170	170	170	170	170	1,020	170	170	1,360
Housing Subsidy	(7,492)	(7,665)	(7,842)	(8,018)	(8,206)	(8,396)	(47,619)	(8,579)	(8,762)	(64,960)
Total Income	12,578	12,580	12,581	12,593	12,598	12,605	75,535	12,611	12,619	100,765
General Management	3,485	3,493	3,501	3,509	3,517	3,526	21,031	3,535	3,541	28,107
Bad Debt Provision	20	20	20	20	20	20	120	20	20	160
Repair and Maintenance	4,864	4,913	4,962	5,013	5,064	5,116	29,932	5,168	5,221	40,321
Depreciation	4,143	4,185	4,226	4,269	4,311	4,354	25,488	4,398	4,442	34,328
Total Expenditure	12,512	12,611	12,709	12,811	12,912	13,016	76,571	13,121	13,224	102,916
Net Cost of Services	66	(31)	(128)	(218)	(314)	(411)	(1,036)	(510)	(605)	(2,151)
Interest	369	374	379	385	451	452	2,410	449	441	3,300
Operating Income/ Expenditure	435	343	251	167	137	41	1,374	(61)	(164)	1,149
Revenue Contribution to Capital	330	230	130	110	100	40	940	0	0	940
Surplus/ Deficit	105	113	121	57	37	1	434	(61)	(164)	209
Reserves Brought Forward	1,516	1,621	1,734	1,855	1,912	1,949	1,516	1,950	1,889	1,516
Notional Interest	0	0	0	0	0	0	0	0	0	0
Surplus/ Deficit	105	113	121	57	37	1	434	(61)	(164)	209
Reserves Carried Forward	1,621	1,734	1,855	1,912	1,949	1,950	1,950	1,889	1,725	1,725

Housing Capital Resources 2009-2039

	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Total	2015-16	2016-17	2017-18	2018-19	2019-20	Total
Housing Stock Numbers	5,052	5,040	5,028	5,016	5,006	4,996		4,988	4,980	4,972	4,964	4,956	
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s
Major Repairs allowance	3,273	3,367	3,429	3,491	3,519	3,547	20,626	3,577	3,606	3,637	3,667	3,698	38,811
Use of RTB receipts	145	181	181	181	145	145	978	145	145	145	145	145	1,703
Use of other receipts	175	100	100	100	100	100	675	100	100	100	100	100	1,175
Capital Resources	3,593	3,648	3,710	3,772	3,764	3,792	22,279	3,822	3,851	3,882	3,912	3,943	41,689
Projected RCCO's available	880	1,200	1,000	970	1,080	1,100	6,230	1,110	1,130	1,140	1,200	1,220	12,030
Cont from Working Balance	682	300	0	0	0	0	982	0	0	0	0	0	982
Total Resources available	5,155	5,148	4,710	4,742	4,844	4,892	29,491	4,932	4,981	5,022	5,112	5,163	54,701

	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	Total	2026-27	2027-28	2028-29	2029-30	2030-31	Total
Housing Stock Numbers	4,964	4,956	4,948	4,947	4,947	4,947		4,947	4,947	4,947	4,947	4,947	
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s
Major Repairs allowance	3,729	3,760	3,792	3,823	3,861	3,899	22,864	3,938	3,978	4,017	4,058	4,098	42,953
Use of RTB receipts	145	145	18	0	0	0	308	0	0	0	0	0	308
Use of other receipts	175	100	100	100	100	100	675	100	100	100	100	100	1,175
Capital Resources	4,049	4,005	3,910	3,923	3,961	3,999	23,847	4,038	4,078	4,117	4,158	4,198	44,436
Projected RCCO's available	1,240	1,260	1,170	1,100	970	870	6,610	790	700	600	510	420	9,630
Cont from Working Balance	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Resources available	5,289	5,265	5,080	5,023	4,931	4,869	30,457	4,828	4,778	4,717	4,668	4,618	54,066

EXETER CITY COUNCIL

SCRUTINY COMMITTEE – COMMUNITY 10 MARCH 2009

EXECUTIVE 24 MARCH 2009

HOUSING ASSET MANAGEMENT STRATEGY 2009-2015

1 PURPOSE OF THE REPORT

- 1.1 To inform Members of the new Housing Asset Management Strategy and the recommendations contained within it.

2 INTRODUCTION

- 2.1 Following the outcome of the mock inspection of landlord services in October 2007 one key recommendation was the need to develop a comprehensive Asset Management Strategy for the Council's housing stock that links to the objectives set out in the Housing Revenue Account Business Plan. This is supported by the Audit Commission's Key Lines of Enquiry documents that also expect to see a strategic approach by landlords to the management of their assets.
- 2.2 The proposed Asset Management Strategy has been developed over the past twelve months by a working group of officers and residents from the Tenants and Leaseholder Committee (TALC) with input from the Portfolio Holder for Housing & Social Inclusion. A copy of the full strategy has been placed on the web-site with a copy also available in the Members' room for information.
- 2.3 The strategy sets out in detail how the Council intends to manage its housing assets over the next six years and how the available capital resources will be invested.

3 ASSET MANAGEMENT

- 3.1 Asset management is defined as the management of physical assets to meet service and financial objectives. Generally it is concerned with:
- The overall performance of the housing stock and the contribution it makes to the HRA business plan.
 - The whole life cycle of a property, from the proposal to build, through development and maintenance, to the decision and method of disposal.
 - The way management and investment can be directed to support community development and improve asset portfolio performance.
- 3.2 The Council's approach to asset management will ensure that our housing stock meets the current and future needs of client groups, while being sustainable and affordable. Our asset management priorities are therefore to:
- Ensure the long term viability and sustainability of our existing stock and to maximise its value.
 - Maintain and manage the stock to meet current standards defined by decent homes and our statutory obligations as a landlord.
 - Invest in the stock to address future needs and improve environmental sustainability.
 - Within the parameters set by the HRA Business Plan, fund investment in the existing stock to maintain its condition and meet tenant expectations.

- Reduce the long term costs of maintenance and housing management in line with the efficiency agenda.
- Improve customer satisfaction and meet agreed aspirations.

3.3 In developing the strategy the working group has undertaken the following:

- A comprehensive review of existing stock condition data
- A review of other survey and responsive repair information
- A review of existing maintenance and improvement programmes
- Re-prioritised capital investment in the housing stock to meet available resources
- Brought together recommendations from other review groups (e.g. older persons review of sheltered housing) to ensure their recommendations are taken into account
- Incorporated existing policy initiatives (e.g. development of in-fill sites, neighbourhood management etc)
- An assessment of recent tenants surveys and complaints
- Ensured the strategy links with the HRA Business Plan and its overall objectives
- Assessed best practice across the housing sector
- Considered current legislation and regulation

4 MAIN RECOMMENDATIONS FROM THE PLAN

4.1 The Asset Management Strategy has identified the full range of maintenance and improvement work required to the Council's housing stock. It also puts an estimated cost against each item of work and, where possible, the number of properties affected. Unfortunately, the amount of capital resources available to undertake this work falls well short of the total required.

4.2 To create a capital investment programme that meets the projected financial profile the Asset Management Working Group looked at each item of work individually and assigned a level of priority against each one. The group then placed each programme of work into one of five main overarching categories. These categories were prioritised in the following way:

1. Health and Safety
2. Structure
3. Thermal Comfort
4. External Works, and
5. Improvement Works

4.3 The works placed within each category were also prioritised to reflect resident aspirations and requirements. Other issues were also considered and taken into account, including maintaining the Decent Homes Standard past the 2010 target and meeting our statutory and regulatory obligations.

4.4 As a result a new programme of work has been developed to ensure an acceptable and sustainable minimum standard is maintained across the Council's housing stock. However, this review and re-prioritisation has resulted in aspects of the previous Exeter Standard being dropped to ensure sufficient resources are available for other work. This primarily affects replacement of kitchens and bathrooms which will mainly be carried out on a reactive basis in future.

4.5 The re-prioritised programme places greater focus on the replacement of our existing and out-dated electrical heating systems to almost 500 properties across the housing stock. This will improve the overall efficiency of the heating in each property, help to reduce tenants' fuel bills and increase the stock's overall SAP rating (a national measure of energy efficiency and thermal comfort). It also includes essential fire prevention works in communal areas to meet new regulations.

