

Cabinet

**Grand Jury Room, Town Hall
9 September 2009 at 6.00pm**

The Cabinet deals with
the implementation of all council services, putting into effect the policies agreed by the council and making recommendations to the council on policy issues and the budget.

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COLCHESTER BOROUGH COUNCIL CABINET

9 September 2009 at 6:00pm

Leader (& Chairman): Councillor Anne Turrell (Liberal Democrats)
Deputy Chairman: Councillor Martin Hunt (Liberal Democrats)
Councillor Lyn Barton (Liberal Democrats)
Councillor Tina Dopson (Labour)
Councillor Nigel Offen (Liberal Democrats)
Councillor Beverley Oxford (The Highwoods Group)
Councillor Paul Smith (Liberal Democrats)
Councillor Tim Young (Labour)

AGENDA - Part A

(open to the public including the media)

Pages

1. Welcome and Announcements

- (a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
- action in the event of an emergency;
 - mobile phones switched to off or to silent;
 - location of toilets;
 - introduction of members of the meeting.

2. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

3. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

4. Have Your Say!

(a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

5. Minutes

To confirm as a correct record the minutes of the meeting held on 13 July 2009.

6. Call-in Procedure

To consider any items referred by the Strategic Overview and Scrutiny Panel under the Call-In Procedure. At the time of the publication of this Agenda there were none.

7. Strategy/Resources and Business

i. 2010/2011 Revenue Budget and Capital Programme Update

1 - 13

See report by the Head of Resource Management

8. Resources and Business

- i. 2008/2009 Year End Review of Risk Management** **14 - 37**
See report by the Head of Resource Management

9. Planning, Regeneration and Sustainability

- i. Queen Street Cultural Quarter - Approval of Amended Heads of Terms** **38 - 42**
See report by the Head of Strategic Policy and Regeneration

10. Neighbourhoods

- i. Repairs and Maintenance for the Council's Housing Stock** **43 - 46**
See report by the Head of Strategic Policy and Regeneration

11. Street and Waste Services

- i. Payment Options for the Provision of New Cremators for Colchester Crematorium** **47 - 54**
See report by the Head of Environmental and Protective Services

12. General

- i. Local Government Ombudsman Annual Review 2008/2009** **55 - 67**
See report by the Monitoring Officer

- ii. Progress of Responses to the Public** **68 - 71**
To note the contents of the Progress Sheet.

13. Exclusion of the Public

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt

information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

**COLCHESTER BOROUGH COUNCIL
CABINET**

9 September 2009 at 6:00pm

AGENDA - Part B

(not open to the public or the media)

Pages

14. Planning, Regeneration and Sustainability

i. Queen Street Cultural Quarter - Approval of Amended Heads of Terms

The following report contains exempt information (financial/business affairs of a particular person, including the authority holding information) as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

See report by CBRE

ii. Disposal of Part Plot 350 Severalls Business Park

The following report contains exempt information (financial/business affairs of a particular person, including the authority holding information) as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

See report by the Head of Strategic Policy and Regeneration



Cabinet

Item
7(i)

9 September 2009

Report of	Head of Resource Management	Author	Sean Plummer ☎ 282347
Title	2010/11 Revenue Budget and Capital Programme Update		
Wards affected	Not Applicable		

This report provides Cabinet with an update on the 2010/11 Revenue Budget forecast and Capital Programme and recommends releases of money from the capital programme.

1. Decisions Required

1.1 Cabinet is requested to consider the following items:

- i) Note the updated 2010/11 budget forecast as set out at paragraph 6.2 shows a current gap of £391k.
- ii) Note that officers are working towards delivering a balanced budget and that a plan has been agreed setting out the delivery of the budget strategy which includes reallocation of funding to priorities (See section 9).
- iii) Determine whether the cost pressures set out at paragraph 7.1 should be included in the 2010/11 budget forecast.
- iv) Determine whether the growth items set out at paragraph 8.1 should be included in the 2010/11 budget forecast.
- v) Determine whether the provisional savings and grant assumptions set out at section 9 should be included in the 2010/11 budget forecast.
- vi) Note the potential 2010/11 budget forecast variables and risks set out in Section 10
- vii) Note the current position on the capital programme
- viii) Agree the proposal to release funding for schemes as set out at paragraph 12.4.

2. Reasons for Decisions

- 2.1 The Council is required to approve a budget strategy and timetable in respect of the year 2010/11.
- 2.2 This report relates to the budget update and a review of the capital programme.

3. Alternative Options

- 3.1 There are different options that could be considered and as the budget progresses changes and further proposals will be made and considered by Cabinet and in turn Full Council.

4. Background

- 4.1 A timetable for the 2010/11 budget process (see Appendix A) was agreed at Cabinet on 13 July 2009.
- 4.2 At this stage in the budget process it is important to identify the main areas of cost pressure and any planned growth areas together with the approach to balance the budget. Detailed budgets are produced during September to December.
- 4.3 The Council's gross General Fund revenue budget is over £110million which translates in to a net revenue budget of £24million. This is the starting point and context in which to view the remainder of this report.

5. Budget 2009/10 - Review

- 5.1. The Finance and Audit Scrutiny Panel reviewed the budget position for the current year including outturn projections on 18 August 2009. The total position at this early stage shows a potential net overspend of £0.45m. In terms of the impact on balances and in turn the budget strategy for next year we will continue to assume that the final position will be delivered on budget and the position will be closely monitored in the coming months.

6. Summary of 2010/11 Budget Forecast

- 6.1 Should Cabinet approve the items detailed in this report the current 2010/11 budget forecast is as set out below.
- 6.2. The budget forecast below shows a current gap of £391k. As indicated, further work has been proposed to identify options to balance the budget and create capacity to reallocate funding including completion of budget reviews and developing delivery plans for all savings, completion of detailed budgets and assessment of risk areas.

	£'000
2009/10 Budget	24,432
Less: 2009/10 one-off items	(310)
Cost Pressures - including inflation (as per paragraph 7.1)	767
Revenue Growth (as per paragraph 8.1)	42
Savings/Increased Income:-	
Previously identified (as per paragraph 9.1)	(265)
Revised planning assumptions (paragraph 9.8)	(225)
Forecast Budget 10/11	24,441
Council Tax and Revenue Support Grant	23,524
Use of reserves	526
Total Resources	24,050
Current budget gap	391

7. Cost Pressures

- 7.1. The following cost pressures expected in 2010/11 have mostly been previously identified through the Medium Term Financial Forecast (MTFF) process and as part of the recent development of the budget:

	£'000	Comment
Inflationary pressure	140	Net inflation impact, including the allowance for the agreed pay award and assumed increase in prices and an increase in fees and charges. This allowance is currently being reviewed in more detail and is likely to change. One of the key items to be reviewed is energy costs. Our energy prices for the next 12 months will be notified in October and at this stage there is a possibility of a reduction in prices.
Incremental pension contributions	154	The triennial review of the pension fund has shown a significant deficit due to market conditions and increased life expectancy. This financial pressure is one being felt by all local authorities and other organisations. The impact of next triennial review will need to be considered as part of the 2011/12 budget.
Minimum Revenue Provision (Commutation adjustment)	13	Increase in calculated figure based on statutory criteria.
Place Survey – Statutory requirement (one off for 10/11)	15	The cost of the statutory place survey is needed every 2 years.
Local Development Framework (LDF) Examinations. (One off)	150	Later this year two LDF document will be submitted to the Secretary of State. The process of examination then starts in 2010, including 2 in public. The estimated cost includes the fee for the inspector, legal and consultant fees and a temporary programme officer.
Net Interest earnings	150	The net interest budget for this year is currently forecast to have a shortfall due to the low level of interest rates available. The outlook for interest rates remains uncertain, however, it is evident that there will be a cost pressure next year. The allowance of £150k will be reviewed later in the year and it is possible that this may need to be increased.
Impact of foregone Layer Road receipt	60	At the July Cabinet it was agreed in principle to disposal of land at Layer Road at nil value for an extra-care housing scheme. As reported this will result in a revenue budget impact due to the ongoing costs of borrowing in respect of the community stadium.
Corporate Safeguarding Co-ordinator	10	We have statutory responsibilities under section 11 of the Children Act 2004 regarding safeguarding the welfare of children – our task this financial year is to complete a self-assessment against these responsibilities, and we then need to use the

	£'000	Comment
		results of this self-assessment to develop an action plan in the next financial year to ensure we are fully compliant, and this staff resource will drive this process and support services with tasks they need to complete. We then need to report our progress back to the Essex Safeguarding Children Board late in 2010.
2 Planning Officers (Strategic Policy and Regeneration)	75	These are permanent posts in the establishment but have to date been funded through an annual approval process of using HPDG (Housing Planning and Delivery Grant). It is proposed that the cost of these posts be included in the base budget with an assumed increase in the level of HPDG (see paragraphs 9.7 and 9.8.)
Total	767	

7.2 Cabinet need to determine whether the cost pressures detailed above should be included within the current 2010/11 budget forecast.

8. Growth Items

8.1. The following growth items have been identified in the approved Strategic Plan and through the MTFP process for 2010/11:

	£'000	Comment
Environmental and Protective Services - Review	42	Previously reported ongoing additional costs relating to service review.
Total	42	

8.3. Cabinet need to determine whether the growth items above should be included within the current 2010/11 budget forecast.

9. Savings/Increased Income

9.1. The table below sets out savings from previous decisions which have previously been shown in the budget forecast:-

	£'000	Comment
Environmental and Protective Services – Forecast increase in income	15	Income identified as part of review of service.
Revenue savings through sale of Angel Court.	200	Estimated saving in running costs through the sale of Angel Court.
Total	215	

9.2. The budget strategy for 10/11 was agreed by Cabinet in July. This included three areas of work to balance the budget:-

- Budget reviews carried out by the Budget Group
- Budget framework and budget assumptions
- Fundamental Service Reviews

Budget Reviews (Project Plan of Budget Group)

- 9.3. All service areas have been reviewed and considered by Leadership Team / Senior Management Team (SMT). This has identified a number of areas that are being considered by the Budget Group comprising officers and members. The group continues to meet monthly and a number of potential savings have been identified and are being finalised to ensure they are deliverable and that the impact of any changes is understood. A plan of ongoing areas to review has been produced including indicative potential savings

Budget Framework / Budget Assumptions

- 9.4. This strand of the budget strategy includes reviewing our main budget assumptions. This includes allowances for inflation and also our assumptions in respect of specific Government grants such as Local Authority Business Growth Incentive (LABGI) and Housing and Planning Delivery Grant (HPDG).

LABGI

- 9.5. We have recently received notification of our grant for 2009/10 of £73k compared to a budget of £50k, therefore giving a surplus of £23k. The overall funding pot for 2010/11 is now expected to be the same level as this year and therefore we might reasonably expect a similar level of grant in 2010/11. It was reported to Cabinet in July that the assumption for LABGI was being increased from £50k to £100k. Given this year's grant it is suggested that the surplus be held in reserve and used to ensure that next year's target can be maintained at £100k.

HPDG

- 9.6. The HPDG for 2009/10 is due to be announced imminently. Last year the Council received £0.9m and the budget assumed for this year and 2010/11 is £0.25m. As has been the case with previous years there will be potential calls on this grant when it is announced and some consideration has been given to these and two specific requests are set out below.
- 9.7. First, as set out 7.1 there is a one off cost pressure next year of £150k in respect of the LDF examinations. Secondly, there is also a cost pressure of £75k in respect of 2 planning officers within Strategic Policy and Regeneration. As shown earlier these posts have been funded though HPDG in recent years, although the staff are permanent employees.
- 9.8. The overall HPDG pot is set to increase from £100m in 2008/09 to £200m in 2010/11. Although the methodology for distributing grant is likely to change it is considered reasonable to assume a higher level of grant for 2010/11 of £475k, which would therefore be sufficient to fund the two areas set out at paragraph 9.7. Given the uncertainty about any future funding from HPDG this assumption will be reduced by £150k in 2011/12. The proposal in respect of HPDG will be reviewed in the light of the 2009/10 grant announcement and alongside other potential bids for funding and will be reported to the next Cabinet meeting.

Fundamental Service Reviews (FSR)

- 9.9. Whilst these are not budget driven one of the outcomes of the FSRs is that efficiencies will be identified and delivered. Proposals relating to the Housing FSR are expected in the next few months and the budgetary implications will be reported in due course to Cabinet.

9.10 Cabinet need to determine whether the savings and revised planning assumptions set out above should be included in the 2010/11 budget forecast and to note the ongoing budget review work.

10. Risks and Variables

10.1 On 13 July 2009 Cabinet considered the budget strategy and MTFF. The MTFF set out the key areas that may impact on 2010/11 budget forecast and potentially later years. These have been reviewed and continue to represent the key variables including areas that may have positive or negative affect on the budget forecast. The list is provided at Appendix B and several of these items are considered within this report and we will continue to review all issues as the budget progresses.

10.2. It should be noted that the Council general fund balances remain above our current assessed prudent level of £1.7m. The level of general balances and other reserves will be assessed as part of the budget and reported to Cabinet update in December.

10.3 Cabinet are asked to note the potential 2010/11 budget forecast variables and risks set out above.

11. Future Years

11.1 As part of consideration of budget issues facing the Council, SMT and Leadership Team have been considering future year budgets. The Medium Term Financial Forecast (MTFF) reported to Cabinet in July showed a budget gap over the next three years of circa £1.2m. Based on the proposals within this report the cumulative gap has now reduced to circa £1.1m. The MTFF will be updated and submitted to Cabinet and Council as part of the final budget report in January 2010.

