



Leicester  
City Council

## **MEETING OF THE CABINET**

**DATE: MONDAY, 25 JANUARY 2010**

**TIME: 1PM**

**PLACE: TEA ROOM, TOWN HALL, TOWN HALL SQUARE,  
LEICESTER**

### **Members of the Cabinet**

Councillor Willmott (Chair)

Councillor Dempster (Vice-Chair)

Councillors Connelly, Dawood, Kitterick, Osman, Palmer, Patel, Russell,  
and Westley

Members of the Cabinet are invited to attend the above meeting to  
consider the items of business listed overleaf.

for Director of Democratic Services

### **MEMBERS OF THE PUBLIC:**

**YOU ARE VERY WELCOME TO ATTEND TO OBSERVE THE PROCEEDINGS.  
HOWEVER, PLEASE NOTE THAT YOU ARE NOT ABLE TO PARTICIPATE IN  
THE MEETING.**

*Officer contact: Heather Kent/ Julie Harget  
Democratic Support,  
Leicester City Council  
Town Hall, Town Hall Square, Leicester LE1 9BG  
Tel: 0116 229 8816/8809 Fax: 0116 229 8819  
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## **INFORMATION FOR MEMBERS OF THE PUBLIC**

### **ACCESS TO INFORMATION AND MEETINGS**

You have the right to attend Cabinet to hear decisions being made. You can also attend Committees, as well as meetings of the full Council.

There are procedures for you to ask questions and make representations to Scrutiny Committees, Community Meetings and Council. Please contact Democratic Support, as detailed below for further guidance on this.

You also have the right to see copies of agendas and minutes. Agendas and minutes are available on the Council's website at [www.cabinet.leicester.gov.uk](http://www.cabinet.leicester.gov.uk) or by contacting us as detailed below.

Dates of meetings are available at the Customer Service Centre, King Street, Town Hall Reception and on the Website.

There are certain occasions when the Council's meetings may need to discuss issues in private session. The reasons for dealing with matters in private session are set down in law.

### **WHEELCHAIR ACCESS**

Meetings are held at the Town Hall. The Meeting rooms are all accessible to wheelchair users. Wheelchair access to the Town Hall is from Horsefair Street (Take the lift to the ground floor and go straight ahead to main reception).

### **BRAILLE/AUDIO TAPE/TRANSLATION**

If there are any particular reports that you would like translating or providing on audio tape, the Democratic Support Officer can organise this for you (production times will depend upon equipment/facility availability).

### **INDUCTION LOOPS**

There are induction loop facilities in meeting rooms. Please speak to the Democratic Support Officer at the meeting if you wish to use this facility or contact them as detailed below.

**General Enquiries - if you have any queries about any of the above or the business to be discussed, please contact Heather Kent or Julie Harget, Democratic Support on (0116) 229 8816/8809 or email [heather.kent@leicester.gov.uk](mailto:heather.kent@leicester.gov.uk) or call in at the Town Hall.**

**Press Enquiries - please phone the Communications Unit on 252 6081**

## PUBLIC SESSION

### AGENDA

**1. APOLOGIES FOR ABSENCE**

**2. DECLARATIONS OF INTEREST**

Members are asked to declare any interests they may have in the business to be discussed and/or indicate that Section 106 of the Local Government Finance Act 1992 applies to them.

**3. LEADER'S ANNOUNCEMENTS**

**4. MINUTES OF PREVIOUS MEETING**

The minutes of the meeting held on 14 December 2009 have been circulated to Members and the Cabinet is asked to approve them as a correct record.

**5. MATTERS REFERRED FROM COMMITTEES**

**6. INCLUSIVE DESIGN ACTION PROGRAMME 2010-2011** [Appendix A](#)

Councillor Russell submits a report, which asks Cabinet to consider and approve the Inclusive Design Action Programme (Appendix 2), which supports and takes forward the findings of the Regeneration and Transport Scrutiny Task Group and OSMB recommendations relating to Access and Inclusion. Cabinet is requested to approve the Design Action Programme and the Inclusive Design Aims set out in Appendix 2 of this report.

**A minute extract from the meeting of the Overview and Scrutiny Management Board held on 21 January 2010 will be circulated as soon as it is available.**

**7. RIVAL MARKET LICENCE APPLICATION AT LEICESTER CITY FOOTBALL CLUB** [Appendix B](#)

Councillor Dempster submits a report that considers an application received from LSD Promotions for a market at Leicester City Football Club to be held weekly on Sundays and also on Bank Holidays. Cabinet is recommended to approve a licence with special conditions as set out in Appendix A (Page 14-16) of the report amended to include provision that Sunday and Bank Holiday Markets should not be held on the same day as first team football matches.

**A minute extract from the meeting of the Overview and Scrutiny Management Board held on 21 January 2010 will be circulated as soon as it is available.**

**8. CARE QUALITY COMMISSION (CQC) - ANNUAL PERFORMANCE ASSESSMENT, LEICESTER CITY COUNCIL- ADULT SOCIAL CARE SERVICES 2008/09** **Appendix C**

Councillor Palmer submits a report that provides Members of the Council's rating of the Adult Social Care annual self-assessment for 2008/09 by the Care Quality Commission's (CQC), which is the regulatory body for care services. Cabinet is asked to note the recommendations set out in Paragraph 3 of the Report.

**A minute extract from the meeting of the Overview and Scrutiny Management Board held on 21 January 2010 will be circulated as soon as it is available.**

**9. COLLECTION FUND SURPLUSES** **Appendix D**

Councillor Patel submits a report that identifies the estimated financial position of the Collection Fund Account as at 31 March 2010. The report seeks the approval of the Cabinet to the estimated surplus figures and the amounts payable to the relevant authorities. Cabinet is asked to approve the recommendations set out in Paragraph 3 of the Report.

**10. COUNCIL TAX - TAXBASE** **Appendix E**

Councillor Patel submits a report that details the recommended taxbase for the financial year 2010/2011. The Council is required to set a taxbase by 31 January 2010 for the purpose of setting its Council Tax. Cabinet is recommended to endorse a taxbase for 2010/2011 of 78,799 properties expressed as the equivalent number of "Band D" properties.

**11. ADDITIONS TO THE 2009/10 PROCUREMENT PLAN** **Appendix F**

Councillor Patel submits a report that seeks Cabinet's approval for new additions to the Procurement Plan for 2009/10. The Plan informs the market of future procurement activity, to enable them to prepare, and provides Members with greater overview of procurement activity. Cabinet is recommended to approve the recommendations set out in Paragraph 3 of the report.

**A minute extract from the meeting of the Performance and Value for Money Select Committee held on 20 January 2010 will be circulated as soon as it is available.**

**12. CONTRACT PROCEDURE RULES WAIVERS** **Appendix G**

Councillor Patel submits a report that provides Cabinet with a summary of Contract Procedure Rule waivers. Cabinet is recommended to note the summary of Contract Procedure Rule waivers summarised in Appendix A.

**A minute extract from the meeting of the Performance and Value for**

**Money Select Committee held on 20 January 2010 will be circulated as soon as it is available.**

**13. CABINET'S SCHEME OF DELEGATION [Appendix H](#)**

Councillor Willmott submits a report that enables Cabinet to review its current Terms of Reference, portfolio structure and agree a revised Scheme of Delegation. Cabinet is asked to approve the recommendations set out in Paragraph 3 of the report.

**14. STANDARDS COMMITTEE FIRST ANNUAL REPORT [Appendix I](#)  
2008-2009**

Councillor Willmott submits a report that notes the achievements of the Standards Committee for the year 2009 – 2009 and to consider the challenges for the year ahead. Cabinet is asked to note the achievements of the Standards Committee and to note the actions for the forthcoming year.

**15. ANY OTHER URGENT BUSINESS**

**HOUSING CAPITAL PROGRAMME 2009/10 AND 2010/15**

The Leader has agreed to accept the above item on the grounds of urgency under Cabinet Procedure Rule 7d as the information contained within the report arrived late from the Government and Cabinet's views are required, before the report is considered at Council on 28 January 2010 as part of the budget consultation process.

**HOUSING REVENUE ACCOUNT – BUDGET 2010/11**

The Leader has agreed to accept the above item on the grounds of urgency under Cabinet Procedure Rule 7d as the information contained within the report arrived late from the Government and Cabinet's views are required, before the report is considered at Council on 28 January 2010 as part of the budget consultation process.

**MEMBERS OF THE PUBLIC TO NOTE**

Cabinet deals with most business in public but is legally entitled to consider certain items in private. Members of the public and the press will be asked to leave the meeting when such items are discussed.

Cabinet is recommended to consider whether or not to deal with the following reports in private on the grounds that they contain 'exempt' information as defined in the Local Government (Access to Information) Act 1985, as amended, and consequently that the Cabinet makes the following resolution:-

- i. "that the press and public be excluded during consideration of the following

reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because they involve the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act; **AND**

ii. taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

**LEICESTER'S NEW BUSINESS GATEWAY  
NEW BUSINESS QUARTER PHASE 2 (NBQ2)**

**APPENDIX AOUB-B1**

Paragraph 3

Information relating to the financial or business affairs of any particular person (including the Authority holding that information)".

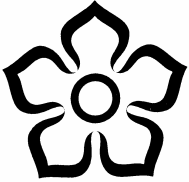
Councillor Kitterick submits a report.

This report is considered urgent on the grounds that a decision is required by Cabinet on 25 January 2010 because of the need to move quickly to enter into the funding agreement to meet the East Midlands Development Agency (EMDA) timetable.



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Leicester  
City Council

**WARDS AFFECTED**  
All

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**

**OSMB**

**21<sup>st</sup> January 2010**

**CABINET**

**25<sup>th</sup> January 2010**

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**INCLUSIVE DESIGN ACTION PROGRAMME 2010-11**

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**Report of the Strategic Director, Development Culture and Regeneration**

**1. PURPOSE OF REPORT**

- 1.1 To consider and approve the Inclusive Design Action Programme (Appendix 2), which supports and takes forward the findings of the Regeneration and Transport Scrutiny Task Group and OSMB recommendations relating to Access and Inclusion.

**2. SUMMARY**

- 2.1 The recommendations of the Overview and Scrutiny Management Board relating to Access and Design are summarised in Appendix 1 of this report.
- 2.2 An Inclusive Design Action Programme (Appendix 2) is proposed which maps out the actions needed to take forward the Task Group and Overview and Scrutiny Management Board's recommendations. This includes Inclusive Design Aims which are recommended as the basis for establishing a corporate understanding of, and commitment to Inclusive Design.

**3. RECOMMENDATIONS**

- 3.1 Cabinet is requested to approve the Inclusive Design Action Programme and the Inclusive Design Aims set out in Appendix 2 of this report.

**4. REPORT**

**4.1 Introduction & definition of Inclusive Design**

- 4.1.1 An Inclusive Design Action Programme (Appendix 2) has been developed to support and take forward the Overview & Scrutiny Board's recommendations (Appendix 1) relating to access and design issues. The recommendations are the outcome of the Regeneration and Transport Scrutiny Task Group's review of this topic earlier in 2009.
- 4.1.2 The proposed Action Programme relates the OSMB recommendations to broad headings ("commitment", "understanding", "involvement" etc) which give a clear structure within which to develop actions.
- 4.1.3 The Action Programme in Appendix 2 includes Inclusive Design Aims which OSMB recommended should be the basis for "establishing a corporate understanding of, and

commitment to Inclusive Design”. It is proposed that these are adopted as strategic aims which will act as a “spring board” for taking the Action Programme forward.

4.1.4 A proposed definition (to be read in conjunction with the Inclusive Design Aims), is that Inclusive Design:

- Is a process of designing, constructing, and managing buildings, streets, spaces, transport systems, and products, which everyone can use;
- Encompasses where people live or work, the buildings, streets, spaces and products they use, and how they get around;
- Addresses the rights and needs of people with ill health, injury or disability (including mobility, dexterity, sensory, learning, communication, continence and mental health impairments), ensuring they are supported by thoughtfully crafted and managed environments;
- Recognises and accommodates differences in the way people use and respond to their environment;
- Provides solutions that enable all of us to participate in mainstream activities equally, with choice and with dignity, and as independently as possible.

## **4.2 The Action Programme**

4.2.1 The scope of the Action Programme in Appendix 2 reflects the Task Group’s work in seeking to influence the planning, design and management of Leicester’s buildings, streets and spaces. This includes:

- the Council’s own projects (public realm schemes as well as buildings)
- projects which we develop in partnership with others, and
- development proposals where we have a regulatory role, e.g. using planning powers.

4.2.2 The Programme will help to develop a clear framework for decision making, which will have Inclusive Design as a key consideration from the earliest stages of projects. It should ensure that potential conflicts with other priorities (whether at a strategic or more detailed / operational level) are fully considered and resolved early in the design process.

4.2.3 The proposed Inclusive Design Action Programme maps out the actions needed to take forward the Task Group and Overview and Scrutiny Management Board’s recommendations shown in Appendix 1. The actions have been developed from the OSMB recommendations and provide a practical means for their implementation.

4.2.4 The action plan recognises the need to provide clear and simple planning and design guidance which should be ‘mainstreamed’ in all relevant supplementary planning documents and advice notes rather than to create a new policy framework. An internal ‘Core Brief’ document will be used to communicate the Council’s commitment to inclusive design with an emphasis on helping staff who are developing new policies and advice and also help staff implement existing policies within the context of this brief (eg.

in the Local Development Framework, Local Transport Plan etc). The brief would also provide links to more detailed information to support the Inclusive Design process.

- 4.2.5 The Draft Local Development Framework (LDF) Core Strategy (CS Policy 3 “Designing Quality Places”) requires design to contribute positively to an area’s character and appearance, as well as meet the highest standards of accessibility and inclusion. Designers and developers should be able to achieve both of these policy requirements. The action plan requires this approach to decision making to be embedded in the consideration of development schemes reflecting the OSMB desire to see decision making weighted to ensure inclusive outcomes are fully taken into account.
- 4.2.6 The Action Programme is ambitious, but thought through strategically in terms of influencing practical outcomes. Capacity to manage and deliver it is a key issue (reflected in action point 9.3 of the Programme), bearing in mind the volume of day to day case work the lead officer (Disabled People’s Access Officer) will be dealing with in parallel to this more strategic work. The Programme is flexible enough to support this, as well as to incorporate additional / amended actions as it progresses. The Action Programme will be delivered within existing resources.
- 4.2.7 Several of the proposed shorter term actions relate to current opportunities and work in progress; for example work is underway to ensure that the OSMB recommendations are reflected in the Highways and Transportation Project Delivery Manual (PDM). Tight timescales set for this project mean that further work will be needed to address specific issues in more detail, which can then be incorporated as updates to the manual.

## **5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

### **5.1 Financial implications**

The accuracy of budgeting for capital projects within the Council varies considerably. The accuracy depends upon the skills and expertise of the project manager, the complexity of the project and external pressures such as unreasonable time pressure to submit bids for external funding for these projects. Project managers will need to ensure that they include the costs associated with inclusive design specifications in order that the project budget is accurate and therefore whether there are adequate funds in place. The Action Programme will be delivered within existing resources.

*Martin Judson, Head of Finance, 0116 252 7390 / 297390*

### **5.2 Legal implications**

In taking forward the Action Plan the Council will need to comply with the relevant disability discrimination, planning, traffic and highway legislation. If and when proposals are undertaken then legal services will provide the relevant advice depending on the nature of those proposals.

*Jamie Guazzaroni, Solicitor, Legal Services: Environment & Employment Team  
0116 252 6350 / 296350*

The proposed Action Programme will support the Council in meeting its statutory duties to promote equalities across its services.

## **6. OTHER IMPLICATIONS**

OTHER IMPLICATIONS	YES/NO	Paragraph references within the report
Equal Opportunities	Yes	All
Policy	Yes	Appendix 3 (recommendations 1-3) Appendix 1 &2
Sustainable and Environmental	Yes	Appendix 3 (recommendations 1-3) Appendix 1&2
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	Yes	Appendix 1-3

**7. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972**

Report of the Regeneration and Transport Scrutiny Task Group Review on access and design issues, to Overview and Scrutiny Overview and Scrutiny Management Board, (27<sup>th</sup> August, 2009) and to Cabinet (25<sup>th</sup> January 2009).

**8. CONSULTATIONS**

The Action Programme and report have been developed in consultation with Mark Wills and Barry Pritchard (Regeneration, Highways & Transportation).

Daxa Patel, Equalities Manager, and Monica Glover (Corporate Equalities Policy Officer) have also been consulted on the report.

Comments on the draft Programme have also been invited from the Chairs of the Task Group, Inclusive Design Advisory Panel, and Disabled People’s Access Group.

**9. REPORT AUTHOR**

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 Disabled People’s Access Officer  
 x 29 7290  
[paul.leonard-williams@leicester.gov.uk](mailto:paul.leonard-williams@leicester.gov.uk)

Barry Pritchard  
 Team Leader Central Area and Project Management  
 x 39 4101  
[barry.pritchard@leicester.gov.uk](mailto:barry.pritchard@leicester.gov.uk)

<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet)

## APPENDIX 1

### Regeneration and Transport Scrutiny Task Group Review on access and design issues (Overview and Scrutiny Management Board: 27<sup>th</sup> Aug 2009)

<b>OVERVIEW AND SCRUTINY MANAGEMENT BOARD (OSMB) RECOMMENDATIONS</b>	<b>Action Prog ref.</b>
<b>(2.1)</b> Establish a Corporate understanding of and commitment to inclusiveness as set out in the Inclusive Design Aims (see Appendix 2 of this report).	<b>1.</b>
<b>(2.2)</b> Establish a clear weighting for decision-making processes that recognises the rights and needs of people over cars and aesthetics. This should include processes for ongoing learning and reflect the overarching strategy of the One Leicester document, including the stated need to “drive out inequalities”.	<b>3.</b>
<b>(2.3)</b> Provide training, information and support to ensure that all Members, officers and relevant consultants understand and embrace inclusive design, targeting first those who have direct planning and design responsibilities.	<b>4.</b>
<b>(2.4)</b> Develop a clear “quality review and improvement” process for each project’s stage, which addresses inclusive design issues, disseminates lessons learnt and best practice, and improves outcomes.	<b>6.</b>
<b>(2.5)</b> Produce Supplementary Planning Guidance which sets out the Council’s commitment to Inclusive Design, together with high standards of access and inclusion which it requires for all projects (i.e. its own projects and those which it seeks to influence through its statutory powers).	<b>2.</b>
<b>(2.6)</b> Link the ‘Design and Access Statement’ with project handover statements and ensure they are part of a continuous, living and well used document that has review elements built in to it.	<b>7.</b>
<b>(2.7)</b> Ensure that Inclusive Design requirements are embedded in the Council’s procurement processes to help raise the standard of and commitment to inclusive design.	<b>8.</b>
<b>(2.8)</b> Continue to support and adequately resource the principles of: (i) An Inclusive Design Advisory Panel (to provide expert inclusive design advice); and (ii) Involving people with disabilities in developing projects and services.	<b>5.</b>
<b>(2.9)</b> Establish a programme of reviews in the next 6 –18 months to ensure that actions enable the desired outcome of Inclusive Planning and Design to be achieved.	<b>9.</b>

## APPENDIX 2

### Inclusive Design Action Programme

December 2009

#### Proposed Strategic Inclusive Design Aims

(see also definition of Inclusive Design in paragraph 4.1.4 of Cabinet report)

- To make places (and specify products) that everyone can use safely, easily and with dignity
- To remove (and not create) barriers that cause undue effort or separation
- To enable everyone to participate equally, confidently and independently in everyday activities
- To achieve these aims through a clear commitment to achieving best practice, rather than minimum standards.

#### Key priorities/ work areas

- |                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• <b>Establish a clear commitment</b> to Inclusive Design, supported by strong leadership</li> <li>• <b>Ensure a sound understanding</b> of Inclusive Design issues and solutions by those delivering relevant projects and services</li> <li>• <b>Ensure effective involvement</b> of disabled people and access advisors in schemes and services.</li> </ul> | <ul style="list-style-type: none"> <li>• <b>Establish robust systems and procedures</b> to help achieve our aims and deliver inclusive outcomes.</li> <li>• <b>Ensure good progress</b> towards achieving our aims.</li> </ul> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Key priorities**

**Actions**

**By**

**Time**

			<u>Whom</u> (key to initials at end )	<u>scale</u>
<b>Priority : Commitment &amp; Leadership</b>				
1.	Establish a Corporate understanding of and commitment to inclusiveness as set out in the Inclusive Design Aims (above).	1.1 Cabinet confirm commitment to the above inclusive design aims - as starting point for day to day communication and more detailed guidance (see also attached “Inclusive Design: definition and proposed commitment” )	Cabinet	Nov 09 – Jan 010
		1.2 Communicate this commitment and Action Programme.	PL-W, BMP	Feb 010
		1.3 Ensure that Inclusive design is embedded in key policy documents, including: Local Development Framework Core Strategy, Local Transport Plan, and “Planning for People, not Cars” Priority Board’s strategic work programme.	PL-W, Devt Plans team, Transport Strategy	2009 -11
2.	Produce a summary ‘Core Brief’, to outline the Council’s commitment to Inclusive Design and to ensure its aims and principles are fully integrated into supplementary planning documents and other policy guidance and advice produced by the Council. This should support officers, designers, developers and others taking decisions to achieve the high standards of access and inclusion required for all projects	2.1 Ensure high standards for inclusive design are incorporated into relevant operational guidance – including Highways & Transportation’s Project Delivery Manual, Rights of Way Improvement Plan etc. (list to be prepared)	MFJ, BM,SW, BMP PL-W	Nov 09- March 2010
		2.2 Define scope of Core brief - including investigating best practice elsewhere, and considering it will relate to other actions in this programme. NB. Ensure relevance to full range and stages of projects – not just planning applications.	PL-W	March- June 2010
		2.3 Prepare, consult on and publish Core Brief (and promote through training, development and communication programme – see 4.0, below).	PL-W	2010- 2011

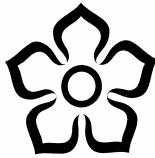
3.	Ensure design meets the highest standards of accessibility and inclusion as well as contributing positively to an area's character and appearance. This approach to decision making should be embedded in the consideration of development schemes to ensure inclusive outcomes are fully taken into account. This should include processes for ongoing learning and reflect the overarching strategy of the One Leicester document, including the "People not Cars" priority, and the stated need to "drive out inequalities".	3.1 Investigate scope and options to influence decision making processes (supporting "One Leicester" priorities).	PL-W	Nov 09- March 2010
		3.2 Reflect initial findings in H&T Project Delivery Manual (PDM).	BM,MFJ/SW BMP,PL-W	Nov 09- March 10
		3.3 Produce guidance and / or incorporate in other key documents in this programme (e.g. SPD, Access Statement Procedures – see 5, below).	PL-W, BMP	2010- 2011
<b>Priority: Sound Understanding</b>				
4.	Provide training, information and support - so all Members, officers and relevant consultants understand and embrace inclusive design, (targeting first those with who have direct planning and design responsibilities)	4.1 Establish ongoing programme of Access Awareness events (in liaison with key services).	PL-W	Nov 09 – Jan 2010
		4.2 Produce information sheets and web site information / links to support and communicate this Action Programme.	PL-W	2009 (on- going)
		4.3 Develop and promote a rolling programme of training events to support this programme as it develops	PL-W	2010- 2011
		4.4 Consider scope to develop network of Inclusive Design "Champions" (strategic and / or operational).	PL-W	2010-11
<b>Priority: Effective Involvement</b>				
5.	Continue to support and adequately resource the principle of:	5.1 Agree IDAP's future direction (role, form, funding strategy). Re-establish and develop regular input into projects.	PL-W, BMP LCIL	Nov09 – March 010



	<ul style="list-style-type: none"> <li>An Inclusive Design Advisory Panel (to provide expert inclusive design advice); and</li> <li>involving disabled people in developing projects and services.</li> </ul>	5.2 Work with the Disabled People's Access Group In considering its future role & capacity in relation to this programme and City Council services.	PL-W, BMP	2010-2011
		5.3 Define and develop a wider network of disabled people / advocacy organisations as a basis for improving engagement.	PL-W	2010-2011
		5.4 Include guidance on involving disabled people and access specialists (including IDAP) in H&T Project Delivery Manual.	BM,MFJ/SW BMP, PL-W	2009-March 2010
<b>Priority: Robust systems/ procedures</b>				
6.	Develop a clear "quality review and improvement" process for each project's stage, which addresses inclusive design issues, disseminates lessons learnt and best practice and improves outcomes.	6.2 Develop process in context of revised corporate project management arrangements.	PL-W, BMP	Nov 2009-Mar '10
		6.3 Include in H&T Project Delivery Manual (PDM)	BM,MFJ/SW BMP, PL-W	Nov 09-March 2010
7.	Ensure that Inclusive Design is fully considered at all stages of City Council projects; develop an 'Access Statement' process to support this, and promote the approach to non City Council developers.	7.1 Develop process in context of revised corporate project management arrangements	BMP, PL-W (+ corporate support)	Nov09-March 10
		7.2 Include in H&T Project Delivery Manual	BM,MFJ/SW BMP, PL-W	Nov09-March'10
		7.2 Produce guidance for Planning and Building Control Applicants.	PL-W (+ PMD & DS)	2010-11
		7.3 Ensure these actions complement and support the Council's Equality Impact Statement processes.	PL-W, BMP,DP	2009-11
8.	Ensure that Inclusive Design requirements are embedded in the Council's procurement processes to help raise the standard of and commitment to inclusive design.	8.1 Investigate scope and develop procedure – focusing on key procurement issues, eg. commissioning consultants	PL-W, BPM	Nov09-March 2010
		8.3 Include in H&T Project Delivery Manual (PDM)	BM,MFJ / SW BMP, PL-W	Nov09-March10

Priority: Ensuring progress				
9.	Establish a programme of reviews in the next 6 –18 months to ensure actions enable the desired outcome of Inclusive Planning and Design to be achieved.	9.1 Cabinet approval to this work programme	Cabinet	Nov-Dec 09
		9.2 Establish Project Team/ Board arrangements to take forward Action Programme	Directorates	Nov/Dec 09
		9.3 Build capacity in work programmes to deliver this Action Programme – in parallel to influencing day to day projects and outcomes. Review time scales as necessary.	PL-W, BMP + their managers	Nov 09 - 2011
		9.4 Report on progress (key “milestones”) to Cabinet Lead (and to Cabinet) as appropriate		2009-11
		9.5 Review outcomes of key projects to assess effectiveness of Action programme (annually)		Winter 2010
		9.6 Report back progress to Task Group (6-8 monthly)	PL-W,BMP	Summer 2010- Spring’11

Key to initials ( “by whom” column): PL-W= Paul Leonard-Williams; BP = Barry Pritchard; BM = Bona Matturi; MFJ = Michael Jeeves, SW = Steve Wagg; DS= Dave Smith.



Leicester  
City Council

**OVERVIEW AND SCRUTINY  
MANAGEMENT BOARD**

**27<sup>th</sup> AUGUST 2009**

**CABINET**

**25<sup>th</sup> JANUARY 2010**

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**Report of the Regeneration and Transport Scrutiny Task Group  
Review on access and design issues**

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**1. PURPOSE OF REPORT**

- 1.1 To present the findings of the Task Group inquiry into issues relating to access and design relating to Leicester City Council particularly in relation to the findings of the Comprehensive Performance Assessment (CPA) of June 2008 (4.1).
- 1.2 To ask the Overview and Scrutiny Board to accept the recommendations set out in Section Two below.

**2 RECOMMENDATIONS**

- 2.1 Establish a Corporate understanding of and commitment to inclusiveness as set out in the Inclusive Design Aims (Appendix 1).
- 2.2 Establish a clear weighting for decision-making processes that recognises the rights and needs of people over cars and aesthetics. This should include processes for ongoing learning and reflect the overarching strategy of the One Leicester document, including the stated need to “drive out inequalities”.
- 2.3 Provide training, information and support to ensure that all Members, officers and relevant consultants understand and embrace inclusive design, targeting first those who have direct planning and design responsibilities.
- 2.4 Develop a clear “quality review and improvement” process for each project’s stage which addresses inclusive design issues,

disseminates lessons learnt and best practice and improves outcomes.

- 2.5 Produce Supplementary Planning Guidance which sets out the Council's commitment to Inclusive Design together with high standards of access and inclusion which it requires for all projects (i.e. its own projects and those which it seeks to influence through its statutory powers).
- 2.6 To link 'Design and Access Statement' with project handover statements and ensure they are part of a continuous living & well used document that has review elements built in to it
- 2.7 Ensure Inclusive Design requirements are embedded in the Council's procurement processes to help raise the standard of and commitment to inclusive design.
- 2.8 To continue to support and adequately resource the principles of:
  - (i) An Inclusive Design Advisory Panel (to provide expert inclusive design advice); and
  - (ii) involving people with disabilities in developing projects and services,
- 2.9 To establish a programme of reviews in the next 6 –18 months to ensure actions enable the desired outcome of Inclusive Planning & Design is being achieved.

### **3 INTRODUCTION**

- 3.1 The Task Group review followed comments from the Audit Commission on the Council's performance in the promotion of equality and diversity (See Section 4 Pars 1 – 4).
- 3.2 The terms and scope of the inquiry were set out by the Overview and Scrutiny Management Board on November 2008. The minutes of this meeting can be seen through the link <http://www.cabinet.leicester.gov.uk/ieListDocuments.asp?CId=427&MId=2453&Ver=4>
- 3.3 The scoping document for this Review can be seen via the link [http://www.cabinet.leicester.gov.uk/Published/C00000427/M00002453/AI00020832/\\$accessandequalityscrutinyrequest.doc.pdf](http://www.cabinet.leicester.gov.uk/Published/C00000427/M00002453/AI00020832/$accessandequalityscrutinyrequest.doc.pdf)
- 3.4 The main elements of the Review, as set out in the scoping document, were to:

- 3.4.1 Review the Council's interpretation and execution of access design issues as highlighted by the Audit Commission's review of the function.
  - 3.4.2 Raise the awareness of the importance of accessibility as an equality issue for developers, planners and councillors.
  - 3.4.3 Ensure adequate equality impact assessments and equality statements are carried out across all areas, as well as other measures to ensure delivery of accessibility and equality.
- 3.5 The Task Group agreed to look at four separate and distinct aspects of development in the City. Minutes are contained in the appendices.
- 3.6 The projects considered were:
- 3.6.1 Colton Square (minutes of Task Group: Appendix 2)
  - 3.6.2 The Brite Centre (minutes: Appendix 3)
  - 3.6.3 star trak bus information system (minutes: Appendix 2)
  - 3.6.4 City Centre pedestrianisation. (minutes: Appendix 4)
- 3.5 These reflected a range of projects - a private sector commercial development, a Council public building, a transport scheme and a regeneration project.
- 3.6 The objective of the Review has been to determine how access and equality procedures and best practice influenced the development of a range of designs and projects.
- 3.7 The Task Group received evidence from within the Council and from a range of outside organisations and individuals with expertise and knowledge on issues relating to disability and access.
- 3.8 These included Leicestershire Centre for Integrated Living (LCIL – link <http://www.lcil.org.uk>). Chief Executive Dee Martin, Eric Day - Equality and Access Team Manager and Jai Parmar - Equality and Diversity Partnership Co-ordinator were amongst LCIL staff who provided information, support and guidance to members of the Task Group.
- 3.9 Also offering help and advice was Sally Williams, of Leicester Disabled People's Access Group. The continued input and

advice from groups outside the Council was considered to be an important element of this Review.

- 3.10 The Chair of the Task Group would also like to put on record the appreciation felt for the courtesy, patience, professionalism and help offered by Council officers within the Regeneration and Transportation team throughout the period of the Review.
- 3.11 It would also be appropriate to acknowledge the work and leadership of the previous leader of the Task Group, Cllr Sarah Russell, who guided this Review until its very late stages before moving to another arena within the Council.
- 3.12 The Colton Square project had been singled out within the CPA review for particular comment. (For links to the report see 4.1 below).
- 3.13 The CPA said, without naming the project specifically, that “a new office building has external wheelchair lifts because the design incorporates steps up to the front of the building.”
- 3.14 It said that “focusing on minimum standards rather than best practice had resulted in a compromise in this instance.” A link to the planning approval for the scheme is <http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20051900>.
- 3.15 During the course of the Review members were keen to explore the mechanisms which existed to integrate considerations of access into planning and development procedures, and the effectiveness of those mechanisms. The projects outlined in 3.6 were examined against this consideration.
- 3.16 Members were also keen to highlight the need to introduce best practice, rather than minimum legal requirements, into Council procedures and documentation.
- 3.17 A wide range of Government and other advisory documentation was reviewed to assess developing policy and practice against existing Council policy and practice. These are set out in Section 4.

#### **4 REVIEW AND POLICY FRAMEWORK**

- 4.1 The origins of this Review lie to a significant extent in the Audit Commission’s Comprehensive Performance Assessment (CPA) of June 2008. The link to this report is <http://www.audit-commission.gov.uk/SiteCollectionDocuments/InspectionOutput/CorporateAssessments/LeicesterCCCA3rdJune08REP.pdf>

- 4.2 The CPA review of Leicester City Council says (Par 14: Areas for Improvement) that it “should demonstrate more effective leadership around the Equality and Diversity agenda....
- 4.3 ”Setting high standards for disability access and taking a lead role in delivering outcomes for diverse groups will demonstrate greater leadership.”
- 4.4 The Task Group looked at the factors which led to the comments above and what could and should be done to address the issues identified by the Audit Commission.
- 4.5 In particular, the difference between what might be considered to be minimum requirements in terms of standards and accessibility was compared with what is considered to be best practice.
- 4.6 The CPA review said (Par 83) in respect of access to services: “Disability access is adequate but there is a focus on meeting the minimum standards required by legislation rather than setting high standards of access.”
- 4.7 And even where there were clear policies set out by the Council it was not always clear to members that the right mechanisms to translate policy into practice were in place. This was commented on throughout the Task Group Review.
- 4.8 Current thinking from the Audit Commission is set out in more recent reports. A report on Northampton Borough Council access to services says:
- “...Other white papers identified the need for local government to deliver joined up, accessible, electronically delivered, open, and accountable services. Improving customer access requires wider national drivers to be taken into account.
- “These include the Race Relations (Amendment) Act 2000, Human Rights Act 1998; Disability Discrimination Act (DDA) 1995, Employment Equality Regulations for Age, Sexual Orientation and Religion or Belief. Disability Equality Duty and the Equality Act 2006. Councils should be considering their approach to Equalities as a result of the Single Equality Bill. “
- (<http://www.audit-commission.gov.uk/localgov/audit/inspection/reports/Pages/northampton9jun2009.aspx>: Par 14: National Context).
- 4.9 Some councils have taken a proactive view about how to align their planning procedures and policies with the needs and requirements of people with disabilities.

- 4.10 Wigan Council introduced supplementary Planning Guidance (SPG) which addressed this issue. Wigan Council says that “in most instances, applicants are now required to submit a Design and Access Statement with their planning application to show that it will create an environment that is accessible to all.”
- 4.11 The effect has been to embed access and accessibility into a project from the outset. Evidence from Wigan Council is summarised in Appendix 5. This experience, coupled in particular with evidence given to the Task Group on Colton Square and the streets and spaces projects, informed recommendations 2.5-2.7.
- 4.12 As the Task Group got under way, the Government issued a range of documents upgrading advice and guidance about inclusive design in relation to people with disabilities. Links to departmental publications and proposed legislation are contained in Appendix 6.
- 4.13 This builds on such comparatively new legislation as the 1995 Disability Discrimination Act, which came into force in 2004. ([http://www.opsi.gov.uk/acts/acts1995/ukpga\\_19950050\\_en\\_1](http://www.opsi.gov.uk/acts/acts1995/ukpga_19950050_en_1)) and the 2005 amendments to the DDA ([http://www.opsi.gov.uk/acts/acts2005/ukpga\\_20050013\\_en\\_2](http://www.opsi.gov.uk/acts/acts2005/ukpga_20050013_en_2))
- 4.14 The DDA puts a general duty on local authorities to have due regard to the need to :
- 4.14.1 eliminate discrimination that is unlawful under this Act;
  - 4.14.2 eliminate harassment of disabled persons that is related to their disabilities;
  - 4.14.3 promote equality of opportunity between disabled persons and other persons;
  - 4.14.4 take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons;
  - 4.14.5 promote positive attitudes towards disabled persons; and
  - 4.14.6 encourage participation by disabled persons in public life.
- 4.15 Additionally, the Council has published its Local Development Framework Core Strategy Document for consultation as part of the development of the One Leicester strategy.
- 4.16 Supplementary guidance includes the Council's Design and Access statement <http://www.leicester.gov.uk/your-council--services/ep/planning/planningapplications/planningapplications/adviceforapplicants/designstatements>



- 4.17 This requires planning applications to be accompanied by a report to “explain and justify the proposal in a structured way, relating the development to current planning policies.” These are set out in the Local Plan which was adopted in 2006 (<http://www.leicester.gov.uk/index.asp?pgid=29075>)
- 4.18 The updating of Council strategic documents as well the more detailed procedures to ensure that they reflected best practice rather than minimum requirements, informed recommendations 2.1 – 2.7.
- 4.19 Recommendation 2.7 envisages that tendering documents should always include a statement on inclusiveness, with the option to scrutinise further a designer’s/contractor’s understanding of Inclusive Design at the selection stage. This understanding can at present be limited to inaccurate statements such as schemes being ‘DDA compliant’.
- 4.20 Finally, in making recommendation 2.8, members of the Task Group felt that the ability of the Leicestershire Council for Independent Living to provide informed, timely and expert comment should continue to be supported.
- 4.21 This advice is not just available to the Council but to private sector organisations looking to develop building, activities or functions within the City. From a strategic perspective, it might assist the Council to avoid or mitigate possible future litigation relating to the interpretation or implementation of the DDA.
- 4.22 The reviews of the Colton Square, Brite Centre and City Centre streets and spaces projects showed how important it was to establish at the earliest point the principles of design which is inclusive to people with disabilities from the earliest stages.
- 4.23 Members received a number of briefings about the development of **Colton Square** (see pars 3.11, 3.12 and 3.13, and appendix 2). The minutes of the Task Group meeting in Appendix 2 reflect members’ concerns that the development of the design put the interests of cars ahead of people in this case – at odds with the principles enshrined in the One Leicester strategy.
- 4.24 At the **Brite Centre** the site visit identified issues which were being picked up and improvements being made to make the centre more accessible. Members and officers identified that while the project was being built to a budget, input to advise on access design was not prominent at early stages of development.

- 4.25 The Task Group considered evidence (Minutes in Appendix 4) from officers on the **Streets and Spaces** project (<http://www.leicester.gov.uk/your-council--services/ep/regeneration/regenerationnews/streets-and-spaces>) within the city centre and the extent to which accessibility had been integrated into the project.
- 4.26 Members were told the scheme, which was in the order of £20-25m, had two main elements:
- 4.26.1 Work in the central commercial area
- 4.26.2 Curve and Cultural Quarter
- 4.27 They were told the objective was to enhance the city centre, making it accessible and inclusive and encouraging people to visit and re-visit the areas, helping businesses and the theatre and cultural endeavours to thrive.
- 4.28 The aim was also to separate vehicle movements from pedestrians – particularly in High Street where the impact of buses on the environment of the area was high.
- 4.29 The outcome was to move bus routes and stops further away from the central area, including the markets, but he said the benefits of the improved safety and environment outweighed the disadvantages of the shift in bus services.
- 4.30 Members asked when an access statement on the project was done were told a “high level” review had been undertaken after the project had got under way, but not an accessibility audit looking at individual spaces within the scheme.
- 4.31 The access audit was not embedded into the project at an early stage because of pressure to complete the works to meet a particular deadline – namely the opening of the Highcross Centre, but there was also pressure to spend a particular budget within the 2005-2006 financial year.
- 4.32 The Review was also told that an access statement was not embedded in the project, and that while some of the issues which developed were addressed they were not embedded in a project-managed way.
- 4.33 Members noted that a minimalist approach to colour within the scheme has seen the introduction of “shades of grey” which for people with vision issues tended to cause navigation difficulties.

- 4.34 The introduction of “shiny poles” – reflective street furniture, signs and so on, caused further complications for people with vision issues.
- 4.35 But this approach to the design had been implemented on advice from consultants to the Council. The Council relied heavily on the consultants and...anticipated they had considered this issue but they didn't and it got missed, members were told.
- 4.36 A “lessons learnt” review of the project was being undertaken by the department but was not yet complete and therefore not available to the Task Group.
- 4.37 The review of developments relating to **star trak** reflect that improving and more accessible technology was allowing the authority to take some steps to introduce more access-friendly technology.
- 4.38 Members noted during the Review that the technology being developed could also help tourists find their way around the city by providing a range of language guides – an example of how one idea could have benefits and applications in another sphere.

## **5 DEPARTMENTAL COMMENTS**

- 5.1 There is provision for talking bus stops in the Local Transport Plan capital programme. Further funding will be provided by regional partners.
- 5.2 The outcome of the talking bus stop pilot project will be reported to OSMB, with a view to extending talking bus stops to other parts of the city.
- 5.3 Tenders for public realm works are implicit about the need for inclusive design. In house design work already considers the needs of all pedestrians and road users.

Jeff Miller:  
Regeneration, Highways & Transport Service Director  
0116 252 6380

- 5.4 There are some concerns relating to the following paragraphs:  
2.2: Weighting for decision making  
2.4: Quality review and improvement process  
2.6: Design and Access Statements  
2.7: Procurement processes.
- 5.5 In terms of the access statement (2.6) the following wording would be considered to be more helpful:

“Ensure that Inclusive Design is properly considered at all stages of City Council projects (from inception, through to hand-over and management), and develop an ‘Access Statement’ process to support and explain this. Promote this approach to non City Council developers, and encourage “Design and Access Statements” (required to support planning applications) to reflect this approach.”

5.6 We are confident that any issues in the interpretation of the wording in the other three recommendations referred to in 5.4 can be clarified in the Action Planning process to follow, which will define the scope of each of these priorities in more detail.

5.7 For example, the one relating to procurement processes will need to be focussed to ensure it does not create undue bureaucracy. There should also be scope for the Guidance Document and Access Statement Procedures to help clarify requirements relating to procurement, weighting and quality/ improvement processes.

Paul Leonard-Williams: Disabled Persons’ Access Officer  
Planning Police and Design Tel 0116 252 7290

## **6 FINANCIAL IMPLICATIONS**

6.1 The accuracy of budgeting for capital projects within the Council varies considerably. The accuracy depends upon the skills and expertise of the project manager, the complexity of the project and external pressures such as unreasonable time pressure to submit bids for external funding for these projects.

6.2 Project managers will need to ensure that they include the costs associated with inclusive design specifications in order that the project budget is accurate and therefore whether there are adequate funds in place.

Martin Judson, Head of Resources: Planning and Policy  
0116 252 7390

## **7 LEGAL IMPLICATIONS**

7.1 Any proposed changes brought about by the Council by this Task Group Review on access and design issues would need to comply with the relevant disability discrimination, planning, traffic and highway legislation.

7.2 If and when proposals are undertaken then legal services will provide the relevant advice depending on the nature of those proposals.

Jamie Guazzaroni; solicitor Legal Services, Environment &  
Employment Team 0116 252 6350

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## **APPENDICES**

### **APPENDIX 1**

#### **8 Inclusive Design Aims which all projects should adopt are:**

- 8.1 To make places and or products that everyone can use safely, easily and with dignity
- 8.2 To remove (and to not create) barriers that cause undue effort or separation
- 8.3 To enable everyone to participate equally, confidently and independently in everyday activities
- 8.4 To achieve these aims through a clear commitment to achieving best practice rather than minimum standards.

### **APPENDIX 2**

Minutes of meeting held on 23<sup>rd</sup> February 2009

#### **P R E S E N T :**

Councillor Russell – Task Group Leader Councillor Hall Councillor Palmer; Councillor Naylor

Also in attendance

Ian Bradwell Access Group  
Eric Day LCIL/IDAP

Dee Martin LCIL  
Sally Williams Leicester Disabled People's Access Group  
Officers Present  
Bharti Chauhan Planning Management and Delivery Group  
Jerry Connolly Members Support Officer  
Monica Glover Corporate Equalities  
Mike Keen Democratic Services Officer  
Paul Leonard-Williams Access Officer, Leicester City Council  
Barry Pritchard Regeneration, Highways and Transportation  
Dave Smith Building Control  
David Wright star trak, Leicester City Council

#### APOLOGIES FOR ABSENCE

Councillor Glover, John Hargrave, Colin Herridge; Andrew L. Smith.

### **9 TALKING BUS STOPS**

- 9.1 David Wright reported on progress on the installation of "talking bus stops" in the city to provide information for people with visual disabilities about when buses would be due.
- 9.2 Trials were planned within the next six months, based on the existing star trak real time information system. This followed work that had gone back two years and during which time technology had been reviewed.
- 9.3 It was found at the start of that period that the available technology would impose massive demands on staff to provide information to bus stops. It was decided to wait for more accessible technology and this has now been developed, based on GPRS (mobile phone) technology.
- 9.4 The cost to introduce this into the Leicester star trak system would be around £90,000. Derbyshire County Council had funded this because of their need to develop GPRS for their real time information system.
- 9.5 A programme of work has been scheduled for the 2009-2010 financial year and the system would be installed at a stop on Gedding Road, where the Resources Centre for the Blind is located. Discussions were taking place with First Leicester about the system that would be activated by a key fob.
- 9.6 Information displayed could include when the next bus is due, or when a series of buses, say over a thirty-minute period, might be due. Issues with star trak data had mainly centred on the way in which the bus operators had used the system and David said that he wanted to be sure that the information provided was more than a talking timetable.

- 9.7 David was asked whether the fob system would work on an actual bus, and whether different languages would be available on the system. David said he would investigate those issues.
- 9.8 He said he would make sure interested parties were kept informed on developments and progress on the project. Monthly reports to Paul Leonard-Williams were likely to be the best way of keeping interested user groups informed.

## **OUTLINE OF REVIEW AND PRESENTATION BY OFFICERS**

- 9.9 Councillor Russell outlined the highlights of the recent 'walk' undertaken in connection with the work of the Task Group and said that it was important that inclusive design was included within new-build projects.
- 9.10 Paul Leonard- Williams said this was now being included within the design work for several new projects being designed. Dee Martin said that it was not just about visual impairment, but was also about access generally and ensuring that all disabled and impaired people were catered for.