- 4.6 The new programme also includes some essential structural work such as the replacement of concrete canopies and a budget for the improvement of communal areas within and surrounding the Council's 500 blocks of flats. A full copy of the proposed capital programme for the years 2010-2015 and 2015-2020 is attached to this report as Appendix I.
- 4.7 The strategy also sets out those works that currently cannot be funded. This work will be carefully monitored and included in any future programme as and when additional resources become available.
- 4.8 The strategy is required to consider all the Council's Housing Revenue Account assets. Other issues included are:
- An assessment of our current stock holdings and demand for it
 - The development of new housing on small 'in-fill' sites within existing housing estates
 - The potential for the development of new Council housing
 - The assessment of existing sheltered housing sites to help prioritise future investment to ensure their long-term sustainability
 - Implementing more effective neighbourhood management policies to improve the management of the housing stock
 - Policies for dealing with overcrowding and under-occupation
 - The continual updating of our stock condition database
 - The implementation of asbestos, legionella and fire safety regulations
 - Monitoring arrangements for delivering the strategy including a range of performance indicators and enhanced resident involvement

5 CONCLUSION

- 5.1 There is a need for a strategic approach to managing the Council's housing assets. It is also a requirement of our regulators that we demonstrate such an approach is being followed and that residents are involved in the development and delivery of the Asset Management Strategy.
- 5.2 It is essential that the management of housing assets is linked with the overall business plan for the service as a whole. The strategy must demonstrate that the resources available are being invested in such a way as to achieve best value for money.
- 5.3 Long term investment plans will give officers, Members and residents greater certainty of the work to be undertaken and assist in the delivery of the plan.

6 RECOMMENDED

That Scrutiny Committee – Community supports and Executive approves

- 1) the Housing Asset Management Strategy 2009-2015
- 2) that a further review of the strategy is undertaken in parallel with the HRA Business Plan in 2010 and the findings reported to Members

HEAD OF HOUSING SERVICES

S:PA/LP/ Committee/309SCC2
24.2.09

COMMUNITY & ENVIRONMENT DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling this report:

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PROPOSED PROGRAMME

Work Required	2010 to 2015	Nos of units	2015 to 2020	Nos of units	Total Value	Total units	Comments
Decent Homes Works							
Electrical testing	£405,000	3000	£405,000	3000	£810,000	6000	
Electrical rewires	£1,834,000	800	£5,500,000	2400	£7,334,000	3200	Criteria - Works based on condition rather than age
New roofs	£1,260,000		£1,260,000		£2,520,000		Criteria - Works based on condition rather than age
Repointing	£861,000	300	£800,000	275	£1,661,000	575	Criteria - Works based on condition rather than age
New windows	£932,000	196	£568,000		£1,500,000	196	Criteria - Works based on condition rather than age
Insulation	£150,000		£150,000		£300,000		
Improvement works							
Kitchens	£3,000,000	500	£4,000,000	666	£7,000,000	1166	Original list included estimate of £38,800,00 which would have done work on 5910 props. This amount will do 2000.
Bathrooms	£2,250,000	500	£3,000,000	750	£5,250,000	1250	
Health and safety							
Asbestos survey and removal	£990,000		£500,000		£1,490,000		
Fire prevention works	£1,008,000	1680	£672,000	1120	£1,680,000	2800	Works to inc 30min fire doors, ventilation to comm halls, smoke detectors to comm halls & emergency lights
Thermal Comfort							
£0							
Replacement old gas appliances	£2,261,000	804			£2,261,000	804	
Replacement of electrical heating appliances	£1,384,000	492			£1,384,000	492	
New heating at Rennes House	£200,000	61			£200,000	61	
Replacement of gas condensing boilers	£1,665,000	1665	£1,666,000	1666	£3,331,000	1665	Criteria - Works based on condition rather than age
Other							
Disabled adaptations	£2,800,000		£3,000,000		£5,800,000		
External render (contract)	£1,300,000	138	£1,400,000	138	£2,700,000	276	
External Attributes (paths, walls etc)							
£400,000							
Repairs to non traditional construction properties	£232,500	80	£292,500	80	£525,000		Full surveys required to Rennes House and Clifford Close which may affect estimate.
Replacement of concrete canopies over front doors	£255,000	300			£255,000	300	
Communal area improvement (flats)	£500,000		£500,000		£1,000,000		
Sub total	£23,287,500		£24,113,500		£46,146,000		
Contingency	£1,164,375		£1,205,675		£2,307,300		5% contingency on all programmes
Funded Programme total	£24,451,875		£25,319,175		£48,453,300		

S:LP/Committee/309SCC2 Appx I

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EXETER CITY COUNCIL

SCRUTINY COMMITTEE – COMMUNITY 10 MARCH 2009

EXECUTIVE 24 MARCH 2009

DRAFT EMPTY HOMES STRATEGY 2009-2014

1. PURPOSE OF THE REPORT

- 1.1 To inform Members of progress in the preparation of the Exeter Empty Homes Strategy 2009-2014 and advise about the proposed consultation. A draft of the Strategy has been placed in the Members' Room and is available on the internet.

2. BACKGROUND

- 2.1 The Empty Homes Strategy outlines our approach to ensuring that the number of privately owned empty homes across the city is minimised. It also aims to reduce the time those properties are left empty. With over 6,000 households on the Housing Register, privately owned empty property is a valuable resource. The strategy builds on work done over the past 13 years when the Empty Homes Partnership was first formed.
- 2.2 The strategy recognises that unless there is continued intervention by the team:
- The downturn in the housing market and the credit crunch could mean some homes will remain vacant for longer than six months;
 - Some homes will become more difficult to let and/or sell and hence remain empty; and
 - Some renovation projects may have to stop or not begin at all due to lack of finance and the inaccessibility of loans;
- 2.3 As Exeter has a high demand for housing, there is also an increasing need to look at all sectors of empty property. This includes under-occupied homes, second and holiday homes and redundant commercial and public spaces such as flats over shops, warehouses, former-school buildings and deconsecrated churches. This approach mirrors work done in the last recession when empty office blocks were converted to social housing for rent.
- 2.4.1 The strategy explains the various tools the Council and its partners have at their disposal to bring empty properties and underused space back into use. This includes:
- Continue to staff and resource the Empty Homes Partnership (with contributions from Exeter City Council, Mid Devon District Council, East Devon District Council, Teignbridge District Council and seven housing associations);
 - Using new legal powers e.g. Empty Dwelling Management Orders (EDMOs);
 - Use of Compulsory Purchase Orders (CPOs);
 - Private Sector Leasing (PSL);
 - ExtraLet: management of private sector lettings;
 - Financial Incentives for property owners (capital and revenue);

- Acquisition of empty property;
- Financial incentives to encourage social tenants to downsize;
- Use of intelligence - encouraging the public to report empty properties to the Council;
- Lodgings scheme
- Improved publicity

2.4 The strategy recognises the achievements of the Empty Homes Partnership over the past 13 years:

- The Partnership is close to bringing its 1000th dwelling back into use.
- Extralet currently manages 70 properties;
- Private sector leasing of over 100 homes;
- Larger successes include the reuse of Old School Court, Topsham; the renovation of the former Admiral Inn public house in Alphington; conversion of several prominent office blocks in the city centre and the renovation of the Buddle Lane 'Laings' properties;

3. PROPOSALS

3.1 It is proposed that the draft Empty Homes Strategy go out for public consultation over the next two months with the final strategy being submitted for consideration by Members in the June 2009 committee cycle.

4. FINANCIAL IMPLICATIONS

4.1 There are no additional financial implications over and above the Council's current commitment.

5. **RECOMMEND** that Scrutiny – Community supports and Executive approves:

(1) The draft Empty Homes Strategy

(2) That the draft strategy goes out for public consultation and the results and amended strategy are reported to Members in June 2009.

HEAD OF HOUSING SERVICES

S:PA/LP/ Committee/309SCC5
24.2.09

COMMUNITY & ENVIRONMENT DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling this report:

Empty Homes Strategy 2009-2014

EXETER CITY COUNCIL
SCRUTINY COMMITTEE - COMMUNITY
10 MARCH 2009

EXECUTIVE
24 MARCH 2009

PRIVATE SECTOR HOUSING RENEWAL POLICY – ANNUAL REVIEW

1. PURPOSE OF THE REPORT

- 1.1 This report proposes specific changes to the Private Sector Housing Renewal Policy in order to address local needs, as identified in the on-going private sector house condition survey. A copy of the Policy has been placed in the Members' Room and is available on the internet.

2. BACKGROUND

- 2.1 One of the Council's priority objectives is to safeguard and improve the private sector housing stock in Exeter, which is made up of 39,600 dwellings in the owner-occupied and privately rented sectors. At nearly twice the national average, Exeter has a large private rented sector (22% of the private stock) and large number of houses in multiple occupation (HMOs), estimated at 2700 or 7% of the private stock. It is this sector, particularly HMOs, where the poorest housing conditions are found.
- 2.2 Under the Housing Act 2004, the Council also has a legal duty to remove or reduce Category 1 Hazards (e.g. excess cold, severe dampness, and overcrowding) from dwellings in its area, and a discretion to deal with Category 2 Hazards. It has a range of enforcement tools to deal with poor and dangerous conditions in homes.
- 2.3 In addition to enforcement, the Council currently offers financial assistance in the form of means-tested grants to assist and encourage home-owners to improve their properties and remove hazards. This financial assistance helps home-owners repair and adapt private sector houses, funds energy efficiency grants for low income households through Warm-up Exeter and PLEA (Private Landlord Energy Action) grants, and supports ExtraLet and private sector leasing by means of private sector renewal grants.