12. Capital Programme

12.1. The current approved capital programme including spending to date was provided to Finance and Audit Scrutiny Panel (FASP) on 18 August 2009.

12.2. A review has been carried out of estimated capital receipts and the following are the key issues to note:-

- Sale of Angel Court

This receipt has now been included within the list of capital programme resources.

- Lion Walk Centre – lease extension

The Portfolio Holder for Resources and Business has agreed an extension of the lease for the Lion Walk Shopping Centre in return for a capital receipt which has now been received.

- Review of Programme – FASP 18 August 2009.

The FASP review highlights that there is a cumulative saving on the capital programme of £222k which could be used to support other projects.

- ICT Strategy / Accommodation Project

There is a forecast underspend on this project of £200k. Therefore the unfunded part of the programme can be reduced.

- **Easter Group Sale**

This capital receipt has been subject to continuing delays and has now therefore been moved back to 2010/11 in the capital receipts forecast.

12.3. Appendix C summarises the updated resources position including the item shown above. The key points to note are:-

- There is currently £0.4m available to release against projects in the programme.
- In total there is now a forecast surplus of £1.4m, **however**, this still assumes the successful delivery of a number of capital receipts, some of which may not be achieved until the latter part of 2010/11. In addition, there may be other capital funding commitments to consider. As such the overall message is that capital resources are limited and that careful consideration needs to be given to what can be delivered by the programme.

12.4. There is one specific request for funding to be released totalling £300k.:-

ICT Strategy / Accommodation Project - £300k

£2.5m was allocated to the ICT strategy, although £0.5m of this has remained unfunded. Following a review of remaining commitments it is recommended that £0.3m is released now to fund the final costs of the project. As reported earlier the remaining £0.2m is no longer expected to be required and can therefore be removed from the programme.

12.5. A review of the capital programme is taking place to ensure that it reflects strategic plan priorities and the results of this will be reported to a future Cabinet meeting.

13. Strategic Plan References

13.1 The Council has agreed three Corporate Objectives including the aim to “shift resources to deliver priorities”. The 2010/11 budget and the Medium Term Financial Forecast will be underpinned by the Strategic Plan priorities and will seek to preserve and shift resources where needed to these priorities.

14. Consultation

14.1 The budget strategy report to Cabinet in July has been considered by the Strategic Overview and Scrutiny Panel on 14 July 2009. That Panel will also review an update of the budget later this year.

14.2. Consultation took place to inform the Strategic Plan which remains the main driver of the budget.

14.3. The final budget report will be considered by Finance and Audit Scrutiny Panel in January.

14.4. Statutory consultation is due to take place with business ratepayers in December / January.

15. Financial implications

15.1 As set out in the report

16. Equality and Diversity Implications

- 16.1 Consideration will be given to equality and diversity issues in respect of budget changes proposed as part of the budget process. This will be done in line with agreed policies and procedures including production of Equality Impact Assessments where appropriate.

17. Risk Management Implications

- 17.1 The strategic risks of the authority will be considered in developing the 2009/10 budget and all forecast savings/new income options will be risk assessed as part of the budget process. This report sets out some of the key risks / variables at this stage in the budget process and as stated earlier this will be refined during the year.

18. Other Standard References

- 18.1 There are no specific Publicity, Human Rights, Community Safety or Health and Safety implications at this stage.

Background Papers

Report to Cabinet 13 July 2009

Revenue and Capital budget position reported to FASP on 18 August 2009.

Appendix A	
2010/11 Budget Timetable	
Budget Strategy March 09 – July 2009	
March – June (SMT)	Budget Group established Update MTFF /Budget Strategy Review cost pressures, growth and risks Consider approach to budget Externally facilitated Budget Workshop held
Cabinet – 13 July 09	<ul style="list-style-type: none"> • Report on updated budget strategy / MTFF • Timetable approved
SOSP – 14 July 09	Review Cabinet report
Budget Group / Leadership Team - July	Consider review of capital programme Consider approach to consultation
Detailed Budget preparation and Budget Setting Consultation	
Budget Group / Leadership Team regular sessions on progress / budget options July - September	Review budget tasks Consider Fundamental Service Reviews
Cabinet – 9 September 09	<ul style="list-style-type: none"> • Budget Update • Proposals for consultation • Review of capital resources / programme
Cabinet – 21 October 09	Budget Update (if required)
Cabinet – 2 December 09	<ul style="list-style-type: none"> • Budget update • Reserves and balances • Grant settlement • Consultation results (provisional date)
FASP – 26 January 10	Review consultation / Budget position
Cabinet – 27 January 10	Revenue and Capital budgets recommended to Council
Council – 17 February 10	Budget agreed / capital programme agreed / Council Tax set

Ref	Risk / Area of uncertainty	
1	<i>White paper – Strong and prosperous communities</i>	The White Paper set out a number of important financial issues for the Council. This includes responding to the proposals concerning communities, neighbourhoods and place-shaping and the impact of the new performance management framework and proposals around efficiency. The latter includes ambitious targets for efficiency savings (3% cashable savings over three years) and involving greater collaboration and partnership working.
2	<i>Government Grant and the Comprehensive Spending Review 07 (CSR07)</i>	What the CSR10 will provide is difficult to predict, however, it is clear that public finances are continuing to come under increasing pressures. At this stage no increase or decrease has been assumed in the level of grant in 2011/12, therefore a 2% reduction in real terms. For illustrative purposes a 1% change in the level of grant equates to £130k.
3	<i>Pensions</i>	An allowance has been built in for increases in pensions costs based on the results of the recent actuarial review and therefore are fixed for 2010/11. However, an updated review will be undertaken that will inform the cost for 2011/12 onwards. The recent and ongoing economic downturn is highly likely to impact on the pension fund and therefore whilst an increased allowance of £250k each year from 11/12 has been made for this will need to be reviewed closer to the time when we may have more reliable estimates.
4	<i>Concessionary Fares</i>	CLG and DoT are currently consulting on the future administration of the concessionary fares scheme. The favoured option at this stage appears to be a transfer of responsibility to upper tier authorities (e.g. Essex County Council). In many ways this would mirror existing locally negotiated arrangements. There is a second consultation to follow on the amounts of funding to be transferred. The method of assessing costs is not yet known so this represents a risk to the Council which could be positive or negative.
5	<i>Fees and charges</i>	As has been seen in the past few years we have experienced pressures arising from changes in income levels. In 2008/09 we experienced significant shortfalls in income in respect of planning and building control fees and car park revenue (on and off street). This has been considered as part of the 2009/10 budget and provision built in for reduced levels of income. Looking ahead to 2010/11 and beyond it is difficult to estimate how income levels may continue to be affected. However, at this stage no allowance has been built in for changes to income levels.
6	<i>Inflation</i>	An allowance for general inflation has been built into the 10/11 forecast and MTFF, and specific increases allowed for items such as pay (which has been agreed for 09/10 and 10/11) The current CPI is 2.2% and RPI is -1.1%. The economic forecasts published by HM Treasury point to inflation figures for 2010 of 1.7% and 2.5% for CPI and RPI respectively.

Ref	Risk / Area of uncertainty	
		Not all the Council's costs are directly linked to RPI and therefore we will continue to monitor the impact of inflation on all Council costs with particular attention on energy costs for which a significant increase was allowed for in the 09/10 budget figures.
7	<i>Use of reserves</i>	The budget position for 10/11 includes proposals to use certain reserves and also reflects the impact of reserves used in 09/10. The forecast position on general balances shows that they remain close to our current approved prudent level.
8	<i>Legislation</i>	There may be new legislation over the life of the MTFF for which any available funding may not cover costs.
9	<i>Government grants and partnership funding</i>	The Council's budget has changed over recent years with a greater emphasis on funding from both partner organisations and Government bodies. These funding streams can rarely be guaranteed and can therefore add to our cost pressures. This year's budget includes funding in respect of HPDG and the LABGI scheme. It is likely that there will be changes to some of these or other funding sources over the life of the MTFF and as the position becomes clearer the budget forecasts will need to be adjusted. As part of the budget strategy we will review assumptions in respect of these key grants.
10	<i>Impact of renaissance programme e.g. car park closure and staff resources</i>	As the renaissance programme progresses there will be an impact on income from car parks due to temporary and permanent closure of certain car parks and also the introduction of park and ride. We are currently using the Regeneration Reserve to meet some staffing costs to provide increased capacity to deliver the renaissance programme. The budget forecast includes funding for 2009/10 to ensure that the team can continue work and this has also been allowed for in the 2010/11 forecast. However, after this the balance on the Reserve will be minimal.
11	<i>ICT strategy – change programme</i>	The ICT strategy was updated in 2007 and it is likely that there will continue to be a number of financial implications arising from changes. This may result in some costs in the short-term leading to longer term savings. This continues to be examined as part of detailed budget proposals and as part of the implantation of accommodation and flexible working changes.
12	<i>Property review</i>	A review of our assets was carried out and a 5-year Building Repairs and Maintenance Plan produced. There will continue to be financial implications arising from this for both the revenue budget and capital programme and these will be continue to be considered in detail by the council's Property Forum and included in the on-going updates of the MTFF.
13	<i>Impact of growth in the Borough and demand for services</i>	A number of Local Authority services are directly impacted by the increase of population in the Borough, such as waste services, planning, benefits etc. As part of the budget it will be necessary to consider whether there is a need for additional resources in these or

Ref	Risk / Area of uncertainty	
		<p>other areas in order to maintain levels of service.</p> <p>A further area of risk is any increase in the demands for Council services arising from the impact on residents of the economic environment.</p> <p>At this stage no allowance for these areas has been provided within the MTFF. Fundamental Service Reviews (FSR) are being undertaken on some of the key areas affected by growth and /or also the economic climate such as benefits, housing and street services. The financial assumption made is that these reviews will assist in identifying efficiencies to cope with changes in demand.</p>
14	<i>Delivery of budget savings</i>	<p>The 2009/10 budget sets some challenging targets for savings including those in respect of procurement and salaries. The MTFF assumes these targets will be delivered and in the case of salaries continue in future years.</p>
15	<i>Net Interest earnings</i>	<p>The budget is influenced by a number of factors including interest rates and cashflow movements. The treasury management strategy highlights the outlook for interest rates in the medium-term which points to unprecedented low levels during this year and potentially into 2010/11. Whilst it may be possible to provide some financial protection from the impact of these low rates, it is likely that there will be significant pressures on budgets during the medium term.</p> <p>An allowance of £150k has been made in 2010/11, however, further changes to this may be necessary.</p>

Capital Resources Forecast

Detail	Actual £'000	Forecast £'000	Total £'000
Total unfunded schemes			3,281.0
Support of revenue projects:			
Community Stadium			284.0
Total Commitment			3,565.0
2008/09 funding			
Capital receipts	336.0		336.0
Hsg receipts	185.0		185.0
DFGs (additional for 2008/09 & 2009/10)	451.0		451.0
Less releases in year subtotal	(1,290.0)		(1,290.0)
	(318.0)		(318.0)
2009/10 funding			
Capital receipts	475.0	2,095.0	2,570.0
Hsg receipts	29.0	150.0	179.0
DFGs (2010/11)		300.0	300.0
subtotal	504.0	2,545.0	3,049.0
2010/11 funding			
Capital receipts		1,500.0	1,500.0
Hsg receipts		300.0	300.0
subtotal	0.0	1,800.0	1,800.0
Total Funds	186.0	4,345.0	4,531.0
Adjust for over / underspends	(222.0)		(222.0)
Underspend on ICT Strategy / Accommodation Budget		(200.0)	(200.0)
Surplus / (shortfall)	408.0		1,388.0

Report of	Head of Resource Management	Author	Hayley McGrath 508902
Title	2008/09 Year End Review of Risk Management		
Wards affected	Not applicable		

This report reviews the Risk Management work undertaken for the period 1 April 2008 to 31 March 2009.

1. Decision(s) Required

- 1.1 Consider and note the risk management work undertaken during 2008/09, including the quarter 4 Strategic risk register.
- 1.2 Approve the proposed risk management strategy for 2009/10 and refer it to full Council for inclusion in the Policy Framework.
- 1.3 Consider and note the intended work plan for 2009/10.

2. Reason for Decision(s)

- 2.1 Cabinet has overall ownership of the risk management process and is responsible for endorsing its strategic direction. Therefore the risk management strategy states that Cabinet should receive an annual report on progress and should formally agree any amendments to the strategy itself.
- 2.2 During the year quarterly progress reports are presented to the Finance and Audit Scrutiny Panel detailing work undertaken and current issues. This report was presented to F.A.S.P. on 28 July 2009 where they approved it's referral to this meeting.
- 2.3 The Risk Management Strategy is one of the Corporate Governance documents that supports the Constitution of the Council. Therefore any amendments have to be approved by full Council.

3. Key Messages

- A risk management culture continues to be developed throughout the authority with the embedding of the programmed reporting structure.
- Risk Management has been developed to form an integral part of the Corporate Governance framework.
- Training for officers and members is progressing which has led to an increased awareness of risk issues. This is evidenced by the increase in requests to review and assist with risk issues across all departments and also by the development of a formal member training programme.
- The key strategic risks relate to: Effectiveness in responding to changes in the Borough economy; and protection of public funds and resources.
- Whilst the operational risks are being adequately controlled, the operational registers need to be reviewed now that all of the Heads of Service are in post.

