

EPPING FOREST DISTRICT COUNCIL CABINET MINUTES

Committee: Cabinet **Date:** 8 October 2007

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.00 - 8.55 pm

Members Present: Mrs D Collins (Chairman), C Whitbread (Vice-Chairman), M Cohen, A Green, Mrs A Grigg, Mrs M Sartin, D Stallan and Ms S Stavrou

Other

Councillors: K Angold-Stephens, R Church, P House, D Jacobs, J Knapman, R Morgan, B Rolfe, Mrs P Smith, Mrs J H Whitehouse and J Wyatt

Apologies:

Officers Present: P Haywood (Chief Executive), J Gilbert (Director of Environment and Street Scene), A Hall (Director of Housing), R Palmer (Director of Finance and ICT), J Preston (Director of Planning and Economic Development), I Willett (Assistant to the Chief Executive), M Merrick (Chief Works Officer), M Tipping (Assistant Head of Legal, Administration and Estates (Administration)), T Carne (Public Relations and Marketing Officer), C Overend (Policy & Research Officer), V Willis (Economic Development Officer), G J Woodhall (Democratic Services Officer), M Jenkins (Democratic Services Assistant) and S G Hill (Senior Democratic Services Officer)

66. WEBCASTING INTRODUCTION

The Chairman made a short address to remind all present that the meeting would be broadcast on the Internet, and that the Council had adopted a protocol for the webcasting of its meetings. The Sub-Committee noted the Council's Protocol for Webcasting of Council and Other Meetings.

67. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

68. MINUTES

RESOLVED:

That the minutes of the meeting held on 3 September 2007 be taken as read and signed by the Chairman as a correct record.

69. ANY OTHER BUSINESS

It was noted that there was no other urgent business for consideration by the Cabinet.

70. REPORTS OF PORTFOLIO HOLDERS**(a) Planning and Economic Development Portfolio Holder**

The Portfolio Holder for Planning and Economic Development reported on the provision for Gypsies and Travellers. The Portfolio Holder reminded the Cabinet that the Council had been under pressure from the Government Office for the East of England (GO-East) to make more provision for Gypsies and Travellers, in particular by utilising the Local Development Plan Framework. There had been communication with the Government since a meeting in July 2006 attended by officers and some members. The Secretary of State for Communities and Local Government had been minded to direct the Council, in a letter dated 17 September 2007, to amend the Local Development Scheme (LDS) to include reference to a Gypsy and Traveller Development Plan Document (DPD), by no later than 15 October 2007. The Government had also requested the Council to commence work on the DPD with submission for examination by 30 September 2009.

The Local Government Act 2000 required the Cabinet to make any decision concerning any change to the Council's LDS. The agenda for this meeting of the Cabinet had closed on 3 September 2007, two weeks before the letter from GO-East dated 17 September had arrived, but a full report would go before the Cabinet at its meeting on 12 November.

(b) Leisure and Young People Portfolio Holder

The Leisure and Young People Portfolio Holder informed the Cabinet of some recent changes to the 2012 Olympic arrangements in the District. The Whitewater Rafting event scheduled to have taken place in the Lea Valley Regional Park at Broxbourne, might now be at another site in the Park, nearer to Waltham Abbey. The Portfolio Holder had only just been informed of this development, however there would be a report to the next Cabinet meeting concerning this. The Community Wellbeing Portfolio Holder indicated that there were concerns expressed by the International Olympic Committee (IOC) regarding possible pollution problems at the original site.

(c) Community Wellbeing Portfolio Holder

The Community Wellbeing Portfolio Holder reminded the Cabinet that the new Graffiti Policy agreed in May 2007 had meant that the District Council would no longer remove graffiti from privately owned properties. The Council would provide relevant contact information to private property owners who had suffered from graffiti and useful tips on its removal. Graffiti removed from property owned by the Housing Revenue Account was now re-charged to housing budgets, which had lessened the pressure on the Safer Communities budget. The Portfolio Holder confirmed that Community Service Orders would be used for cleaning graffiti.

The Portfolio Holder informed the Cabinet that the District Council's Anti-Social Behaviour Coordinator was attending a residents' meeting at Limes Farm to discuss, amongst other things, graffiti and new policing methods with District Commander Ivor Harvey.

71. OVERVIEW AND SCRUTINY

The Chairman of the Overview and Scrutiny Committee reported that the Committee had taken the decision to dissolve the Town Centres and Car Parks Task and Finish Panel. This panel had one remaining item on its work programme, concerning anti-

social behaviour in car parks, which had been passed to the Environment and Planning Scrutiny Panel for completion.

The Committee had received an update regarding the Council's Free Saturday Car Parking Scheme and had agreed with the Civil Engineering and Maintenance Portfolio Holder that there would be no changes to the scheme. A further progress report would be made in April 2008.

The Chairman of the Overview and Scrutiny Committee informed the Cabinet that they had received two new requests for additions to their work programme. The Committee had agreed to invite the County Youth Service to a meeting to discuss provision across the District and they were seeking further topics for discussion through the Members' Bulletin. The Committee had referred a proposal relating to member information to the Constitution and Member Services Panel for report later in the year.

The Committee had received the report of the Webcasting Pilot Scheme. A report on this issue was on this Cabinet's agenda. The Committee had supported the continuation of webcasting and the proposals for use of the Essex Procurement Hub for the seeking of pre-tender expressions of interest for any future contracts. Officers had been asked to explore the potential for the use of mobile equipment.

