





**RECOMMENDED** that item 3 of the list of powers delegated to the Head of Corporate Customer Services in the Scheme of Delegation to Officers be amended to read:

"To authorise the use of the Guildhall for private functions."

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

10

**IT SERVICES RESTRUCTURE**

To consider the report of the Head of IT Services seeking approval to a restructure of IT Services.

85 - 88

(Report circulated to Members)

11

**POTENTIAL USE OF 137 COWICK STREET BY AGE CONCERN**

To consider the report of the Acting Head of Estates Services and the Head of Contracts and Direct Services on the proposed acquisition and refurbishment of the property.

89 - 96

(Report circulated to Members)

**DATE OF NEXT MEETING**

The next scheduled meeting of the Executive will be held on **Tuesday 21 June 2011** 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 Edwards (Chair), D Baldwin, Fullam, R M Hannaford, Mrs Henson, Martin, Mrs J Morrish, Sheldon and Sutton

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.**

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# Agenda Item 3

## EXETER CITY COUNCIL

### SCRUTINY COMMITTEE - RESOURCES 23 MARCH 2011

EXECUTIVE  
5 APRIL 2011

COUNCIL  
12 APRIL 2011

#### OVERVIEW OF GENERAL FUND REVENUE BUDGET 2010/11

#### 1. PURPOSE OF THE REPORT

- 1.1 To advise Members of the overall projected financial position of the General Fund Revenue Budget after nine months, for the 2010/11 financial year.

#### 2. REVENUE POSITION – EXECUTIVE SUMMARY

FUND	Latest Approved Budget	Stewardship Variance December 2010	Outturn Forecast 2010/11
	£	£	£
General Fund	18,030,360	(1,312,516)	16,717,844
HRA*	(642,570)	1,408,307	765,737
* surplus / (deficit)			

#### 2.1 GENERAL FUND – Appendix A

The Service Committee budgets show a forecast under spend of £1,059,050 (6.10%) against a revised Service Committee Net Expenditure budget of £17,356,360 and an overall under spend of £1,312,516 against the General Fund Expenditure including investment interest, Business Growth Incentive Grant, Area Based Grant, the provision for redundancy, the provision for the repayment of debt and the potential impairment loss re the Icelandic investments. This compares to a forecast underspend of £372,890 (2.15%) at September 2010. The main reason for the change has been the Government allowing the Council to capitalise the impairment loss on the Icelandic investments which has removed £694,000 of forecast expenditure.

- 2.2 The budgets for 2010/11 included a provision of 0.7% for the pay award. No pay award has been offered for the year.
- 2.3 Details of the variances are being disclosed in stewardship reports to individual Scrutiny Committees during the current cycle of meetings. However the main variances are as follows:
- 2.3.1 **Scrutiny Committee Community – (An under spend of £648,840)**

A new contract for management of the sports facilities came into force on 1 October 2010 and is expected to result in material savings in the current year and future years. The outturn forecast reflects the estimated impact for the current year on this Committee. There will be a negative impact on Resources Committee as a result of additional discounts arising on NNDR, and this has been reflected in the outturn forecasts for that Committee. Overall the projected saving for sports facilities is £428,910.

Income from the sale of recyclates is expected to exceed the estimates, while the cost of freight is expected to show a saving. While the prices at which materials are currently being sold exceed those assumed for the estimates, the volatility of these prices makes it difficult to predict the outturn. Overall, a saving of £288,880 is anticipated.

Savings have been made owing to delays in the Museum project, staff vacancies and removal of the revenue contribution to capital for the project. Overall, a saving of £140,420 is anticipated.

In General Fund Housing, there is a reduction in the amount of revenue expenditure which can be capitalised in relation to the Council Own Build sites at Sivell Place and Merlin Crescent, in accordance with capital accounting regulations and a further overspend, which will be met from earmarked reserves for expenditure relating to Empty Home Initiatives and the Housing Market Assessment. The projected overspend is £74,090, however £51,490 will be funded from earmarked reserves.

A number of overspends have occurred in General Fund Housing Advisory Services. These include higher than inflation rental payment increases and additional demand, a reduction in the number of landlords registered for Extralet reducing income, additional costs in respect of Shaul's Court and Glencoe and increased demand for housing advice. The projected overspend is £205,550.

### **2.3.2 Scrutiny Committee Economy – (An under spend of £478,590)**

Property income is lower than expected at various properties due to a general increase in void periods and downward pressures on rent levels across the portfolio, however this has been offset by savings on employment costs resulting in a saving of £33,830.

Income from off street car park fees is above the budgeted income figure as at 30 December 2010 and there have been savings on employment costs. Additional income is expected in respect of rental of car park spaces; this additional income will be partially offset by income from Car Park Investment properties being less than budgeted. The projected saving is £41,240.

It is anticipated that planning fee income will be below budgeted levels by the end of the year; this will be partially offset by additional income from legal costs.

A significant part of the planning expenditure is funded by Planning Delivery Grant. No grant will be received in 2010/11. However the expenditure in this financial year will be funded from the earmarked reserve at the year end.

Income across Markets & Halls is anticipated to be higher than budgeted.

### **2.3.3 Scrutiny Committee Resources – (An over spend of £68,380)**

It is estimated that there will be a reduction in Housing Benefits subsidy mainly in respect of Rent Allowances. This is as a result of an increase in Bed and Breakfast expenditure and an increase in non-self-contained licences, which both attract less subsidy. The deficit is projected to be £91,110 representing 0.2% of total subsidy.

A revised scale of fees for external audit work to be carried out during the year will result in an increase in costs and there has been an increase in volume and cost of the central bank charges. This results in an overspend within Corporate of £89,380.

An increase in pension payments to meet the costs of early retirements has resulted in an overspend of £131,390. The additional costs have been offset by staffing savings within Support Services.

### **3. OTHER FINANCIAL VARIATIONS**

- 3.1 There is a net transfer from Earmarked Reserves of £529,820, an increase of £42,300 from budget.
- 3.2 There is a reduction of £50,000 in respect of the Business Growth Incentive Grant as a result of the Government's decision to stop this funding stream. However, the Council will receive £58,368 in Area Based Grant, which has not been budgeted for.
- 3.3 A provision of £500,000 was made for redundancy. Approval to capitalise £380,000 of redundancy costs has been received by the Council and it is anticipated that this will be sufficient to meet the costs of redundancy incurred in the year. The provision for the repayment of debt will be £378,902. Additional borrowing needs and low interest received on investments mean that the Council is likely to pay £100,000 more in interest than it receives.
- 3.4 The current forecast for the impairment loss in Iceland is £694,000 out of the £5 million invested. However, the court cases are ongoing and this will very likely change by the end of the year. Approval to capitalise £2,508,800 has been received by the Council.
- 3.5 The overall net transfer to the General Fund Working Balance is estimated to be £632,485 at 31 March 2011 after accounting for the approved supplementary budgets of £152,160.

### **4. HOUSING REVENUE ACCOUNT (HRA) – Appendix B**

- 4.1 During this period the total budget variances indicate that there will be a net surplus of £765,737 which will be transferred to the HRA working balance at 31 March 2011. This represents a reduction of £1,408,307 compared to the budgeted reduction to the working balance of £642,570. It is estimated that the working balance will stand at £3,447,466 at 31 March 2011. The reduction is mainly due to lower expenditure on repairs and maintenance and a lower contribution towards capital expenditure.
- 4.2 Details of the variances are being disclosed in stewardship reports to Scrutiny Committee Community during the current cycle of meetings.

### **5. OUTSTANDING SUNDRY DEBT**

- 5.1 The Council issues invoices for a range of sundry debts, including :-
- Commercial rent
  - Trade waste
  - Service charge and ground rent for leasehold flat owners
  - Home call alarms
  - Housing benefit overpayments
  - and a range of other services such as room rental.

This does not include housing rent, council tax or business rate debt.

5.2 Outstanding debt at 31 December 2009 was £3.572m, at 31 March 2010 it was £3.616m, at 30 September 2010 it was £3.126m and by 31 December 2010, it had increased to £3,567,259. An aged debt analysis is shown below, which demonstrates that of the £3.567m debt, £1.306m is less than 30 days old. Debt over 30 days old has increased over the quarter from £2.186m to £2.262m.

Age of Debt	December 2009	March 2010	September 2010	December 2010
Up to 29 days (current)	£1,161,129	£1,521,683	£939,888	£1,305,734
30 days – 1 Year	£1,258,539	£963,838	£995,544	£1,112,679
1 – 2 years	£384,230	£400,385	£406,598	£340,405
2 – 3 years	£226,147	£225,237	£235,441	£270,532
3 – 4 years	£155,938	£110,823	£141,627	£160,411
4 – 5 years	£97,901	£122,839	£120,569	£76,055
5 + years	£287,866	£271,553	£286,438	£301,442
<b>Total</b>	<b>£3,571,750</b>	<b>£3,616,358</b>	<b>£3,126,105</b>	<b>£3,567,259</b>

5.3 Of the outstanding debt, the table below sets out the main services and debts owing:

	Outstanding debt – 31 December 2010 £
▪ Commercial rent	591,016
▪ Cleansing	122,218
▪ Service charge and ground rent for leasehold flat owners	60,254
▪ Home call alarms	9,449
▪ Housing benefit overpayments*	1,044,717
▪ AFU	341,331
▪ Economy & Tourism	156,023
▪ HRA	82,811
▪ General Fund Housing	110,459
▪ River & Canal	50,551
▪ Markets & Halls	41,800

\* These overpayments occur largely due to claimants' change of circumstances which leads to a lower benefit entitlement once a reassessment is made. This figure represents about 2.9% of the total annual benefits paid.

## 6. CREDITOR PAYMENTS PERFORMANCE

6.1 During the third quarter of 2010/11, the percentage paid within 30 days was 93.74%, slightly up on the second quarter figure of 93.30%.

## 7. CONCLUSION

7.1 The forecast decrease in Service Committee net expenditure for 2010/11 totals £1,059,050 including the supplementary budgets of £152,160. This together with transfers from Earmarked Reserves, provisions for the repayment of debt and the investment impairment, Area Based Grant and the reduction of £50,000 from the Business Growth Incentive Grant will result in a transfer of £632,485 to the Working Balance.



- 7.2 The forecast General Fund Working Balance at 31 March 2011 is £4,477,296 and equates to 24.8% of the General Fund net expenditure.
- 7.3 It is estimated that the HRA working balance will stand at £3,447,466 at 31 March 2011.
- 7.4 The creditor's payment performance has improved slightly and is currently 93.74%.

## **8. RECOMMENDATION**

- 8.1 It is recommended that Scrutiny Resources Committee note the report and Council notes and approves:
- The General Fund forecast financial position for the 2010/11 financial year
  - The HRA forecast financial position for the 2010/11 financial year
  - The outstanding Sundry Debt position as at 31 December 2010
  - The Statutory Performance Indicator BVPI8 for creditors' payments

## **HEAD OF TREASURY SERVICES**

### **CORPORATE SERVICES DIRECTORATE**

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

#### **Background papers used in compiling the report:**

None

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**EXETER CITY COUNCIL**  
**2010/11 REVENUE ESTIMATES - SUMMARY**  
as at 31 December 2010

	Annual Budget £	Supplementary Budgets £	Revised Annual Budget £	Year End Forecast £	Variance to Budget £
SCRUTINY - COMMUNITY	13,661,820	105,390	13,767,210	13,118,370	(648,840)
SCRUTINY - ECONOMY	559,570	21,610	581,180	102,590	(478,590)
SCRUTINY - RESOURCES	5,472,170	25,160	5,497,330	5,565,710	68,380
less Notional capital charges	(3,350,500)		(3,350,500)	(3,350,500)	0
FRS17 Pension Adjustment	861,140		861,140	861,140	0
<b><u>Service Committee Net Expenditure</u></b>	<b>17,204,200</b>	<b>152,160</b>	<b>17,356,360</b>	<b>16,297,310</b>	<b>(1,059,050)</b>
Net Interest	(100,000)		(100,000)	100,000	200,000
Business Growth Incentive Grant	(50,000)		(50,000)	0	50,000
Area Based Grant	0		0	(58,368)	(58,368)
Provision for redundancy	500,000		500,000	0	(500,000)
Potential impairment loss re Iceland	0		0	0	0
Minimum Revenue Provision	324,000		324,000	378,902	54,902
<b><u>General Fund Expenditure</u></b>	<b>17,878,200</b>	<b>152,160</b>	<b>18,030,360</b>	<b>16,717,844</b>	<b>(1,312,516)</b>
Transfer To/From(-) Working Balance	(570,171)	(152,160)	(722,331)	632,485	1,354,816
Transfer To/From(-) Earmarked Reserves	(487,520)		(487,520)	(529,820)	(42,300)
<b><u>General Fund Net Expenditure</u></b>	<b>16,820,509</b>	<b>0</b>	<b>16,820,509</b>	<b>16,820,509</b>	<b>0</b>
Formula Grant	(12,089,847)		(12,089,847)	(12,089,847)	0
<b><u>Council Tax Net Expenditure</u></b>	<b>4,730,662</b>	<b>0</b>	<b>4,730,662</b>	<b>4,730,662</b>	<b>0</b>
	<b>Working Balance</b>	<b>March 10</b>	<b>March 11</b>	<b>March 11</b>	
		<b>£ 3,844,811</b>	<b>£ 4,477,296</b>	<b>£ 4,477,296</b>	<b>March 11</b>

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as at 31 DECEMBER 2010

Code	Approved Annual Budget	Current Outturn Forecast	Variance To Budget
	£	£	£
85A1 Management	2,825,610	2,845,450	19,840
85A3 Sundry Lands Maintenance	260,480	260,480	0
85A4 Repairs Fund Contribution	9,066,360	7,846,660	(1,219,700)
85A6 Capital Charges	0	0	0
85A8 Rents	(15,359,490)	(15,518,490)	(159,000)
85B1 Government Subsidy	4,006,520	3,877,673	(128,847)
85B2 Interest	(156,910)	(77,510)	79,400
85B4 Variance in Working Balance	(642,570)	765,737	1,408,307
<b>Net Expenditure</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Working Balance</b>	<b>£ 2,681,729</b>	<b>31 March 2011</b>	<b>£ 3,447,466</b>
	<b>1 April 10</b>		

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## EXETER CITY COUNCIL

### SCRUTINY COMMITTEE – RESOURCES 23 MARCH 2011

EXECUTIVE  
5 APRIL 2011

COUNCIL  
12 APRIL 2011

#### CAPITAL MONITORING STATEMENT TO DECEMBER 2010

##### **1.0 PURPOSE OF THE REPORT**

- 1.1 In accordance with the Prudential Code for Capital Finance in Local Authorities, it is necessary to monitor performance against the prudential indicator for capital expenditure and highlight significant deviations from expectations. This report therefore sets out the current position in respect of the Council's 2010/11 capital programme and advises Members of the anticipated variations.