3. PERFORMANCE IN 2008-09

Financial assistance to improve or adapt homes

- 3.1 95 Disabled Facilities Grants (DFGs) with a total value of £518,000 were awarded ensuring that clients could remain living independently in their own homes. All adapted properties are brought up to the decent home standard as a condition of grant assistance. This is 10 fewer adaptations than were achieved during 2007-08 but demonstrates that there continues to be a strong need for adaptations in the home and reflects changes introduced in 2007-08 which enhanced the scope of the DFG.
- 3.2 A total of 64 Renovation Grants with a total value of £421,000 were awarded to address hazards in private sector houses and to undertake improvements to ensure that dwellings meet the decent home standard. This represents a decrease of 28 grants administered in 2007-08 but reflects the fact that the budget allocated by central government was over £200,000 less than that year.

- 3.3 Since Warm-up Exeter grants were started in July 2006 1463 householders have benefited from financial assistance with 1771 energy efficiency measures, such as loft and cavity wall insulation, being installed. 60% of these grants have gone to households in fuel poverty who would have been ineligible for other forms of assistance.

HMO Licensing

- 3.4 Since the introduction of licensing in 2006, 771 of the larger, higher-risk HMOs within the city have been issued with mandatory HMO licences (minute 85/05 refers). These properties have been prioritised on the risk they present to tenants, over a 5 year inspection programme, with 142 completed this year. To date 265 have been inspected and brought up to the Council's standard.

4. PROPOSED CHANGES TO THE RENEWAL POLICY

- 4.1 The Private Sector Housing Renewal Policy will continue to offer a range of financial assistance packages and from April 2009 this will include low interest loans.
- 4.2 As part of the new bidding arrangements for allocations from the Regional Housing Pot for 2009/10 the City Council was encouraged, by the Government Office South West, to bid for funding to join a consortium of local authorities which has been running a loan scheme throughout Somerset and North Devon for some years. The loan scheme was originally set up by the Government Office South West in an effort to break 'grant dependency' (where house owners become over reliant on grants to maintain their property). The grants are administered on the consortium's behalf by Wessex Reinvestment Trust, a not for profit social enterprise.
- 4.3 As a result of the bid £187,500 was allocated to the City Council to join the consortium. A further £736,500 was also allocated for the continuation of grant funding.
- 4.4 The allocation will not only be used to set up a 'revolving' loan fund, ringfenced to fund repairs and improvements and adaptations to properties in Exeter, but will also be used to pay the Wessex Reinvestment Trust's one-off set up fees of around £8000 and an ongoing annual subscription fee of around £13,000 and the subsidy that the Council must pay in respect of each loan. This will leave an initial loan fund of £166,600, subject to the set-up fees and subscription fee being agreed.
- 4.5 The Wessex Reinvestment Trust offer three types of loan:

i) Capital Repayment Loans

- Minimum loan £1,000, Maximum £15,000
- Fixed term up to 15 years
- Fixed monthly repayment
- Available to all ages

A typical £5,000 loan taken out over 15 years will require a one off subsidy payment to Wessex Reinvestment Trust, of £1,171 and will cost the householder £34.53 a month

ii) Interest Only

- Minimum loan £1,000, Maximum £15,000
- Fixed monthly interest payments

- The original loan capital will be re paid either when the house is sold (from the sale proceeds) or upon transfer of the property title
- Open to clients aged 66 and over
- The loan will continue as long as they remain living in the house

A typical £5,000 loan will require a one off subsidy payment to Wessex Reinvestment Trust, ranging from £1,833, for a 66 year old, to £706 for an 86 year old and will cost the householder £5 a month

iii) Interest Roll Up

- Minimum loan £1,000, Maximum £15,000
- No monthly payments
- Open to clients over 71
- The loan will continue as long as the client remains in the house
- Interest accumulates at 3% yearly compound interest is added to the initial loan capital
- The loan and outstanding interest are paid upon sale or transfer of the property title

A typical £5,000 loan will require a one off subsidy payment to Wessex Reinvestment Trust, ranging from £1,833, for a 71 year old, to £1,312 for an 81 year old

- 4.6 It is proposed that all householders approaching the Council for financial assistance, other than mandatory Disabled Facilities Grants which are funded separately, will be provisionally screened and householders considered eligible for a loan will be referred onto Wessex Reinvestment Trust for a thorough financial assessment. In most cases an offer of a loan will follow. It is proposed that in cases where the amount of the loan offered is insufficient to finance the full cost of necessary repairs or improvements to the applicant's property the loan will be topped up from the renovation grant budget, within prescribed limits.
- 4.7 In both cases the repairs and improvements for which the loan and/or grant is offered will be specified by the Council's Grants Section who will authorise payment on satisfactory completion of the works
- 4.8 In all cases, other than when Wessex Reinvestment Trust refuse to offer a loan, it is proposed that any offer of grant aid will be conditional upon the householder taking on the maximum level of loan offered.
- 4.9 In those cases where a loan is refused, the reasons for refusal will be examined and a decision whether to offer a grant will be determined on a case by case basis by the Head of Environmental Health Services.
- 4.10 Where applicants decline a loan, financial assistance will not be offered. If, as a result, a category 1 hazard remains present in the applicant's home, appropriate enforcement action will be taken as described in the Private Sector Housing Renewal Policy. This action is necessary to discharge the Council's mandatory duty to deal with such hazards.

Financial assistance maxima

- 4.11 It is proposed that the maximum level of renovation grant is reduced from £25,000 to £15,000. This reduction reflects the support that will be offered by the loan. In exceptional circumstance, any level of grant beyond £15,000 may be agreed by the

Head of Environmental Health Services. In the main, very few grants exceed £15,000, the average grant administered during 2008/09 being £7,000.

- 4.12 It is proposed that renovation grants are no longer made available for residential mobile homes due to the difficulty of enforcing the 25 year grant conditions. The sale and purchase of such dwellings rarely involves a solicitor or land registry searches with the result that the repayment conditions are virtually impossible to enforce. Wessex Reinvestment Trust are only prepared to offer Capital Repayment Loans for the repair of mobile homes but because the loan is effectively 'unsecured' they require the loan to be underwritten by the City Council in the event of default. It is proposed, therefore, that the loan maxima for mobile homes is limited to £3,500

Licensing fee

- 4.12 The fee for licensing licensable HMOs has been set at £400 for a five year licence since the outset of licensing in 2006. The fee has been reviewed and it is proposed that it is increased to £600 in order to fully cover the costs involved.

5. PROPOSALS FOR SPENDING THE FINANCIAL ASSISTANCE ALLOCATION

- 5.1 It is proposed that the £187,500 allocation from the Regional Single Pot, specifically awarded to set up and run a low interest loan scheme in conjunction with Wessex Reinvestment Trust, is utilised for that purpose. Although the set up and subscription costs have yet to be finalised it is anticipated that there will be approximately £160,000 available to put into the loan fund.

£187 500

- 5.2 It is proposed that Home Repair Assistance and HMO Grants will continue and that Renovation Grants will be offered in conjunction with the Wessex Reinvestment Loans. It is proposed that £555,250 of the Regional Single Pot allocation is allocated, in the first instance, to renovation grant budget but that this is kept under review with the prospect of using a percentage of this budget to 'top up' the loan fund if necessary.

£555,250

- 5.3 It is proposed that the £181,250 allocation from the Regional Single Pot, specifically to provide financial assistance to improve the energy efficiency of the private sector housing stock is utilised to fund Warm-up Exeter and PLEA grants.

£181,250

- 5.4 It is proposed that the £270,000 DFG allocation is specifically used to fund mandatory DFGs. It is anticipated that this will fund 50 DGFs in 2009/10. In circumstances where a mandatory DFG is unable to proceed due to the inability of the applicant to fund their contribution, then the applicant will be permitted to apply for a Disabled Facilities Loan to fund that contribution or part (offered by Wessex Reinvestment Trust). In the cases where a loan is refused, the reasons for refusal will be examined, and a decision as to whether to offer a discretionary DFG will be determined on a case by case basis.

6. FINANCIAL IMPLICATIONS

- 6.1 The amended policy will be funded from the 2009-10 budget allocation. The financial implications of the changes will be closely monitored and the information used to inform the next review of the policy.

7. RECOMMENDED that

- 1) Scrutiny Committee - Community supports and Executive agrees to adopt the changes to the Private Sector Housing Renewal Policy outlined in this report;
- 2) the expenditure of the single pot allocation is monitored and that the proposed financial allocation to each of the schemes amended or further schemes can be approved by the Head of Environmental Health Services in consultation with the Portfolio Holder for Housing & Social Inclusion;
- 3) the Policy is reviewed annually, or sooner if needs be, in order to ensure that it addresses local needs and/or government policy.