72. **WEBCASTING PROJECT**

The Finance, Performance Management and Corporate Support Services Portfolio Holder presented a report regarding the Webcasting pilot project. The Cabinet were informed that the Overview and Scrutiny Committee had considered the project evaluation report for the webcasting pilot at a special meeting held on 2 August 2007. The Committee had recommended to the Cabinet that the project should be continued, subject to the Essex Procurement Hub seeking pre-tender expressions of interest from suppliers to establish whether a full tendering exercise should be undertaken or a negotiated contract entered into. The cost of purchasing portable webcasting equipment should also be investigated. At the current stage, it was estimated that Continuing Services Budget (CSB) growth of £25,000 would be required for 2008-09 to continue the service, with a further £4,000 of District Development Fund (DDF) growth to purchase video and sound equipment for the portable webcast unit. However, if a framework contract were entered into via the Essex Procurement Hub then these costs would be reduced.

The Portfolio Holder reported that, in order to comply with Contract Standing Orders, it was proposed to delegate authority to the Portfolio Holder to either accept the lowest tender received from a webcasting services contractor, or approve a negotiated contract with the current contractor. The Essex Procurement Hub had advised that the number of companies whom had expressed interest in the proposed contract had been greater than anticipated, which in turn had the potential to lengthen the procurement process. Consequently, it had been proposed that the Deputy Chief Executive be authorised to extend the current contract on a month-by-month basis to ensure the continuation of the service during the tender process.

Decision:

- (1) That the project evaluation report for the webcasting pilot be noted;
- (2) That the support for the continuation of the project after 31 March 2008 by the Overview and Scrutiny Committee be endorsed;

(3) That a revenue CSB growth bid in the sum of up to £25,000 and a revenue DDF growth bid in the sum of £4,000 for 2008-09 be made, subject to:

(a) the receipt and consideration of further advice from the Essex Procurement Hub on any pre-tender expressions of interest received from other companies able to provide webcasting services to the Council;

(b) final budgetary approval by the Council; and

(c) satisfactory contract terms, conditions and specification being met by any supplier;

(4) That, following approval of the budget by the Council and further advice from the Essex Procurement Hub, the Finance, Performance Management & Corporate Support Services Portfolio Holder be given delegated authority to either:

(a) accept the lowest tender and authorise the entering into a three-year contract for webcasting services with the successful tenderer; or

(b) approve a negotiated contract with the existing contractor; and

(5) That, if necessary, the Deputy Chief Executive be authorised to extend the current contract with the existing contractor on a month-by-month basis from 1 April 2008 to ensure the continuation of the service during any tender process.

Reasons for Decision:

The Overview and Scrutiny Committee had received a full evaluation report on the webcasting pilot project and had supported the continuation of the project for a further period. The proposals for the delegation of authority were designed to permit the finalisation of the contractual arrangements to be completed after the agreement of the Council's budget, without the recourse to further Cabinet reports unless the results of the tendering exercise decreed otherwise.

Other Options Considered and Rejected:

To cease the webcasting of the Council's meetings with effect from 31 March 2008, however this service had proved popular with the residents of the District and had the support of the Overview and Scrutiny Committee.

To not grant the delegated authority to the Finance, Performance Management and Corporate Support Services to approve the new contract, or to the Deputy Chief Executive to extend the current contract on a month-by-month basis if necessary, however this could lead to the potential loss of service if no valid contract existed.

73. CIVIC OFFICES FIVE-YEAR ROLLING MAINTENANCE PROGRAMME

The Finance, Performance Management and Corporate Support Services Portfolio Holder presented a report concerning the rolling five-year maintenance programme for the Civic Offices. The Portfolio Holder reported that the programme had three distinct sections: a statement of the works agreed and in progress for 2007-08; a list of proposed works for 2008-09 and bids for additional financial resources; and a forecast for the additional financial resources required for the years 2009-10 to 2011-

12. The proposed works for 2008-09 had been prioritised into two categories according to the risks associated with failures to particular systems. Category 'P1' items were those that had legislative, health and safety, energy efficiency implications or could result in serious disruption to the Council's operations. Category 'P2' items were those that it was considered prudent, desirable and cost effective to include in the maintenance programme, in order to replace ageing and obsolete systems prior to them suffering a critical failure. The Portfolio Holder drew the Cabinet's attention to the replacement of the sound system in the Council Chamber, as this item was now essential following the Cabinet's previous decision to continue with the Webcasting project.

Decision:

- (1) That the works approved for 2007-08, both capital and revenue, currently in progress and anticipated to be completed by 31 March 2008 be noted.
- (2) That, in order to carry out essential and planned preventative maintenance works at the Civic Offices, the following capital growth bids be made:
 - (a) in the sum of £158,000 for 2008-09;
 - (b) in the sum of £86,000 for 2009-10;
 - (c) in the sum of £4,000 for 2010-11; and
 - (d) in the sum of £10,000 for 2011-12; and
- (3) That, in order to carry out essential and planned preventative maintenance works at the Civic Offices, a revenue DDF growth bid in the sum of £37,500 be made for 2008-09.

Reasons for Decision:

A proactive approach to the facilities management of the Civic Offices ensured that the building and its infrastructure would be maintained to an appropriate level, reduce the risk of failure of critical systems, and assist in the Council's financial management.