4. Supporting Information

- 4.1 The aim of the Council is to adopt best practices in the identification, evaluation, cost-effective control and monitoring of risks across all processes to ensure that risks are properly considered and reduced as far as practicable.
- 4.2 In broad terms risks are split into three categories:
- Strategic – those risks relating to the long term goals of the Council
 - Operational – risks related to the day-to-day operation of each individual service
 - Project – consideration of the risks occurring as a result of the Council's involvement in specific initiatives
- 4.3 Strategic risks are essentially those that threaten the long term goals of the Council and therefore are mainly based around meeting the objectives of the Strategic Plan. They may also represent developing issues that have the potential to fundamentally effect service provision, such as proposals to dramatically change the corporate assessment process. Strategic risks are owned by members of the Senior Management Team.
- 4.4 Operational risks are those that threaten the routine service delivery of the Council. Each service area has their own operational risk register that details the risks associated with providing the service. These registers are reported, in summary format, to the Senior Management Team and committee on an annual basis. High risks and the success in controlling them are reported to Senior Management Team on a quarterly basis, as these assist in the formulation of the strategic risk register.
- 4.5 Project risks are those that relate solely to the successful delivery of that specific project. They tend to be quantifiable issues, such as resource or time related, and constantly change and develop over the course of the project as each stage is completed. The lead on the project is responsible for ensuring that there is an appropriate risk register and high level issues are reported to the senior management team.
- 4.6 Identified risks, in all three categories, are judged against levels of probability and impact to give them an overall score. This allows the risks to be shown as 'high, medium or low' which enables the Council to set a prioritised action plan for managing its risks. There are insufficient resources to be able to reduce all risks - and in some cases it would not be cost effective. Therefore resources are more effectively targeted at the high, and in some cases medium, risks as these would have the severest effect on the Council if they occurred. Categorising an issue as 'high risk' indicates that it would have a fundamental effect on the Council, if it occurred, and therefore plans need to be put in place to either stop it happening or reducing the effect if it does. High risk does not mean that it has, or will definitely, occur.
- 4.7 In many cases the causes of risks are outside of the Council's control, such as general economic issues. The Council cannot stop these risks from occurring (the probability score) but can put plans in place to mitigate against their effect if they occur (the impact score). Likewise there are occasions that risks can be reduced with preventative actions but there is not much that can be done to mitigate their effect if they do occur, such as a failure to protect public resources. Therefore some risks will tend to maintain the same score, regardless of the controls that the Council puts in place.

5. Summary of 2008/09

- 5.1 The primary focus for 2008/09 was to ensure that risk management was embedded across the authority and that the areas identified for improvement in the internal and external audit reports issued in 2007/08 were strengthened.
- 5.2 There were no fundamental changes to the risk management function, or the processes used to identify and control risk, during 2008/09.
- 5.3 An internal audit report regarding the annual review of risk management was issued in January 2009. This highlighted five, level two, recommendations centring on the reporting processes and ensuring the operational registers were brought in line with the revised management structure. All of these recommendations were agreed with and the areas that were not completed during 2008/09, or required further evidence, have been included as part of the work plan for 2009/10.
- 5.4 The Use of Resources assessment for 2008/09 has been carried out by the Audit Commission however the scores for the assessment have yet to be released. The format of the assessment changed significantly for the 2008/09 review. Previously risk management was scored according to a set criteria, however from 2008/09 risk management forms part of KLOE 2.4 - 'Does The Organisation Manage Its Risk And Maintain A Sound System of Internal Control?' This requires the Council to give a self assessment showing how the organisation has an effective risk management process which covers partnership working. The results of the risk management assessment will be reported in due course
- 5.5 The key achievements during 2008/09 were:
- The successful embedding of the reporting process - with regular reports to both the senior management team and F.A.S.P.
 - The revision of the strategic risk register which has created a more dynamic, focused approach to controlling the highlighted risk issues.
 - The adoption of a partnership strategy that provides a robust framework for managing risks across all partnerships.
 - Development of the links between the Council and Colchester Borough Homes in respect of risk management - sharing good practice on training and access to C.B.H.'s strategic risk register.
 - Development of the training programme, with courses designed for members and officers. The first course for members was due to be provided on 21st July.
 - Integration of risk management in the Corporate Governance framework. Management of risk is now an integral part of Corporate Governance and the Risk and Resilience Manager works closely with the Monitoring Officer to ensure that all the necessary control processes are in place and up to date. This includes the completion of the Annual Governance Statement, updating the Code of Corporate Governance and reviewing the Code of Conduct.
- 5.6 There are however some areas that still need to be strengthened and these are shown in detail in the work plan for 2009/10.
- 5.7 During 2008/09 the strategic risk register was reviewed every quarter and reported to FASP. The quarter 4 review for 2008/09 was carried out in March 2009 and the senior management team have approved the register attached at appendix 1 as being the position at 31 March 2009. These risks have been mapped onto a risk chart as shown at appendix 2.
- 5.8 Four items on the strategic register are as shown as having a high level of probability. This does not necessarily mean that they have, or will, definitely occur but shows that the senior management team have recognised that these are complex areas that require robust and effective controls, which are outlined in the action plan section of the strategic register.

6. Risk Management Strategy for 2009/10

6.1 The Council's approach to managing risk was fundamentally reviewed in 2006/07 and a revised strategy was produced. A requirement within the strategy, and also under the Use of Resources assessment, is an annual review of the strategy to ensure that it is still appropriate to the Council's needs. Therefore a review has been undertaken and the strategy has been updated for 2009/10. The revised strategy is attached at appendix 3. There are no fundamental changes proposed to the risk process with amendments only to the areas of external review comments and work plans.

7. Work plan for 2009/10

7.1 With regard to the comments made in the internal audit review, and the self assessment, the following areas will be the primary focus for developing risk management further in 2009/10:

- Completion of the operational risk registers. All of the Heads of Service are now in post and the primary objective for 2009/10 will be the review of the operational registers to ensure that they reflect the risks of the service areas.
- Development of a risk register for members. This will build on the training recently undertaken with members and review the issues that we highlighted during the session.
- Setting of performance indicators for the service and regular review against them. Including formal assessment of training provided and its effectiveness.
- Review of the guidance available to officers and members – ensuring that there is a standard approach to identifying and controlling risk, and making this available on the Hub.

7.2 Detailed progress against these areas will be provided quarterly to F.A.S.P. during the year.

8. Proposals

8.1 To note and comment upon the Councils progress and performance in managing risk during 2008/09, the revised risk management strategy and work plan for 2009/10 and endorse the submission of the revised Risk Management Strategy to full Council.

9. Strategic Plan References

9.1 The strategic risk register reflects the objectives of the strategic plan and the actions have been set with due regard to the identified key strategic risks. Therefore the risk process supports the achievement of the strategic objectives.

10. Risk Management References

10.1 The failure to adequately identify and manage risks may have an effect on the ability of the Council to achieve its objectives and operate effectively.

11. Other Standard References

11.1 There are no direct Publicity, Financial, Consultation, Human Rights, Community Safety or Health and Safety implications as a result of this report.

Colchester Borough Council – Corporate Strategic Risk Register
Quarter 4 2008/09 - May 2009

Key points this update:

Risk 1a: Failure to redirect strategic vision- score has reduced from 12 to 6 due to controls in place.

Risk 6b: No corporate approach to Repairs & Renewals – score has increase from 9 to 12 due to reassessment of the risk

Specific Risks		ACTION PLAN – AMBITION				
		Score P x I = O	Consequence	Action	Owner	Timing
1.a	Failure to adequately redirect the strategic vision and move the resources required to support it.	2	Desired strategic outcomes are not achieved and improvements are not delivered.	Ensure that there is a structured regular review process for the Strategic plan, and corresponding action plan, so that it continues to deliver the strategic vision.	E.D. People & Performance	Ongoing annual review process.
1.b	Unrealistic expectations (both internally and externally) regarding speed of delivery.	3	Failure of one or more of the strategic projects.	Develop a structured reporting process to ensure that direction and priorities from Cabinet are communicated effectively to relevant officers.	Chief Exec	Ongoing
1.c	The Council is unable to effectively respond to changes in the Borough economy both internally and externally.	3	Financial or reputational loss by the Authority.	The desired 'place shape' needs to be formalised and clearly communicated to all staff.	E.D. Place Shaping	
1.d	Over reliance on a limited number of key personnel to deliver the ambition.	2	Inability to attract key partners / investment. Key staff difficult to retain leading to loss of knowledge and inability to maintain momentum of the change process.	Ensure that the Strategic Plan is central to the decision making processes and is reflected in the resource allocations supporting Service Plus areas.	Chief Exec / Head of Resource Management	Annual Budget Process

2. CUSTOMERS			ACTION PLAN – CUSTOMERS		
Specific Risks	Score	Consequence	Action	Owner	Timing
	P I O				
2.a The Council fails to understand and consult its customers.	1	The Authority fails to manage / understand expectations from its customers.	Ensure that there is a structured corporate wide process to develop a good understanding of our customers which drives service improvement.	E.D. Customer Excellence	Ongoing
2.b A lack of political awareness amongst officers could lead to a failure to support our elected members.	3	Councillors not engaged with staff to deliver political priorities and fulfil role as community / ward champion.	A programme to improve levels of political awareness has been developed and will be implemented shortly. This will enhance relationship between officers and elected members.	E.D. Customer Excellence	July 09
2.c The Council fails to enhance the skills of its people to deliver customer excellence.	1	Staff become disengaged with the customer excellence programme and the link to service improvement.	Ensure that the learning and development strategy supports the customer excellence programme.	E.D. Customer Excellence	Ongoing
19 2.d The Council fails to develop and align the customer excellence programme, in phase four, with the Way We Work.	3	Customer Excellence will become irrelevant to the Way We Work and loses its priority to drive improvement.			

3. GENERAL MANAGEMENT			ACTION PLAN – GENERAL MANAGEMENT		
Specific Risks	Score P I O	Consequence	Action	Owner	Timing
3.a Failure to recruit and retain people with the right skills at the right time at the right cost.	3	Service delivery failure.	Develop capacity planning and monitoring plans to anticipate needs.	Head of Corporate Management	Autumn 2009
3.b Failure to implement and deliver an effective performance management process.	2	Financial and reputational loss. Personal liability of Officers and Members.	Ensure effective communications strategy and execution.	Head of Corporate Management	Plans included in GSP May 2009
3.c Failure to equip managers with general management and professional skills and to update skills to be able to respond to changing working practices, such as flexible working.	2	Disengaged and demotivated staff. Legal action against the Council.	Ensure people strategy is developed and executed effectively	Head of Corporate Management	Strategy agreed April 2009
3.d Failure to provide effective and visible political and managerial leadership.	3	Loss of stakeholder confidence in the Borough leading to reduced partnership involvement in delivery.	Ensure Organisational Development is clearly defined and monitored within WWW. Programme/	Executive Director Customer Excellence	
3.e Failure to manage the Council's reputation.	4	High staff turnover, high cost of delivery. Efficiency and productivity reduction.	Ensure performance management process is effectively implemented and monitored to include development needs and plans.	Head of Corporate Management	Ongoing
3.f Failure to develop and maintain fit for purpose IT infrastructure and services.	3		Active promotion and use of Colchester Learning Managers programme and development to meet evolving needs.	Head of Corporate Management	Ongoing
3.g Failure to comply with 'working practises' legislation including: ➤ Health & Safety ➤ F.O.I ➤ DDA ➤ Equality & Diversity	2	Inability to meet changing requirements and needs. Enforcement action by regulators.	Ensure ICT strategy is developed in conjunction with Service plans and promote industry best practice in IT service management in internal organisation. Ensure the Performance Dashboard process is used effectively to monitor and remediate performance.	Head of Corporate Management Head of Corporate Management	ICT strategy agreed. Service plans under preparation Ongoing

4. HORIZON SCANNING			ACTION PLAN – HORIZON SCANNING			
Specific Risks	Score			Action	Owner	Timing
	P	I	O			
4.a Requirements of Local Government reorganisation (opportunity & threat)	2	4	8	<p>Ensure organisational readiness to respond to external challenges through the Way We Work programme strands:</p> <ul style="list-style-type: none"> - People - IT/ flexible working - Customer Excellence - Place Shaping <p>Supported by a robust Medium term Financial strategy and organisational development strategy.</p>	E.M.T.	
4.b Failure to respond to current economic recession appropriately, to assess its full extent or adapt services including plan for recovery and future needs.	4	3	12			
4.c Underestimation of impact / potential of the Olympic games.	2	2	4			
4.d Failure by the Council to spot / influence at an early stage the direction of Central Government policies / new legislation.	2	3	6			
				<p>If not properly managed then either the Council will lose the opportunity to develop further or will have enforced changes to service delivery.</p> <p>Adverse impact on local residents / resources. Missed opportunities to boost tourism / economy.</p> <p>Conflict between Council / Government agendas.</p>		

5. PARTNERSHIPS			ACTION PLAN – PARTNERSHIPS		
Specific Risks	Score P I O	Consequence	Action	Owner	Timing
5.a Failure or inappropriate performance management of one or more strategic partnerships or key contracts E.g. Haven Gateway, RCE, Serco, CBH	4	The cost of service delivery is increased however quality decreases. Failure to deliver key priorities.	Assess proposed strategic partnerships to ensure that they will satisfy the Council's objectives before commitment to new partnerships is made.	EMT	Ongoing as part of partnership strategy.
5.b Change of direction / policy within key partner organisations and they revise input / withdraw from projects.	3	Reputational and financial loss by the Authority. Failure to deliver expected outcomes through partnerships	Define a relationship / performance management process for partnerships	ED People & Performance	Partnership strategy has been developed and approved by Cabinet.
5.c Potential inability to agree shared outcomes/ agendas with partners and the Council's ability to influence partner's performance, particularly in relation to CAA and LAA requirements.	3	Requirement to repay external funding granted to partnership – taking on the liabilities of the 'withdrawn' partner. External assessment of the Councils partnerships are critical and score poorly.	Ensure that there is a mechanism to review partnerships and assess the value added.	ED People & Performance	

6. ASSETS & RESOURCES			ACTION PLAN – ASSETS & RESOURCES			
Specific Risks	Score		Consequence	Action	Owner	Timing
	P	I O				
6.a	2	5	Service delivery failure. Financial and reputational loss by the Authority. Personal liability of Officers and Members. Legal actions against the Council.	Ensure that there is a robust system of internal control that encompasses all assurance systems including Internal Audit, Risk Management, Budget process, Corporate Governance and performance management. This must be reported to senior officers and members on a regular basis to ensure that it is fully embedded.	EMT / Head of Resource Management	There is an ongoing cycle of reviewing and reporting including internal Audit, Risk management and the AGS
	4	3				
6.b	3	2	Loss of stakeholder confidence in the Borough Inability to sustain costs	Continue to ensure that the budget monitoring process is reflective of finances across the whole Council not just individual service areas.	Head of Resource Management	Monthly reports to PMB. Quarterly reports to FASP
6.c	3	6				
6.d	3	2	Failure to deliver a balanced budget. Required to use Reserves & Resources to fund services and support Renaissance programme without ability to 'top-up'. Severe impact on cash-flow leading to negative effect on performance targets.	Develop the annual budget strategy to ensure it has controls built in to be able to respond to changes in the strategic objectives.	Head of Resource Management	Annual exercise. Council approves the final budget in February
	6	6				
				Review the medium term financial outlook and capital programme processes to ensure they are kept up to date and realistic.	Head of Resource Management	MTFS is part of the budget strategy & considered during the process. Capital programme reported to FASP quarterly.