HEAD OF ENVIRONMENTAL HEALTH SERVICES

S:LP/Committee/309SCC6
24.2.09

COMMUNITY & ENVIRONMENT DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling this report:

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EXETER CITY COUNCIL

SCRUTINY COMMITTEE COMMUNITY 10 MARCH 2009

EXECUTIVE 24 MARCH 2009

EXETER AIR QUALITY STRATEGY 2009-2014

1. PURPOSE OF THE REPORT

- 1.1 This report seeks approval of the Exeter Air Quality Strategy 2009-2014, and informs Members of the air quality monitoring and management undertaken by the Council. A copy of the strategy has been placed in the Members' Room and is available on the internet.

2. BACKGROUND

- 2.1 The Council's first five-year air quality strategy was approved by Members in June 2003. The strategy drew together the existing air quality work undertaken by Environmental Health Services. This work is primarily driven by statutory obligations and the strategy provides a means of organising and coordinating it to best effect. This strategy sits beneath and supplements the Council's Community Strategy – Exeter Vision, Environmental Strategy 2007-2012 and Climate Change Strategy 2008-2018.
- 2.2 Few things are as fundamental as the air we breathe. Modern medical statistics now allow us to begin to see the real impact that the air we breathe has on our health. People with pre-existing respiratory and cardio-vascular disease are particularly at risk from air pollution. Indeed the statistics can be shocking with the Government stating that up to 24,000 people die prematurely every year in the UK because of the effects of air pollution.
- 2.3 Clean air that is fit to breathe is one of the key factors required to deliver a safe environment for both current and future generations. The Department of the Environment, Food and Rural Affairs' (DEFRA) UK Sustainable Development Strategy "A Better Quality of Life" sets out a national vision for delivering a sustainable environment. A National Air Quality Strategy has also been produced, which sets out the Government's plans to improve and protect ambient air quality, as part of the creation of a sustainable environment.
- 2.4 The Government has challenged local authorities under Part IV of the Environment Act 1995 to assess and manage their air quality. National health-based standards and objectives have been published to allow air quality to be assessed and to drive forward management policies.
- 2.5 The Council uses a comprehensive network of 61 air pollution monitors, along with computer models, to assess air quality in Exeter. These show that air quality is generally very good; there is, however, a need to tackle emissions of nitrogen dioxide associated with motor vehicles along the busiest roads into the city. This resulted in the legal designation of an Air Quality Management Area (AQMA) for areas in very close proximity to some of the main routes into Exeter in April 2007.

- 2.6 The creation of this area enables the Council to develop and focus policies designed to protect and improve Exeter's air quality. These have been formalised within a detailed Air Quality Action Plan for Exeter, which aims to reduce pollution by cutting congestion on the main routes into the city. Exeter City Council has worked closely with Devon County Council (the Highways Authority) to produce the action plan.
- 2.7 In addition to local air quality management, the Council has numerous other statutory duties with regard to air quality such as the management of specified 'prescribed processes'. In Exeter there are 38 permitted processes and Council staff inspect these to ensure compliance with the conditions within their permit.
- 2.8 Other areas of work which are related to air quality issues include responding to air quality complaints and advice requests; there were more than 346 received in 2008. Officers also provide advice on air quality to Planning Services, in relation to forward planning and development control.
- 2.9 The Exeter Air Quality Strategy 2009-14 provides details of all of these activities. It also gives a number of specific air quality objectives and summarises the approaches to these and the suggested methods of monitoring and reviewing the Council's progress in meeting them.

3. PROPOSAL

- 3.1 The Exeter Air Quality Strategy 2009-14 provides details of all of the existing air quality work undertaken by Environmental Health Services. It is proposed to adopt the strategy which identifies a number of specific air quality objectives and summarises the approaches to be taken to meet these objectives and suggests methods of monitoring and reviewing progress.

4. RECOMMENDED

That Scrutiny Committee - Community supports and Executive approves that the Exeter Air Quality Strategy 2009-14 be adopted by the Council.

HEAD OF ENVIRONMENTAL HEALTH SERVICES

S:PA/LP/ Committee/309SCC7 v2
24.2.09

COMMUNITY & ENVIRONMENT DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling this report:

Air Quality Strategy for England - DEFRA

EXETER CITY COUNCIL

EXECUTIVE
24 MARCH 2009

REVIEW OF THE NJC JOB EVALUATION SCHEME

1. Purpose of the Report

- 1.1 To update the Executive of the progress on an independent review of the NJC Job Evaluation Scheme, as adopted in 2000.

2. Introduction

- 2.1 The Local Government Employers have been working with the Council to conduct an independent audit of the NJC Job Evaluation scheme to ensure that it has been and continues to be applied consistently, that it follows good practice, and remains robust enough to meet the Council's present requirements. This review has included:

- A review of the current procedures, and processes in terms of good practice, equality and transparency.
- Undertaking a check on the application of the scheme for consistency by examining the distribution of the scoring profile and looking at a number of sample posts.

3. The NJC Job Evaluation Scheme

- 3.1 The national scheme was developed by a Job Evaluation Joint Technical Group established by the National Employers and unions during the Single Status negotiations. In designing and developing the scheme the group applied the Green Book principles of equality, transparency, openness and joint working. The scheme has 13 factors:

- Mental skills
- Interpersonal and communication skills
- Physical skills initiative and independence
- Physical demands
- Mental demands
- Emotional demands
- Responsibility for people
- Responsibility for supervision/direction/co-ordination of employees
- Responsibility for financial resources
- Responsibility for physical resources
- Working conditions

- 3.2 Each factor is defined as having different levels. These vary between 5 and 8 levels. Each level is designed to reflect increasing steps in demand of the job task and responsibilities. The scheme along with the scoring and weighting matrix are readily available to all users.

3.3 The Equal Opportunities Commission (EOC) were consulted regularly during the development of the scheme.

4. Pay Protection

4.1 When the job evaluation and new grading scheme was introduced in the Council in 2000, protection arrangements were put in place for a period of five years at the current spinal column point. It is now generally accepted that this length of period could be challenged and would need to be defended by the Council.

4.2 These recommendations resulted in the decision at the 10 February Executive to reduce the pay protection arrangements to three years. This policy will remain under review and subject to employment legislation and employment tribunal cases will be reviewed as necessary.

5. Local Conventions

5.1 The Council as part of its implementation plan tested and established a number of local conventions. Local conventions are the local interpretations of the working of the job evaluation scheme.

5.2 From the assessment a full breadth of local conventions has been developed and used in the evaluation process including:

- Interpreting factor level definitions and applying to the Council's own posts this is illustrated in the supervision and financial factors, where both the number of employees and the sums of money have been identified and applied to the scheme.
- There is also good supportive descriptive information clarifying and interpreting the scheme i.e. accounting for and being accountable.

5.3 The local conventions are clear, precise, transparent and unambiguous which supports the application of the scheme consistently.

5.4 Where the level of definitions allow for more than one way of getting to each level for example interpersonal and communications and responsibilities for physical resources a matrix covering the local conventions may be helpful to the evaluators. However in checking these two factor scores and the local conventions applied there is a high level of consistency.

6. Grading new and changed posts

6.1 The process for evaluating new posts has been well established using a simplified job evaluation form which is then evaluated by HR who seek comments from the Head of Service and the Union on the resulting grades.

6.2 There is currently no appeal process for the outcome of the grading process, Para 4.1 Para 6 of the National Agreement refers to a model appeals procedure. The model procedure provides a nationally agreed framework for local appeals.

6.3 Part 4 of the National Agreement lists as the grounds for appeal against initial evaluations as:

- The scheme has been wrongly applied e.g. factor levels have been wrongly allocated, the evaluation panel did not follow guidance
- The job descriptions questionnaire did not provide complete information
- It is believed that an evident job is more highly graded (included to allow equal value issues to be resolved internally).

6.4 Appeal panels if regarded as an evaluation panel is likely to be of the same size and style of membership as an initial evaluation panel.

6.5 The Councils existing process involves the Head of HR and the Unison's Conditions of Service Officer, good practice recommends panels of four - two from management and two union representatives.

6.6 Increasing the numbers involved in the process would require more checks to ensure consistency but would result in the broader engagement with other managers and senior staff / trade union representatives encouraging ownership and acceptance more widely across the organisation.

7. Overview of Job Scores

7.1 As part of the review each of the thirteen factors and individual levels were reviewed for distribution and compared against other similar authorities.

7.2 From the distribution chart factors have been scored consistently and reflect the distribution as was expected when taking into account the Council's interpretation of the scheme and the application of conventions.

8. Conclusions

8.1 Since the inception of the scheme it has been applied consistently and the distribution of scores from the audit reflects similar sized local authorities' distribution. Consistency has also been achieved and maintained by the small number of evaluators used and the clear use of conventions.

8.2 A high standard of record keeping was evident which needs to be maintained.

8.3 The present means of evaluating posts and not providing post holders / managers to appeal scores is not fully transparent with responsibility resting with HR. The evaluation of posts is not undertaken jointly by a panel of evaluators made up of management and trade unions.

8.4 In the opinion of the Local Government Employers the scheme remains robust enough to meet the Council's needs.

9. Recommendations

9.1 That Executive approve the following:

9.1 Establish job evaluation panels to evaluate new posts and post changes by including more representation from managers and union representatives. This will require further training and the need to monitor consistency in decision making.