Other Options Considered and Rejected:

To do nothing, however this could lead to the deterioration of the building fabric and systems.

To defer action until individual systems or equipment failed, however this could cause varying degrees of disruption depending upon the system involved, and would also involve requests for supplementary finance.

74. FINANCE & PERFORMANCE MANAGEMENT CABINET COMMITTEE - 24 SEPTEMBER 2007

The Finance, Performance Management and Corporate Support Services Portfolio Holder presented the minutes from the meeting of the Finance and Performance Management Cabinet Committee held on 24 September 2007. The items that had been considered included the Financial Issues Paper for the 2008-09 Budget.

Decision:**(a) Budget 2008-09 – Financial Issues Paper**

(1) That the 2008-09 budget guidelines be set in accordance with the revised four year forecast as follows:

(a) the ceiling for revenue CSB net expenditure be no more than £17.314m including net growth;

(b) the ceiling for revenue DDF expenditure be no more than £186,000;

(c) balances continue to be aligned to the Council's net budget requirement and that balances be allowed to fall no lower than 25% of the net budget requirement;

(d) the Council Tax be increased by no more than the rate of increase in the Retail Price Index;

(2) That a revised medium term financial strategy for the period to 2010-11 be developed in accordance with the forecast considered by the Cabinet Committee;

(3) That communication of the revised medium term financial strategy to staff, partners and other stakeholders be undertaken by way of publishing key bullet points in appropriate publications; and

(4) That the policy of capitalisation of additional pension fund deficit payments be continued for the period 2009-10 to 2011-12.

Reasons for Decision:

The Cabinet were satisfied that the Finance and Performance Management Cabinet Committee had fully addressed all the relevant issues in relation to the recommendations and that these should be endorsed.

Other Options Considered and Rejected:

The Cabinet were satisfied that the Finance and Performance Management Cabinet Committee had considered all the relevant options in formulating their recommendations. The Cabinet did not consider that there were any other options.

75. SPRINGFIELDS IMPROVEMENT SCHEME - PROGRESS REPORT I

The Housing Portfolio Holder presented a progress report to the Cabinet regarding the Springfields Improvement Scheme. At the meeting held on 15 November 2004, the Cabinet had agreed a monitoring regime, whereby progress reports would be considered at each Housing Portfolio Holder Briefing, and a similar report then presented to the Cabinet each quarter, or sooner if particular events or overspends had taken place.

However, the Cabinet had agreed at its meeting on 16 July 2007 that short reports be made on the scheme's progress to each meeting of the Cabinet, which had conflicted with the previous decision made in November 2004. As Housing Portfolio Holder Briefings no longer existed, it was recommended that the original decision be re-

adopted with the Housing Portfolio Holder receiving monthly reports and the Cabinet receiving a similar report every three months.

Following the Senior Management Review, considered by the Council on 25 September 2007, Architectural Services had been incorporated within Housing Services. As a result, it was proposed to alter the project management structure for the Springfields Improvement Scheme as follows:

- (a) The Housing Portfolio Holder as Project Sponsor;
- (b) The Director of Housing as Project Champion;
- (c) The Assistant Head of Housing (Property and Resources) as Project Coordinator; and
- (d) The Senior Architectural Assistant as Design Team Coordinator.

Decision:

(1) That the decision made by the Cabinet on 16 July 2007 relating to the member reporting arrangements on progress with the Springfields Improvement Scheme be rescinded;

(2) That the decision made by the Cabinet on 15 November 2004 be re-confirmed, such that the Housing Portfolio Holder receives monthly progress reports, with a copy of the monthly report being presented to the Cabinet every 3 months or sooner should a significant event or overspend occur; and

(3) That the project management structure for the Springfields Improvement Scheme be amended as follows:

- (a) the Housing Portfolio Holder as Project Sponsor;
- (b) the Director of Housing as Project Champion;
- (c) the Assistant Head of Housing (Property & Resources) as Project Coordinator; and
- (d) the Senior Architectural Assistant as Design Team Coordinator.

Reasons for Decision:

The report clarified the position of the two separate Cabinet decisions, which had made conflicting recommendations. It clarified the roles within the project management structure and took into account likely future changes arising from the Senior Management Review.

Other Options Considered and Rejected:

To have provided progress reports on the Springfields Improvement Scheme to the Cabinet at each of its meetings. Not to have provided progress reports to the Cabinet or Housing Portfolio Holder. To have presented progress reports to the Cabinet and Housing Portfolio Holder at different intervals.

76. HOME OWNERSHIP GRANTS SCHEME

The Housing Portfolio Holder presented a report to the Cabinet regarding a proposed Home Ownership Grants Scheme. The Portfolio Holder reminded the Cabinet of the current problems of increasing house prices within the District. Currently the number of people on the Council's Housing Register had increased significantly over recent years from 1,478 in April 2002 to 3,633 in April 2007.

It was therefore proposed to introduce a low cost home ownership initiative that did not rely on new house building, through provision of a capital grant by the Council to existing Council secure tenants who wanted to give up their tenancy and purchase a property on the open market; this was to be called a "Home Ownership Grant." This policy would free a Council property that could then be re-let and would help someone to enter home ownership.