RISK MATRIX QUARTER 4 2008/09 - MAY 09

Low Risks	Medium Risks	High Risks
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Scoring 1-5

Risk Tolerance Line

Probability of Occurrence	5 Very High					
	4 High			3e 4b 5a 6b		
	3 Medium		3a 5b 5c 6c 6d	1b	2b 3d 3f	1c
	2 Low		4c	1a 1d 3a 4d	3b 3c 4a	6a
	1 Very Low		2a	2d 2c		
		1 Very Low	2 Low	3 Medium	4 High	5 Very high
Severity of Impact						

RISK MANAGEMENT STRATEGY

This document outlines the Council's commitment to managing risk in an effective and appropriate manner. It is intended to be used as the framework for delivery of the Risk Management function and provides guidance on developing risk management as a routine process for all services.

INTRODUCTION

The Council undertakes that this strategy will promote and ensure that:

1. The management of risk is linked to performance improvement and the achievement of the Council's strategic objectives.
2. Members and the Senior Management Team own, lead and support on risk management.
3. Ownership and accountability are clearly assigned for the management of risks throughout the Council.
4. There is a commitment to embedding risk management into the Council's culture and organisational processes at all levels including strategic, programme, project and operational
5. All members and officers acknowledge and embrace the importance of risk management as a process, by which key risks and opportunities are identified, evaluated, managed and contribute towards good corporate governance.
6. Effective monitoring and reporting mechanisms are in place to continuously review the Council's exposure to, and management of, risks and opportunities.
7. Best practice systems for managing risk are used throughout the Council, including mechanisms for monitoring and reviewing effectiveness against agreed standards and targets.
8. Accountability to stakeholders is fully demonstrated through periodic progress reports and an annual statement on the effectiveness of and the added value (benefits) from the Council's risk management strategy, framework and processes.
9. The Council's approach is regularly assessed by an external, independent body against other public sector organisations, national standards and Best Practice.
10. The Risk Management Strategy is reviewed and updated annually in line with the Council's developing needs and requirements.

Endorsement by Adrian Pritchard, Chief Executive

“Colchester Borough Council is committed to ensuring that risks to the effective delivery of its services and achievement of its overall objectives are properly and adequately controlled. It is recognised that effective management of risk will enable the Council to maximise its opportunities and enhance the value of services it provides to the community. Colchester Borough Council expects all officers and members to have due regard for risk when carrying out their duties.”

A handwritten signature in black ink that reads "A. R. Pritchard." The signature is written in a cursive style with a long, sweeping underline.

WHAT IS RISK MANAGEMENT

Risk Management is the control of business risks in a manner consistent with the principles of economy, efficiency and effectiveness. It is an essential performance management process to ensure that both the long and short term objectives of the Council are achieved and that opportunities are fully maximised.

Risk Management is not about eliminating risk, as this would limit the ability of the organisation to develop and deliver its ambitions. Its purpose is to recognise the issues that could effect the achievement of our objectives and develop actions to control or reduce those risks. Acknowledgement of potential problems and preparing for them is an essential element to successfully delivering any service or project. Good management of risk will enable the Council to rapidly respond to change and develop innovative responses to challenges and opportunities.

‘The Good Governance Standard for Public Services’ issued by The Independent Commission on Good Governance in Public Services states that there are six core principles of good governance including ‘Taking informed, transparent decisions and managing risk’. The document goes on to state ‘Risk management is important to the successful delivery of public services. An effective risk management system identifies and assesses risks, decides on appropriate responses and then provides assurance that the chosen responses are effective’.

BACKGROUND

Current Position

The first Risk Management Strategy was adopted by the Council in September 2003 and incorporated in the Council's policy framework. This introduced the concept of risk and identified the process to be followed.

In broad terms risks are split into three categories:

- Strategic – those risks relating to the long term goals of the Council
- Operational – risks related to the day-to-day operation of each individual service
- Project – consideration of the risks occurring as a result of the Council's involvement in specific initiatives

A significant amount of progress has been made in managing the risks to the Council. The following are some of the achievements since the adoption of the strategy:

- Creation of an overall strategic register.
- Creation of operational risk registers for all service areas.
- Consideration of risk in Committee reports.
- Development of a comprehensive risk register for the regeneration programme and consideration of risk as a project management tool.
- Successful internal and external assessment.
- Provision of advice to other authorities regarding our management of risk.

The CPA score was an endorsement that we have devised a practical and workable approach to managing risk. This has resulted in the Council becoming more risk aware and actually taking more risks, as demonstrated by the comprehensive risk register for the renaissance projects. Colchester is also highly regarded for managing risk by both our insurers and other authorities.

The Audit Commission, in the 2007/08 Audit and Inspection Letter, stated that "*Risk management arrangements continue to be embedded. A risk strategy is in place and approved by members. A corporate risk register is regularly updated, and contains specific and generic risk in respect of partnerships. The Finance and Scrutiny Panel who are responsible for risk management regularly review the corporate risk register. Project initiation contains a risk assessment*".

The annual Use of Resources assessment for 2007/08 highlighted areas of Risk Management that were performing well but by the same token highlighted areas where further development is required, including:

- Continue to roll out awareness training for Members
- Development of the senior officer and member risk champion roles
- Further embed risk management into business processes
- Ensure that reports to support strategic policy decisions include a risk assessment, including a sustainability impact appraisal.
- Consideration of opportunity risk in the successful delivery of major innovative and challenging projects.

The issues of awareness and training and further embedding into the business process have also been highlighted in the 2008/09 Internal Audit assessment of the risk management system.

OWNERSHIP

The responsibility to manage risk rests with every member and officer of the Council however it is essential that there is a clearly defined structure for the co-ordination and review of risk information and ownership of the process.

Appendix D is from the CIPFA/SOLACE risk management guide, Chance or Choice. It is a generic map of responsibility for each part of the risk management process.

The following defines the responsibility for the risk management process at Colchester:

Cabinet – Overall ownership of the risk management process and endorsement of the strategic direction of risk management.

Portfolio Holder for Resources & Business – Lead member for the risk management process

Finance & Audit Scrutiny Panel (FASP) – Responsible for reviewing the effectiveness of the risk management process and reporting critical items to cabinet as necessary.

Performance Management Board (PMB) – Ownership of the strategic risks and overview of the operational risks. Actively support the Risk Management Strategy and framework.

Executive Director – Lead officer for the risk management process, demonstrating commitment to manage risk

Head Of Resource Management – Responsible for co-ordination of the risk management process, co-ordinating and preparing reports and providing advice and support.

Heads of Service – Ownership, control and reporting of their service's operational risks. Contribute to the development of a risk management culture in their teams.

All Employees – To understand and to take ownership of the need to identify, assess, and help manage risk in their individual areas of responsibility. Bringing to the management's attention at the earliest opportunity details of any emerging risks that may adversely impact on service delivery.

Internal Audit, External Audit and other Review Bodies – Annual review and report on the Council's arrangements for managing risk throughout the Council, having regard to statutory requirements and best practice. Assurance on the effectiveness of risk management and the controls environment.

THE WAY FORWARD

Aims & Objectives

The aim of the Council is to adopt best practices in the identification, evaluation, cost-effective control and monitoring of risks across all processes to ensure that risks are properly considered and reduced as far as practicable.

The risk management objectives of Colchester Borough Council are to:

- Integrate risk management into the culture of the Council
- Ensure that there are strong and identifiable links between managing risk and all other management and performance processes.
- Manage risk in accordance with best practice
- Anticipate and respond to changing social, environmental and legislative requirements
- Prevent injury, damage and losses and reduce the cost of risk
- Raise awareness of the need for risk management by all those connected with the Council's delivery of services.
- Ensure that opportunities are properly maximised through the control of risk.
- Reduce duplication between services in managing overlapping risks and promote 'best practise'.

Risk Management forms an important part of the Council's system of Internal Control and is therefore one of the Use of Resources Key Lines of Enquiry. The Risk Management function has achieved assessment at level 3 from level 2 last year. The objectives outlined above have been set to ensure that the function can maintain this assessment level. The approach of the Use of Resources assessment was changed for the 2008/09 year and the authority is now required to provide a broad self assessment review of the function as opposed to meeting set performance criteria. However Appendix C outlines the 2007/08 Use of Resources criteria for Risk Management which provides a basis for service delivery.

Strategic Risk Management

Strategic risks are essentially those that threaten the long term goals of the Council and therefore are mainly based around meeting the objectives of the Strategic Plan. They may also represent developing issues that have the potential to fundamentally effect service provision, such as proposals to dramatically change the corporate assessment process.

Strategic risks will be controlled using a register that will detail the risks and associated controls. The register will be owned by the Senior Management Team, with ownership for risks being assigned to individual officers, and will be reviewed every quarter. The strategic risks will be reported to F.A.S.P. every quarter.

Operational Risk Management

Operational risks are those that threaten the routine service delivery of the Council. Each service area will have their own operational risk register that details the risks associated with providing the service. These registers will be reported, in summary format, to the Senior Management Team and committee on an annual basis. High risks and the success in controlling them will be reported to Senior Management Team on a quarterly basis, as these will help in the formulation of the strategic risk register.

Links

It is essential that risk management does not operate in isolation to other management processes. To fully embed a risk management culture it has to be demonstrated that risk is considered and influences all decisions that the Council makes. It is essential that there is a defined link between the results of managing risk and the following:

- The Strategic Plan
- Service Plans
- Revenue and Capital Budgets
- Annual Internal Audit Plan

Action Required

The following actions will be implemented to achieve the objectives set out above:

- Considering risk management as part of the Council's strategic planning and corporate governance arrangements.
- Ensuring that the responsibility for risk management is clearly and appropriately allocated
- Maintaining documented procedures for managing risk
- Maintaining a corporate approach to identify and prioritise key services and key risks across the Council and assess risks on key projects.
- Maintain a corporate mechanism to evaluate these key risks and determine if they are being adequately managed and financed.
- Establish a procedure for ensuring that there is a cohesive approach to linking the risks to other management processes
- Including risk management considerations in all committee reports
- Providing risk management awareness training to both members and officers.
- Developing risk management performance indicators.
- Establishing a reporting system which will provide assurance on how well the Council is managing its key risks and ensures that the appropriate Members and officers are fully briefed on risk issues.
- Preparing contingency plans in areas where there is a potential for an occurrence to have a significant effect on the Council and its business capability.
- Regularly reviewing the risk process to ensure that it complies with current national Governance Standards and Best Practice.
- Creation of an annual 'Action Plan' that details particular areas of development for the coming year, including details of the value added and how they will be embedded.

REVIEW

To ensure that the risk management process is effective it will need to be measured and reported to P.M.B., F.A.S.P. & Cabinet. As well as a structured reporting process of risks and controls during the year there will need to be an annual review demonstrating the success of the following:

- The inclusion of risk management principles within Service Plans and budgets.
- The development of the Internal Audit plan based on the risk issues.
- Achievement against identified performance indicators.
- Members consistently ensuring managing risk is considered as part of the decision making processes within the Council.
- Service managers making recommendations that regard risk as an opportunity as well as a threat .
- Risk management principles being considered in service reviews, for example in areas such as options for change and service improvements.
- Changes in risk being independently identified and assessed by Service Managers
- Compliance with the use of resources criteria and self assessment requirements.

Suitable opportunities to benchmark the risk management service against other organisations should also be explored to ensure that it is effective and the work carried out by the Council conforms to best practise.

The four appendices attached give greater detail of key issues:

Appendix 1 – Outline of the risk management process

Appendix 2 – Details of how Risk Management will be reported.