##### **2.0 BACKGROUND**

- 2.1 Local authorities are required to estimate the total of capital expenditure that they plan to incur during the financial year when it sets the prudential indicators for capital expenditure. This shows that its asset management and capital investment strategies are affordable, prudent and sustainable.
- 2.2 Capital expenditure is a significant source of risk and uncertainty since cost variations, delays and changing specifications are often features of large and complex capital projects.
- 2.3 This report is prepared on a quarterly basis in order to update Members with any known cost variations, slippage or acceleration of projects.

##### **3.0 REVISIONS TO THE CAPITAL PROGRAMME**

- 3.1 The 2010/11 Capital Programme was last reported to Scrutiny Committee - Resources on 24 November 2010. From that report, schemes totaling £4.2 million within the 2010/11 capital programme have now been deferred and are included within the 2011/12 budget. A number of specific savings and reductions of £0.343 million were also reported for which the 2010/11 budget has now been adjusted.

Since that meeting, these and other revisions have been made to the programme as shown in the following table:

<b>Description</b>	<b>£</b>	<b>Approval / funding</b>
Capital Programme, as at 24 November 2010	30,484,160	
Budget Deferred to 2011/12	(4,188,550)	Approved by Executive 7 December 2010
Overspends / Underspends (net)	(342,690)	
RAMM Redevelopment	2,187,580	Additional budget approved by Executive 7 December 2010
Energy Conservation	116,520	External funding contributions
National Cycle Network	176,670	Contributions from DCC
HRA Increase in Budget Deferred	(400,000)	Deferral built into 2011/12 Budget
<b>Revised Capital Programme</b>	<b>28,033,690</b>	

#### **4.0 PERFORMANCE**

##### **4.1 Projected Outturn**

The revised capital programme for the current financial year is £28.034 million. From the current monitoring review it is projected that a further £4.908 million of the programme will need to be carried forward into future years. For details, please refer to Appendix 1 and to the explanations below.

##### **4.2 Progress**

During the nine months of the year to 31 December, the Council spent £12.264 million on the capital programme, which equates to 43.7% of the revised 2010/11 programme. This compares with £10.561m million (41.6%) being spent in the first nine months of 2009/10.

4.3 Other variances shown in Appendix 1 of £0.233 million include a number of further scheme savings which can be achieved from the 2010/11 programme, which are explained below.

#### **5.0 VARIANCES and OTHER ISSUES**

5.1 The main items are as follows:

##### **5.1.1 Community & Environment**

###### ***Cultural City***

- **RAMM Re-development (Budget £11,074,620)**

Following approval of a revised budget for this scheme by the Executive on 7 December, the projected costs have been reviewed to determine the revised spending profile over the two years 2010/11 – 2011/12. As a result, it is now estimated that £1.783 million of the 2010/11 revised budget will need to be carried forward into the next financial year.



Following some last minute delays to ensure that the air conditioning was operating to its proper specification, the interior of the building was due to be handed over by the contractor in mid-March. Exhibition fit out is due to commence on 28 March. The scheme is expected to be complete and the museum reopened mid December.

- **Home Recycling Scheme (Budget £64,790)**  
There is a further saving in the bin replacement programme of £10,000 as a result of bins having been purchased through the new recycling scheme roll out, which has a separate budget.

### ***Healthy & Active People***

- **Disabled Facility Grants (Budget £586,840)**  
Each authority receives an annual subsidy allocation from Central Government for Disabled Facility grants which historically was based on 60% of the cost of grants paid, with Authorities having to contribute the 40% difference. The Council's budget was increased earlier in the year by £198,330 on the basis that the Council's 40% top up had not been included in the original budget.

It has since been clarified however that authorities are no longer required to contribute to disabled facility grants. The previous budget level of £388,510 will be more than sufficient to meet the current year's needs, and there is likely to be a significant balance available to carry forward to 2011/12. It is therefore proposed to reduce this budget by £198,330.

### ***Everyone has a Home***

- **Wessex Loan Scheme (Budget £974,370)**  
The Wessex Loan Scheme provides low interest loans for improvements and adaptations to properties in Exeter, through a South West consortium arrangement with the Wessex Reinvestment Trust. Whilst a total of £930,000 has been advanced to date to the Trust to provide for such loans, there is a time lag between grants being approved and paid, and expenditure is chargeable to the Council's capital budget only when grants are paid. It is anticipated that around £0.5 million of the budget will need to be carried forward for advances made to the Trust where grants will not be physically paid until 2011/12.
- **Social Housing Grants (Budget £1,588,110)**  
This budget provides financial support mostly to Registered Social Landlords for new house-building and conversion. Commitments have been agreed and budgets allocated for numerous projects although these often take some time to come to fruition. In addition, a significant part of the budget tends to remain uncommitted, providing flexibility as and when suitable new projects come forward requiring support. As a result, a large part of this budget frequently underspends in year and is carried forward to the following year.

As part of the 2<sup>nd</sup> Quarter's monitoring, a review of the projected timing of commitments and other allocations from this budget resulted in £1.915 million of the budget being deferred to 2011/12. Following a further review, it is now projected that an additional £0.648 million of this budget will need to be carried forward, which will provide a total budget in 2011/12 for social housing grants of £4.6m.

Use of this budget in the current year in partnership with housing associations has enabled the provision of 21 homes for social rent and extensions creating two 4-bedroomed homes. Other commitments have contributed to a start on a further 41 affordable homes and should also enable Sovereign Housing Association to start building 34 social rented homes on 2 Council Infill sites. The Council is also due to complete the purchase of a former church site that will support the future provision of a further 11 affordable homes.

## 5.1.2 Economy & Development

### *Accessible City*

- **National Cycle Network (NCN – Budget £237,370)**

NCN schemes are mostly funded with contributions received from Devon County Council. Recent developments include links to the Canal-side NCN2: Swans Nest Track and Sannerville Way to Limekilns, and the installation of solar powered road studs from Bridge Road to Double Locks.

Expenditure currently exceeds the budget, however DCC will be invoiced in due course for further contributions and the final spend for the year is expected to be within budget.

### *Cared for Environment*

- **City Centre Enhancements (Budget £270,000)**

It is projected that budget of £170,000 will need to be carried forward for improvement works to Gandy Street, Northernhay Gate and Rougemont Gardens access for which orders are expected to be raised shortly.

### *Prosperous City*

- **Science Park**

A sum of £818,700 is included in the budget for the Council's support towards phase 1 of the Science Park, which is being developed in partnership with the University of Exeter, East Devon District Council, Devon County Council, Met Office and the Regional Development Agency. The Science Park Company has not been in a position to receive the City Council's contribution because of complications around State Aid rules. Contributions of up to £80,000 are likely to be paid before the end of the year to support the continuation of preparatory work, with the balance of £738,700 required to be carried forward to 2011/12.

## 5.1.3 Corporate Services

### *Electronic City*

The majority of the 2010/11 capital programme is anticipated to be complete by 31 March with the exception of carry over projected for two projects:

- **Geographical Information (GIS) Systems (Budget £67,950)**

The procurement of a GIS management system will span this financial year to allow time for the appropriate project and financial controls to be put in place. The current budget of £67,950 will be carried forward for this against an anticipated cost of £54,380, which represents a projected saving of £13,570 in 2011/12 (subject to final negotiation and budget profiling).

- **Authentication Module (budget £31,000)**  
This budget will need to be carried forward as the Council is still awaiting advice on appropriate technologies to enable authentication/security systems for the Council's online systems.

#### 5.1.4 Housing Revenue Account

##### *Everyone Has a Home*

- **Sheltered Accommodation (Budget £434,500)**  
A new lift has recently been fitted at Amersham Court to allow improved access for the elderly and disabled
- **Re - Roofing (Budget £265,180)**  
Schemes completed include new lightweight metal roofing at 34 properties in Walpole Close and artificial slate roofs at Burnthouse Lane (10 properties). Work is currently ongoing to flat roof bungalows at Pinhoe Road and Hill Rise.
- **Replacement Windows and Doors (Budget £100,000)**  
Works to replace windows at Bartholomew Street West, John Levers Way and Okehampton Street have now been completed.
- **Kitchens and Bathrooms (Budgets £576,180 & £165,180)**  
Members will be aware that the previous contractor went into administration and the Council was required to re-tender the contracts. This resulted in a significant delay to the programme, although short term arrangements were put in place to enable the most urgent cases to be progressed until a new contractor is appointed.  
  
59 out of 121 planned kitchen replacements and 8 of 42 planned bathroom replacements have been completed.
- **Central Heating Programme (Budget £786,510)**  
Officers are in talks with the contractor to resolve a lack of progress as only 159 of 288 planned installations have been completed due to the contractor's resource issues.

#### 5.1.5 Council House-building Programme – Phase 1 (Budget £2,730,280)

- **Sivell Place (Rowan House)**  
Rowan House was completed on 16 December 2010; all three new homes were let on 20 December 2010. The final air-tests met the standards required for Passiv-Haus certification and the accreditation is expected to follow in due course.  
  
The final account is currently being calculated and is expected to remain within the contract sum.
- **Merlin Crescent (Knights Place)**  
The main contractor has experienced delays due to bad weather; the freezing temperatures and snow during December 2010 and the driving rain in the New Year. This has led to a re-programming of the remainder of the build and the revised completion date is now the end of May 2011. The Homes & Communities Agency have been made aware of the revised date.

Contract costs remain contained within the contract sum. The development is on target to be delivered to Passiv-Haus accreditation standards, air tests undertaken so far this year demonstrate that the required standards are being met.

When completed, Knights Place will provide 18 new 1 & 2 bedroom homes for social rent.

## **6.0 RECOMMENDED**

It is recommended that the Scrutiny Committee – Resources notes and Council approves:

6.1 The current position in respect of the annual capital programme.

6.2 A reduction in the disabled facilities grants budget of £198,330.

## **HEAD OF TREASURY SERVICES**

### **CORPORATE SERVICES DIRECTORATE**

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

1. None

## CAPITAL AND PROJECT MONITORING 2010/11

	Lead Officer	2010/11 Revised Capital Programme	2010/11 Spend to 31 Dec	2010/11 Forecast Spend	2010/11 Budget to be Carried Forward to 2011/12	2010/11 Programme Variances Over / Under ( )
		£	£	£	£	£
<b>COMMUNITY &amp; ENVIRONMENT</b>						
<b>ACCESSIBLE CITY</b>						
Riverside Valley Park Enhancement	PM	27,360	32,483	33,227		5,867
<b>STRONG COMMUNITIES CITY</b>						
<b>CULTURAL CITY</b>						
Playing Fields General Improvements	PM	26,000	24,670	27,820		1,820
Bromhams Farm Changing Rooms	PM	24,850	0	0	16,000	(8,850)
Play Area Refurbishments	AC	147,910	91,614	147,910		0
Sports Facilities Refurbishment	AC	129,880		33,300	96,580	0
Parks Improvements	PM	7,460	5,104	20,728		13,268
Leisure Management Contract	AC	64,150	61	64,150		0
Exwick Community Centre	AC	28,000	24,963	28,000		0
RAMM Re-development	AC	11,074,620	5,072,633	9,291,840	1,782,780	0
<b>CARED FOR ENVIRONMENT</b>						
Home Recycling Scheme	RN	64,790	31,150	54,790		(10,000)
Public Toilet Refurbishment	PM	11,640	10,441	11,640		0
Local Authority Carbon Management Programme	PM	177,090	4,063	177,090		0
Improvements to Cemetery Roads & Pathways	PM	18,510	8,828	18,510		0
Cemeteries & Churches Storage Improvements	PM	200	1,061	4,500	(4,300)	0
Midi Recycling Banks	RN	12,600	0	12,600		0
Upgrade of Turf Sewage Treatment Plant	AC	10,000	0	10,000		0
General Open Space Improvements	PM	12,000	3,998	6,998		(5,002)
Domestic Recycling Review	RN	176,000	145,766	176,000		0
<b>EXCELLENCE IN PUBLIC SERVICES</b>						
Vehicle Replacement Programme	PM	473,000	326,425	473,000		0
Soil Erosion at Clifton Hill	AC	85,000	76,399	85,000		0
Replacement of Homecall Equipment	RN	3,350	789	3,350		0
New Technology for Cleansing	RN	196,790	7,137	121,750	75,040	0
Higher Cemetery New Storage Yard & Buildings	PM	0	1,204	1,204		1,204
Belle Isle Nursery - Various Improvements	PM	7,000	8,284	6,286		(714)
Replacement of 'Tractor Sheds'	PM	10,680	7,598	10,278		(402)