## **COLTON SQUARE**

- 9.11 Paul Leonard-Williams gave a presentation on the development at Colton Square and a more detailed presentation around the Inclusive Design and Development Process.
- 9.12 Paul said that the Colton Square process had started in 2004 with the acquisition of the site and preparation of proposals by potential developers. The process concluded in 2008 with the completion of the building and its occupation.
- 9.13 A number of design issues were highlighted; these centred on car parking, levels of access and entry point, steps, seats, visual contrast and accessible housing. In discussion on these issues it was questioned whether the lessons learned were fed back to the appropriate Members that sat on Planning and Development Control Committee and the Planning officers.
- 9.14 Councillor Palmer drew attention to the 'feature' steps at Colton Square and which were each some 450mm deep. It was said that these were meant as seating but serious concerns were expressed as they were considered a serious safety hazard.
- 9.15 It was generally felt that comments such as these around access, steps lifts etc. should not be being made in respect of new build projects. Officers said that some of the issues had occurred as a result of making space for underground car parking at the development.

- 9.16 Councillor Russell said that the message that this gave out was that, in the case of Colton Square, cars were more important than people.
- 9.17 Following further discussion it was said that in general compromises needed to be sought, an example being that people did not like alternatives that made them stand out, a lift for disabled people only, rather than a lift for everyone, was cited as an example.
- 9.18 Dee Martin said that with an ageing population people were now generally working longer and accessibility of buildings was becoming much more important. A list of buildings in the City that were not currently accessible would show the extent of the problems being talked about. Councillor Russell questioned how things could have been done better as a means of assessing the best way forward.
- 9.18.1 **Training** was cited as an example, and it was said that currently Members and Officers received Equalities training. Members who sat on Planning and Development Control Committee also received regular training, but not specifically around accessibility.
- 9.18.2 Planning Officers were also trained regularly and on issues learned from new developments.
- 9.19 It was said that feedback from the Disability Person's Access Officer was provided to help ensure that mistakes did not occur again in future developments, but this was not a formal process.
- 9.20 The following issues were highlighted:
- 9.20.1 Good equalities training is given to all Members sitting on Planning and Development Control Committee
- 9.20.2 All relevant officers are trained
- 9.20.3 Process for capturing mistakes identified

### **Accessibility**

- 9.21 Councillor Russell said that the issues around accessibility being discussed were issues in the widest sense and were about doing things differently, rather than improving expensive solutions, and was about making buildings more accessible for the widest possible range of people.
- 9.22 The following issues were highlighted: -



- 9.22.1 Level of questioning be identified around disabled access issues
- 9.22.2 Take issue of extra training on accessibility for Members to Members' Development Forum.
- 9.23 Councillor Palmer said that he felt that an opportunity to speak with developers would be of benefit as the designers of new buildings worked to a brief, problems identified were often cost related and a good designer would see issues such as those discussed at this meeting as a creative challenge.
- 9.24 It was agreed that arrangements be made to enable discussion to take place between representatives of this Task Group and a developer, or appropriate person, to emphasise the importance of tackling issues of accessibility at the beginning of the design process for buildings.

### **APPENDIX 3**

Minutes of the Meeting of the Access, Equalities and Regeneration theme of the Regeneration and Transport Task Group

Held: Monday, 30<sup>th</sup> March 2009 at 2.00pm at the BRITE CENTRE

**P R E S E N T**

Councillor Russell – Task Group Leader: Councillor Bhavsar; Councillor Hall

Also in attendance

Eric Day LCIL/IDAP; Ian Bradwell Access Group

Officers Present

John Bogumsky: Property Services

Monica Glover: Corporate Equalities

Mike Keen: Democratic Services Officer

Paul Leonard-Williams: Access Officer (Urban Design Team)

Pat Midson: DDA Officer

Dave Smith: Building Control

Apologies for absence from Councillors Byrne, Naylor and Palmer, Bharti Chauhan, Barry Pritchard (Regeneration and Culture) and Sally Williams

Councillor Russell declared a personal and non-prejudicial interest as her stepfather was a volunteer at the Leicestershire Centre for Integrated Living.

The minutes of the meeting of the task Group held on 23<sup>rd</sup> February 2009, as previously circulated to members were agreed as a correct record.

## **10 THE BRITE CENTRE**

10.1 Eric Day, LCIL, opened discussion by stating that in August 2006 he had visited The Brite Centre to assess its accessibility. A number of issues had been highlighted, including a 'Loop' system that did not work, no signs and issues around tactile strips.

10.2 There had also been an issue around guidance to the reception area by the partially sighted and the electric door switch on the outer door was identified as being located too low down on the door.

10.3 A tour of The Brite Centre took place and the following issues were highlighted: -

### **10.4 Exterior**

- 10.4.1 Random use of tactile paving/bollards
- 10.4.2 No colour contrast on bollards
- 10.4.3 Signs for the disabled parking spaces mounted too low
- 10.4.4 Staff cars parked in disabled parking bays
- 10.4.5 Red dots on exterior doors mounted too low
- 10.4.6 Exterior doors pegged back beyond 90 degrees
- 10.4.7 Manifestation on exterior door too low

### **10.5 Entrance**

- 10.5.1 Plant propping up security screen, entrance should be kept clear
- 10.5.2 Security screens inset from wall, could be dangerous

### **10.6 Interior**

- 10.6.1 Pillar to right of entrance should have contrast banding applied
- 10.6.2 No colour contrast leading to the Reception area
- 10.6.3 Office behind Reception – blinds should be kept closed to prevent light reflection to aid lip readers
- 10.6.4 Colour contrast to floor in café area should have been used to guide people across to the reception area
- 10.6.5 Issues around type of seating utilised in main hall

- 10.6.6 Single height booking system in Library – lack of colour contrast and danger that partially sighted person with a short cane could walk into the protruding shelf of the unit.
- 10.6.7 Accessible Toilets – only a standard light switch fitted.
- 10.6.8 Accessible Toilets – issues around positioning of portable bins by exterior cleansing company in area designed for wheelchair
- 10.6.9 Large Conference Room – issues around lack of colour contrast between floor and partition
- 10.6.10 Large/ Small Conference Room – concern around when both rooms in use together and partitions closed and when access and egress is via doors in the partition
- 10.6.11 Sound leakage between two Conference Rooms.
- 10.6.12 Issues around the siting of the door release button to Large Conference Room if the Security Door is in use – the switch is located around the side of the door pillar
- 10.7 The meeting re-convened and discussion took place on the issues highlighted (in 10.3).
- 10.8 Councillor Russell said that it was clear that since the initial inspections had been carried out after the building had opened certain issues had been resolved, and some were being worked on.
- 10.9 A number of issues had however been identified during the walk. The City Council, it was stressed, had a role to ensure that its buildings met the highest accessibility standards, although it was accepted that certain features would have met legislative requirements at the time the building was designed.
- 10.10 John Bogumsky, representing the Design Team for The Brite Centre said that initial discussions had taken place between the Braunstone Community Association, the City Council and City Libraries to identify the optimum building for a range of anticipated uses, and to ensure that the building was constructed within a set budget.
- 10.11 By working within the various rules and regulations in force at the time consideration had been given to various religious and social requirements together with full accessibility for the disabled.

- 10.12 Pat Midson (Disability Discrimination Act Officer) said that he had not been heavily involved during the design stage of The Brite Centre but that he had assessed the completed building as part of his previous role of Access Officer.
- 10.13 Pat said that in his current role he was involved at the earlier stages of design and development and that he now actively liaised with architects and designers to ensure that requirements for access were fully met.
- 10.14 Pat said that several years previously he had been involved in producing City Council guidance that went beyond the basic guidance contained in the national 'Paving the Way' standards, but Building Control were not able to enforce it. Should funding become available this previously prepared document could be brought up to date.
- 10.15 Councillor Russell said that, particularly around City Council projects, the ideal would be to see standards imposed that went beyond basic requirements.
- 10.16 Paul Leonard-Williams said that an alternative would be to adopt Supplementary Planning Guidance that could then be used as informal guidance and applicants encouraged to follow it.
- 10.17 Councillor Russell questioned where IDAP fitted into the whole process and it was said that there was no specific requirement to involve them, although it had been found useful, in recent schemes to involve IDAP in several projects.
- 10.18 It was said that there was now a requirement for developers to provide an Access Statement for all new developments, this statement was handed over to the Management of the building on handover to help guide the future use of the building.
- 10.19 It was further suggested that the Access Statement in respect of the recent Streets and Spaces project be brought to the respective Task Group meeting to enable the Task Group to see how an Access Statement is used and how issues were balanced.
- 10.20 Discussion took place around the possibility of dual standards being applied to new buildings as it was said, for example, that Design and Build projects (Building Schools for the Future) were designed to a basic requirement to pass Building Control inspection.
- 10.21 Councillor Russell said that often cost was the overriding factor, and that she did not want to see dual standards applied. BSF was a separate issue that maybe the Children and Young Person's Task Group could look at it in greater detail. Councillor Russell

further said that the adequate application of accessibility standards within buildings was left to respective facilities managers and the people working within the buildings.

10.22 Councillor Hall said that it was apparent that there needed to be a consistent approach to Access requirements as part of the Planning process and questioned the need for Planning Policy being in place around Access arrangements.

10.23 Paul Leonard-Williams said that guidance was required to be available widely and BS 8300 (2009) was the nationally accepted Best Practice Guidance but cost £240 to purchase. Aspects of best practice could however be incorporated into Planning Guidance.

10.24 In concluding it was said that:

10.24.1 it would be useful if funding could be identified to update and produce the Council's previous version of the 'Paving the Way' document that was set out in an easy to understand language.

10.24.2 a clearer explanation of what Accessibility and Inclusivity actually meant would be useful for officers and members. Monica Glover said that she would work on producing guidance.

10.24.3 work on producing appropriate Planning Guidance would be prepared before the next meeting.

#### **APPENDIX 4**

Minutes of the Meeting of the Access, equality and Regeneration Issues theme of the Regeneration and Transport Task Group

Monday, 27 APRIL 2009 at 2.30pm

#### **P R E S E N T :**

Councillor Russell – Task Group Leader\_Councillor Bhavsar Councillor Palmer; Councillor Naylor.

#### **Officers in Attendance**

Maurice Brice	Property Projects Group
Jerry Connolly	Members Support Officer
Mike Keen	Democratic Services Officer

Paul Leonard-Williams      Disabled People's Access Officer

Barry Pritchard      Project Manager – City Centre  
Development

Chryse Tinsley      Urban Design

Sally Williams      LDPAG

Apologies were received from Councillor Glover, Ian Bradwell and Dave Smith (Building Control).

Councillor Russell disclosed a personal and non-prejudicial interest in the business to be discussed as her stepfather was a volunteer at the Leicestershire Centre for Integrated Living.

The minutes of the meeting of the Task Group held on 20<sup>th</sup> April 2009, as previously circulated to members were agreed as a correct record.

## **11      STREETS AND SPACES**

- 11.1 Barry Pritchard, Project Manager, City Centre Development introduced this topic and said that it had been a £20 - £25 million scheme to undertake works in and around the retail area of the City and around the Cultural Quarter. One of the main aims of the scheme had been to separate vehicles and pedestrians, particularly in the High Street, around the Clock Tower and The Curve, and to create a more pleasant area and a walking environment that was inclusive.
- 11.2 Councillor Russell asked whether an Access Statement for this scheme had been prepared. Barry said that a Statement had been produced, albeit part way through the project but timed so that the rest of the City Centre could compete with The Highcross Centre when it opened.
- 11.3 The timing meant that work had to start almost as soon as the project had been approved. Paul said that it is usual for Access Statements to relate to buildings, but in this particular case it related to the Public Realm (Streets). Paul further said that his main concern around the Access Statement was that there was no process in place for taking certain issues forward and it was felt that in future there was a need to instigate Access Statements at the beginning of projects.
- 11.4 Councillor Bhavsar questioned what the problems and drawbacks had been. Paul said that issues around shared use for cyclists and pedestrians had been problematic and the fact that a number of businesses had access with vehicles to the pedestrianised area all day, this causes problems for disabled/partially sighted.

- 11.5 It was also said that banding on the shiny poles had not been included in the project although it was strongly felt that shiny poles should not have been utilised in the first place.
- 11.6 Barry said that these were issues that should have been identified earlier in the process and that the Access Group should be involved at a very early stage. With hindsight it was accepted that the scheme had been too ambitious in the timescale allowed.
- 11.7 Councillor Russell questioned what had been learned from the Street Scene project to make future projects better.
  - 11.7.1 Aesthetics and Visibility
  - 11.7.2 Setting priorities and keeping sight of overall aim
  - 11.7.3 High Street better than Gallowtree Gate – street furniture and trees are in one central area along the street
- 11.8 Concerns around 'A' boards and street cafes along side of street for partially sighted people – it was agreed that input from Licensing officers was required on this issue
- 11.9 Barry said that a process was in place whereby elements of good practice could be incorporated into future designs. The Street Scape scheme was the first whereby information gathered was recorded for future schemes.
- 11.10 Councillor Russell in summing up highlighted the following issues to be taken forward: -
  - 11.10.1 Tender Process – understanding around the inclusive design process
  - 11.10.2 Access Statement – at the beginning of the process. A living document. Initial aims of the project not to be missed
  - 11.10.3 A' Boards - issues around these and of Street Cafes
  - 11.10.4 Review of Project and lesson learned
  - 11.10.5 Information
  - 11.10.6 Training issues
  - 11.10.7 Wheelchair to be available for officers/members to assess works being carried out.

## **APPENDIX 5**

## 12.1 Supplementary Planning Guidance: Wigan Council

- 12.1.1 The supplementary guidance, *Access for All*, was introduced by Wigan Council in 2006. It was constructed from a clean sheet start - with a vision of how it should be rather than referring to other examples from other authorities.
- 12.1.2 It has substantially remained in its original form. Officers are considering making slight amendments to some aspects of design advice, notably swing gates in rural settings. Otherwise it remains robust and relevant.
- 12.1.3 The Council has found it to be very useful by providing clear guidance and advice to those bringing forward developments and officers considering those applications.
- 12.1.4 Where there has been a planning appeal, the SPG has proved helpful in putting the case to the Inspector.
- 12.1.5 It has to be applied with a degree caution on projects which are not new-build - refurbishments, for example - because these schemes have a more historic planning/building control framework. Professional judgements by planners are required in such cases.
- 12.1.6 The SPG contains two major elements - detailed advice accompanied by more general design guidance.
- 12.1.7 A link to the SPG is as follows:  
<http://www.wigan.gov.uk/Services/Planning/Policies/DevelopmentFramework/AccessForAll.htm>
- 12.1.8 See also The Planning Inspectorate Annual Report for 2008-2009; section 5.15:

*“we have analysed a random sample of 30 cases decided in 2008/09 that involved design as an issue. This considered the quality of the evidence produced by the parties and the main parties’ views on the approach to the design issue taken by the Inspector.*

*“The analysis of this limited sample found that high quality Design and Access Statements are critical to ensuring that Inspectors can properly understand the design context.”*

<http://www.info4local.gov.uk/documents/publications/1282393>

## APPENDIX 6



### **13.1 Links to recently published Government guidance on access policy, strategy and practice.**

#### [The Department of Communities and Local Government](#)

All other Secretary of State reports:

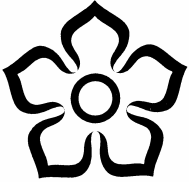
- [The Department for Children, Schools and Families](#)
- [The Department of Culture, Media and Sport](#)
- [The Department of Health](#)
- [The Home Office](#)
- [The Department for Innovation, Universities and Skills](#)
- [The Ministry of Justice](#)
- [The Department for Work and Pensions](#)

The Government published the Equality Bill  
([http://www.equalities.gov.uk/equality\\_bill.aspx](http://www.equalities.gov.uk/equality_bill.aspx))

in April 2009. An overarching document taking in a wide range of issues, it puts a duty on local authorities (and their partners in the health and police forces) to improve access for people with disabilities).

The Planning Advisory Service  
(<http://www.pas.gov.uk/pas/core/page.do?pagelid=1>) has published guidance on integrating access issues into general planning practice: “Equality and Diversity – improving planning outcomes for the whole of the community.”

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Leicester  
City Council

## WARDS AFFECTED

*Castle, Freeman and Beaumont Leys*

### FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

OSMB  
Cabinet

21<sup>st</sup> January 2010  
25<sup>th</sup> January 2010

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### Rival Market Licence Application at Leicester City Football Club

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#### Report of the Strategic Director, Development Culture and Regeneration

#### 1. PURPOSE OF REPORT

This report considers an application received from LSD Promotions for a market at Leicester City Football Club to be held weekly on Sundays and also on Bank Holidays.

#### 2. SUMMARY

2.1 Leicester City Council has market rights that enable it to control markets that are proposed to be held within a 6 2/3<sup>rd</sup> mile radius of its own operated markets. The Council has agreed a rival market policy that provides the basis for the consideration of applications from potential operators to hold markets within the market boundary.

2.2 An application has been received from a private operator, LSD Promotions that wishes to operate a market weekly on Sundays and also on Bank Holidays at the Leicester City Football Club's Walkers Stadium.

2.3 A report was made to the Markets Forum on 10th November by the Head of Markets which considered the potential benefits and issues relating to the application and proposed a potential way forward by issuing a licence with special conditions to control any significant adverse effects. The report included comments that had been received from LSD Promotions, Leicester City Football Club and the Market Traders. The views of the Market Forum on the application and draft licence raised at the meeting are considered in this report.

#### 3. RECOMMENDATION

3.1 Cabinet is recommended to approve a licence with special conditions as set out in Appendix A (Page 14 -16) of the report amended to include provision that Sunday and Bank Holiday Markets should not to be held on same day as first team football matches.

#### 4. REPORT

##### Background

4.1 Leicester City Council currently operates the largest covered outdoor market in this country which is a vital part of the city centre retail mix. The central market is open from Monday to Saturday. The Council also operates a local market at Beaumont Leys

shopping centre with a general market held Wednesday to Saturday and market and car boot sale on Sunday.

- 4.2 Leicester Market, common to all markets, has faced challenges in recent years as shoppers increasingly have greater choice from supermarkets, out of town shopping centres and on line sales. The recent diversification and strengthening of the city retail offer however has brought potential benefits to the market and the opening of the Highcross Centre has brought additional shoppers into the city centre.

#### **Market Rights/Rival Markets Policy**

- 4.3 Leicester City Council holds market rights that allow the council to control all markets operated within a 6 2/3<sup>rd</sup> mile boundary of its own operated markets.
- 4.4 The Council's rival markets rules and regulations were approved in November 2004 with further revisions approved by Cabinet in 2007. Appendix 1 details the current Rival Markets Policy. Within the scope of this policy the Council has options to refuse an application or issue a licence, including any conditions it wishes to apply.

#### **Market Application from LSD Promotions**

- 4.5 The Council originally received a submission in September 2008 from LSD Promotions to hold a market weekly on Sundays and also on Bank Holidays at Leicester City Football Club's Walkers Stadium. The market proposal was for 100-150 stalls with no restriction on stall type.
- 4.6 The submission was considered by Officers in conjunction with the Cabinet Lead for markets, and was referred to the Market Forum on November 18<sup>th</sup> 2008 for their views. The Market Forum agreed that the application be rejected. Subsequently, a decision was taken in principle to reject the submission on the grounds that it was important to support the City Centre. The applicants were informed that the submission had been rejected on the basis that the proposed Sunday and Bank Holiday market may impact negatively upon the City Centre.
- 4.7 The Council were then approached by Leicester City Football Club and LSD Promotions in May 2009 and asked to reconsider this decision. It was then considered by the Director of Planning and Economic Development in consultation with the Cabinet lead for Markets that the Council should explore an option of granting a license including any conditions that could be applied that would provide the necessary safeguards to control any potential significant adverse effects on the existing markets.
- 4.8 Traders were briefed on the Council's approach by the Cabinet lead on 28th August 2009. Following the briefing the Council received a threat of Judicial Review from solicitors acting for the traders. The Council agreed not to grant a markets licence until considering any comments the traders wished to make.

#### **Report to the Market Forum**

- 4.9 A Market Forum meeting was held on 10<sup>th</sup> November 2009 to consider the views of the traders. The report to the Forum is attached as Appendix A to this report. Paragraphs 4.9 to 4.17 of that report summarise:
- The potential income from the licence if approved
  - The potential benefits and adverse effects of the proposal

- Stakeholder views submitted before the meeting from the traders alongside supporting comments made by Leicester City Football Club and LSD Promotions.

4.10 The report proposed a way forward by issuing a licence with special conditions which is included in Appendix A. It was considered that this would allow the Council to monitor impacts and, should significant adverse effects related to the new market be clearly established, revoke the licence.

**Issued raised at the Market Forum**

4.11 The Market Traders compiled a petition with some 20,356 signatures. The petition opposed the issuing of a licence for the proposed Sunday and bank holiday market at the Walkers Stadium. This was on the basis that it would have a large impact on the Leicester Market through the traders having a greater loss of income than they are already experiencing and the long term loss of trade and decline of the market. This report provides the basis to consider and respond to the concerns raised in the petition.

4.12 A number of issues were raised at the Market Forum both in relation to the licence application and also the licence with special conditions proposed in the report. The minutes of the Forum meeting are attached as Appendix B to this report. The issues raised at the Forum meeting are considered below and a response is given.

ISSUE RAISED	RESPONSE
1. Council should be spending energy on the city centre market	The Council is finalising an extensive task group report with a number of potential short and longer term improvements to the city centre market. It is anticipated these will be reported through Cabinet in February. The Council must consider applications made under its approved rival markets policy.
2. In terms of the proposed special conditions how will the Council define and measure significant detrimental effect to allow it to revoke the licence. It would need strong objective measures of impact based on loss of trader income which was raised as a likely impact.	The proposed licence and special conditions includes clear measures in relation to income to the Council and stall occupancy levels on any given day (See Appendix A). These are measurable, clear and in the public domain unlike trader income which would be very difficult to monitor given the fluctuation in traders and the complexity of retrieving this information from private individuals. The quantitative measures proposed in the licence would be supported by surveys of shoppers and traders to monitor retail trends. The proposed market potentially provides an opportunity to increase trader income for those currently operating at the City Centre that want to expand.
3. Impact might not show immediately	The proposed licence has formal impact review points built in at 6, 12 and 24 months during the 3 year licence period. This is in addition to quarterly meetings with the

	operator to consider any emerging issues.
4. How much is the Council locked into the licence if issued.	The proposed special conditions include provision to revoke the licence if significant detrimental impact is established.
5. Can the proposed licence be shorter than 3 years taking into account the possibility of a city centre Sunday market coming forward.	The proposed licence has formal review points built in at 6, 12 and 24 months during the 3 year licence period with provision for the Council to revoke the licence if significant detrimental impact is demonstrated on the city centre market.
6. Questioned whether the Council would revoke the licence if the proposed market was successful.	The licence includes provision for it to be revoked if significant detrimental impact is demonstrated.
7. Concern that once the licence is granted the market would be able to grow bigger and be held on other days including at the time of first team games	The proposed licence and planning permission would limit the market to Sundays and Bank Holidays only. A new application would be required to amend this. An additional condition can be added to the licence such that Sunday and Bank Holiday Markets should not to be held on same day as first team games
8. Fee for the licence is too low (one of the lowest in the country)	The fee that would be applied is that set out in the current rival markets policy. There is provision for this to be reviewed and the fee amended. Any review would consider benchmarking with other comparable cities.
9. The proposed market would be in direct competition with the city centre market (e.g. offering fruit and vegetables and meat) and people with a fixed budget purchasing from the new market on a Sunday would not spend at the centre market on a Monday.	The proposed market would not be in direct competition with the city centre market on a Sunday. There is no evidence that individuals would choose to divert their trade from the city centre market to the proposed market at the Walkers Stadium rather than from other retail providers e.g. supermarkets/shops. The city centre market comprises only a very small part of the overall city retail offer and as such plays a relatively small part in the extensive shopping choices open to individuals. Conversely the proposed market might extend the retail offer to many people without impacting on the City Centre Market. The previous Sunday market held at the Walkers Stadium did not have an observable impact on the central market. Special conditions are proposed to allow any significant detrimental effects to be monitored through quantitative measures and shopper/trader surveys and the licence revoked if necessary.
10. Clarity was requested on the market	Market stalls to be largely non-food

offer to understand impacts better.	comprising general stalls and range of handcrafted goods. Food elements to include specialist organic and locally produced foods. Small leisure element to include children's rides, soft play and land train. Also stalls available for environmental groups
11. Traders from the city centre market would consider opening on a Sunday. Could the LCFC market be held at the City centre market.	There is currently no agreed proposal for the City Council to open the city centre market on a Sunday. This would need to be considered in terms of its merits and commercial viability. The licence application has been made by LSD Promotions which has reached a separate agreement with LCFC to hold the market at the Walkers Stadium should they be successful. The current licence application has to be determined as presented in the context of current circumstances.
12. Evidence from elsewhere indicates where LSD have Sunday markets this affected Monday markets.	There is no clear evidence of impact as suggested. Furthermore comparison with other markets is not straightforward as they will have different market offers set in different town/city retail contexts.
13. Would LSD provide stalls	It is understood that some traders would bring their own stalls and LSD would be likely to provide stalls for others.
14. The Council's approach to the planning issues was considered wrong. The Council had to consider need for the Sunday market and if this is established, the site location and implications for the city centre. The Council needed to know what was to be sold and whether they should restrict anything. Planning Policy Statement 6 should apply. Could the planning application be taken back to Planning Committee to consider these issues.	As the planning permission has not yet been issued by the Council owing to the Section 106 legal agreement not having yet been completed, relevant planning issues are to be considered by the Planning and Development Control Committee meeting on 27 <sup>th</sup> January.
15. The LSD Promotions licence application submission suggests that LCC has identified a need for a Sunday market and chose the Walkers stadium as an ideal venue.	The LSD Promotions submission was not correct. The City Council had not specifically identified a need for a Sunday market at the Walkers Stadium.
16. The draft planning permission includes a condition (16) relating to retailing.	This condition was imposed in relation to the club shop and not the market.
17. Car boot sale would be fine.	This is not part of the licence application.
18. Would the new market include butchers and does this mean the indoor	The proposed market could include butchers. Butchers are considered an essential element

market would not now have any.	of the city centre market.
--------------------------------	----------------------------

- 4.13 Following the Market Forum meeting further comments have been made by the Market Traders through their solicitors Marrons, Leicester City Football Club and LSD Promotions. These stakeholders have requested that their comments be brought to the attention of Cabinet and are included as Appendix C to this report. The comments provide further contextual information to the issues raised in the Market Forum report and meeting and further covered in paragraph 4.12 above.
- 4.14 Following careful consideration of the stakeholder comments included in the report to the Markets Forum and the issues raised as summarised paragraph 4.12 above I recommend that Cabinet approves the issuing of a licence with special conditions as proposed in the report to the Market Forum (see Appendix A) but with an amendment that Sunday and Bank Holiday Markets should not to be held on same day as first team games.
- 4.15 Further to the above it should be noted that the market element of the planning application will be resubmitted back to Planning Committee on 27<sup>th</sup> January for consideration of the retail planning policy aspects. It should be noted that before the licence can be issued planning permission must be in place.

## **5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

### **5.1. Financial Implications**

- 5.1 Leicester Markets service outturn for 2008/09 delivered a net trading surplus of £536.7k.
- 5.2 Last year the total income generated by the markets service was £1,870,600.
- 5.3 There is the potential for a regular Sunday Market to impact upon the business levels of the existing markets, and therefore the income of both Traders and the City Council. The Market's service is already facing pressures in terms of meeting its budgeted income together with rising energy and other costs. The proposed License includes conditions that are intended to minimise the impact of new market. The License income will also be useful additional income.
- 5.4 If a claim for Judicial Review is made with regard to the decision to be taken and the claim was successful, the Council would have to pay the legal costs of the successful party as well as its own costs. The amount would depend on whether the claim got past the permission stage.

*Martin Judson, Financial services, ext 297390*

### **Legal Implications**

- 5.5 Solicitors acting on behalf of the market traders threatened the Council with a Judicial Review following a meeting they had with the Cabinet Lead for the Environment on 28th August. Subsequently, the traders had the opportunity to put their concerns to the Council's Markets Forum meeting on 10th November. This report summarises the comments made at the Forum meeting.



The traders' comments also focussed on the separate planning application from Leicester City Football Club considered by the Council's Planning and Development Control Committee in March 2008, which included amongst other things an application for a Sunday / Bank Holiday market. The issues relating to the retail impact of the proposed market are to be the subject of a separate report by the Director to the Planning and Development Control Committee. This is because the planning permission has not yet been granted as the Council has not had back from the Football Club the required Section 106 Agreement for sealing by the Council.

- 5.6 Judicial Review is the process whereby decisions taken by local authorities are challenged and considered by the courts. The courts can quash decisions taken on the basis that, amongst other things, they are perverse/unreasonable if, for example, there have been failures in a particular process such as failures to consult and/or consider material factors.
- 5.7 Before a Judicial Review can be commenced, there is a requirement to set out grounds of challenge, and where a JR is instituted it is a two-stage process. If the court considers that a claim is arguable, permission is granted and the matter then goes forward to a full hearing where the court considers evidence submitted by way of witness statements. Where a JR claim is successful, the decision being challenged is quashed and the decision-making process in question has to be started afresh. It is possible in the course of JR proceedings for injunctions to be obtained to preserve the status quo.
- 5.8 The traders' solicitors have submitted a FOIA request to the Council which has been responded to.

*Anthony Cross, Head of Litigation, x296362*

## 6. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph References Within the Report
Equal Opportunities	Yes	The Council's existing markets serve all communities in Leicester.
Policy	Yes	The application is considered in the context of the Rival Market Policy
Sustainable and Environmental	Yes	Travel plan considerations would be included in any licence issued.
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	Yes	The Council's existing markets provide a service to the elderly and people on a low income.

**7. RISK ASSESSMENT MATRIX**

Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (if necessary/appropriate)
1. The market at the walkers stadium has a detrimental adverse effect on the city centre market	L	L	Proposed licence with special conditions to consider any significant adverse impacts with provision to revoke the licence.
2. The market has a detrimental effect on the Council's own operated markets.	L	L	Any licence issued would need to include special conditions to manage any significant adverse effects on existing markets.
3. Legal action by way of Judicial Review	M/H	M	Careful consideration of all relevant information submitted should minimise the institution of Judicial Review proceedings but if issued should minimise the Council having to start a fresh decision-making process.

L – Low                      L – Low  
M – Medium                M – Medium  
H - High                      H - High

**8. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972**

Legal Services file reference 78042 containing in part exempt information.

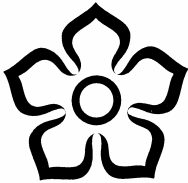
**9. CONSULTATIONS**

Market Forum  
Market Traders  
Leicester City Football Club  
LSD Promotions

**10. REPORT AUTHOR**

Andrew Smith  
Director of Planning and Economic Development

<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet)



Leicester  
City Council

## WARDS AFFECTED

*Castle, Freeman and Beaumont Leys*

## APPENDIX A

### FORWARD TIMETABLE OF CONSULTATION AND MEETINGS: Market Forum

November 10<sup>th</sup> 2009

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### Rival Market Application at Leicester City Football Club

---

#### Report of the Head of Markets and Enterprise

#### 1. PURPOSE OF REPORT

This report considers an application received from LSD Promotions for a market at Leicester City Football Club to be held weekly on Sundays and also on Bank Holidays and seeks the Forum's views.

#### 2. SUMMARY

- 2.1 Leicester City Council has market rights that enable it to control markets that are proposed to be held within a 6 2/3<sup>rd</sup> mile radius of its own operated markets. The Council has agreed a rival market policy that provides the basis for the consideration of applications from potential operators to hold markets within the market boundary.
- 2.2 An application has been received from a private operator, LSD Promotions, that wishes to operate a market weekly on Sundays and also on Bank Holidays at the Leicester City Football Club's Walkers Stadium. Stakeholder comments from LSD Promotions, Leicester City Football Club and Market Traders are included in this report.
- 2.3 Under its Rival Markets Policy the Council can reject a licence application or approve it, with or without conditions. A potential way forward is proposed by issuing a licence with special conditions to control any significant adverse effects.
- 2.4 The views of the Market Forum are sought on the application and draft licence to help inform the decision to be taken by the Council in respect of this application.

#### 3. RECOMMENDATIONS (OR OPTIONS)

- 3.1 The Market forum is asked to:
  1. Consider the application from LSD Promotions to hold a weekly Sunday and Bank Holiday market event at Leicester City Football Club.
  2. Comment on the application and the proposed option of issuing a license with

special conditions to safeguard existing markets.

#### **4. REPORT**

##### **Background**

- 4.1 Leicester City Council currently operates the largest covered outdoor market in this country which is a vital part of the city centre retail mix. The central market is open from Monday to Saturday. It is estimated that 2 ½ million people visit the Council's markets per year. Shoppers remain very loyal to the market and surveys demonstrate over 85% are satisfied with the service and over 90% of all visitors purchase food while shopping at the market. The popularity of the market is supported by the good local, regional and national media coverage it receives. The Council also operates a local market at Beaumont Leys shopping centre with a general market held Wednesday to Saturday and market and car boot sale on Sunday.
- 4.2 Leicester Market, common to all markets, has faced challenges in recent years as shoppers increasingly have greater choice from supermarkets, out of town shopping centres and on line sales. The recent diversification and strengthening of the city retail offer however has brought potential benefits to the market and the opening of the Highcross Centre has brought additional shoppers into the city centre.

##### **Market Rights/Rival Markets Policy**

- 4.3 Leicester City Council holds market rights. These rights allow the council to control all markets operated within a 6 2/3<sup>rd</sup> mile boundary of its own operated markets.
- 4.4 In 1985 the Council approved licensing regulations that permitted potential operators to hold markets within this area providing certain criteria are met. The rival markets rules and regulations were revised in November 2004 and further revisions were approved by Cabinet in 2007. Appendix 1 details the current Rival Markets Policy. Within the scope of this policy the Council can refuse an application or issue a licence, including any conditions it wishes to apply.

##### **Market Application from LSD Promotions**

- 4.5 The Council originally received a submission in September 2008 from LSD Promotions to hold a market weekly on Sundays and also on Bank Holidays at Leicester City Football Club's Walkers Stadium. The market proposal was for 100-150 stalls with no restriction on stall type.
- 4.6 The submission was considered by Officers in conjunction with the Cabinet Lead for markets, and was referred to the Market Forum on November 18<sup>th</sup> 2008 for their views. The Market Forum agreed that the application be rejected. Subsequently, a decision was taken in principle to reject the submission on the grounds that it was important to support the City Centre. The applicants were informed that the submission had been rejected on the basis that the proposed Sunday and Bank Holiday market may impact negatively upon the City Centre.
- 4.7 The Council were then approached by Leicester City Football Club and LSD Promotions in May 2009 and asked to reconsider their decision. It was then considered by the Director of Planning and Economic Development in consultation with the Cabinet lead for Markets that the Council should explore an option of granting a license

including any conditions that could be applied that would provide the necessary safeguards to control any potential significant adverse effects on the existing markets.

- 4.8 Traders were briefed on the Council's approach by the Cabinet lead on 28th August 2009. Following the briefing the Council received a threat of Judicial Review from solicitors acting for the traders. The Council agreed not to grant a markets licence until considering any comments the traders wished to make.
- 4.9 A license under the current market policy would mean that the City Council would receive income of up to £28k per annum as a license fee (£500 per trading day).
- 4.10 In considering this application, the potential benefits of the proposal and also any potential adverse effects on the existing markets need to be taken into account. Uppermost to this consideration is the Council's consistent position that it should maintain the strength and viability of its markets with related city centre benefits.
- 4.11 Firstly in terms of potential benefits, a successful Sunday and Bank Holiday market at the Football Club could be a good addition to the retail offer for Leicester as a whole. It would provide an outdoor market offer on days that the city centre market does not currently operate, providing a new shopping offer for local people and also potentially attracting people into the City, adding to the city's profile and economic prosperity. The proposed market could also provide business opportunities for new traders as well as existing market traders currently operating at the council's markets, potentially boosting their income and supporting the viability of their businesses.
- 4.12 The potential benefits outlined above must however, in the context of the rival markets policy, be carefully weighed against any potential significant adverse effects on the existing markets within the City. In particular could the Sunday and Bank Holiday market divert trade from existing markets and undermine their viability. Importantly the proposed market would not impact directly on trade/income at the existing city centre market on Sundays and Bank Holidays during which it is closed. As such any linked negative impacts on the wider city centre retail offer on these days is not relevant to consideration of this application. The converse may be true in that some visitors attracted to the Walker's Stadium Market may also choose to visit and shop in the nearby city centre.
- 4.13 The main issue associated with this application is considered to be the potential impact the Sunday market might have in diverting trade and potential traders from Leicester Market on other trading days. In essence there is only likely to be an adverse effect on the central market trade if significant numbers of regular Leicester Market shoppers choose to switch their trade from other days of the week to the new Sunday Market at the Walkers Stadium. Whilst the impact in this regard is not clear, the previous Sunday market held jointly by the City Council and Leicester City Football Club at the Walkers Stadium did not have any observable significant adverse effect. Also any adverse effect on trade is likely to be minimised as many regular city centre market shoppers are likely to combine their trips with other city centre retail and leisure visits.

### **Stakeholder Views**

- 4.14 The views of Market Traders, Shoppers, Leicester City Football Club, and of LSD Promotions have been invited before the Market Forum meeting and are included below.

### **Leicester Market Traders**

- 4.15 The Market Traders views have been submitted by their solicitor prior to the Market Forum meeting and are included in Appendix 2. This considers a number of issues to which a response is given in italics:

- the duty of the Council to act in the public interest - *acknowledged and agreed*
- legal protection of the market – *acknowledged and included in the Rival Markets Policy.*
- the role of the Market Forum and right to be consulted on licence applications – *the Forum is now being consulted.*
- Power to redetermine the application – *As the proposed market licence was not issued, the Council was prepared to consider any new related issues the traders wish to make noting that the Council was already aware of these issues. There is nothing to prevent any application being remade under the terms of the Rival Markets Policy.*
- Merits - the vital contribution the market makes to the commercial viability of the City Centre – *Importance of the market to the centre retail offer is well documented by the Council.*
- Retail planning considerations - *A planning permission covering various uses/events including the market at the Walkers Stadium has not yet been issued and is pending the completion of a legal agreement. Two separate regimes exist in relation to the proposed market at the Walkers Stadium, the planning regime and the market licence regime through the Rival Markets Policy. The impact of the proposed market on the city centre market and related retail function did not feature in the planning report to Committee because this was not considered relevant to the planning application based on available policy guidance. The Rival Markets Policy provides a basis for considering new market proposals and their potential impact on the Council's markets.*
- LSD Promotions – Other Market Operations – *Note the comments made on testimonials*

### **Leicester City Football Club**

- 4.16 Leicester City Football Club have submitted the following representations:

- We feel there is no merit in the assertion that a Sunday Market at The Walkers Stadium would have a detrimental effect on the Leicester Market. Moreover, there has been no quantitative analysis presented to qualify such an assertion.
- The Sunday Market represents an entirely different type of market than the current market at Leicester Market (see submissions of LSD Promotions).
- The Sunday Market trades only on days when the Leicester Market does not. Therefore, should they so desire, traders who currently trade at the Leicester Market could in fact trade at the Sunday Market at the Walkers Stadium enabling the traders to gain additional custom.

- The competition for the proposed Sunday Market is in fact the market held Donnington, not the City market. Therefore, a Sunday Market at Leicester would bring more revenue into the city from the greater Leicestershire area as well as the surrounding counties with no adverse effect on the current City Market.
- There is already historical precedent for holding a Sunday Market at the Walkers Stadium. This was in fact done approximately three years ago and I am unaware of any adverse impact on the City Market being reported at that time or subsequently.

### **LSD Promotions**

4.17 LSD Promotions have made the following representations:

- The City market is not open on Sundays. Beaumont Leys is a small town style market with a car boot sale. The plan for Walkers Stadium is a large leisure style market not available currently in Leicestershire. The shopping offer is different.
- Leicester traders are currently traveling to other Counties to trade on Sundays.
- Leicester shoppers are currently travelling to other Counties to shop on Sunday markets, e.g. Nottinghamshire, Derbyshire, Lincolnshire, West Midlands, and Warwickshire etc.
- A legitimate application was made by LSD under the rival markets policy. The plan for the Sunday market was broadly similar to the Council's own which was originally launched in 2006, and which attracted no press comment from the City traders, negative or otherwise.

### **The Market Licence**

4.18 In reaching a decision on this licence application the Council will follow its Rival Markets Policy which provides options to reject or approve (with or without special conditions) applications. In reaching its final decision the Council will take into account consideration and comment made through the Market Forum. In light of consideration of the potential benefits and impacts outlined above and the stakeholder comments received, the option of granting the market licence application with special conditions is considered a potential way forward to mitigate any risks. This would allow the Council to monitor impacts and, should significant adverse effects related to the new market be clearly established, revoke the licence.

4.19 In order to provide a reasonable basis for reviewing and considering the impact of the proposed new market on the city's markets, the following issues would be required to be included in a conditioned licence :

- Limiting the period of an initial licence.
- Providing regular review points.
- Quantitative income and stall occupancy related trigger points indicating potential significant adverse effects requiring further investigation.

- Qualitative regular trader and user surveys to establish if a stall or occupancy based trigger is related to the new market or other unrelated factors.
- Ability to revoke the licence should a significant adverse detrimental effect be demonstrably related to the new market.
- Potential opportunities to promote and support the Council's markets should also be built in.

Based on these parameters a licence is proposed with special conditions as set out below.

## **PROPOSED SPECIAL CONDITIONS IN RELATION TO THE HOLDING OF LSD PROMOTIONS RIVAL MARKET AT LEICESTER CITY FOOTBALL CLUB ON SUNDAYS/BANK HOLIDAYS**

In accordance with Leicester City Council's Rival Market Policy with reference to clause 13.5 the following conditions are to be agreed prior to any licence being granted.

Due to the nature of the Special Conditions the conditions specified in the policy regarding regular markets criteria that the Applicant must meet are amended as follows:

9.1 Removed

9.3 Removed

10.1 In respect of regular markets the sum of £500 per trading day is required

### 1. Definitions

"The Licence" means the agreement document between Leicester City Council ("the Council") and LSD Promotions ("the Applicant") - for the holding of a Sunday/Bank Holiday Monday Market at Leicester City Football Club.

"Review Point" means at 6, 12 and 24 months from the commencement date of the first market at Leicester City Football Club by the Applicant.

"Significant detrimental impact" means the level of impact on the Council's markets where it will consider revoking the market licence for the holding of the market at Leicester City Football Club. The criteria used to determine the impact is attached at Appendix A.

### 2. Special Conditions

2.1 The licence is granted initially for a three year period for Sundays and Bank Holidays only and is subject to review points to establish any significant detrimental impact at 6, 12 and 24 months from commencement of the first market.

2.2 At the review points the Council will gather and analyse information to determine if there is any significant detrimental impact from the Markets held at Leicester City Football Club on the Council's markets (see below for details). Reasonable costs covering the gathering and analysing of qualitative survey information are to be paid to the City Council before the date of each review point by the licence holder (the cost of this will be agreed between the Council and the Applicant prior to each review point)



- 2.3 The results of the information gathered and analysed as per 2.2 above will be considered by the Council and if in the Council's view it shows that the market is having a significant detrimental impact on the Council's markets, then the Council will be entitled to revoke the Licence after due consideration and discussion with the licence holder. This could include consideration of whether additional financial compensation can be made to the Council to offset any attributable financial losses that exceed the annual fee received from the Applicant. The notice period being given to the Applicant being 28 days.
- 2.4 The Parties to this licence will hold quarterly meetings to discuss the running and impact of the market. Dates of which to be agreed between the Council's Market Manager and a representative from the Applicant's Company.
- 2.5 The licence fee will be paid in three annual payments, the first payment being received by the Council prior to the first market commencing and thereafter at 4 monthly intervals, subject to successful completion of reviews under 2.1 above.
- 2.6 Planning permission to hold a market at Leicester City Football Club must be secured prior to this agreement being signed.
- 2.7 The Applicant will provide a market stall at Leicester City Football Club for use by the Council at no cost.
- 2.8 Failure by the Applicant to pay either the licence fee or the qualitative survey information costs when requested by the Council will entitle the Council to revoke the licence.
- 2.9 The Council must be satisfied that the applicant complied with Clause 9.5 of the Rival Markets Policy prior to the License being granted.
- 2.10 Any review of the Council's policy will take effect on this licence from 12 and 24 months from commencement of the first market. i.e. the second and third review points.

Criteria used to determine whether the Sunday/bank holiday market is having a significant detrimental impact on the City Council's markets.

The judgement of significant detrimental impact will be based on a combination of quantitative and qualitative measures/assessments as set out below.

The two quantitative measures shown below would assess impact firstly in terms of the loss of income generally and secondly the reduction in stalls on any given market day. Qualitative assessments will be used to indicate whether any significant detrimental impacts identified through the quantitative measures are likely to be the result of migration of stallholders/shoppers from existing markets to the Sunday/Bank Holiday market at Leicester City Football Club, rather than any other factors.

#### 1. Quantitative

- A pro rata reduction in income to the City Council from stallholders on the city's existing markets that is more than the income received from the Leicester City Football Club market license (i.e. a net financial loss to the City Council). This assessment would be applied pro rata for any 6 month period between review points.
- A reduction in total stalls occupied at the outdoor central market of greater than 5% on any day of the week, over any continuous three month period within the review periods. This would be benchmarked against the daily occupancy level of stalls at the beginning of the review periods.

#### 2. Qualitative

- Evidence taken at the review points, from a stallholder survey and sample customer survey at both the city council markets and Leicester City Football Club market, indicating that stallholder and customer habits are changing such that there is a significant migration of stallholders and customers from the city's markets to the Football Club Sunday/Bank holiday market as a result of the latter.
- Evidence from the survey that this migration is likely to continue or increase in future.

#### **Next Steps**

- 4.20 A copy of this report will be made available to LCFC and LSD Promotions. A report will be prepared taking into account comments made and submitted through the Market Forum together with comments received from LCFC and LSD. The Council's Executive will take a decision on the basis of this report.

### **5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

#### **5.1. Financial Implications**

- 5.1 Leicester Markets service outturn for 2008/09 delivered a net trading surplus of £536.7k.

- 5.2 Last year the total income generated by the markets service was £1,870,600.

- 5.3 There is potential for a regular Sunday Market to impact upon the business levels of the existing markets, and therefore the income of both Traders and the City Council. The proposed License includes conditions that are intended to minimise that impact.
- 5.4 If a claim for Judicial Review is made with regard to the decision to be taken and the claim was successful, the Council would have to pay the legal costs of the successful party as well as its own costs. The amount would depend on whether the claim got past the permission stage.