9.2 Establish an appeals procedure to ensure natural justice is applied and that all decisions are agreed jointly.

- 9.3 Introduce ongoing monitoring and regular quality assurance checks of the scheme and its future application.

HEAD OF HUMAN RESOURCES

13.03.09

CORPORATE SERVICES DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)

Background papers used in compiling this report:

None

Report

on an investigation into
complaint no 08 002 300 against
Exeter City Council

4 March 2009

Investigation into Complaint No 08 002 300 Against Exeter City Council

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Key to names used

Miss Byrd	-	Complainant
Mrs Byrd	-	Complainant's mother
Messrs Parry & Stanford	-	A firm of solicitors
Officer A	-	A Revenues Collection Manager

Report Summary

Local Taxation

The complainant's adult daughter, who suffered from untreated mental and physical health problems, owed the Council a significant sum in arrears of unpaid Council Tax. The complainant said that her daughter had been incapable of dealing with her own financial affairs or of seeking help to do so during the period in which these arrears had accrued; and that the Council had made her bankrupt without giving proper consideration to her vulnerability.

Finding

Maladministration causing injustice, remedy agreed.

The Ombudsman found that the Council had pursued this debt over a number of years without making adequate enquiries into the debtor's health problems to determine whether this was a suitable course of action, although in 2001 she had told the Council that she was terminally ill. The Ombudsman criticised the Council for failing to have adequate written procedures to include standard checks at an early stage as to whether the debtor's personal circumstances made bankruptcy proceedings inappropriate, for failing to make such enquiries, and for failing to keep a clear written record of the way its decisions were made.

However, the reclusive behaviour of the complainant's daughter, while apparently a function of her mental health problems, would not have helped the Council in making these enquiries and the Ombudsman was not able to say clearly that the Council would not have sought her bankruptcy, even without maladministration. In all the circumstances he was very pleased to note that the Council, as the only creditor in the bankruptcy proceedings, had withdrawn its claim, once it was made aware of the problem.

Remedy

The Council has undertaken unconditionally to pursue an annulment of the Bankruptcy Order, bearing any necessary costs of the bankruptcy itself. These are currently estimated at £10,000. The Ombudsman was happy to regard this offer as a local settlement of the complaint.

Introduction

1. Mrs Byrd complained on behalf of her daughter, whom she says was wrongly charged Council Tax, as a result of which she became bankrupt. Although the Council withdrew the original debt and costs, Miss Byrd remains liable for the fees and costs of administering the bankruptcy.
2. During the course of the investigation, the Commission's Investigator has corresponded with the Council, its solicitors and Miss Byrd's Trustee in Bankruptcy. She has been provided with copies of file documents and has carried out interviews with officers of the Council's Revenues Collection and Council Tax Benefits Departments and with the complainant's mother, Mrs Byrd. Miss Byrd has not been well enough to participate in the investigation.
3. For legal reasons¹ the names used in this report are not the real names of the people or the firm of solicitors concerned.

Legal and Administrative Background

The Ombudsman's Jurisdiction

4. There are a number of sections of the 1974 Local Government Act, as amended by the Local Government and Public Involvement in Health Act 2007, that define my powers which have to be considered in reaching a decision on Miss Byrd's complaint.
5. First, the Act says that I cannot conduct any investigation into "the commencement or conduct of civil or criminal proceedings in any court of law".² However, I retain jurisdiction to investigate administrative actions prior to the issue of court proceedings and where the Council instructs agents for enforcement of court orders (unless those agents are agents of the Court).
6. Second, the Act also says that usually, I should not investigate a complaint where the complainant has had the right to pursue their complaint via the alternative remedy of a statutory tribunal or the Courts.³ However, this is at my discretion and I can investigate where I am satisfied that it was not reasonable to expect the complainant to use those rights.
7. Third, the Act also says that normally I should not investigate a complaint unless it was made to me, or to an elected councillor, within 12 months from the day when the complainant first knew something had happened that affected him or her.⁴ However, this is again a discretionary power and I can investigate where I am

¹ Local Government Act 1974, Section 30(3)

² Ibid, Schedule 5

³ Ibid, Section 26 (6) (a) and 26 (6) (c)

⁴ Ibid, (as amended), Section 26B

satisfied that there are special reasons to accept a complaint about matters that the complainant has been aware of for over twelve months.

Council Tax discounts and Council Tax Benefit

8. Tax is payable by most people who occupy their own home: and local authorities have a duty to collect Council Tax where it is due. Where the occupier is the only adult living in the property, they are entitled to a “single person discount” of 25%.
9. Those who are severely mentally impaired - that is, who suffer, for whatever reason, from severe impairment of intelligence and social functioning which appears to be permanent - are disregarded for Council Tax purposes. If the only occupier of the dwelling is severely mentally impaired, that would usually lead to a 50% reduction in their Council Tax bill. In order to qualify for this discount, the person concerned must supply a doctor’s certificate confirming that he or she is severely mentally impaired and be entitled to one of a number of specified state benefits, including certain disability benefits.
10. A Council has discretion to reduce the Council Tax payable on a dwelling to nil if it sees good reason to do so.⁵ This may be applied to either an individual property or a local class of dwellings with their own exemption or discount rate.
11. A person who is unable to pay Council Tax for which they are liable because they have too little income, may claim Council Tax Benefit. This benefit is usually administered by the local authority for the area in which the claimant resides, and is subject to the law⁶ and regulations.⁷ The benefits system in place in the period for which Miss Byrd lived in Exeter (1997 to 2002) put the onus on the claimant to make a claim for benefit and to provide any evidence the Council considered reasonably necessary to verify their circumstances.
12. The claim had to be renewed at least annually and the claimant was required to tell the Council of any changes in their circumstances which might have affected the rate of benefit. Benefit could be backdated at the Council’s discretion, but only for a period of 52 weeks. If a person was not capable of dealing with this personally, it would have been possible to obtain help and advice from a welfare rights adviser (for instance, the Citizens Advice Bureau) or an appointee could be nominated if that was insufficient to facilitate a claim.

Recovery of Council Tax Benefit

13. Where a sum of Council Tax is unpaid, a Council may seek an order from the Magistrate’s Court, known as a liability order, showing the amount owed. The

5 Section 13A, Local Government Finance Act 1992

6 Principally The Social Security Contributions and Benefit Act 1992 (as amended)

7 Principally The Housing Benefit (General) Regulations 1987 (SI no 1971/1987) and the Council Tax Benefit (General) Regulations 1992 (SI no 1814/1992)

Council then has a number of options available to it to try and pursue the debt. Some of these alternatives are described below.

The use of bailiffs

14. Bailiffs can be instructed to collect outstanding debt, if necessary through securing a levy against certain goods that might be owned by the debtor. However, in most circumstances a bailiff cannot take such a levy unless they have gained peaceful entry into a debtor's home or premises. If a debtor has insufficient assets to cover the debt, and cannot or will not agree to repay, other options for recovery would need to be considered.

An attachment of benefit or earnings

15. One method of recovering council tax for local authorities is to apply for a deduction from ongoing benefit to the Department for Work and Pensions. However, this can only be done where a debtor is in receipt of Income Support or Income-based Job Seekers Allowance. Where the debtor is in work, a similar court order can be made allowing recovery from earnings.

Committal hearing

16. If the Council has attempted, but failed, to collect a debt through the use of bailiffs then it can request that the debtor appear before the Magistrates Court to consider if they should be committed to prison for "wilful refusal" or "culpable neglect" in the non-payment of their tax. Magistrates must conduct a means enquiry to establish the reason for non-payment. They are given options including committing the debtor to prison, suspending any committal on terms (such as ordering a fresh payment arrangement) or remitting some of the debt (ie writing it off).⁸

Bankruptcy

17. Bankruptcy can be used as a means to try and recover a debt where a creditor is owed at least £750. With council tax debts, if a local authority chooses to use bankruptcy as a means of recovery then it must first obtain a liability order, for any sums it is owed.⁹ In addition, under the 1986 Insolvency Act Rules that govern bankruptcy proceedings the creditor must also serve a document known as a statutory demand. This should explain the debt the Council is seeking to recover.
18. A debtor can ask the County Court to set aside a statutory demand on the basis that the debt is not owed. However, research into this area has noted that if a

⁸ Council Tax (Administration and Enforcement) Regulations 1992, 47 & 48

⁹ Ibid, Paragraph 49(1)

liability order has been made, “the Court is unlikely to look behind the circumstances of the making of the order”.¹⁰

19. If a statutory demand is served and the debt remains unpaid after a further 21 days (or no arrangement has been made to the satisfaction of the creditor), then a bankruptcy petition can be served. In effect, the petition requests that the County Court (or High Court in London) make an order that the debtor be declared bankrupt. A debtor may try to oppose the making of a bankruptcy order on the grounds that the debt is not owed, and the Courts have the power to stay proceedings if it appears likely that the debt may be settled in a short period of time.
20. Where a bankruptcy order is made, and a debtor has assets that might be realised to settle a debt, a licensed insolvency practitioner will be appointed as a trustee to safeguard and secure the assets of the debtor for the benefit of creditors generally.
21. The Government does not issue any guidance to Councils on the pursuance of tax arrears using petitions for bankruptcy. In a written response to a parliamentary question in July 2007, the government said that it was “up to each billing authority to consider how best to use these powers in the interests of all taxpayers who do pay their bills” and that “it had no plans” to issue such guidance.
22. In March 2000 the Court of Appeal held that as bankruptcy was a procedure allowed by statute and regulations, there could be no objection in principle to a Council using those proceedings to collect an outstanding debt which it had a duty to collect.¹¹
23. A Bankruptcy Order may be annulled on one of three grounds:
 - That the order was not validly made (procedural impropriety);
 - All the debts owed have been paid off;
 - The debtor has agreed with her creditors to enter into a voluntary agreement.