## CAPITAL AND PROJECT MONITORING 2010/11

	Lead Officer	2010/11 Revised Capital Programme	2010/11 Spend to 31 Dec	2010/11 Forecast Spend	2010/11 Budget to be Carried Forward to 2011/12	2010/11 Programme Variances Over / Under ( )
		£	£	£	£	£
<b>HEALTHY &amp; ACTIVE PEOPLE</b>						
Disabled Facility Grants	RN	586,840	238,035	388,510		(198,330)
<b>EVERYONE HAS A HOME</b>						
Warm Up Exeter / PLEA Scheme	RN	181,480	180,049	181,480		0
PLEA Scheme	RN	104,110	90,000	104,110		0
Wessex Loan Scheme	RN	974,370	208,029	474,370	500,000	0
ExtraLet Plus	LB	100,000	7,216	55,000	45,000	0
Social Housing Grants	LB	1,588,110	173,642	940,567	647,543	0
Private Sector Renewal Scheme	LB	137,070	106,345	137,070		0
Development of General Fund Housing Land	LB	1,850	0	1,850		0
PSL Improvement Programme	LB	87,300	30,327	63,000	24,300	0
Renovation Grants	RN	150,120	77,775	110,000	40,120	0
<b>SAFE CITY</b>						
Replace Digital Recording Equipment at Control Centre	RN	16,000	0	16,000		0
CCTV Consultancy in Respect of Enhancements	RN	3,000	0	3,000		0
<b>COMMUNITY &amp; ENVIRONMENT TOTAL</b>		<b>16,719,130</b>	<b>6,996,089</b>	<b>13,294,928</b>	<b>3,223,063</b>	<b>(201,139)</b>

## CAPITAL AND PROJECT MONITORING 2010/11

	Lead Officer	2010/11 Revised Capital Programme	2010/11 Spend to 31 Dec	2010/11 Forecast Spend	2010/11 Budget to be Carried Forward to 2011/12	2010/11 Programme Variances Over / Under ( )
		£	£	£	£	£
<b>ECONOMY &amp; DEVELOPMENT</b>						
<b>ACCESSIBLE CITY</b>						
National Cycle Network	DH	237,370	243,600	243,600		6,230
Signage / Pedestrian Interpretation	RS	12,780	11,316	12,780		0
Implementation of Council Walking Strategy	DH	13,750	12,267	13,750		0
Refurbish Broadwalk House Car Park	RC		82			0
<b>CULTURAL CITY</b>						
18 North Street Panelling	RS	2,720	0	2,720		0
Corn Exchange Enhancements	MC	130,040	122,483	130,040		0
Corn Exchange - Haystack Lantern	PM	40,000	1,093	40,000		0
Floodlighting	RS	1,120	0	1,120		0
<b>CARED FOR ENVIRONMENT</b>						
City Centre Enhancements	KH	270,000	27,598	100,000	170,000	0
Contribution to Skypark CHP Plant	KH	100,000	100,000	100,000		0
Surface Water Early Actions EA Scheme	DH	100,000	12,524	100,000		0
Mincinglake / Northbrook Study	DH	120,000	47,930	120,000		0
Ibstock Environmental Improvements	MC	3,240	3,240	3,240		0
Planting Improvements in Riverside Valley Park	RS	14,250		0	14,250	0
Repairs to Cricklepit Wall			78			0
<b>LEARNING CITY</b>						
Improvements to Quay House Visitor Centre	RB	40,810	30,225	40,810		0
<b>PROSPEROUS CITY</b>						
Basin / Quayside Redevelopment	MC	200,000	147,709	200,000		0
Science Park	RB	818,700	56,970	80,000	738,700	0
Well Oak Footpath / Cycleway	RS	0	105			0
King William St Car Park Refurbishment	RC	223,000	154,154	200,000	23,000	0
<b>SAFE CITY</b>						
Security Measures for Riverside Valley Park	DH	3,250	336	3,250		0
<b>ECONOMY &amp; DEVELOPMENT TOTAL</b>						
		<b>2,331,030</b>	<b>971,710</b>	<b>1,391,310</b>	<b>945,950</b>	<b>6,230</b>

## CAPITAL AND PROJECT MONITORING 2010/11

	Lead Officer	2010/11 Revised Capital Programme	2010/11 Spend to 31 Dec	2010/11 Forecast Spend	2010/11 Budget to be Carried Forward to 2011/12	2010/11 Programme Variances Over / Under ( )
		£	£	£	£	£
<b>CORPORATE SERVICES</b>						
<b>ACCESSIBLE CITY</b>						
Equal Opportunities Improvements	PM	10,740	1,010	10,740		0
<b>ELECTRONIC CITY</b>						
Electronic Document Management	PE	43,000	23,800	43,000		0
Server Strategy	PE	40,000	20,007	40,000		0
FIMS Replacement	AS	11,750	0	11,750		0
Environmental Health System Upgrade	RN	11,350	6,761	11,350		0
Capita Systems Infrastructure	PE	30,000	0	30,000		0
Sun Platform Servers	PE	21,800	0	21,800		0
Authentication Module	PE	31,000	0	0	31,000	0
IT Development Time	PE	112,000	65,850	112,000		0
PC Replacement Programme	PE	100,000	5,118	100,000		0
Corporate Network Infrastructure	PE	30,000	14,900	30,000		0
GIS Strategy	PE	67,950	0	0	67,950	0
Intranet & Internet	PE	10,000	2,568	10,000		0
<b>EXCELLENCE IN PUBLIC SERVICES</b>						
Civic Centre Communal Area Refurbishment	JS	98,990	98,529	98,990		0
Committee Room Audio Visual Equipment			154	154		154
Capitalised Staff Costs	AS	370,000		370,000		0
<b>CORPORATE SERVICES TOTAL</b>		<b>988,580</b>	<b>238,697</b>	<b>889,784</b>	<b>98,950</b>	<b>154</b>
<b>HRA CAPITAL</b>						
<b>EVERYONE HAS A HOME</b>						
Sheltered Accommodation	LB	434,500	304,038	350,000	84,500	0
Adaptations	LB	450,000	404,406	450,000		0
Defective Properties - British Steel	LB	149,760	162,626	189,760		40,000
Rendering of Council Dwellings	LB	361,710	361,754	411,710		50,000



## CAPITAL AND PROJECT MONITORING 2010/11

	Lead Officer	2010/11 Revised Capital Programme	2010/11 Spend to 31 Dec	2010/11 Forecast Spend	2010/11 Budget to be Carried Forward to 2011/12	2010/11 Programme Variances Over / Under ( )
		£	£	£	£	£
MRA Fees	LB	368,000		368,000		0
Communal Door Entry System	LB	8,570	7,178	8,570		0
Environmental Improvements - General	LB	37,420	23,470	29,420	8,000	0
Programmed Re-roofing	LB	265,180	177,863	265,180		0
Energy Conservation	LB	210,260	184,800	210,260		0
Asbestos Survey	LB	105,660	91,232	105,660		0
Council House Extensions	LB	67,440	14,818	45,000	22,440	0
Plastic Windows & Doors	LB	100,000	82,800	100,000		0
Kitchen Replacements	LB	576,180	145,439	276,180	300,000	0
Asbestos Removal Works	LB	140,000	159,583	180,000		40,000
Bathroom Replacements - Programmed	LB	165,180	34,260	115,180		(50,000)
Weirfield House Refurbishment	LB	19,270	10,678	13,000		(6,270)
Other Works	LB	233,000	25,551	208,000	25,000	0
Repointing	LB	142,200	15,999	50,000		(92,200)
Fire Prevention Work	LB	158,000	2,182	8,000	150,000	0
Programmed Electrical Re-wiring	LB	455,370	205,160	435,370		(20,000)
Central Heating Programme	LB	786,510	388,752	736,510	50,000	0
<b>HOUSING REVENUE ACCOUNT TOTAL</b>		<b>5,234,210</b>	<b>2,802,589</b>	<b>4,555,800</b>	<b>639,940</b>	<b>(38,470)</b>

**CAPITAL AND PROJECT MONITORING 2010/11**

	Lead Officer	2010/11 Revised Capital Programme	2010/11 Spend to 31 Dec	2010/11 Forecast Spend	2010/11 Budget to be Carried Forward to 2011/12	2010/11 Programme Variances Over / Under ( )
		£	£	£	£	£
<b>COUNCIL HOUSEBUILDING PROGRAMME</b>						
<b>COUNCIL'S OWN BUILD</b>						
Phase 1	LB	2,730,280	1,224,218	2,730,280		0
Phase 2	LB	30,460	30,206	30,206		(254)
<b>COUNCIL HOUSEBUILDING TOTAL</b>		<b>2,760,740</b>	<b>1,254,424</b>	<b>2,760,486</b>		<b>(254)</b>
<b>CAPITAL AND PROJECT EXPENDITURE TOTAL</b>		<b>28,033,690</b>	<b>12,263,509</b>	<b>22,892,308</b>	<b>4,907,903</b>	<b>(233,479)</b>
Head of Leisure and Museums	AC					
Head of Treasury Services	AS					
Engineering and Construction Manager	DH					
Acting Head of Estates Services	MC					
Head of Environmental Health Services	RN					
Director of Economy and Development	KH					
Head of Corporate Customer Services	JS					
Head of IT Services	PE					
Head of Contracts and Direct Services	PM					
Head of Economy and Tourism	RB					
Head of Administration and Parking Services	RC					
Head of Planning Services	RS					
Acting Head of Housing	LB					

EXETER CITY COUNCIL  
SCRUTINY COMMITTEE - RESOURCES  
23 MARCH 2011

EXECUTIVE  
5 APRIL 2011

## ANNUAL SUSTAINABLE PROCUREMENT AND COMMISSIONING REPORT 2010/11

### 1. PURPOSE OF THE REPORT

- 1.1 To report to Members progress made against last year's Sustainable Procurement and Commissioning Action Plan.
- 1.2 To outline the Sustainable Procurement and Commissioning Action Plan for 2011/12.

### 2. BACKGROUND

- 2.1 In March 2009, the 2004 Procurement Strategy was replaced by the new Sustainable Procurement and Commissioning Strategy. Each year an action plan is developed informed by the strategy and changes in wider procurement policy.

### 3. PROGRESS TO DATE

#### **Sustainable Procurement and Commissioning Strategy**

- 3.1 The Sustainable Procurement and Commissioning Strategy is supported by a Procurement and Commissioning Good Practice Guide and a number of 'tool kits' which were added to during the year. The tool kits provide straight-forward guidance on key elements of procurement and commissioning such as developing a specification, risk management, appointing consultants, etc. This guidance is available on the intranet to assist officers considering contracting as an option.
- 3.2 The success of the information is evidenced by the increasing number of officers who are seeking advice prior to tendering for contracts as diverse as dealing with abandoned vehicles and disposal of composted material.

#### **Organisational Structures**

- 3.3 The Procurement Group, consisting of officers from within the Council, continues to meet on a regular basis and forms a virtual team which considers changes to processes and documentation relating to procurement. Members of the group are and have been heavily involved in strategic projects such as the RAMM project, the leisure management contract and the housing maintenance contract.
- 3.4 The Procurement Group is increasingly involved in Devon-wide contracts under the auspices of the Devon Procurement Partnership. A current example is sourcing of occupational health specialist equipment and stairlifts fitted within tenant properties.

## **Working with small businesses**

- 3.5 We continue to work with small businesses in Exeter and the surrounding region to increase their involvement in bidding for Council work. This has been expanded to involve the voluntary and community sector. During the year presentations have been given to the Exeter Chamber of Commerce, Time & Talents, Procurement Connections (2010) and the Federation of Small Businesses. In addition officers took part in a 'meet the buyer' event as part of the Business South West (2010) event at West Point. The increasing use of the *Selling to the Council* web page is essential to continue this work. A major initiative has been the launch of a new procurement website. This provides additional support for small business in the Exeter economy during the ongoing recession.
- 3.6 This initiative has been coordinated by Exeter City Council on behalf of its partners and in collaboration with Exeter Business Support, Business Link, Exeter Chamber of Commerce and the Exeter Federation of Small Businesses. The website: [www.exeterbuysellprosper.co.uk](http://www.exeterbuysellprosper.co.uk) has been designed to actively encourage those making buying decisions in local public sector and large employers, particularly for contracts that do not need to go out to formal tendering to buy from local small businesses. Development work is ongoing with individual procurement leads being able to access their own page on the site.

## **The Green Accord**

- 3.7 The Green Accord has gained national credibility. It has been previously recognised as best practice and was placed on the Audit Commission's website, together with the Sustainable Procurement and Commission Strategy. It continues to win national awards. The Council has trade marked the Green Accord and a business plan was approved for expanding into other sectors and organisations. A number of private sector organisations have now engaged with the Green Accord. Sir Robert McCalpine is the latest example who whilst carrying out a major construction project at the university is introducing the Green Accord throughout its supply chain.