### **Legal Implications**

- 5.5 Following the briefing meeting the Cabinet lead for the Environment had with market traders on 28th August, solicitors acting for the traders wrote to the Council on 24th September under the terms of the Judicial Review Pre-action Protocol. It was alleged amongst other things that the Council had not consulted with the Markets Forum prior to making a decision to grant a licence under the Council's markets rights to enable the proposed Sunday / Bank Holiday Market at LCFC to proceed. Legal Services responded by letter of 2nd October denying the allegations made and indicating that given the markets licence had not yet been issued to LSD Promotions, the Council would consider any fresh market licence considerations the market traders wished to raise. This report includes the traders' response, together with officer comments.
- 5.6 Judicial Review is the process whereby decisions taken by local authorities may be challenged and considered by the courts. The courts can quash decisions taken on the basis that, amongst other things, they are perverse/unreasonable if, for example, there have been procedural defects in a particular process such as failures to consult and/or consider material factors.
- 5.7 Before a Judicial Review can start, there is a requirement to set out grounds of challenge, and where a JR is instituted it is a two-stage process. If the court considers that a claim is arguable, permission is granted and the matter then goes forward to a full hearing where the court considers evidence submitted by way of witness statements. Where a JR claim is successful, the decision being challenged is quashed and the decision-making process in question has to be started afresh. It is possible in the course of JR proceedings for injunctions to be obtained to preserve the status quo.
- 5.8 The traders' solicitors have submitted a FOIA request to the Council which has been responded to.
- 5.9 This report deals with the issues raised by the traders.
- 5.10 The Markets Forum does not have any decision-making status. The final decision will be taken by the Council's Executive.

*Legal implications - Anthony Cross, Head of Litigation, x296362"*

**6. OTHER IMPLICATIONS**

OTHER IMPLICATIONS	YES/NO	Paragraph Within the Report	References
Equal Opportunities	No	The Council's existing markets serve all communities in Leicester.	
Policy	Yes	The application is considered in the context of the Rival Market Policy	
Sustainable and Environmental	Yes	Travel plan considerations would be included in any licence issued.	
Crime and Disorder	No		
Human Rights Act	No		
Elderly/People on Low Income	No	The Council's existing markets provide a service to the elderly and people on a low income.	

**7. RISK ASSESSMENT MATRIX**

Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (if necessary/appropriate)
1. The market at the walkers stadium has a detrimental adverse effect on the city centre	L	L	Proposed Market unlikely to divert trade from the City centre due to different retail offer.
2. The market has a detrimental effect on the Council's own operated markets.	L	L	Any licence issued would need to include special conditions to manage any significant adverse effects on existing market.
3. Legal action by way of Judicial Review	M/H	M	Careful consideration of all relevant information submitted should minimise the institution of Judicial Review proceedings but if issued should minimise the Council having to start a fresh decision-making process.

L – Low                      L – Low  
M – Medium                M – Medium  
H - High                     H - High

**8. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972**

Legal Services file reference 78042 containing in part exempt information.

**9. CONSULTATIONS**

Director of Planning and Economic Development  
Market Forum

Market Traders  
Leicester City Football Club  
LSD Promotions

**10. REPORT AUTHOR**

Nick Rhodes  
Head of Markets  
X 392370

## LEICESTER CITY COUNCIL RIVAL MARKETS POLICY

### 1. INTRODUCTION

- 1.1 Leicester City Council operates retail markets in the Market place, and also at Beaumont Leys Shopping Centre. Any market that is operated, other than by the City Council, within a radius of 6 2/3rd miles of any retail market shall be deemed to be a Rival Market.
- 1.2 A market shall be deemed a Rival Market, irrespective of the type of goods or general nature of the market. The legal definition of a market, being "a concourse of buyers and sellers" shall apply in the determining whether an event constitutes a rival market or not. In this respect such events as car boot sales, antiques fairs etc shall be deemed rival markets.

### 2. LICENSING POLICY

- 2.1 The City Council has approved a policy outlining conditions under which licenses will be issued to organisers/ operators allowing rival markets to be held. This revised policy is effective from 1<sup>st</sup> January 2008.
- 2.2 The licensing policy enables Leicester City Council to regulate markets within its radius to ensure that proposed markets do not become a nuisance to residents, neighbouring businesses and are operated in the appropriate manner.
- 2.3 Any person who wishes to operate a rival market may only do so if such a market has been licensed by the City Council. A license normally will be issued provided the application complies with relevant criteria.
- 2.4 Rival Markets will be categorised into four different types:
- (a) Car Boot Sales
  - (b) Speciality Markets
  - (c) Farmers Markets
  - (d) Regular Markets

### 3. CAR BOOT SALES

- 3.1 Car boot sales will be limited to a maximum of 50 trading positions (i.e. stalls / vehicles / pitches) each trading position shall be of a standard size with a maximum size of 8x6 feet (2.5 x 1.5 metres).
- 3.2 Car boot sales shall be restricted, as far as is possible, to householders selling surplus household articles. No new goods are permitted for sale at any car boot sale. The car boot sale description will also cover events such as computer, records, toy and book fairs providing all other car boot sale criteria are met.
- 3.3 Permission shall only be granted to any organisation or individual during the course of any twelve month period, to hold a maximum of six licenses.
- 3.4 Individuals shall be regarded as persons who are actually the organisers of the event. One individual will be permitted to apply per household.
- 3.5 An organisation shall be deemed a group, e.g. Scouts, P.T.A., Sports Clubs. All events that are for charitable purposes should only be applied for by the Charity concerned. A letter confirming that the full proceeds will be received by the organisation must be sent on application.
- 3.6 A registered charity may apply to hold a car boot sale and will need to supply their registered charities number on application. All proceeds must be received by the registered charity.

- 3.7 Any site or premises may only be used for a maximum of six car boot sales during the course of any twelve-month period. With not more than one market being held on a Sunday in any 28-day period. Should any part of the site or premises be used for a car boot sale, any other part of the site "or premises should not be deemed as a separate site or premises for the purposes of the condition. A site must be of a different location, have separate boundaries and be of a suitable distance from other operated sites, as described from time to time by the Council.
- 3.8 If, in the opinion of the Council, any organiser of a car boot sale either directly or indirectly contravenes any of these conditions, then the City Council will not issue that person with any further licenses to operate any markets within the 6 2/3rd mile boundary for a period of five years from the date of the breach.
- 3.9 Any venue used for the purposes of a car boot sale which, in the opinion of the Council, either directly or indirectly is used in contravention of these conditions will not be permitted to host any further markets of any description until such time as the matters giving rise to the breach have been remedied to the Council's satisfaction.
4. CAR BOOT SALE - LICENCE FEES
- 4.1 In respect of a car boot sale organised by commercial organisers/ operators:  
A £160.00 fee to be paid on application not less than 28 days before the event.
- 4.2 In respect of a car boot sale operated by non-commercial organisers/ operators:  
A deposit of £64.00 shall be required upon application not less than 28 days before the event, any balance payable within 14 days after the event. This deposit accounts for the first 20 trading places.  
A fee of £3.20 shall be payable for each trading position over 20 let, payable within 14 days after the event, subject to the minimum £64.00 deposit being retained by the council.
- 4.3 In respect of a car boot sale operated by registered charities:  
A deposit of £20.00 shall be payable on application not less than 28 days before the event, any balance payable within 14 days after the event. This deposit accounts for the first 20 trading spaces.  
A fee of £1.00 shall be payable for each trading position over 20 let, payable within 14 days after the event, subject to the minimum £20.00 deposit being retained by the council.
- 4.4 A refund for a cancelled market is available, providing notification is received prior to the day of the event. The refund is as follows:
- In the case of commercial organisers/ operators a £150.00 refund of the fee.  
In the case of non-commercial organisers/ operators a full refund of the £64.00 fee.
- In the case of registered charities a full refund of the £20.00 fee.
5. SPECIALITY MARKETS – CRITERIA
- 5.1 Speciality markets are themed markets whereby a mixture of new and second hand goods, fresh produce and other products may be sold, for example markets such as French and Continental.
- 5.2 Speciality markets will be limited to a maximum of 50 trading positions (i.e.: stalls / vehicles/ pitches) each trading position shall be of a standard size with a maximum size of 8x6 feet. (2.5 x 1.5 metres).
- 5.3 Speciality markets will be permitted for the sale of both new and second hand products.
- 5.4 Permission shall only be granted to any organisation or individual during the course of any twelve month period, to hold a maximum of three Speciality markets.
- 5.5 Individuals shall be regarded as persons who are actually the organisers of the event. One individual will be permitted to apply per household.

- 5.6 Any site or premises may only be used for a maximum three Speciality markets during the course of any twelve month period, with not more than one market being held on a Sunday in any 28-day period, should any part of the site or premises be used for a market, any other part of the site or premises should not be deemed as a separate site or premises for the purposes of the condition. A site must be of a different location, have separate boundaries and be a suitable distance from other operated sites, as described from time to time by the council.
- 5.7 If, in the opinion of the Council, any organiser of a specialist market either directly or indirectly contravenes any of these conditions, then the City Council will not issue that person with any further licenses to operate any markets within the 6 2/3rd mile boundary for a period of five years from the date of the breach.
- 5.8 Any venue used for the purposes of a Speciality market which, in the opinion of the council, either directly or indirectly is used in contravention of these conditions will not be permitted to host any further markets of any description until such time as the matters giving rise to the breach have been remedied to the Council's satisfaction.

## 6. SPECIALITY MARKETS - LICENCE FEES

- 6.1 In respect of a Speciality market licence the sum of £300.00 per trading day is required. The fee should be paid in full not less than 28 days before the event.
- 6.2 A refund for a cancelled market is available, providing written notification is given 7 days prior to the event. The refund will be £200.00 per trading day.

## 7. FARMERS MARKETS – CRITERIA

- 7.1 Farmers Markets are themed markets whereby local Farmers meet at a market to sell their own produce.
- 7.2 Farmers should live within a 30-mile radius of the operated market, and the organiser/ operator should supply the Council with a register of all Farmers trading together with the address of the farm.
- 7.3 Farmers Markets will be permitted for the sale of the Farmers own produce only. This produce shall not be produce that has been bought to directly sell on.
- 7.4 Farmers Markets will be limited to a maximum of 25 trading positions (i.e. stalls/ vehicles/pitches). Each trading position shall be of a standard size with a maximum size of 8x6 feet (2.5 x 1.5 metres).
- 7.5 Permission shall only be granted to any organisation or individual during the course of any twelvemonth period to hold a maximum of twelve Farmers Markets. Individuals shall be regarded as persons who are actually the organisers of the event. One individual will be permitted to apply per household.
- 7.6 No Farmers Market will be approved if it is proposed to operate it from a venue within 3 miles of a site previously authorised to hold such events.
- 7.7 Any site or premises may only be used for a maximum of twelve Farmers Markets during the course of any twelve-month period, with not more than one market being held on a Sunday in any 28-day period.
- 7.8 Should any part of the site or premises be used for a market, any other part of the site or premises should not be deemed as a separate site or premises for the purposes of the condition. A site must be of a different location and have separate boundaries and be a suitable distance from other operated sites, as described from time to time by the council.
- 7.9 If, in the opinion of the Council, any organiser of a Farmers Market either directly or indirectly contravenes any of these conditions, then the City Council will not issue that organiser with any



further licences to operate any markets within the 6 2/3<sup>rd</sup> boundary for a period of five years from the date of the breach.

7.10 Any venue used for the purposes of a Farmers Market which, in the opinion of the Council, either directly or indirectly is used in contravention of these conditions will not be permitted to host any further markets of any description until such time as the matters giving rise to the breach have been remedied to the Council's satisfaction.

## 8. FARMERS MARKETS – LICENCE FEES

8.1 A market licence fee will be charged of £300.00 per trading day, as per other market licence applications. The fee should be paid in full not less than 28 days before the event.

8.2 A refund of a cancelled market is available, providing written notification is provided 7 days prior to the event. The refund will be £200.00 per trading day.

## 9. REGULAR MARKETS CRITERIA

9.1 Applicants wishing to hold a regular market must provide the council with at least 28 days notice before the event.

9.2 Regular markets may be permitted with no restriction on size of market, goods sold or occasions held.

9.3 If it is proposed that the market shall be held for more than 14 days per year, the appropriate planning permission from the relevant local planning authority must be obtained. The planning approval must be granted and evidenced on application of the market. The granting of planning permission alone does not automatically grant the right to hold a licence.

9.4 Permission must be received from the venue owner and evidenced on application of the market.

9.5 The applicant should also provide:

- A plan showing the proposed layout of the market.
- A financial plan
- The company's policy on consumer protection
- The company's environmental policy
- The company's Health and Safety Policy, coupled with necessary risk assessments.
- Documentary evidence with supporting references demonstrating the applicants experience and track record.

9.6 If, in the opinion of the Council, any organiser of a Regular market either directly or indirectly contravenes any of these conditions, then the City Council will not issue that person with any further licenses to operate any markets within the 6 2/3<sup>rd</sup> mile boundary for a period of five years from the date of the breach.

9.7 Any venue used for the purposes of regular markets sale which, in the opinion of the council, either directly or indirectly is used in contravention of these conditions will not be permitted to host any further markets of any description until such time as the matters giving rise to the breach have been remedied to the Council's satisfaction.

## 10. REGULAR MARKETS - LICENCE FEES

10.1 In respect of a regular market the sum of £500.00 per trading day is required. The fee should be paid in full not less than 28 days before the event.

10.2 A refund for a cancelled market is available, providing written notification is given 7 days prior to the event. The refund will be £250.00 per trading day.

## 11. LICENCE APPLICATIONS

- 11.1 An application for a licence must be made on an official application form obtainable from: The Markets Manager, 3rd floor Market Centre, Leicester LE1 5HQ
- 11.2 Completed application forms must be returned to the above address, so as to arrive not less than 28 days before the event. The required fees outlined in sections 4, 6, 8 and 10 must accompany all applications.
- 11.3 All organisers/ operators who wish to operate markets will be required to submit a passport sized photograph with the application form. Failure to comply with this requirement will result in the application being rejected.
- 11.4 The organiser/operator undertakes not to affix any notices or signs related to the event to any street furniture, structure or trees on the public highway. Such signs contravene section 132 of the Highways Act 1980.

## 12. FINAL LICENCE FEE

- 12.1 All non-commercial and registered charity car boot organisers/ operators issued with a licence will be required to complete a pro-forma indicating the number of trading positions let. The pro-forma that will be sent to applicants with a licence must be returned to the Markets Manager (see 9.1 above) within 14 days of the event being held.
- 12.2 In respect of non-commercial and registered car boot organisers/ operators this pro-forma will be used to calculate the balance of the licence fee due. Any such balance must accompany the proforma.
- 12.3 Any charity not completing a pro-forma as required will not be granted any further licences until compliance.

## 13. GENERAL

- 13.1 All payment of licence fees paid by cheque must be crossed and made payable to Leicester City Council.
- 13.2 Periodic visits will be made to licensed markets by an officer of the City Council to ensure compliance with the licensing conditions. The standard conditions attached to any licence will include a right of access for authorised Council Officers. Any non-compliance with the conditions, including attempts to avert payment of the full licence fee, will result in future applications being refused.
- 13.3 The Council has adopted Section 37 of the Local Government (miscellaneous provisions) Act 1982. This requires that the Council be given at least one months notice of any intention to operate or hold a temporary market. Full details of these requirements including the definition of a temporary market are available from the Markets Manager. The requirements of Section 37 are separate and distinct from the application for a licence from the Council under this policy and must be complied with in each case.
- 13.4 It is the responsibility of the organiser and operator to ensure that the market does not become a nuisance to residents or neighbouring businesses, and are operated in an appropriate manner, including compliance with relevant legislation for public events and with Environmental Health and Trading Standards requirements.
- 13.5 Applications will be treated on an individual basis, however additional conditions may be applied to an organiser, operator or venue dependant upon circumstances. Such conditions will also be a condition of the licence being granted.
- 13.6 The Council may from time to time need to consult with external organisations / groups such as Police, Highways Dept, Trading Standards, Emergency Services and residential parties.

- 13.7 The Council reserves the right to take formal legal action against any person(s) or company who attempts to operate an unlicensed rival market.

## Appendix 2

**NATIONAL MARKET TRADERS FEDERATION  
(LEICESTER BRANCH)  
RESPONSE TO APPLICATIONS FOR PLANNING PERMISSION AND RIVAL MARKETS  
LICENCE TO HOLD  
REGULAR SUNDAY AND BANK HOLIDAY MARKETS  
– WALKERS STADIUM, LEICESTER**

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## **1.0 Introduction**

- 1.1 This is a response, submitted by Marrons solicitors on behalf of the Leicester Branch of the National Market Traders Federation (“the Federation”), to applications by LSD Promotions Ltd and Leicester City Football Club Ltd for Planning Permission and a Rival Markets Licence respectively to hold regular Sunday and Bank Holiday Markets at the Walkers Stadium, Leicester.
- 1.2 The Federation represents the collective interests of local market traders in both Leicester and Beaumont Leys local authority markets. Its interest in the above applications is obvious, but even more so as a result of its membership (with officers and members of the Council) of the ‘Markets Forum’, to which proposals relating to rival markets have routinely been referred since its inception in 1994.
- 1.3 The Federation’s response to the applications, submitted at the express invitation of Leicester City Council (“the Council”)<sup>1</sup>, urges the Council not to grant planning permission or to issue a rival markets licence authorising the holding of regular markets at the Walkers Stadium on Sundays and Bank Holidays on the basis that to do so would be contrary to the public interest.
- 1.4 Although the Council has responded to a number of recent FOIA requests made on behalf of the Federation, the information provided to date has raised questions as to whether the Council may be in possession of further relevant information that could inform the Federation’s response to these applications, as a result of which further FOIA requests have been made.
- 1.5 Pending receipt of any such further information, the Council should consider this to be a provisional response, which may or may not be supplemented in due course in the light of any relevant matters contained in any further information that may be disclosed.

<sup>1</sup> See letter of the Head of Litigation to Marrons dated 2 October 2009, paragraph 4  
Leicester Market Traders Federation – Response to Applications for Planning Permission and Rival Markets Licence Walkers Stadium  
Leicester (October 2009)

## 2.0 The duty of the Council to act in the Public Interest

- 2.1 A market has been held in Leicester for over 700 years, pursuant to a series of Royal Charters under which the Council (the current holder of the franchise) now has the sole and exclusive right to hold markets within the common law distance of 6 $\frac{2}{3}$ miles.
- 2.2 This right is held by the Council for the *benefit of the public*<sup>2</sup>, axiomatically it must be exercised in the public interest. Indeed, many of the rules which have grown up under the common law for the purpose of regulating rights and duties of market franchises have been formulated with the public interest in mind<sup>3</sup>.
- 2.3 A duty to protect the franchised rights for the public has both been recognised, and consistently exercised, by the Council over many years. For example, in a report to the Council's Property and Services Committee in September 1993<sup>4</sup>, the Director of Resources acknowledged that:  
*"...These market rights belong to the citizens of Leicester and it should be viewed as obligatory to continue to protect such rights"*
- 2.4 As a result, the Council opposed Government plans to withdraw franchise market rights inter alia on the grounds that the viability of the central market could well be affected. Such plans were subsequently abandoned by the Government in May 1994.
- 2.5 Furthermore, in approving the most recent revision to the Rival Markets Policy to enable monthly Farmers Markets to be held in Blaby, the Cabinet Lead and the Leader agreed:  
*"...that the City Centre Market should be supported and protected"*<sup>5</sup>

<sup>2</sup> 'The justification for the grant of a monopoly of market is that the existence of the market is for the benefit of the public. If the market keeper is not to get his outlay back and something more, he will give up the market, and where will the public be then?' per Hamilton L.J. in *A.G. v Horner (No.2)*[1913] 2 Ch.140 at p.198 (referring also to the observations of Lord Macnaghten in *Simpson v. A.G.* [1904] A.C. 476 at p.483). See also the remarks of Slade L.J. in *Sevenoaks District Council v. Patullo & Vinson Ltd* [1984] 1 All ER. 544 at p.551

<sup>3</sup> See *Pease & Chitty's Law of Markets and Fairs* at p. 1-4

<sup>4</sup> In relation to a consultation paper published by the Department of Environment which tabled proposals for the withdrawal of franchise market rights

<sup>5</sup> Minutes of the Meeting of Cabinet, 15 October 2007 – Minute 112

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### 3.0 Legal Protection of the Markets

- 3.1 It is perhaps unsurprising, in the light of all the above, that the Borough Records<sup>6</sup> reveal the constant efforts of the Corporation over the centuries to protect its market rights, as set out in a report<sup>7</sup> which concludes:  
*“The growth of Leicester’s markets in their economic importance and legal status is clear, as is the constant battle of the Corporation of Leicester to protect the rights of its citizens and markets”.*
- 3.2 Caselaw<sup>8</sup>, in which the Council sought, and successfully secured, High Court injunctions to prevent rival markets operating within 6 $\frac{2}{3}$  miles of the existing Charter Market), provides further and more recent examples of the efforts that the Council has made to legally protect its market rights.

#### **Rival Markets Policy and Market Forum**

- 3.3 The Council has, since 1985/6 sought to protect its markets through its “Rival Market Policy”. Since 1994 this has been supported by the introduction of a “Market Forum”, the objective of which is:  
“...to increase the profitability of the market and to improve the overall service”
- 3.4 The terms of reference for the Market Forum<sup>9</sup> include:  
“iv) Rival Markets  
e.g: To report any events operating contrary to the rival market policy...  
viii) To explore extending its current facilities  
e.g: Introduction of a market kiosk, other markets, ie **Sunday Markets**<sup>10</sup> etc”.
- 3.5 In relation to the terms of reference, the 1994 Report comments:  
“It is hoped that by discussing such topics openly and positively the combination of the Leicester City Council and their Market Traders will be able to use their knowledge **to the benefit of the Citizens of Leicester**<sup>11</sup>”
- 3.6 The Council introduced its Rival Markets Policy in 1985/6. The Policy appears to have been subsequently revised on a number of occasions, the last of which was in January 2008.

<sup>6</sup> In the care of Leicestershire Records Office

<sup>7</sup> ‘Leicester Market Rights – A Report on the documentary evidence for the rights of Leicester’s Markets from the Borough Records in the care of Leicestershire Record Office’ (Robin P. Jenkins) (date unknown)(Copy attached)

<sup>8</sup> (*Leicester Corporation v Maby* (1972) 70 LGR; 136 LGR. Rev.402, and *Leicester City Council v Oxford and Bristol Stores Limited* (21 December 1978)(unreported)

<sup>9</sup> Report of the Director of Resources to the Property Services Committee (10 August 1994) (“the 1994 Report”)

<sup>10</sup> Emphasis added

<sup>11</sup> ditto

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- 3.7. The Policy outlines the conditions under which the Council may be prepared to issue a licence to operators allowing rival markets to be held within a radius of 6 $\frac{2}{3}$  miles of any retail market operated by the Council.
- 3.8 Although not expressed in the Policy itself, the following matters may reasonably be inferred from the historical and factual background:
- (i) the purpose behind the requirement in the Policy to license rival markets is to protect the local authority's franchised market rights;
  - (ii) such rights belonging to the citizens of Leicester, axiomatically the Policy subject to which rival market licence applications are determined, must be applied with the public interest in mind.

***The right to be consulted on applications for Rival Markets Licences***

- 3.9 It is perhaps unsurprising in these circumstances, that it has been the custom and practice of the Council over many years to consult the Market Forum both regarding proposed revisions to the Rival Markets Policy and upon significant applications for Rival Markets Licences.
- 3.10 Thus the Market Forum were consulted on the most recent revision of the Rival Markets Policy (January 2008) in September 2007 prior to its consideration by Cabinet (to which its recommendations were reported), and upon the application now under consideration in November 2008 prior to its subsequent rejection by the Corporate Director of Regeneration and Culture in consultation with the Cabinet Lead Member.
- 3.11 On this basis, the Federation considers that it has a legitimate expectation to be consulted on such matters generally, and in any event specifically in relation to the purported re-determination of this application. The inclusion, within the terms of reference of the Market Forum, of exploring extending the current market's facilities including e.g. Sunday Markets, only serves to strengthen the Federation's expectation that it will be consulted upon any major rival Sunday market proposal of this nature.
- 3.12 In the circumstances, the Council's Head of Litigation's suggestion, in his letter dated 2 October 2009, that no legitimate expectation of prior consultation exists and that the Council's duty does not extend beyond merely reporting decisions already made in respect of rival market licence applications, is frankly perverse, and in any event contrary to the evidence.
- 3.13 Furthermore, the mere notion that a decision that could have a profound impact on one of the key city centre facilities should be taken without carrying out such consultation, is fanciful, and contrary to the wishes of Government. Indeed in a paper published for town centre managers in April 2009<sup>12</sup>, the Government, in line with its general policy to promote public participation in planning, re-iterated that:
- "...the more that local people have a say in decisions that affect their town centre – whether that be on future planning proposals or options for using vacant shops – the more likely it is that they will feel connected to it, and will want to support it. They can help local authorities think creatively, and often have innovative ideas for improving the delivery of local services".*

<sup>12</sup> 'Looking after our Town Centres'(DCLG)(April 2009). Reference number: 09 CRLD 05879 ISBN: 978-1-4098-  
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3.14 As far as the Federation is aware, the application for a Rival Markets Licence in this case was determined by the Corporate Director of Regeneration and Culture in consultation with the Cabinet Lead Member some time between 18 November 2008 and 15 January 2009, following which the applicants were informed of the decision to refuse the application, and, subsequently, the reasons for it. It is noted, from the Council's response to our FOI Act Request, that there is no right of appeal against such a refusal.

3.15 The Federation therefore questions the *vires* of the Council now to re-determine the application in any event, which it purports to do, not as a result of a fresh application, but as a result of a request from the applicant that the previous decision "*might be reconsidered*"<sup>13</sup>. In the absence of any right of appeal against the former refusal, under what authority does the Council purport now to "reconsider" an application that has already been finally determined and its determination notified to the applicant?

3.16 Furthermore, even if (which is denied) the Council does have power to re-determine the application, it is noted that it is intended that the re-consideration and decision "...*would be taken by a different director in consultation with a different councillor...*"<sup>14</sup>. Given, however, that the authority to grant permissions under the Rival Markets Policy would appear to be vested in the Corporate Director of Regeneration and Culture in consultation with the Cabinet Lead Member<sup>15</sup>, under what authority is it suggested that a "*different director in consultation with a different councillor*" would be acting?

<sup>13</sup> Letter Head of Litigation to Marrons 2 October 2009 paragraph 17

<sup>14</sup> *ibid* paragraph 4

<sup>15</sup> Minutes of the Meeting of Cabinet, 15 October 2007 – Minute 112  
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## 4.0 Merits

4.1 The Council has successfully operated a market in the City Centre for many years. The market is part of the country's heritage and tradition.

4.2 The local authority market makes a vital contribution to the commercial viability of the city centre. By way of example, the Council's Business web-page currently includes the following:  
**"LEICESTER MARKET WINS NATIONAL AWARD"**

### **Leicester is Britain's favourite market - OFFICIAL.**

During the months of December 2008 and January 2009 the nation had been casting its online votes at the NABMA website for its favourite markets. In the tightest of decisions it was the well-known Leicester Market that polled the highest votes.

BBC MasterChef winner Thomasina Miers presented the trophy to the jubilant Leicester Markets team led by Councillor Paul Westley and Markets Manager Nick Rhodes.

NABMA Chief Executive, Graham Wilson congratulated Leicester. **"Such a public accolade is a real endorsement of the importance that the city and its visitors place on its markets"**.

**The results of such an event not only reflects the popularity of the market and the confidence that people have in the market but also substantiates the statement that THE MARKET PLAYS A VITAL ROLE IN THE LIFE OF THE CITY"**.<sup>16</sup>

4.3 In purely financial terms, the Council will be conscious of the fact that the market is an extremely valuable asset to the City, posting a surplus of £585,000 in 2008<sup>17</sup>.

### **Retail Planning Policy considerations**

4.4 The market is, furthermore, an important component of the overall balanced retail offer within the City Centre, the vitality and viability of which all levels planning policy seek to sustain and enhance.

4.5 Thus the Council itself is committed, through its own Local Plan:  
• to sustain and enhance the vitality and viability of the City Centre, in particular its role for comparison goods shopping;<sup>18</sup>

4.6 In the above context, 'City Centre' means the *Central Shopping Core*, outside of which national and regional retail planning policies are restrictive towards proposals for retail development. Thus the **East Midlands Plan RSS (March 2009)**, which recognises Leicester as a '*nationally ranked shopping centre*' which should be encouraged to develop its role, requires that:  
'Local Authorities, emda and Sub-Regional Strategic Partnerships<sup>19</sup> should work together on a Sub-area basis to promote the vitality and viability of existing town centres'

### **National Policy Support for Town/City Centres**

4.7 In planning policy terms, the Government is committed to a 'town-centre first' approach of which promoting the vitality and viability of town centres is a key part.

4.8 Thus **PPS6 'Planning for Town Centres'**<sup>20</sup> paragraph 1.3 provides:  
"The Government's key objective for town centres is to promote their vitality and viability by:  
-planning for the growth and development of existing centres; and  
-promoting and enhancing existing centres, by focusing development in such centres and encouraging a wide range of services in a good environment, accessible to all".

<sup>16</sup> Emphasises added

<sup>17</sup> Minutes of the Meeting of the Markets Forum, 12 March 2009, Minute 53

<sup>18</sup> City of Leicester Local Plan (January 2006) – paragraph 8.3

<sup>19</sup> Policy 22

<sup>20</sup> (March 2005)

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4.9 Furthermore, the Government has recently consulted on a new **PPS4 'Planning for prosperous Economies'** which proposes, in updating PPS6, to maintain the commitment to town centre development i.e.

'6. The Government's objectives are to...

- ...promote the vitality and viability of town and other centres as important places for communities and ensure that they are economically successful recognising that they are important drivers for regional, sub-regional and local economies. To do this, the Government wants:
  - new economic growth and development to be focused in existing centres, with the aim of offering a wide range of services in an attractive and safe environment
  - competition between retailers and enhanced consumer choice through the provision of innovative and efficient shopping, leisure, tourism and local services in town centres, which allow genuine choice to meet the needs of the entire community, and particularly socially excluded groups
  - the historic, archaeological, architectural heritage of centres to be conserved and, where appropriate, enhanced to provide a sense of place and a focus for the community and for civic activity'

4.10 Policy EC6 in the proposed new PPS4 contains policy guidance on the local planning approach to planning for consumer choice and promoting competition for town centre development i.e.

'EC6.1 Local planning authorities should proactively plan for consumer choice and promote competitive town centre environments by:

1. supporting the diversification of uses in the town centre as a whole
2. planning for a strong retail mix so that the range and quality of the comparison and convenience retail offer meets the requirements of the local catchment area
3. recognising that smaller shops can significantly enhance the character and vibrancy of a centre and make a valuable contribution to consumer choice
4. retaining and enhancing existing markets and, where appropriate, re-introducing or creating new ones, ensuring that markets remain attractive and competitive by investing in their improvement<sup>21</sup>
5. planning for a range of tourism, leisure and cultural activities, which appeal to a wide range of age and social groups, and ensuring that these are distributed throughout the centre and
6. taking measures to conserve and, where appropriate, enhance the established character and diversity of their town centres'

4.11 In a recent response to a House of Commons Communities and Local Government Committee Report on "**Market Failure? – Can the traditional markets survive?**"<sup>22</sup> the Government has welcomed:

'...the Select Committee's report into traditional retail markets and the recognition it gives to **the importance of local support for markets and our work to include markets in our national planning policy**'<sup>23</sup>.

4.12 The Government response agrees with the Committee's assessment of the valuable contribution that street, covered and farmers' markets can make to local choice and diversity in shopping, as well as to the vitality of town centres, and that efforts to secure the survival of street markets can lead to regeneration of the wider area, and is pleased to note that the Committee:

'...agrees that local authorities are best placed to have a vision for their town centre and to be **the key source of public support for markets**'<sup>24</sup>.

<sup>21</sup> emphasis added

<sup>22</sup> ISBN: 9780101772129. ID P002326296 10/09 521 19585

<sup>23</sup> emphasis added

<sup>24</sup> ditto

- 4.13 The commitment to a ‘town-centre first’ policy and the promotion of the vitality and viability of town centres is noted in the response as ‘a key part’ of the overall approach with successful town centres needing investment and a strong retail mix – *of which Markets are part*. However, the response warns that the mix :  
‘...cannot be delivered from a desk in Whitehall. That is why we require local authorities, as an integral part of the vision for their town centres, **to seek to retain and enhance existing markets** and, where appropriate, re-introduce or create new ones’.
- 4.14 Where it is appropriate to introduce or create new markets, the clear intention is that these should be in town centres in accordance with current and emerging retail planning policy. Thus paragraph 15 of the Government’s response states:  
‘15. Government has strong planning policies for markets. Planning Policy Statement 6 (PPS6): *Planning for town centres* (2005) requires local authorities, as part of their vision for their town centres, to seek to retain and enhance existing markets and, where appropriate, re-introduce or create new ones. PPS6 also states that local authorities should ensure that their markets remain attractive and competitive by investing in their improvement’.
- 4.15 Paragraph 16 continues:  
‘16. We encourage local authorities to adopt a proactive positive planning approach to their centres and to facilitate a diverse and competitive economy. Through flexible town centre strategies local authorities can **encourage new retail and other opportunities such as markets and protect the vitality and viability of their town centres**, ensuring that a mix of uses is maintained, in order to meet the needs of the community and promote consumer choice’<sup>25</sup> .
- 4.16 Reference is then made to the consultation on the proposed new PPS4 ‘*Planning for prosperous Economies*’ the aim of which is:  
‘...to create a coherent and modern set of policies designed to meet the challenges town centres and other areas face both now and over the longer term. As part of this, **PPS4 maintains our strong policy approach to markets**’<sup>26</sup> .
- 4.17 The Response also points out that markets can play an important role in area regeneration – making a visible and powerful contribution to economic and social life within towns and cities. By providing a focal point for economic and social interactions, attracting visitors to key centres, and providing employment opportunities to local residents, street markets can catalyse better outcomes for people and places.
- 4.18 As we have already noted, the Government’s commitment to town and city centres is encapsulated in its current and emerging development control policies. Thus, **PPS6 paragraph 3.4** provides, in relation to proposals for retail development:  
‘3.4 In the context of development control and subject to the policies set out below, local planning authorities should require applicants to demonstrate:  
a) the need for development (paragraphs 3.8–3.11);  
b) that the development is of an appropriate scale (paragraph 3.12);  
c) that there are no more central sites for the development (paragraphs 3.13–3.19);  
d) that there are no unacceptable impacts on existing centres (paragraphs 3.20–3.23); and  
e) that locations are accessible (paragraphs 3.24–3.27).  
3.5 Subject to the policies set out below, local planning authorities should assess planning applications on the basis of the above key considerations and the evidence presented. **As a general rule, the development should satisfy all these considerations**. In making their decision, local planning authorities should also consider relevant local issues and other material considerations’<sup>27</sup> .

<sup>25</sup> Emphasis added

<sup>26</sup> ditto

<sup>27</sup> Emphasis added

## **Need**

### 4.19 **PPS6 paragraph 3.9** provides:

'3.9 Need must be demonstrated for any application for a main town centre use which would be in an edge-of-centre or out-of-centre location and which is not in accordance with an up-to-date development plan document strategy'.

4.20 The Walkers Stadium is at best an edge of centre location, but more likely out-of-centre given that it is not within easy walking distance (i.e. up to 300 metres) of the primary shopping area<sup>28</sup>.

4.21 The background documentation to the planning application submitted in October 2006 and considered by the Planning and Development Control Committee on 18 March 2008 contains no evidence that demonstrates a *need* for a Regular Sunday Market to be held at the Walkers Stadium<sup>29</sup>.

4.22 Furthermore, the only reference to '*need*' in the papers disclosed under the FOI in response to various Freedom of Information Act requests, is in paragraph 6 of the applicants' Business Plan which states as follows:

#### '6. AIMS AND OBJECTIVES

Leicester City Council has identified a need for a Sunday market and chose Walkers Stadium as the 'ideal venue'

4.23 The issue of the choice of the Walkers Stadium to hold the marke is addressed below in the context of the sequential test and retail impact, however, the suggestion that it is the City Council that has apparently identified the *need* for a Sunday market is particularly intriguing, given that no evidence has been unearthed to support such a contention - in particular there is no reference in the Report of the Service Director, Planning and Policy to the Planning and Development Control Committee on 18<sup>th</sup> March 2008 that demonstrates that such a need exists in any event.

<sup>28</sup> PPS6 Table 2

<sup>29</sup> As disclosed on the Council's electronic Planning Database

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4.24 This begs the question as to whether such evidence is in fact available to the Council. If it is, then the Federation is, of course, entitled to see it, and a request for such information has accordingly now been made the subject of a further FOIA request. If no such evidence exists, however, then quite clearly the first requirement of PPS6 paragraph 3.4 has not been met.

**Scale**

4.25 What evidence has been submitted to/considered by the Council as to whether the proposed market at the Walkers Stadium is of an appropriate scale? Again no evidence has been seen in the background papers to suggest that this issue has been considered at all.

**Sequential Test**

4.26 PPS6 paragraph 3.14 provides:

'3.14 In selecting sites, <sup>30</sup> **all options in the centre should be thoroughly assessed before less central sites are considered**' .

4.27 Assuming (for the sake of argument) that a need for a Sunday market can be demonstrated, did the Council, before choosing the Walkers Stadium as *'the ideal venue'*<sup>31</sup>, assess all of the options for holding a market in the Central Shopping Core? If not, then axiomatically the choice of a 'less central site' is fundamentally flawed.

**Impact on the vitality and viability of the Central Shopping Core**

4.28 PPS6 paragraph 3.20 requires that:

'Impact assessments should be undertaken for any application for a main town centre use which would be in an edge-of-centre or out-of-centre location and which is not in accordance with an up-to-date development plan strategy'.

4.29 Once again there is no reference in any of the background papers, including the relevant Committee Report, to any retail impact assessment having been undertaken in accordance with established national planning policy.

4.30 Finally, an applicant is required to demonstrate that the development will be in an *accessible* location. Whilst we do not doubt that the Walkers Stadium is accessible, we are bound to say that in providing 1,200 car parking spaces and in anticipating 1,500 cars attending the market on a weekly basis, the proposed development's obvious reliance on car bound journeys raises a huge question-mark over its overall sustainability credentials.

<sup>30</sup> Emphasis added

<sup>31</sup> See paragraph 4.11 above

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- 4.31 In the absence of any evidence to the contrary, it is patently obvious that in considering the application for planning permission, the Council has failed to require the applicant to demonstrate any of the requirements set out in PPS6 paragraph 3.4 i.e. that there is a *need* for the development, that the development is of an appropriate *scale*, that there are *no* more *central sites* for the development, that there are no unacceptable *impacts* on existing centres, or that the proposed development is *accessible by sustainable transport means* i.e. otherwise than by car.
- 4.32 If the Council had had regard to such matters, and assuming for the sake of argument that there was a demonstrable need for a regular Sunday market in Leicester, the fact would surely not have been lost on the Council that floorspace, currently unused on Sundays and Bank Holidays, does exist within the Central Shopping Core, i.e. in the central market place, in any event. **PPS6 paragraph 3.19** provides:  
 'Where it is argued that otherwise sequentially-preferable sites are not appropriate for the particular development proposed, applicants should provide clear evidence to demonstrate why such sites are not practicable alternatives in terms of:
- Availability: the sites are unavailable now and are unlikely to become available for development within a reasonable period of time (determined on the merits of a particular case). Where such sites become available unexpectedly after receipt of the application the local planning authority should take this into account in their assessment of the application; and
  - Suitability: with due regard to the requirements to demonstrate flexibility (paragraphs 3.15–3.18), the sites are not suitable for the type of development proposed; and
  - Viability: the development would not be viable on these sites'.
- 4.33 If the Council has not assessed the availability of the market place for a Sunday market, its suitability for the same, or whether a Sunday market would be viable on that site, then it is frankly in no position to choose an out-of-centre site in preference to an in-centre location.
- 4.34 Furthermore, even if it was concluded that the central market place was not suitable/viable for a Sunday market to be held there, and there were no other centrally located sites available, the Council is not in a position to grant planning permission for the markets to be held in an out of centre location without first assessing the impact of the same on the vitality and viability of the Central Shopping Core.
- 4.35 The emerging policy for town centres in draft PPS4, which maintains and builds upon the 'town-centre first' approach, then goes on to provide:
- 'EC21. 1 Having considered the evidence, local authorities should determine planning applications for town centre uses that are **not in a centre** or allocated in an up to date development plan in the following way:
1. **refuse** planning permission where the applicant has not demonstrated compliance with the requirements of ...**(the sequential approach)**
  2. **refuse** planning permission where there is clear evidence that the proposal is likely to lead to **significant adverse impacts** in terms of mitigation of or adaptation to climate change or any one or more other key impacts under Policy EC20.1(3) (the impact assessment)<sup>32</sup>
- 4.36 The Right Honourable Patricia Hewitt, Member of Parliament for Leicester West writes in a letter dated 14<sup>th</sup> October 2009<sup>33</sup>
- 'I do not believe that this proposal should go ahead unless a full and thorough impact assessment and consultation draws conclusive evidence that shows that it will not have a negative impact on Leicester market'

<sup>32</sup> Emphases added

<sup>33</sup> Copy appended hereto

- 4.37 It is no good, with respect, reviewing the impact of the Walkers Market on trade within the Central market and Central Shopping Core generally after six months as was suggested by the Cabinet Lead to be the intention of the Council in granting the market licence. Impact assessment should be carried out, as required by Government Planning Policy, before planning permission and a market licence are granted.
- 4.38 Annex A of the draft PPS warns that ‘Retaining or improving retail diversity and consumer choice and safeguarding town centre vitality and viability will be challenging in the short term’ and thus; ‘The inclusion of retail diversity and consumer choice as considerations in the impact test should **encourage development which supports a good retail mix. The proposed impact test will also require local authorities to consider the effects of new development upon existing town centre trade and turnover.** This will enable local authorities to make decisions appropriate to their local circumstances when considering development proposals’<sup>34</sup>.

### ***The Cabinet Lead’s approach***

- 4.39 In her Briefing Note to market traders circulated at a meeting held on 28 August 2009, the Cabinet Lead claimed that in considering the Walkers Stadium application the Council...  
*“...had to balance out two issues. Firstly that a successful Sunday market at the Football Club would be good for Leicester as a whole, it would attract people to the City on a Sunday, and would add to the city’s profile and prosperity”*
- 4.40 With respect to the Cabinet Lead, such a view is entirely misconceived. There can be no question of a market at the Walkers Stadium, given its location well outside the Central Shopping Core, encouraging linked trips between itself and the City Centre, and thus no evidence to support the contention that the Walkers Stadium market would attract people into the City Centre. Indeed, the Walkers Stadium Market would be an ‘end destination’ in itself.
- 4.41 Thus, the antithesis of what Councillor Russell said in her briefing note in August 2009 would be a more likely scenario i.e. the existence of such a major retail facility outside the Central Shopping Core would not only fail to attract people into the Core, but would most likely draw trade out of it, thereby potentially undermining its vitality and viability.
- 4.42 In light of all of the above, the Council should be in no doubt that the Federation would therefore view any decision to confirm the grant of planning permission for a regular Sunday Market to be held at the Walkers Stadium, particularly in the absence of considering *need*, applying the *sequential test*, and considering the *impact* of such a proposal on the *vitality and viability* of the Central Shopping Core, to be contrary to extant and emerging Government Policy, fundamentally flawed and susceptible to legal challenge.
- 4.43 The grant of planning permission is, of course, in this case, a pre-requisite to the grant of a Rival Markets Licence<sup>35</sup>. If, therefore, the planning permission is impugned, any corresponding grant of a Rival Markets Licence will itself also be vulnerable and, as a result, unreliable.

### ***LSD Promotions Ltd – other market operations***

<sup>34</sup> Emphasis added

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<sup>35</sup> Rival Markets Policy (January 2008) paragraph 9.3

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- 4.44 The following statement appears in the executive summary of LSD Promotions Ltd's Business Plan for the Walkers' Stadium market:  
*"LSD Promotions Ltd has been operating/managing market on behalf of Local Authorities and Private Developers for over 20 years, the company currently organises and has a wealth of experience in street markets in a selection of towns and cities across the Midlands"*
- 4.45 A number of testimonials are then attached to the Business Plan, including the following, in response to which we have the following comments:
- i. *Wyre Forest District Council – Re: Kidderminster Street Market*  
 It is to be noted that this is Kidderminster's only market, held in the town centre on Thursdays and Saturdays under rights granted in 1240. LSD therefore operate the market pursuant to the Local Authority's franchised rights and not as a Rival Market.
  - ii. *Wolverhampton City Council – Re: Wolverhampton Farmers Market*  
 This market, held on the first Friday in each month, is held in the City's main shopping area. The market is not a Rival Market but compliments the daily market, held pursuant to rights granted in 1204.
  - iii. *Dudley MBC – Re: Halesowen Street Market*  
 This is Halesowen's only market, held in the town centre on the second and fourth Saturday of each month, pursuant to a number of market charters including in particular a grant in 1344 by Edward III to the abbot and convent of a weekly market on Mondays, confirmed in 1609, with Saturday becoming the market day in 1869. As with Kidderminster, therefore, LSD operate this market pursuant to the Local Authority's franchised rights and not as a Rival Market.
  - iv. *Stourbridge Street Market*  
 The testimonial, dated 4<sup>th</sup> September 2008, is from the former Stourbridge Town Centre Manager. Presumably the Council is aware, however, that later in 2008, LSD 'pulled the plug' on the market (the rights for which were granted in 1486, by Henry VII) blaming the lack of a suitable location when work on the town centre development began. The popular market, however, re-opened under new operators in February 2009.
  - v. *Shrewsbury & Atcham Borough Council – Re: Shrewsbury Sunday Market*  
 Since the testimonial, dated 2 September 2008, was obtained, LSD Promotions have also pulled out of operating Shrewsbury Market, which continues under new operators (Town and Country Markets).

## 5.0 Summary and Conclusions

- 5.1 A market has been held in Leicester for over 700 years, pursuant to a series of Royal Charters under which the Council now has the sole and exclusive right to hold markets within the common law distance of 6 $\frac{2}{3}$ miles.
- 5.2 This right is held by the Council for the *benefit of the public*<sup>36</sup>, axiomatically it must be exercised in the public interest.
- 5.3 A duty to protect the franchised rights for the public has been consistently exercised, by the Council over the years. For example the Council opposed Government plans in 1994 to withdraw franchise market rights inter alia on the grounds that the viability of the central market could well be affected, and in applying its Rival Markets Policy has agreed that the City Centre Market should be supported and protected.

<sup>36</sup> 'The justification for the grant of a monopoly of market is that the existence of the market is for the benefit of the public. If the market keeper is not to get his outlay back and something more, he will give up the market, and where will the public be then?' per Hamilton L.J. in *A.G. v Horner (No.2)*[1913] 2 Ch.140 at p.198 (referring also to the observations of Lord Macnaghten in *Simpson v. A.G.* [1904] A.C. 476 at p.483). See also the remarks of Slade L.J. in *Sevenoaks District Council v. Patullo & Vinson Ltd* [1984] 1 All ER. 544 at p.551

- 5.4 The Borough Records reveal the constant efforts of the Corporation over the centuries to protect its market rights. This has also been reflected more recently in applications by the Council to the

High Court for injunctions to prevent rival markets operating within 6 $\frac{2}{3}$  miles of the existing Charter Markets.