Charging Orders

24. Another method of collection available to a Council is to seek a charging order against a debtor.¹² This is a way of securing a debt through the County Court against a debtor’s property, so that in the event that the property is sold, the creditor must be paid from the proceeds of sale. For a Council to be able to pursue this course of action it must hold a liability order against the debtor and the debtor must owe at least £1,000. The Courts can consider suspending a Charging Order on repayment terms. Where a creditor holds an outright Charging

10 See Murdie & Wise, Enforcement of Local Taxation, Legal Action Group 2000

11 Griffin v Wakefield Metropolitan District Council, Court of Appeal (2000)

12 Council Tax (Administration and Enforcement) Regulations 1992, regulations 50 and 51

Order or any payment terms are not adhered to, then the creditor can seek an Order for Sale. This too, can be suspended at the Court's discretion; for example on the basis of an order that regular repayments are made. A Charging Order can only be made in respect of the property upon which the Council Tax debt was owed.¹³

Exeter City's policy on bankruptcy and charging orders

25. The Council has a procedure manual for recovery of Council Tax. The chapter dealing with bankruptcy as a means of recovering Council Tax arrears says that any account that has a debt of over £1,500 which is at Liability Order stage and has already been to the bailiffs may be considered for bankruptcy. Ideally the debtor should be a homeowner; but tenants can be considered for bankruptcy where there is a large debt and the tenant is not on any type of Benefit (Income Support or Jobseeker's Allowance being provided as examples). But no check is prescribed to discover whether there is any other reason why bankruptcy proceedings would not be appropriate.
26. Each case is considered by an experienced Revenues Collection Manager. He has recourse, where necessary, to legal advice on insolvency matters. The officer and the Council's solicitors have discretion to consider making further checks. The Council says that its revenues collection officers work closely with the Council Tax Benefit section, endeavouring to ensure that a debt is reduced or extinguished through payment of Council Tax Benefit where there is entitlement. The Council says that it regards bankruptcy as a last resort and that where bailiff action had failed, it would either seek recovery by way of an attachment order against earnings or benefits, or through a charge on any property owned by the debtor. Committal proceedings were seen as a way of forcing a debtor's co-operation in either making payment or providing reasons why they should not be expected to do so.

The Council's Retention and Disposal Policy for maintenance of Council Tax Benefit records

27. At the time that Miss Byrd claimed Council Tax Benefit, the Council retained paper files relating to a claim within its office until after the appeal period for the last claim ended. Files were then archived and held until the external audit had been completed, when they were destroyed. If a subsequent claim was made, the old files would be retrieved from archives and destroyed only when the later claim papers were eventually shredded. Information relating to vulnerability and the circumstances of the claimant would have appeared only on the paper files, and would be lost when those files were destroyed.
28. Information about the period of the claim and the amounts of benefit awarded was computerised; this information was accessible from a new computer system

13 Regulation 50, Council Tax (Administration and Enforcement) Regulations 1992 SI no 613/1992

introduced since Miss Byrd last claimed Council Tax Benefit. But any written information on the old computer system could not be accessed by the new system, and it would have been necessary to have referred to the paper files.

The Council's policies and procedures for welfare rights and anti-poverty measures

29. The Council does not currently have a written policy relating to welfare rights or to anti-poverty. However, it says that where households approach the Council's Housing Advice Service they are signposted, where appropriate, to services who are able to offer full advice and assistance with budgeting, welfare benefits and mortgage advice. These agencies are all partners with the Council with the dedicated aim of preventing homelessness.
30. In most cases, the Council provides funding for specific services linked to its homelessness strategy. It says that the main agency so funded, Homemaker South West, provides a wide range of welfare benefit and financial advice and is extremely successful. Recently the Council has funded a confidential helpline with this organisation which is aimed at households with mortgage arrears who are getting into difficulties. The service has been advertised to try and persuade people to take advice early enough to make a difference to the outcome. The Council says that the service has been popular and there is evidence of success. The Council considers it likely that a subsequent reduction in the rate of mortgage repossessions in the summer of 2008 was partly attributable to the Homemaker service.

Investigation

31. Miss Byrd became pregnant and infected with Human Immunodeficiency Virus (HIV) in her late teens, as a result of an association with a man who knew himself to be HIV positive. She has also had an addiction to heroin, and Mrs Byrd says that as a result of this her daughter has mental health problems and her capacity to manage her affairs has been extremely poor. She initially had support from Social Services, but her son was taken into care when he was 11 years old as she was no longer able to cope, and Mrs Byrd subsequently obtained a Residence Order for him. Miss Byrd has had no support from Social Services since then, and although diagnosed HIV positive, has had no medication. Mrs Byrd believes that she has since developed Acquired Immunodeficiency Syndrome (AIDS) but this has not been diagnosed because Miss Byrd has been unable to engage with the health care services. Mrs Byrd says her daughter's life style has long been somewhat chaotic, with her only support coming from her family.
32. Miss Byrd lived at an address in Exeter from May 1997 to November 2002. She owned the property, but sold it and went to stay with a relative, later buying another property in the south east of England, where she still resides. Between the time Miss Byrd moved to Exeter and May 1999 she claimed Council Tax

Benefit. The Council has not been able to provide any information about this claim, including the circumstances in which it was made and lapsed, the records having since been destroyed. It has not, therefore, been possible to establish whether she had any assistance in claiming benefit. It is also impossible to say whether Miss Byrd ever provided the Council's Benefits section with information about her mental health difficulties.

33. Mrs Byrd says that while her daughter lived in Exeter, unpaid utility bills were recovered by the companies concerned making a charge on the property. Mrs Byrd says she knew of this but says she had no idea at any time that there was a problem with Council Tax, because she understood that in 1997 her daughter had informed the Council that she was exempt from paying Council Tax. However, this is not shown in the Council's remaining records. Mrs Byrd says that the first she knew of the arrears of Council Tax which had accrued was in the spring of 2007. She says that her niece, who lived in the same area as Miss Byrd, had seen a notice in the local paper that a Bankruptcy Order had been made against Miss Byrd, and had telephoned Mrs Byrd to warn her of it.
34. Miss Byrd's debt arose over an extended period, during which she did not continuously claim Council Tax Benefit and the Single Person Discount, even though it appears likely that she would have been entitled to benefit covering most if not all of the debt. According to the Council's records, she did not claim exemption from Council Tax on grounds of severe mental impairment at any time. She never paid any Council Tax while living in Exeter; and Mrs Byrd says that she does not believe her daughter would have been capable of renewing the Council Tax Benefit claim by 1999. The details of Council Tax owed are set out in an appendix to this report.
35. Miss Byrd was in receipt of Single Person Discount until 31 January 2000. The Council says that Mrs Byrd was living with her daughter from that time until 14 August 2000 and that it had sent Miss Byrd correspondence about the debt during that period. Mrs Byrd says that she was totally unaware of any problem, and that Miss Byrd did not mention the reminder and summons she would have received at this time. Mrs Byrd says that she only stayed at the house one night a week as she had a residential job. This was a very difficult time, and she had been obliged to report her daughter to Social Services, which made Miss Byrd regard her as a spy. After she left, the debt continued to increase and Miss Byrd apparently did not renew her claims either to Single Person Discount or to Council Tax Benefit.

Pursuit of the debt: October 2000 to December 2002

36. Recovery of the debt was first taken up through the Council's internal bailiff in October 2000, and Miss Byrd was visited at home. She told the bailiff that she was now receiving a disability benefit and was advised that this should entitle her to some Council Tax Benefit. She was advised to contact the Council and make a claim, but did not do so. I understand that recovery action was suspended to

allow her to do so. At that stage, Miss Byrd would have been able to request that her benefit be backdated to the time of the last claim. Had the Council considered there was good reason to do so, backdating would have reduced, but not entirely cleared, the debt which the Council was pursuing.