The level of grant proposed was £34,000, the same as under the right to buy scheme. It was also proposed that secure tenants would be eligible for a grant irrespective of the size and type of Council property they occupied or their length of tenancy, and without limitations on the type, size or price of the property they wished to purchase.

Under the Housing Act 1985, tenants had to hold a secure tenancy for five years before they were eligible for the Right to Buy scheme, however it was suggested that this restriction should not be applied to Home Ownership Grant recipients to increase the grant's attractiveness. Under the Act, a purchaser selling their Right to Buy property within five years had to re-pay a proportion of the discount received. These terms would also be applied to the provision of Home Ownership Grants.

For the pilot scheme it was proposed that five Home Ownership Grants be made available, based on a maximum provision of £170,000 within the 2008-09 Capital Programme. The pilot scheme would be reviewed after six months operation by the Housing Portfolio Holder to consider whether the funding allocated had been sufficient.

Decision:

- (1) That a new Home Ownership Grants Scheme in 2008-09 be piloted by the Council, comprising:
 - (a) the provision of capital grants by the Council of £34,000 to existing Council secure tenants to purchase a property on the open market;
 - (b) secure tenants to be eligible for the grant, irrespective of the size and type of Council home they currently occupy and their length of tenancy, and without any limitations on the type, size or price of the property they wish to purchase; and
 - (c) through the use of a legal charge, grant recipients to be required to repay a proportion of the grant if they sell the purchased property within five years, with the proportions set at the same as those that currently apply under the Right to Buy;
- (2) That, under the Pilot Scheme, up to 5 Home Ownership Grants (totalling £170,000) be provided;

- (3) That, in order to fund the Pilot Scheme, provision of £170,000 be made within the Housing Revenue Account Capital Programme for 2008-09;
- (4) That the Director of Housing and the Director of Corporate Support Services be authorised to agree the details of the scheme and the necessary legal agreements; and
- (5) That the Pilot Scheme be reviewed by the Housing Portfolio Holder after six months operation, including consideration of whether the funding allocated is sufficient.

Reasons for Decision:

House prices within the District had continued to increase. The scheme would assist up to five Council tenants to attain homeownership, with five Council properties subsequently released for allocation to other households on the housing register.

Other Options Considered and Rejected:

To not operate the scheme, however this could prevent some Council tenants from obtaining their own property. To reduce or increase the overall capital provision, which would assist more or less people. To provide different amounts of Home Ownership Grants and introducing more or different restrictions. To defer the implementation to 2008-09, making capital budget provision accordingly.

77. SHARED OWNERSHIP POLICY

The Housing Portfolio Holder presented a report concerning the adoption of the Shared Ownership Policy. The Portfolio Holder reminded the Cabinet that house prices within the District had continued to increase, leaving many local people unable to purchase their own home. This had led to more people relying upon the Council to assist them with their housing needs, including people on reasonable incomes who, in the past, would have been able to purchase their own property. The most common way to assist such people was through new-build shared ownership, whereby the applicant purchased an equity share in a newly built property and a Housing Association purchased the remaining share and charged the tenant a rent. The aim was to make the applicant's outgoings less than if they had a mortgage for 100% equity, but the applicant also had the opportunity to purchase additional equity from the Housing Association, up to 100%.

The Portfolio Holder reported that the District Development Control Committee had previously agreed that up to 25% of the affordable homes provided on Section 106 developments should be in the form of shared ownership. However, it was now felt that this policy should be reviewed, the amount of shared ownership on Section 106 sites should be increased to a minimum of 30%, and that this should also apply to other sites on which the Council had influence, e.g. land that the Council owned and was selling on the open market. Experience across the London Commuter Belt Sub-Region had indicated that shared ownership schemes with initial equity shares of more than 35% were becoming increasingly unaffordable. Therefore, it was felt that the target average initial equity share sold to shared owners within any development should be 35%, with a minimum equity share of 25% and a maximum equity share of 50% for individual properties permitted. In addition, shared owners should also be permitted to purchase additional equity shares up to full 100% ownership, with the exception of rural schemes whereby a maximum of 80% should be maintained in accordance with Housing Corporation guidelines. In order to keep rents on the unsold equity at an affordable level whilst also allowing the Housing Associations

sufficient income to finance their loans, it was felt that the policy should stipulate an initial rent of no more than 2.5% of the unsold equity per annum, with rent increases determined by the Housing Associations' rent setting policies.

Decision:

That the following Shared Ownership Policy be adopted:

- (1) On development sites subject to legal agreements under Section 106 of the Town & Country Planning Act 1990, and other sites on which the Council is able to exercise influence (e.g. land in its ownership), the Council will seek to ensure that, generally;
 - (a) a minimum of 30% of the overall affordable housing provision is delivered in the form of shared ownership (New Build Homebuy);
 - (b) the target average initial equity share sold to shared owners across all the shared ownership homes within any development be 35%;
 - (c) shared owners are able to purchase a minimum equity share of 25% and a maximum equity share of 50% for shared ownership schemes;
 - (d) shared owners are able to purchase additional equity shares (staircase) up to full 100% ownership, except for rural housing schemes for which a maximum of 80% equity can be purchased under current Housing Corporation policy; and
 - (e) shared owners pay an initial rent of no more than 2.5% of the unsold equity per annum, with subsequent rent increases determined in accordance with the relevant Housing Association's rent setting policy.