- 5.5 The Council has, since 1985/6 sought to protect its markets through its “Rival Market Policy”, supported, since 1994 by the introduction of a “Market Forum”.
- 5.6. The Rival Markets Policy outlines the conditions under which the Council may be prepared to issue a licence to operators allowing rival markets to be held within a radius of 6 $\frac{2}{3}$  miles of any retail market operated by the Council, for the purposes of protecting the Council’s franchised market rights;
- 5.7 Unsurprisingly, therefore, it has been the custom and practice of the Council to consult the Market Forum both regarding proposed revisions to the Rival Markets Policy and upon significant applications for Rival Markets Licences, including the current application prior to its initial refusal, on which basis the Federation considers that it has a legitimate expectation to be consulted on such matters generally, and in any event specifically in relation to the purported re-determination of this application.
- 5.8 As the application for a Rival Markets Licence in this case appears to have been determined some time between 18 November 2008 and 15 January 2009, following which the applicants were informed of the decision to refuse the application, and, subsequently, the reasons for it, and there is apparently no right of appeal against such refusal, the Federation questions the *vires* of the Council now to re-determine the application in any event.
- 5.9 Furthermore, even if (which is denied) the Council does have power to re-determine the application, given that the authority to grant permissions under the Rival Markets Policy would appear to be vested in the Corporate Director of Regeneration and Culture in consultation with the Cabinet Lead Member, the Federation also questions the authority of a “*different director in consultation with a different councillor*” to do so.
- 5.10 The Council has successfully operated a market in the City Centre for many years. The market is part of the country’s heritage and tradition.
- 5.11 The local authority market makes a vital contribution to the commercial viability of the city centre. By way of example, the Council’s Business web-page currently heralds the market’s achievement in gaining the title of ‘*Britain’s Favourite Market*’ as voted by visitors to the NABMA website, and NABMA’s Chief Executive’s reference to the market playing a *vital role in the life of the City*.
- 5.12 In purely financial terms the market is an extremely valuable asset to the City, posting a surplus of £585,000 in 2008.
- 5.13 The market is, furthermore, an important component of the overall balanced retail offer within the City Centre, the vitality and viability of which at all levels planning policy seeks to sustain and enhance. In this context ‘*City Centre*’ means the *Central Shopping Core*, outside of which, pursuant to national and regional retail planning policy, proposals for retail development are restrictive.
- 5.14.1 Examination of the background information disclosed by the Council in relation to the planning application has failed to detect any evidence of compliance with the requirements of PPS6 paragraph 3.4 i.e. that the applicant has demonstrated:
- that there is a *need* for a Sunday Market in Leicester;
  - that the proposed Sunday Market at the Walkers Stadium is of an appropriate *scale*;

- that there are no more *central sites* for the Sunday market to be held, including the currently unoccupied central market place;
- that there would be no *unacceptable impacts* on the Central Shopping Core; or
- that the proposed market would be *accessible* by sustainable transport means i.e. otherwise than by car.

- 5.15 Had the Council had regard to such matters, and assuming that there was a demonstrable need for a regular Sunday market in Leicester, the fact is that floorspace, currently unused on Sundays and Bank Holidays, does appear to exist within the Central Shopping Core, i.e. in the central market place, in any event, the availability, suitability and viability to hold a regular Sunday market of which does not appear to have been assessed by the Council before choosing an out-of-centre location.
- 5.16 Furthermore, even if it was concluded that the central market place was not suitable/viable to hold a Sunday market, and there were no other centrally located sites, planning permission could not be granted for the markets to be held at an out of centre location without assessing the *impact* of the same on the vitality and viability of the Central Shopping Core.
- 5.17 As it is, there can be no question of a market at the Walkers Stadium, given its location well outside the Central Shopping Core, encouraging linked trips between itself and the City Centre, and thus no evidence to support the contention that the Walkers Stadium market would attract people into the City Centre. Indeed, the Walkers Stadium Market will be an 'end destination' in itself, and thus would be likely to draw trade out of the Central Shopping Core, thereby potentially undermining its vitality and viability.
- 5.18 In light of all of the above, the Federation would view any decision to confirm the grant of planning permission for a regular Sunday Market to be held at the Walkers Stadium, particularly in the absence of considering *need*, applying the *sequential test*, and considering the *impact* of such a proposal on the *vitality and viability* of the Central Shopping Core, to be fundamentally flawed and susceptible to legal challenge.
- 5.19 The grant of planning permission being a pre-requisite to the grant of a Rival Markets Licence<sup>37</sup>, if the planning permission is impugned, any corresponding grant of a Rival Markets Licence will itself also be vulnerable and, as a result, unreliable.
- 5.20 Of the testimonials produced on behalf of LSD Promotions Ltd in relation to its other market operations in the midlands it should be noted:  
*Kidderminster Street Market* is Kidderminster's only market, held in the town centre under rights granted in 1240. It is not, therefore a 'rival market'  
*Wolverhampton Farmers Market* is held in the City's main shopping area. The market therefore compliments the daily market, also held in the main shopping area, held pursuant to rights granted in 1204.  
*Halesowen Street Market* is Halesowen's only market held in the town centre pursuant to a number of market charters. As with Kidderminster, therefore, the market is operated pursuant to the Local Authority's franchised rights and not as a Rival Market.

<sup>37</sup>

Rival Markets Policy (January 2008) paragraph 9.3  
 Leicester Market Traders Federation – Response to Applications for Planning Permission and Rival Markets Licence Walkers Stadium  
 Leicester (October 2009)

*Stourbridge Street Market* (the rights for which were granted in 1486, by Henry VII) closed in the latter part of 2008 when LSD 'pulled the plug' blaming the lack of a suitable location when work

on the town centre development began. The popular market, however, re-opened under new operators in February 2009.

*Shrewsbury Sunday Market* is also now under new operators, LSD Promotions Ltd having pulled out last year.

- 5.20 In the light of all of the above, it is respectfully submitted that in the public interest, and having regard in particular to national, regional and local planning policy, the proposed development should be rejected and the applications for planning permission and a rival markets licence respectively should be refused.

**MARRONS**

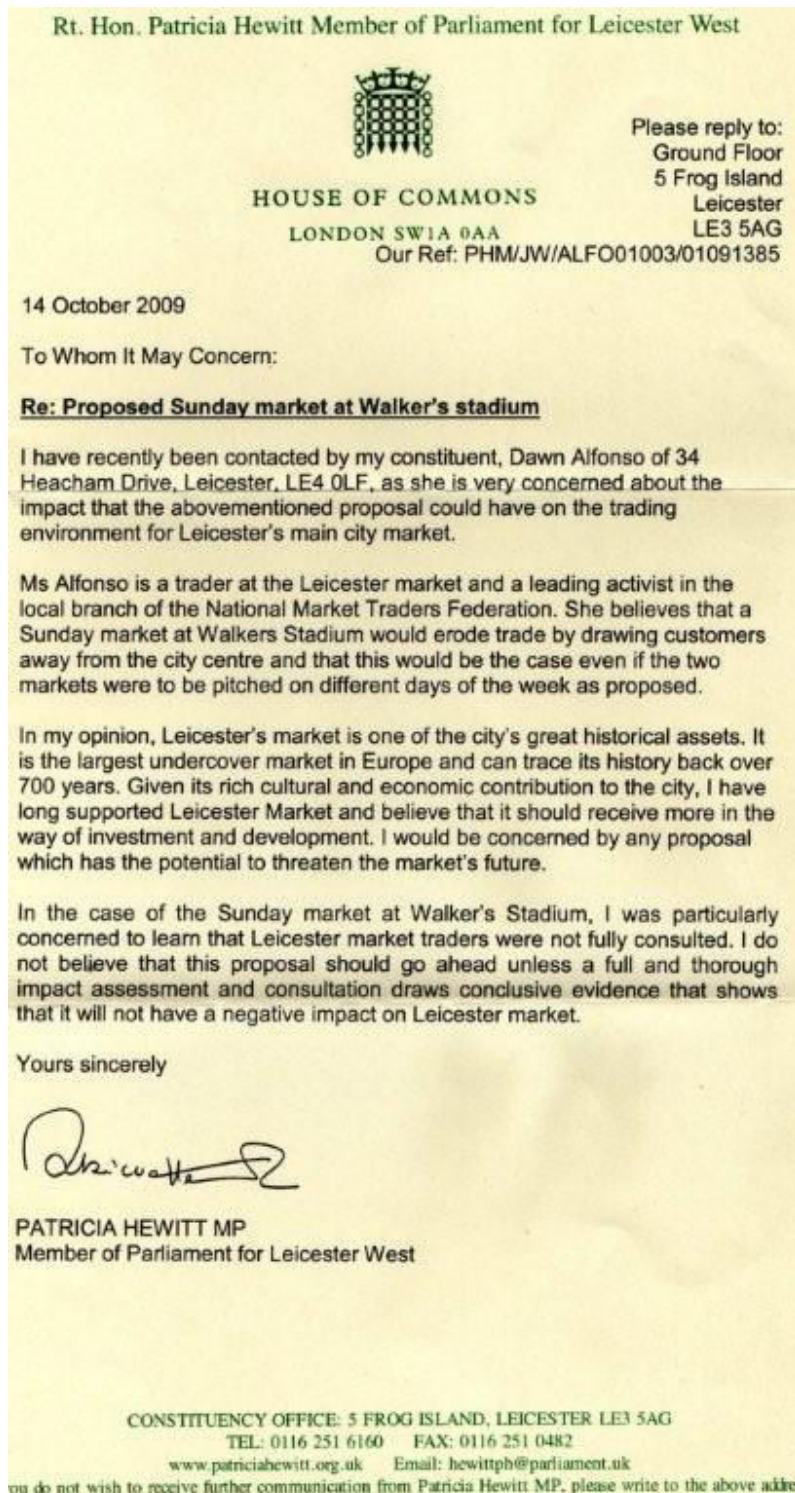
1 Meridian South  
Meridian Business Park  
Leicester  
LE19 1WY  
[simonstanion@marrons.net](mailto:simonstanion@marrons.net)  
23 October 2009

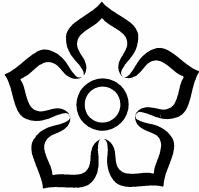
Leicester Market Traders Federation – Response to Applications for Planning Permission and Rival Markets Licence Walkers  
Stadium Leicester (October 2009) 20

**ANNEX**

**COPY LETTER THE RIGHT HONOURABLE PATRICIA HEWITT MEMBER OF PARLIAMENT FOR LEICESTER WEST DATED 14 OCTOBER 2009**

Leicester Market Traders Federation – Response to Applications for Planning Permission and Rival Markets Licence Walkers Stadium Leicester (October 2009) 21





Leicester  
City Council

Minutes of the Meeting of the

## APPENDIX B

### MINUTE EXTRACT

#### MARKETS FORUM

Held: TUESDAY, 10 NOVEMBER 2009 at 5.00pm

#### P R E S E N T :

Councillor Potter (Chair)  
Councillor Coley    Councillor Lloyd-Harris  
Councillor Naylor    Councillor Westley

#### Co-opted Members:

Dawn Alfonso	Leicester Market Traders Federation
Paddy Deevey	Leicester Market Traders Federation

#### Officers in Attendance:

Andrew L. Smith	Director - Social Care & Safeguarding
Anthony Cross	Head of Environment & Advocacy Law
Nick Rhodes	Head of Markets
John Thorpe	Democratic Support
Jerry Connelly	Member Support Officer

#### In Attendance:

Cllr Newcombe	Joint Task Group Leader Markets Review
Cllr Hall	Joint Task Group Leader Markets Review
Adrian Pole	Leicester Market Traders Federation
Karen Hill	Leicester Market Traders Federation
Dave Swingler	Leicester Market Traders Federation
Kate Chamberlin	Leicester Market Traders Federation
Simon Staniland	Legal representative Leicester Market Traders Federation

\* \* \* \* \*

#### 10. DECLARATIONS OF INTEREST

Councillor Westley declared a personal interest in the business to be

discussed, as his cousin was a market trader in Leicester. Councillor Westley stated that as the issues regarding item 5 'Rival Market Application at Leicester City Football Club' the matter would be submitted to Cabinet for a decision following consideration at this meeting as a member of the Cabinet he would withdraw from this meeting during consideration of the item.

Councillor Potter declared a personal interest in that she was previously a market trader. Councillor Potter stated that she was also a member of the Overview & Scrutiny Management Board and the Joint Regeneration and Transport and Culture and Leisure Task Group which had considered the review regarding the market.

Councillor Hall stated that he was the Joint Chair of the Joint Regeneration and Transport and Culture and Leisure Task Group which had considered the review regarding the market and declared a personal interest as a season ticket holder of Leicester City Football Club.

Councillor Naylor stated that he was the Joint Chair of the Joint Regeneration and Transport and Culture and Leisure Task Group which had considered the review regarding the market.

#### **11. APOLOGIES FOR ABSENCE**

No apologies for absence were received.

#### **12. MINUTES OF THE PREVIOUS MEETING**

The minutes of the last meeting were accepted as a correct record and signed by the Chair.

#### **13. MATTERS ARISING FROM THE MINUTES**

It was noted that there would be no Christmas Market this year though Italian and Farmers markets had been planned for December. A new location was being sought for a German Christmas market to be arranged for 2010.

It was noted that the first market had been scheduled for Saffron Lane Sports Centre the previous Sunday but this unfortunately had been rained off.

#### **14. RIVAL MARKET APPLICATION AT LEICESTER CITY FOOTBALL CLUB**

The Director Planning and Economic Development submitted a report which gave details of an application from LSD Promotions to hold a market at Leicester City Football Club weekly on a Sunday and on Bank Holidays. It was stated that the purpose of the report was to seek comments from the Forum which would then be taken forward as part of the report to Cabinet rather than to attempt to reach a decision at this meeting.

It was stated that the report sought to set out the potential benefits and risks of the application and to consider it within the context of the current approved Rival Markets Policy so as to maintain the strength and viability of the existing markets. Consideration of the application involved consideration against the two separate regimes of planning procedures and the Rival Markets Policy. Under the Rival Markets Policy an application could be rejected or approved

with or without special conditions. It was suggested that a potential way forward in this case would be to grant with special conditions to:

- limit the period of the licence
- provide regular review points
- use quantitative data and qualitative surveys to assess impact using trigger points
- revoke the licence if significant adverse detrimental effect was demonstrated
- build in opportunities to promote and support the Council's markets.

It was stated that the Planning application had been approved in March 2008 with no comments received. The permission had not yet been issued as the legal agreement had not been completed.

Members of the Forum and representatives expressed concern that consultation with the Forum was an 'after thought' and raised a number of specific concerns that:

- the offer of goods which would be available would not be sufficiently different from that available at the City Centre market to avoid a significant detrimental effect and it was suggested that the website for LSD showed fruit, vegetable and meat stalls which would be in direct competition. It was suggested that it was not acceptable that the Council did not know what the offer of stalls was to be.
- The criteria to revoke the licence if significant detrimental affect was demonstrated was not properly defined or measurable.
- It could not be clearly stated when the impacts would be clear.
- No comments had been made on the Planning application as there had been no detail given. It was suggested that as permission had not been issued the decision could be re-considered especially as it was suggested that there had been a failure to consider material considerations.
- The suggested fee was lower than that paid to other authorities.
- The City Centre market was considering a Sunday market.
- Demonstrable harm could only be shown after the harm to the City Centre market had taken place.
- The power to revoke would be very difficult to operate in practice especially if the rival market had been operating some time and had proved popular.
- The application reduced options to develop a different offer for the Market on a Sunday and options to use Planning powers to develop the buildings in the Market Square.
- There had been no consideration of holding the market suggested for Leicester City Football Club in the Market Square.
- A market tried at the Stadium a few years ago had been unsuccessful.
- The Council stood to loose much of the income it received in market rents.
- Rather than being separate as the Council suggested the planning and Rival Markets processes were linked and so the Council was fundamentally wrong and needed to consider the required development



tests within the Planning Policy Guidance which it had not done. It was felt that the application did not meet these tests. Even if the Council did not feel that Planning Policy Guidance should be applied it was suggested that it should have still considered the tests of need and impact.

It was suggested that many traders were currently operating at a loss

In response it was noted that the Council had a duty to consider all applications and the short and long term improvements to the City Centre indoor and outdoor markets highlighted in the Task Group review considered earlier on this agenda would be considered by Cabinet. It was stated that the application had explained that it sought a different sort of market and a leisure opportunity but there had been no direct reference to the goods to be sold. It was accepted that it was difficult to assess traders income which was why the qualitative and quantitative approach to assessment had been selected and trigger points had been inserted at 6, 12 and 18 months to specifically assess impact. In terms of the two separate regimes of Planning and the Rival Markets Policy these were seen as different and detailed comments would be responded to outside the meeting.

It was noted that the application had stated there would be some fixed stalls so current traders could choose to trade at the market without the need to purchase a stall and that no further applications had received since the LSD applications. It was stated that if further days other than that stated were requested then a different application would have to be submitted

On behalf of the Market Traders Dawn Alfonso presented a petition of 20,638 signatures to the Chair regarding the application, which she asked be submitted to the next Council meeting. Councillor Potter and Councillor Naylor stated that they had signed the petition.

The Chair confirmed that a decision on the matter would be taken at a meeting of the Cabinet early in the New Year and that Cabinet would be made aware of the views expressed at this meeting. The Chair stated that she intended to attend the Cabinet meeting where the decision was made. No trading would take place at the Walkers Stadium until Cabinet had made its decision. Councillor Coley stated that as an opposition group leader he would also be present at the Cabinet meeting and would reflect the views of this meeting.

**RESOLVED:**

That the views expressed at this meeting be noted and passed to Cabinet for its consideration.

## **APPENDIX C (i)**

### **LETTER FROM LEICESTER CITY FOOTBALL CLUB**

11 December 2009

#### **Submissions for Holding a Sunday Market at The Walkers Stadium**

Leicester City Football Club has been in discussions with LSD Promotions regarding an open air market to be held at The Walkers Stadium on Sundays and Bank Holidays. We believe the addition of an open air market on Sundays and Bank Holidays would be a great complementary amenity to the City of Leicester, the County of Leicestershire and indeed the current City Centre Market.

There is in fact already a precedent for holding a Sunday Market at The Walkers Stadium. A Sunday market was opened at the Walkers stadium during October 2006 to operate on every Sunday (excluding match days). The Event Management Plan, produced by Leicester Markets, aimed the event at 'a wide demographic of people from the City and county'.

The objectives of the market were to:

- Generate substantial high profile media coverage for the City and county
- Raise awareness of the vibrancy, creativity and diversity of Leicester
- Celebrate the strengths of local identity and community
- Ensure that money is spent in the local economy
- Be a key marker in the journey to position Leicester as a key European city by 2010

The operational times for the market were from 06.00 to 18.00

To the best of our knowledge, there was no opposition to implementation of the market at that time nor has any evidence been presented that the Sunday Market in operation at The Walkers Stadium had any detrimental impact to the City Centre Market.

The proposal for the market to be held at The Walkers Stadium is both different from and complementary to the City Centre Market. The style of the market at The Walkers Stadium will have more of a leisure, family day out focus. This is in contrast to the daily essential shopping style of the City Centre Market.

The Stadium Market will seek to attract family groups for a day out with a difference to include things such as lunch in the Stadium Restaurant, use of the Club shop and tours of The Walkers Stadium and its facilities. Additionally, the Stadium Market will include children's entertainment, fun rides, bouncy castles, and soft play areas. It will also offer a land train to transport shoppers from the Market to the car park.

Additionally, the Stadium Market will include unusual and handcrafted goods in addition to the general stalls, with a special indoor section reserved for local artists and craft producers to showcase their work.

Environmental and community groups will be offered free stalls on an ad hoc basis to enable them to promote community-based, public service and environmentally friendly activities. Advertising will be made to promote the advantages of cycling and car-pooling as well as highlighting awareness for reducing the carbon footprint. Generally, the stalls will be predominantly non-food in orientation, but there will be food stalls to include a range of specialist and organic foodstuffs. Stalls will also be provided for “buy local” campaigns to encourage people to purchase fresh local market produce – reducing the need for over packaging.

The Stadium Market is planned to be opened on Sundays when the City Centre Market is closed. This will enable traders from the City Centre Market to put an additional stall at the Stadium Market. Even if this situation changes, we believe the two markets will complement each other and increase Leicestershire’s retail options. In fact, having a market at the Walkers will further reduce the need for traders and shoppers to travel outside the county for Leisure markets.

It should also be noted that there are adequate provisions in the proposed market license to protect the City Market in the event that there was an adverse impact.

We would like to proceed in the same vein as the opening of the Stadium Market in 2006. As Councillor Mugglestone said at the time “This is an extra service for the local community. The Football Club is an ideal venue for this type of market, and is something a bit different to the market in the City centre which is held during the rest of the week”

We look forward to receiving a positive response and, subject to planning approval, the granting of a license at the Walkers stadium.

Yours sincerely,

Lee Hoos  
Chief Executive Officer

Dear Mr. Rhodes

**Application for a license to hold regular markets at Walkers Stadium, Leicester.**

We would like to make the following comments to be included as a consideration in your report to Cabinet prior to the meeting on 25<sup>th</sup> January, 2010.

Our view is that the market planned for the Stadium will not affect the City Centre market for various reasons and will be an asset to the City of Leicester.

- The style of market planned for the Football Club will be very different with more of a leisure focus, in contrast to the daily essential shopping style of the City market.
- The Stadium market will include children's entertainment, fun rides, bouncy castle and soft play, and a land train which will transport shoppers from the market to the car park.
- The market's aim will be to attract family groups for a day out with a difference to include lunch in the Stadium restaurant, use of the Club shop, and tours of the Football Stadium and it's facilities.
- Environmental groups will be given priority with emphasis placed on the advantages of cycling and car sharing, and reducing the carbon footprint.
- Stalls will also be provided for buy local campaigns to encourage people to purchase local and fresh market produce, reducing the need for over packaging.
- The Stadium market is planned for Sundays when the City market is currently closed, however if this situation changed in the future, both markets will compliment each other and increase Leicester's retail option.
- It is planned for a promotional stall and litter bin advertising space to be reserved on the Stadium market bins to promote Leicester's City market and opening hours.
- The style of market planned for the Stadium will include unusual and handcrafted goods in addition to general stalls, with a special indoor section reserved for local artists and craft producers to showcase their work.
- General stalls will be largely non-food, but the market is also planned to include a range of specialist organic and locally produced foods.
- Having a local Sunday/Bank Holiday market will further reduce the need for traders/shoppers to travel outside Leicestershire for leisure markets.
- The Walkers Stadium market will be open-air.

In 2006 Leicester City Council introduced the first Sunday markets to Leicester City Football Club, and opened the first market at Walkers Stadium with over 350 stalls. We echo the sentiments of Councillor John Mugglestone who is recorded as saying at the time "This is an extra service for the local community, the football club is an ideal venue for this type of market, and is something a bit different to the market in the City centre which is held during the rest of the week".

We have already accepted conditions within the license that protects the City market.

Yours sincerely,

**Dermot McGillicuddy**

Director, LSD Promotions Ltd

**APPENDIX C (iii)**

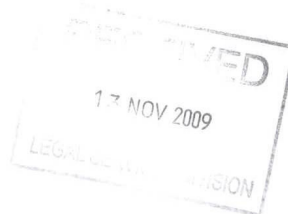
**LETTER FROM MARRONS SOLICITORS REPRESENTING THE MARKET TRADERS**

**MARRONS**

1, Meridian South, Meridian Business Park, Leicester LE19 1WY.  
Tel: 0116 289 2200 Fax: 0116 289 3733 DX 710910 Leicester Meridian www.marrons.net

Anthony Cross  
Head of Litigation – Legal Services  
Leicester City Council  
DX10908 Leicester

SolC  
✓



By DX and email: [Anthony.Cross@leicester.gov.uk](mailto:Anthony.Cross@leicester.gov.uk)

12 November 2009

Our Ref: SPS VT 4557-1-7  
Your Ref: AJC/DG

Dear Mr Cross

**PLANNING PERMISSION / MARKET LICENCE –  
WALKER'S STADIUM – LEICESTER CITY FOOTBALL CLUB**

I write further to your letter of 6<sup>th</sup> November to which I indicated, at the Market Forum meeting on Tuesday, I would provide a written response.

1) *The focus of our response on planning issues*

I make no apology for this. As I said at the meeting on Tuesday, I consider the suggestion that comments were only invited on markets licence matters as an argument purely of 'form over substance'. The considerations that are material to the determination of the planning application in this case are equally relevant to the determination of the markets licence application, and in terms of the relative merits of the applications the distinction that the Council appears to seek to draw between the two separate regimes is entirely illusory.

2) *No representations received by the Council's Planning Section on behalf of my clients*

This is hardly surprising, given that the application is for the alteration of conditions (10 in all) attached to the existing planning permission for the Walkers Stadium to allow a number of additional uses of the Stadium of which Sunday/Bank holiday markets is but one. The simple fact of the matter is that my clients were not informed of the application and cannot reasonably be taken to have known – given the description of the application – of its implications. Had they been aware of the nature of the application they would undoubtedly have made representations, and given that planning permission has not yet been issued, it would be right in any event to remind you that insofar as the representations that have now been (and are hereby) made on their behalf raise new material planning considerations, the planning committee are obliged to take them into account notwithstanding the resolution to approve the application (see further below).

PARTNERS: Kevin Sumner Ltd (Co No 04960853), John Edmond Ltd (Co No 04960000), Moredun Thomson Ltd (Co No 04960097)  
Nicholas Robinson Ltd (Co No 04960015), Simon Stanion Ltd (Co No 04960084), Louise Mee Ltd (Co No 04964164)  
CONSULTANT: Peter Marron Ltd (Co No 04960803)  
ASSOCIATES: Philip Partridge (Legal Executive), Emma Tattersoll, Justin Price-Jones  
PRINCIPAL TOWN PLANNER: David Prichard

The partners are corporate partners wholly owned by solicitors and the firm is regulated by the Solicitors Regulation Authority, SRA No 304531. Lexcel approved.

# MARRONS

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12 November 2009

- 3) Noted
- 4) Noted, but not accepted.
- 5) Noted
- 6) As I again said at the meeting on Tuesday, with respect to the Director of Planning and Economic Development, his views upon the matter, as set out in your letter and below, are, for the following reasons, plainly wrong:

- *The national, regional and local policy objectives of promoting and enhancing the vitality and viability of existing centres, retaining and enhancing existing markets and, where appropriate, reintroducing and creating new ones are being supported.*

It is frankly a nonsense to suggest that facilitating the creation of a new market in an 'out-of-centre' location is in line with national, regional and local policy objectives of promoting and enhancing the vitality and viability of existing centres.

So that we may be clear about what national planning policy for town centres (PPS6) actually says about this, paragraph 2.27 of PPS6 provides:

*"Markets*

2.27 Street and covered markets (including farmers' markets) can make a valuable contribution to local choice and diversity in shopping **as well as the vitality of town centres** and to the rural economy. **As an integral part of the vision for their town centres**, local authorities should seek to retain and enhance existing markets and, where appropriate, re-introduce or create new ones. Local authorities should ensure that their markets remain attractive and competitive by investing in their improvement"<sup>1</sup>.

It is important to remember that the above guidance is given in the overall context of a planning policy statement which has as its key objective for town centres, the promotion of their vitality and viability by:

- planning for the growth and development of existing centres; and
- promoting and enhancing existing centres, **by focusing development in such centres** and
- encouraging a wide range of services in a good environment, accessible to all".

(paragraph 1.3)

and in the context of development control decisions:

"In selecting sites, **all options in the centre should be thoroughly assessed** before less central sites are considered".

(paragraph 3.14)

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<sup>1</sup> All emphasises herein have been added

## MARRONS

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12 November 2009

The only sensible way to interpret paragraph 2.27 of PPS6, therefore, is that the retention, enhancement, re-introduction or creation of new markets is to be encouraged in town centres where they can make a valuable contribution to their vitality and local choice and diversity in shopping.

In the light of the above, perhaps the Director could please explain further, and in what way, the release of an out-of-centre site for use as a market supports this policy.

- *Two separate control/management regimes exist to help deliver these policy objectives, the planning regime and the market licence regime through the Rival Markets Policy.*

I have already explained why I consider the distinction drawn between the two schemes to be entirely illusory.

- *The Rival Markets Policy provides the basis for the Council to consider new market proposals and their potential impact on the Council's markets. The Council's approach therefore is to focus on protecting the city centre market by the proposed special conditions to be included on any markets licence granted.*

I resisted the temptation on Tuesday to debate with the Forum the merits or otherwise of the Council's Rival Markets Policy, however it is of particular note that nowhere in the Policy is there in fact any mention of potential impact on the Council's markets. Indeed, paragraph 2.2 of the Policy seems to suggest that it has a different purpose altogether i.e.

*"The licensing policy enables Leicester City Council to regulate markets within its radius to ensure that proposed markets do not become a nuisance to residents, neighbouring businesses and are operated in an appropriate manner"*

Neither is impact among the 'REGULAR MARKETS CRITERIA' in paragraph 9 of the Policy. In particular, paragraph 9.2 which suggests that *"Regular markets may be permitted with no restriction on size of market, goods sold or occasions held"* is unqualified by any consideration of impact, and an applicant is not required to provide any documentation, statement or evidence relating to impact by virtue of paragraph 9.5.

It is therefore difficult, with respect, to discern from the Rival Markets Policy, that it is aimed at assessing potential impact on the Council's markets at all. Indeed, if this is the real purpose behind the Policy then why does it not expressly say so?

- *The impact of the proposed market on the city centre market and related retail function did not feature in the planning report to Committee because this was not considered relevant to the planning application based on available policy guidance.*

For the reasons I set out below, the planning report was fundamentally flawed in not considering impact (or indeed other relevant retail planning issues):

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12 November 2009

- *The Council's interpretation of PPS 6 is that these provisions cannot effectively be applied to this market proposal principally as:*
  - *The assessment of retail proposals in PPS 6 (chapter 3) is concerned with retail "development" (eg. supermarkets, superstores, retail parks, etc). Importantly, markets are not listed in Annex A, Table 3, as a "type of development".*

This is an extremely surprising response, as it appears, with respect, either to demonstrate a lack a basic understanding of what, as a matter of law, "development" actually means, or it completely ignores what PPS6 itself says as regards the types of proposals relating to town centre uses to which the development control policies set out in Chapter 3 of the PPS apply.

If the market proposal amounts to the making of a material change in the use of the Walkers Stadium, then it is, of course, "development" by virtue of Section 55(1) Town and Country Planning Act 1990. Whilst I note, from the draft planning permission that the Council appears to consider that the use of the Stadium for the holding of regular markets could be sufficiently controlled by condition (proposed Condition 16) to ensure that it remained 'ancillary' to the D2 use, it appears to me that as a matter of fact and degree the regular market use would be more than ancillary and would in fact be a primary use in its own right. If there was any doubt, however, that this was so and that "development" was involved, PPS6 itself puts the matter of its relevance to the determination of the planning application in this case beyond doubt in any event i.e.

"This Chapter sets out the considerations which should be taken into account by local planning authorities in determining planning applications for all proposals relating to main town centre uses for:

- ...applications to vary or remove existing planning conditions, which would have the effect of creating additional floorspace (e.g. mezzanine floors) or changing the range of goods sold, thereby changing the scale and/or character of the development"
- (paragraph 3.1)

There can be no doubt that even if the market proposal would not comprise "development" (which is in any event, for the reason set out above, not accepted), it would involve the creation of additional retail floorspace and change the range of goods that could be sold at the Stadium, thereby changing the scale and/or character of the development. Axiomatically the development control policies in PPS6 are clearly material to the determination of the application. The fact that markets are not listed in Annex A, Table 3, as a "type of development" is, with respect, nothing to the point.

- *References to retail "development" in the PPS are also linked to proposed and existing floor space considerations. These are clearly attributable to built development types and not markets where this would be extremely difficult to apply because of their very flexible nature.*



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As the matter is in any event settled by paragraph 3.1 of PPS6 (above) I need comment no further on this.

- *In terms of retail impact (paragraph 3.23), assessments are required for all retail and leisure developments over 2,500 square metres gross floor space (where the proposal relates to a larger centre). A crude assessment of the overall apron on which the proposal would take place indicates it would not exceed this threshold.*

This is, with respect, simply wrong. Paragraph 3.20 makes it abundantly clear that:

“Impact assessments should be undertaken for **any** application for a main town centre use which would be in an edge-of-centre or out-of-centre location and which is not in accordance with an up-to-date development plan strategy...”

What paragraph 3.23 does is simply to qualify the **level of detail and type of evidence and analysis** that should be required i.e. that it should be proportionate to the scale and nature of the proposal. Thus detailed impact assessments (which address the issues in Paragraph 3.22) are only required for retail and leisure developments over 2,500 square metres gross floorspace, but they may occasionally be necessary for smaller developments.

Thus the fact that the proposal would not exceed 2,500 square metres floorspace does not mean that impact assessment is not required, it merely informs the level of detail and type of evidence and analysis required – although in this case there may well be an argument for requiring a full retail impact assessment in any event.

Self-evidently, no impact assessment was undertaken in this case (or even considered by the Council as necessary).

- *Markets are provided with their own specific section within the PPS unlike any other form of retail provision suggesting such proposals are being treated differently to built retail development. Paragraph 2.27 indicates that markets can make a valuable contribution to local choice, diversity and vitality of town centres and that local authorities should consider the retention and enhancement of markets and, where appropriate, the reintroduction of new ones as an integral part of their visions for town centres; also that local authorities should ensure markets remain attractive through investment in improvement. This paragraph does not suggest any formal means to assess the impact of proposals and is related more to visions and investment decisions of local authorities.*

This is, with respect, simply a bad point. The fact that markets are expressly referred to in PPS6 is, perhaps, the clearest indication possible (if indeed such is required) that the policies in the PPS are intended to apply to them. If it was intended that the development control policies in the PPS (including impact assessment) should not apply to markets then it would have expressly said so.

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- *Emerging PPS 4 reflects the contents of PPS 6 in relation to retail impact and markets.*

Noted and agreed.

The implications for the Council of not having taken the development control policies in PPS6 into consideration are, of course, profound. In addition to not having assessed impact, the Council have not required the applicant to demonstrate need, that the market is of an appropriate scale, and that it could not in any event be accommodated on a more centrally located site (perhaps even the market square itself). Axiomatically any planning permission issued without having regard to these material considerations would be fundamentally flawed and susceptible to challenge.

More worryingly, perhaps, the applicant's Business Plan (August 2008) submitted with the Rival Markets Application appears to suggest (paragraph 6):

"Leicester City Council has identified a need for a Sunday market and chose Walkers Stadium as the 'ideal venue'

You will, I am sure, appreciate that it would be a matter of considerable concern to my clients if a 'need' for a Sunday market had been identified by the Council - and even more so that the Walkers Stadium would be the 'ideal venue' for such a market - without any consultation having taken place, and it is of course a matter of record there has been no such consultation with the Market Forum in any event. This is a matter which clearly requires explanation because if the applicant's above statement is correct then it raises issues of propriety, and if it is wrong, questions as to why this was not taken up by the Council with the applicants at the time.

Either way, my clients are not aware of any study that has been undertaken by the Council to support the identification of a 'need' for a Sunday Market, or, in the event that such a need was identified, that the Walkers Stadium would be the 'ideal venue' for the same. If such a study, however, has been undertaken then could I please be provided with a copy of the same as soon as possible.

One final point on this issue, however, needs to be made. It is particularly surprising that the Council should choose to deny, when challenged, that PPS6 is relevant to the determination of the planning application, when its relevance was clearly acknowledged by the Council in the context of the proposed imposition of planning conditions. In this regard you may wish to consider proposed condition 16 on the draft planning permission which provides:

"2) Notwithstanding condition 15, the stadium car park may be used for car boot sales or public markets on Sundays or Bank Holidays as permitted by condition 13-4 of this planning permission. The restriction to Class D2 does not apply to such events. (To ensure that the amount of retailing space is compatible with its ancillary function, and does not form a separate retail element in addition to that already approved elsewhere in the development **and would thus be detrimental to the vitality and viability of the City Centre and these other shopping**

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areas, contrary to local and central government policies relating to out-of-centre retail development...)

This apparent inconsistency, with respect, also requires explanation, for as matters stand the Council's present denial of the relevance of PPS6 in the face of its clear application in proposing to impose the above condition, appears to be disingenuous.

I should also, perhaps, repeat the concern I expressed at the meeting on Tuesday when Andrew Smith admitted that he *'had no idea of the range of goods that were intended to be sold at the proposed market'*. As Councillor Naylor rightly observed, how can the Council possibly consider itself competent to determine either application, particularly in terms of potential impact on the Council's markets, if it does not even know the range of goods that are intended to be sold? I would have thought, with respect, that this was one of the first questions that ought to have been (and now should be) asked before considering the merits of either application<sup>2</sup>.

In the circumstances, it must be patently evident that the resolution of the planning committee to grant planning permission should be re-visited. Indeed, in the light of material planning considerations that were clearly not before the planning committee when it resolved to grant planning permission, it must do so (see *R (on the application of Kides) v South Cambridgeshire District Council and others* [2002] EWCA Civ 1370).

In conclusion, whilst thanking the Council for the opportunity to respond to these issues on behalf of the market traders, both in writing and at the Market Forum meeting on Tuesday, I strongly urge the Council to now carefully consider its position in the light of all of the representations that have been submitted, and in particular the issues raised in this letter, which reveal both serious flaws in the decision making process to-date and potential issues of propriety in the overall way that the matter has been handled by the Council. Given that neither planning permission nor a rival markets licence has yet been issued, however, there is still time for the Council to remedy the situation without my clients having to seek formal redress.

In the light of all of the above I submit on behalf of the market traders who I represent, that both the planning application and rival markets licence application should be refused. It follows that if the Council were to maintain its current position in relation to these matters, the consequences would be sadly inevitable.

Yours sincerely

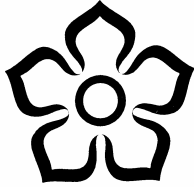


**SIMON STANION**  
simonstanion@marrons.net

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<sup>2</sup> As the Council would, of course, have the power (where appropriate) to limit by condition the range of goods sold – see PPS6 paragraph 3.31

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Leicester  
City Council

WARDS AFFECTED: All Wards

Overview and Scrutiny Management Board  
Cabinet

21<sup>st</sup> January 2010  
25<sup>th</sup> January 2010

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## Care Quality Commission (CQC) – Annual Performance Assessment Leicester City Council – Adult Social Care Services 2008/09

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### Report of the Strategic Director, Adults and Communities

#### 1. Purpose of Report

- 1.1 To provide Members of the Council's rating of the Adult Social Care annual self-assessment for 2008/09 by the Care Quality Commission's (CQC), which is the regulatory body for care services.

#### 2. Summary

- 2.1 All Local Authorities are required to undertake an annual self-assessment to determine the level of outcomes for the recipients of adult social care services in their local area. Each Authority is then awarded a rating and Leicester has been graded as performing - **Well and consistently delivering above the minimum requirements**.
- 2.2 The following provides an overview of the scoring system used by CQC to determine how each Authority is performing against the national criteria:
- **Performing excellently** – overall delivering well above the minimum requirements for people
  - **Performing well** – consistently delivering above the minimum requirements for people
  - **Performing adequately** – only delivering the minimum requirements for people
  - **Poorly performing** – not delivering the minimum requirements for people
- 2.3 The scoring mechanism was changed for 2008/09, but previously Leicester had been scored as providing 'good' outcomes for people using adult social care in 2007/08. Progress has been made across all outcome areas in 2008/09, with two key outcomes moving to an excellent rating and no outcome has been judged as performing any worse than the 2007/08 position. This highlights that the Council is on a trajectory to achieve an excellent rating in the future.

2.5 A copy of the CQC summary outlining the Council's performance is detailed at Appendix A, which shows the level of improvement for 2008/09, but also forms the basis of an improvement plan to move Leicester's Adult Social Care provision to an excellent rated service for 2009/10.

### 3. Recommendations

3.1 The Members are recommended to;

- a) Note the overall CQC grade – 'Well and consistently delivering above the minimum requirements' awarded to Leicester in 2008/09, and
- b) Note the actions the areas for improvement as detailed in Appendix A, which will be implemented to move the Council to an Excellent rated Adult Social Care service for 2009/10

### 4. Report

4.1 The annual assessment informs the Council's overall Comprehensive Area Assessment (CAA), which is expressed as part of the narrative relating to Adult Social Care.

4.2 The following table provides the score awarded for each of the seven key outcomes for the 2008/09 annual assessment.

Areas for judgement	Grade Awarded
<b>Overall Delivering Outcomes Assessment</b>	<b>Performing Well</b>
Improved health and emotional well-being	Performing Adequately
Improved quality of life	Performing Adequately
Making a positive contribution	Performing Excellently
Increased choice and control	Performing Well
Freedom from discrimination and harassment	Performing Excellently
Economic well-being	Performing Well
Maintaining personal dignity and respect	Performing Well

4.3 The CQC Annual Performance Assessment Report 2008/09 report (Appendix A) and identifies 37 areas in which the Council performs well and 25 areas in which the Council needs to improve. This provides a platform to improve services and achieve an excellent rating for 2009/10.

4.5 The following information provides an overview of the key areas in which the Council performs well;

- Working with service users and carers to prevent loss of independence or to regain independence and maintain or establish a good quality of life.
- Use of Assistive Technology to support people and help them feel safer at home.
- Local agencies and organisations work together to promote the social, leisure and learning needs of people who use services and carers.
- The views of people who use services, carers, voluntary and community organisations have a demonstrable impact on service planning, development, design and delivery.
- The number of people already exercising choice and control over their care via the use of direct payments or personal budgets
- Evidence of the range of services and activities being supported via direct payments and the positive outcomes for the people concerned.
- Information, advice and services that meet the needs of a diverse community.
- Work with partner agencies and communities to reduce incidents of discrimination and harassment.
- Advice and assistance is targeted to assist people whose financial situation is a factor in poor health and wellbeing
- A range of services and actions are in place to support people who use services to gain employment.
- Members of the Council, staff and partner agencies have demonstrated by their actions throughout 2008/09, a strong commitment to the ongoing development of safeguarding activity across Leicester.
- Investment in training and the number of staff trained increased in 2008/09. 100% of relevant adult social care staff have had training to identify and assess risks to adults whose circumstances make them vulnerable.

4.6 The following information provides an overview of the key areas in which the Council needs to improve;

- Greater progress needs to be made on the re-provision of the Health Homes for people with learning disabilities
- Increase the number of people with a learning disability benefiting from a Health Action Plan
- Further development of the quality assurance of safeguarding activity.
- Further inclusion of people who use services and carers in the Adult Safeguarding Board.
- Ensure that all safeguarding concerns in directly provided services are recognised as such and responded to immediately, in accordance with Adult Safeguarding Board procedures and expectations.
- Further develop the range of housing options available to people with learning disabilities and mental health needs.
- Increase the number of carers who are able to benefit from a carer's break or a specific carers support service.

- Monitoring and evaluation of the involvement and impact, in terms of service development and outcomes, of people who use services and carers on the Adult Social Care transformation programme.
- Improve the timeliness of assessments and the subsequent provision of services
- Ensure that the range of local support options and services is sufficient to offer genuine choice and control for people using services and carers.
- Monitoring and evaluation of the impact of personalised approaches, in terms of reducing experiences of discrimination and harassment, by people using services and carers.
- Further develop support to enable carers to retain or return to employment. Increase the number of carers benefiting from this support.
- Work with partner agencies and other employers in Leicester to challenge attitudes to employing people with a Learning Disability.

4.7 The assessment on Leadership expresses confidence that the Council has a clear vision for the transformation of Adult Social Care, supported by investment in strategic management capacity and underpinned by detailed planning to deliver change.

4.8 The assessment of Commissioning and use of Resources confirms that people, who use services, and carers, are increasingly able to directly commission the support that they need through direct payments and individual budgets. The Council is using local intelligence and the Joint Strategic Needs Assessment (JSNA) to shape, quality assure and develop the local care market, to meet the longer-term demands of a fully personalised approach to Adult Social Care.

## **5. Performance Agenda Implications**

5.1 CQC have advised that Leicester's Adults Social Care service must improve its performance for 8 specific National Indicators and 1 local indicator, otherwise failure could prevent the Council from achieving an excellent rating for 2009/10. These indicators are:

- NI 132 – Timeliness of social care assessments
- NI 133 – Timeliness of social care packages following assessment
- NI 135 - Carers receiving needs assessment or review
- NI 136 - People supported to live independently
- NI 145 - Adults with Learning disabilities in settled accommodation
- NI 146 – Adults with Learning disabilities in employment
- NI 149 - Adults in contact with secondary Mental health services in settled accommodation
- NI 150 - Adults in contact with secondary mental health services in employment
- D40 – Clients receiving a review



- 5.2 In order to improve these indicators Performance Clinics are used to identify the reasons for under performance and to agree remedial actions. The use of Performance Clinics has been recognised as good practice by the Audit Commission and 20 clinics have been held since July 2009.
- 5.3 Quarter 2 statistics show that performance is improving, but some indicators will take longer to change because they are linked to the Adult Social Care transformation programme. Although, the programme is designed to enhance processes, which will ultimately improve outcomes, the changes will take time to embed and it is too early to determine whether they will have a detrimental affect on the 2009/10 annual CQC Adult Social Care performance assessment.

## 6. Policy Implications

<b>OTHER IMPLICATIONS</b>	<b>YES/NO</b>	<b>Paragraph References Within Supporting information</b>
<b>Equal Opportunities Policy</b>	<b>Yes</b>	<b>Throughout the report</b>
<b>Sustainable and Environmental</b>	<b>No</b>	
<b>Crime and Disorder</b>	<b>No</b>	
<b>Human Rights Act</b>	<b>No</b>	
<b>Elderly/People on Low Income</b>	<b>Yes</b>	<b>Throughout the report</b>

## 7. Legal and Financial Implications

- 7.1 There are no legal implications arising directly from this report. The Authority has been rated well and consistently delivering above minimum requirements. The CQC however is under a duty to report poor performing authorities to the Secretary of State, who has a range of intervention powers. The CQC also contributes to the CAA assessment.

A significant contribution to the assessed matters is delivered through contracting, funding and partnering arrangements; these are put in place via procurement or negotiation procedures. In addressing the areas for improvement the opportunity should be taken to refresh the conditions of contract, specifications and performance mechanisms, whether this be on re-provision or (if practicable) an “in-contract” change.

*Joanna Bunting, Head of Commercial and Property Law. 252 6450 / 29 6450*

- 7.2 There are no direct financial implications arising from this report.