Appendix 3 – The 2007 Use of Resources Criteria for Risk Management

Appendix 4 – CIPFA guidance on Risk Management Responsibilities

APPENDIX A

The Risk Management Process

Risk Management is a continual process of identifying risks, evaluating their potential consequences and determining the most effective methods of controlling them and / or responding to them. The risks faced by the Council are constantly changing and the continual process of monitoring risks should ensure that we can respond to the new challenges. This process is referred to as the risk management cycle.

Stage 1 – Risk Identification

Identifying and understanding the hazards and risks facing the council is crucial if informed decisions are to be made about policies or service delivery methods. There is detailed guidance available on how to identify risks which includes team sessions and individual knowledge. Once identified a risk should be reported to the Head of Service who will consider its inclusion on the relevant risk register. If the risk is identified in between register reviews then it is reported to the Risk & Resilience Manager for information and the Head of Service is responsible for managing the risk.

Stage 2 – Risk Analysis

Once risks have been identified they need to be systematically and accurately assessed. If a risk is seen to be unacceptable, then steps need to be taken to control or respond to it.

Stage 3 – Risk Control

Risk control is the process of taking action to minimise the likelihood of the risk event occurring and / or reducing the severity of the consequences should it occur.

Stage 4 – Risk Monitoring

The risk management process does not finish with the risk control procedures in place. Their effectiveness in controlling risk must be monitored and reviewed. It is also important to assess whether the nature of the risk has changed over time.

APPENDIX B

Reporting

No matter how good the process to identify and control risks is, it will not be effective unless the information gained from it is reported and used to influence other management issues / processes. Therefore it is essential that there is a defined process and timetable for reporting the results of the risk management process to both members and officers.

Types of Report

- A quarterly report to P.M.B., detailing the *high level* operational risks along with comment from the Services regarding the progress that they have made in controlling the risk.
- The strategic risk register needs to be reviewed on a quarterly basis by P.M.B.
- A quarterly report needs to be provided to Committee (F.A.S.P.) detailing the current strategic and high level operational risks and the progress made in controlling them.
- Six monthly review of the operational risk registers and a summary report of these reviews to P.M.B.
- An annual report reviewing Risk Management activity and an action plan for the coming year - taking into account changes in methodology and results of internal and external reviews. Going to P.M.B., FASP and Cabinet. This needs to cover all of the three areas of risk
- Ad-hoc reports need to be provided to P.M.B. when new, significant risk issues arise.

The reports can be summarised as follows:

	Service's	P.M.B.	F.A.S.P.	Cabinet
Quarterly		Progress of high level operational risks Review of strategic risk register	Progress report of strategic & high level operational risks	
6 Monthly	Review of operational risk register	Summary of operational review from services		
Yearly		Scrutiny of annual progress report to cttee on R.M. & action plan for coming year.	Endorsement of annual progress report on R.M. & action plan for coming year	Summary of past years work on R.M. and agreement of action plan for the coming year.

Appendix C Use of Resources Criteria

4. INTERNAL CONTROL How well does the council's internal control environment enable it to manage its significant business risks?		
Key line of enquiry 4.1 The council manages its significant business risks		
Audit Focus Evidence that: the council has a risk management process in place the risk management system covers partnership working		
Criteria for Judgement		
Level 2	Level 3	Level 4
<p>* The council has adopted a risk management strategy/policy that has been approved by members.</p> <p>* The risk management strategy/policy requires the council to:</p> <ul style="list-style-type: none"> • identify corporate and operational risks • assess the risks for likelihood and impact • identify mitigating controls • allocate responsibility for the mitigating controls. <p>* The council maintains and reviews a register of its corporate business risks linking them to strategic business objectives and assigns named individuals to lead on the actions identified to mitigate each risk.</p> <p>* Member responsibility for corporate risk management is identified in the terms of reference of one or more committees as appropriate.</p> <p>* Reports to support strategic policy decisions, and project initiation documents, include a risk assessment.</p>	<p>1.1.2</p> <p>* The risk management process is reviewed and updated at least annually.</p> <p>* The risk management process specifically considers risks in relation to significant partnerships and provides for assurances to be obtained about the management of those risks.</p> <p>* All appropriate staff are given relevant training and guidance to enable them to take responsibility for managing risk within their own working environment.</p> <p>* The members with specific responsibility for risk management have received risk management awareness training.</p> <p>* Members with responsibility for corporate risk management receive reports on a regular basis and take appropriate action to ensure that corporate business risks are being identified and effectively managed, including reporting to full council as appropriate.</p>	<p>* A senior officer and member jointly champion and take responsibility for embedding risk management throughout the council.</p> <p>* The council can demonstrate that it has embedded risk management in its business processes, including:</p> <ul style="list-style-type: none"> • strategic planning • financial planning • policy making and review • performance management <p>* All members receive risk management awareness training appropriate to their needs and responsibilities</p> <p>* The council considers the opportunity side of innovative and challenging projects.</p> <p>* Reports to support strategic policy decisions, and initiation documents for all major projects, require a risk assessment including sustainability impact appraisal.</p>

Appendix D Risk Management Responsibilities – CIPFA / SOLACE Guidance

	Framework, Strategy and Process	Identifying risk	Analysing Risk	Profiling risk	Prioritising action based on risk appetite	Determining action on risk	Controlling risk	Monitoring & Reporting	Reporting to external stakeholders.
Members	Agreeing the Framework, Strategy and Process Determined by Officers	Identifying risk	Analysing Risk	Profiling Risk	Determining the risk appetite and prioritising risk. Agreeing the priorities determined by officers			Reviewing the effectiveness of the risk management process.	Reporting to external stakeholders on the framework, strategy, process and effectiveness .
Risk Management Team	Providing advice And support to the executive Management Team and Members	Providing advice and support.	Providing Advice and support	Providing advice and support	Providing advice and support			Co-ordinating the results for reporting to the corporate management team and members	
Senior Management Team	Determining the framework, Strategy and Process	Identifying strategic and cross-cutting issues	Analysing Strategic and cross-cutting issues.	Profiling strategic and cross-cutting issues.	Determining the risk appetite and prioritising strategic and cross-cutting issues	Determining action on strategic and cross-cutting issues. Delegating responsibility for control.		Monitoring progress on managing strategic and cross-cutting risks and reviewing the implementation of the risk management framework, strategy and process.	Reporting to external stakeholders on the framework, strategy, process and effectiveness.
Head of Resource Management	Providing Advice and Support	Providing advice and support	Providing advice and support	Providing advice and support	Providing advice and support	Providing advice and support	Providing advice and support	Reporting to members. Co-ordinating the results for reporting to the executive management team and members	Preparing draft reports for the corporate management team and members to issue.
Service Managers / G.M.T'ss		Identifying service Risks	Analysing Service risks.	Profiling service risks.	Prioritising action on service risks.	Determining action on service risks. Delegating responsibility for control.		Monitoring progress on managing service risks. Reporting to the group management team	
Employees, contractors And partners		Maintaining awareness of risks and feeding these into the formal process.	Maintaining awareness impact of risks and feeding information into the processes				Controlling risk in their jobs.	Monitoring progress on Managing job related risks Reporting to the service manager.	



Cabinet

Item
9(i)

9 September 2009

Report of	Head of Strategic Policy and Regeneration	Author	Howard Davies ☎ 507885
Title	Queen Street Cultural Quarter – Approval of Amended Heads of Terms		
Wards affected	All wards		

Approval of Heads of Terms for the development of a mixed use Cultural Quarter scheme within the St. Botolph's Regeneration Area, to secure a Hotel and accommodation for a Creative Business Hub, retail and commercial space.

1. Decision(s) Required

- 1.1 To approve in principle the proposed revised Heads of Terms, which will form a basis for the Development Agreement to secure a new hotel, the beneficial redevelopment of Roman House and the beneficial refurbishment of St James House, within which accommodation will be provided on a rent free basis to the Council to provide a Creative Industries Hub together with additional lettable space.
- 1.2 To give delegated authority to the Head of the Renaissance Programme to conclude the Heads of Terms substantially in accordance with the approved draft and commence negotiations on Development Agreement and associated documents.

2. Reasons for Decision(s)

- 2.1 Given the significant level of investment already made by the Council and the Cultural Quarter competition winners Garbe/Ash Sakula to the Cultural Quarter scheme and their strong belief that they could create a development which could work even in the current market, negotiations have continued in respect of this project. Viability issues and the lack of demand for residential sales have led to a phased approach to delivery. Negotiations since the Cabinet meeting last year have therefore focused on Phase 1 of the Cultural Quarter which will deliver a new hotel, a creative industries hub and additional lettable space on the Roman House/St James House site and provide a stimulus for which future regeneration can follow.
- 2.2 Despite difficult economic circumstances the ability for this developer to bring forward a significant commercial development is a significant vote of confidence in Colchester. It will deliver a 90 bed hotel which together with accommodation proposals at Greyfriars and East Hill House will go towards addressing the shortfall of both the amount and range of such accommodation in the town centre recognised in recent studies. The construction and refurbishment work will generate jobs in a sector particularly hit by the recession and the future uses will then provide the opportunity not only for permanent jobs on site but, through the Creative industries incubator, the potential to 'grow' many more. It is hoped that the ground floor retail element will provide opportunities for small individual shops that reflect the Colchester special retail character while picking up on the creative aspect of the Quarter. Ash Sekula the architects, who received so much public and stakeholder praise for their winning scheme of the cultural Quarter design competition, are currently retained to work up the Hotel scheme as well as the rest of the

project giving further confidence that the proposals are likely to deliver the quality of regeneration that Colchester wishes to see.

- 2.3 The proposed Heads of Terms form the basis of the Development Agreement which will be the legal contract between the Council and Garbe Real Estate Limited to build the Cultural Quarter scheme in St. Botolph's Quarter. In accordance with the existing Collaboration Agreement the approval of the Heads of Terms will enable each party to instruct legal representatives to commence the negotiations in respect of the Development Agreement.

3. Alternative Options

- 3.1 The Council could refuse to accept that the proposed revised Heads of Terms offer the Council the best overall consideration for its landholding taking into account the delivery of key non financial objectives for the St. Botolph's Regeneration area and could sell its landholding to the highest bidder on the open market for an alternative form of development. However an alternative form of development or use on the site would not necessarily meet the objectives of the wider regeneration of this area as set down in the St. Botolph's Masterplan, adopted by the Council in 2005.

4. Supporting information

- 4.1 Since the previous Heads of Terms were agreed by Cabinet, other opportunities have also arisen which have led to even Phase 1 being split into a number of component parts for delivery. These include the Council now taking control of the entire area of public realm delivery which runs from the access road from East Hill through phase 1 of the Cultural Quarter site to the bus station access. In order to control delivery of a seamless area of high quality public realm which plays such a key role in integrating the new buildings with existing heritage assets, the Council now proposes to develop a comprehensive design and implementation programme aided by funding secured through the Haven Gateway Partnership.
- 4.2 In addition, the rear of the site (where the waiting room is located) which, as part of the Ash Sakula Concept, was originally to be developed as high quality sustainable residential accommodation could not be delivered in the current market and was therefore likely to remain undeveloped until such time as there was a revival in house prices and demand. Following early negotiations direct with affordable housing providers, the Council is now confident this site can be used to develop a high quality exemplar affordable housing scheme and it has seemed appropriate to remove this from the scope of the Garbe agreement. Officers will report separately on progress with this scheme in due course. There are no immediate proposals, as part of this arrangement, for the area incorporating the temporary bus station and First's bus depot and adjoining buildings.
- 4.3 Therefore the Heads of Terms are now primarily concerned with the redevelopment and or refurbishment of St James House and Roman House with 15 Queen Street also being subject to a separate sale direct by the Council to firstsite.
- 4.4 In summary, the proposed terms secure a new 90 bed hotel operator in Colchester on the site of Roman House and the beneficial refurbishment of St James House, within which accommodation will be provided on a rent free basis to the Council to enable a Creative Business Hub to be secured together with other lettable space.

4.5 In due course the proposed terms allow for further negotiation between Garbe and the Council on how best to bring forward further elements of the developers original Masterplan, without the Council being under any obligation to progress a development which is not feasible or viable.

4.6 In a difficult and uncertain property and economic market conditions the proposed terms represent an expedient solution to kick starting regeneration in the town centre and the successful re-development of two less than attractive properties that are not providing the Council or the town with either economic or cultural benefits.

5. Proposals

5.1 The Council will enter into a development agreement with Garbe which provides for the long leasehold transfer of St James House and Roman House conditional upon the completion of certain conditions for example planning consent.

5.2 Garbe will agree to take on all risks associated with gaining a successful planning permission for the buildings, carrying out demolition and refurbishment and securing suitable end users for both buildings including the sale to a hotel operator. (A report from the Councils advisors CBRE on Valuation and Risk will be available to members on Part B of the agenda - to follow)

5.3 The Council gains the transfer back of 7,500sq ft of space at nil rent for a period of 20 years for the purposes of developing an incubator facility for Creative Industries, for which monies have already been secured from the Haven Gateway Partnership. The Council will retain the right to continue the tenancy, it is expected that this will be at a market rate. The creative business hub will help enhance Colchester's current, already thriving, but in some cases disparate creative businesses.

5.4 The Council benefits from a partnership arrangement which provides for any additional profits from the development to be split on a 50/50 basis.

5.5 The Council benefits from the value added regeneration of the area and the creation of a much needed new 90 bed hotel made distinctive for this important town centre location, by varying its elevation and being designed to compliment the emerging cultural quarter through a partnership with Ash Sakula. In addition the use of the other accommodation for shops and commercial use will all meet the objectives for this locality.