Reasons for Decision:

There was a need to have a clear policy on the Council's approach to the provision of shared ownership. It was felt that the amount of shared ownership sought from developers and Housing Associations within the overall affordable housing provision on Section 106 sites, and other sites where the Council had influence, should be increased due to increasing house prices within the District.

Other Options Considered and Rejected:

To not have a formal policy of shared ownership, retain the existing policy of seeking no more than 25% shared ownership of the overall affordable housing provision on Section 106 sites, or obtain a different amount of shared ownership on Section 106 sites and other sites where the Council had influence. To seek a different minimum initial equity share for shared owners, or seek a different rent level for shared ownership.

78. REVIEW OF THE RSL PARTNERING AND JOINT COMMISSIONING SCHEME

The Housing Portfolio Holder presented a report concerning a review of the RSL Partnering and Joint Commissioning Scheme. The Cabinet were reminded that the introduction of the current scheme had been approved in March 2005 for affordable housing developments in the District by Registered Social Landlords (RSLs i.e. Housing Associations), in order to prevent RSLs bidding against each other for a particular development and to reduce the level of the resultant bids submitted to the

Housing Corporation by the RSLs, which would increase their chances of success. The Portfolio Holder reported that the scheme had initially generally worked well but there had been an increasing number of difficulties, highlighted by the recent problems experienced over the development at the Epping Forest College site. As a result, it had been proposed that the Joint Commissioning element of the current scheme be discontinued and that developers be permitted to work with any of the Council's Preferred RSL partners, rather than a single one, and that the Council would support any of the resultant funding bids to the Housing Corporation. The exception would be for rural schemes, where developers would still be encouraged to work with Hastoe Housing Association.

The Housing Portfolio Holder added that, in exceptional circumstances, requests had been made to work with an RSL that was not on the Council's preferred list. It was felt that in such circumstances, the Director of Housing should be authorised to work with such an RSL, provided the Housing Portfolio Holder had been consulted and that the RSL met the same evaluation criteria as the Council's Preferred RSLs. Thus, it was proposed that the current Scheme of RSL Partnering and Joint Commissioning be replaced with the new Preferred RSL Partnering Scheme.

In response to questions from the members present, the Director of Housing reassured the Cabinet that the Council often received 100% nomination rights for re-lets; the 75% stated within the agreement was simply to give the Housing Associations some flexibility to move their own tenants to a different property. An annual survey was undertaken to ensure that the Council received its minimum number of nominations for re-lets, and the Director of Housing undertook to provide members of the Cabinet, in due course, with details of the number of re-let Housing Association properties allocated to applicants nominated by the Council. The Cabinet were reminded that, by law, residents from outside the District could sign on to the Council's Housing Register.

Decision:

- (1) That the Council's Scheme of RSL Partnering and Joint Commissioning be discontinued and replaced with the Preferred RSL Partnering Scheme, as attached to the Cabinet report; and
- (2) That in exceptional circumstances, the Director of Housing, through consultation with the Housing Portfolio Holder, be authorised to work with other Registered Social Landlords that are not members of the Council's Preferred RSL Partnering Scheme for specific schemes only, subject to them meeting the same evaluation criteria as those Registered Social Landlords that are members of the Council's Preferred RSL Partnering Scheme.

Reasons for Decision:

Although the existing scheme had resulted in a number of benefits, an increasing number of difficulties had emerged with the Joint Commissioning elements of the scheme. The proposed Preferred RSL Partnering Scheme would continue to secure the existing benefits of the scheme, whilst overcoming the difficulties.

Other Options Considered and Rejected:

To retain the existing Scheme of RSL Partnering and Joint Commissioning, or retain the Joint Commissioning elements of the scheme in a different form. To cease the selection of Preferred RSL Partners, or select different Preferred RSL Partners.

79. BUDGET VIREMENT - WORKS UNIT

The Housing Portfolio Holder presented a report to the Cabinet regarding the need for a budget virement for the Works Unit. When the budget for 2007-08 was set, a provision for the use of sub-contractors was agreed at £280,000. This provision was made to allow the Building Maintenance Direct Services Organisation (DSO) to sub-contract work that was either specialist or enabled the service to deal with peaks in workflow from Housing Services.

The Portfolio Holder reminded the Cabinet that the introduction of Job Evaluation for craft workers had seen significant increases in salary levels. It had been intended to recruit employees to undertake the work in-house, thus reducing sub-contracting expenditure, which in 2006-07 had been £411,000. However the Council had experienced problems with recruiting suitably qualified and/or experienced craft workers in significant numbers. Currently there were 11 vacancies from an approved establishment of 59 craft workers, which had led to a substantial increase in the amount of work issued to sub-contractors.

During the first four months of the 2007-08 financial year, the Building Maintenance DSO had incurred £232,441 of expenditure with sub-contractors. Whilst monthly expenditure had now peaked and was expected to diminish, a year-end figure of £480,000 was forecast.

Due to the recruitment problem, the salaries budget had been underspent and at month four was £109,872 in surplus. Allowing for the current year's pay award and the expectation that there was to be no noticeable increase in staff numbers, the salary budget at the end of the year was likely to have been underspent by around £300,000. Overall the Building Maintenance DSO expenditure was expected to remain within its budget of £3,001,190 agreed for the financial year.