*Rod Pearson, Head of Finance 252 8800/ 29 8800*

## 8. Background Papers – Local Government Act 1972

8.1 CQC Annual Performance Assessment Report 2008/09

**9. Report Author/Officer to contact:**

9.1 Kim Curry – Strategic Director for Adults and Communities

Tel external: 252 8300

Tel internal 29 8300

Email: Kim.curry@leicester.gov.uk

<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet)

## APPENDIX A

### Annual Performance Assessment Report 2008/2009



### Adult Social Care Services

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**Council Name:** Leicester

This report is a summary of the performance of how the council promotes adult social care outcomes for people in the council area.

The overall grade for performance is combined from the grades given for the individual outcomes. There is a brief description below – see Grading for Adult Social Care Outcomes 2008/09 in the Performance Assessment Guide web address below, for more detail.

**Poorly performing** – not delivering the minimum requirements for people

**Performing adequately** – only delivering the minimum requirements for people

**Performing well** – consistently delivering above the minimum requirements for people

**Performing excellently**- overall delivering well above the minimum requirements for people

We also make a written assessment about

**Leadership** and

**Commissioning and use of resources**

Information on these additional areas can be found in the outcomes framework

To see the outcomes framework please go to our web site: [Outcomes framework](#)

You will also find an explanation of terms used in the report in the glossary on the web site.

#### Delivering Outcomes Assessment

**Overall** Leicester council is performing:

**Well**

Outcome 1:

[Improved health and emotional well-being](#)

The council is performing:

**Adequately**

Outcome 2:

[Improved quality of life](#)

The council is performing:

**Adequately**

Outcome 3:

[Making a positive contribution](#)

The council is performing:

**Excellently**

Outcome 4:

[Increased choice and control](#)

The council is performing:

**Well**

Outcome 5: <a href="#">Freedom from discrimination and harassment</a>	The council is performing:	<b>Excellently</b>
Outcome 6: <a href="#">Economic well-being</a>	The council is performing:	<b>Well</b>
Outcome 7: <a href="#">Maintaining personal dignity and respect</a>	The council is performing:	<b>Well</b>

## **Assessment of Leadership and Commissioning and use of resources**

### **Leadership**

The council has a clear vision for the transformation of adult social care, supported by investment in strategic management capacity and underpinned by detailed planning to deliver change. The council has already made significant steps towards the personalisation of care services. The council takes an inclusive approach to involving people from all communities in planning, development and delivery of services. The council is basing decisions and priorities, with partners, on a thorough analysis of population needs. Management and workforce development plans are in place to support the delivery of the transformation agenda. The council has made a good start on the development of an outcomes focused evidence base to measure and understand the impact of its actions. The council has demonstrated openness and insight into both its achievements and challenges, and has used this to identify priorities and plan actions in 2009-10.

### **Commissioning and use of resources**

People, who use services, and carers, are increasingly able to directly commission the support that they need through direct payments and individual budgets. The council is using local intelligence and the Joint Strategic Needs Analysis (JSNA) to shape, quality assure and develop the local care market, to meet the longer term demands of a fully personalised approach to adult social care. This is an ongoing area of work with all partners in the city, which will take some time to achieve. Partnerships with health are in the process of being further developed by joint strategic, commissioning and funding work. The council has a realistic understanding of the resource challenges that it faces. Understanding of the potential of preventative and re-ablement services to release resources for individuals and organisations is developing. Contracts with independent providers are monitored on an outcomes focused basis. Swift action is taken when concerns arise. Value for money and efficiency are established considerations. Existing resources are in the process of being realigned to support the delivery of adult social care transformation goals.

### **Summary of Performance**

Leicester City Council has a well-evidenced commitment to improving and transforming adult social care across the city. The council is well aware of the challenges that it faces, and has plans in place, with partner agencies where appropriate, to address them. These include addressing health inequalities, increasing the range of supported housing options for people with complex needs, reducing the time people are having to wait for major adaptations and ensuring that all appropriate concerns are identified and investigated via Adult Safeguarding

procedures. The council has a range of well-evidenced strengths. These include some excellent work on the development of personalised services; involving people from all communities in the development and delivery of new services, work on employment opportunities for people with a learning disability and the provision of services that meet the needs of very diverse communities.

The council was assessed overall as providing “good” outcomes for people using adult social care in 2007/2008. Progress has been made across all outcome areas in 2008/2009, with two outcomes, “making a positive contribution” and “freedom from discrimination and harassment” improving to “excellent”. No outcome areas were judged as performing less well than their 2007/2008 position. The 2008/2009 overall assessment is that the council is “performing well”.

The council has identified its priorities for 2009/2010. In many instances these are confirmed by the 2008/2009 annual performance assessment and are included in this report.

## **Outcome 1: Improved health and emotional well-being**

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### **Adequately**

#### **The council is performing:**

Leicester City Council has a strong understanding of and commitment to addressing the area’s health inequalities. On average people in Leicester have a shorter life expectancy than the average for England and have a higher risk of chronic illnesses such as diabetes and circulatory diseases. The council is working with health and other partners to reduce health risks, target known health challenges and reduce health inequalities across the community. Evidence of the impact of health promotion activities is beginning to emerge, both in terms of the number of people accessing these services and the impact they are having on their lives. Evidence is not yet available on the impact of these actions on overall mortality and morbidity rates. The council has provided good evidence of how increasingly personalised approaches to service delivery are positively impacting on the health and wellbeing of the people currently benefiting from them. The council has a clear understanding of the areas that need to develop further, including the expansion of personalised care, the delivery of higher levels of intermediate care and re-ablement and the further development of end of life care.

#### **What the council does well.**

- The council, with partners, has a strong understanding of the health needs and challenges faced by people in Leicester. This is reflected in the Joint Strategic Needs Analysis (JSNA) and the priorities of the Health and Wellbeing Partnership Board.
- Health advice and information is being targeted at activities known to present health risks, these include smoking, obesity, nutrition, alcohol and drug misuse.
- Personalised approaches to the delivery of care and health services are resulting in positive outcomes for the people using them, and their carers.

- End of life care is being developed, and is supporting people to make positive choices about their care at the end of life.
- Health and wellbeing activities recognise and target specific health needs across Leicester's diverse communities.

**What the council needs to improve.**

- Delivery, with health partners, of the planned increases in intermediate care and re-ablement services.
- Delivery of planned moves for people with a learning disability currently living in NHS campus accommodation.
- Increase the number of people with a learning disability benefiting from a Health Action Plan.
- Further develop, with health partners, systems to monitor and evaluate the impact of health and wellbeing actions on outcomes for people in Leicester. This should include the impact on health inequalities across Leicester.
- Increase the number of older people, and people with a physical disability or sensory impairment, benefiting from a review.
- Further develop, with partners, the Leicester strategy, and associated support services, for end of life care.

**Outcome 2: Improved quality of life**

---

**Adequately**

**The council is performing:**

The council has demonstrated its commitment to improving the quality of life for all people who use services and carers. Case examples demonstrate that for some people this is having a very positive impact on their quality of life. Activity figures indicate that there is still some way to go before all or most people in Leicester who use services, and carers, fully benefit from this approach. The council has a well established commitment to offering support at an early stage and supporting people to remain independent for as long as possible. This is reflected in the services currently available, activity and investment in 2008/2009 and planned developments for 2009/2010. The council is clear in its vision and intent but still has a gap to close between the excellent personalised services that some people are currently receiving and being able to deliver this approach to all or most people who use services, and their carers.

**What the council does well.**

- The council is working with people who use services and carers to provide advice and support to prevent loss of independence or to regain independence and maintain or establish a good quality of life. Case examples provide a strong outcomes focused evidence base of the benefits for people who are already experiencing this approach to their health, care, housing and broader quality of life needs.
- A range of services are already in place that focus on supporting people to live at home. The council has provided evidence of how services work together to support people at home. This includes people with a learning disability and people with mental health problems who have complex needs.

- Assistive technology is being used to support people, help them feel safer at home and innovatively to support people with complex needs and the people who care for them.
- Local agencies and organisations are working together to promote the social, leisure and learning needs of people who use services and carers. Leicester's hosting of the Special Olympics in July 2009 is a reflection of this long-standing commitment.

**What the council needs to improve.**

- Further develop measures to ensure that the full range of activity to support people at home and remain independent is captured, and that the outcomes from this investment and activity are clearly evidenced and evaluated.
- Reduce waiting times for major adaptations and the number of people who have to wait.
- Further develop the range of housing options available to older people and people with complex needs.
- Increase the number of carers who are able to benefit from a carer's break or a specific carers support service.
- Increase the number of people who use services, and carers, who benefit from an outcomes focused or person centred approach to planning and delivering their care and quality of life needs.

**Outcome 3: Making a positive contribution**

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**Excellently**

**The council is performing:**

People who use services and carers are supported to take part in community life. Their contribution to the planning, development and delivery of services has been well evidenced across all of the self-assessment outcome areas. Action has been taken to involve people across the communities in Leicester, including established and more recently arrived black and minority ethnic communities and groups of people who can be harder to reach, such as gay, lesbian, and transgender groups, drug users and people with HIV. The contributions of the primary users of services, older people, people with learning disabilities and carers have clearly been influential. The wider individual benefits of involvement, particularly improved confidence, self-esteem and skill development are a positive part of the engagement process and are explicitly supported and acknowledged. Voluntary organisations, including those that support people who use services and carers, play an important part in both the direct provision of services and in ensuring that Leicester voices are heard.

**What the council does well.**

- Consultation and involvement are integral to all adult social care activities and developments, and include contributions from black and minority ethnic communities and groups of people who can be hard to reach.
- People who use services and carers are supported to take part in community life. Support for people with a learning disability to do this is particularly well evidenced.

- The community and voluntary sector is encouraged, supported and makes a visible contribution.
- The views of people who use services, carers, voluntary and community organisations have a demonstrable impact on service planning, development, design and delivery.

**What the council needs to improve.**

- Monitoring and evaluation of the involvement and impact, in terms of service development and outcomes, of people who use services and carers on the adult social care transformation programme.

**Outcome 4: Increased choice and control**

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**The council is performing: Well**

The council has already made considerable progress in supporting people and carers to exercise choice and control over their services, via direct payments and personal budgets. Information, advocacy, support and a range of services are already in place to enable people to exercise choice and control. The council recognise that these will need to develop and expand considerably if the planned goal of transforming adult social care, and delivering all services on a personalised basis, is to be achieved. The adult social care transformation programme has been put in place to achieve this.

**What the council does well.**

- The number of people already exercising choice and control over their care via the use of direct payments or personal budgets.
- The increased use of direct payments by people with mental health problems.
- The take up of direct payments by people from black and minority ethnic communities.
- Evidence of the range of services and activities being supported via direct payments and the positive outcomes for the people concerned.
- Person centred planning and the take up of direct payments / personal budgets by young people in transition from children's to adult services.
- Investment in advocacy for people with a learning disability.
- The introduction of outcomes focused support plans.

**What the council needs to improve.**

- Improve the timeliness of assessments and the subsequent provision of services.
- Increase the number of carers receiving an assessment or review.
- Deliver planned increases in the number of people self-directing their support needs.
- Ensure that the range of local support options and services is sufficient to offer genuine choice and control for people using services and carers.

**Outcome 5: Freedom from discrimination and harassment**

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**Excellently**



**The council is performing:**

Leicester is a very diverse city. The council has worked hard, with partners and communities, to ensure that all aspects of adult social care are inclusive. This is an ongoing and challenging commitment. The council has been able to demonstrate across its self-assessment that it recognises, involves and provides services that are relevant and accessible to people from different communities and with different abilities. This is supported by the corporate achievement of level 4 of the Equality Standard for Local Government. Criteria for access to services is well publicised and in a variety of languages and formats. People who do not meet Fair Access to Care Services criteria (FACS) are signposted to other services and sources of information and support. Information and support is available to people who fund their own care. Partnership arrangements are in place to reduce discrimination and harassment. The increased use of assistive technology is helping people to feel safer in their own homes

**What the council does well.**

- Achievement of level 4 of the Equality Standard for Local Government (ESLG).
- Information, advice and services that meet the needs of a diverse community.
- Work with partner agencies and communities to reduce incidents of discrimination and harassment.
- Signposting people to services that are below FACS criteria, supported by follow up evaluation of how helpful, or not, these services were.
- Information and support for people who fund their own care.
- Use of assistive technology to help people feel safer at home.

**What the council needs to improve.**

- Monitoring and evaluation of the impact of personalised approaches, in terms of reducing experiences of discrimination and harassment, by people using services and carers.

**Outcome 6: Economic well - being**

---

**The council is performing: Well**

Information and advice is readily available to assist people who use services and carers to manage and maintain their incomes. This includes information and advice being available in a range of languages and targeted action to reach people whose financial situation is detrimental to their health and wellbeing. People who use services are being supported to regain or obtain employment through a range of services and actions. This is challenging given the deprivation profile of some wards in Leicester. The council is leading by example in its employment of people with a learning disability, and needs to challenge, with partners, the attitudes of other employers in the city. A carer's strategy is in place but its impact in terms of enabling carers to maintain or gain employment needs to be monitored and its impact established.

**What the council does well.**

- Services to assist people who use services and carers to maximise and manage their incomes are well established.

- Advice and assistance is targeted to assist people whose financial situation is a factor in poor health and wellbeing.
- Support is available to help people manage the financial aspects of direct payments.
- The council is developing its analysis of both the individual and organisation financial benefits of services such as reablement.
- A range of services and actions are in place to support people who use services to gain employment.
- The council has received a National Best Practice Award for its recruitment of people with a learning disability.

**What the council needs to improve.**

- Further develop support to enable carers to retain or return to employment. Increase the number of carers benefiting from this support.
- Work with partner agencies and other employers in Leicester to challenge attitudes to employing people with a learning disability.

**Outcome 7: Maintaining personal dignity and respect**

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**The council is performing: Well**

Arrangements are in place to ensure that people who use services and their carers are safeguarded from abuse. Time, energy and resources have been invested in the joint Leicester, Leicestershire and Rutland Adult Safeguarding Board in 2008-09. The council has a well prioritised insight into the areas of safeguarding it needs and wants to develop further in 2009-10. When issues do occur they are taken very seriously and responded to promptly. The council has learnt from safeguarding concerns within its own services and has taken prompt action to address them. The council's approach to personal care is based on rights, dignity and respect. This is at the heart of its planning for the transformation of adult social care in the city.

**What the council does well.**

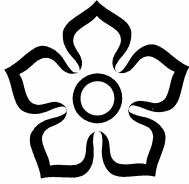
- Members of the council, staff and partner agencies have demonstrated by their actions throughout 2008-09, a strong commitment to the ongoing development of safeguarding activity across Leicester.
- Investment in training and the number of staff trained increased in 2008-09. 100% of relevant adult social care staff have had training to identify and assess risks to adults whose circumstances make them vulnerable.
- The council is aware of the safeguarding challenges that personalisation of services can bring. Arrangements are in place to ensure that Criminal Records Bureau (CRB) checks are obtained when individuals wish to employ personal assistants.
- The council is committed to promoting "Dignity in Care". This is reflected in the inclusion of dignity standards in its re-specified home care contracts, survey feedback from people using services and a successful bid for funding to take forward a Dignity in Care project with Leicestershire.
- Contracts and monitoring arrangements include safeguarding issues.

**What the council needs to improve.**

- Further development of the quality assurance of safeguarding activity.

- Further inclusion of people who use services and carers in the Adult Safeguarding Board.
- Further inclusion of safeguarding as an integral part of the development of personalised approaches and services.
- Ensure that all safeguarding concerns in directly provided services are recognised as such and responded to immediately, in accordance with Adult Safeguarding Board procedures and expectations.
- The number of safeguarding referrals has increased but continues to be well below the rates being experienced by similar councils and the average for councils in England. This is the same across the Leicester, Leicestershire and Rutland Safeguarding Partnership. The joint Adult Safeguarding Board needs to establish that it fully understands and is satisfied that these referrals accurately reflect the level of safeguarding concerns across the partnership.
- Complete work on and implement guidance on sexual and interpersonal relationships. Monitor and evaluate the impact of the guidance on outcomes for people using services.

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Leicester  
City Council

**WARDS AFFECTED**  
All wards

**CABINET**

**25<sup>th</sup> January 2010**

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## **COLLECTION FUND SURPLUSES**

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### **REPORT OF THE CHIEF FINANCE OFFICER**

#### **1. Purpose of Report**

- 1.1 The purpose of this report is to identify the estimated financial position of the Collection Fund Account as at 31 March 2010. Calculating the estimated surplus, or deficit, for this Account is a statutory requirement because the figure needs to be taken into account during the Council Tax setting process.
- 1.2 This report seeks the approval of the Cabinet to the estimated surplus figures and the amounts payable to the relevant authorities.

#### **2. Summary**

- 2.1 There is a statutory requirement for the Council to maintain a separate Collection Fund account. This Account contains the transactions of the Council in relation to collection of Non-Domestic Rates and Council Tax, and the distribution of the income received to the Government, the Police Authority, the Fire Authority and the authority's own General Fund.
- 2.2 By January each year, the authority has to estimate the surplus or deficit showing on the Collection Fund Account at the end of the financial year. The authority is also required to notify the Police Authority and Fire Authority of the estimate as it is entitled to receive a share of any surpluses or bear part of the deficit.
- 2.3 The authority's own share of the collection fund surplus or deficit contributes to the following year's budget.

### 3. **Recommendations**

3.1 The Cabinet is recommended to: -

- a) Approve the estimated collection fund surplus figure of £628,000 and
- b) Approve the estimated shares payable to the Police Authority, Fire Authority and the City Council as follows:

<b>Precepting Authority</b>	<b>£'000</b>
City share	529
Police share	75
Fire share	24
<b>Total</b>	<b>628</b>

### 4. **Report**

#### 4.1 **Background – The Collection Fund Account**

- 4.1.1 It is a statutory requirement for billing authorities to establish and maintain a Collection Fund for the receiving and distribution of amounts due in respect of Council Tax and Non Domestic Rates (NNDR).
- 4.1.2 The transactions of the Collection Fund are wholly prescribed by legislation. Billing authorities have no discretion to determine which receipts and payments are accounted for within the Collection Fund and which are outside the fund.

#### 4.2 **Estimated Surplus 2009/10**

4.2.1 The collection fund surplus for 2009/2010 is estimated as follows: -

<b>Precepting Authority</b>	<b>£'000</b>
City share	529
Police share	75
Fire share	24
<b>Total</b>	<b>628</b>

#### 4.3 **How Surpluses and Deficits Arise**

4.3.1 The surpluses on the collection fund arise from Council Tax only. Any business rates collected are handed over in their entirety to central government.

#### **4.4 Council Tax Surpluses**

- 4.4.1 Council Tax surpluses arise for a variety of reasons. One reason is that the collection performance for the current and (principally) earlier years is exceeding the estimate made when the original budget was set. More significantly, however, regeneration in Leicester has led to increases in the numbers of properties liable to pay tax. This year's surplus reflects the completion of building work that largely commenced prior to the recent economic slowdown, the effect is also seen in the tax base for 2010/11, which is reported elsewhere on today's agenda. It is, however, smaller than in previous years.
- 4.4.2 The taxbase for any given year does not stop changing at the end of that year. Indeed, movement continues to be seen in many earlier years, often due to reclassification of liability for individual properties after the year-end. These earlier year changes also affect the levels of surplus.

#### **4.5 Council Tax Collection Performance.**

- 4.5.1 The in year collection rate for Council Tax (i.e. the amount collected within the year of charge) has generally increased year on year as shown in the table below:

**Table 1 – In year Collection Rate for Council Tax**

<b>Year</b>	<b>In year Collection Rate %</b>
2001/2002	89.0
2002/2003	92.0
2003/2004	90.2
2004/2005	92.3
2005/2006	93.8
2006/2007	95.4
2007/2008	95.7
2008/2009	96.0

- 4.5.2 Collection for the current year is currently similar to that at the same time last year and it is anticipated that the in year collection rate will be in excess of 96%.
- 4.5.3 Our in-year collection performance is again increasing. However, it is acknowledged that our in year collection performance is still slightly below the average of comparable unitary authorities.

#### **5. Financial and Legal Implications**

- 5.1 This report is concerned solely with financial issues.
- 5.2 As this report concerns the setting of next year's budget, S106 of the Local Government Finance Act applies to members in arrears of Council Tax.

Other implications	Yes / No
Equal Opportunities Policy	No
Sustainable and Environmental	No
Crime and Disorder	No
Human Rights Act	No
Elderly People / People on Low Income	No

## 6. **Risk Assessment Matrix**

Risk	Likelihood	Severity Impact L/M/H	Control Actions (If necessary/appropriate monitoring procedures.
Estimated Surpluses	L	H	Robust monitoring procedures.

## 7. **Background papers**

- 7.1 Local Government Act 1972.
- 7.2 Various collection fund directions made under the 1988 Act.

## 8. **Report Author**

Devanshi Mavani  
Interim Chief Accountant  
Resources Department  
Extn: 29 7421

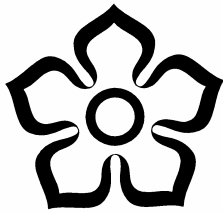
Alan Lemmon  
Quality and Performance Manager  
Revenues and Benefits  
Extn: 38 5102

## 9. **Decision Status**

<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet)

Date: 16<sup>th</sup> December 2009.





Leicester  
City Council

WARDS  
AFFECTED

All Wards

CABINET  
COUNCIL

25<sup>th</sup> JANUARY 2010  
28<sup>th</sup> JANUARY 2010

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## COUNCIL TAX - TAXBASE

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### REPORT OF THE CHIEF FINANCIAL OFFICER

#### 1.0 PURPOSE AND SUMMARY OF REPORT

1.1 The City Council is required to set a “taxbase” by 31<sup>st</sup> January 2010 for the purpose of setting its Council Tax. This is, in effect, the number of properties in the City on which council tax is charged. It also enables the police and fire authorities to set their precepts. This report details the recommended taxbase for the financial year 2010/2011.

#### 2.0 RECOMMENDATIONS

2.1 The Cabinet is recommended to endorse a taxbase for 2010/2011 of 78,799 properties expressed as the equivalent number of “Band D” properties.

2.2 The Council is recommended to agree a taxbase for 2010/2011 of 78,799 properties expressed as the equivalent number of “Band D” properties.

#### 3.0 REPORT

3.1 For Council Tax purposes, all properties are put into one of eight bands (A to H) by the Valuation Office Agency, an executive agency of HM Revenues and Customs. The occupiers of Band A properties pay the lowest Council Tax while those in Band H properties pay the highest.

3.2 The taxbase is the number of properties in the City on which Council Tax is charged but expressed as if all properties were in Band D. As most properties in Leicester are in Bands A or B the number of Band D equivalent properties is less than the actual number of properties in the City.

- 3.3 Appendix 1 to the report details how the properties are converted to Band D equivalents. The appendix also details how the Band D equivalent figure is reduced to take account of changes in the taxbase after it has been set (e.g. in the number of discounts and exemptions awarded) and the anticipated collection rate. The taxbase is not reduced in respect of council tax benefit granted to taxpayers on low income (because council tax benefit does not reduce the amount of council tax due on a property – it simply means that part of the sum due is paid by the government.)
- 3.4 The Cabinet is asked to note that there is only one element of policy choice in the setting of the taxbase, which is the adjustment provision we make for non-payment and for in-year changes to the tax base.
- 3.5 Collection performance has been improving considerably in recent years. Furthermore, Leicester has seen continual growth in new building, which has resulted in increased council tax yields during the course of each of the recent years. This has allowed the adjustment provision to be reduced, and it has progressively fallen to 2.0%. Notwithstanding this, we have still achieved collection fund surpluses, although such surpluses now appear to be in decline.
- 3.6 Recommending a provision for 2010/11 is difficult due to the impact of the recession. Perhaps surprisingly, tax collected to date in 2009/10 is slightly better than at the same time in 2008/09. This may be due to the increase in people entitled to council tax benefit; this guarantees collection from taxpayers who perhaps found it difficult to pay when employed. It also reflects continued improvement in recovery practices. Nonetheless, I would recommend an increase in the provision from 2.0% to 2.25% for the following reasons: -
- a) Risks over people's ability to pay in a recession, although this does not seem to be a significant risk on present evidence;
  - b) The fact that house building in the city has slowed down in the recession. In past years, new properties have provided increased tax revenues, which has cushioned the effect of losses elsewhere;
  - c) Late granting of discounts and exemptions always has a negative impact on yield, and this will continue;
  - d) Significantly, the number of newly built empty properties in the city still owned by the developer has increased from 130 last year to 553 this year. These properties are charged 100% of tax 6 months after their completion and this number represents a significant proportion of developers' unsold stock. Thus, the Council has some exposure to the continued buoyancy of these developers.
- 3.7 I remain of the view that, in the longer term, 1.75% is probably the level of provision required in an environment when the property numbers are stable and the economy is normal.

- 3.8 The outcome is a taxbase for the setting of the Council Tax of 78,799. This is an increase from 2009/10 (78,299) of 500 and is mainly due to an overall increase in the numbers of properties in Leicester.
- 3.9 A separate report on today's Cabinet agenda reports the estimated surpluses on the collection fund for 2009/2010. These arise from collection rates that have exceeded the provision made in respect of years prior to 2009/10 and to in-year increases in the amount of the tax due arising from new properties being built. This is offset by late reductions in bills due to new eligibility to discounts and exemptions.

**4 FINANCIAL AND LEGAL IMPLICATIONS**

- 4.1 The Council Tax Base for the year 2010/11 must be calculated in accordance with Regulation 3 of the Local Authorities (Calculation of Council Tax Base) Regulations, 1992 as amended by the Local Authorities (Calculation of Council Tax Base)(Amendment) Regulations, 2003 made under Section 33(5) of the Local Government Act 1992.
- 4.2 The report details the taxbase on which the Council Tax for the City Council is charged. The taxbase also determines the proportion of the levy charged to the City Council from the Environment Agency as well as the precept to the Police Authority and the Combined Fire Authority. The taxbase has a direct effect on the level of Council Tax levied for 2010/2011.
- 4.3 As this report affects the level of Council Tax in 2010/11, Section 106 of the Local Government Finance Act 1992 applies. Where a member is at least two months in arrear in payment of their Council Tax, the member must not vote on any report that relates directly to the setting of the Council Tax.
- 4.4 There are no additional legal implications.

**5. OTHER IMPLICATIONS**

Other Implications	YES/NO
Equal Opportunities	YES
Policy	NO
Sustainable Environment	NO
Crime and Disorder	NO
Human Rights Act	NO
Elderly People / People on Low Income	NO

**6. BACKGROUND PAPERS:  
(LOCAL GOVERNMENT ACCESS TO INFORMATION ACT) 1985**

Local Government Finance Act 1992.  
Local Authorities (Calculation of Taxbase) Regulations 1992 as amended.  
Return to the Department of Communities and Local Government  
- October 2009 - CTB.

**7. REPORT AUTHOR**

Alan Lemmon  
Quality and Performance Manager  
Revenues and Benefits,

Extn. 38 5102

**8. Decision Status**

Key Decision	Yes
Reason	Provides key element of information required in the annual budget cycle
Appeared in Forward Plan	Yes
Executive or Council Decision	Executive (Cabinet)

12<sup>th</sup> November 2009

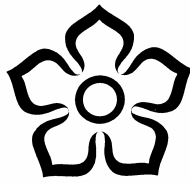
# COUNCIL TAX – TAXBASE

# APPENDIX

<i>DESCRIPTION/BAND</i>	<i>Band A and entitled to Disabled Relief</i>	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>	<i>F</i>	<i>G</i>	<i>H</i>	<i>TOTAL</i>
Dwellings in the Valuation List		75,345	24,161	14,869	6,367	2,983	1,348	600	59	125,732
Net adjustment for Disabled Reduction and Demolished	168	-9	-27	-77	-11	-15	-9	3	-23	0
<b>TOTAL NUMBER OF PROPERTIES</b>	<b>168</b>	<b>75,336</b>	<b>24,134</b>	<b>14,792</b>	<b>6,356</b>	<b>2,968</b>	<b>1,339</b>	<b>603</b>	<b>36</b>	<b>125,732</b>
Full Charge	140	37,520	15,329	10,076	4,355	2,306	1,077	465	21	71,289
Discount - 10%	0	516	161	95	58	20	8	5	1	864
Discount - 25%	25	32,667	7,096	3,403	1,179	450	193	76	1	45,090
Discount - 50%	3	94	23	27	20	29	34	41	10	281
Exempt	0	4,539	1,525	1,191	744	163	27	16	3	8,208
<b>TOTAL NUMBER OF PROPERTIES</b>	<b>168</b>	<b>75,336</b>	<b>24,134</b>	<b>14,792</b>	<b>6,356</b>	<b>2,968</b>	<b>1,339</b>	<b>603</b>	<b>36</b>	<b>125,732</b>
Total Equivalent Properties	160.25	62,531.65	20,807.40	12,727.25	5,301.45	2,676.00	1,245.95	547.00	27.65	106,024.60
Ratio to Band D	5/9	6/9	7/9	8/9	9/9	11/9	13/9	15/9	18/9	
Band D Equivalent	89.0	41,687.8	16,183.5	11,313.1	5,301.5	3,270.7	1,799.7	911.7	55.3	80,612.2
Less Provision (2.25%)										1,813.2
<b>Taxbase</b>										<b>78,799.0</b>

- 10% Discount - Unoccupied but furnished property.
- 25% Discount - Mainly dwellings occupied by one person.
- 50% Discount - Mainly hostels or dwellings solely occupied by people severely mentally impaired.
- Exempt - Mainly dwellings occupied solely by students or property empty for up to 6 months.

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Leicester  
City Council

# APPENDIX F

**PERFORMANCE AND VALUE FOR MONEY SELECT  
COMMITTEE  
CABINET**

**20 JANUARY 2010**

**25 JANUARY 2010**

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## **ADDITIONS TO THE 2009/2010 PROCUREMENT PLAN**

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### **Report of the Corporate Director of Resources**

#### **1 PURPOSE OF THE REPORT**

- 1.1 This Report seeks Cabinet's approval for new additions to the Procurement Plan for 2009/2010. The original Report "Creation of the 2009/2010 Procurement Plan" was approved by Cabinet on 30 March 2009.
- 1.2 The Plan serves 2 purposes:
  - (a) To inform the market of future procurement activity, to enable them to prepare.
  - (b) To provide members with greater overview of procurement activity.
- 1.3 This Report, grouped into Cabinet Portfolios, listing probable procurement exercises above the EU thresholds (currently, £139,893 for supplies and services and £3,497,313 for works) is the second such report covering this financial year.

#### **2 REPORT**

- 2.1 In consultation with Divisional staff, the Corporate Procurement Team has produced the attached Schedule (at Appendix 1) listing additional potential procurement activity for the 2009/2010 financial year above the EU threshold.
- 2.2 The National Procurement Strategy, published in 2003, recommended the publication of a forward looking procurement plan – to be available for the market to have an early indication of what we may offer to the market.
- 2.3 This Report is designed to provide Cabinet with sufficient overview and control and provides the added benefit of enhancing corporate management oversight and control of compliance with EU Public Procurement requirements.

### 3 RECOMMENDATIONS

Cabinet is recommended:

- 3.1 Approve the forward plan of additional procurement activities attached as Appendix 1, which will be added to the Plan approved by Cabinet on 30 March 2009.
- 3.2 To note that the consolidated Plan will be reviewed from time to time and actual procurement activity will be monitored against the plan by the Select Committee.

### 4 CONSULTATION

- 4.1 This report has been discussed at Strategic Management Board.

### 5 FINANCIAL, LEGAL AND OTHER IMPLICATIONS

#### 5.1 Financial Implications

All the procurement activities in Appendix 1, already feature in either revenue or capital budgets and associated strategies.

*Steve Charlesworth, Head of Financial Strategy & Development  
Resources Department Extn 29 7495*

#### 5.2 Legal Implications

As all the procurement activities are above the EU Public Procurement Thresholds, they will, once exposed to the market, comply with the EU Public Procurement Directives.

*Beena Adatia,, Senior Solicitor/Team Leader  
Resources Department Extn 29 6378*

#### 5.3 Other Implications

Other Implications	Yes/No	Paragraph References within this Report
Equal Opportunities	See comment	None specifically from this Report but the individual tendering exercises will follow the corporate standards.
Policy	See comment	
Sustainable and Environmental	See comment	
Crime and Disorder	See comment	
Human Rights Act	See comment	
Elderly Persons/People on Low Incomes	See comment	



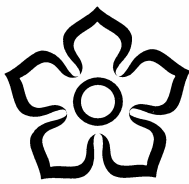
## **6 REPORT AUTHOR**

6.1 Geoff Organ  
Head of Corporate Procurement, Support & Income  
Financial Services Division

Extn 29 6014

24 November 2009

<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet)



Leicester  
City Council

**LEICESTER CITY COUNCIL PROCUREMENT PLAN 2009/2010  
FINANCIAL YEAR APRIL 2009 TO MARCH 2010**

**PORTFOLIO – HOUSING**

**1**

Division: Housing Services  
Section: Technical Services.  
Name of Contract: **Installation of fire alarms and emergency lighting in multi occupied properties**  
Description of Contract: The fire regulatory reform (fire safety) order 2005 came to the statute book on the 1st October 2006. As a result communal areas of flats within the Council's housing stock came under the legislation for the first time. In conjunction with the Leicestershire Fire Service, the Housing Service have carried out a series of risk assessments, which are now nearing completion. From the risk assessments carried out there are a number of deficiencies identified, and an agreed programme of work to carry out the remedial work  
Expiry Date of existing Contract: New contract  
Anticipated start of new Contract: July 2010  
Duration of new Contract: 2 yrs,  
Value of new Contract: £424,000 Entire contract  
Lead Officer: Malcolm Morley

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**2**

Division: Housing Services  
Section: Technical Services  
Name of Contract: **Supply of Combination Boilers**  
Description of Contract: Distributors required to supply high efficiency gas-fired combination boilers for installation by own work force to domestic properties city wide.  
Expiry Date of existing Contract: New contract  
Anticipated start of new Contract: July 2010  
Duration of new Contract: 3yrs,+1  
Value of new Contract: £400,000 Entire contract  
Lead Officer: Dave Clarke

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**3**

Division: Housing Services  
Section: Technical Services  
Name of Contract: **Supply of Glass sealed units**  
Description of Contract: Supply glass units for the UPVC Doors and Windows programme  
Expiry Date of existing Contract: New contract  
Anticipated start of new Contract: July 2010  
Duration of new Contract: 3Yrs, +1  
Value of new Contract:  
Lead Officer: Simon Nichols

---

**4**

Division: Housing Services  
Section: Technical Services  
Name of Contract: **Installation of New Heating and Hot Water Distribution pipework to Individual dwellings In Tower Blocks City Wide**  
Description of Contract: The scope of these works comprise the installation of a new heating and hot water distribution network to Tower Blocks City Wide. This network will rise vertically through 17 storey 's in height of the high rise tower blocks via a closed loop twin pipe accelerated pressurised arrangement.  
Expiry Date of existing Contract: New contract  
Anticipated start of new Contract: July 2010  
Duration of new Contract: 3 Yrs +1  
Value of new Contract: £3.5 million  
Lead Officer: Brian Knifton

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# PORTFOLIO – ADULTS AND OLDER PEOPLE

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**1**

Division: SCP& BS  
 Section: Service Contracting & Procurement  
 Name of Contract: **Provision of Residential Services for People with Learning Disabilities**  
 Description of Contract: Residential Care for Services for Adults with Learning Disabilities ((Joint block contract with Leicestershire County Council)  
 Expiry Date of existing Contract: 30<sup>th</sup> September 2010, with option to extend to 31<sup>st</sup> March 2011  
 Anticipated start of new Contract:  
 Duration of new Contract: 3 years  
 Value of new Contract: £600,000 (of which £187,266.92 belongs to Leicester City)  
 Lead Officer: Harminder Basra

---

**2**

Division: SCP& BS  
 Section: Service Contracting & Procurement  
 Name of Contract: **Provision of Residential Services for Adults Recovering from Substance Misuse**  
 Description of Contract: Residential Care for Services for Adults with Learning Disabilities  
 Expiry Date of existing Contract: 31<sup>st</sup> December 2011 with option to extend to 31<sup>st</sup> March 2012  
 Anticipated start of new Contract: 1<sup>st</sup> January 2010  
 Duration of new Contract: 1 year (1+1)  
 Value of new Contract: TBA – but likely to be above EU threshold  
 Lead Officer: Harminder Basra/Ashok Chotalia

---

**3**

Division: Strategy, Commissioning, Performance & Business Support  
 Section: Service Contracting & Procurement Unit  
 Name of Contract: **Supported Living Services for Adults with Learning Disabilities (Minor Minimum Hours Contract)**  
 Description of Contract: Provision of Supported Living Services for Adults with Learning Disabilities (Minor Minimum Hours Contract). Contract to be extended to expire 01/04/2012. Full Procurement Process Planned to commence January 2011.  
 Expiry Date of existing Contract: 01/04/2012  
 Anticipated start of new Contract: 02/04/2012  
 Duration of new Contract: 3 + 1 + 1 years  
 Value of new Contract: £765,000  
 Lead Officer: Yatish Shah

---

**4**

Division: Strategy, Commissioning, Performance & Business Support  
 Section: Service Contracting & Procurement Unit  
 Name of Contract: **Supported Living Services for Adults with Learning Disabilities (Minor Minimum Hours Contract)**  
 Description of Contract: Provision of Supported Living Services for Adults with Learning Disabilities (Minor Minimum Hours Contract). Contract to be extended to expire 01/04/2012. Full Procurement Process Planned to commence January 2011.  
 Expiry Date of existing Contract:  
 Anticipated start of new Contract: 02/04/2012  
 Duration of new Contract: 3 + 1 + 1 years  
 Value of new Contract: £765,000  
 Lead Officer: Yatish Shah

**5**

Division: Strategy, Commissioning, Performance & Business Support  
 Section: Service Contracting & Procurement Unit  
 Name of Contract: **Health Homes - Supported Living Services for Adults with Learning Disabilities**  
 Description of Contract: Framework contract for the provision of 24 hour Supported Living Services for Adults with Learning Disabilities currently living in NHS Campus accommodation (Health Homes). All adults have severe learning disabilities and complex health needs. The Council is required to re-provide services for these adults by December 2010 (DOH target linked to LAA indicator). Unqualified staff will be TUPE transferred to successful independent sector care providers.  
 Expiry Date of existing Contract:  
 Anticipated start of new Contract: May/June 2010  
 Duration of new Contract: 2 + 1 + 1 years  
 Value of new Contract: Above EU threshold. Value of the contract to be confirmed November 2009  
 Lead Officer: Angela Sutaria / Yatish Shah

**6**

Division: Personalisation and Business Support  
 Section: Service Contracting and Procurement Unit  
 Name of Contract: **Provision of Voluntary Sector Services including Day Service, Lunch Club, Advocacy, Advice and Information, Telephone Help line, Carers, Counselling and Employment/Volunteering**  
 Description of Contract: As above  
 Expiry Date of existing Contract: 31/03/2010  
 Anticipated start of new Contract: 2010/11 (subject to Personalisation and Business Support review)  
 Duration of new Contract: To be determined subject to Personalisation and Business Support review  
 Value of new Contract: £3,000,000 approx. Per Annum (Life of contracts: To be determined subject to Personalisation and Business Support review)  
 Lead Officer: Lee Keeling

# PORTFOLIO – STRATEGY, FINANCE, PROPERTY AND COMMUNICATIONS

## 1

Division: Property Services  
 Section: Projects – Engineering Services  
 Name of Contract: **Annual Engineering Service Contract – Emergency Lighting**  
 Description of Contract: Annual preventative and remedial maintenance of Emergency Lighting installations in various buildings.  
 Expiry Date of existing Contract: September 2010  
 Anticipated start of new Contract: September 2010  
 Duration of new Contract: 3 + 1 years  
 Value of new Contract: £960k  
 Lead Officer: Paul Sarson

---

## 2

Division: Property Services  
 Section: Projects – Engineering Services  
 Name of Contract: **Annual Engineering Service Contract – Air Conditioning Units**  
 Description of Contract: Annual preventative and remedial maintenance of Air Conditioning units in New Walk Centre and Phoenix House.  
 Expiry Date of existing Contract: November 2009  
 Anticipated start of new Contract: April 2010  
 Duration of new Contract: 3 + 1 years  
 Value of new Contract: £840k  
 Lead Officer: Paul Sarson

---

## 3

Division: Property Services  
 Section: Projects – Engineering Services  
 Name of Contract: **Annual Monitoring of Alarms**  
 Description of Contract: Remote monitoring of Alarm Activations  
 Expiry Date of existing Contract: 31/03/2010  
 Anticipated start of new Contract: March 2010  
 Duration of new Contract: 3 + 1 years  
 Value of new Contract: £336k  
 Lead Officer: Paul Sarson

---

**4**

Division: Property Services  
 Section: Projects – Engineering Services  
 Name of Contract: **Annual Engineering Service Contract – Boiler Maintenance**  
 Description of Contract: Annual preventative and remedial maintenance of heating and hot water boiler installations in various buildings.  
 Expiry Date of existing Contract: November 2010  
 Anticipated start of new Contract: November 2010  
 Duration of new Contract: 3 + 1 years  
 Value of new Contract: £912k  
 Lead Officer: Paul Sarson

**5**

Division: Property Services on behalf of Planning and Economic Development  
 Section: Projects – Project Management  
 Name of Contract: **Incubator Units, Leicester Science Park**  
 Description of Contract: Construction Works  
 Expiry Date of existing Contract: N/A  
 Anticipated start of new Contract: January 2010  
 Duration of new Contract: 18 months  
 Value of new Contract: £6m  
 Lead Officer: Peter Candler (LCB Depot) / Ian Wallace (Projects)

**6**

Division: Property Services  
 Section: Projects – Project Management  
 Name of Contract: **NBQ Relocation and Demolition**  
 Description of Contract: Construction Works  
 Expiry Date of existing Contract: N/A  
 Anticipated start of new Contract: Spring 2010  
 Duration of new Contract: 18 months  
 Value of new Contract: £6.5m  
 Lead Officer: Neil Gamble / Maurice Brice

---

**7**

Division: Property Services  
Section: Projects – Project Management  
Name of Contract: **Bishop Street Customer Services Centre**  
Description of Contract: Refurbishment Works  
Expiry Date of existing Contract:  
Anticipated start of new Contract: November 2009  
Duration of new Contract:  
Value of new Contract: £5m  
Lead Officer: Ian Wallace

---

**8**

Division: Adults and Housing  
Section: Various  
Name of Contract: **Purchase of Additional Computer Hardware and Supporting Services to Accommodate the Split of the Revenues/Benefits System from the Housing Systems**  
Description of Contract: This is following the Competition Commission ruling for Capita to sell Revenues/Benefits product  
Expiry Date of existing Contract: Not applicable  
Anticipated start of new Contract: 9 December 2009  
Duration of new Contract:  
Value of new Contract: £581,071 based on a 5 year contract. Goods and services to be purchased through existing ESPO frameworks on the grounds of urgency.  
Lead Officer: Paul Lynch

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# PORTFOLIO – REGENERATION AND TRANSPORT

---

## 1

Division:	Planning & Economic Development
Section:	Passenger & Transport Services
Name of Contract:	<b>Provision of Vulnerable Passenger and Ad Hoc Transport Clientele Services</b>
Description of Contract:	The previous contracted supplier went into liquidation in October 2008. This exercise will regularise the current ad hoc arrangements and will enable compliant purchasing to take place whilst a longer term strategy is developed.
Expiry Date of existing Contract:	
Anticipated start of new Contract:	01/04/2010
Duration of new Contract:	2 years with extensions if required of +1 +1 ( 4 years ) in total
Value of new Contract:	Approx £3 Million
Lead Officer:	Jan Dudgeon Head of Passenger & Transport Services

---

## 2

Division:	Planning & Policy
Section:	City Transport - Fleet
Name of Contract:	<b>Central Vehicle Pool – Vehicle/Plant Repair and Maintenance Contract</b>
Description of Contract:	Vehicle/Plant Repair and Maintenance – 5 year period commencing 01/01/2005
Expiry Date of existing Contract:	31/12/2009
Anticipated start of new Contract:	01/01/2010 (2 year extension)
Duration of new Contract:	2 years
Value of new Contract:	Estimated annual cost £1.4 million
Lead Officer:	David Ison

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## 3

Division:	Planning & Policy
Section:	Economic Regeneration
Name of Contract:	<b>Fit For Work Case Coordination Service</b>
Description of Contract:	Specialist Employment Support Service 12 month contract
Expiry Date of existing Contract:	
Anticipated start of new Contract:	01/04/2010
Duration of new Contract:	1 year
Value of new Contract:	Estimated annual cost £210,000
Lead Officer:	Hansa Mistry

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**There are no new entries for the following portfolio:**

**COMMUNITY COHESION AND HUMAN RESOURCES**

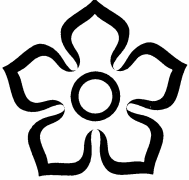
**FRONTLINE SERVICES**

**CULTURE AND LEISURE**

**HEALTH AND COMMUNITY SAFETY**

**CHILDREN AND SCHOOLS**

**ENVIRONMENT**



Leicester  
City Council

**WARD AFFECTED**  
Humberstone & Hamilton, Freeman,  
Coleman, New Parks, Charnwood

**Performance and Value for Money Select Committee  
Cabinet**

**20 January 2010  
25 January 2010**

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**ADDENDUM TO THE 'ADDITIONS TO THE 2009/2010 PROCUREMENT PLAN'**

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**Report of the Director of Housing Strategy & Options**

**1. PURPOSE OF REPORT**

To seek Cabinet approval to add the local authority new build council housing schemes to the 2009/2010 Procurement Plan.

**2. SUMMARY**

Following two cabinets reports, on the 13 and 5 October 2009, the Council has been successful in bidding for grant from the Homes and Communities Agency to build 146 council houses on 5 sites in the City.

The Council needs to claim the first tranche of grant by the 31<sup>st</sup> March 2010. To claim the grant the Council needs to have signed building contracts with the building contractor.

The contractor has been procured through the East Midlands Purchasing Alliance (EMPA) Framework.

**3. RECOMMENDATIONS**

- 3.1** The LA New Build Schemes are added to the 2009/10 Procurement Plan.

#### 4. REPORT

4.1 The table below shows the sites together with the building contract value and number of units being provided.

NAME OF SITE	NUMBER OF UNITS	ESTIMATED VALUE OF CONTRACT
Godstow Walk	35	3,050,000
Heather Road	9	1,000,000
Wycombe Road	49	4,400,000
Bonney Road	23	2,500,000
Laburnum Road	30	3,200,000
<b>Total</b>	<b>146</b>	<b>14,150,000</b>

#### 5. FINANCIAL AND LEGAL IMPLICATIONS

##### 5.1 Financial Implications

No formal comments sought for this report the implications were outlined in the previous Cabinet reports.