37. Between April 2001 and December 2002 the internal bailiffs were again involved in pursuing the increasing debt. According to a brief note on the Council's computer records, Miss Byrd telephoned the Council on 26 April 2001 and explained that she was terminally ill and had disability benefits. Again, she was advised to claim Council Tax Benefit and said that she would come into the office the next day to fill out the claim form and discuss repayment. However, once more there is no evidence that she ever applied for benefit and there was no record available to Council Tax recovery officers of her previous claims.
38. The Council says that this would be due to a change in computer systems which had happened since her last claim had ended in 1999. It says that any records held from 1999 relating to Miss Byrd's individual circumstances and vulnerability would be in paper form, and were likely to have been archived once the claim had lapsed and the time limit for appeals had expired. They would then have been stored in the archives until the external audit was complete, which would be at least October 2001. The Council says that it expects that the paper files relating to the last Council Tax Benefit claim in 1999 might have been destroyed during 2002.
39. Had Miss Byrd made contact before the files were destroyed, they would have been retrieved from store and the archive process started afresh. Therefore, if she had made a further claim to Council Tax Benefit in 2001, the files relating to the earlier claim would not have been destroyed until the new claim files had been audited in 2003.
40. At the time of the last claim in 1999, the Council says that where a claimant was considered vulnerable, the paper file was marked with a coloured sticker. No separate list was retained unless the claimant was considered potentially violent. The Council is therefore unable to say whether her file was marked for vulnerability, and this information would not have been transferred to the new record system unless she made a further claim. The Council therefore considers it likely that the only information which would have been known to the Council Tax recovery officers in 2001 was that she had been a lone parent in receipt of Income Support, claiming Council Tax Benefit only; and that she had apparently managed to make and renew her claim as necessary between August 1997 and May 1999.
41. The Council says that "numerous" visits were made to Miss Byrd's address by the internal bailiffs but no contact was made. The last visit appears to have been made on 10 June 2002. The Council then appears not to have pursued the debt further until December 2002, when it says that registration for Council Tax by new

owners of her former home alerted it to the fact that she had sold the house and moved away during the previous month.

42. The Council says that during her brief contacts with the Council and its bailiffs, Miss Byrd had not mentioned any mental health problems or issues of her own capacity to manage her financial affairs. The Council says it is likely that she did not advise it of the move, because the bailiffs had referred the case back to the Council to trace her whereabouts. However, Mrs Byrd says that her daughter normally does not open her post, but simply puts it unopened in the recycling bin.

Pursuit of the debt from 2003

43. The debt was taken up again in June 2003, by which time Miss Byrd had moved away. Having traced her whereabouts, the Council instructed a bailiff to pursue the matter with her at her new address, but no contact was made with her. In June 2004 the case was referred back to the Council by the external bailiffs and although the file was then sent to the Council's solicitors, Messrs Parry and Stanford, the Council was advised by its lawyer to make further enquiries through the bailiff, with a view to discovering whether Miss Byrd had any assets or income from which the debt could be recovered.
44. A statutory demand was served on Miss Byrd on 30 July 2004. At that stage bankruptcy was not advised by the Council's solicitor, however, because of the high costs of doing so: and the Council accepted this advice. If Miss Byrd had insufficient means to effect recovery of the debt and the costs of the bankruptcy, the shortfall would eventually have fallen to the public purse.
45. The Council has not been able to say exactly what happened after that, although it says that it seems from the evidence that the case was regarded as one for committal proceedings. It says that there was a limit upon the number of such cases that would be accepted by the Magistrates Courts at that time, and because Miss Byrd was not resident in Exeter - and therefore potentially unlikely to turn up for proceedings which were likely to result in imprisonment - her case was not given priority.
46. At some subsequent stage, probably in 2006, the Council says that its internal bailiffs contacted the Council Tax Office dealing with the area in which Miss Byrd now lives, and learned that she owed them approximately £3,000 on which local Magistrates had issued a Warrant of Arrest. Mrs Byrd says that she had contacted the Council which had claimed this debt and found that it had known of her daughter's health problems at the outset. The Council dropped its action and her daughter was never arrested. In September 2006 the Council therefore returned the file to Parry and Stanford, at which point it was established that Miss Byrd owned the property in which she now lived.
47. Officer A, a Revenues Collection Manager, says that he considered the case and decided to commence insolvency proceedings with a view to trying to find out why

benefit had not been claimed, and whether there was any good reason why the Council should not be pursuing the debt. Clearly the house was likely to enable recovery of the amount due, either by way of raising a secured debt or, if Miss Byrd was unable or unwilling to co-operate with that, by realising the asset which could be done by a Trustee in Bankruptcy.

Enquiries made by the Council's solicitors after service of a statutory demand

48. The Council says that a further statutory demand was served personally on Miss Byrd at her home on 20 October 2006, and an affidavit of service would have had to be presented in court when the bankruptcy petition was heard. Following this the solicitors wrote to her to ask what her proposals were to satisfy the demand. By this time she was too late to claim Council Tax Benefit, but the Council says that if the true facts had been known, it would not have pursued her to bankruptcy.
49. Parry and Stanford say that they were given Mrs Byrd's telephone number as a contact for her daughter, having been advised she was staying with her mother in Exeter. A process server contacted Miss Byrd and she agreed to meet him at her mother's home on 14 February 2007. Mrs Byrd says that this was done without her knowledge and that her daughter said nothing of it to her.
50. Miss Byrd seems to have realised that there was a problem just before the court hearing was due, because Parry and Stanford say that she telephoned them and that, on the Council's instructions, they sought an adjournment of the hearing to allow her time to deal with it. The solicitors wrote to her on 14 March, offering on the Council's behalf to waive some of the costs if payment of the balance of £3,652 was made before the new hearing date, which was later set at 19 April.
51. Again the solicitors spoke to Miss Byrd, and have provided a note of a conversation on 11 April 2007. From that record, it appears that Miss Byrd "did not appear to know what [the solicitor] was talking about and generally sounded slightly confused". She said that she had not seen the letters sent by the Council and asked where they had been sent to. When told they were sent to her current address, she disclosed that she "had not bothered opening [them] and thought they were probably in the recycling". She asked "why [she] should bother dealing with this when [she did] not owe Council Tax anyway as [she was] on disability benefit".
52. While the solicitor recorded that he had explained the situation to Miss Byrd, she had responded that she was unhappy with the situation and was likely to contact her MP. When told that it was important for her to deal with the matter as soon as possible to avoid bankruptcy, she mentioned the possibility of repaying some money by instalments, and was told that any offer would need to be substantial to be acceptable. The solicitor expressed a view that Miss Byrd would not deal with the matter, based on her previous conduct in failing to open correspondence, and said that the debt had been pursued over a long period without success. He

would, however, talk to the Council to clarify matters. Miss Byrd did not call back the following day with a payment proposal, despite having promised to do so.

53. The solicitor then spoke to officers in the Council, apparently to try and find out how the debt had arisen and what was known of Miss Byrd's circumstances. However, the Council's records contained no information beyond that set out above. This included the disclosure, made to a Council Tax recovery officer in 2001, that Miss Byrd was terminally ill and receiving disability benefits. No check was made with Social Services (either in the Exeter area or the Adult Services authority dealing with the area where Miss Byrd now lived) and the Council had no information as to which family doctor she might be registered with. Having said this, it appears that Miss Byrd did not receive adult care services and may not have been registered with a GP.
54. Mrs Byrd says that she believed her daughter had met with a solicitor from Parry and Stanford at some stage. She says that it would have been impossible to overlook her health and dependency problems from her appearance. However, Parry and Stanford say that while their representative had two conversations with Miss Byrd (reported above in paragraphs 50 and 51) these were both conducted on the telephone and they never met Miss Byrd face to face.
55. Miss Byrd was made bankrupt in April 2007. The Council, as petitioning creditor, was the only creditor to claim against Miss Byrd. Mrs Byrd says that she found out that her daughter had been made bankrupt only after the Bankruptcy Order was made. She contacted the Council's solicitors and the Council, on learning of the circumstances, withdrew its claim in the bankruptcy. It said that this was done exceptionally and without prejudice to its position that the Bankruptcy Order was validly obtained and based upon outstanding Liability Orders.
56. Miss Byrd's Trustee in Bankruptcy says that although the debt on which the bankruptcy petition was based had been withdrawn by the Council and there are no other creditors, there remained a debt which by March 2008 stood at over £11,000 comprising the costs and fees of the Trustee and the Department of Trade and Industry. Mrs Byrd has attempted, although unsuccessfully, to raise funds to pay off this debt. The Trustee says that if negotiations fail, it would be unlikely that a court would order the property to be repossessed to recover the costs and that as an alternative he would seek an order in court to put a charge on the house. That would secure the debt plus interest (which would, however, continue to accrue). It would also allow him, as Trustee, to seek his discharge, so that he was not obliged to make any further charge for administering the case.

Conclusions

Jurisdictional issues

57. Before considering whether Miss Byrd has suffered injustice through maladministration, I need to look at the extent of my jurisdiction to investigate this

complaint, as set out in the Local Government Act 1974, amended by the Local Government and Public Involvement in Health Act 2007 (see paragraphs 4 to 7).