## **4. CHANGES TO PUBLIC PROCUREMENT PROCEDURES**

- 4.1 A number of changes have been introduced at a national level that impact on the Council's procurement processes. These include:
- 4.2 The introduction of core pre qualification questions to be incorporated in all pre qualification questionnaires (PQQ). The PQQ is used to make an initial assessment of a potential bidder's suitability. It has long been an issue with businesses that there is little consistency across Councils over what questions are asked and the level of detail required. Small and medium enterprises (SMEs) have cited this as a perceived barrier to their engagement with Councils. The Devon authorities were already moving towards a consistent approach but this was overtaken by the introduction of this requirement. A compliant model PQQ has now been developed for use across the South West. The next stage in this process is to enable the responses used for one authority to be reused for other opportunities.
- 4.3 As part of the Coalition Government's transparency agenda the Council is required to publish all new contracts and tenders on the internet with effect from January 2011. All contracts and tenders above £500 in value are covered by the requirement and will be published in a mandated format. Details include the name of the successful bidder and the price of the winning bid which has meant changing the Council's documentation to reflect this requirement and to inform prospective bidders prior to them submitting a tender. The intention is to develop the process on the Council's website prior to linking with a regional portal.

4.4 The introduction of the Equalities Act whilst not introducing a specific requirement in respect of procurement clearly will impact on the Council's approach to incorporating equalities and diversity into contracts. These changes will need to be reflected in both the Council's Standard Terms and Conditions and the Contract Regulations. The Head of Contracts has delegated powers to make minor amendments to the contract regulations subject to consultation with the appropriate Portfolio Holder and Director.

## **5. COLLABORATING WITH PROCUREMENT BODIES ACROSS DEVON**

5.1 The Council has again taken an active role in the Devon Procurement Partnership (DPP) this year. The DPP encompasses all public procurement bodies in Devon including local authorities, emergency services and academic institutions. It develops best practice in terms of procurement and initiates collaborative procurements that benefits the members. The relationships within the group have been positively maintained.

5.2 Conscious that the challenges faced by local authorities are often different to those faced by the wider public procurement community, the need for a more strategic group was identified. The Heads of Procurement Group comprising the procurement leads from Devon County Council, Torbay, Plymouth and Exeter together with the chair and deputy chair of the DPP provides and fulfils this strategic role. Exeter's involvement is particularly beneficial as it can ensure that the City's unique contribution as the only urban Devon district is fully recognised.

5.3 The Devon districts councils have jointly developed a Procurement Strategy to better inform their collaboration.

## **6. FUTURE PLAN OF WORK**

6.1 The progress achieved against the 2010/11 Sustainable Procurement and Commissioning Action Plan is attached at Appendix I. Considerable progress has been achieved but there are still a number of significant tasks identified that need to be completed.

6.2 The Sustainable Procurement and Commissioning Action Plan for the coming year is attached as Appendix II.

## **7. RECOMMENDED**

that Scrutiny Committee Resources and Executive :

- 1) supports the Sustainable Procurement and Commissioning Action Plan for 2011/12.
- 2) notes that changes to the Contract Regulations will be made under delegated powers to reflect the new requirements identified in section 4 of the report.

HEAD OF CONTRACTS AND DIRECT SERVICES

COMMUNITY & ENVIRONMENT DIRECTORATE

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

**Background papers used in compiling this report:**

None

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**SUSTAINABLE PROCUREMENT & COMMISSIONING ACTION PLAN  
APRIL 2010 TO MARCH 2011**

TASK	PROGRESS TO DATE
Review the Action Plan to take account of the impact of a achieving unitary status; were unitary status to be achieved the Action Plan would need to be limited to essential tasks only as resources would be diverted managing contractual issues arising from the move to unitary.	The outcome of the Judicial Review in June 2010 meant that the revised unitary based action plan was shelved and work on this action plan recommenced
Implement improvements identified in the Environmental Sustainability Audit as they relate to procurement in order to better address social, environmental and economic issues.	Part achieved; Improvements introduced and the responsibility for the sustainable procurement policy now rests with Head of Contracts
Complete the integration of all the Council's e-procurement solutions with the corporate financial systems to streamline the procurement process and maximise transactional savings.	Part achieved; greater level of integration in terms of spend analysis
Complete the review of the Council's approach to assessing the health and safety competency of potential suppliers and contractors building on the 'Managing of Contractors' guidance.	Achieved; accreditation check introduced against a proforma to assess competence
Monitor the take up of contract opportunities by Small and Medium Enterprises, Black Minority Ethnic, Disabled and Women only organisations	Not achieved; awaiting development of joint approach with other authorities in Devon
Review and improve the 'Selling to the Council' web pages with particular emphasis on businesses in the local area, develop the web based information to assist SME involvement in council tenders in accordance with the Glover Report recommendations and promote to the business community.	Achieved; 'Exeter Buy and Sell Prosper' linked to Selling to the Council website to encourage SME involvement
Develop internal capacity of the awareness and use of sustainability in procurement activity by extending the Green Accord to all sections of the Council, including the embedding of equality and diversity within the awarding of contracts and compliance monitoring.	Part achieved; Ongoing in respect of extension Green Accord. Changes to approach required following introduction of Equality Act
Achieve level 5 across all categories in the Sustainable Procurement Flexible Framework.	Achieved; independently verified by Global Action Plan.
Ensure all sourcing and routine procurement activity across the Council is undertaken electronically as far as is possible.	Achieved; for those procurements managed centrally
Develop and promote guidance on involving users in the procurement process working with them to provide training and improved awareness on their role in the procurement and commissioning process such as the evaluation tenders.	Achieved; the Housing Maintenance Contract fully involved housing tenant representatives being trained and then fully involved in all aspects of the process
Ensure the Leisure Management and Housing Maintenance tenders are evaluated in a way that optimises the benefit to the council.	Achieved; both tenders resulted in considerable cost and quality benefits
Review and set up reporting feedback processes to ensure procurement and commissioning processes are developed and based on users needs.	Achieved; the Housing Maintenance Contract was used to successfully trial reporting feedback procedures
Develop procurement good practice guide and toolkit and continue to provide advice, guidance and gateway reviews to strategic procurement projects	Part achieved; in accordance with Internal Audit recommendations although progress not as well advanced as expected due to work pressure
Work with Devon Procurement Partnership and SWRIEP to identify opportunities to share expertise and maximise competitive advantage.	Achieved; collaborative procurements undertaken on diverse contracts such as recovery of abandoned vehicles and stair lift installations which will have achieved benefits

TASK	PROGRESS TO DATE
Combine the building and engineering approved lists into a consolidated list to provide greater consistency and clarity and seek to extend in partnership with other districts and stakeholders.	Not achieved
Identify areas of existing procurement procedures that need to be improved and implement changes to comply with legislation and good practice	Ongoing



**SUSTAINABLE PROCUREMENT & COMMISSIONING ACTION PLAN  
APRIL 2011 TO MARCH 2012**

<b>TASK</b>	<b>BY WHOM</b>	<b>BY WHEN</b>
Review and revise the Council's Sustainable Procurement and Commissioning Strategy such that a new strategy, reflecting best practice is in place for April 2012	Head of Contracts in consultation with Procurement Group and appropriate officers	End of March 2012
Integrate the Sustainable Procurement Policy into the revised Sustainable Procurement and Commissioning Strategy thereby ensuring that sustainability is at the heart of all procurement and commissioning.	Head of Contracts	End of March 2012
Comply with the Governments Local Transparency Agenda as it relates to contracts and tendering	Head of Contracts/ Procurement Group/HoS	Ongoing throughout year
Respond to the proposals to introduce a Community Right to Challenge and in turn develop procedures to respond to the requirements once they are introduced.	Head of Contracts/ Head of Policy	Response by May 2011. Procedures in accordance with timetable.
Work proactively with the Low Carbon Task Force to introduce photovoltaic schemes on Council housing stock and Civic buildings that maximises the benefit to the Council of feed in tariffs.	Heads of Contracts/ Housing / Estates	Develop contract documents April 2011 Tendering complete September 2011
Prepare to retender master vendor agency provider contract to incorporate changes to legislation in respect of agency workers rights in collaboration with other Devon Councils.	Head of Contracts/ Procurement Group/ Head of Human Resources	New arrangements in place by April 2012
Revisit the constitution of the Procurement Group to ensure it reflects the structural changes within the Council in order for it to continue to fulfil its objectives.	Head of Contracts / Procurement Group	July 2012
Support contracting and tendering processes across the Council ensuring that procurement objectives are met via a process of ongoing review of Procurement Strategies.	Head of Contracts/ Procurement Group	In accordance with procurement project plan
Monitor the take up of contract opportunities by Small and Medium Enterprises, Black Minority Ethnic, Disabled and Women Only Organisations using check list	Head of Contracts/ Devon Councils	March 2012
Review and improve the 'Selling to the Council' web pages with particular emphasis on businesses in the local area, develop the web based information to assist SME involvement in council tenders in accordance with the Government recommendations and promote to the business community.	Head of Contracts/ Procurement Group	Ongoing
Continue to develop procurement good practice guide and toolkit and continue to provide advice, guidance and gateway reviews to strategic procurement projects	Head of Contracts	Ongoing
Work with Heads of Procurement Group, District Councils and Devon Procurement Partnership to identify opportunities to share expertise and maximise competitive advantage.	Head of Contracts	Ongoing
Identify areas of existing procurement procedures that need to be improved and implement changes to comply with legislation and good practice	Procurement Group	Ongoing

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## EXETER CITY COUNCIL

### SCRUTINY COMMITTEE - RESOURCES 23 MARCH 2011

EXECUTIVE  
5 APRIL 2011

#### CORPORATE GOVERNANCE RISK REGISTER ANNUAL REVIEW 2011

#### 1. PURPOSE OF THE REPORT

- 1.1 To update the Committee of the Council's risk management progress and seek its recommendation that the Executive approves the updated corporate risk register

#### 2. BACKGROUND

- 2.1 The Risk Management Policy makes this Committee responsible for:
- considering the corporate risk register (CRR) and recommending its approval to the Executive
  - monitoring the effectiveness of risk management throughout the Council and the progress made against the CRR target for actions dates

#### 3. RISK REGISTER

- 3.1 In order to avoid printing the full risk register, which consists of 30 pages, Councillors are able to view the register that was agreed by this Committee on 24 November 2010 on the Council's webpage  
<http://www.exeter.gov.uk/CHttpHandler.ashx?id=6402&p=0>
- 3.2 The Risk Management Group and heads of service responsible for each entry have reviewed the risks and, based upon actions implemented and actual experience, have reassessed the Impact and Likelihood scores. This has resulted in: an increased risk; an additional risk being identified, and an existing risk being deleted as follows:
- 3. Social**
- **Social Housing – Homelessness** – increased from Medium to High risk as the economic situation and welfare reform will cause increased demand (please see Appendix 1 for details)
- 6. Environmental**
- **Extreme weather disruption (e.g. heavy snow, floods)** – Medium risk – New – as such events are predicted to become more common in the future (please see Appendix 1 for details)
- 8. Financial**
- **Concessionary fares** – High risk – deleted as the Government has changed responsibility for this provision to county councils from district councils

3.3 The compilation of the full risk register has a timescale of nearly two months. To ensure that the risk register is as current as possible, it was circulated to the SMT and all heads of service before today's meeting to ensure entries are correct

#### **4. RISK MANAGEMENT PROGRESS**

4.1 The roll-out to the services of risk and business continuity management is continuing.

4.2 The risk management policy has been revised and is attached at Appendix 2 for consideration and approval by this Committee

#### **5. RECOMMENDATIONS**

That the Scrutiny Committee - Resources:

5.1 reviews the updated Corporate Risk Register

5.2 approves submission of the annual corporate risk register to the Executive

5.2 approves submission of the revised risk management policy to the Executive

#### **HEAD OF AUDIT**

#### **CORPORATE SERVICES DIRECTORATE**

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

**Background papers used in compiling the report:**

None

Exeter City Council Corporate Risk Register Risks & benefits	Inherent Risk (impact x likelihood)		Residual Risk (impact x likelihood) & Risk Priority		What needs to be done to control risks	Target date(s)	Responsible officer/s	Strat Obj ref	Change	
	I	L	I	L						H
<p><b>3. Social</b></p> <p><b>1. Social Housing – Homelessness</b></p> <p><b>a) Risks &amp; threats:</b></p> <ul style="list-style-type: none"> <li>• Failure to manage: <ul style="list-style-type: none"> <li>- increased demand as a result of economy &amp; welfare reforms</li> <li>- single homeless figures &amp; rough sleeping following 45% SP cuts</li> <li>- increase in youth homelessness as a result of DCC not fulfilling its obligations</li> </ul> </li> <li>- Gov't targets to reduce temp accom by 50% &amp; homeless acceptances by 25%</li> </ul> <p><b>Consequences:</b></p> <ul style="list-style-type: none"> <li>• Gov't sanctions, less homelessness grant</li> <li>• legal action by any person owed statutory duty that cannot be met</li> <li>• Council General Fund overspend unsustainable</li> </ul> <p><b>b) Benefits &amp; opportunities:</b></p> <ul style="list-style-type: none"> <li>• Homelessness cases reduced by prevention</li> <li>• Increase in CLG grant</li> </ul>	4	4	3	4	<ul style="list-style-type: none"> <li>• Homelessness Strategy/ Prevention Action Plan to reduce numbers accepted as homeless</li> <li>• Fast-track Housing Benefits claims, use of DHPs &amp; Homeless Grant</li> <li>• Engagement with private sector landlords &amp; expansion of PSL scheme</li> <li>• Increased resources for new affordable housing</li> <li>• Closer working with neighbouring LAs through DSHG &amp; DHOP</li> <li>• Quarterly monitoring via Scrutiny Committee, PRC &amp; P1E returns</li> <li>• Increased debt outreach work for potentially homeless families &amp; rent deposit schemes</li> <li>• Increased use of HRA land for development</li> <li>• In prison housing advice service funded</li> <li>• Introduction of STAR lettings for rough sleepers</li> <li>• Engage Homemaker for free advice &amp; assistance re: mortgage difficulties</li> </ul>	<ul style="list-style-type: none"> <li>• Continue to meet Gov't Temp Accom targets</li> <li>• Ensure adequate supply of alternative temp accom to replace B&amp;B, either PSLs or supported accom</li> <li>• Finish Housing Needs restructure to make service more proactive</li> <li>• Monitor market conditions to spot signs of trends that may affect the number of households facing homelessness</li> <li>• Pursue opportunities on HRA land including provision of additional temporary accommodation</li> <li>• Lobby Government for homelessness grant to continue to be paid direct to district councils.</li> <li>• Work in partnership with Housing Benefit to target households effected by LHA changes</li> <li>• Create multi-agency Street Outreach Team</li> <li>• Champion Devon Home Choice to maintain partner involvement</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing</li> <li>• Ongoing</li> <li>• Jun 11</li> <li>• Ongoing</li> <li>• Ongoing</li> <li>• Ongoing</li> <li>• Ongoing</li> <li>• Ongoing</li> <li>• Ongoing</li> <li>• Ongoing</li> <li>• Ongoing</li> </ul>	<p>Strategic Housing Manager</p> <p>Housing Needs Manager</p>	1 4	↑