##### 5.2 Legal Implications

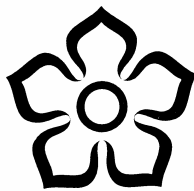
No formal comments sought for this report the implications were outlined in the previous Cabinet reports.

#### 6. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph references within the report
Equal Opportunities	NO	
Policy	NO	
Sustainable and Environmental	NO	
Crime and Disorder	NO	
Human Rights Act	NO	
Elderly/People on Low Income	NO	

#### 7. REPORT AUTHOR

Julia Keeling  
Head of Housing Development  
Ext. (29) 8714



Leicester  
City Council

# APPENDIX G

**WARDS AFFECTED**  
**All Wards**

## **FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**

<b>PERFORMANCE AND VALUE FOR MONEY SELECT COMMITTEE CABINET</b>	<b>20 JANUARY 2010</b>
	<b>25 JANUARY 2010</b>

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## **CONTRACT PROCEDURE RULES WAIVERS**

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### **REPORT OF THE CHIEF FINANCE OFFICER**

#### **1 PURPOSE OF REPORT**

For information only; this is a regular report to provide Cabinet with a summary of Contract Procedure Rule waivers.

#### **2 REPORT**

- 2.1 Contract Procedure Rules include a provision which enables the rules to be waived by the Monitoring Officer or (in the case of small contracts) by Divisional Directors where a business case can be shown for doing so, subject to there first being prior consultation with the relevant Cabinet Lead where the decision in question involves significant changes in policy or strategy, or the circumstances otherwise warrant this.
- 2.2 This is subject to a subsequent Report to Cabinet and Select Committee.

#### **3 RECOMMENDATIONS**

Cabinet is recommended to note the summary of Contract Procedure Rule waivers summarised in **Appendix A**.

#### **4 HEADLINE FINANCIAL AND LEGAL IMPLICATIONS**

##### **4.1 Financial Implications**

There are none arising from this report.

##### **4.2 Legal implications**

It is within Cabinet's remit to keep under review and change its Scheme of Delegation as necessary.

<b>OTHER IMPLICATIONS</b>	<b>YES/NO</b>	<b>Paragraph references within supporting information</b>
Equal Opportunities	<b>No</b>	
Policy	<b>No</b>	
Sustainable and Environmental	<b>No</b>	
Crime and Disorder	<b>No</b>	
Human Rights Act	<b>No</b>	
Elderly/People on Low Income	<b>No</b>	

## **5 BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972**

The Council's Constitution, including Cabinet's Scheme of Delegation and records received by the Monitoring Officer from Corporate Directors which have been used to compile this Report.

## **6 CONSULTATIONS**

Peter Nicholls, Director – Legal Services  
Mark Noble – Chief Finance Officer.

## **7 REPORT AUTHOR**

Geoff Organ  
Head of Corporate Procurement, Support & Income  
Financial Services Division

Extn 29 6014

<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet)

**WAIVERS OF CONTRACT PROCEDURE RULES APPROVED BY THE MONITORING OFFICER DURING THE PERIOD  
1 APRIL 2009 TO 30 SEPTEMBER 2009**

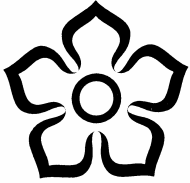
<b>Nº</b>	<b>Date</b>	<b>Scheme</b>	<b>Contract Procedure Rule Affected</b>	<b>Reason for Waiver</b>
1	01/04/2009	Project management of the Leicester City Strategy Programme	Section 2, Rule 7.1	Current administration arrangements are under review. The Applicant is proposing to bring the service in-house and this extension was required in the interim period. Additionally, it is highly unlikely that another service provider would want to tender for a short contract with a potential TUPE transfer.
2	09/04/2009	Temporary management of the Braunstone Grove Young People's Centre	Section 3, Rule 2	The full time worker is currently on a secondment. For the service to continue it was imperative that staff with the knowledge and understanding of the young people using the service was recruited. An external organisation with the necessary experience was selected.
3	09/04/2009	Employment opportunities for people with disabilities	Section 2, Rules 5 and 10 – 12	This is a ValueAbility contract (Employment opportunities for people with disabilities). This Waiver is to enable an evaluation of the activity to take place prior to an EU compliant tendering exercise.
4	09/04/2009	Offenders – Set Square	Section 2, Rules 5 and 10 – 12	This is the Leicestershire & Rutland Probation Trust contract. This Waiver is to enable an evaluation of the activity to take place prior to an EU compliant tendering exercise.
5	09/04/2009	Safer and Stronger Communities DAAT funded initiatives 2009/2010	Section 2, 4 & 5	This is the Drugs & Alcohol Action Team (DAAT) contract. This Waiver is for an interim period to allow a formal procurement exercise to be completed this year. It is considered highly unlikely that another service provider would want to tender for a short-term contract.
6	09/04/2009	Grant Aid contracts	Section 2	This Waiver related to the reprovision of grant aid services with the voluntary sector. A tendering exercises was undertaken but due to some slight delay was not possible to award in time, therefore extensions to the current contract was sought.
7	16/04/2009	Culturally specific refuge provision for women at risk of domestic violence.	Section 2, Rule 4.	This Waiver is to extend existing contracts 3 months to complete a procurement process following an extra period of clarification, This extension formed part of the risk management process to ensure the transfer does not adversely affect services to vulnerable client groups.

N <sup>o</sup>	Date	Scheme	Contract Procedure Rule Affected	Reason for Waiver
8	16/04/2009	Funding for holiday activities for 11 – 25 year olds.	Section 2, Rule 4	Due to time constraints, this Waiver allowed the interim provision of activities during the holiday periods. This extension would allow the development of a strategy for holiday funding similar to the Early Prevention strategy for playschemes in the coming months.
9	23/04/2009	Exit ticket barrier system at Enderby Park & Ride site.	Section 2, Rule 4	The Waiver was sought as there were only five contractors on the ESPO framework but no provision in the award for a mini competition or call off. As it was a large contract, it was deemed necessary to invite all five to tender.
10	15/05/2009	Domestic Violence Integrated Response Project (DVIRP)	Section 2, Rule 4.1	This project provides support for victims of domestic violence and is a new service. The City Council has agreed to fund the IDVA service till 2011 and this Waiver was to seek an extension to the current DVIRP contract for 5 months, during which time, work would be undertaken to commission the service.
11	26/05/2009	Safeguarding in Madrassas Project	Section 4 (d)	This project consists of developing safeguarding services within the Muslim community's complementary schools system (madrassas). A Waiver for a one-year's extension was required to continue vital and necessary work whilst further work is undertaken to determine future requirements.
12	05/06/2009	Special Olympics 2009 – Provision of accommodation, meals and rooms for social events.	Section 2, Rules 5, 9, 10 and 12.	The Council were asked by the Special Olympics board to procure the required services. Due to the tight timescale and urgency (and the imminence of the Games), a Waiver was sought to ensure that the services were sourced and provided on time.
13	20/05/2009	Youth Crime Family Intervention Project	Section 2, Rules 4 & 7	This Waiver approved an extension to the contract with an organisation for a further 3 months to ensure that there is no break in service delivery and that families currently being supported, are continued to be supported during the transition to a new supplier.
14	01/09/2009	"Involve" Tier 1 and Tier 2 Drug and Alcohol Training	Section 2, Rule 4	This Waiver is to seek an extension to the current training programme whilst the process of LLR DAAT (Drugs & Alcohol Action Team) disaggregation takes place and a review of training is undertaken.
15	10/09/2009	Engagement of a Retailer Engagement Development Manager	Section 2, Rule 7.1	LCC had EMDA funding for a Retailer Engagement Development Manager from January 2009 to March end 2011. A Waiver was required to cover a sub-contract that mirrors the main contract period for January 2009 to December end 2009. It is highly unlikely that another service provider would want to tender for a contract with a short timeframe.



N <sup>o</sup>	Date	Scheme	Contract Procedure Rule Affected	Reason for Waiver
16	09/09/2009	Routeways co-ordination work	Section 2, Rules 7.1	This Waiver was required to cover a brief contract period of 3 months whilst a tendering exercise is undertaken.
17	30/09/2009	Supply and installation of UPVC doors and frames	Section 8, Rules 1.1.2	The Waiver was sought to cover a 9 months period to allow for a tendering exercise to commence and conclude. This contract would be running to supplement our own internal contractor (DSO).

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Leicester  
City Council

**WARDS AFFECTED**  
**All Wards – Corporate Issue**

## **FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**

**Cabinet**

**25 January 2010**

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### **Cabinet's Scheme of Delegation**

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#### **Report of the Director Legal Services**

##### **1. Purpose of Report**

To enable Cabinet to review its current Terms of Reference, portfolio structure and agree a revised Scheme of Delegation.

##### **2. Report**

Cabinet has the role of performing all the Council's executive functions which are not the responsibility of any other part of the Council such as full Council itself or Regulatory Committees. This is a requirement of law and the Council's Constitution.

Although the Terms of Reference for Cabinet are set by full Council, Article 7 of the Constitution states that the Leader can vary Cabinet's portfolios from time to time to suit current circumstances.

Cabinet's terms of Reference are structured into portfolios with a Lead Cabinet Member for each. They have been reviewed recently by the Leader in consultation with Cabinet Members so as to ensure that they reflect current lead responsibilities and recent changes in the corporate management structure. A revision is shown attached as **Appendix A**.

It is for Cabinet to review and update its Scheme of Delegation. Cabinet may perform executive functions itself, collectively, or arrange for delegation to committees, officers or individual Cabinet Members. Cabinet does not at present have any Committees.

All matters within each of the portfolios shown attached which are not reserved to Cabinet as stated are delegated to the Directors who have responsibility for the relevant functions. In this way, Cabinet is able to maximise delegation to appropriate officers and operate effectively at a strategic level. This form of Scheme of Delegation also enables flexibility to meet changing organisational and legal requirements.

In June, 2008 Cabinet decided to make use of provisions within the law and the Council's Constitution which enable the delegation of decision making to individual Cabinet members subject to the Leader giving support for the decision in question.

Most of Cabinet's business is dealt with by Cabinet collectively or by officers in accord with the Scheme of Delegation.

It is good practice for Cabinet to keep under review its Scheme of Delegation and there is a requirement for an up to date Scheme to be included in Part 3 of the Constitution which is then published via the intranet/internet.

### **3. Recommendations**

Cabinet is recommended to:-

- (I) Note and support the revised portfolios shown attached;
- (ii) Approve the revised Scheme of Delegation shown attached as **Appendix A**; and
- (iii) Authorise the Director Legal Services to include the attached revision in Part 3 of the Constitution and arrange for this to be published via the Intranet/Internet.

### **4. Headline Financial and legal Implications**

(i) Legal Implications

These are covered in the report.

(ii) Financial implications

There are no financial implications.

### **5. Other Implications**

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting information	References
Equal Opportunities	<b>No</b>		
Policy	<b>No</b>		
Sustainable and Environmental	<b>No</b>		
Crime and Disorder	<b>No</b>		
Human Rights Act	<b>No</b>		
Elderly/People on Low Income	<b>No</b>		

### **6. Background Papers – Local Government Act 1972**

Relevant legislation and the Council's Constitution.

### **7. Consultations**

All Strategic Directors.

**8. Report Author**

Peter Nicholls  
Director Legal Services

**DECISION STATUS**

<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet):

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## CABINET FUNCTIONS

### **CABINET - INTRODUCTION**

Functions and responsibilities allocated to Cabinet are detailed below for each of its current ten portfolios:

- Strategy, Property & Communications
- Community Cohesion, Finance and Human Resources
- Adults and Older People
- Children and Schools
- Culture and Leisure
- Environment and Sustainability
- Frontline Services, Performance and Neighbourhoods
- Health and Community Safety
- Regeneration and Transport
- Housing.

Cabinet may exercise these functions itself collectively, or arrange for delegation to Committee(s) or Officers.

Cabinet may also decide, in accordance with this Constitution, to arrange for the exercise of any of its functions by an individual Cabinet Member.

On the 23<sup>rd</sup> June, 2008 Cabinet decided to delegate decision making to individual Cabinet members as follows:

- “(1) that individual Cabinet members be given delegated authority to take decisions within their portfolios which would otherwise need to be made by the Cabinet;
- (2) that each decision be subject to the Leader indicating written support for each decision;
- (3) that cross-portfolio decisions be subject to approval by all relevant Cabinet Leads;
- (4) that the report on which each such division is based be published five clear days in advance as for other decision making reports.”

The procedure and proforma is available from Democratic Support.

For each of Cabinet's portfolios, certain matters within the scope of the portfolio's terms of reference are reserved for consideration and decision by Cabinet itself, whereas all other matters are delegated to relevant Directors as indicated. Any Committees established by the Cabinet will have clear Terms of Reference and be incorporated into this Scheme, as will delegations to individual Cabinet Members. Cabinet may review and vary its Scheme of Delegation from time to time.

**Even if Directors \* have delegated authority, they must consult the relevant Cabinet Lead where the circumstances are particularly sensitive or if the decision in question involves changes to policy or strategy and, following consultation, they must report to Cabinet where the Cabinet Lead indicates a preference for this.**

## **GENERAL RESPONSIBILITIES**

1. To recommend to the Council its Policy Framework and Budget and any amendments thereto.
2. To make all executive decisions within and in furtherance of the Policy Framework and Budget and variations authorised by the Council.
3. To contribute to the development of and subsequent implementation and monitoring of the Sustainable Community Strategy.
4. To recommend to Council the making of bye-laws
5. The granting of any approval under Section 85 of the Local Government Act 1972 which enables the authority to approve a member's absence from a meeting of the Authority for a period in excess of 6 consecutive months for some appropriate reasons. This responsibility is delegated to the Monitoring Officer to perform in consultation with the Council.

\*"Director" means Strategic and Divisional Directors



## **CABINET: STRATEGY, PROPERTY & COMMUNICATIONS**

### **Councillor Ross Willmott (Leader)**

#### **Terms of Reference**

1. To be responsible for the Corporate Plan and all Strategic Planning
2. To keep under review and be responsible for the implementation of all new legislation, circulars and directives relating to the discharge of the portfolio's functions.
3. Oversight of Corporate Governance and Standards Committee arrangements.
4. To be responsible for any matter requiring consideration in the interests of the citizens of Leicester which is not the responsibility of any other portfolio.
5. By drawing up regulations and securing their observance to ensure that resources are maintained and safeguarded.
6. To co-ordinate the consideration of large schemes of development including those which concern more than one portfolio and to advise Cabinet about the way in which they should exercise their responsibilities for such schemes.
7. To provide premises and major equipment for the transaction of Council business (not including operational premises and equipment).
8. To make Orders temporarily prohibiting the holding of processions when requested by the Police.
9. To make grants and contributions to other bodies (except where one portfolio area only is affected and the matter falls to be dealt with within that portfolio).
10. To determine the City Council's marketing policy.
11. To co-ordinate research commissioned by the Council.
12. To make, vary or revoke any order, regulation, plan or scheme not otherwise allocated to a Cabinet portfolio.
13. To co-ordinate and determine issues with regard to the development of information and communications technologies across the Council.
14. To provide information and communications technology services.
15. To provide support and legal services.
16. To discharge all functions relating to a Births, Marriages and Death registration service.
17. To determine all matters relating to corporate commissioning and procurement.
18. To make nominations to any organisations on which the Cabinet has a right to make appointments (except the appointment of governors of schools and colleges).
19. To determine all matters relating to the official duties of the Lord Mayor, the Lord Mayor's Appeal, civic hospitality and the use of the Council Chamber and Town Hall parking facilities.

20. To provide accommodation and services for members of the Council.
21. To oversee all electoral matters in the City and the compilation of the register of electors.
22. To oversee the Council's press and public relations function, and to formulate policies for external and internal communication.
23. To consider all matters relating to the Council's corporate identity.
24. To co-ordinate the publication of information about the discharge of the Council's functions and other matters as required by legislation or other provision.
25. To oversee the Council's emergency planning function.
26. To ensure effective business continuity plans for the Council.
27. To consider the admission of honorary freemen and aldermen.
28. To agree annual plan and targets and to monitor all matters relating to Leicester Shire Promotions Ltd.)
29. To ensure Customer Care policies are in place and effective.
30. To undertake the responsibilities of the Council and all related issues in respect of the Leicestershire Constabulary, the Leicester, Leicestershire and Rutland Combined Fire Authority, the Leicestershire Probation Service, the Leicestershire Magistrates Courts Committee, the Rent Office Service, and the Coroners' Service.
31. To safeguard and promote the corporate and financial interests of the City of Leicester in relation to the management of and transactions affecting land in public ownership.
32. To oversee the acquisitions, disposals and appropriations of property.
33. To monitor the Council's land transactions with particular regard to market trends and their financial and other effects upon the City Council.
34. To oversee the management, staffing and control of any buildings used for the business of the Council.
35. To oversee the acquisition and disposal of land by Compulsory Purchase Order or designated for that purpose.
36. To manage, improve and develop the non-operational estate of the City as an investment, including the acquisition and disposal of properties and the carrying out of works.
37. To oversee the acquisition, conversion, development and disposal of land and buildings for the purpose of securing planning objectives and for occupation for industrial and commercial purposes, including the management of buildings so occupied by small firms (except where this is being done in relation to Housing Revenue Account properties)
38. To agree terms for and authorise the acquisition and disposal of interests in land and property.
39. To determine all policy matters concerning the services which are operating within the remit of this portfolio.

40. To maximise income and returns from investment in all of the Authority's commercial activities.
41. To control and manage the operation of the trading units and other services, within the remit of this portfolio.
  - (i) to define the operational objectives for those trading units and other services.
  - (ii) to monitor their objectives and their implementation by means of pre-determined measures and targets of performance;
  - (iii) to define and subsequently review policy aims and objectives and business plans for those trading units and services;
  - (iv) to determine broad operational practices;
  - (v) to monitor financial performance and trading accounts to ensure effective financial control, competitiveness and value for money;
  - (vi) to accept tenders/quotations from contractors/sub-contractors providing goods and/or services to the Department's trading units; and
  - (vii) to submit tenders/quotations for work both inside and outside the Council for work by those trading units.
42. To ensure that a performance management framework is in place and working effectively.
43. To oversee preparations for and responses to the Audit and inspection processes.
44. To develop and implement the Council's challenge, consultation, comparator and procurement strategies.
45. To ensure that revenue and capital financial strategies are in place and implemented.
46. To be responsible for exercising discretion to waive charges and disregard debts under relevant legislation.
47. To be responsible for Corporate Management.
48. To be responsible for partnering arrangements.
49. To be responsible for voluntary sector and Compact.
50. To be responsible for the power of Community Well Being.

**MATTERS WITHIN THE PORTFOLIO RESERVED TO THE CABINET:-**

1. All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
2. Policy developments of strategic significance relating to the portfolio's Terms of Reference.
3. Recommending the promotion or opposition of a personal or local Bill in Parliament.
4. Determining policy for the granting of rate relief.

5. A decision as to whether the Council should act as an accountable body in relation to any project or funding programme, subject to a de minimus level of £100,000
6. Granting pension fund admissions or otherwise supporting admission agreements.
7. Determining discretions available under pension fund regulations.
8. Review, consideration and recommendation to full Council relating to Finance Procedure Rules.
9. Declaration of any Compulsory Purchase Order.
10. Freehold acquisitions, disposals and appropriations of property (excluding Right to Buy and Leasehold Reform Act sales) but, in all cases, only where the market value exceeds £500,000. If the property in question is to be disposed or acquired by the means of an auction, then the market value should be estimated in advance by the responsible Director for the purpose of this reservation. **See note below**+
11. Entering into or granting of leases for any term where the annual rent exceeds £100,000 or the premium exceeds £500,000. **See note below** +
12. Disposals of land and property at less than best consideration.
13. Such other matters as the Cabinet may from time to time reserve to itself for decision.

All matters within the Terms of Reference of the Strategy, Property & Communications portfolio which are not reserved to the Cabinet as stated above, are delegated to the Director\* who has responsibility for the relevant function.

- + the Director Strategic Asset Management will ensure that the relevant Cabinet lead, Overview and Scrutiny Management Board Chair and Vice and Ward Members are informed in advance of all freehold and long lease property disposals**

\*"Director" means Strategic and Divisional Directors.

## **CABINET: COMMUNITY COHESION, FINANCE & HUMAN RESOURCES**

**Councillor Veejay Patel**

### **Terms of Reference**

1. To formulate and monitor the implementation of a strategic corporate and co-ordinated strategy for the development and management of Human Resources, including employment equalities.
2. To establish, review and monitor corporate policies and arrangements for securing the promotion of equality of opportunity for all disadvantaged groups in the provision of service delivery.
3. To develop and monitor corporate policies and arrangements for securing equality of opportunity in relation to employment and for tackling issues of racial and sexual discrimination, disabilities and harassment.
4. To ensure the effectiveness and efficient provision of corporately resourced human resource and employment equalities provision, including the Management Development, Occupational Health and Health and Safety functions.
5. To establish and maintain local consultation arrangements between the City Council and employees' representative bodies.
6. Matters relating to Social Inclusion.
7. The establishment and review of the Council's overall officer structure.  
**Note:** the Employees Committee, not Cabinet, is responsible for deciding on the terms and conditions of service on which staff hold office.
8. Any function to secure community cohesion, including if the function is specifically allocated to another portfolio, subject to the other portfolio Member being consulted and having no objection.
9. To ensure that the Council has effective arrangements for the management of its financial affairs.
10. To manage the Council's corporate finances, and hold to account those responsible for the use of resources allocated to them.
11. To collect, recover and monitor the recovery of Local Tax.
12. To oversee the collection of all other income.
13. To determine applications for relief from Local Tax.
14. To make any determinations required by legislation relating to the Council's capital expenditure and financing.
15. To keep under review, consider and recommend to full Council Finance Procedure Rules.
16. With the Leader to make representations to central government about matters affecting the Council's corporate finances.
17. Consideration of the Annual Statement of Accounts for approval by Full Council, and to oversee any amendments required by Audit.

18. To oversee the Council's treasury, banking and risk management policies.
19. To consider and discuss with the District Audit Service the annual audit letter.
20. To administer Housing and Council Tax benefit.

**MATTERS WITHIN THE PORTFOLIO RESERVED TO THE CABINET:-**

1. All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
2. Amendments and additions to equal opportunities policies.
3. Policy developments of strategic significance relating to the portfolio's Terms of Reference.
4. Such other matters as the Cabinet may from time to time reserve to itself for decision.

All matters within the Terms of Reference of the Community Cohesion, Finance & Human Resources portfolio which are not reserved to the Cabinet as stated above, are delegated to the Director\* who has responsibility for the relevant function.

\*"Director" means Strategic and Divisional Directors.

## **CABINET: ADULTS & OLDER PEOPLE**

**Councillor Rory Palmer**

### **Terms of Reference**

1. To oversee the adult social services function of the Council, including all matters specifically referred to in the Local Authorities (Social Services) Act 1970, personal social services and community care, together with responsibilities under associated and ancillary legislation.
2. To have responsibility for all the services and functions delegated to statutory Panels within the remit of this portfolio.
3. To determine matters of strategy and operational procedures and practices and to major initiatives and reviews within services to adults and older people.
4. To exercise an overview and co-ordinate the work of services to adults and older people, to establish general service guidelines and relevant eligibility criteria.
5. To keep under review and be responsible for the implementation of all new legislation relating to the discharge of its functions.
6. To be responsible for the discharge, at operational level, of all services to adults and older people functions for which the Council is responsible under statute and associated ancillary legislation.
7. To approve appointments of Lay Persons, independent investigators and other statutory appointees of the Director.
8. To make and review loans and grants to voluntary and other organisations in pursuit of the body's service objectives.
9. To have responsibility for arrangements, including joint arrangements, with health authorities entered into under health legislation.
10. To provide advice services other than those relating to advice on business and employment matters.

### **MATTERS WITHIN THE PORTFOLIO RESERVED TO THE CABINET:-**

1. All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
2. Policy developments of strategic significance relating to the portfolio's Terms of Reference.
3. Approving key schemes and programmes and the rationalisation or closure of residential and day care facilities for adults and older people.
4. Matters reserved to Members under statutory provisions.
5. Such other matters as the Cabinet may from time to time reserve to itself for decision.

All matters within the Terms of Reference of the Adults & Older People portfolio which are not reserved to the Cabinet as stated above, are delegated to the Director\* who has responsibility for the relevant function.

\*"Director" means Strategic and Divisional Directors.

## **CABINET: CHILDREN AND SCHOOLS**

### **Councillor Vi Dempster (Deputy Leader)**

#### Cabinet Terms of Reference

1. To be responsible for the discharge of all the statutory functions of a Local Education Authority not reserved to Full Council.
2. To promote schools at the heart of the community they serve as high achieving, valued schools which children want to attend.
3. To promote the use of resource which ensures that standards trend upwards year on year.
4. To review and be responsible for the implementation of all new legislation relating to the discharge of this portfolio.
5. To make appointments to school and college governing bodies.
6. To ensure arrangements are in place to ensure Safeguarding responsibilities are met.

#### **MATTERS WITHIN THE PORTFOLIO RESERVED TO THE CABINET:-**

1. All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
2. Policy developments of strategic significance relating to the portfolio's Terms of Reference.
3. Determining the policy and financial framework for delegated management by schools.
4. To consider proposals for establishing, enlarging, closing or changing the character of schools.
5. Approving key schemes and programmes and the rationalisation or closure of residential and day care facilities for children and young people.
6. Such other matters as the Cabinet may from time to time reserve to itself for decision.

All matters within the Terms of Reference of the Children and Schools portfolio which are not reserved to the Cabinet as stated above, are delegated to the Director \* who has responsibility for the relevant function.

\*"Director" means Strategic and Divisional Directors.



## **CABINET: CULTURE & LEISURE**

**Councillor Andy Connelly**

### **TERMS OF REFERENCE**

1. To promote participation and equality of access to culture, arts and leisure opportunities for all, to develop policies and practices to promote arts and culture to individuals experiencing social and/or economic exclusion.
2. To provide arts and leisure input to the regeneration of the City through initiatives in relation to health, community involvement and community information.
3. To work with the Health & Community Safety portfolio to promote health and well being through the provision, management and development of facilities for physical recreation, training and play including leisure centres, sports halls, swimming pools, parks and playing fields, and cultural and community facilities.
4. To attract visitors and inward investment to the City through events and activities of local, regional and national significance.
5. To promote arts and cultural activities through the management operation, development and commissioning of Museums, archives, arts, entertainment, cultural and heritage services.
6. To encourage and support the development of community groups and organisations through the provision of advice, encouragement and resources and to establish criteria for the allocation of grants to voluntary organisations providing arts and leisure activities.
7. To develop and strengthen partnerships with the voluntary and commercial sectors and with other Agencies to maximise the range of arts and leisure opportunities and activities provided to vulnerable groups in the community and more generally to residents and visitors to the City.
8. To promote and value cultural diversity and raise the profile of communities and the City through a year round programme of events, activities and festivals.
9. To allocate grants recommended by the Grants Panel towards voluntary organisations dealing with arts and leisure activities.
11. To be responsible for the registration of commons and village greens and rights over them.
12. To manage cemeteries and crematoria and the maintenance of disused burial grounds.
13. To publish works of scholarship and works about the development and history of the City.
14. To encourage a greater understanding and awareness of arts, public art, heritage, culture and sciences through the promotion of events, exhibitions, activities and concerts.
15. To oversee the acquisition, management and maintenance of ancient monuments, public monuments and statutory and the placing of commemorative plaques on buildings.

16. To determine matters relating to allotments, allotment gardens and cottage holdings.
17. To enforce all legislation, relevant to the portfolio's terms of reference.
18. To be responsible for the development and maintenance of play facilities
19. To be responsible for parks and their management
20. To ensure the availability of seats for the convenience of persons using parks in the City.

**MATTERS RESERVED WITHIN THIS PORTFOLIO TO THE CABINET:-**

1. All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
2. Policy developments of strategic significance relating to the portfolio's Terms of Reference.
3. To consider proposals for establishing, enlarging, closing or changing libraries and information services.
4. Allocating grants.
5. Such other matters as the Cabinet may from time to time reserve to itself for decision.

All matters within the Terms of Reference of the Culture and Leisure portfolio which are not reserved to the Cabinet as stated above, are delegated to the Director\* who has responsibility for the relevant function.

\*"Director" means Strategic and Divisional Directors.

## **CABINET: ENVIRONMENT & SUSTAINABILITY**

### **Councillor Sarah Russell**

1. To promote and enhance environmental quality, physical regeneration and quality of life by contributing to initiatives arising from Environmental policies, Local Agenda 21, City Centre Action Plan and EMAS (Eco Management and Audit Scheme).
2. To protect the heritage of the natural environment for future generations by the conservation of open spaces, sustaining wildlife and natural habitats.
3. To secure the health and comfort of the persons living or working in or visiting the City by requiring the observance of proper standards by persons owning or occupying property or using the streets or other public places in the City.
4. To develop and monitor policies relating to environmental and “green” issues affecting the City.
5. To secure optimum enhancement of the City's environment by means of services delivered directly by the City Council and liaison/joint working with outside agencies to protect the good features of the environment as it exists and to foster its improvement. Also to encourage the formation of environmental groups and agencies where it would be beneficial to do so.
6. To supervise and co-ordinate the promotion of environmental issues including networking at national and international level.
7. To provide a service for the removal of refuse and waste and for street cleaning.
8. To secure the optimum levels of waste recycling within the city and further develop policies to maximize the levels of recycling.
9. To develop and monitor policies to ensure that energy consumption is both minimised and accords with environmental best practice.
10. To develop and implement policies to tackle problems of Air and Pollution of Air Quality within the city, including the declaration of Air Quality Management Areas
11. To require that work to be carried out for ensuring that sanitary accommodation, water supply and cleanliness of existing buildings is satisfactory.
12. To undertake the disinfestation of persons and property and to work to keep the City free from rats and mice.
13. To provide a consumer advice and protection service.
14. To provide a building control service.
15. To oversee the investigation and remediation of contaminated land.
16. To supervise all actions relating to promoting responsible dog ownership and to oversee the provision of a dog warden service.
17. To monitor the safety of the public water supply and bathing water.
18. To enforce all legislation, relevant to the portfolio's terms of reference.

19. To exercise all the Council's functions and powers to take legal proceedings in the public interest in relation to matters within the portfolio, including
  - Health and Safety at Work
  - Movable dwellings (including tents, vans and sheds)
  - Canal boats
  - Public water supply and bathing water (except in Council premises)
  - Food hygiene and safety
  - Slaughterhouses and knackers' yards
  - Animal feeding stuffs
  - Statutory nuisances
  - Prevention of danger from the condition of land, buildings and trees
  - Compliance with Building Regulations
  - Noise and vibration
  - Purity of water supply
  - House numbering
  - Exposure of goods for sale in streets
  - Weights and Measures
  - Consumer Protection
  - Fair Trading
  - Animal Welfare
  - Petroleum Licensing
  - Safety of Sports Grounds
  - Section 47 of the National Assistance Act 1948
  - Food and water borne infectious diseases
  
20. To designate noise abatement zones.
  
21. To determine policy and exercise all executive functions of the Council with regard to the following:
  - Licensing Act 2003
  - Gambling Act 2005
  - Hairdressers and barbers
  - Killars of and dealers in game
  - Sale of pet animals
  - Conduct of animal boarding establishments
  - Conduct of riding establishments
  - Hackney carriages and private hire cars and operators and their drivers
  - House to house collections
  - Street collections
  - Poole promoters
  - Amusements with prizes
  - Societies lotteries
  - Exposure of goods for sale in streets (street trading)
  - Scrap metal dealers
  - Dog breeding establishments
  - Track betting
  - Sex establishments
  - Dangerous wild animals
  - Leicester Doorwatch scheme
  
22. To exercise any function to secure an environmental improvement, notwithstanding that the function is specifically allocated to another portfolio, subject in such a case to the other portfolio Member being consulted and having no objection.
  
23. To make loans and grants for improving the environment and/or amenities.
  
24. To require that work to be carried out for ensuring that the drainage of existing buildings is satisfactory.

25. To keep under review and be responsible for the implementation of all new legislation relating to the discharge of its functions.
26. To approve all key implementation and bidding documents relating to the portfolio's functions.
27. To enforce all legislation relevant to the portfolio's terms of reference, which the Council is required or empowered to enforce.
28. To make, vary or revoke any order, regulation, plan or scheme relating to the portfolio's functions.
29. To ensure the availability of facilities for the convenience of persons using the roads of the City such as public conveniences, clocks, and litter bins.
30. To be responsible for the operation and development of Markets including the Markets Charter
31. To exercise the following functions under the Housing Act, 2004:
  - \* Part 1 Enforcement of housing standards
  - \* Part 2 Licensing of houses in multiple occupation
  - \* Part 3 Selective licensing of other residential accommodation

**MATTERS RESERVED WITHIN THIS PORTFOLIO TO THE CABINET:-**

1. All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
2. Policy developments of strategic significance relating to the portfolio's Terms of Reference.
3. Such other matters as the Cabinet may from time to time reserve to itself for decision.

All matters within the Terms of Reference of the Environment portfolio which are not reserved to the Cabinet as stated above, are delegated to the Director\* who has responsibility for the relevant function.

\*"Director" means Strategic and Divisional Directors.

## **CABINET: FRONTLINE SERVICES, PERFORMANCE & NEIGHBOURHOODS**

### **Councillor Abdul Osman**

#### **Terms of Reference**

1. To develop and implement Community Meeting arrangements.
2. To oversee the Council's customer service and complaint function and develop Customer Care policies and practices across the Authority.
3. The implementation of policy relating to neighbourhood management and renewal.
4. To ensure performance improvement across the Authority.
5. To manage and oversee implementation of policy relating to neighbourhood management and renewal.
6. To establish mechanisms for the development of community capacity.
7. Any function to secure a frontline service improvement / improvement in neighbourhoods, including if the function is specifically allocated to another portfolio, subject to the other portfolio Member being consulted and having no objection
8. To examine and review the Council's performance as disclosed by the Audit Commission's Performance Indicators.
9. To promote the development of local communities through the provision of community centres, facilities, activities and opportunities.
10. To oversee the development and implementation of the Council's performance management framework.
11. To co-ordinate the production and implementation of the Council's performance plan.

#### **MATTERS WITHIN THE PORTFOLIO RESERVED TO THE CABINET:-**

1. All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
2. Policy developments of strategic significance relating to the portfolio's Terms of Reference.
3. Such other matters as the Cabinet may from time to time reserve to itself for decision.

All matters within the Terms of Reference of the Frontline Services, Performance & Neighbourhoods portfolio which are not reserved to the Cabinet as stated above, are delegated to the Director\* who has responsibility for the relevant function.

\*"Director" means Strategic and Divisional Directors.

## **CABINET: HEALTH AND COMMUNITY SAFETY**

### **Councillor Mohammed Dawood**

#### **Terms of Reference**

1. To manage and oversee the implementation of the Council's Crime and Disorder Strategy and the Council's response to issues of domestic violence.
2. To review and monitor the opportunities in promoting better health gain to the citizens of Leicester.
3. To work with the Culture and Leisure portfolio holder, who leads on health promotion, to promote health and well being through the provision, management and development of facilities for physical recreation, training and play including leisure centres, sports halls, swimming pools, parks and playing fields, and cultural and community facilities.
4. Any function to secure health and community safety, including if the function is specifically allocated to another portfolio, subject to the other portfolio Member being consulted and having no objection.
5. To be responsible for Community safety issues.
6. To pursue the Council's health and community safety policies through partnerships such as the Leicester Crime and Disorder Reduction Partnership and with the National Health Service.
7. To promote policies and take action which will promote public health and maximise quality of life for all in conjunction with the National Health Service.
8. To provide a Health Promotion Service including Home Safety.
9. To exercise all the Council's functions and powers to take legal proceedings in the public interest in relation to matters within the portfolio, including
  - Public Health (Control of Disease) Act 1984
  - Notifiable and other infectious diseases

#### **MATTERS WITHIN THE PORTFOLIO RESERVED TO THE CABINET:-**

1. All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
2. Policy developments of strategic significance relating to the portfolio's Terms of Reference.
3. Such other matters as the Cabinet may from time to time reserve to itself for decision.

All matters within the Terms of Reference of the Health and Community Safety portfolio which are not reserved to the Cabinet as stated above, are delegated to the Director\* who has responsibility for the relevant function.

\*"Director" means Strategic and Divisional Directors.

## **CABINET: REGENERATION & TRANSPORT**

### **Councillor Patrick Kitterick**

#### **Terms of Reference**

1. To develop, approve and monitor all key policy documents relating to this portfolio, such as the Leicester and Central Leicestershire Transport Policy the Local Transport Plan, and the Local Development Framework Regeneration Masterplan.
2. To approve all key implementation and bidding documents relating to the portfolio's functions.
3. To enforce all legislation relevant to the portfolio's Terms of Reference which the Council is required or empowered to enforce.
4. To exercise the Council's power to take legal proceedings in the public interest in respect of matters within the portfolio's terms of reference.
5. To provide and maintain trees, grass verges and other ornamental areas in streets.
6. To undertake all functions to improve and protect the roads, street lighting, and bridges of the City.
7. To maintain footpaths, bridleways and urban roads within the meaning of the Local Government Act 1972.
8. To provide and maintain footway, footpath and cycleway lighting and floodlighting within the City.
9. To name streets.
10. To control the provision of new streets by developers and the advance payments code and to recommend adoption under Section 38 of the Highways Act 1980 and section 104 of the Water Resources Act 1990.
11. To be responsible for the private street works code.
12. To enforce legislation intended to protect the physical fabric of the street.
13. To co-ordinate the Cabinet's activities in relation to traffic, reconciling at local level so far as lies in the power of the City Council the potentially conflicting requirements of the public for reliable public transport, for vehicular traffic circulation, for parking facilities, for high environmental visual standards and for provision for cyclists and pedestrians.
14. To work with the portfolio holder for the Environment on matters relating to Environmental Protection and Air Pollution.
15. To regulate the relationship between road space and road users and between the various kinds of road users.
16. To advise passenger transport operators on the public passenger transport facilities needed to enable persons who live work in or visit the City at reasonable cost and convenience.
17. To make provisions for and regulate public on and off street parking places including bus stations.



18. To develop and maintain schemes that help people access the City Centre. – amended from shopmobility delegation.
19. To approve the grant of travel concessions to persons using public transport.
20. To determine grants for transport facilities and services.
21. To provide and maintain bus shelters and hard standings for the use of public service vehicles.
22. To provide information on traffic and transport service facilities.
23. To consider and make representations on proposals for traffic and transport facilities including observations on planning applications as highway authority and securing appropriate investment in transport facilities and infrastructure by developers in relation to development proposals.
24. To deal with all matters under the Transport Act 2000, other than reserved to full Council.
25. To be responsible for the construction of new roads and modifications of transport infrastructure e.g. roads, footways, cycleways and railways.
26. To make and rescind regulations for the use of roads by traffic and pedestrians and to issue licenses for the use of the highway.
27. To promote and implement road safety and road safety education measures.
28. To develop and review policies for strategic planning and regeneration within the City.
29. To provide information and commentary on emerging legislation and guidance at the national and international level on planning and planning related matters.
30. To approve all key policy documents relating to the work of this portfolio such as Regional Planning Guidance and Local Development Framework, except for those reserved to Council.
31. To carry out the function of the Council as local and strategic planning authority, including the preparation of Development plans.
32. To promote and secure a pattern of development within the city, county and region which is sustainable in terms of use of local and global resources.
33. To oversee the production of land use data to meet the requirements of Government.
34. To take the lead in the development and formulation of Supplementary Planning Guidance, eg Development Briefs and Design Guides the City Centre Action Programme and review subsequent progress.
35. To consider major development proposals in and around the city in terms of the city's wider objectives and the impact they may have on the city.
36. To take the lead on all matters concerning conservation areas and buildings of archeological and historic interest or buildings of local significance and sites of archeological interest other than development control issues.
37. To co-ordinate and supervise the submission of bids for funds from Government, National Lottery and other sources for regeneration purposes.

38. To secure the strategic planning and regeneration of the City by direct action on behalf of the Council and by liaison/partnership working with outside agencies, including East Midlands Development Agency and other Regeneration companies and also including central government.
39. To prepare short/long term strategies for developing the economy of Leicester and relieving unemployment through support for training and other initiatives.
40. To formulate policies to strengthen local industry and commerce.
41. To make grants for altering existing commercial and industrial buildings and for converting other buildings for use as such.
42. To formulate policies to ensure the strategic management and programming for the regeneration and redevelopment of the Leicester riverside, including the Leicester Riverside Park policy area.
43. To oversee research on the local economy and review the impact of the Council's policies and initiatives on the local economy, employment and income generation, and ensuring their consistency.
44. To develop and implement the City Council's policy on European issues, including issues with regard to the Committee of the Regions, European assistance, projects and initiatives.
45. To develop and implement policies relating to European networks.
46. To monitor issues emerging from the European Community and supervise responses and related action by the City Council.
47. To determine all matters relating to overseas links and twinning arrangements, including European East/West links, except the establishment of formal twinning links referred to Council.
48. To provide an anti-poverty service and to implement anti-poverty measures in accordance with approved policies and strategies.
49. To develop and implement policies for and monitoring of inward investment/urban regeneration.
50. To be responsible for the authority's youth training and training for work programmes.
51. To approve and monitor the City Council's partnership working in relation to the National Space Centre / Prospect Leicestershire and other such partnerships relating to regeneration and / or transport entered into from time to time, with particular reference to:-
  - (i) approving and overseeing the implementation of the City Council's plans;
  - (ii) considering and implementing action necessary on behalf of the Council;
  - (iii) considering and implementing action necessary to protect the Council's interest as a partnership member
  - (iv) ensuring that the benefits and links to the surrounding areas in Leicester are maximised.

52. To develop and prepare funding bids and other similar regeneration schemes, and to ensure that approved schemes are implemented, outputs are achieved to the required standards, and liaison takes place with the Partnership bodies to achieve the programme and the project is co-ordinated with other City Council responsibilities, having particular regard, as appropriate to the City Council's role as the Accountable Body.
53. To provide advice services (related to this portfolio) concerning advice on business and employment matters, either directly or in partnership with other organisations.
54. To oversee the Council's activities as 'Accountable Body' when acting on behalf of partnership organisations.
55. To undertake all functions to improve and protect the land drainage systems of the City.
56. To implement measures to conserve and improve water courses and take measures to control flooding from them.
57. To be responsible for all aspects of the City Council's input into New Deal for Communities and associated community developments.
58. To oversee the monitor the implementation of the Council's Fair Debt Policy.
59. To be responsible for City Centre Management.
60. To organise and provide festive decorations.
61. To ensure the availability of seats for the convenience of persons using the roads of the City.
62. To develop and promote services and facilities to ensure the opportunity for lifelong learning for all citizens of the City.
63. To promote lifelong learning, community development and social inclusion by way of capacity building and other appropriate means.
64. To ensure that rights of way can be used by the public, administer the law relating to them and review and update the Definitive Map of Public Rights of Way.

**MATTERS RESERVED WITHIN THIS PORTFOLIO TO THE CABINET:-**

1. All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
2. Policy developments of strategic significance relating to the portfolio's Terms of Reference.
3. Approving development briefs.
4. Approving key policy and bidding documents within the portfolio's terms of reference.
5. Such other matters as the Cabinet may from time to time reserved to itself for decision.

All matters within the Terms of Reference of the Regeneration & Transport portfolio which are not reserved to the Cabinet as stated above, are delegated to the Director \*who has responsibility for the relevant function.

\*"Director" means Strategic and Divisional Directors.

## **CABINET: HOUSING**

### **Councillor Westley**

#### **Terms of Reference**

1. To secure the availability for all persons, living or wishing to live in the City, within their means, of living accommodation of an adequate standard.
2. To oversee the management of all houses controlled by the Council which are not in use for a statutory purpose.
3. To oversee tenant participation and consultation with tenants and residents within the landlord function of the authority.
4. To monitor the condition of existing housing accommodation in the City and determine appropriate action to be taken.
5. To order the demolition or closing up of individual houses unfit for human habitation.
6. The control of rents and the eviction of tenants from housing accommodation.
7. To undertake the Council's responsibilities in respect of the improvement of houses and the repair of houses.
8. To exercise the Council's duty to consider the needs of the City for the provision of further housing accommodation.
9. To oversee the provision of housing accommodation for which the Council is required to keep a Housing Revenue Account, and in connection therewith, to make arrangements for the construction of roads, sewers, grass verges and open spaces, the lighting of such roads and the provision of shops and garages.
10. To oversee the control, management and letting of such housing accommodation, shops and garages on housing estates.
11. To provide financial assistance to voluntary organisations and the public for the purpose of facilitating the construction, conversion, improvement and acquisition of housing accommodation within the limits of policies approved by and resources made available by the Council.
12. To undertake the declaration of renewal areas and the carrying out of work in those areas.
13. To fulfil the obligations of the Council towards homeless persons.
14. To oversee and arrange for the sale and acquisition of residential property within the limits of policies approved by the Council.
15. To undertake joint assessment with other agencies, of housing need in relation to social and care needs in line with legislation, for example, Community Care Act and Children Act.
16. To assess and work to improve the energy efficiency of all housing stock.
17. To oversee the provision of Leicestercare Emergency Alarm Service.
18. To work in partnership with housing associations, the Housing Corporation and the private sector to achieve the Council's aims and objectives.

19. To recommend the annual rent rise for Council tenants.
20. To monitor and make recommendations on the annual Housing Investment Programme and Housing Capital Programme.
21. To develop, implement and monitor policies to address the issues related to unauthorised Gypsy and Traveller encampments.
22. To oversee the provision of suitable and adequate sites for travellers and gypsies.
23. To exercise the following functions under the Housing Act, 2004:
  - \* Part 4 Interim and final management orders (excluding interim and final empty dwelling management orders – which are managed by the Housing Department).
  
  - Part 7 Supplementary and final provisions in particular with regard to information provision / enforcement and authorisation
24. To determine policy and exercise all executive functions of the Council with regard to the following:
  - Caravan sites
25. To consider and, if appropriate, approve adaptations to housing.
26. To issue licenses etc., maintain registers and enforcement legislation regarding hostels.
27. To control and manage the operation of the Council's Trading Organisations and other services within the portfolio, particularly:-
  - (i) to define the operational outcomes for those Trading Organisations and other services;
  - (ii) to monitor their outcomes and their implementation by means of pre-determined measures and targets of performance;
  - (iii) to define and subsequently review policy aims and objectives and business plans for those Trading Organisations and services;
  - (iv) to determine broad operational practices;
  - (v) to monitor financial performance and trading accounts to ensure effective financial control, competitiveness and value for money;
  - (vi) to accept tenders/quotations from contractors/sub-contractors providing goods and/or services to those Trading Organisations; and
  - (vii) to submit tenders/quotations for work both inside and outside the Council for which the Department is responsible.
28. To make, vary or revoke any Order, regulation, plan or scheme relating to the portfolio's functions.