Decision:

- (1) That, due to continuing recruitment problems with Craft-workers, the increased use of sub-contractors by the Building Maintenance DSO be noted; and
- (2) That, as contained within the overall Building Maintenance DSO Budget for 2007-08, a virement in the sum of £200,000 be made from the Salaries allocation (78 001 0100) to Sub-Contracting expenditure (TB 100 3420).

Reasons for Decision:

Failure to transfer funds would result in salaries being underspent at year-end by approximately £300,000 and sub-contracting being overspent by £200,000. If the sub-contracting element were not increased there would be a failure in achieving performance targets and service delivery to tenants would decline.

Other Options Considered and Rejected:

To engage agency staff, to offer overtime working as appropriate or to reduce levels of service delivery.

80. EPPING DRINKING FOUNTAIN

The Civil Engineering and Maintenance Portfolio Holder presented a report to the Cabinet regarding the Epping drinking fountain. At its meeting on 10 April 2006, the Cabinet had agreed to refurbish the Epping drinking fountain after which the ownership and responsibility of future maintenance would be transferred to Epping Town Council. All refurbishment works had been completed but the transfer of responsibility had not been finalised as there were concerns regarding the stability of the fountain. A structural survey of the drinking fountain had found that the foundation was sound but the above ground structure was leaning due to irregularities within it.

Epping Town Council had received the structural engineer's report recommending that a 25-year indemnity clause be included in the handover agreement. This involved the District Council remaining liable for any future failure of the foundation and all reasonable costs associated with rectifying the problem, including dismantling and re-erection. In the event of transfer to the Town Council, any future repair costs would not have been covered and any risk would rest with the District Council. Should the fountain remain in District Council ownership, the structure would be covered in the normal way by the Council's insurance policies.

Decision:

That the previously agreed Cabinet decision to transfer ownership and responsibility of the Epping drinking fountain to Epping Town Council be rescinded.

Reasons for Decision:

The District Council would retain a financial responsibility irrespective of whether the fountain was transferred to the Town Council or not. In the event that the fountain was transferred, any claim for problems would be met by the District Council. However, should the fountain not be transferred, any claim would be met by the District Council insurers.

Other Options Considered and Rejected:

To transfer of the fountain to the Town Council with the associated risk of addressing the costs of foundation failure for the next 25 years.

81. ECONOMIC REGENERATION

The Portfolio Holder for Planning and Economic Development presented a report to the Cabinet regarding Economic Regeneration. An Economic Development Officer (EDO) had recently been appointed to the Council to strengthen its approach to sustainable economic regeneration, as required by the Council's corporate objectives. The Council's new EDO had a broad remit that included the development of initiatives to support sustainable economic regeneration, employment, job creation, improving contact with the business community and seeking to capitalise on leisure and tourism opportunities.

Local authorities had a duty to seek continuous improvement in the exercise of their functions. In this regard it was proposed that the Council adopted a selection of the Audit Commission's non-statutory Economic Regeneration Indicators. These indicators would enable users to understand their local economy, identify

weaknesses and assist with the development of plans, strategies, monitoring of progress and performance.

It had been proposed to adopt a select portfolio of indicators, which required local collection. The set of local indicators had been selected for its relevance to the District, to give an understanding picture of the health of the local economy. The performance indicators would provide a valuable evidence base enhancing the Council's understanding of the local economy and ensuring that the resulting strategy was designed to meet the distinctive needs and aspirations of the District. It was further proposed that the EDO produce an annual review and commentary on the economic regeneration indicators for reporting to members.

Decision:

- (1) That, in order to enable the Council to understand the local economy and to ensure that the new Economic Regeneration Strategy meets local needs, the use of the nationally available economic regeneration indicators and other indicators requiring local collection be agreed;
- (2) That the future adoption of an Economic Regeneration Strategy, which is both sustainable and appropriate to the local context yet is conversant with regional and national policy direction, be agreed; and
- (3) That the linking of the Economic Regeneration Strategy to existing partnership working arrangements at local and regional level be agreed.

Reasons for Decision:

The recent appointment of an EDO had provided the Council with the opportunity to strengthen its approach to sustainable economic development and ensure that the corporate objectives in respect of the Council Plan Theme of Economic Prosperity were met. The activities of the EDO had provided the Council with greater intelligence on the local economy and were essential in monitoring change and trends over time. The EDO's work would be to an auditable policy, which would demonstrate that the Council's performance in managing the local economy was considered and measured.

Other Options Considered and Rejected:

To continue to operate without using any economic regeneration indicators and without developing an Economic Regeneration Strategy, but this would make it difficult to ensure that limited resources were targeted to the greatest effect. This would also cause problems in measuring performance and would act as a barrier in engaging effectively with stakeholders. The Council's ability to meet some of its corporate objectives in respect of "Economic Prosperity" would be severely restricted.

82. ESSEX COUNTY COUNCIL TREE PRESERVATION ORDERS

The Planning and Economic Development Portfolio Holder presented a report regarding Essex County Council Tree Preservation Orders (ECC TPO). At its Cabinet meeting on 19 June 2007, Essex County Council (ECC) had agreed to review and revoke all their existing Tree Preservation Orders (TPO). ECC had also agreed to work with district and borough councils to ensure that important trees within Essex, protected by an ECC TPO, would continue to receive protection once the ECC TPO had been revoked. A target date of 31 March 2010 had been set to complete the re-survey and revoking of all ECC TPO's.