58. First, I have considered the provisions on the “conduct or commencement” of legal proceedings. In this connection it is clear that I have the power to investigate a complaint up to the point at which bankruptcy proceedings commenced. The history of the subsequent period is therefore recounted in this report purely as background information. And I am satisfied that nothing prevents me from considering whether anything that was done by the Council after proceedings commenced served to remedy any earlier administrative errors that I might find.
59. The events covered by this complaint took place more than twelve months before it was made to me. Nevertheless, I consider it reasonable to exercise my discretion to investigate the complaint, because, on the evidence, Miss Byrd was not capable of making a complaint to me herself. In addition, Mrs Byrd has pursued the matter with the Council and then with me since becoming aware of it and her complaint was made to me within twelve months of that date.
60. In 1999 Miss Byrd would have had the option of appealing any decision which had been made not to continue to pay Council Tax Benefit. She also had appeal rights with respect to reinstatement of her Single Person Discount once her mother left her home. It is not clear from the evidence whether she needed to appeal, or whether she simply allowed her claims to lapse in the belief that she was not required to pay Council Tax, and did not understand the need to claim Council Tax Benefit separately from her state disability benefit. But I am satisfied on the evidence that Miss Byrd is unlikely to have been capable of pursuing her claims or the associated appeal rights herself or of seeking help in doing so, and that her mother was unaware of the problem that was storing up and therefore unable to help. I therefore consider it unreasonable to expect Miss Byrd to have used any appeal rights she might have had; and so the complaint lies within my jurisdiction.
61. For the same reasons I do not consider it was reasonable to expect Miss Byrd to contest her bankruptcy on grounds that the debt was not owed because she was entitled to Council Tax Benefit and Single Person Discount. In all, I am satisfied that I am able to look at all of the Council’s administrative actions up to the point where the bankruptcy proceedings began.

The Council’s actions leading up to bankruptcy proceedings

62. I consider that Miss Byrd is unlikely to have claimed benefit or Single Person Discount since 1999, and in the absence of such a claim, I have no reason to doubt that Council Tax was correctly demanded and the subsequent liability orders properly obtained. So I accept that the debt of £2,755.07 was owed and that the Council had a duty to all of its taxpayers to try to recover it. And while I am unable to say whether or not the Council’s Benefits section was ever aware of her physical and mental health problems, I accept that it is unlikely that the Revenues Collection section was ever given more detail than the bare statement, made in April 2001, that Miss Byrd was terminally ill.

63. Nevertheless, this information was on file and the Council appears never to have followed it up with Miss Byrd before launching the proceedings that would eventually lead to her bankruptcy. The Council appears to have had no information about the nature of her physical condition, how her health might have deteriorated since 2001, or about the possible effects of her illness upon her ability to deal with her own affairs. If it were true that she was terminally ill, it may not have been appropriate to pursue the complainant to bankruptcy on the grounds of her poor physical health alone. If it were not true, but had been offered as an excuse for non-payment, then there could be no justification for not pursuing the debt rigorously.
64. I consider that this issue should have been pursued with Miss Byrd, preferably in 2001 so that a clear decision could have been taken as to how most appropriately to pursue the debt and avoid further arrears accruing. At that stage the officer taking the call could have sought further detail, or passed it on for someone else to do so. But the evidence shows that either the questions were never asked, or the answers were never recorded. I accept that the Council could not have anticipated that Miss Byrd would later move, and apparently did not know how much longer she might survive. Nevertheless at this time the Council could have taken a charging order on her house, and bankruptcy is therefore unlikely to have been preferred as an option.
65. In 2001 Miss Byrd could also have been put in touch with a welfare rights adviser or referred to Social Services to assist her to claim Council Tax Benefit, or offered a home visit by an officer from the Benefits staff. Assistance given with her claim for Council Tax Benefit would probably have reduced the existing debt and ensured that for the future Miss Byrd received the benefits and discounts to which she was entitled. It would also have been possible to extract any information about her circumstances, her vulnerability and the reason why the claim ceased which might have been held on the benefits paper file. Had the problem been flagged up for the Revenues Collection Manager at this stage, I consider it likely that the matter would have been resolved leaving little or no Council Tax arrears outstanding. The failure to pursue the matter in 2001 was maladministration.
66. A further opportunity was missed in late 2002, when the debt was returned by the bailiff. At that point Miss Byrd might still have sought backdating of benefit and reduced the debt in part, and the Council could then have considered remitting the rest.
67. But failing that, clarification should have been obtained before issuing the first statutory demand in 2004. At that stage there was no longer a possibility of reducing the debt through a benefit claim and backdating, because Miss Byrd no longer lived in the property on which tax had been charged, and had not done so for over 52 weeks. I cannot say that the Council would necessarily have learned of Miss Byrd's mental health problems, although if the mental health difficulties from which she suffered had been revealed, Miss Byrd could have been advised to consult a medical professional to see if her condition might entitle her to exemption from Council Tax. But the Council could at least have confirmed

through suitable questioning that she was in poor health generally, that she had been receiving disability benefits and so would be entitled to some Council Tax Benefit, but that she was no longer managing her financial affairs properly. It appears likely that the Council had either overlooked this information about her health, or had discounted it as untrue.

68. Given the stress such a document might cause, the limited time allowed to satisfy the statutory demand, and the very significant financial consequences of failing to do so, I do not see it as appropriate to threaten with bankruptcy someone who may – at least as far as the Council knew – have been close to death and with no means of immediate payment, without first exploring all possible alternatives and considering in depth whether such action is appropriate.
69. Yet the Council issued two such demands. The issue of a first statutory demand would, in my view, have made it more likely that a second would be considered appropriate without stopping to ask if that were the case. I do not consider that the enquiries made after the second statutory demand was issued adequately or appropriately substituted for proper enquiries made earlier; or remedied the earlier maladministration. It is also evident that the bankruptcy procedures did not protect Miss Byrd once proceedings began, when my own jurisdiction, and the protection which that might have afforded her, no longer ran.
70. The failure to make more rigorous enquiries in 2003 and 2004 before issuing a statutory demand was also maladministration. In my view, these omissions are likely to have sprung from the Council's failure to put in place adequate checks within its written procedures that all recovery officers could follow at an early stage. I am concerned that the lack of such a policy has allowed a very vulnerable person to slip through the net.
71. It seems to me that there really should be rigorous procedures in place for a Council to satisfy itself that a debtor is wilfully refusing to pay rather than, as a result of incapacity, proving unable to protect their own interests. The lack of a proper policy was maladministration.
72. I am also concerned that no written record was kept of how these decisions were made or what information the Council had to work upon. This reduces the protection that is in place for the debtor (if the decision is wrongly taken) and for the Council (where a correctly taken decision is made but challenged). As procedural impropriety is a reason for annulment of a Bankruptcy Order, it would appear to be necessary to maintain clear records. The failure to do so here was maladministration.
73. It seems to me that if robust written procedures had been in place, so that proper enquiries had been made in 2001, Miss Byrd might never have been made bankrupt, and the Council would not have had the trouble or expense of pursuing her, although I cannot be certain of that. It appears that Miss Byrd's health deteriorated significantly through the 1990s when she lost care of her son and then stopped claiming benefit. Given that she was not in the habit of reading her post, and her belief that the debt was not owed and that she need do nothing about it, it would always have been very difficult for the Council to have picked up

what was happening here, even had proper checks been made. And Miss Byrd's reclusive behaviour, which was apparently a function of her mental health condition, would not have assisted that process.

A local settlement of the complaint

74. It is very much to the Council's credit that once the problem was recognised, it acted quickly and sympathetically, withdrawing its claim in the bankruptcy. As the Council was the sole creditor, that left Miss Byrd to bear the significant costs of the bankruptcy if the Bankruptcy Order was to be annulled. I am very pleased to note that the Council has undertaken to pursue an annulment of the Bankruptcy Order, bearing any necessary costs itself. These are currently estimated at £10,000. I regard this proposed action as a suitable way of settling the complaint. But I have decided to complete my investigation and issue this report on the complaint as it raises issues of general public interest.

J R White
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB

4 March 2009

Appendix

Breakdown of the Council Tax debt owed by Miss Byrd

Tax year	Total due £	Arrears of Council Tax £	Costs £	Remarks
1997/1998	119.81	84.81	35.00	Debt reduced by Single Person Discount and Council Tax Benefit
1998/1999	NIL	NIL	NIL	Debt covered in full by Single Person Discount and Council Tax Benefit
1999/2000	518.87	449.87	69.00	Debt reduced by Single Person Discount and Council Tax Benefit
2000/2001	761.64	704.64	57.00	Single Person Discount and Council Tax Benefit not claimed
2001/2002	816.74	753.74	63.00	Single Person Discount and Council Tax Benefit not claimed
2002/2003	538.01	518.01	20.00	Single Person Discount and Council Tax Benefit not claimed
Totals	2,755.07	2511.07	244.00	

Breakdown of Council's claim in the bankruptcy:

	£
Petition debt (see above)	2,755.07
Costs of obtaining the Bankruptcy Order	1,902.01

Total claim	4657.08

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