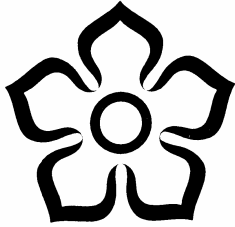
**MATTERS WITHIN THE PORTFOLIO RESERVED TO THE CABINET:-**

1. All relevant matters reserved for Member level decision as detailed in Rules of Procedure.

2. Policy developments of strategic significance relating to the portfolio's Terms of Reference.
3. Approving key schemes, programmes, strategies and bidding documents.
4. To recommend to Council in respect of establishing renewal areas.
5. Recommending rent levels to Council.
6. Recommending to Council the making of bye-laws.
7. Such other matters as the Cabinet may from time to time reserve to itself for decision.

All matters within the Terms of Reference of the Housing portfolio which are not reserved to the Cabinet as stated above, are delegated to the Director\* who has responsibility for the relevant function.

\*"Director" means Strategic and Divisional Directors.



Leicester  
City Council

WARDS AFFECTED  
All Wards

Cabinet  
Council

25<sup>th</sup> January 2010  
27<sup>th</sup> January 2010

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## Standards Committee First Annual Report 2008 - 2009

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### Report of the Independent Chair of Standards Committee

#### 1. Purpose of Report

To note the achievements of the Standards Committee for the year 2008 – 2009 and to consider the challenges for the year ahead.

#### 2. Recommendations

Cabinet is asked to note the achievements of the Standards Committee and note the actions for the forthcoming year.

Council is also asked to note the achievements of the Standards Committee and note the actions for the forthcoming year.

#### 3. Report

Over the past two years the Standards Committee has grown in numbers and extended its remit so that it is now plays a central role in developing the council's ethical framework. It has delivered well on its agenda of upholding standards and increasing awareness of conduct issues.

There are three independent members who have brought new perspectives and leadership skills to the Committee and helped to establish a regime of training and local complaint handling. All Committee members have played a very active role in promoting dialogue on standards issues with senior council figures and reviewing documentation relevant to ethical governance. They have devoted much time and skill to ensure that the council responds appropriately and professionally to complaints made against elected members. The Committee recognised the complexity, ambiguity and the bureaucratic nature of the complaints procedures, but have now developed a workable system for dealing with this.

It has become clear that Leicester City council enjoys a good reputation with a lower than average number of complaints and, to date, no findings of breach of the Code of Conduct.

I feel proud serve as Chair this committee and look forward to the challenges of the year ahead. A summary of our achievements and these challenges are included overleaf.

**4. Legal and Financial Implications**

None.

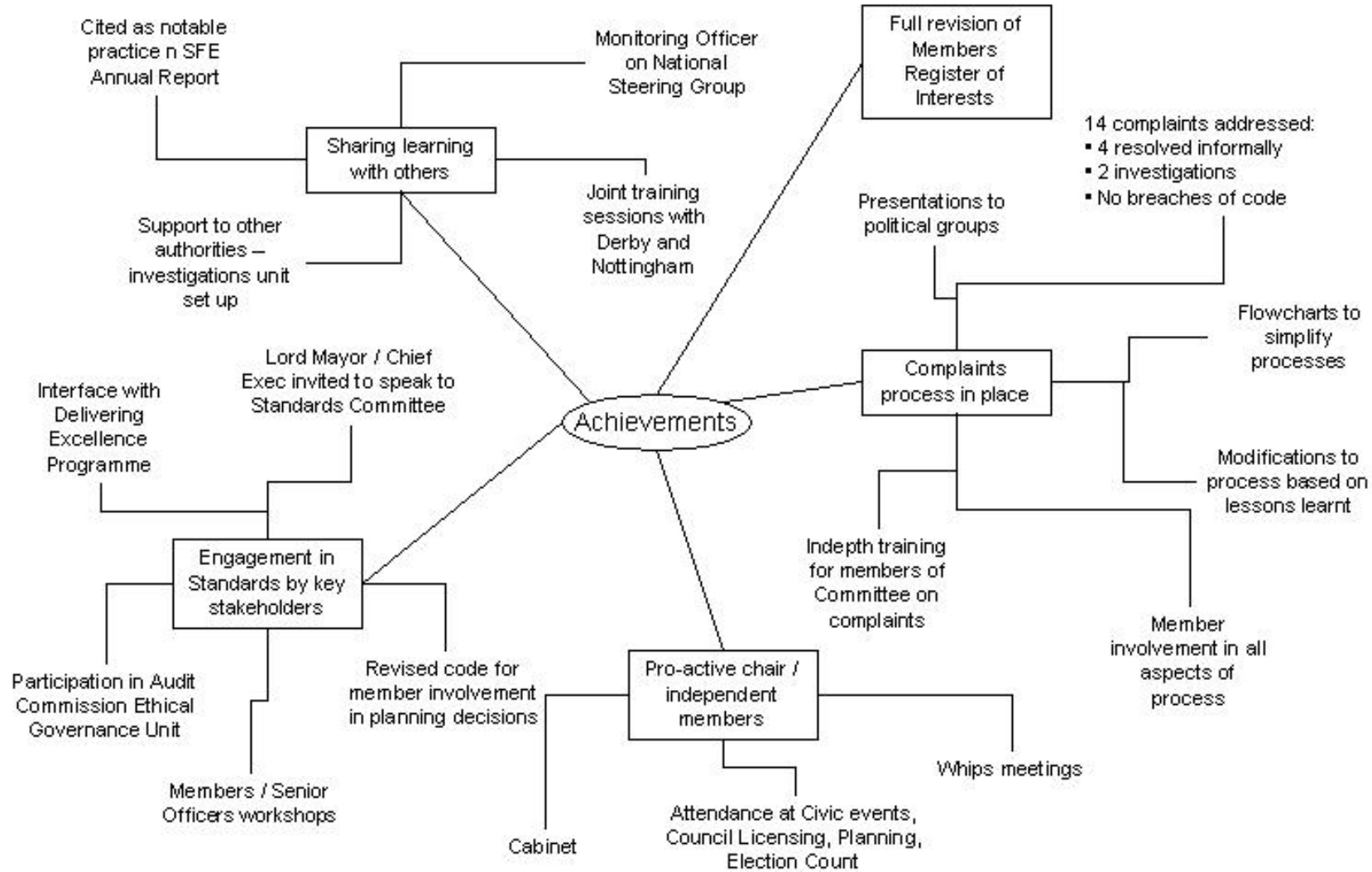
**5. Report Author**

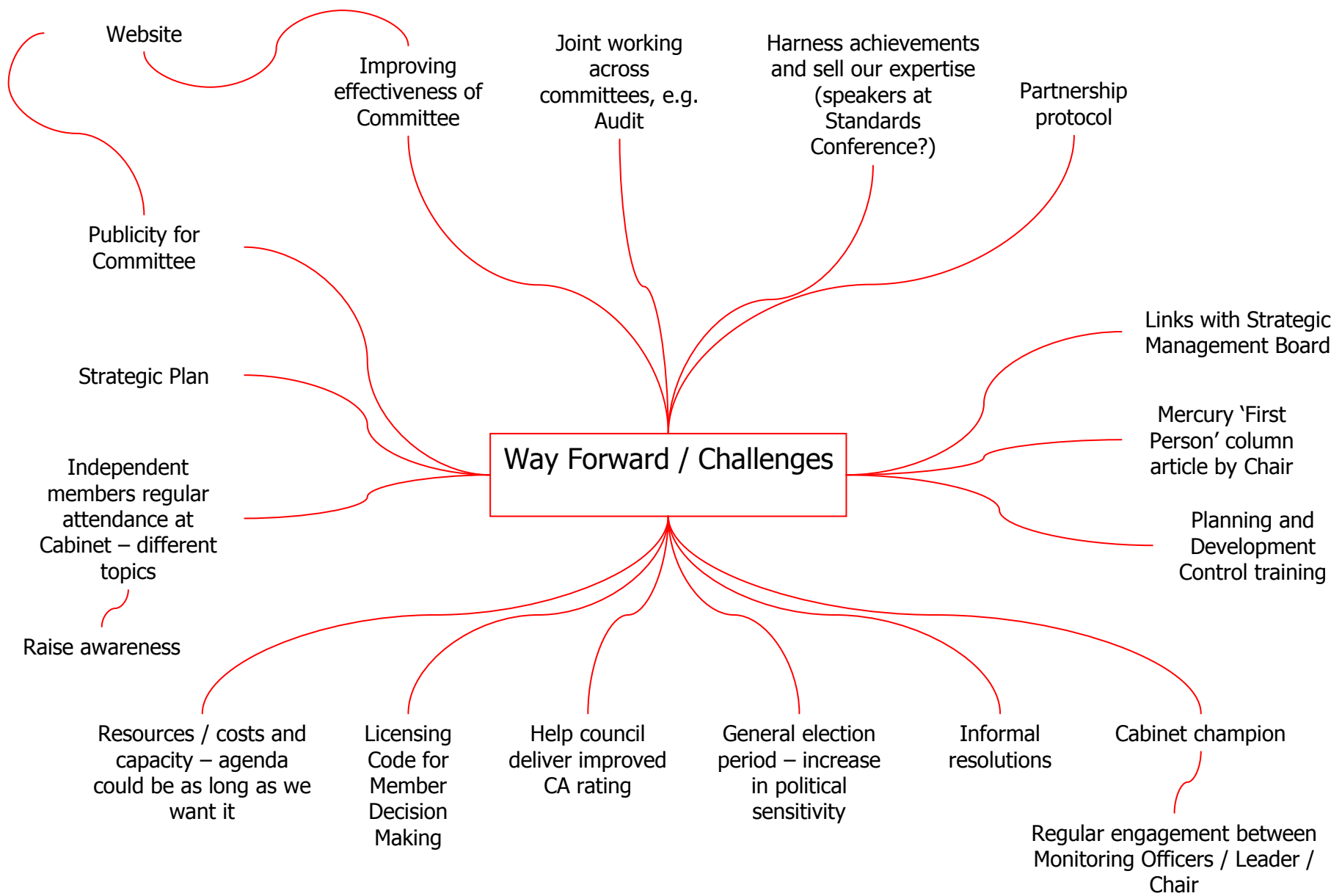
Sheila Brucciani, Independent Chair of Standards Committee

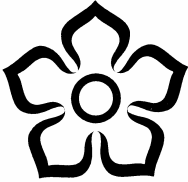
<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet)



## Standards Committee Annual Report







Leicester  
City Council

WARDS AFFECTED  
All Wards

AOUB1

HOUSING PERFORMANCE PANEL  
CABINET  
COUNCIL

11th JANUARY 2010  
25th JANUARY 2010  
28<sup>th</sup> JANUARY 2010

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## HOUSING CAPITAL PROGRAMME 2009/10 and 2010/15

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### Report of the Divisional Director Housing Services and Chief Finance Officer

#### 1. PURPOSE OF REPORT

- 1.1 This report advises Members on the position at period 7 on this years capital programme, revises the forecast for the 2009/10 out-turn and proposes a five year housing capital programme for 2010/15, for Members approval.

#### 2. SUMMARY AND RECOMMENDATIONS

- 2.1 This report reviews the current years approved Housing Capital Programme and, following receipt of the Single Capital Pot, recommends a programme for 2010/15.
- 2.2 The Housing Capital Programme, if approved, will invest almost £125m in Leicester homes over the next five years. It will significantly support delivering 'One Leicester' by supporting Thriving Safer Communities, delivering Health and Well Being, contributing to Reducing our Carbon Footprint, Investing in our Children and Investing in Skills and Enterprise. It will also meet the requirements of the Business Plan in the Stock Options Appraisal and keep the Council on track to meet the Decent Homes target by 2010 and support six LAA targets.
- 2.3 The **Cabinet** is asked to consider the report and any comments from the Housing Performance Panel and recommend Council to:-
- (i) approve the revised programme, outlined in Appendix 1, for 2009/10 and funding arrangements outlined in paragraph 3.2 of the Supporting Information, and authorize the Director of Legal Services to enter into any contracts necessary to maximize the spend against the revised programme;
  - (ii) Note the ongoing position concerning Right to Buy and other capital receipts and its impact on the General Fund side of the Housing Capital Programme;
  - (iii) approve the resources shown in Appendix 2 of the report, including the use of Housing DSO Reserves, Housing Balances and the Prudential Borrowing

Framework to support the Housing Capital Programme over the next five financial years;

- (iv) endorse the proposal that environmental works in Private Sector Home Improvement Areas should stop so more resources can be directed into energy efficiency measures (para 6.5);
- (v) consider the Equality Impact Assessment appended to this report;
- (vi) approve the Housing Capital Programme for 2010/15 outlined at Appendix 3 including a small level (3.5%) of over programming, and delegate authority to the Divisional Director Housing Services in consultation with the Lead Cabinet Member for Housing to authorize any contracts, and the Director of Legal Services to sign any contracts within the overall programme, to achieve a maximum spend against the resources available;
- (vii) agree to ringfence any new housing capital receipts generated in year to support the Disabled Facility Grant (DFG) Programme;
- (viii) approve the use of any commuted sums realized in year for the acquisition of new affordable housing through either HomeCome or RSL's.
- (viii) note that the 2010/11 Programme will be reviewed during the financial year, and the 2011 to 2015 Programmes will be subject to further scrutiny and ratification as part of the normal annual budget cycles (in particular, commitment to use prudential borrowing and HRA balances will be reviewed at this time); and
- (ix) delegate, to the Divisional Director Housing Services and Lead Cabinet Member for Housing, authority to approve bids from Community Associations under the Environmental and CRI allocations.

### **3. FINANCIAL IMPLICATIONS (Danny McGrath, Graham Troup and Nick Booth)**

- 3.1 The current year's programme shows a revised spend of £27.596m, which can be met by the resources available.
- 3.2 Officers have put together a five-year capital strategy for 2010/15, which shows the following:

	2010/11	2011/12	2012/13	2013/14	2014/2015
	£000	£000	£000	£000	£000
Resources	41,158	20,522	20,550	21,048	21,702
Programme	42,061	21,266	21,298	21,809	22,489
Less Overprogramming	903	744	748	761	787
Planned Spend	41,158	20,522	20,550	21,048	21,702

- 3.3 In putting together the overall capital programme a small amount of over programming (c3.5%), has been included in the figures for Members' approval. In developing this programme officers have included an amount of £1,558k in 2009/10, £9,995k (incl.

£8,333k for new house building programme) in 2010/11, £1,982k in 2011/12, £2,135k in 2012/13, £2,283k in 2013/14 and £2,412k in 2014/15 by utilisation of the Prudential Borrowing Framework.

- 3.4 Should Members endorse the use of Prudential Borrowing they need to appreciate that the Council will get no help from Government in meeting the revenue costs involved, and the costs associated with the 2010/11 loan (£180k in 2010/11, £752k in 2011/12 and £737k in 2012/13, after this date the figure reduces as more and more principal gets repaid). These costs will be a direct charge on the HRA, although the cost of the prudential loan towards financing the 'new build' programme will be covered by rental income generated from the new properties. However, despite utilizing this resource from revenue to support the Housing Capital Programme, it will still leave the HRA with balances in excess of the minimum agreed by the Council. The implication of the charge is included in the HRA Revenue budget, which is elsewhere on this agenda; that report also identifies the Prudential Indicators recommended by the Chief Finance Officer and demonstrates that the costs are affordable and sustainable (subject to the comments below).
- 3.5 Members are asked to note the Council agreed a framework for use of prudential borrowing in February 2008, when it approved the Capital Strategy for the Council, which included HRA borrowing.
- 3.6 Use of prudential borrowing carries with it risk, i.e. that future funds are not available to pay the debt costs. The main risk in respect of the HRA relates to negative housing subsidy paid to the Government. Subsidy in 2010/11 was calculated as follows:

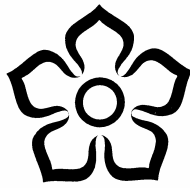
	<u>£m</u>
Management Allowance	15.6
Maintenance Allowance	23.9
Capital Financing support	<u>9.1</u>
Sub Total	48.6
<u>Less</u>	
Guideline Rent	<u>(65.1)</u>
<b>Negative Subsidy payable to the Government</b>	<b>(16.5)</b>

- 3.7 This subsidy payment can be volatile, and is susceptible to changes in Government policy. For instance, following significant increases in Leicester's Management and Maintenance subsidy allowances, the annual negative subsidy position (adjusted for changes in capital finance costs) has improved by £6.8m between 2003/04 to 2005/06, but has worsened by £5.6m from 2005/06 to 2010/11 (although it should be noted, this worsening has been mitigated by large annual rent increases due to rent restructuring). A 1% worsening in negative subsidy amounts to £165k. The risk is however mitigated by the following:-
- (a) significant levels of discretionary revenue spending is projected in future years, which can be delayed if the HRA is likely to drop below the £1.5m minimum balances figure set by Council;
  - (b) The ability to borrow in 2011/12 will be reviewed when that years capital programme is set;

(c) As a last resort, reductions could be made in the provision for day-to-day repairs and management costs.

3.8 A further risk is that interest rates may rise substantially compared to current rates. However, the Council's consolidated rate, which is applicable to prudential borrowing, is largely determined by loans taken out in the past at fixed interest rates; this limits the size of any change in the applicable interest rate as a result of fluctuations in current interest rates.

3.9 Members will also no doubt recall, the revised 2005/06 HRA budget allowed for the HRA to establish an earmarked reserve of £1.2m, to cover unforeseen increases in future prudential borrowing costs, for example due to increased interest rates, or major unplanned movements in fuel costs. This reserve can act as a buffer to any unexpected increase in costs.



Leicester  
City Council

**WARDS AFFECTED**  
All Wards

## **FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**

**HOUSING PERFORMANCE PANEL**  
**CABINET**  
**COUNCIL**

**11th JANUARY 2010**  
**25th JANUARY 2010**  
**28<sup>th</sup> JANUARY 2010**

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### **HOUSING CAPITAL PROGRAMME 2009/10 and 2010/15**

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## **SUPPORTING INFORMATION**

### **1. The 2009/10 Programme**

- 1.1 Members will be aware that the General Fund side of the Housing Capital Programme relies on generating capital receipts from the sale of assets, predominantly council houses under the Right to Buy scheme.
- 1.2 In putting together this years programme officers anticipated that the problems in the general economy would continue to adversely impact on the number of properties being sold and this has proved to be the case. Although officers believe that things will improve next year they expect it to be only a gradual 'thawing' with slow recovery and increased levels of sales.

### **2. Actual Expenditure to the End of October 2009.**

- 2.1 The actual expenditure to the end of October 2009 is £11.060m and again this is detailed in Appendix 1. This equates to c40% of the revised programme. At the same stage last year 47% of the programme had been spent.

### **3. Resources**

- 3.1 Resources are estimated to be in line with that required to fund the whole of the current programme and any additional resources will be used to supplement the 2009/10 programme. If the picture changes further during the year, the Divisional Director Housing Services and Cabinet Member for Housing will consider this jointly.
- 3.2 It is now estimated that resources to fund the 2009/10 programme will be as follows:

	<u>2009/2010</u> <u>Estimated</u> <u>Resources</u> <u>£000</u>	<u>2009/2010</u> <u>Anticipated</u> <u>Resources</u> <u>£000</u>
<b><u>HIP ALLOCATION/SINGLE CAPITAL POT</u></b>		
Housing (ACG)/Supported Capital Expenditure/Regional Hsg Pot	8000	7630
Major Repairs Allowance (MRA)	13333	13333
Major Repairs Allowance B/F	0	2000
DFG Allocation	743	751
	-----	-----
	22076	23714
<b><u>Plus Capital Receipts</u></b>		
Sale of Council Assets - Property and Land	1300	900
<b><u>Plus Capital Expenditure charged to Revenue Account (CERA)</u></b>		
Use of Housing/DSO Profits	200	0
Use of Housing/DSO Balances	2519	2519
<b><u>Plus Prudential Borrowing Approval</u></b>		
Prudential Borrowing Framework	600	1558
<b><u>Plus Other Funding</u></b>		
Loft Insulation Programme -Match funding from Public Utilities	50	620
Other grants	0	147
Decent Homes Loan Scheme	0	50
<b><u>Less</u></b>		
Transfer to Corporate Capital Programme	(500)	(0)
	-----	-----
	<b>26245</b>	<b>29508</b>

3.3 The latest updated programme, outlined at Appendix 1, shows an estimated spend of £27.596 million, which will leave £1.824m to be carried forward for the HRA programme and a small contingency (£88k) for the General Fund Programme. The revised 2009/10 programme is recommended to Members for approval.

#### **4. THE 2010/11 PROGRAMME**

4.1 This is the seventh year of the Single Capital Pot and despite pressure on the Council's Capital Programme Cabinet is recommended to agree the following resources for housing.

	<u>2009/2010</u> <u>Anticipated</u> <u>Resources</u> <u>£000</u>	<u>2010/2011</u> <u>Estimated</u> <u>Resources</u> <u>£000</u>
<b><u>HIP ALLOCATION/SINGLE CAPITAL POT</u></b>		
Housing (ACG)/Supported Capital Expenditure/Regional Hsg Pot	7630	6927
Major Repairs Allowance (MRA)	13333	11420
Major Repairs Allowance B/F	2000	1824
DFG Allocation	751	743
Decent Homes Loan Scheme	50	500
	23764	21414
<b><u>Plus Capital Receipts</u></b>		
Sale of Council Assets - Property and Land incl b/f	900	1000
Capital Receipts b/f	0	88
<b><u>Plus Capital Expenditure charged to Revenue Account (CERA)</u></b>		
Use of Housing/DSO Reserves	0	700
Use of Housing/DSO Balances	2519	550
<b><u>Plus Prudential Borrowing Approval</u></b>		



Prudential Borrowing Framework - General	1558	1662
Prudential Borrowing Framework – New Build	0	8333
<b>Plus Other Resources</b>		
New Build Challenge Fund	0	7071
Loft Insulation Programme -Match funding from Public Utilities	620	100
Cavity Wall Insulation Programme etc.,	147	240
	-----	-----
	<b>29,508</b>	<b>41,158</b>

- 4.2 In putting together the draft programme officers have once again taken advantage of the freedoms offered by Government via the Prudential Borrowing Framework. This allows councils to borrow against future revenue streams. Although there is always an element of uncertainty in revenue resources, officers' believe that an ongoing revenue commitment can be undertaken following a net improvement in Management and Maintenance Allowances allied to real increases in rent levels over the last few years. This will allow Members to borrow a further £10.474m to support the Housing Capital Programme between 2010 and 2015, and be used to meet the Government's Decent Homes Standard targets for both 2010 and beyond, and over a thirty-year period. The proposed £1.662m prudential borrowing for decent homes work in 2010/11 would add £30k to revenue costs in 2010/11 and £125k in 2011/12 and £122k in 2012/13. This figure reduces in future years as more and more principal gets repaid. These costs have been allowed for the in draft HRA estimates report elsewhere on this agenda. It should be noted that Prudential Borrowing at this level would keep the outstanding total HRA debt within the limit that receives full reimbursement via Housing Subsidy and therefore poses no threat to the general fund.
- 4.3 The reason why use of the Prudential Borrowing Framework has been phased over a number of years is first, to ensure that we do not overheat the local building industry in any one year, and second, to give Members the opportunity to change policy in the future if the revenue situation changed unexpectedly for the worse. The benefit of accessing Prudential Borrowing is that it first of all allows the Council to fully fund both the Decent Homes Standard and to finance the 30 year Business Plan. Second, it removes the only question mark remaining following the consultants report on the Stock Options Appraisal, and third it enables the Council to push ahead with its planned maintenance programme, which should lead to less day-to-day repairs expenditure, and higher rental income, in the future. Finally, it provides tenants with good quality housing, with modern facilities, at an earlier stage in the process, for example, if Members decided to use Capital Expenditure charged to the Revenue Account as an alternative, it would take 11 years to raise the same amount of resources as available through using Prudential Borrowing, and would mean tenants living in unmodernised properties for a substantially longer period of time than under these proposals.
- 4.4 The estimated level of resources shown in Appendix 2 would result in the draft programme outlined at Appendix 3. In putting the programme together officers have allowed for a small amount of over programming (3.5%) to ensure all resources available are used.
- 4.5 The use of housing allocations allows the Council to tackle disadvantage and target resources to overcome inequality. This has been taken into account in developing the 2010/11 programme. Officers have also been conscious of how the Housing Capital Programme can be used to directly support 'One Leicester', LAA targets and Corporate Plan targets, and as a result the following will be supported through this programme:

- i) Ensure that all qualifying Council properties meet the Decent Homes Standard by the end of 2010 and beyond (National Indicator)
  - ii) Increase the percentage of Private Sector homes meeting the Decent Homes Standard (Corporate Plan)
  - iii) Empty Homes brought back in to use (Corporate Plan)
  - iv) The number of affordable homes developed for those people excluded from the private housing market (National Indicator 155)
  - v) Reduce CO<sub>2</sub> emissions for Leicester City Council as a whole (National Indicator 186)
  - vi) Reduce Fuel Poverty (National Indicator 187)
- 4.6 In addition to the draft outlined capital programme attached, Members are also recommended to approve the use of any commuted sums realized in year for the acquisition of new affordable housing through either HomeCome or RSL's. This money can only be used for this purpose and therefore will help towards the Council's, and the Government's target for new affordable housing nationally, regionally and locally.
- 4.7 Although this report is about the allocation of resources, Members will appreciate that a number of the schemes proposed could have crime and disorder, equality and environmental implications. In putting the programme together, officers have been conscious of the opportunity that major investment offers in tackling these major issues and, therefore, schemes such as the uPVC Window and Door Replacement Programme, replacement of Central Heating Boilers, provision of Door Entry Systems, life time bathrooms, DFG's and Disabled Adaptations, Energy Efficiency measures and many more, have been included.
- 4.8 The decision to take advantage of Government grants for a new build programme will also increase the number of apprenticeships, create work for local labour and help to stimulate the local economy. It will also support the Investing in Skills and Enterprise theme under 'One Leicester'.
- 4.9 In considering the draft 2010/11 programme, outlined at Appendix 3, Members' attention is particularly drawn to the following provision:
- £15.4m for New House Building (146 dwellings)
  - £7m Kitchen and Bathroom modernisations,
  - £2.3 million for rewiring properties,
  - £3.2 million for replacing old inefficient boilers,
  - £900k for Environmental Initiatives on Council estates,
  - £800k for removing asbestos in tower blocks,
  - £3.55 million for Disabled Adaptations and Disabled Facilities Grants (this is almost four and a half times the amount made available by Government for tackling disadvantage in peoples' homes),
  - £1.896 million for Private Sector Decent Homes,
  - £500k for Decent Homes Loan Scheme,
  - £770k for Environmental and CRI Budgets for Community Associations,
  - £300k for new and replacement Door Entry Systems,
  - £440k for efficiency works in Council houses,
  - £669k to support the redevelopment of the Exchange

£900k provision for Digital Television in high rise flats/maisonettes (second year of a two year Programme costing £1.8m overall)  
£500k for a replacement radio system/mobile working solution following a successful pilot.

- 4.10 Provision has been included for the commencement of a new build programme of 146 dwellings. This is being funded by a combination of grant from Government and through Prudential Borrowing.
- 4.11 The Programme also includes £1.55m for DFG's and £2m for Disabled Adaptations. The DFG is less than officers would have liked but this is because of problems in funding following the drop in Housing Capital Receipts outlined above. However, it is recommended that this item be a top priority for any new receipts generated in year.
- 4.12 Provision has also been included to complete the programme to convert analogue television signals to digital in line with the Government's target of having the switch over complete in the Central area by 2011. This is the balance of a two year programme that started in 2009/10.
- 4.13 However, **in considering the proposals in the programme Members must consider them alongside the Equality Impact Assessment** and satisfy themselves that any decision does not disadvantage any group of people, or at least that adequate safeguards have been put in place to mitigate against the impact of the revised charge being applied.
- 4.14 Members will no doubt recall that, following extensive consultation with tenants' representatives across the City; the old Housing Committee agreed to provide funds to at the disposal of Community Associations.
- 4.15 It is recommended that a sum of £770,000 be set aside next year but £370k of this is to complete schemes approved in the current year. The remaining money will be used to tackle infrastructure issues on estates, i.e fencing/walls and hard and soft areas, which have been neglected over recent years with the push to achieve the Decent Homes Target.
- 4.16 Given that there are always more bids than resources available under this initiative, it is recommended that authority be delegated to the Divisional Director Housing Services in consultation with the Cabinet Lead Member for Housing to approve the bids.
- 4.17 In addition to this it is proposed to allocate £900k (£150k per area) to enable Area Managers to prepare and start delivering an environmental strategy in their areas. This will be linked to the work of the Ward Committees.

## **5. Decent Homes Target**

- 5.1 The 2010/11 draft programme keeps the Council on target to deliver the Government's Decent Homes commitment by the end of 2010. However, as highlighted in previous reports this does not cover properties built after 1970, which will become 'non-decent' from 2011 onwards as a result of the Government's use of applying some age related criteria within its decent homes target e.g. Bathrooms are non-decent after 40 years,

wiring is non-decent after 30 years and kitchens are non-decent after 30 years. In addition, Structures are non-decent after 80 years, Roofs 60 years, Wall finishes 60 years, Chimneys 50 years, windows and doors 40 years and Boilers after 15 years. Therefore it will still be necessary to commit resources after 2010 to meet and maintain the Decent Homes target after 2010.

5.2 However, despite the Government's intention to cut resources for this work, and our ongoing commitment as outlined in 5.1 above, it is believed that we should still be able to meet the decent homes standard in all properties needing work between 2010 and 2015 provided other resources planned are available. Members will need to appreciate that this does not allow for every tenant to receiving a new kitchen **and** bathroom as the Decent Homes standard only requires one of them to be upgraded for the property to be declared decent, and the Council does not have enough resources available to do both.

## **6. Private Sector Housing Renewal Capital Programme 2010-11**

6.1 This programme takes account of the shift to a "loan first" policy for the provision of financial assistance to vulnerable and low-income homeowners. Some support is needed to those owners taking up loans through meeting the loan set up costs and offering discounted loans to eligible homeowners in the Home Improvement Areas.

6.2 It is proposed that priority continues to be given to the Home Improvement Areas so that 70% of loans are targeted to those areas with 30% being made available citywide. Unfortunately due to the much-reduced allocation it will not be possible to provide any environmental works in Home Improvement Areas in 2010-11 and this will be reviewed on an annual basis.

6.3 An estimated 116 loans can be provided, with 80 in the Home Improvement Areas and 36 citywide. There are 76 approved grants and a further 20 new grants can be awarded. This means that will be possible to assist 212 households to bring their homes up to a decent standard.

6.4 In addition we will be able to provide advice and non-financial assistance to a further 500 homeowners citywide.

6.5 Given the reduced budget and the level of existing commitments there can be only limited options on the new starts programme. Continuing funding for Hot Lofts and not environmental works has been recommended because of the leverage that is possible, at the rate of 1:1, and because Hot Lofts is recognised as the most effective action we can take to contribute to the reduction of private sector domestic element of the city's CO2 emissions.

	<b>£000</b>	<b>£000</b>
<b>Resources Available</b>		<b>3,858</b>
<b><u>Commitments</u></b>		
Approved Discretionary Grants	487	
Disabled Facilities Grants	<u>1,300</u>	
<b>Commitments Total</b>		<b>1,787</b>
<b><u>New Starts</u></b>		

Disabled Facilities Grants	250	
Empty Homes and New Affordable Housing	100	
Improvements to Council Hostels	50	
Incremental Improvements achieved through DFG's	290	
Contributions to loans take up	200	
Provision of grants where loans not possible	178	
Hot Lofts	200	
		1,268
<b>Other</b>		
Capitalisation of Salaries		303
<b>Loans</b>		
Share of Regional Loans Fund		500
<b>Total Housing General Fund Programme</b>		<b>3,858</b>

## 7. **LEGAL IMPLICATIONS**

7.1 There are no legal implications associated with this report.

## 8. **OTHER IMPLICATIONS**

	<u>Yes/No</u>	
Equal Opportunities	Yes	Para's 4.7, 4.8, 4.9, 4.10, 4.11 & 4.13
Policy	Yes	Para 4.11 & 6.2
Sustainable & Environmental	Yes	Para 4.5, 4.7, 4.9 & 6.5
Crime & Disorder	Yes	Para 4.9
Human Rights Act	No	

## 9. **AIMS AND OBJECTIVES OF THE HOUSING SERVICE**

9.1 This report meets the Committee's overall Quality of Life Aim for the Department 'A decent home within the reach of every citizen of Leicester', and within that Key Objective 1 - To improve the condition of Leicester's housing stock and resolve unfitness in all sectors.

## 10. **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

### 10.1 **Background Papers**

a) Capital Programme Booklet 2009/10

b) Joint report of the Corporate Director of Adults and Housing and the Chief Finance Officer on Capital Programme 2008/09 and 2009/14 to Cabinet on 26th January 2009 and Council on 29th January 2009.

**11. CONSULTATION**

11.1 All Services have been consulted through Senior Management Group. Tenants have also been consulted through the Housing Performance Panel as part of the Council's formal consultative procedures.

**12. Report Author -**  
Dave Pate – Ext. 6801

**Monitoring Report Period 7**

<b>Scheme</b>	<b>Approved Programme</b>	<b>Revised Programme</b>	<b>Actual to Period 7</b>	<b>Forecast Outturn</b>	<b>Notes</b>
	<b>£ 000s</b>	<b>£ 000s</b>	<b>£ 000s</b>	<b>£ 000s</b>	
<b><u>Decent Homes Standard</u></b>					
Kitchens & Bathrooms	9,000	9,200	4,562	9,200	MRA brought forward from 2010/11 £1m
Rewiring	2,250	1,000	66	1,000	
Re-roofing / Re-guttering	335	335	216	300	
Central Heating Boilers	3,600	4,900	1,947	4,900	MRA brought forward from 2010/11 £1m
Structural Works	300	250	85	250	
Damp Proof Courses	0	50	22	50	
Window and Door Replacement	500	500	365	500	
New Central Heating	200	100	107	107	
District Heating	140	140	0	140	
St Peters Balconies	200	236	234	301	
	<b>16,525</b>	<b>16,711</b>	<b>7,604</b>	<b>16,748</b>	
<b><u>Other HRA Schemes</u></b>					
Porch & Comm Area doors & windows	325	325	0	325	
Sheltered Housing Improvements	150	287	77	287	Slippage of £137k for Rupert House
Energy Works (incl. boiler houses)	400	400	59	400	
Environmental Works	400	400	0	400	
Flat Roofs Over Shops	120	84	7	40	
Replacement Door Entry Phones	200	200	0	200	
Health & Safety Issues - alarms	300	300	14	300	
New Door Entry Systems	240	310	60	310	Slippage of £70k from 2008/09
Environmental Budgets - Community Asso	180	180	16	180	
CRI Community Assoc. Schemes	220	220	36	220	
Disabled Adaptations to Council Dwellings	2,000	1,800	316	1,800	
Service Improvements	240	240	0	240	
Replacement Radio System & Mobile Wkg	200	25	55	200	

Digital TV	900	900	30	900	
Beaumont Leys Core Area	0	100	0	100	Slippage from 2008/09
Housing PFI Business Case	120	0	0	0	Bid failed
Playground Equipment	50	75	0	75	£25k slippage from 2008/09
St Matthews Blocks	0	26	26	26	
Exchange Redevelopment	124	50	0	50	£74k rephasing to 2010/11
Care in the Community Alarms	230	255	0	255	£25k slippage from 2008/09 for Control Room
Cavity Wall Insulation	0	103	0	103	New Grant-Aided Scheme
Fees	30	30	0	30	
	<b>6,429</b>	<b>6,310</b>	<b>696</b>	<b>6,441</b>	
<b><u>Housing Revenue Account Total</u></b>	<b>22,954</b>	<b>23,021</b>	<b>8,300</b>	<b>23,189</b>	
<b><u>General Fund</u></b>					
Disabled Facilities Grants	1,280	1,288	1,141	1,288	
Renovation Grants	1,400	1,043	527	1,043	
Energy Efficiency Grants	200	150	3	150	
Environmental Works in Renewal Areas	250	150	52	150	
Home Repair Grants	350	330	45	330	
Capitalisation of Salaries	400	400	257	400	
Empty Homes & Aff Housing - RSL's	50	110	23	110	£60k slippage for Batch 1 sites
New Deal Training Scheme	30	0	0	0	
SHED project	0	44	35	44	Grant funded
Improvements to Council Hostels	30	77	48	77	
Energy Initiative Programme	100	740	622	740	
Wind Turbine Consultants	135	0	0	0	
Decent Homes - Loans	0	50	0	50	Subject to funding approval
Fees	25	25	7	25	
<b><u>General Fund Total</u></b>	<b>4,250</b>	<b>4,407</b>	<b>2,760</b>	<b>4,407</b>	
<b><u>TOTAL</u></b>	<b>27,204</b>	<b>27,428</b>	<b>11,060</b>	<b>27,596</b>	
<b><u>Less Over-programming</u></b>	<b>(959)</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b><u>PROGRAMME TOTAL</u></b>	<b>26,245</b>	<b>27,428</b>	<b>11,060</b>	<b>27,596</b>	



**ESTIMATED RESOURCES AVAILABLE TO SUPPORT THE HOUSING CAPITAL PROGRAMME 2009/2015**

**Appendix 2**

	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015
	Anticipated	Estimated	Estimated	Estimated	Estimated	Estimated
	Resources	Resources	Resources	Resources	Resources	Resources
	000'	000'	000'	000'	000'	000'
<b><u>HIP ALLOCATION/SINGLE CAPITAL POT</u></b>						
Housing (ACG)/Single Capital Pot	7630	6927	1427	1427	1427	1427
Major Repairs Allowance (MRA)*	13333	11420	13420	13420	13420	13420
Major Repairs Allowance (MRA)* B/F	2000	1824	0	0	0	0
Specified Capital Grant (SCG)	751	743	743	743	743	743
Decent Homes Loan Scheme	<u>50</u>	<u>500</u>	<u>500</u>	<u>500</u>	<u>500</u>	<u>500</u>
	<b>23764</b>	<b>21414</b>	<b>16090</b>	<b>16090</b>	<b>16090</b>	<b>16090</b>
<b><u>Plus Capital Receipts</u></b>						
Sale of Council Assets - Property and Land	900	1000	1100	1300	1500	1500
Capital Receipts b/f	0	88	0	0	0	0
<b><u>Plus Capital Expenditure Charged to Revenue Account (CERA)</u></b>						
Use of Housing DSO Profits/Balances	0	700	300	0	0	0
Use of Housing/DSO Balances	2519	550	950	925	1075	1500
<b><u>Plus Unsupported Credit Approval</u></b>						
Prudential Borrowing - General	1558	1662	1982	2135	2283	2412
Prudential Borrowing - New Build	0	8333	0	0	0	0
<b><u>Plus Other Resources</u></b>						
New Build Challenge Fund	0	7071	0	0	0	0
Cavity Wall Insulation Programme	147	240	0	0	0	0
Loft Insulation Programme – Match Funded by Public Utilities	<u>620</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>200</u>
	<b>29508</b>	<b>41158</b>	<b>20522</b>	<b>20550</b>	<b>21048</b>	<b>21702</b>

**HOUSING CAPITAL PROGRAMME 2009/2015**

**Appendix 3**

	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
<b>HRA SCHEMES</b>	<b>Anticipated</b>	<b>Planned</b>	<b>Planned</b>	<b>Planned</b>	<b>Planned</b>	<b>Planned</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
<b>2. HRA 2010 DECENCY TARGET</b>						
Renewing/Remodelling Kitchens & Bathrooms	9.200	7.000	7.000	7.000	7.000	7.250
30 year+ Rewiring	1.000	2.300	2.000	2.000	2.100	2.500
Re-roofing/Re-guttering	0.300	0.400	0.200	0.200	0.200	0.200
Energy Efficiency Work incl. Central Heating Boilers	4.900	3.200	2.500	3.125	3.495	3.400
St Peters Balconies	0.301	0.000	0.000	0.000	0.000	0.000
Structural Works	0.300	0.300	0.200	0.165	0.200	0.200
New Central Heating Installations	0.107	0.100	0.100	0.100	0.100	0.100
St. Matthews District Heating Scheme	0.140	0.100	0.000	0.000	0.000	0.000
	<b>16.248</b>	<b>13.400</b>	<b>12.000</b>	<b>12.590</b>	<b>13.095</b>	<b>13.650</b>
<b>3. Other HRA Schemes</b>						
Removal of Asbestos from Tower Blocks & Remodelling Goscote Hse	0.026	0.800	0.400	0.100	0.000	0.000
Porch & Communal Area Doors and Windows Replacement Programme	0.825	0.750	0.500	0.300	0.300	0.300
Environmental Works - fences, outbuildings etc	0.400	0.900	0.900	0.900	0.900	0.900
Flat Roofs over Shops and Shop Precincts	0.040	0.300	0.247	0.186	0.185	0.170
Replacement of Door Entry Phones	0.200	0.200	0.200	0.100	0.100	0.110
Health and Safety Issues incl targetted alarms & Tank repl.	0.300	0.300	0.200	0.200	0.200	0.200
New Door Entry Systems	0.310	0.100	0.000	0.000	0.000	0.000
Fees	0.030	0.030	0.030	0.030	0.030	0.036
Sheltered Housing Improvements	0.287	0.200	0.100	0.100	0.100	0.100
Energy Works incl converting boiler houses	0.400	0.200	0.200	0.200	0.200	0.200
Environmental Budgets allocated to Community Associations	0.180	0.180	0.180	0.180	0.180	0.180
CRi – Community Association Schemes incl WIP	0.220	0.590	0.220	0.220	0.220	0.220
Beaumont Leys Core Area	0.100	0.000	0.000	0.000	0.000	0.000
Redeveloping the Exchange	0.050	0.669	0.000	0.000	0.000	0.000
Care in the Community - Alarm System	0.255	0.255	0.037	0.030	0.030	0.050
Disabled Adaptations to Council dwellings	1.800	2.000	2.000	1.800	1.700	1.700
Service Improvements	0.240	0.100	0.100	0.100	0.100	0.100
Digital Television	0.900	0.900	0.000	0.000	0.000	0.000

	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
<b>3. Other HRA Schemes (continued)</b>	<b>Anticipated</b>	<b>Planned</b>	<b>Planned</b>	<b>Planned</b>	<b>Planned</b>	<b>Planned</b>
Replacement Radio System & new Mobile Working solution	0.200	0.500	0.000	0.000	0.000	0.000
New Build Programme – Challenge Fund Phase 1 (93 dwellings)	0.000	9.094	0.000	0.000	0.000	0.000
New Build Programme – Challenge Fund Phase 2 (53 dwellings)	0.000	6.310	0.000	0.000	0.000	0.000
Cavity Wall Insulation Programme	0.103	0.240	0.000	0.000	0.000	0.000
Play Equipment	0.075	0.050	0.050	0.050	0.050	0.050
<b>Other HRA Schemes Total</b>	<b>6.941</b>	<b>24.668</b>	<b>5.364</b>	<b>4.496</b>	<b>4.295</b>	<b>4.316</b>
<b>HRA Total</b>	<b>23.189</b>	<b>38.068</b>	<b>17.364</b>	<b>17.086</b>	<b>17.390</b>	<b>17.966</b>
<b>GENERAL FUND EXPENDITURE</b>						
<b>4. SCG/GF Commitments</b>						
Mandatory Disabled Facilities Grants	1.288	1.550	1.500	1.700	1.900	1.900
Renovation Grants in Renewal Areas/ Home Improvement Areas	1.043	0.000	0.000	0.000	0.000	0.000
<b>SCG/GF Commitments Total</b>	<b>2.331</b>	<b>1.550</b>	<b>1.500</b>	<b>1.700</b>	<b>1.900</b>	<b>1.900</b>
<b>5. SCG/GF New Starts Programme</b>						
Energy Efficiency Grants (DFG's & Renewal Areas)	0.150	0.000	0.000	0.000	0.000	0.000
Environmental Works in Renewal Areas/Home Improvement Areas	0.150	0.000	0.000	0.000	0.000	0.000
Home Repair Grants (incl. City Wide Home Mtnc Scheme and Care & Repair)	0.330	0.000	0.000	0.000	0.000	0.000
Private Sector Decent Homes (incl capitalisation of salaries & fees)	0.000	1.593	1.587	1.687	1.690	1.608
<b>SCG/GF New Starts Programme</b>	<b>0.630</b>	<b>1.593</b>	<b>1.587</b>	<b>1.687</b>	<b>1.690</b>	<b>1.608</b>
<b>SCG/GF Total</b>	<b>2.961</b>	<b>3.143</b>	<b>3.087</b>	<b>3.387</b>	<b>3.590</b>	<b>3.508</b>
<b>6. Other GF Commitments</b>						
Fees	0.025	0.000	0.000	0.000	0.000	0.000
Capitalisation of salaries	0.400	0.000	0.000	0.000	0.000	0.000
<b>Other GF Commitments Total</b>	<b>0.425</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>
<b>7. Other General Fund New Starts Programme</b>						
SHED Project	0.044	0.000	0.000	0.000	0.000	0.000
Empty Homes and New Affordable Housing via RSL's and HomeCome	0.110	0.100	0.050	0.050	0.050	0.050
New Deal Training Scheme	0.000	0.000	0.000	0.000	0.000	0.000
Decent Homes Loans Scheme	0.050	0.500	0.500	0.500	0.500	0.500

	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
	Anticipated	Planned	Planned	Planned	Planned	Planned
Improvements to Council Hostels	0.077	0.050	0.065	0.075	0.079	0.065
Energy Initiative Programme	0.740	0.200	0.200	0.200	0.200	0.400
<b>Other General Fund New Starts Total</b>	<b>1.021</b>	<b>0.850</b>	<b>0.815</b>	<b>0.825</b>	<b>0.829</b>	<b>1.015</b>
<b>Other General Fund Total</b>	<b>1.446</b>	<b>0.850</b>	<b>0.815</b>	<b>0.825</b>	<b>0.829</b>	<b>1.015</b>
<b>OVERALL GENERAL FUND TOTAL</b>	<b>4.407</b>	<b>3.993</b>	<b>3.902</b>	<b>4.212</b>	<b>4.419</b>	<b>4.523</b>
<b>PROGRAMME TOTAL</b>	<b>27.596</b>	<b>42.061</b>	<b>21.266</b>	<b>21.298</b>	<b>21.809</b>	<b>22.489</b>
<b>Less Overprogramming (3.5%)</b>	0.000	0.903	0.744	0.748	0.761	0.787
<b>TOTAL HOUSING CAPITAL PROGRAMME</b>	<b>27.596</b>	<b>41.158</b>	<b>20.522</b>	<b>20.550</b>	<b>21.048</b>	<b>21.702</b>
<b>Estimated Resources</b>	<b>29.508</b>	<b>41.158</b>	<b>20.522</b>	<b>20.550</b>	<b>21.048</b>	<b>21.702</b>





### Equality Impact Assessment

<b>Name and date of meeting</b>	Cabinet 25 <sup>th</sup> January 2010
<b>Title of Report</b>	Housing Capital Programme 2009/10 and 2010/15
<b>Lead Officer</b>	Dave Pate
<b>Date of EIA</b>	22nd December 2009

<b>1.</b>	<b>Who are the customers or stakeholders affected by the recommendations of this report?</b>
<p>Tenants Residents Leaseholders Owner Occupiers Tenants and Residents Associations Disabled People Members Housing Services Division Housing Strategy and Options Division Community Care Services Personalisation and Business Support Division Older People's Services Strategy, Commissioning, Performance and Business Support Other Divisions Contractors Housing Support Providers Education Establishments</p>	

<b>2a.</b>	<b>What are the expected positive impacts that customers or stakeholders will receive as a result of the recommendations of this report?</b>
<p>Overall the investment in housing in Leicester by the Housing Capital Programme has a very positive impact on tenants and residents. It means that homes are being modernised to meet the Decent Homes Standard, energy efficiency targets are being met and security and estate improvement measures are put in place.</p>	
<b>b.</b>	<b>Are there any differential outcomes between different diversity groups arising from the implementation of the report's recommendations? Which groups benefit, and which do not?</b>

There are some differential outcomes for equality groups, although all groups benefits from initiatives such as:

- New house building
- Modernising council properties
- Private sector decent homes through home improvement, repair and energy efficiency grants
- Environmental budgets for community associations
- Door entry systems
- Loft insulation and other energy works
- New central heating systems
- Provision for Digital Television in high rise properties
- Replacement radio/mobile working system
- Adaptation works for disabled people

**Age** - Investment in housing in the City benefits people from all age groups. Some older tenants particularly benefit from the investment in initiatives such as improvements to sheltered schemes, lifetime bathrooms, disabled adaptations to council houses, Disabled Facilities Grants (DFGs), community care alarm system and other projects in their locality supported by the Capital Programme. The use of commuted sums will also allow housing providers to meet the needs of people needing wheelchair accessible housing by developing appropriate units in the City.