6. Strategic Plan References

6.1 The proposal is seen as driving, in this location, the Councils objective to make it a place where people want to live, work and visit. Job creation is a priority for the Council and specifically aims to increase incubation space for business and to support the retail economy in the Town. The St. Botolph's area is detailed in the Councils Regeneration programme as being a key project for the future of the town.

7. Consultation

7.1 Substantial consultation was undertaken prior to the approval of the St. Botolph's Quarter Masterplan. In addition, further consultation has been carried out during the competition process including public exhibitions and discussions with key stakeholders, English Heritage Inspire East, EEDA, firstsite, Essex County Highways and the local transport operators in respect of the current scheme.

7.2 Once the design options are finalised then the proposals will be subject to the normal consultation process through the planning application route due later this year. As previously mentioned, the developer remains sensitive to the Council's concerns, particularly in respect of the quality of architecture and materials used, the creation of a suitable setting for further regeneration and the creation of a unique environment for people to visit, work and live.

8. Publicity Considerations

8.1 The original competition process attracted significant publicity both locally and nationally and the public have been kept informed of progress during the Collaboration Agreement period through press releases, presentations to local groups and newsletters to traders in the area.

8.2 The Council will continue to ensure that contact is maintained with the trader's informing them of the latest position and a copy of the Town Centre Regeneration Newsletter will be issued detailing the way forward.

8.3 A campaign to fill the empty buildings on the site with temporary uses which provide complementary activities that begin to develop the area as a Cultural Quarter even before construction starts, is already under consideration and it is expected that a programme of events will begin to take later this year.

9. Financial Implications

9.1 The detailed financial proposals in respect of the Heads of Terms are highlighted in the report by CBRE, attached as a part B exempt background paper to this report (to follow).

10. Human Rights Implication

10.1 No implications can be identified at this stage.

11. Community Safety Implications

11.1 None identified at this stage

12. Health and Safety Implications

12.1 There will be no Health and Safety implications at this stage.

13. Risk Management Implications

13.1 The agreeing of the Heads of Terms with the developer does not guarantee progression of the project to planning application stage or the signing of a development agreement. If the developer fails to meet the deadline in respect of the development agreement set out in the Heads of Terms the Council has the right to treat with another party, but this will add further delays to the regeneration of this area.

13.2 The overall development of the Cultural Quarter is reliant upon a number of factors including the relocation of the other uses and delays in securing this could lead to delays in certain later phases of the development.

13.3 The current economic climate does mean that nationally all development projects are more vulnerable in terms of viability and due to the nature of this scheme, there is a risk

that the developer may choose not to proceed. In addition, any potential income due to the Council is at risk if values continue to fall and costs rise

Background Paper

1. Ash Sakula winning Scheme concept drawing
2. Draft Heads of Terms including principal terms for Estate Management Strategy and Lettings Policy

Appendices- Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (financial / business affairs of a particular person, including the authority holding information).

1. Report from CBRE regarding how the financial aspects of the Heads of Terms represent the best consideration possible from the scheme taking into account the non financial deliverables of a regeneration area (To Follow)



Cabinet

9 September 2009

Item
10(i)

Report of	Head of Strategic Policy and Regeneration	Author	Lindsay Barker/Mike Scarlett ☎ 282253/2681
Title	Repairs and Maintenance Service for the Council's housing stock		
Wards affected	All wards		

This report concerns the proposed strategic direction for the procurement of the longer term Repairs and Maintenance Service for the Council's housing stock

1. Decision(s) Required

- 1.1 To note procurement, via an EC compliant tender process, for gas/oil servicing & directly associated repairs and the external overview contract (external painting programme) has commenced in line with the Cabinet Decision dated 28 January 2009.
- 1.2 To ratify the Cabinet decision of 28 January 2009 that the Council will be the contracting party in respect of the contracts entered into in relation to paragraph 1.1 relating to the maintenance of the Council's housing stock and to note that Colchester Borough Homes (CBH) will act in the role of Contract Administrator for the reasons set out in paragraph 4 of this report
- 1.3 To agree that Colchester Borough Homes should continue to provide the responsive repairs, voids and adaptation services to 2013, in line with the Management Agreement as set out in paragraph 3 of this report.

2. Background

- 2.1 Following the ending of the arrangement with the previous service provider (Inspace) in 2008 it was agreed by the Cabinet that CBH would provide interim services for a period of 18 months to December 2009 in order to allow a procurement process to take place for the completion of the Decent Homes programme and the longer term delivery of property services. Accordingly, the Council and CBH entered into a Deed of Variation (DOV) for these interim services, which is due to expire in December 2009.
- 2.2 It was accepted that the services could be provided by CBH by the Council applying what is called the 'Teckal exemption'. The Teckal case found that service contracts between a local authority and any other party should normally be advertised for competition save in limited circumstances where "*the local authority exercises over the person a control which is similar to that which it exercises over its own departments and at the same time, the person carries out the essential part of the activities with the controlling local authority or authorities.*"
- 2.3 The DOV was originally intended to be an interim arrangement to allow the Council time to ensure it complied with its statutory obligations and ensure that any new arrangements would offer best value.

- 2.4 A meeting was held with parties from the Council and CBH to consider the progress already made by CBH in relation to Property services and reconsider the procurement options previously agreed, for the longer term repairs and maintenance.
- 2.5 At the meeting CBH gave a detailed account of how since taking over the interim repairs service they have improved services to both the Council and its tenants. The report included a review in the way services are provided and the carrying out of local market testing of services which has led to a reduction in costs for the services and an improvement in performance.
- 2.6 After consideration of all the issues it was recommended (subject to formal approval by the Cabinet) that CBH would provide the responsive repairs, voids and adaptations services (which would require appropriate amendments to the DOV) beyond December 2009. It was further recommended that the original decision to expose gas/oil servicing and directly associated repairs along with the external overview contract (including painting programmes) to competition following an EC compliant process would be delivered.
- 2.7 In order to progress this delivery the Council and CBH have put in place arrangements to meet with Ridge & Partners (external consultants) on 4 September to plan the procurement for gas/oil servicing and the external overview contracts.

3. The Proposal

- 3.1 The Cabinet is being asked to extend the DOV to 2013 whilst a formal benchmarking exercise is carried out in order to satisfy the Council and the Audit Commission that CBH is and will continue to provide value for money in terms of price and quality of services in respect of responsive repairs, voids and adaptation services.
- 3.2 That CBH carry out a formal benchmarking exercise (scope to be agreed with the Council) which will include external validation by a consultant, such as the Housing Quality Network, by March 2010.
- 3.3 That CBH (in agreement with CBC) continue to carry out regular benchmarking of the services they provide throughout the period up until 2013. Should CBH be unsuccessful in demonstrating best value following the appropriate benchmarking exercise the agreed services would then need to be exposed to competition following an EC compliant process (as appropriate).

4. Contracting Party

- 4.1 It should be noted from the earlier Cabinet report that it was agreed that the Council would be the contracting party in respect of any significant contracts entered into in relation to the maintenance of the Council's housing stock. While CBH could be the contracting party in respect of contracts entered into the legal advice remains that with regard to significant contracts the roles should be separate and CBC should be the contracting party with CBH as Contract Administrator, which it is envisaged, will give it day to day operational control of the services.
- 4.2 The market may have a difficulty with CBH being the employer and Contract Administrator because the role of Contract Administrator is required to be independent in dealing with any issues that arise between employer and contractor. The market may also require direct warranties from the Council because CBH has no assets in the event of any contractual dispute. Further any risks in respect of any potential challenge or any

contractual disputes are likely to remain with the Council even if CBH were to be the contracting party.

4.3 Therefore in respect to the proposed gas/oil servicing and the external overview contracts this is the proposed arrangement. However where the Council is not going out to market but allowing CBH to continue to directly provide the responsive repairs, voids and adaptation services then CBH will contract directly with 'sub-contractors' as required as the Councils contract is with CBH.

4.4 It can be confirmed that the advice within the Peter Nourse report to FASP, with regard to the "lessons learnt from the previous contract" is being applied to these arrangements. Not least the market contracts will not be 'partnering' contracts but traditional works contracts. In addition Both CBC and CBH have implemented actions to define roles and responsibilities and ensure robust performance management, including the benchmarking process, referred to above, is in place. The splitting of a number of different work streams into different contracts and providers meets another recommendation as does the use of Ridge and Partners as specialists to manage the procurement process.

5. Alternative Options

5.1 As the interim repairs and maintenance service is due to operate until December 2009, in line with the Council's statutory duties, a replacement longer term service must be established to follow on from this date.

5.2 Therefore the only alternative option to the CBH procurement approach is for the Cabinet to ratify its earlier decision and continue with the full EC compliant process for the repairs and maintenance service. This would take around 9 – 12 months to deliver.

5.3 The legal view that has been expressed by Anthony Collins (external legal advisers) is that transparency (for both procurement purposes and value for money) would be maximised by exposing all of the relevant services to competition following an EC compliant tender process. This approach, in their experience, has found favour with the Audit Commission. However, their view is that whilst the other options are legally viable, any benchmarking exercise should be carried out as soon as reasonably possible in order to ascertain whether the Council is receiving value for money and/or whether it is worth market testing the whole of the services.

5.4 It is also recognised by the Council that CBH could be the contracting party in respect of more contracts entered into; however for reasons set out in paragraph 4 of this report, the advice is for the Council to be the contracting party and CBH the Contract Administrator on significant externally tendered contracts.

6. Strategic Plan References

6.1 This decision is part of delivering against the Homes for All priority in the Strategic Plan 2009 – 12 by ensuring the decency and upkeep of the Council's housing stock. It is also a key action in the Housing Strategy adopted by Cabinet in 2008.

7. Consultation

7.1 As part of any procurement or benchmarking exercise tenants and leaseholders will play an active role in the process.

- 7.2 There will be a need for further consultation through CBH with tenants where there is any choice to be made over the type of replacement component they would prefer once the procurement is complete and the contracts are in place.
- 7.3 The Council will also need to consult with its leaseholders in respect of any qualifying works in accordance with its statutory obligations.

8. Publicity Considerations

- 8.1 Good communication with tenants is vital and the Council working closely with Colchester Borough Homes will need to issue information to its tenants to advise them of the agreed new arrangements.

9. Financial implications

- 9.1 The financial implications are contained within the main body of the report.

10. Equality, Diversity and Human Rights implications

- 10.1 As part of the procurement or benchmarking exercise potential contractors will need to demonstrate both engagement and procedures in how they deal with Equality and Diversity in relation to their workforce and tenants & leaseholders.

11. Community Safety Implications

- 11.1 There are none directly arising from this report.

12. Health and Safety Implications

- 12.1 Any health and safety issues arising from the Council's Housing Stock are being addressed through the interim service under statutory provisions.

13. Risk Management Implications

- 13.1 There may be risks of challenge if the Council does not carryout a benchmarking exercise within the near future. However, there is also the risk of potential challenge from any third parties who are unsuccessful in a tender process. These risks can be mitigated against by carrying out an appropriate benchmarking exercise within the near future or by a robust evaluation process that is open, fair and transparent (as appropriate).



Cabinet

Item
11(i)

9 September 2009

Report of

Head of Environmental & Protective
Services

Author

Penny Stynes
☎ 282950

Steve Heath
☎ 282389

Karen Newman
☎ 507855

Title

Payment options for the provision of new cremators for Colchester
Crematorium

Wards
affected

Not applicable

**This report concerns the payment options for the provision of new
cremators for Colchester Crematorium**

1. Decision(s) Required

- 1.1 Recommendation to Full Council for the approval for the provision of the cremators to be included in the Capital Programme.
- 1.2 Determination of the payment method for the new cremators.

2. Reasons for Decision(s)

- 2.1 Legislation requires crematoria to abate mercury emissions by 50% by 2012 and 100% by 2020. The current cremators are near the end of their lives and require replacement. It is proposed that the cremators are replaced with two new cremators with integral abatement equipment. This will enable us to abate 100% of the mercury emissions and will ensure we are able to comply with the legislative requirement in 2020 with no additional works. A decision is also required as to which payment method should be employed for the purchase of the cremators.

3. Alternative Options

Not applicable.

4. Supporting Information

- 4.1 Mercury is a toxic metal. 16% of airborne mercury results from the cremation of deceased with amalgam fillings in their teeth (the remaining 84% of airborne mercury results from other industrial processes). During cremation the mercury vaporises and passes into the atmosphere, and subsequently it falls back down to earth or into waterways.
- 4.2 In 2007 DEFRA issued an amendment to the Environmental Protection Act 1990 in the form of additional guidance notes for the "Control of Mercury Emissions from Crematoria". The guidance notes require a 50% reduction in mercury emissions from crematoria by 2012, and 100% abatement of mercury emissions from crematoria by 2020.