It had not been confirmed however as to how much ECC officer time would be made available to the District Council to carry out this work. Indications from the County Council were that it might amount to 50% of time required for the site surveys. The County Council intended to provide this support from their own resources. However, it was unclear from the County Council, as to the amount of support they were prepared to give to plans and initial contacts with householders or landowners, or the time required to serve and process the confirmation of any orders that were made as a result. Taking into account the offered support for the survey work, this was a considerable workload, which could not be undertaken by the existing staff resources within the 30-month target period.

The current situation was also complicated by the current vacancy for the post of Technical Support Assistant to the Tree and Landscape team, since 14 September 2007. The postholder had carried out most of the administrative support work required for the preparation, serving and confirmation of TPO's, as well as high hedges. The extension of the present contract for the post until June 2009 was considered essential to carry out all the tasks involved.

Decision:

- (1) That the proposals agreed by Essex County Council (ECC) for transferring the responsibility of Tree Preservation Orders (TPO's) made originally by the County Council to the District Council, and the suggested alternative options for dealing with this issue be noted;
- (2) That the following actions in respect of the ECC TPO's be approved:
 - (a) the prioritisation of the required survey work according to risk/importance;
 - (b) the full utilisation of the ECC staff time on offer for survey work; and
 - (c) the extension of the contract for post PPE/37 (Technical Support officer) until June 2009 at a cost of approximately £18,000, funded by DDF monies (Planning Delivery Grant), to carry out all the administrative work in connection with the new TPO's; and
- (3) That a progress report be placed in the Members' Bulletin after six months, unless further issues necessitate a report to the Cabinet.

Reasons for Decision:

These orders were considered a high priority in that relevant trees would have to be re-protected. Full use would be made of the ECC staff time offered, but EFDC officer time was required to monitor and carry out a proportion of the survey work, inevitably reducing the ability of the landscape team to meet some existing workloads and targets. Extending the contract for the Technical Support Officer post was unavoidable given the amount of work necessary for the new TPO's.

Other Options Considered and Rejected:

To do nothing, allowing the existing TPO's to lapse with the result that trees of value would no longer be protected. To engage landscape consultants to carry out survey work in addition to Essex County Council staff time and extending the contract for the Technical Support Officer. To employ a tree/landscape officer for an eight-month

contract, in addition to Essex County Council staff time and extending the contract for the Technical Support Officer post, to carry out all related administrative work.

83. THE BROADWAY TOWN CENTRE ENHANCEMENT SCHEME

The Planning and Economic Development Portfolio Holder presented a report regarding the Broadway Town Centre Enhancement Scheme. The Portfolio Holder reminded the Cabinet of the situation concerning the Broadway Town Centre where technical difficulties had arisen through the presence of a medium pressure gas main, which had been much shallower than anticipated. At the Cabinet meeting of 16 April 2007, the Cabinet had resolved to abandon the original enhancement scheme, agreed a revised proposal which avoided the medium pressure gas main and agreed to receive a report on the revised scheme following meetings with Essex County Council (Highways) and National Grid Gas (NGG).

The revised scheme approved in principle had abandoned the original one-way traffic flow in The Broadway, retaining the existing two-way traffic flow and central reservation, which enabled the highway to be improved whilst avoiding the shallow gas main which ran the length of the existing central reservation. The scheme avoided the complete reconstruction of the highway through use of a vacuum void grouting system, which provided support to the concrete joints and enabled a new surface to be laid. In early August, the Broadway was closed for a day enabling the road surface to be tested and determining the extent that the grouting system could be used. The testing established that 25% of The Broadway required significant reconstruction and the remaining 75% could be stabilised using the grouting system.

The revised scheme was estimated to cost £1,838,754. The report to the Cabinet in April had indicated that the revised scheme would generate significant savings for the Council, around £454,000. However following negotiations with NGG, the savings were currently estimated at around £41,000. The reduction in savings arose from abortive design costs associated with the original proposals, inflation arising from works being displaced into 2008 and the 25% reconstruction and additional consulting costs. A further saving would come from the reduced construction time resulting from the grouting process, this was estimated at around £6,500 per week. The contractor concerned had been requested to provide their interpretation of the time saving. A Section 106 agreement associated with the sale and re-development of the T11 site at Langston Road would also involve provision for a £25,000 contribution towards the enhancement and improvement of The Broadway.

Decision:

- (1) That the outcome of technical discussions with the Essex County Council (ECC) and National Grid Gas (NGG) be noted;
- (2) That the revised scheme for the enhancement of The Broadway be worked up in detail, subject to comments by NGG and agreements with ECC;
- (3) That the revised resource implications be agreed; and
- (4) That a further report upon the progress of the scheme be received in due course.

Reasons for Decision:

The revised scheme was estimated to have cost less than the original scheme. However it was highly probable that the savings would not increase further once the

scheme had been fully costed by the contractor. Although risks were associated with the 25% area of complete reconstruction, these were manageable, subject to an agreement with NGG in respect of the methodologies applied. The local community had remained supportive of an enhancement scheme. This was an enhancement of a Council owned asset.

Other Options Considered and Rejected:

To abandon the Town Centre Enhancement scheme altogether would result in abortive design costs and disappointing the local community who had been waiting for an enhancement scheme for a considerable time. The reputation of the contractor might also be adversely affected, even though they had endeavoured to assist throughout to bring forward a scheme providing benefits to the local community.