<p><b>6. Environmental</b></p> <p><b>1. Extreme weather disruption (e.g. heavy snow, floods)</b></p> <p><b>a) Risks &amp; threats</b></p> <ul style="list-style-type: none"> <li>• Staff resources compromised &amp; service delivery affected</li> <li>• Delivery of services affected</li> </ul> <p><b>Consequences:</b></p> <ul style="list-style-type: none"> <li>• essential services not delivered</li> <li>• vulnerable persons suffer</li> <li>• adverse media &amp; public criticism</li> <li>• public health &amp; safety effects</li> <li>• adverse affect on staff morale</li> <li>• health &amp; safety impacts on staff</li> <li>• capital resources put at risk of damage (vehicles &amp; buildings)</li> <li>• legal &amp; financial claims from injured staff &amp; public, &amp; damaged private property</li> </ul>	4	4	16	<ul style="list-style-type: none"> <li>• All units have completed a BCP &amp; assessments agreed by each Director</li> <li>• BCM team has been identified &amp; allocated responsibilities</li> <li>• Plans for extreme weather changes due to climate change have been formulated for services</li> <li>• Health &amp; safety risk assessments regularly made before implementing services in adverse conditions</li> </ul>	3	3	9	<b>M</b>	<ul style="list-style-type: none"> <li>• The Council's BCM to be audited against the BSI 25999 standards</li> <li>• Further work to enhance &amp; proactively control communications to media &amp; public in times of stress</li> <li>• Review of health &amp; safety PPE for adverse weather conditions to be conducted</li> </ul>	<ul style="list-style-type: none"> <li>• 2011</li> <li>• 2011</li> <li>• 2011</li> </ul>	SMT Heads of Service Communi- cations PH&SO	New
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## EXETER CITY COUNCIL

### Risk Management Policy

#### 1. Introduction

Exeter City Council is committed to the effective management of risk at every level within the Council and to providing:

- a safe environment for its employees and customers
- safe working arrangements for employees
- training to enable its employees to undertake their work effectively, efficiently and safely.

The purpose of this Risk Management Policy is to state the Council's risk management objectives, approach, responsibilities and procedures.

#### 2. Objectives

The purpose of risk management is to:

- preserve and protect the Council's assets, reputation and staff
- promote Corporate Governance by integrating risk management and internal control
- promote a risk aware culture in order to avoid unnecessary liabilities and costs, but to encourage the taking of calculated risks in pursuit of opportunities that benefit the Council
- enhance and protect the local environment
- improve business performance.

#### 3. Risk management approach

##### 3.1 Aim

To ensure it is effective, risk management needs to be aligned with corporate aims, objectives and priorities. The Council's approach to embedding risk management is to create a culture that spreads best practice, identifies and communicates lessons learnt from both internal and external experiences, and using appropriate expertise.

Risk management has to be proactive to ensure that corporate and operational risks are:

- identified
- assessed by considering the impacts and likelihoods of their occurrence
- effectively managed by identifying suitable controls and countermeasures, and assessing the cost effectiveness of the mitigating actions proposed.

Effective risk management anticipates and avoid risks rather than dealing with the consequences of events happening. However, not all risks can be managed, particularly those that are caused by external factors over which the Council has no control (e.g. severe weather). Key services and Mission Critical Activities are therefore required to develop Business Continuity Plans in order to reduce the impact should a major event occur.

##### 3.2 Risk appetite and tolerance

Calculated controlled risks, such as accepting new opportunities or using innovative approaches for the benefit of the Council, may be taken providing the risk exposure is within the Council's 'risk tolerance' levels, these are defined as:

##### 3.2.1 acceptable risks – the risks associated with any proposed actions and decisions need to be clearly identified, evaluated and managed to ensure that risk exposure is acceptable.

Particular care is needed in considering actions that could:

- have an adverse effect on the Council's reputation and/or performance
- undermine the independent and objective review of activities
- result in censure or fines being imposed by regulatory bodies

- result in financial loss

Any threat or opportunity that could have a significant impact on the Council or its services must be closely examined, and all risks clearly evaluated and referred to the appropriate Director. Where there is both a significant potential impact and a high likelihood of occurrence, then the Director must report the risk to the Strategic Management Team.

3.2.2 prohibited risks – where risks could result in physical harm; non-compliance with legislation or Government regulations; or non-compliance with the Council’s policies, rules and procedures, etc., then these risks are not acceptable. Therefore, any opportunity or innovative approach that could result in such outcomes must not be pursued, and must be reported to the appropriate Director accordingly.

### 3.3 Risk treatment

There are four basic ways of responding to risk:

a) *avoidance* – deciding not to continue or proceed with the activity in view of the level of risks involved, wherever possible. (Note: statutory requirements cannot be avoided)

b) *transfer* – which involves another party bearing or sharing the risk, a typical example is the use of insurance. (Note: ultimate responsibility to undertake statutory requirements remains with the Council even if third party provision is engaged)

c) *control* – by ensuring existing controls are effective by periodic review and testing, and implementing additional controls where considered necessary

d) *acceptance* – certain risks cannot be adequately treated by either avoidance, transfer or control. In such cases, there is no alternative but for the Council to accept the residual (‘remaining’) risks concerned. Details of how these risks and their possible effects are to be managed must be recorded in the service’s (and where appropriate Corporate) Risk Register, and subject to regular review.

### 3.4 Framework

The Council maintains a Corporate Risk Register (CRR) that details the:

- hazards (events) that may impact upon the Council and its services
- possible risks and consequences, both negative (risks and threats) and positive (opportunities) that could happen should the hazards occur
- inherent (i.e. before treatment) risk scores, between 1 and 4, of the potential impact and likelihood of the hazards occurring on the basis that there is no mitigation in place
- controls and countermeasures that are in place in order to mitigate the risks
- residual (i.e. after treatment) scores, between 1 and 4, of the potential impact and likelihood of the hazard occurring taking into account the mitigation in place
- further actions planned to reduce the risks, the timescales and responsible persons

## 4. Responsibilities and procedures

General – to achieve effective Enterprise Risk Management, risk management must be embedded from the very top of the Council right down to each individual unit, service, employee and Councillor.

4.1 All Council employees and Councillors are responsible for ensuring there are robust and fit-for-purpose systems of internal control and risk management in place; and they are aware of the risks:

- they are empowered to take
- that must be avoided
- that must be reported upwards



- 4.2 The Executive - is responsible for considering and approving the Risk Management Policy.
- 4.3 The Leader of the Council - is responsible for acting as the Lead Councillor for risk management
- 4.4 Resources Scrutiny Committee – is responsible for:
- monitoring the effectiveness of risk management throughout the Council and progress made against the CRR target for actions dates
  - considering the CRR and recommending its approval to the Executive
- 4.5 Community and the Economy Scrutiny Committees – are responsible for monitoring the effectiveness of risk management for the services that each committee is responsible for scrutinising the progress made against the targets and dates for the agreed actions
- 4.6 Strategic Management Team (SMT) - is responsible for:
- approving the risk management approach (the Director Corporate Services has overall responsibility for the risk management policy)
  - affirming and supporting the work of risk management throughout the Council which is an important part of the Council's Corporate Governance arrangements
- 4.7 Heads of Service – are responsible for:
- ensuring that all employees within their Unit understand and comply with the risk management policy and procedures
  - identifying, evaluating and managing operational risks and reporting any possible corporate risks to their Director and DMT for consideration
  - ensuring that risk registers are established for their services and regularly reviewed to ensure that risks are adequately monitored and managed
- 4.8 Directorate Management Teams (DMT) - are responsible for:
- monitoring half-yearly each unit's RM progress, achievements regarding target dates, etc. and supporting the corporate risk management process
  - reporting all new and amended risks to the Head of Audit for inclusion onto the CRR and for ensuring they are linked to the budget planning process
- 4.9 Risk Management Group (RMG) - is responsible for:
- monitoring the Council's risk management process
  - updating and publishing the CRR on the Council's Internet webpage
  - reviewing the Council's CRR, seeking progress reports regarding completion of intended action (i.e. action target dates) for reporting to Scrutiny
  - assessing new and amended risks for clarity and linkages to capital and revenue bids
  - assessing the CRR to ensure that it is a 'living document' and agreeing the CRR for submission to Resources Scrutiny Committee
  - referring H&S issues, etc, to the KPG for consideration and monitoring progress
  - acting as a Group and individually as RM champions within the Council and their Directorates
- 4.10 Key Partners' Group (KPG) - is responsible for:
- preparing an annual H&S action plan detailing specific areas for KPG's review in liaison with DMTs and the RMG
  - receiving and monitoring reports from Units regarding progress in their H&S and insurance claims, particularly in respect of high risk H&S topics (e.g. required annual work, risk assessments, etc.)
  - reviewing H&S and relevant insurance matters, and reporting progress to the RMG
  - reporting to the RMG any H&S issues that are considered possible CRR entries

4.11 Internal Audit - is responsible for:

- undertaking audits of the Council's Risk Management system and procedures in order to assess their effectiveness and compliance with the Council's requirements as part of Corporate Governance process
- making recommendations to improve the effectiveness of RM within the Council

**APPROVAL:**

This policy was referred to and approved by the Leader and the Chief Executive on 4 July 2006

The policy was last reviewed in February 2011

This Policy version is number 2.11

Next review date: February 2013

## EXETER CITY COUNCIL

EXECUTIVE  
5 APRIL 2011

### PROPOSED ARTICLE 4 DIRECTION TO CONTROL DEMOLITION OF OR ALTERATIONS TO 60 – 66 UNION ROAD

#### 1 PURPOSE OF REPORT

- 1.1 To propose an Article 4 Direction (under the Town and Country Planning (General Permitted Development) Order 1995, as amended) to remove the permitted development right for demolition and alterations, and having immediate effect, be applied to 60 – 66 Union Road, Exeter.

#### 2 BACKGROUND

- 2.1 60 – 66 Union Road is a group of 4 properties owned and managed by the Licensed Trades Association (formerly the Licensed Victuallers Association). The properties date from 1840 and are constructed with Flemish bond brickwork, stone mullioned windows and strong gabled dormers with stone finials. The properties are set gable end onto the road. (see photographs at Appendix 3).
- 2.2 In February, Planning Services was approached by an agent on behalf of the owners stating that they were considering their options for the site, one of which was demolition of the existing properties and redevelopment to provide better accommodation for the occupants.
- 2.3 The properties do not fall within a conservation area and, as such, demolition would be permitted development.
- 2.4 It was considered appropriate to protect the properties from any threat of speculative demolition or other alterations prior to any planning application so that any proposals could be measured against the merits of the existing buildings.
- 2.5 Under PPS5, Planning for the Historic Environment, any building that has been identified as possessing a degree of architectural or historic significance may be considered a non-designated Heritage Asset (Policy HE8.1). PPS5 further states that where the exercise of permitted development rights would undermine the aims of the historic environment, local authorities should consider the use of an Article 4 Direction to ensure that any development is given due consideration. (Policy HE4).

#### 3 PROCEDURE FOR MAKING THE DIRECTION

- 3.1 Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, as amended by Statutory Instrument 2010 No. 654 allows for local authorities to remove certain types of permitted development to bring those specific items under planning control.
- 3.2 The proposed Direction must be advertised in a local paper, advertised on a site notice and the owner be sent copies of the formal notice and plan. The Secretary of State must also be informed. A period of not less than 28 days must be allowed for any representations to be submitted and the Direction may be confirmed by the local authority, subject to any representations being taken into account, by notification to the owners and Secretary of State and by local advertisement.

- 3.3 The Direction may have immediate effect where it relates only to development permitted by any of Parts 1 to 4 or 31 of Schedule 2 to the Order, and the local planning authority consider that the development to which the Direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area.
- 3.4 A draft Direction and Notice is attached in Appendix 1 and a plan showing the proposed Article 4 area is attached in Appendix 2.