- 4.3 The reduction of 50% of mercury emissions by 2012 relates to the country globally. It is for each crematorium to decide whether to abate or not, but those that don't will be expected to share costs with those that do in order to comply with the legislation.
- 4.4 The "trading" of abatement of emissions would work like this: Crematorium A plans to abate mercury by 100% by 2012. Crematorium B plans not to abate at all. Crematorium B becomes compliant with the legislation by paying Crematorium A an agreed sum towards their abatement equipment, thus claiming the credit for the 50% of Crematorium A's cremations which they have abated over the minimum requirement. There is a non-profit making scheme which was set up to facilitate the "trading" of abated cremations, called the CAMEO scheme. Alternatively crematoria are free to find their own "trading" partners.
- 4.5 It was initially thought that some useful income might be accrued by crematoria that were abating 100%, as a result of "trading" with other crematoria, but as the deadline looms nearer more and more crematoria are opting to abate by 100% by 2012, and therefore there is less likelihood of significant income to be derived from this source. Of course, the period for possible trading would be limited to between 2012 and 2020 as after 2020 all crematoria must have abated 100% of their cremations.
- 4.6 The CBC strategy to comply with this legislation by replacing both of the existing cremators in 2010, thus abating 100%, was approved by the Portfolio Holder in September 2005. During the latter part of 2008 and early 2009, a procurement framework for replacement cremators was created with the support of the Essex Procurement Hub, with the successful supplier being Facultatieve Technologies (FT). The Procurement Hub will receive a rebate of 1.5% of the contract cost from the supplier for each authority using the framework, which will be shared with all Hub members. To date there is considerable interest in the framework from other crematoria, in Essex and beyond, so it is likely that some income for CBC will be derived from this source.
- 4.7 A provisional order has been made to Facultatieve Technologies for 2 cremators with integral mercury abatement equipment, for delivery March/April 2010. The cost of the two new cremators totals £695k, which includes building works of £27k.
- 4.8 Savings are likely to accrue in the future as a result of the more efficient fuel consumption of the new cremators and the greater reliability of the cremators. (**See Appendix B**)
- 4.9 An environmental surcharge on adult cremations was established in 2005 (approved by the Portfolio Holder) to assist with the funding of the new equipment. The surcharge income was saved as contributions to the repairs and renewals (R&R) reserve. In 09/10 this reserve totals £248k, and is likely to increase to £322k in 10/11.

5. Proposals

5.1 Inclusion in the Capital Programme

This scheme is not yet included within the Capital Programme and it is proposed that its addition be approved by Cabinet.

5.2 Payment options

The payment method for the purchase of the cremators has to be decided. A loan or lease arrangement for the balance of the cost above that of the R&R reserve will be necessary. There are 3 options to be considered:

- purchasing the cremators outright, **borrowing** via an annuity loan.
- **leasing** through another leasing company – **Finance Lease**
- a leasing arrangement with the company preferred by the cremator manufacturer – **Managed Service**

The strengths and weaknesses of each of the options are shown in the table below:

Table 1

Method of payment	Advantages	Risks
Borrow (Treasury Management to identify when and how)	<ul style="list-style-type: none"> • Low interest rates. • Best use of resources while interest rates are low. • Flexibility – other options can be looked explored at any stage in order to maximise resources • R&R contributions (including 09/10) now total £248k – this resource would be used before borrowing • Cremators are owned by CBC from the outset 	<ul style="list-style-type: none"> • Possible loss of partial VAT exemption advantage for the whole of CBC • Management of supply and disposal of mercury abatement chemical reagents is not included and will have to be undertaken by Crematorium staff. • Payment of a proportion of the cost to be made immediately on confirmation of the order and thereafter in staged payments throughout the build period.
Finance lease	<ul style="list-style-type: none"> • Low interest rate • Staged lease payments • Ownership of cremators will pass to CBC at the end of the lease term. • Deemed to be the best deal available, and an attractive framework, in the view of CBC Finance Manager. • £430K cheaper than Managed Service lease option. • No risk to the partial exemption limit. 	<ul style="list-style-type: none"> • Management of supply and disposal of mercury abatement chemical reagents is not included and will have to be undertaken by Crematorium staff. • Payment of a proportion of the cost to be made immediately on confirmation of the order and thereafter in staged payments throughout the build period.
Managed Service	<ul style="list-style-type: none"> • No payments to be made until cremators are working. • Pay per cremation. • Project management for installation included. • Management of supply and disposal of mercury abatement chemical reagents included. • Flexibility of the lease 	<ul style="list-style-type: none"> • This option will cost £430K more than other options over the life of the lease. • The cremators will remain the property of Managed Service at the end of the lease. • On renewing the lease, less advantageous rates may be demanded.

	<p>term – a possibility of changing the lease terms mid-way through the lease.</p> <ul style="list-style-type: none"> • No risk to the partial exemption limit. 	
--	--	--

The Council's Treasury Management Advisor, Sector Treasury Services undertook a Discounted Cash Flow exercise of the three options. **(Please see Appendix A)** This determines the 'whole-life' cost of each option at today's prices to identify the option that provides the best value for money, and the preferred option using this approach is to purchase the cremators outright.

However, taking into account the risks to the Council's Partial Exemption VAT limit (see paragraph 9), the preferred option will be a combination of leasing and borrowing. The funds held in the R & R reserve plus a £100K of borrowing will be sufficient to buy one of the cremators outright. This will mean that the Council has a tangible asset in its possession, but will not risk breaching the Partial Exemption limit. Purchasing the second cremator on a fixed term low interest rate lease will ensure that there is no risk to the Partial Exemption limit; the staged payments will give flexibility in the use of the Council's resources; and the cremator will pass to CBC ownership at the end of the lease term.

6. Strategic Plan References

- 6.1 The provision of the new cremators links to the Corporate objective of striving to be cleaner and greener.

7. Consultation

Not applicable.

8. Publicity Considerations

No applicable

9. Financial implications

9.1 Risks to the VAT Partial Exemption Limit

The Council has a 'partially exempt' VAT status, as a result of its income being a mixture of taxable and exempt activities. This means that up to 5% of the total VAT the Council reclaims in any one year can be on exempt activities, which is currently in the region of £0.5m. As cremation is an exempt activity, a high level of expenditure in any one year has the potential to take the council over the partial exemption limit, leading to the requirement to pay all of its exempt VAT. (Other activities within the Council could also affect the partial exemption limit, either positively or adversely, but they are unknown at this stage.)

The most recent forecast of the partial exemption limit shows that the Council has 'headroom' of £475k expenditure in 09/10 and £129k in 10/11; a total of £604k. This assumes that the option to tax is taken on the BIC, and the VAT status of the museums service is unchanged – these are the two potential major risks to the partial exemption limit. The projected headroom is insufficient to enable the two cremators to be purchased outright without breaching the limit, leading to the finance lease becoming the preferred

option. However, it is thought that a combination of the finance lease and borrowing will provide the best value for money (see paragraph 5).

9.2 Revenue implications

The Crematorium revenue budget currently includes a contribution to the R&R reserve to fund replacement cremators (£74k in 2009/10) and a £39k budget for planned maintenance. The annual revenue implications of each of the 3 options is summarised in the table below:

Table 2

Item	Borrowing	Finance Lease	Managed Service
Service Charges	35,321	35,321	-
Reagent	7,500	7,500	-
MRP	40,000	-	-
Interest	10,000	-	-
Item 8	5,000	-	-
Lease costs	-	62,770	-
Managed Service	-	-	147,945
TOTAL	102,821	110,591	147,945

9.3 It is proposed that the environmental surcharge should continue to be levied, and the resulting income should be directly used to pay for the borrowing for the first cremator and the lease for the second cremator. In this way the cremators will pay for themselves within the lease term, with a residue amount being saved towards a further replacement programme in or around 2022 – 2025.

10. Equality, Diversity and Human Rights implications

Not applicable

11. Community Safety Implications

Not applicable

12. Health and Safety Implications

Not applicable

13. Risk Management Implications

13.1 The purchase of the cremators is essential to the continuity of the crematorium service given at Colchester Crematorium.

13.2 The purchase of the cremators with integral abatement equipment is essential in order to comply with both current and future legislative requirements.

Appendix 1

Option Appraisal Exercise

Prepared by Sector Treasury for Colchester Borough Council

Lease v Borrow

Asset:	2 x Cremators
Term:	10 Years
Based on Capital Cost:	£500,000.00*
Interest Accrued on	
Stage Payments:	£1,562.50 (assuming a 4 month installation)
Lease COF:	4.15%
Borrow COF:	4.50% (PWL B Annuity Rate as at 31/07/09)
Appraisal DCF Rate:	3.50% (as per Treasury Green Book guidance)
Disposal Proceeds:	£0.00 (at 10 Years)
Maintenance Costs:	£35,321 (per annum)
Managed Service:	£98.63 (per cremation)
Cremations pa:	1,500

Borrow

Cost per £1000	Yr 1 to 10	NPV	Disposal costs	Gross NPV
£126.38	£98,511.00	£829,558.39	£0	£0.00
				<u>£829,558.39</u>
				£829,558.39

Finance Lease	Yr 1 to 10	NPV	End of lease cost	Gross NPV
£123.84	£97,434.50	£838,685.64	£1,000	£708.92
				<u>£838,685.64</u>
				£839,394.56

Managed Service	Yr 1 to 10	NPV	End of lease cost	Gross NPV
	£147,945.00	£1,273,464.18	?	£1,273,464.18
				<u>£1,273,464.18</u>
				£1,273,464.18

***NB This Discounted Cash Flow was based on a Capital Cost of £500,000 – adjustments should be made for variations in the Capital Cost.**

Appendix 2

Comparative fuel consumption figures:

Gas consumption

Expected gas consumption of the new cremators

Given the typical pre heat time, the typical length of the operational day, and based on at least 4 cremations being carried out in a day, Facultatieve Technologies state that they expect the 2 new cremators to perform as follows:

One typical cremation may consume	259 kWh
Over one week, of 29 cremations	7,511kWh
Over a 50 week year (1450 cremations)	375,550 kWh

Given a typical current gas price of £0.037 per kWh unit the expected amount of gas required to fuel a typical cremation will cost £9.58 or £13,895.35 a year.

Facultatieve state that the above calculations are based on standard cremation times and average gas consumption figures. Cremation times and gas consumption vary according to the following factors:

1. The size of the body
2. The cause of death (cancer, for example, can lengthen the cremation time significantly)
3. The period of continuous use of the cremator
4. The quality of the cremator maintenance
5. The skill of the operators and code of practice followed by them to determine the end of the cremation

Facultatieve Technologies expect the average cremation (over at least 100 cremations) to be in the order of 75 minutes for non cancerous cadavers.

(Facultatieve Technologies point out that in reading these figures cognisance must be taken of the statistic that approximately half of all deaths in the UK are due to cancer. It is the experience of the staff at Colchester Crematorium that, due to a range of factors, an increasing number of cremations are taking considerably longer than the quoted 75 minutes; a fact which naturally has the potential to skew the average duration and fuel consumption figures by quite a lot.)

The actual gas consumption of the current cremators

One typical cremation consumes	1319 kWh
Over one week, 29 cremations	38,251 kWh
Over a 50 week year	1,912,550 kWh

Given a typical current gas price of £0.037 per kWh unit the amount of gas required to fuel a typical cremation currently costs £48.80 or £70,764.35 a year.

Savings from gas consumption

There are several variables to be considered when comparing the consumption figures for the new and current cremators, the most significant being the length of average cremations. It could be that the current cremators are performing so badly that the cremation duration is considerably longer than it ever would be with new cremators. Alternatively it may be that the Facultatieve figures err on the optimistic side as is the experience at Colchester Crematorium.

In any event the actual proportion of the savings that could be made must be viewed with caution.

It seems that the cost of an average cremation in the current cremators costs around £48.00, and in the new cremators, using the figures supplied by Facultatieve, it is likely to cost around £9.60. Based on those figures and on a total of 1450 cremations a year the saving looks to be around £55,000, but it is felt that these figures should be viewed with extreme caution. However, it does seem likely that the savings in gas consumption that will be made with the new cremators will be extremely significant.

Electricity consumption

Facultatieve Technologies state that they expect 2 new cremators with mercury filtration plant to consume 36.25 kW of electricity per hour under normal running conditions.

Electrical consumption comparison is difficult to make because the current actual electricity consumption figures cover all of the functions of the whole of the crematorium, including the chapel, office, waiting room, public toilets, etc. therefore it hasn't been attempted.

Savings due to the Powerperfector

Early in 2009 a Powerperfector unit was fitted in the crematorium, which has significantly reduced electricity consumption across all of the functions of the crematorium building.

Month	May 2008	May 2009	June 2008	June 2009	July2008	July 2009
kW used	14664	11563	8617	8094	7468	6922

At about £0.16 per kW, this shows a saving of about £3,400 a year.

While not in themselves anything to do with the replacement of the cremators, it is expected that the savings in consumption of electricity delivered by the Powerperfector unit, as demonstrated by the figures above, would reduce the electricity consumption figures supplied by Facultatieve Technologies significantly.



Cabinet

Item
12(i)

9 September 2009

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Local Government Ombudsman – Annual Review 2008/2009		
Wards affected	Not applicable		

This report request the Cabinet to note the Local Government Ombudsman’s Annual Review for 2008/2009

1. Decision Required

- 1.1 To note the contents of the Local Government Ombudsman’s Annual Review for 2008/2009.

2. Reasons for Decision(s)

- 2.1 To inform the Cabinet of the number and type of decisions made by the Local Government Ombudsman during 2008/2009.

3. Alternative Options

- 3.1 No alternative options are presented.