**Disability** – Investment in housing benefits all people, including disabled people. DFGs assist people to live independently in their own homes. Some disabled people will particularly benefit from the lifetime bathroom programme, disabled adaptations to council houses and care in the community alarm systems. The use of commuted sums will also allow housing providers to meet the needs of people needing wheelchair accessible housing by developing appropriate units in the City.

Although many disabled people are able to get adaptations in their homes, the number of people who will be able to access DFGs in the future will decrease as funding has been reduced. This is due to the reduction in capital receipts as council house sales have gone down. This will mean that the service will be unable to meet the needs of some disabled people who need adaptations in their own homes in the short and possibly longer-term..

**Gender** - Investment in housing in the City benefits all tenants and residents. People facing harassment or fleeing domestic violence may particularly benefit from community care alarm systems, other security systems and improvements to hostels. The use of commuted sums will also allow the development of accommodation for those in need where there is not enough appropriate housing.

**Race** - Investment in housing in the City benefits all tenants and residents. Investment has been made in the City to develop suitable housing for people in housing need. This includes large family accommodation, which has been



identified as a housing need for some BME households in the City. Improvements to security systems, estates and hostels will assist people experiencing racial harassment. The use of commuted sums will also allow the development accommodation for those in need where there is not enough appropriate housing.

**Religion/belief** - Investment in housing in the City benefits all tenants and residents. The use of commuted sums will also allow the development of accommodation for those in need where there is not enough appropriate housing.

**Sexual orientation** - Investment in housing in the City benefits all tenants and residents. The use of commuted sums will also allow the development of accommodation for those in need where there is not enough appropriate housing.

c.	<b>If there are differential outcomes between different diversity groups, how can the outcomes be made more equitable for all diversity groups?</b>
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For all groups the reduction in capital receipts has resulted in a decrease in funds available for all initiatives, in comparison to previous years. .

The main equality issue identified is the significant reduction in DFGs due to the drop in Right to Buy sales. Equality Monitoring of people receiving DFG's shows:

The majority of recipients in 2006 to 2008 were between the ages of 65 and 85+ years old.

59% of the recipients were female in 2007

Approximately 50% of the recipients were Asian and 50% were from a White background over the last two years. The Asian population of the City is approximately 30%, therefore the percentage of Asian people receiving DFGs is significantly higher than the City average.

The demand for DFGs is growing and with reduced funding proposed for DFGs there could be a backlog of cases of approximately 1500 by 2013/14. This is an estimated figure that does not take into account any allowance for growth in demand. This will mean that we are not able to meet the needs of some disabled people who need adaptations in their homes to enable them to live independently. This will also impact on how the Council meets the Disability Equality Duty as outlined in the Disability Discrimination Act 2005. The Duty requires all public authorities to promote equality of opportunity for disabled people.

The Council needs to look into finding alternative sources of funding for DFG's to meet the needs of disabled people in the City. The Programme includes £1.55m for DFG's and £2m for Disabled Adaptations although both these amounts are augmented by expenditure under other headings in the capital programme (e.g the Kitchen and Bathroom Programme). The DFG budget is less than officers would like but is restricted by the resources available, however, it is recommended that this item be a top priority for any new housing receipts generated in year, which should help to relieve some of the pressure on demand.

<b>3a.</b>	<b>What are the potential negative/adverse impacts that customers or stakeholders could receive as a result of the recommendations of this report?</b>
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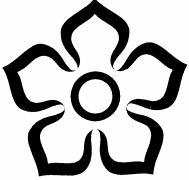
For all groups the reduction in capital receipts has resulted in a decrease in funds available for all initiatives, in comparison to previous years. The area most affected is DFGs, which will mean that the service will not be able to meet the needs of some disabled people who need adaptations in their homes.

<b>b.</b>	<b>Which diversity groups would be affected? How would they be</b>
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	<b>affected?</b>
Disabled people would not be able to get all the adaptations they need in their own homes.	
<b>c.</b>	<b>How can these negative impacts be reduced or removed? What is your action plan?</b>
All Housing Divisions need to ensure that information about services is accessible and service users through the Housing Performance Panel are involved in shaping how Capital Programmes initiatives are implemented.	
Any new housing money generated to be used to support DFGs and the Council to look into alternative sources of funding for DFGs.	

<b>Equality Strand/ Activity</b>	<b>Action Required</b>	<b>Outcome for Service</b>	<b>Measures required</b>	<b>Lead Officer (Service Manager)</b>	<b>Timescale</b>
For all Equality Strands	Review information about housing services and make changes where necessary to ensure it is accessible to all groups.	Information about housing services is accessible to people from different backgrounds.	% increase in tenants and residents from all groups aware of services provided.	All housing divisions	Ongoing
	Ensure that tenants and residents through the Housing Performance Panel are involved in shaping how capital programme initiatives are implemented in the next 5 years.	Initiatives meet the needs of tenants and residents.	% of people satisfied with services.	All housing divisions	Ongoing
	Any new housing money generated to be used to support DFGs.	Meet the needs of disabled people wishing to live independently in their own homes.	% of grants paid.	All housing divisions	Ongoing
	The Council to	Meet the needs of	% of grants	All	Ongoing

	look into alternative sources of funding for the DFG.	disabled people wishing to live independently in their own homes.	paid.	Housing Divisions	
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Leicester  
City Council

**WARDS AFFECTED**  
All Wards

**AOUB2**

## **FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**

**Cabinet  
Council**

**25 January 2010  
28 January 2010**

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### **Housing Revenue Account – Budget 2010/11**

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#### **Report of the Divisional Director of Housing Services and Chief Finance Officer**

##### **1. Purpose of Report and Summary**

- 1.1 This report summarises the financial position of the Housing Revenue Account (HRA) for 2009/10 and 2010/11. The approval of Members is sought for setting rents for 2010/11 again based on the Government's "formula rents", and Members are asked to determine the level of service charges to be applied in 2010/11.

##### **2. Recommendations**

- 2.1 The Cabinet is asked to consider the report, and recommend Council to:
- i) note the estimated working balance of £2.387m at the start of 2010/11 and approve the base budget for 2010/11 as detailed at Appendix A, including using £550,000 to support the HRA Capital Programme in 2010/11;
  - ii) consider the issues outlined in the body of the report and, in particular, the comments of the Performance Panel, which will be reported at the meeting;
  - iii) consider the Equality Impact Assessment at Appendix F of this report;
  - iv) approve the setting of rents for 2010/11 on the basis of "formula rents" which (for 2010/11 only) will require a uniform 2.5% increase in all rents, producing additional income for the HRA of £1.610m.
  - v) approve the revised level of miscellaneous payments and charges to be applied in 2010/11, as detailed in Appendix C;

- vi) approve the “prudential indicators” for the HRA, as detailed in Section 3.7 of the report and Appendix D;
- vii) approve that £30,000 be added to the 2010/11 budget (and £125,000 in 2011/12 and then reducing in later years, as principal repayments reduce the outstanding loan) to facilitate £1.662m of new prudential borrowing being used to finance “Decent Homes” expenditure included in the 2010/11 HRA Capital Programme;
- viii) approve that £82,000 be added to the 2010/11 budget (and £342,000 in 2011/12 and then reducing in later years, as principal repayments reduce the outstanding loan) to facilitate £4.547m of new prudential borrowing being used to finance the City Council’s contribution to the ‘New Build Challenge Fund Phase 1’ scheme included in the 2010/11 HRA Capital Programme. It should be noted that this scheme was approved by Cabinet on 13 July 2009 and that the prudential borrowing costs in future years will be covered by the rental income on the new dwellings.
- (ix) approve that £68,000 be added to the 2010/11 budget (and £285,000 in 2011/12 and then reducing in later years, as principal repayments reduce the outstanding loan) to facilitate £3.786m of new prudential borrowing being used to finance the City Council's contribution to the "New Build Challenge Fund Phase 2" scheme included in the 2010/11 HRA Capital Programme. It should be noted that this scheme was approved by Cabinet on 5 October 2009 and that the prudential borrowing costs in future years will be covered by the rental income on the new dwellings.
- x) Note that any costs relating to a new salary structure for craft and manual workers, or as a result of the introduction of the new Job Evaluation Scheme under Single Status, will be either met from savings due to the amalgamation of the Housing Management and Maintenance Divisions or contained within the HRA base budgets generally.

### 3. **Report**

#### 3.1 **Revised Assessment for 2009/10**

As shown in Appendix A, the original budget for 2009/10 forecast a credit working balance of £2.749m to be carried forward into 2010/11. Current forecasts indicate that this balance will be £2.387m, which represents an approximate £0.4m net adverse variance compared to the original budget. This net variance comprises the following:

**£m**

- |    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                   |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| a  | <u>Reduced income from dwellings rents</u><br>Dwellings rents were originally increased from April 2009 by an average of 5.9% for 2009/10, in accordance with the Government's rent restructuring formula. Subsequently (see below), the Government allowed authorities to reduce their original rent increase, with the lost income being covered by a change in subsidy. The 3.4% rent reduction from 1 <sup>st</sup> June, 2009, meant that the overall full-year average rent increase for 2009/10 was 2.85% rather than 5.9% giving reduced income of £1.9m. | 1.9               |
| b) | <u>Reduced Negative Subsidy</u><br>This is due to the Government concession, as noted above, whereby local authorities reducing their original 2009/10 rent increases received full compensation via the subsidy system.                                                                                                                                                                                                                                                                                                                                          | (1.9)             |
| c) | <u>Interest receivable on cash balances</u><br>The original budget included £0.5m for interest receivable on cash balances held by the HRA. This was based on an interest rate of 3.8% (the same as the actual rate which applied in 2008/09). In line with the generally low interest rates in the economy, the current estimate of the applicable rate is 0.6%, resulting in a loss of interest of some £0.4m<br>Net Adverse Variance 2009/10                                                                                                                   | 0.4               |
|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <u><u>0.4</u></u> |

### 3.2 Base Budget for 2010/11

Appendix A also shows the 2010/11 base budget for the HRA; this is the position on the account at existing levels of service (including allowances for pay awards and price increases) and at current rent levels. Full allowance has already been made in the base budget for gas costs for the District Heating service and for the increase in District Heating charges which came into effect on 6<sup>th</sup> April, 2009 and apply until the end of the 2010/11 financial year.

Details of the major variances are:

#### i) **Dwellings Rents**

The 2010/11 Dwellings Rent base budget (prior to any increase or decrease for 2010/11) is showing a decrease of £2.427m compared to the original budget for 2009/10.

This is due to:

		£000
(a)	Difference between the probable outturn rental income for 2009/10 and the original budget, due to 3.4% rent reduction from 01/06/09	1,900
(b)	Additional loss of rental income for the first two months of the 2010/11 financial year during which the original 5.9% increase applied in 2009/10	360

(c)	Allowance for stock reductions (through 'Right to Buy' and other sales) during 2010/11	167
		<b>2,427</b>

ii) **Other Income**

This summary budget head comprises income from non-dwellings rents (i.e., from garages, shops, land, etc), flats services charges, district heating charges and interest receivable on HRA balances. The reduction of £556,000 is due to:

		£000
(a)	Lower interest expected to be received on HRA cash balances, partly due to lower balances but mainly due to a reduction in the likely interest rate from 3.8% to 0.6%	452
(b)	The full year effect of the decision to reduce flat services charges by 3% from 01/06/09	94
(c)	Other changes (net)	10
		<b>556</b>

iii) **Repairs and Maintenance**

The increase of £600,000 is due to allowances for pay awards and price increases.

iv) **Landlord Services**

The net reduction of £114,000 comprises the following:

		£000
(a)	Allowances for pay awards and price increases	232
(b)	The full-year effect of the reduced price obtained from 01/10/09 for supplies of gas to the District Heating Service, which applies for all of 2010/11	(346)
		<b>(114)</b>

v) **Capital Financing Costs**

The reduction of £2.773m in capital financing costs is mainly due to a significant reduction in the interest rate from 5.0% to 3.6% between the years. These lower interest charges do not benefit the HRA, since they are fully re-imbursed as part of the subsidy calculation and the lower charges simply result in an equivalent increase in negative subsidy (see below).

vi) **Capital Expenditure financed from Revenue Account (CERA)**

No allowance for a CERA towards financing of the 2010/11 HRA Capital Programme has been made in the 2010/11 HRA Base Budget. A CERA for 2010/11 is proposed later in the report for approval by Members.



## vii) **Negative Subsidy**

It can be seen from Appendix A that Negative Subsidy has increased by £1.077m between the 2009/10 and 2010/11 budgets. However, as capital financing costs are part of the subsidy calculation, it is necessary to combine this variance with the variance in capital financing costs (a decrease of £2.773m) to obtain the total effective change in the negative subsidy position, and this shows an improvement of £1.696m. This favourable variance comprises an improved subsidy position of £1.887m relating to 2009/10 (this is the change in subsidy that facilitated the 3.4% rent reduction from June 2009, as detailed earlier in paragraph 3.1) partly offset by a worsening of Leicester's negative subsidy position for 2010/11 by £0.191m.

These latest subsidy figures mean that Leicester's annual negative subsidy position has worsened by £5.6m since 2005/06. This compares to an improvement of £6.8m between 2003/04 and 2005/06, resulting from the Government's review of the subsidy calculation. Therefore, the Government has now largely 'clawed back' all of the large earlier improvements.

The large adverse subsidy changes in recent years are mainly due to the Government's policy of not allowing local authorities to retain the full amount of additional income resulting from the large, above inflation, annual rents increases under rent-restructuring. The subsidy system is the means by which the Government claws back a large part of the additional HRA rental income each year. This issue is considered further in paragraph 3.4.5.

## 3.3. **Single Status**

### 3.3.1 **New salary structure for craft and manual workers and changes to staff salaries under Single Status**

As part of the Council's move to Single Status it has been necessary to consider other areas not covered by the Single Status Agreement to limit the potential for Equal Value claims in the future. One such area was the craft and manual workers in Housing who are outside the Single Status Agreement. These employees have historically been paid a wage plus a bonus based on their individual productivity. Although the bonus scheme was considered robust, there was still a chance that someone could use this area of Council activity in an equal value claim against the Council. Officers have therefore been actively engaged with the trade unions in developing a new salary structure for this group of employees, which, although not actually part of the single status scheme, does result in pay scales in line with and compatible to those under the Single Status Agreement.

Also, the HRA, because of its ring-fenced position, has to meet any costs associated with the introduction of Single Status for its own employees. Therefore, any additional costs associated with these two changes will be either offset by savings achieved by the amalgamation of the Housing Management and Maintenance Branches into a new Housing Services Division or contained within the HRA base budgets generally.

### 3.4 Rent Setting under the Rent Re-Structuring System

- 3.4.1 To comply with Government regulations, Leicester's HRA commenced the rent restructuring process in 2004/05. Under this system, all rents are set by a Government formula, taking account of local earnings levels, the value of the property and the number of bedrooms in the property. The Government's original intention was that, under the formula rent system, local authority rents would increase at a faster rate than Housing Association rent so that, by 2011/12, rent levels on comparable properties in the two sectors would be similar.
- 3.4.2 However, to avoid having extremely large annual rent increases in the last part of the original restructuring period, the Government last year extended the convergence period to 2024/25.
- 3.4.3 Also, after setting its formula rents for 2009/10 (which resulted in an average rent increase of 5.9% for Leicester's tenants), the Government made a late change to its rent formula and subsidy figures which effectively allowed local authorities to reduce their 2009/10 rent increases by about half. This enabled Leicester's new 2009/10 rents to be reduced by 3.4% from 1<sup>st</sup> June 2009, which, on a full year basis, meant that the rent increase for 2009/10 was equivalent to 2.85% rather than the original 5.9%.
- 3.4.4 The average rent increase for Leicester's HRA for 2010/11, under rent restructuring, is 2.5%. **It is necessary to apply this increase to all rents from April 2010.** The effect of this increase on different categories of properties is shown in Appendix B.
- 3.4.5 The 2.5% increase in rents will produce additional income of £1.610m for the HRA. As noted earlier, £0.191m (12%) of this increase will be effectively 'clawed back' by the Government via a worsening of Leicester's negative subsidy position for 2010/11. This level of clawback is much less than in recent years, when a much greater clawback has been applied to a generally much higher rent increase.
- 3.4.6 The Government has also reviewed the progress being made towards convergence of HRA and Housing Association rents, and now believes (subject to the continuation of low inflation rates) that convergence can be achieved by 2012/13.
- 3.4.7 However, **in considering these rent proposals, Members must consider them alongside the Equality Impact Assessment** (at Appendix F) and satisfy themselves that any decision does not disadvantage any group of people, or at least that adequate safeguards have been put in place to mitigate against the impact of the revised charge being applied.

### 3.5 District Heating Charges

- 3.5.1 The current gas supply contract and current level of charges to tenants (following the 29% increase from 6 April 2009) apply until the end of the 2010/11 financial year, and do not therefore need considering at this time.

### 3.6 Other Associated and Miscellaneous Charges

3.6.1 Unlike the setting of rents, service charges are within the discretion of local authorities, although it is expected that increases in service charges will be kept broadly in line with those on rents.

A 2.5% increase in service charges for 2010/11, to be consistent with the proposed rent increase, will produce additional income for the HRA of £62,000.

3.6.2 The recommendations for the level of associated and miscellaneous charges (except for district heating charges) to be applied in 2010/11 are given in Appendix C.

3.7 **Prudential Code – Impact on the HRA**

3.7.1 The Local Government Act 2003 introduced new capital rules for local authorities, including the ‘Prudential Framework’ under which detailed regulation was replaced by a more flexible system of capital control, based upon authorities’ ability to meet revenue costs, and comply with CIPFA’s code of practice.

3.7.2 The key requirement of CIPFA’s code of practice is that authorities must agree a set of indicators that demonstrate that borrowing is affordable, sustainable and prudent. The authority’s full Council must approve the set of indicators at the same time at which it agrees the Council’s budget for the forthcoming year.

3.7.3 **Separate indicators are required for General Fund borrowing and HRA borrowing.** The code recommends a number of national indicators which all authorities must set. Authorities can also set local indicators, based upon local circumstances. Indicators relating to the HRA are in this report for approval by the Council.

3.7.4 The impact on unsupported borrowing of the proposals contained in this report is set out in paragraph 3.7.6 and 3.7.8. The indicators below and in Appendix D fully reflect:

- i) Recommendations made in this report regarding unsupported borrowing for investment in the HRA housing stock (including investment in HRA ‘new build’ properties).
- ii) The Housing Capital Programme recommended for 2010/11 (elsewhere on this Agenda)

3.7.5 The level of Prudential Borrowing proposed for the HRA is in line with the new draft Financial Strategy which states “Investment to meet the Decent Homes Standard, provided such borrowing does not exceed the implied level of capital included in housing subsidy determinations; and investment in support of the government's "New Build" programme." I believe the proposals comply with this proposed new strategy.

3.7.6 The four national indicators for the HRA are given in Appendix D, while the two locally-determined indicators are given below as these are more significant in the context of the HRA’s proposed prudential borrowing:

- i) Annual Movement in HRA Unsupported Borrowing

	2010/11 Estimate	2011/12 Estimate	2012/13 Estimate

	£000's	£000's	£000's
Historic Unsupported Borrowing b/fwd	19,930	28,988	29,634
New Unsupported Borrowing	9,995	1,982	2,135
Less Unsupported Borrowing Repaid	(937)	(1,336)	(1,415)
Total Unsupported Borrowing c/fwd	28,988	29,634	30,354

- ii) The actual ratio of unsupported capital financing costs to net revenue stream for 2008/09 and estimates for the current year and for the period 2010/11 to 2012/13 are:

	2008/09 Actual	2009/10 Estimate	2010/11 Estimate	2011/12 Estimate	2012/13 Estimate
HRA Ratio	2.57%	2.23%	2.53%	3.27%	3.32%

- 3.7.7 An additional £1.662m of HRA capital expenditure for Decent Homes work has been included in the 2010/11 Housing Capital Programme, to be financed by unsupported borrowing under the Prudential framework. This will result in £30,000 of revenue costs in 2010/11, £125,000 in 2011/12 and reducing in later years as principal repayments reduce the outstanding debt. It is the opinion of officers, having regard to the above indicators and those in Appendix D, that the HRA will be able to meet the ongoing revenue costs in future years. To assist Members in making the decision on whether or not to utilise the Prudential Borrowing Framework in 2010/11, officers have put together a prediction of the HRA up to 2014/15 (see Appendix E), which clearly shows the figures proposed are both affordable and prudent within the context of the HRA.
- 3.7.8 The HRA also maintains an earmarked reserve – currently with a balance of £1.2m – to cover unforeseen increases in future prudential borrowing costs (e.g., due to increased interest rates) or increases in district heating energy costs. The existence of this reserve provide further reassurance that the proposed level of unsupported borrowing remains affordable and prudent.
- 3.7.9 Additionally, the July 2009 meeting of the Cabinet approved the Council's bid for Government support towards HRA new build proposals under the "New Build Challenge Fund Phase 1" initiative. The Council's bid to build 93 new HRA dwellings (at Heather Road, Godstow Walk and Wycombe Road) at a total estimated cost of £9.094m was successful, meaning that 50% Social Housing Grant (£4.547m) will be received, leaving the remaining £4.547 to be financed using prudential borrowing. Loan charges on the £4.547m prudential borrowing will be £82,000 in 2010/11, £342,000 in 2011/12 and then decreasing in later years as principal repayments reduce the outstanding loan. It should be noted that the initial full-year rental income on the new properties will be £409,000 and is, therefore, significantly in excess of borrowing costs.
- 3.7.10 Further, the October 2009 meeting of the Cabinet approved the Council's bid for Government support towards HRA new build proposals under the "New Build Challenge Fund Phase 2" initiative. The Government has now approved the building of 53 new units (at Laburnum Road and Bonney Road/Birkenshaw Road) at a total estimated cost of £6.310m, meaning that 40% Social Housing Grant (£2.524m) will be received, leaving the remaining £3.786m to be financed using prudential borrowing. Loan charges on the £3.786m prudential borrowing will be £68,000 in 2010/11, £285,000 in 2011/12 and then decreasing in later years as principal repayments reduce the outstanding loan. It should be noted that the initial rental income on the new properties is £234,000, but

that with annual rent increases this will exceed the annual borrowing costs after several years.

### **3.8 Capital Expenditure charged to Revenue Account (CERA)**

- 3.8.1 The financial position of the HRA for 2010/11 gives scope – in addition to the proposed prudential borrowing of £1.662m for Decent Homes work and £8.333m for New Build – for the HRA to make a CERA of £0.550m million to supplement the HRA Capital Programme.
- 3.8.2 This will further help to ensure that the Council meets the Decent Homes and Business Plan developed under the Stock Options Appraisal, without (unlike prudential borrowing) committing any revenue resources beyond 2010/11.

### **3.9 Summarised Position for 2010/11 HRA**

- 3.9.1 The draft summarized position for the 2010/11 HRA is as follows:

	<b>£000's</b>
Deficit/surplus on base budget (see Appendix A)	1,007
Average rent increase for 2010/11	(1,610)
Recommended increase in Service Charges (excluding district heating) (2.5%)	(62)
CERA – for financing of HRA Capital Programme	550
2010/11 cost of £1.662m new prudential borrowing for Decent Homes work	30
2010/11 cost of £8.333m new prudential borrowing for 'New Build' (borrowing costs after 2010/11 will be covered by the rental income on the new properties)	150
Net position for 2010/11	65
Balances b/fwd 01/04/10	(2,387)
Balances c/fwd 31/03/11	(2,322)

- 3.9.2 Members are reminded that Cabinet have set minimum HRA balances at £1.5m to meet any unforeseen expenditure or shortfall in income. The projected balances of £2.3m at 31 March 2011 are, therefore, £0.8m above the minimum. These balances will be required as follows:

- a) to support the HRA Capital Programme, thereby helping to meet or maintain the Government's Decent Homes Standard;
- b) to allow for any future restriction of rental income or increases in negative subsidy due to the operation of the Government's rent restructuring and subsidy systems;
- c) also the Government is currently reviewing the HRA subsidy system and having relatively high balances will be useful in case any potential new system works adversely for Leicester's HRA.

### **4. Financial Implications (Graham Troup – ext. 29 7425)**

- 4.1 The Council has to balance expenditure with rent income in the ring-fenced HRA each year. This can be assisted, if necessary, by drawing on HRA balances, which are estimated to be £2.387m at 1 April 2010. However this is not recommended as these balances will be required for the reasons outlined in paragraph 3.9.2 above.
- 4.2 Under the continuation of the Government's rent restructuring process, the rent increase for Leicester's HRA for 2010/11 will be 2.5%. This will produce £1.6m extra income, although £0.2m (12%) will effectively be 'clawed back' by the Government via a worsening of the Council's negative subsidy position.

5. **Legal Implications (Beena Adatia – ext 29 6378)**

- 5.1 This report is in the main to summarise the financial position of the Housing Revenue Account and seeks Council approval for setting rents as detailed within the report. As such, no specific legal implications arise. The general position is that any variation to rents must comply with statutory provisions and guidance contained within the Housing Act legislation and accordingly the proposals contained in this report must so comply. Should officers require specific advice report then they can contact legal services as appropriate.
- 5.2 In relation to any variation to salary structure as detailed in the report, this will have employment law implications and similarly should officers require specific advice they can contact legal services.

6. **Other Implications**

OTHER IMPLICATIONS	YES/NO	PARAGRAPH REFERENCES WITHIN SUPPORTING INFORMATION
Equal Opportunities Policy	Yes	7.1
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on low income	Yes	7.1

7. **Equal Opportunity Implications**

Any reduction or restriction of HRA budgets directly affects the Council's ability to deliver high quality services that meet the needs and aspirations of Council tenants, many of whom are elderly and/or come from disadvantaged groups. However Members need to satisfy themselves that the charge is reasonable and affordable and does not disadvantage any particular group in the City. An Equality Impact Assessment has therefore been carried out and is shown at Appendix F for Members consideration.

8. **Background Papers – Local Government Act 1972**

- a) Budget book 2009/10
- b) Draft HRA Subsidy Determination 2010/11 (CLG, December 2009).
- c) Report of the Corporate Director of Adults and Housing and Chief Finance Officer on "Housing Revenue Account – Budget 2009/10" to Housing Performance Panel

11/12/08, Overview & Scrutiny Management Board 22/01/09, Cabinet 26/01/09 and Council 29/01/09.

- d) Report of the Corporate Director of Adults and Housing on “Legal Challenge on District Heating Charges and Current Gas Prices available in the Market Place” to Cabinet 26/01/09.
- e) Report of the Corporate Director of Adults and Housing on “Housing Revenue Account - Reduction to 2009/10 Rent Rise” to Council 26/03/09.

9. **Consultations**

- 9.1 This is a joint report of the Director of Housing Services and the Chief Finance Officer. All departments have been consulted through the Corporate Directors Board. The Trade Unions and Housing Performance Panel have also been consulted as part of the formal consultative procedures.

10. **Aims and Objectives**

- 10.1 The overall Quality of Life Aim for Housing Services is that “a decent home is within the reach of every citizen of Leicester”.

11. **Report Authors**

Dave Pate, Director of Housing Services – ext. 29 8222  
Graham Troup, Principal Accountant (HRA) – ext 29 7425

## HOUSING REVENUE ACCOUNT

2008/09 Actual £000's		2009/10 Original Budget £000's	2010/11 Base Budget £000's	Variance £000's
	<b>Income</b>			
63,396	Dwellings Rents	66,818	64,391	+2,427
5,589	Other Income	6,248	5,692	+556
<b>68,985</b>	<b>Total Income</b>	<b>73,066</b>	<b>70,083</b>	<b>+2,983</b>
	<b>Expenditure</b>			
25,618	Repairs and Maintenance	26,550	27,150	+ 600
17,373	Landlord Services	17,752	17,638	-114
72	Contribution to Bad Debts Provision	200	200	-
11,457	Capital Financing Costs	12,417	9,644	-2,773
	Capital Expenditure financed from			
1,426	Revenue Account (CERA)	2,519	-	-2,519
13,111	Negative Subsidy	15,381	16,458	+1,077
<b>69,057</b>	<b>Total Expenditure</b>	<b>74,819</b>	<b>71,090</b>	<b>-3,729</b>
72	<b>(Surplus)/Deficit for year</b>	<b>1,753</b>	<b>1,007</b>	<b>-746</b>
<b>(4,574)</b>	<b>Working Balance brought forward</b>	<b>(4,502)</b>	<b>(2,387)</b>	
<b>(4,502)</b>	<b>Working Balance carried forward</b>	<b>(2,749)</b>	<b>(1,380)</b>	

**Notes:**

1. In the 'variance' column, a favourable variance (i.e., reduced expenditure or increased income) is denoted by a negative sign, whilst an adverse variance (i.e., increased expenditure or reduced income) is denoted by a positive sign
2. Credit (i.e., favourable) balances are denoted by brackets.



**APPENDIX B**

**PROJECTED RENT MOVEMENTS 2009/10 TO 2010/11**

Property Type	2009/10			2010/11	
	April 09	June 09		April 10	
	Avg Weekly Rent £	Avg Weekly Rent £	Decrease from April 09 %	Avg Weekly Rent £	Increase from June 09 %
Bedsit	£43.58	£42.09	3.4%	£43.14	2.5%
1 bed flat	£50.51	£48.78	3.4%	£50.00	2.5%
1 bed house	£54.74	£52.86	3.4%	£54.18	2.5%
2 bed flat	£59.49	£57.45	3.4%	£58.89	2.5%
2 bed house	£62.11	£59.98	3.4%	£61.48	2.5%
3 bed flat	£65.87	£63.61	3.4%	£65.20	2.5%
3 bed house	£67.44	£65.13	3.4%	£66.75	2.5%
4+ bed house	£77.56	£74.90	3.4%	£76.77	2.5%
All stock	£60.63	£58.55	3.4%	£60.02	2.5%

**Note:** rents are shown on a 50 week basis

**OTHER SERVICE CHARGES**

The Housing Services Division administers a plethora of charges associated with providing services to tenants as part of their rent. Officers propose the following for Members' consideration:

(i) Use of Guest Room (Sheltered Housing Schemes)

The charge for use of the guest room at Sheltered Housing Schemes is not capable of precise calculation. In 2006/07, the charge was increased by 50p because no increase had been applied for a number of years. It is, therefore, recommended that no increase be applied to this charge for 2010/11.

(ii) Replacement Rent Swipe Cards

The Council replaced Rent Cards with Rent Swipe Cards on 6<sup>th</sup> April 2009 and agreed a charge of £2.50 for replacing lost cards under the new system, which was the same as the charge previously made for lost Rent Cards. The charge of £2.50 will still cover the cost involved in supplying and updating the new card. It is, therefore, recommended that the charge for replacing Rent Swipe Cards is maintained at £2.50 for 2010/11.

(iii) Information on Mortgages and Property Types/Conditions, etc.

The Housing Service continues to receive a large number of requests for ad hoc information in connection with mortgages and property type/condition, etc. As the work involved is very time consuming, it is felt appropriate to levy the charge on all requests for information in connection with mortgages and property types and condition, etc., excluding those requests from tenants for information in connection with tenants' statutory rights under Right to Buy legislation.

The charge was increased by £5 last year, from £75 to £80, so no increase is recommended for 2010/11.

(iv) Hostel Charges

It is recommended that the charge for hostel rent is increased by 5% to cover inflation and additional energy costs (gas and electricity). This increase will qualify for Housing Benefit payments.

(v) Other Charges

All other charges made to increase in line with the Government's guideline figure of 2.5%.

**Miscellaneous Payments**

The current list of payments is considered reasonable and, therefore, no increase is recommended on this occasion.

### NATIONALLY SET HRA PRUDENTIAL INDICATORS

The four nationally-set HRA Prudential Indicators are as follows:

- i) The actual ratio of financing costs to net revenue stream for 2008/09 and estimates for the current year and for the period 2010/11 to 2012/13 are:

	<b>2008/09 Actual</b>	<b>2009/10 Estimate</b>	<b>2010/11 Estimate</b>	<b>2011/12 Estimate</b>	<b>2012/13 Estimate</b>
HRA Ratio	14.70%	11.90%	12.34%	13.02%	12.82%

- ii) The estimated incremental impact on average weekly rents of capital investment decisions proposed in the HRA budget report, over and above capital investment decisions that have previously been taken by the Council are:

	<b>2010/11 Estimate</b>	<b>2011/12 Estimate</b>	<b>2012/13 Estimate</b>
HRA Rent (£57.71)	£0.16*	£0.65*	£0.62*

\* based on 2010/11 average recommended weekly rent of £57.71

The average weekly rent recommended for 2009/10 is £57.71 (52 week basis). In practice, this indicator (which is intended to show the effect of rent increases arising from capital investment) cannot achieve its purpose as rents are set by the Government's rent formula.

- iii) The actual capital expenditure incurred in 2008/09 and estimates of capital expenditure to be incurred in the current year and for the period 2010/11 to 2012/13 are:

	<b>2008/09 Actual £000</b>	<b>2009/10 Estimate £000</b>	<b>2010/11 Estimate £000</b>	<b>2011/12 Estimate £000</b>	<b>2012/13 Estimate £000</b>
HRA Capital Spend	20,794	23,189	37,275	16,756	16,488

- iv) The Capital Financing Requirement measures the Authority's underlying need to borrow for a capital purpose. On 24 November 2003, the Cabinet agreed the latest CIPFA Code of Practice for Treasury Management in the Public Services. The Council has, at any point in time, a number of cash flows both positive and negative, and manages its treasury position in terms of its borrowing and investments in accordance with its approved Treasury Management Strategy and Practices. External borrowing arises as a consequence of all the financial transactions of the Authority and not simply those arising from capital spending. By contrast, the Capital Financing Requirement reflects the Authority's underlying need to borrow for capital purposes.

## APPENDIX D cont

The actual HRA Capital Financing Requirement in 2008/09 and estimates of the Capital Financing Requirement for the current financial year and the period 2010/11 to 2012/13 are:

	<b>31.03.09 Actual £000's</b>	<b>31.03.10 Estimate £000's</b>	<b>31.03.11 Estimate £000's</b>	<b>31.03.12 Estimate £000's</b>	<b>31.03.13 Estimate £000's</b>
HRA Capital Financing Requirement	205,968	212,727	227,285	227,931	228,651

CIPFA's Prudential Code for Capital Finance specifies the requirement that over the medium term, net borrowing will only be for capital purposes, and that Authorities should ensure that net borrowing does not, except in the short term, exceed the total of the Capital Financing Requirement in the preceding year, plus the estimates of any additional Capital Financing Requirement for the current and next two financial years. **Based upon current capital commitments and proposals in this budget report, there are not anticipated to be any difficulties for the current or future years, assuming the present subsidy regime remains significantly unchanged.**

## APPENDIX E

## HRA PROJECTIONS 2009 – 2015

	2009/10 £000'S	2010/11 £000'S	2011/12 £000'S	2012/13 £000'S	2013/14 £000'S	2014/15 £000'S
Dwellings Rents	64,940	66,001	67,348	69,139	70,546	71,981
Other Income	5,768	5,754	5,840	5,982	6,131	6,283
<b>Total Income</b>	<b>70,708</b>	<b>71,755</b>	<b>73,188</b>	<b>75,121</b>	<b>76,677</b>	<b>78,264</b>
Repairs & Maintenance	26,550	27,150	27,700	28,200	28,700	29,200
Landlord Services	17,650	17,638	18,412	18,780	19,156	19,539
Bad Debts Provision	200	200	200	200	200	200
Capital Financing Costs	9,676	9,824	10,160	10,313	10,461	10,590
CERA	2,519	550	950	925	1,075	1,500
Negative Subsidy	16,228	16,458	16,550	16,741	16,932	17,123
<b>Total Expenditure</b>	<b>72,823</b>	<b>71,820</b>	<b>73,972</b>	<b>75,159</b>	<b>76,524</b>	<b>78,152</b>
(Surplus)/Deficit for year	2,115	65	784	38	(153)	(112)
Balances b/fwd	(4,502)	(2,387)	(2,322)	(1,538)	(1,500)	(1,653)
Balances c/fwd	(2,387)	(2,322)	(1,538)	(1,500)	(1,653)	(1,765)

### Equality Impact Assessment

<b>Name and date of meeting</b>	Cabinet – 25 January 2010
<b>Title of Report</b>	Housing Revenue Account - Budget 2010/2011
<b>Lead Officer</b>	Dave Pate - Director of Housing Services
<b>Date of EIA</b>	16 <sup>th</sup> December 2010

<b>1.</b>	<b>Who are the customers or stakeholders affected by the recommendations of this report?</b>
<p>Tenants Residents Leaseholders Tenants/ Residents Associations Members LCC Housing Services Tenancy support services</p>	

<b>2a.</b>	<b>What are the expected positive impacts that customers or stakeholders will receive as a result of the recommendations of this report?</b>
<p>Money to provide financing for new capital works to carry out work on dwellings to ensure they meet the decent homes standard.</p> <p>Approving money to facilitate borrowing to finance the City Council's contribution to the "New Build Challenge Fund Phase 1 of 93 new HRA dwellings.</p> <p>The report highlights that officers have been working with trade unions to develop a new equal pay salary structure for craft and manual workers.</p>	
<b>b.</b>	<b>Are there any differential outcomes between different diversity groups arising from the implementation of the report's recommendations? Which groups benefit, and which do not?</b>
<p>Rents are being set for 2010/11, rents will be increased 2.5% and service charges to be applied in 2010/11 where applicable will be increased by 2.5% also.</p> <p>The rents are set using a prescribed government formula, which the council has no discretion or control over. Service charges are determined by the Council and there is discretion in this area although the Government does suggest that the increase be 0.5% above the inflation rate as measured by the Retail Price Index. Leicester City Council has followed the Government formula and guidelines in coming up with the proposed increase in rent and</p>	

service charges.

The decision to increase rent and service charges will not impact on most council tenants as they are on Housing Benefit. Approximately 80% of tenants receive housing benefit, which covers their rent. All service charges subject to the increase proposed in the HRA report are covered by housing benefit too if the tenant is eligible for benefit.

The Council has a stock of 22,340 dwellings. Service charges apply for the following types of services

- television services
- concierge services
- door entry systems
- communal cleaning
- way lighting
- miscellaneous service charges

Many properties have more than one service charge. 46% of the service charges are for properties in the centre area and this is where there is a larger concentration of tenants from BME backgrounds.

There are 25638 Council tenants (some properties have joint tenancies), with an equality profile as follows:

- 9.4% are Asian
- 6% are Black,
- 0.1% are Chinese
- 51% are White,
- 1% are of dual heritage
- 2% are other
- 30.4% ethnicity is not known.

The majority of council tenants are women and this is above the City average at 59.8%. The age range is very varied and goes beyond 75 years old. 22% of Council tenants are over 60 years old.

Households, where tenants are working and receiving a low wage, will be impacted by the increase and for some it may cause financial difficulties. There may be differential impact between different diversity groups depending on their income.

c.	<b>If there are differential outcomes between different diversity groups, how can the outcomes be made more equitable for all diversity groups?</b>
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The service needs to ensure that information about the increase in rent and service charges and the advice and assistance that is available is accessible to all the tenants.

Housing Services need to monitor arrears, non-payment and affordability issues with tenants and intervene where necessary to provide assistance.

**3a. What are the potential negative/adverse impacts that customers or stakeholders could receive as a result of the recommendations of this report?**

The main negative impact is on people on low incomes who are not in receipt of Housing Benefit and may experience financial difficulties with paying the increase in rent and service charges.

**b. Which diversity groups would be affected? How would they be affected?**

**Age:** 22% of tenants are over 60years old and may be living on pensions. The decision to increase rent and service charges will cause financial problems for some older people if they do not receive Housing Benefit. The service needs to ensure that people are able to access money/ debt advice where necessary. Tenants need to be referred to support agencies where appropriate, to enable them to maintain their tenancies and standards of health and well-being.

**Disability:** 0.5% of tenants consider themselves to be disabled. Accurate information on the percentage of tenants who are disabled is not available at present. Some disabled people may be on low incomes therefore an increase in rent and service charges will cause financial difficulties if they do not receive Housing Benefit. Information on the increase in rent and service charges needs to be made accessible for disabled people in easy to read and other formats. Housing offices and venues used for consultation events need to be physically accessible. The service needs to ensure that people are able to access money/ debt advice where people need it. Tenants need to be referred to support agencies, where appropriate to enable them to maintain their tenancies and standards of health and well being.

**Gender:** 60% of tenants are women, some of which will be single parent families and on low incomes. The decision to increase rent and service charges will cause financial problems for some people if they do not receive Housing Benefit. The service needs to ensure that people are able to access money/ debt advice where it is required. Tenants need to be referred to support agencies where appropriate, to enable them to maintain their tenancies and standards of health and well being.

**Race:** 28% of tenants whose ethnicity is known are from Black and Minority Ethnic (BME) backgrounds. Some BME households are on low incomes, so an increase in rent and service charges may cause financial difficulties, particularly if they are not on Housing Benefit. Information on the increase in charges needs to accessible and communicated to people in community



languages as appropriate. The service needs to ensure that people are able to access money/ debt advice where it is required. Tenants need to be referred to support agencies where appropriate to enable them to maintain their tenancies and standards of health and well being.

**Religion/Belief:** The service needs to contact local places of worship and provide information about the increase and information about who to contact for financial advice and assistance. The decision to increase rent and service charges will cause financial problems for some people if they do not receive Housing Benefit. Services need to be culturally appropriate and sensitive to religious requirements. Surgeries and advice sessions for tenants need to be held on days and times that do not conflict with times for prayer.

**Sexual Orientation:** The Service needs to ensure information is available at the Lesbian Gay Bisexual and Transgender (LGBT) Centre about the increase and where to get money/ debt advice. Some LGBT households may be on low incomes. The decision to increase rent and service charges will cause financial problems for some people if they do not receive Housing Benefit. The service needs to ensure that people are able to access money/ debt advice when and where people need it. Tenants need to be referred to support agencies where appropriate to enable them to maintain their tenancies and standards of health and well being. Services need to be LGBT friendly and staff need to have had awareness training. People need to feel they are in a safe environment if they approach the service for assistance.

**c. How can these negative impacts be reduced or removed? What is your action plan?**

The service needs to ensure that information about the increase in rent and service charges and the advice and assistance that is available is accessible to all groups.

Housing Services need to monitor arrears, non-payment and affordability issues with tenants and intervene where necessary to provide assistance.

Equality Strand/ Activity	Action Required	Outcome for Service	Measures required	Lead Officer (Service Manager)	Timescale
Age	The service needs to ensure that the provision of information about the increase and advice and assistance is available to tenants.,so that tenants are able to	More tenants of all ages being able to pay the rent and service charges.	% of people paying rent and service charges.  % increase in people using the services provided by the	Landlord Services Managers	Ongoing

	access benefits and entitlements.		Income Management Team		
Disability	The service needs to ensure that accessible information about the increase and advice and assistance is available, to help people maximise their income.	More disabled tenants being able to access advice and assistance to enable them to pay their rent and service charges.	% of people paying rent and service charges.  % increase in disabled people using the services provided by the Income Management Team.	Landlord Services Managers	Ongoing
Gender	The service needs to ensure that the provision of information about the increase and advice and assistance is available to tenants. So that tenants are able to access benefits and entitlements.	More tenants being able to pay their rent and service charges.	% of people paying their rent and service charges.  % increase in people using the services provided by the Income Management Team.	Landlord Services Managers	Ongoing
Race	Communication of the increase and advice and assistance is in appropriate community languages, to help people maximise their income.	More tenants being able to pay their rent and service charges.	% of people paying their rent and service charges.  % increase in people using the services provided by the Income Management Team	Landlord Services Managers	Ongoing
Religion/ Belief	Information about the increase and advice and assistance is available in local places of worship.	More tenants being able to pay their rent and service charges.	% of people paying their rent and service charges.	Landlord Services Managers	2010

	Surgeries and advices sessions to be held on days and times that do not conflict with prayer times		% increase of people using the services provided by the Income Management Team		
Sexual Orientation	Information about the increase and advice and assistance is available at the LGBT Centre.  Services need to be LGBT friendly; staff need to have had awareness training.	More tenants being able to pay their rent and service charges.  More people feeling they are in a safe environment when they approach the service for assistance	% of people paying their rent and service charges.  % increase in people using the services provided by the Income Management Team	Landlord Services Managers	2010
Other associated issues (if appropriate)	Housing Management to monitor arrears, non-payment and affordability issues with tenants and intervene where necessary to provide assistance.	The service would be able to identify and intervene when people need assistance.	Reducing arrears cases and any formal action against tenants.	Rent Arrears and Recovery Team	Ongoing

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