#### **4 CONSIDERATIONS**

- 4.1 In proposing an Article 4 Direction, the local authority must take into account the possibility of a claim for compensation for losses directly attributable to the Direction, i.e. if planning permission is subsequently refused for what was, prior to the Direction being made, permitted development.
- 4.2 Compensation can be claimed under two headings: abortive expenditure (which would not appear to be relevant in this case) and other loss or damage, including depreciation in the value of the land.
- 4.3 It will not necessarily be the case that the Direction will affect the value of the land. For example, it would prevent the site owner from demolishing the dwellings without planning permission, but a vacant site would have less value than the existing 4 dwellings (unless the dwellings were in such poor condition as to be a liability, which seems very unlikely).
- 4.4 There would be a potential compensation liability if, on a planning application for redevelopment of the site, the planning authority (or an inspector on appeal) refused permission but indicated that the proposal was acceptable in all respects other than the loss of the existing dwellings. In reality the planning issues may not be so clear cut, but even if they were, the site owners would still have to show that the site with a potential for redevelopment (but for the inability to demolish the existing dwellings) is more valuable than as existing, taking into account all the costs of redevelopment. This could be quite difficult to show.
- 4.5 It is impossible to put any figure on potential compensation liability because the possible permutations (e.g. in terms of redevelopment options) are infinitely variable. In practice, the problems of showing a causal link to the Article 4 Direction (as opposed to other planning issues) and of valuation mean that making a compensation claim can be a complex and expensive business, and it may be for this reason that a report on research into the use of Article 4 Directions on behalf of English Historic Towns Forum (*RPS Planning, October 2008*) found no evidence for any compensation payments actually being made.

#### **5 CONCLUSIONS**

- 5.1 60 – 66 Union Road have been identified as having historic and social interest and as such it is a Heritage Asset that warrants protection from uncontrolled demolition or unsuitable alterations. The most appropriate protection the local authority can impose is an Article 4 Direction that will remove certain permitted development rights without the need for a planning application to be made.

5.2 By applying this Direction, demolition and other alterations will be brought under planning control. The owners may still submit a planning application for the demolition and rebuilding of the properties and they will have to submit their reasoning and justification for wanting to do this. Members will then have the opportunity to comment on the proposals and justification and determine the application accordingly.

## **6 RECOMMENDATION**

6.1 Executive is recommended to resolve:

- (i) That it considers that the development to which the proposed Direction relates would be prejudicial to the proper planning of the Council's area or constitute a threat to the amenities of the Council's area;
- (ii) To delegate to the Head of Planning and Building Control, in consultation with the Portfolio Holder for Sustainable Development and Transport, the responsibility to make an Article 4 Direction relating to 60 – 66 Union Road in the form of (or substantially in the form) of the draft Direction in Appendix 1, to consider any representations and to decide whether to confirm the Direction with or without amendments.

**RICHARD SHORT  
HEAD OF PLANNING AND BUILDING CONTROL**

### **ECONOMY AND DEVELOPMENT DIRECTORATE**

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

Town and Country Planning (General Permitted Development) Order 1995, as amended by Statutory Instrument 2010 No. 654

Research into the Use of Article 4 Directions (*RPS Planning, on behalf of English Historic Towns Forum, October 2008*)



**EXETER CITY COUNCIL**

**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)  
ORDER 1995 AS AMENDED**

**DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 6 APPLIES**

WHEREAS: Exeter City Council (“the Authority”) being the appropriate local planning authority within the meaning of article 4 (4) of the Town and Country Planning (General Permitted Development) Order 1995 as amended (“the 1995 Order”), is satisfied that it is expedient that development of the description set out in the First Schedule below should not be carried out on the land described in the Second Schedule below, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 as amended,

NOW THEREFORE the Authority in pursuance of the power conferred on it by article 4 (1) of the 1995 Order HEREBY DIRECTS that the permission granted by article 3 of the 1995 Order shall not apply to development of the description set out in the First Schedule below, on the land described in the Second Schedule below.

THIS DIRECTION is made under Article 4(1) of the 1995 Order and, in accordance with Article 6(7), shall remain in force until..... (being six months from the date of this Direction) and shall then expire unless it has been confirmed by the appropriate local planning authority in accordance with paragraphs (9) and (10) of Article 5 before the end of the six month period.

**FIRST SCHEDULE**

1. Development consisting of the demolition of a building, or the demolition of the whole or any part of any gate, fence, wall or other means of enclosure, being development comprised within Class A and Class B of Part 31 of Schedule 2 to the 1995 Order and not being development comprised within any other Class.
  
2. Development consisting of:
  - (a) The enlargement, improvement or other alteration of a dwellinghouse;

- (b) The enlargement of a dwellinghouse consisting of an addition or alteration to its roof;
- (c) Any other alteration to the roof of a dwellinghouse;
- (d) The erection or construction of a porch outside any external door of a dwellinghouse;
- (e) The provision within the curtilage of a dwellinghouse.....[are we concerned about Class E, or all elements of it?]; or
- (f) The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse;

being development comprised within Class A, Class B, Class C, Class D, Class E and Class G of Part 1 of Schedule 2 to the 1995 Order.

**SECOND SCHEDULE**

The land situated at and known as Nos. 60 to 66 Union Road, Exeter, EX4 6HU, comprising four dwelling houses and their curtilage, shown edged red on the attached plan.

Made under the Common Seal of Exeter City Council this            day  
of March 2011

THE COMMON SEAL of    )  
EXETER CITY COUNCIL    )  
was affixed hereto in the    )  
presence of:-                    )

Head of Legal Services/Chief Legal Officer



Confirmed under the Common Seal of Exeter City Council this  
2011

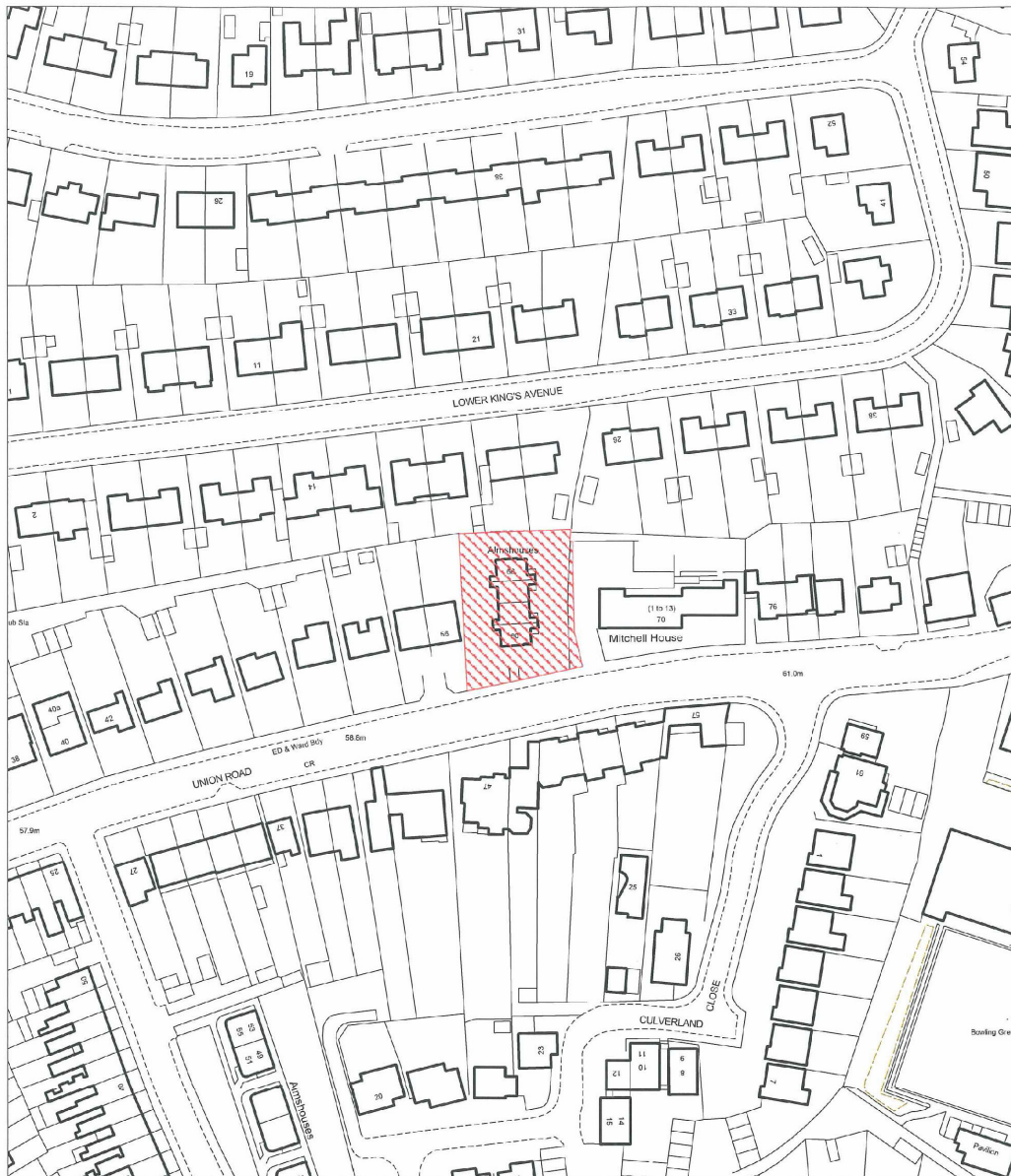
day of

THE COMMON SEAL of )  
EXETER CITY COUNCIL )  
was affixed hereto in the )  
presence of:- )

Head of Legal Services/Chief Legal Officer



**APPENDIX 2  
PLAN OF PROPOSED ARTICLE 4 AREA**



Scale 1:1250



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03/03/2011



Proposed Article 4 Direction area

Planning Services, Exeter City Council, Civic Centre, Paris Street, Exeter, EX1 1NN

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**Front elevation**



**Elevation from street**

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## EXETER CITY COUNCIL

**EXECUTIVE  
5 APRIL 2011**

**COUNCIL  
12 APRIL 2011**

### **NEW EXECUTIVE ARRANGEMENTS UNDER THE LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007.**

#### **CHANGES TO THE COUNCIL'S CONSTITUTION.**

#### **1.0 PURPOSE OF REPORT**

- 1.1 To highlight the changes required to be made to Exeter City Council's Constitution as a result of the provisions of the Local Government and Public Involvement in Health Act 2007 ("the Act").

#### **2. BACKGROUND INFORMATION**

- 2.1 Members will recall that the Act required a meeting of the Council to take place before 31 December 2010 to pass a resolution to move to a new form of Executive arrangements with effect from the third day after Council elections in May 2011.
- 2.2 Such a resolution was passed by full Council on the 14 December 2010. Members resolved to move to the Strong Leader with Executive model where the Strong Leader is elected by members of the Council for a four year term (or until the Leader's term of office ends).
- 2.3 At the same time, members also resolved to authorise the Assistant Chief Executive to make any associated and necessary changes to the Council's Constitution. Those changes are now set out by way of tracked changes attached as Appendix 1 to this report.
- 2.4 The Constitution will also include an "Exeter Convention" set out as Appendix 2 to this report which sets out how the Council intends to work with this new arrangement. Where there is a conflict between the Constitution and the Convention, the former must take priority.
- 3.0 **RECOMMENDED that** Council approves the changes required to the Council's Constitution set out in the Appendices to this report.

**Baan Al-Khafaji**  
**Head of Legal Services and Monitoring Officer**

**Corporate Services Directorate**

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

The Local Government and Public involvement in Health Act 2007.  
The Local Government Act 2000



## Article 2 – Members of The Council

### 2.01 Composition and eligibility

- (a) **Composition.** The Council comprises 40 elected members, called councillors, who are elected to represent their ward. There are 18 wards in Exeter, most elect two councillors to sit on the Council although four wards, with a larger number of electors, elect three councillors.
- (b) **Eligibility.** Only registered voters of the City or those living or working here are eligible to hold the office of councillor.

### 2.02 Election and terms of councillors

**Election and terms.** The ordinary election of a third (or as near as may be) of all councillors will be held on the first Thursday in May in each year beginning in 2000, except that in 2001 and every fourth year after there will be no regular election.

The terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

A councillor may at any time resign their position by giving notice in writing to the Returning officer (the Chief Executive), who is the proper officer for that purpose and the resignation will be effective upon its receipt.

~~Following a change to the ward boundaries in 2000, all 40 councillors stood for election and the length of office before standing for re-election is dependent on how many votes they secured compared to the other elected councillor(s) representing that ward.~~

### 2.03 Roles and functions of all councillors

- (a) **Key roles.** All councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (iv) balance different interests identified within the ward and represent the ward as a whole;

- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies;
- (vii) maintain the highest standards of conduct and ethics; and
- (viii) participate, as appropriate, in training and development opportunities offered by the Council.

**(b) Rights and duties**

- (i) Councillors have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

**2.04 Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on member/officer relations set out in Part 5 of this Constitution.

**2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowance Scheme set out in Part 6 of this Constitution.

## Article 4 – The Full Council

### 4.01 Meanings

(a) **Policy Framework.** The policy framework ~~is made up of a series of statutory plans and strategies as follows~~ means the following plans and strategies:-

~~• Best Value Performance Plan;~~

• Corporate Plan ~~Vision 20:20 (the community strategy)~~

• Sustainable Community Strategy (Exeter Vision)

~~Transport Strategy;~~

• Development Plan Documents forming part of the Exeter Local Development Framework;

• Food Law Enforcement Service Plan;

• Housing Strategy (including Private Sector Housing Renewal Policy) ~~The plan and strategy which comprise the Housing Investment Programme;~~

• ~~Sustainable Environment Strategy (the Local Agenda 21 Strategy);~~ Climate Change Strategy

• ~~Social Inclusion Strategy~~

~~• Contaminated Land Strategy~~

• ~~Capital Strategy~~ Annual Budget Strategy

• Asset Management Plan

• ~~Health and Safety~~ Service Plan  
~~Policy~~

~~• E-Government Policy~~

• ~~Private Sector Housing Strategy~~

~~• Community Safety Strategy~~

• ~~Recycling Strategy~~

• Licensing Policy Statement

• Gambling Policy Statement

Other overarching corporate strategies may become part of the policy Framework in the future as the need arises.

- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

#### 4.02 Functions of the full Council

Only the Full Council will exercise the following functions:

- (a) adopting and changing the Constitution, other than minor administrative/typographical corrections;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) Electing the Leader;
- (e) Electing the Lord Mayor
- (f) Appointing the Executive members on the nomination of the Leader of the Council.
- (e) to agree the composition and membership of all non Executive committees and/or amending the terms of reference for committees, other than minor administrative/typographical corrections, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is one the Executive wishes to make;

- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of honorary alderman or Freeman;
- (i) confirming the appointment of the head of paid service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) adopting Standing Orders and Financial Regulations and keeping them under review.
- (l) agreeing the Council's revenue and capital budgets
- (m) setting the Council tax levels.
- (n) agreeing the Council's Budget and Policy Framework.
- (o) to receive any report by the Finance officer and/or the Monitoring Officer.
- (p) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive; and
- (q) all other matters which, by law, must be reserved to Council.

#### **4.03 Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### **4.04 Responsibility for functions**

The Council will maintain the information in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

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# Article 7 – The Executive

## The Role of the Executive

### 7.01 General Role

- (a) Executive functions will be exercised collectively unless the Leader directs otherwise in accordance with paragraph 7.03 below.
- (b) The Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

### 7.02 Form and composition

~~The Executive will consist of the executive leader together with eight other councillors appointed by the Council.~~

- (a) The Executive will consist of the Leader (who also holds a portfolio) together with up to nine other Executive members.
- (b) The Executive members will be appointed by Council on nomination by the Leader.
- (c) No member of the Executive shall serve on any of the Council's Scrutiny Committees.

### 7.03 Leader

The leader will be a councillor elected to the position of leader by the Council.

~~The Leader's term of office starts on the day of his/her election to that office and ends on the day when the Council holds its first Annual Meeting after the Leader's normal day of retirement as a councillor will hold office until the next Annual meeting of the Council following his/her appointment unless:~~

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a councillor.
- (d) He/she is removed from office by resolution of the Council.

#### **7.04 Removal of the Leader**

Where the Council passes a resolution to remove the leader, a new Executive leader will be elected:

- (a) at the meeting at which the leader is removed from office or
- (b) at a subsequent meeting of the Council.

#### **7.05 Other Executive members**

(1) The Leader shall nominate the Executive members to be appointed by full Council.

(2) Other Executive members shall hold office until the next Annual Meeting of the Council following their appointment unless:

- (a) they resign from office; or
- (b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer councillors; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive, either individually or collectively, by resolution of the Council. The removal shall take effect immediately on receipt of the notice by the Chief Executive.

#### **7.06 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

#### **7.07 Responsibility for functions**

~~The leader will maintain a list in Part 3 of this Constitution setting out which, if any, individual members of the Executive, committees of the Executive, officers or joint arrangements are responsible for the exercise of particular executive functions.~~

The Leader will:

- (a) state the size of the Executive and
- (b) identify which individual Executive members and/or officers are to be responsible for the exercise of a particular Executive function.
- (c) where the Leader identifies individual delegations to Executive members, then he must give written notice of such delegation to the



Chief Executive who shall maintain and keep up to date a list of any such delegation.

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# Article 12 – Decision Making

## 12.01 Responsibility for decision making

The Council will issue and keep up to date a record of the responsibility of the Council, its committees, Executive members and officers ~~what part of the Council or which individual has responsibility~~ for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

## 12.02 Principles of decision making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (see below for further details);
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.
- (f) explaining what options were considered and giving the reasons for the decision

## 12.03 Types of decision

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) Key decisions.
  - (i) A key decision is defined as being any decision of the Executive which is likely:
    - (a) to result in the local authority carrying out expenditure which is, or the makings of saving which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
    - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

In determining what is significant, regard has to be had to any guidance issued by the Secretary of State.

- (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

#### **12.04 Decision making by the full Council**

Subject to Article 12.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.05 Decision making by the Executive**

Subject to Article 12.08, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.06 Decision making by scrutiny committees**

Scrutiny committees will follow the Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.07 Decision making by other committees and sub-committees established by the Council**

Subject to Article 12.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

#### **12.08 Decision making by Council bodies acting as tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

#### **12.09 Decision making by Officers**

All decisions made by officers shall be in accordance with the principles and requirements of this constitution. Any key decisions and any decisions made in consultation with the portfolio holder will be recorded and held for inspection by councillors on application to the Member Services Manager or Head of Human Resources Services as appropriate.

#### **12.10 Use of Enforcement Powers**

The Council will follow the principles of good enforcement practice set out in the Government's Enforcement Concordat. In particular, enforcement will be open, helpful, proportional and consistent.

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# Council Standing Orders

## STANDING ORDER 13 DECISIONS OF THE EXECUTIVE

- (1) (a) A notice setting out all Executive decisions shall be published within two working days of the meeting. A copy of such notice shall be sent to all members electronically.
- (b) Where a key decision has been delegated to an Executive member ~~with relevant portfolio or an officer, then notice~~ any such decision shall be recorded and published on the Friday following the decision with notice of Call – In to be required within 5 working days. This in accordance with Standing Order 13(1)(a) shall be published within two working days of the decision. It shall be sent to all members electronically.
- (c) The notice published in accordance with Standing Order 13(1)(a) must include:
- a record of the decision
  - a record of the reasons for the decision
  - details of the options considered and rejected by the Executive Committee
  - a record of any conflict of interest declared by any member, together with a note of any dispensation granted by the Standards Committee
- (d) The notice published in accordance with Standing Order and 13(1)(b) must include:-
- a description of the matter including the officer's report
  - the name of the Executive member exercising the delegated authority where the decision is made under SO 1(b)
  - the decision together with the reasons for it
  - the options considered
  - who was consulted before the decision was made
  - The date when the decision was made.
  - any corporate, financial, legal, HR or other management implication.
  - background papers
  - ~~\_\_\_\_\_ a record of the decision.~~
  - ~~\_\_\_\_\_ a record of the reasons for the decision.~~
  - ~~\_\_\_\_\_ details of the options considered and rejected by the Executive committee.~~

~~\_\_\_\_\_ a record of any conflict of interest declared by any member, together with a note of any dispensation granted by the Standards Committee.~~

- (2) (a) All decisions published in accordance with this Standing Order shall come into force 5 working days after publication unless called in by a Scrutiny Committee.
- (b) For the avoidance of doubt, a decision shall come into force immediately where the matter in question is urgent as defined in Standing Order 17(5)(c)(ii).
- (3) Minutes of the Executive meeting shall be published and circulated to all members electronically as soon as is reasonably practicable after they are finalised.

### **STANDING ORDER 17 SCRUTINY OF EXECUTIVE RESOLUTION (CALL-IN)**

- (1) (a) ~~A Special meeting of a relevant Scrutiny Committee shall be called to consider a specified decision made by an Executive Committee or Executive member published in accordance with Standing Order 13(1) provided the reasons for Call - In fall within the criteria set out in paragraph 5 of the Executive Procedure Rules.~~  
A Special meeting of a relevant Scrutiny Committee shall be called to consider a decision made by an Executive Committee or Executive member published in accordance with Standing Order 13(1) provided the reasons for Call - In fall within the criteria set out in paragraph 5 of the Executive Procedure Rules.
- (b) ~~Any such Call - In shall require notice in writing delivered to the Assistant Chief Executive not later than 10.00 am 5 days after publication of the decision by where at least one third of the Members of that Committee, shall so request in a written notice delivered to the Assistant Chief Executive not later than 10.00 am, 5 days after publication of the decision.~~  
Any such Call - In shall require notice in writing delivered to the Assistant Chief Executive not later than 10.00 am 5 days after publication of the decision by where at least one third of the Members of that Committee, shall so request in a written notice delivered to the Assistant Chief Executive not later than 10.00 am, 5 days after publication of the decision.
- (2) The special meeting must normally take place within 5 working days of receipt of such notice.
- (3) The Chair of that meeting may call the appropriate Executive member/s and/or officer/s of the Council to attend to answer any questions regarding the matter called in for scrutiny.
- (4) A member of the Scrutiny Committee may ask any Executive member with relevant portfolio any question on an item which has been called in under Standing Order 17(3).
- (5) After consideration of a decision, the Scrutiny Committee may:-
  - (a) resolve to take no further action.
  - (b) refer the matter back to the Executive for reconsideration, setting out in writing the reason for its request.
  - (c) refer the matter to Council who may refer the decision back to the Executive for reconsideration setting out in writing the reasons for its request.

Provided always that where the decision is required to be made by the Executive, the Executive may or may not amend its decision.



- (6) (a) Where notice in accordance with Standing Order 17(1) is not delivered to the Assistant Chief Executive, any decision made by the Executive and/or officer with delegated authority for a key decision shall be final.
- (b) A decision made by the Executive and/or officer with delegated authority for a key decision may only be called in once for re consideration.
- (c) The Call-In procedure set out in this Standing Order shall not apply:-
  - (i) to any report/item already considered by the appropriate Scrutiny Committee prior to the decision being made by the Executive or officer with delegated authority for a key decision or
  - (ii) where the decision taken is urgent.

A decision is urgent where the interest of the Council or public require immediate action and will be urgent if any delay caused by the call in process would prejudice the interests of the Council or the public.

### **STANDING ORDER 37 APPOINTMENT OF EXECUTIVE**

- (1) The ~~Council~~ shall, at its Annual Meeting, appoint the Executive as nominated by the Leader of the Council
- (2) The Executive shall consist of the Leader together with up to nine other members.
- (3) ~~The number of Executive members shall not exceed 10 in number. A member from each political group shall be allocated a seat. The provisions of Section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) shall not apply.~~
- (3) ~~The Council shall,~~ at the Annual Meeting, on the nomination of the Leader appoint such Executive Portfolios and portfolio holders as the Leader shall consider appropriate

### **STANDING ORDER 38 PROCEEDINGS OF COMMITTEES & EXECUTIVE TO BE CONFIDENTIAL**

- (1) All agenda, reports and other documents and all proceedings of Committees, Sub-Committees and the Executive shall be treated as confidential unless and until they become public in the ordinary course of the Council's business.

### **STANDING ORDER 39 ELECTION/REMOVAL OF LEADER AND CHAIR AND DEPUTY CHAIR OF COMMITTEES**

- (1) The Council shall at its Annual Meeting elect the Leader of the Council whose term of office shall start on the day of his/her election to that office and end on the day when the Council holds its first Annual Meeting after the Leader's normal day of retirement as a councillor unless:
  - (a) he/she resigns from the office; or

(b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or

(c) he/she is no longer a councillor.

(d) He/she is removed from office by resolution of the Council by way of majority vote.

For the avoidance of doubt any motion to remove the Leader from office must comply with the provisions of Standing Order 6.

- (2) The Chairs and Deputy Chairs of each Committee shall be elected by Council at the Annual Meeting. In the absence from a meeting of the Chair and Deputy Chair, a Chair for that meeting will be appointed. No member of the Council shall be eligible to be appointed Chair of more than one Standing Committee.

#### **STANDING ORDER 46 MEMBERS' ABSENCE FROM MEETINGS**

- (1) If any member fails throughout a period of six consecutive months to attend any meeting of full Council, a Committee or Sub - Committee of which he/she is a member, the circumstances shall be reported to the Executive and he/she shall cease to be a member of the Council unless the failure to attend is due to some reason approved by the Executive.

#### **STANDING ORDER 47 VARIATION AND REVOCATION OF STANDING ORDERS BY COUNCIL**

- (1) Except on the recommendation of the Executive, a motion to add, vary or revoke these standing orders shall (when proposed and seconded) stand adjourned without discussion to the next ordinary meeting of the Council and that motion shall not be carried except by a majority of two-thirds of the members of the Council present and voting.

#### **STANDING ORDER 48 SUSPENSION OF STANDING ORDERS BY COUNCIL**

- (1) Subject to paragraphs (2) and (3) of this Standing Order, any of the preceding Standing Orders may be suspended so far as regards any business at the meeting of Council, where its suspension is moved.
- (2) No suspension of standing orders shall be permitted so as to negate the requirements for notice to be given under Standing Orders 10(7) (Council tax), 39(1) (Removal of the Leader) and 47 (variation/revocation of Standing Orders).
- (3) A motion to suspend Standing Orders shall not be moved without notice (i.e. under Standing Order 7) unless there shall be present at least one-half of the whole number of the members of the Council.

# Executive Procedure Rules

## 1. Executive decisions

1.1 Executive functions may be discharged by one or more of the following:

- (i) the Executive as a whole;
- (ii) a committee of the Executive;
- (iii) an individual member of the Executive; or
- (iv) an officer.

## 1.2 Delegation by the Leader

Where the Leader intends to change the Executive powers' scheme of delegation, he/she shall present at the annual Council Meeting, a written record of delegations made by him/her for inclusion in the Council's scheme of delegation.

The written record presented by the Leader will contain the following information about executive functions:

- (a) the names of the members appointed to the Executive by the Leader.
- (b) the extent of any authority delegated to the executive members individually (if any) including details of the limitations on their authority.

## 1.3 Sub-delegation of executive functions

(a) Where the Executive is responsible for an Executive function, it may delegate further to a member of the Executive or to an officer.

(b) where the Leader delegates functions to the Executive, then the Executive may further delegate to an Executive committee or an officer.