4. Supporting Information

- 4.1 The Local Government Ombudsman issues an Annual Review (previously referred to as the Annual Letter) to each local authority. The Annual Review for the Council for the year 2008/2009 is attached to this report at Appendix 1. Appendix 2 comprises statistical data. The Local Government Ombudsman has re-organised the manner in which they handle complaints so that the information provided is now divided between the Advice Team, which deals with an initial assessment of enquiries and/or complaints and the Investigative Team which investigates complaints.
- 4.2 Consequent upon this change, the Annual Review for 2008/2009 has been produced in a new format which means that no comparative data has been included regarding the previous years figures due to the data being collated differently. In subsequent years the comparative data will be included.
- 4.3 It is worth noting that anyone can choose to make a complaint to the Local Government Ombudsman. Accordingly, the number of complaints is not an indicator of performance or level of customer service. In most instances there was no case to answer. The Local Government Ombudsman will always insist that the Council has the opportunity to resolve the complaint locally through its own complaints procedure before commencing its own investigation.
- 4.4 The Standards Committee has an overview of Local Government Ombudsman investigations and the contents of the Annual Review will be reported to the Committee in due course.

5. Key Headlines

- 5.1 There were no findings of maladministration against the Council and no formal reports were issued.
- 5.2 Last year 48 enquires were received by the Advice Team. Of these 16 were referred back to the Council to be considered as part of its own complaints procedure. A further 9 enquiries were dealt with by advice and the remaining 23 were referred to the Investigative team for consideration.
- 5.3 The Advice Team received 12 enquires in relation to housing (which included homelessness and repairs). Of these 6 were referred for investigation. The Advice Team received 11 enquires in relation to planning issues. Of these 7 were referred for investigation.
- 5.4 The Investigate Team decided 27 complaints against the Council. In 2007/2008, 40 complaints were decided against the Council. A total of 2 local settlements were agreed (where the Council agreed to take action which the Ombudsman considered was a satisfactory response to a complaint) which is a reduction on 2007/2008's total of 8. The Council paid a total of £1768 in compensation. The service areas involved have learnt from the circumstances of the particular complaints and have improved their procedures accordingly.
- 5.5 The average response time of the Council to Ombudsman first enquiries was 34.5 days. The Ombudsman's target is 28 days. Steps are being taken to reduce the response times in order to meet the Ombudsman's target. The increased usage of e-mail correspondence with the Ombudsman's office is expected to improve this figure.
- 5.6 The Annual Review refers to training and we are reviewing this option for officers within the Services who respond to Ombudsman queries in order to improve our response times.

6. Financial Considerations

- 6.1 No direct implications other than mentioned in this report.

7. Strategic Plan References

- 7.1 The lessons learnt from complaints to the Ombudsman link in with our Customer Excellence element of the Strategic Plan by constantly learning and putting lessons learnt into practice. This will in turn lead to improved customer service as we continue to meet and exceed our customers' expectations

8. Equality, Diversity and Human Rights Implications

- 8.1 No direct implications.

9. Publicity Considerations

- 9.1 Details of the Annual Review will be posted on the Council's website.

10. Consultation Implications

- 10.1 No direct implications.

11. Community Safety Implications

11.1 No direct implications.

12. Health and Safety Implications

12.1 No direct implications.

13. Risk Management Implications

13.1 No direct implications.

**The Local Government Ombudsman's
Annual Review
Colchester Borough Council
for the year ended
31 March 2009**

The Local Government Ombudsman (LGO) provides a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

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Section 1: Complaints about Colchester Borough Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Colchester Borough Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2008/09 and a note to help the interpretation of the statistics.

Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

Enquiries and complaints received

Of the 48 enquiries received by our Advice Team in 2008/09, 16 were passed back to the Council to attempt to resolve in the first instance as the complainant had yet to exhaust your complaints procedure, and it seemed that they would not be disadvantaged by doing so before complaining to me if they remained dissatisfied at the end of that process. A further 9 enquiries were dealt with by the provision of advice. The remaining 23 enquiries were passed on to an investigative team for consideration.

Housing generated most contacts: 12 in total of which six were passed for investigation. These concerned homelessness and repairs. Of the 11 enquiries we received about planning issues, seven were forwarded to the investigation team to consider.

Complaint outcomes

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction

were local settlements. This year I agreed two local settlements with your Council and asked you to pay £1,768 in compensation.

One of the two settlements involved housing repairs. The complainant experienced recurrent flooding of her home during periods of heavy rain as a result of water run off from a nearby road for which the County Council was the highways authority. There was some disagreement between the County Council and the Borough Council as to which authority was responsible for solving this problem. There was further delay by the Council in carrying out works to increase the drainage in front of the building to prevent surges of water entering the building, and then assessing the effectiveness of those works following a further incident. The Council agreed to carry out additional work to the drainage system and paid £1,000 in recognition of the delay and distress caused to the complainant as well as agreeing to promptly consider her insurance claim for damage to her possessions.

The second settlement concerned delay in dealing with a homelessness application. As a result of the time taken the complainant incurred unnecessary costs storing his belongings while awaiting permanent accommodation. The Council agreed to pay those storage costs as a means of redress.

Ombudsman's discretion

Sometimes though the Council may be at fault I use my discretion not to pursue the investigation, often because the fault did not result in any injustice to the complainant. But there may still be lessons for the Council to draw from such cases. This year I closed 12 cases using my discretion.

In one of them, a complaint about how the Council had dealt with an application for assistance from someone claiming to be homeless and in priority need, I did not feel there was sufficient injustice arising from the fault to warrant a settlement. But you agreed to ensure that letters to applicants telling them of the decision on their applications contained appropriate information about why their application had been unsuccessful.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries was 34.5 days, which exceeds last year's average response time of 30.7 days. The target response date I set for local authorities is 28 days. It cannot be in either the Council's or the complainant's best interests for my investigations to be prolonged as a result of delays in receiving responses to our enquiries and so any steps that could be taken to meet this target in future would be welcomed.

I am pleased to note that two of your officers recently attended a seminar at my office when we were able to update Council officers who co-ordinate the responses to our enquiries on recent developments in our service and the way in which we conduct our investigations. I hope that they found the seminar useful.

Training in complaint handling

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

**Tony Redmond
Local Government Ombudsman
10th floor
Millbank Tower
Millbank
London
SW1P 4QP**

June 2009

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments – current and proposed – in the LGO and to seek feedback. It includes our proposal to introduce a ‘statement of reasons’ for Ombudsmen decisions.

Council First

From 1 April 2009, the LGO has considered complaints only where the council’s own complaints procedure has been completed. Local authorities have been informed of these new arrangements, including some notable exceptions. We will carefully monitor the impact of this change during the course of the year.

Statement of reasons: consultation

The Local Government and Public Involvement in Health Act 2007 made provision for the LGO to publish statements of reasons relating to the individual decisions of an Ombudsman following the investigation of a complaint. The Ombudsmen are now consulting local government on their proposal to use statements of reasons. The proposal is that these will comprise a short summary (about one page of A4) of the complaint, the investigation, the findings and the recommended remedy. The statement, naming the council but not the complainant, would usually be published on our website.

We plan to consult local authorities on the detail of these statements with a view to implementing them from October 2009.

Making Experiences Count (MEC)

The new formal, one stage complaint handling arrangement for adult social care was also introduced from 1 April 2009. The LGO is looking to ensure that this formal stage is observed by complainants before the Ombudsmen will consider any such complaint, although some may be treated as exceptions under the Council First approach. The LGO also recognises that during the transition from the existing scheme to the new scheme there is going to be a mixed approach to considering complaints as some may have originated before 1 April 2009. The LGO will endeavour to provide support, as necessary, through dedicated events for complaints-handling staff in adult social care departments.

Training in complaint handling

Effective Complaint Handling in Adult Social Care is the latest addition to our range of training courses for local authority staff. This adds to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), and courses for social care staff at both of these levels. Demand for our training in complaint handling remains high. A total of 129 courses were delivered in 2008/09. Feedback from participants shows that they find it stimulating, challenging and beneficial in their work in dealing with complaints.

Adult Social Care Self-funding

The Health Bill 2009 proposes for the LGO to extend its jurisdiction to cover an independent complaints-handling role in respect of self-funded adult social care. The new service will commence in 2010.

Internal schools management

The Apprenticeship, Skills, Children and Learning Bill (ASCL) 2009 proposes making the LGO the host for a new independent complaints-handling function for schools. In essence, we would consider the complaint after the governing body of the school had considered it. Subject to legislation, the new service would be introduced, in pilot form, probably in September 2010.

Further developments

I hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your local authority. We will keep you up to date through LGO Link as each development progresses but if there is anything you wish to discuss in the meantime please let me know.

**Tony Redmond
Local Government Ombudsman
10th floor
Millbank Tower
Millbank
London
SW1P 4QP**

June 2009

Appendix 1: Notes to assist interpretation of the statistics 2008/09

Introduction

This year, the annual review only shows 2008/09 figures for enquiries and complaints received, and for decisions taken. This is because the change in the way we operate (explained in the introduction to the review) means that these statistics are not directly comparable with statistics from previous years.

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Formal/informal prematures: The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter. These are 'formal premature complaints'. We now also include 'informal' premature complaints here, where advice is given to the complainant making an enquiry that their complaint is premature. The total of premature complaints shown in this line *does not include* the number of resubmitted premature complaints (see below).

Advice given: These are enquiries where the LGO Advice Team has given advice on why the Ombudsman would not be able to consider the complaint, other than the complaint being premature. For example, the complaint may clearly be outside the Ombudsman's jurisdiction. It also includes cases where the complainant has not given enough information for clear advice to be given, but they have, in any case, decided not to pursue the complaint.

Forwarded to the investigative team (resubmitted prematures): These are cases where there was either a formal premature decision, or the complainant was given informal advice that their case was premature, and the complainant has resubmitted their complaint to the Ombudsman after it has been put to the council. *These figures need to be added to the numbers for formal/informal premature complaints (see above) to get the full total number of premature complaints. They also needed to be added to the 'forwarded to the investigative team (new)' to get the total number of forwarded complaints.*

Forwarded to the investigative team (new): These are the complaints that have been forwarded from the LGO Advice Team to the Investigative Team for further consideration. The figures may include some complaints that the Investigative Team has received but where we have not yet contacted the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2008/09 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2008/09 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the Ombudsman as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the Ombudsman's jurisdiction.

Table 3. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

Table 4. Average local authority response times 2008/09

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

LGO Advice Team

Enquiries and complaints received	Adult care services	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	1	4	2	1	2	1	4	15
Advice given	0	2	1	0	2	2	3	10
Forwarded to investigative team (resubmitted prematures)	0	2	1	0	3	0	0	6
Forwarded to investigative team (new)	0	5	0	0	4	2	6	17
Total	1	13	4	1	11	5	13	48

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	2	0	0	12	12	1	27

Response times

	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	16	34.5
2007 / 2008	18	30.7
2006 / 2007	17	32.5

Average local authority resp times 01/04/2008 to 31/03/2009

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	60	20	20
Unitary Authorities	56	35	9
Metropolitan Authorities	67	19	14
County Councils	62	32	6
London Boroughs	58	27	15
National Parks Authorities	100	0	0

PETITIONS, PUBLIC STATEMENTS, QUESTIONS

(i) Have Your Say speakers

Date of Meeting	Details of Member of the Public	Subject Matter	Form of Response	Date Completed
Council, 8 July 2009	Mr McKinney	Council housing, disposal of Layer Road site, town centre issues, car parking	Written response sent by the Leader of the Council on 24 July 2009	24 July 2009
Council, 8 July 2009	Mr Bailey	Attractiveness of town centre, floral displays and planters in the town centre	Written response sent by the Leader of the Council on 24 July 2009	24 July 2009
Council, 8 July 2009	Nick Chilvers	Floral displays and planters in the town centre, Visual Arts Facility, transport issues	Written response sent by the Leader of the Council on 24 July 2009	24 July 2009

Date of Meeting	Details of Member of the Public	Subject Matter	Form of Response	Date Completed
Council, 8 July 2009	Andy Hamilton	Shopmobility	Written response sent by the Leader of the Council on 24 July 2009	24 July 2009
Council, 8 July 2009	Paula Whitney	Public transport issues	Oral response provided by the Portfolio Holder for Street and Waste Services at the meeting, written response sent by the Leader of the Council on 24 July 2009	24 July 2009
Council, 8 July 2009	Will Quince	Floral displays and planters on the town centre	Written response sent by the Leader of the Council on 24 July 2009	24 July 2009
Cabinet, 13 July 2009	Andy Hamilton	Floral displays and planters in the town centre, Visual Arts Facility	Written response sent by the Leader of the Council on 7 August 2009	7 August 2009

Date of Meeting	Details of Member of the Public	Subject Matter	Form of Response	Date Completed
Cabinet, 13 July 2009	Mr Mummery	Visual Arts Facility, provision of new bus station	Oral response provided by the Leader of the Council at the meeting, and written response sent by the Leader of the Council on 7 August 2009	7 August 2009
Cabinet, 13 July 2009	Tim Oxton	Provision of new bus station	Oral response provided by the Leader of the Council at the meeting, and written response sent by the Leader of the Council on 7 August 2009	7 August 2009
Cabinet, 13 July 2009	Will Quince	Floral displays and planters on the town centre	Oral response provided by the Leader of the Council, the Portfolio Holder for Performance and Partnerships and the Portfolio for Communication, Customers and Leisure at the meeting, and written response sent by the Leader of the Council on 7 August 2009	7 August 2009
Cabinet, 13 July 2009	Peter Lynn	Provision of new bus station	Oral response provided by the Leader of the Council at the meeting, and written response sent by the Leader of the Council on 7 August 2009	7 August 2009

Date of Meeting	Details of Member of the Public	Subject Matter	Form of Response	Date Completed
Cabinet, 13 July 2009	Paula Whitney	Public transport issues and the provision of new bus station	Oral response provided by the Leader of the Council at the meeting, and written response sent by the Leader of the Council on 7 August 2009	7 August 2009

(ii) Petitions

No petitions to report