(c) unless the Leader directs otherwise, an Executive committee to whom functions have been delegated by the Leader may delegate further to an officer.

(d) even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated. Executive functions have been delegated, the discharge of those functions by that person or body who so delegated shall not be prohibited.

## 1.4 The Council's scheme of delegation and Executive functions

(a) the Leader may amend the scheme of delegation relating to Executive functions at any time throughout the year. To do so, the Leader must

give written notice to the Chief Executive and to the councillor or committee concerned.

- (b) the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

## **1.5 Conflicts of Interest**

- (a) Where the leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

## **1.6 Executive meetings**

The Executive will normally meet at least twice per Council cycle at times published in the Council's Calendar of Meetings. The Executive shall meet at the Council's main offices or such other location to be agreed by the leader.

## **1.7 Decisions to be taken by the Executive**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules set out in Part 4 of this Constitution which set out the requirements covering public and private meetings. Other than the legal requirements, consideration will also be given to any principles of decision-making set out in Article 12 of this Constitution.

## ~~**1.6 Quorum**~~

~~The quorum for a meeting of the Executive, or a committee of it, shall be one-quarter of the total number of members of the Executive or 3, whichever is the larger.~~

## ~~**1.7 Decisions taken by the Executive**~~

- ~~(a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.~~

- (b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

## **1.8 Quorum**

The quorum for a meeting of the Executive, or a Committee of it, shall be one quarter of the total number of members of the Executive or 3, whichever is the larger.

## **2. Conduct of Executive Meetings**

### **2.1 Chairing**

If the leader is present he/she will preside. In his/her absence, then a person appointed to do so by those present shall preside

### **2.2 Attendance**

All meetings of the Executive are open to the press and public in accordance with these rules unless confidential or exempt information is to be discussed.

### **2.3 Consultation**

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### **2.4 The Executive agenda**

**(a)** The Leader will decide upon the schedule for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the leader's requests in this respect.

**(b)** The Monitoring Officer and the Head of Treasury Services may include an item on the Executive agenda for consideration in pursuance of their statutory duties.

## **3. Role of Portfolio Holders**

3.1 Portfolio Holders will undertake the following roles which are in addition to the general role of the councillor set out in this constitution.

1. To promote the key objectives and values of the Council.
2. To ensure that new policies are developed and presented to the Executive within the overall strategic approach of the Council after full consultation with external stakeholders, (where appropriate), relevant Scrutiny Committee and fellow Executive members.
3. To give guidance on budget and political priorities to officers and liaise on the need to develop policy issues and the timing thereof.
4. To contribute to the effective decision making of the Executive.
5. To act as a public spokesperson for the Council within agreed parameters within the portfolio area of responsibility and in accordance with the former DTLR Code of Recommended Practice on Local Authority Publicity.
6. To assist in promoting reports produced by officers to the Executive and to attend Scrutiny Committees as required to answer questions from Members and the public, to report and comment on items which concern the relevant portfolio or when an item is called in.
- ~~7. To serve on Best Value service review panels when areas within the portfolio holder's remit are under review.~~
8. To respond on behalf of the Council to relevant consultation documents after consulting with scrutiny committee wherever appropriate.
9. To aid the Council in pursuing its defined community leadership role.

**4. Rules relating to the exercise of delegated powers by Executive members:**

- 4.1 Only those members properly appointed to make decisions under the Council's scheme of delegation shall be entitled to exercise those powers.
- 4.2 An Executive member or officer exercising delegated power shall have the discretion not to exercise those powers choosing instead to refer the matter back to the Executive for a decision.
- 4.3 The exercise of delegated authority by an Executive members shall be carried out in the following way:
  - (a) A report by the lead officer shall be provided to the Executive member setting out all the background information including all the options available, including corporate, financial, legal, HR and property implications of making the decision. Before the decision is taken, comment

shall be sought from the Chief Executive as well as the Director whose area of responsibility may be affected by the decision. The Executive member shall liaise with the Lead Officer and any other appropriate officer and a record of the decision will be taken.

#### **4.4 Recording and publication of delegated decisions**

(1) All delegated decisions taken by Executive members shall be recorded and published on the Friday following the decision with request for Call - in within 5 working days thereafter.

(2) Delegated executive decisions shall contain the following information:

(a) a description of the matter including the officer's report

(b) the name of the Executive member exercising the delegated authority

(c) the decision together with the reasons for it

(d) the options considered

(e) who was consulted before the decision was made

(f) the date when the decision was made.

(g) any corporate, financial, legal, HR or other management implication.

(h) background papers

#### **4.5 Implementation of delegated Executive member's decision**

(a) Non - urgent decisions

Shall come into force five working days from the date of publication. If the decision shall be called in for scrutiny, then the rules contained in the Call - In procedure shall apply.

(b) Urgent decisions

A decision is urgent where the interest of the Council or public require immediate action. Where the Executive member considers the matter urgent, then the agreement of the chair of the relevant scrutiny that the matter is urgent shall be required.

Where the chair of the relevant scrutiny agrees the matter is urgent, then the decision shall be implement immediately and the Call - in procedure shall not apply.

The urgent decision shall still be recorded, published and reported to the Executive.

## **5. Call - In Procedure Rules within the budget and policy Framework.**

**5.1 Call - in is an important part of the check and balance upon Executive power. Government Guidance provides that call - in should only be used in exceptional circumstances.**

**5.2 The power of Call - in applied to the following Executive decisions:**

- (a) decisions of the Executive**
- (b) delegated decisions taken by Executive members.**

**5.3 (a) All Executive decisions shall be published within two working days of the meeting.**

**(b) The Assistant Chief Executive shall publish details of all Executive decisions made by an Executive member or an officer with delegated authority. This notice of decision will be published by the subsequent Friday after the decision has been made and details will be sent to all councillors electronically.**

**5.4 In order to ensure the decisions of the Executive are not unnecessarily impeded, the reasons for call - in must meet one of the following criteria:**

- **The process by which the decision was made was deficient in some way**
- 
- **The decision maker failed to consider alternative courses of action**
- **The decision maker failed to take account of relevant factors**
- **The decision maker was wrong in fact or law (the caller in must state why).**

## **6. Exceptions to Call- In Procedure**

**6.1 Call in will not apply to the following:**

- **Non Executive decisions**
- **Decisions already called in once**
- **Decisions which have already been considered by the relevant scrutiny committee**
- **None-key decisions made by delegated officers**
- **Urgent decisions**



## **Scrutiny Procedure Rules**

### **1. Number of Scrutiny Committees**

The Council will have three scrutiny committees as set out in Article 6 and will appoint to them as it considers appropriate from time to time, usually at the Annual meeting of the Council. Such committees may appoint sub-committees. Ad-hoc scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

### **2. Membership of Scrutiny Committees**

All councillors except members of the Executive may be members of a scrutiny committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

### **3. Co-optees**

Each scrutiny committee or sub-committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees where particular skills or knowledge are justified and it is considered this can be best provided for in this manner.

### **4. Meetings of the Scrutiny Committees**

Each scrutiny committee will normally meet once in a Council cycle. In addition, extraordinary meetings may be called from time to time as and when appropriate. A scrutiny committee meeting may be called by the chair of the relevant scrutiny committee, by any 3 members of the committee or by the proper officer if he/she considers it necessary or appropriate.

### **5. Quorum (Standing Order 42)**

The quorum for an overview and scrutiny committee shall be as set out for committees in the Council procedures Rules in Part 4 of this Constitution.

### **6. Chairs**

6.1 Chairs of scrutiny committees will be drawn from among the councillors sitting on the committee. Where one group has majority control of the Executive, all Chairs and Deputy Chairs of Scrutiny Committees shall be drawn from members of the other groups of the Council.

6.2 Scrutiny chairs will undertake the following roles:

1. To chair meetings of Scrutiny Committees and ensure that the scrutiny function is developed and exercised according to the Council's Constitution.
2. To ensure that the work of the Scrutiny committee contributes to the Council's corporate objectives.
3. To manage the workload of the Scrutiny Committee to ensure that it can effectively carry out its role of:

- reviewing the formulation of policy development
  - best value service reviews
  - advising the Executive of areas of potential improvements.
4. To liaise with Executive Portfolio holders as appropriate.
  5. To contribute to the training and development of members engaged in the scrutiny and review role.
  6. To approve any report which the Committee may wish to submit to the Executive as necessary
  7. To be the spokesperson for the Committee within the terms of the former DTLR Code of Recommended Practice on Local Authority Publicity

## **7. Work Programme**

The scrutiny committees will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

## **8. Agenda Items (Standing Order 18)**

Any member shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

The scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council and the Executive to review particular areas of Council activity. Where they do so, the scrutiny committee shall report their findings and any recommendations back to the Executive and/or Council.

## **9. Questions to Portfolio Holders (Standing Orders 19 and 20)**

Relevant Portfolio Holders will normally be required to attend Scrutiny Committee meetings to respond to questions from members of the Council and members of the public.

## **10. Policy Review and Development**

- (a) The scrutiny committees have a key role to play in relation to the development of the Council's budget and policy framework.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, scrutiny committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) Scrutiny committees may hold enquiries and investigate the available options for future direction in policy development and may seek the views of advisers and assessors to assist them in this process.

## 11. **Reports From Scrutiny Committee**

- (a) Once it has formed recommendations on proposals for development, the scrutiny committee will prepare a formal report and submit it to the proper officer for consideration by the Executive.
- (b) The Council or the Executive shall consider the report of the scrutiny committee as soon as practicable after it has been submitted to the proper officer.
- (c) The agenda for Executive meetings shall include an item entitled 'Matters referred by Scrutiny Committees'. The reports of scrutiny committees referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of a substantive item elsewhere on the agenda).
- (d) Where a scrutiny committee prepares a report for consideration by the Executive in relation to a matter where delegated decision making power has been granted to an individual member of the Executive, then the scrutiny committee will submit a copy of their report to him/her for consideration. At the time of doing so, the scrutiny committee shall give a copy to the proper officer. The member with delegated decision making power must consider the report and respond in writing to the next ordinary meeting of the scrutiny committee. A copy of his/her written response to it shall be sent to the proper officer and the leader. The member will also attend a future meeting of the scrutiny committee to present their response.
- (e) Scrutiny committees will in any event have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a scrutiny committee following consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

## 12. **Rights of Scrutiny Committee Members to Documents**

- (a) In addition to their rights as councillors, members of scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and scrutiny committees as appropriate depending on the particular matter under consideration.

## 13. **Members and Officers Giving Account (Standing Orders 17 And 20)**

- (a) Any scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions falling within their terms of reference. It may require the leader, a portfolio holder and/or any senior officer (i.e. an officer at grade 10 or above) to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance.

and it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend a scrutiny committee under this provision, the chair of that committee will inform the proper officer. The proper officer shall inform the member or officer in writing giving notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

#### 14. **Attendance by Others**

A scrutiny committee may invite people other than those people referred to in paragraph 12 above to address it, discuss issues of local concern and/or answer questions.

#### 15. **Call-In (Standing Order 17)**

Call-in should only be used in exceptional circumstances. These are where members of the appropriate scrutiny committee have evidence which suggest that the Executive did not take the decision in accordance with the principles set out in Article 12 (Decision Making) or paragraph 5.5 of the Executive Procedure -Rules.

- (a) When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published, including where possible by electronic means, and shall be available in accordance with the time limits set out in Standing Order 17, at the main offices of the Council normally within 2 days of being made. Chairs of all scrutiny committees and group leaders will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless a scrutiny committee objects to it and calls it in.
- (c) During that period, the proper officer shall call-in a decision for scrutiny by the committee if so requested by at least one third of the members of the committee, and shall then notify the decision taker of the call-in. He/she shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the chair of the committee, and this will normally be within 5 days of the decision to call-in.
- (d) If, having considered the decision, the scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the

matter to full Council. If referred to the decision maker they shall then reconsider the matter as soon as possible, amending the decision or not, before adopting a final decision.

- (e) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- (f) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (g) A matter may not be called-in if :
  - ~~it is a matter which has already been considered by the relevant scrutiny committee or if the decision is urgent and any delay would prejudice the interest of the Council or the public. Any urgent decisions and the reason for it being considered urgent will be clearly shown on the record of decisions. the decision has already been called in once.~~
  - the report/item has already been considered by the appropriate Scrutiny Committee prior to the decision being made by the Executive or officer with delegated authority for a key decision
  - it is a none key decisions made by delegated officers.

## 16. The Party Whip

When considering any matter in respect of which a member of a scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## 17. Matters Within the Remit of More Than One Scrutiny Committee (Standing Order 18(2))

Where a scrutiny committee conducts a review or scrutinises a matter which also falls, whether in whole or in part, within the remit of another scrutiny committee, before submitting its findings to the Executive or Council for consideration, the report of one Scrutiny Committee shall be considered by the other Scrutiny Committee for comment. Those comments shall be incorporated into the report which shall then be sent to the Executive for consideration.

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## **The Exeter “Conventions”**

1. The Executive will consist of the Leader together with eight other Councillors to be nominated by the Leader and appointed by full Council.
2. The Leader shall allocate a seat on the Executive to a member from each political group.
3. The Leader shall allocate a seat on the Executive to each of the Portfolio Holders.
4. Executive decisions shall be made collectively at Executive meetings.
5. The Leader and Executive members shall NOT take executive decisions individually.
6. Where one group has majority control of the Executive, all Chairs and Deputy Chairs of Scrutiny Committees shall be drawn from members of the other political groups of the Council.

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By virtue of paragraph(s) 1, 4 of Part 1 of Schedule 12A of the Local Government Act 1972.

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