84. YOUTH INITIATIVES SCHEME - WORK PROGRAMME

The Finance, Performance Management and Corporate Support Services Portfolio Holder presented a report regarding the work programme for the Youth Initiatives Scheme. The Cabinet were reminded that the Youth Initiatives Scheme had been agreed for a period of three years, starting in 2005-06, with £100,000 allocated from the Capital Programme for each of the three years. Details were given at the meeting of the work programmes for 2005-06 and 2006-07; the only outstanding item was a sports area at Abridge for Lambourne Parish Council. A planning application had been refused permission, and a revised survey was now being carried out to ascertain the type of facility required for inclusion in the 2007-08 programme. The Portfolio Holder had proposed to reaffirm the original grant of £5,750 included in the 2005-06 programme.

In respect of the 2007-08 work programme, the original proposals by Buckhurst Hill Parish Council had been refused planning permission. Alternative proposals had been put forward, and the Portfolio Holder advised the Cabinet that the Council should award a grant towards the scheme, provided public support was forthcoming and the Parish Council could guarantee the scheme's completion during the current financial year. The amount of grant awarded for this alternative scheme would be determined following analysis of the revised costings. The cost of the safety surfacing for the scheme at Chigwell Station Green had proved to be greater than envisaged, and it was proposed to increase the £10,000 grant for this scheme, as determined by the Portfolio Holder. The two remaining schemes at Matching and Roydon were expected to be completed by the end of 2007.

Decision:

- (1) That the arrangements for the Youth Initiatives Scheme programme, including the revised schemes at Buckhurst Hill and Lambourne and the additional provision for Chigwell be approved: and
- (2) That the Portfolio Holder for Finance, Performance Management and Corporate Support Services be authorised to release funds for approved schemes on an ongoing basis in accordance with the timetables of works provided by the Parish/Town Councils.

Reasons for Decision:

Experience had shown that the provision of youth facilities helped to reduce youth nuisance and anti-social behaviour. Such facilities were required throughout the District, but particularly in the more remote rural areas. The projects proposed had

the support of the relevant Town or Parish Councils as well as the residents in the localities concerned.

Other Options Considered and Rejected:

To agree or reject the proposed schemes, or to agree the suggested funding or amend the amounts within the overall annual budget.

85. RELEASE OF RESTRICTIVE COVENANT - LOUGHTON HALL, EPPING FOREST COLLEGE, LOUGHTON

The Finance, Performance Management and Corporate Support Services Portfolio Holder presented a report regarding the release of a restrictive covenant at Loughton Hall, Epping Forest College, Loughton. The Portfolio Holder reminded the Cabinet that at its meeting on 16 July 2007, it had been agreed to defer the release of the restrictive covenant at Loughton Hall, pending the outcome of the marketing exercise that had been undertaken by Epping Forest College. The Council had subsequently received correspondence from the College stating that, in their view, the proposed Residential Care Home was an appropriate use for the Hall, of benefit to the local community, and that the College was not prepared to share the details of the bids received during the tender process, as these were private bids addressed to the College. The Cabinet were urged to agree the recommendations of the report and release the current covenants to enable the proposed development to proceed.

The Leader of the Loughton Residents' Association reiterated his Group's earlier support for the current covenants, amid concerns that the Council would not be able to control the future use of the Hall if the covenants were released. The Cabinet were reminded that a bid had also been received to establish a Music College in the Hall, which would provide an opportunity to create a cultural and educational centre for the area, alongside the College itself and the nearby Acting School.

The Portfolio Holder advised the Cabinet that planning permission had already been granted for the proposed residential care home use. The building had been out of use for many years and the proposed new covenants would preserve the Hall's future use for the benefit of the community, including a possible educational use in the future. The Cabinet were reminded that a Lands Tribunal would most likely lift the current covenants, and would not necessarily impose a new covenant prohibiting residential development at the site. The recommended renunciation of the Council's right of pre-emption to purchase both Loughton Hall and the adjoining Library site would enable the development to proceed.

The Leader of the Council reported that correspondence had been received from the Loughton and District Historical Society requesting public access to the fine rooms on the ground floor of the Hall, free of charge, for a minimum of four days per annum. This would enable free public access to continue to a building considered to have been at the centre of the area's history and heritage for the previous fifty years. It was agreed that the developer be asked to consider this request favourably.

Decision:

- (1) That, in order to enable a provisionally arranged sale of Loughton Hall for use as a residential care home to proceed, the representations received from Epping Forest College concerning its application to the Council to release a restrictive covenant be noted;
- (2) That the renunciation of the Council's right of pre-emption to purchase

Loughton Hall and the library site adjoining Epping Forest College be recommended to the Council for approval;

(3) That the College's application for the release of the restrictive covenant affecting Loughton Hall, within the grounds of Epping Forest College, be approved and the following new covenants be imposed:

(a) prohibiting the use of the Hall for any purpose other than residential care home, community, education or health purposes; and

(b) specifically prohibiting the use of the Hall for any residential purpose other than as a residential care home; and

(4) That the developer be requested to permit public access, under such terms and requirement for escort as may be agreed, to the fine rooms on the ground floor of Loughton Hall on not less than four days every year without charge.

Reasons for Decision:

The proposed sale of Loughton Hall would enable the redevelopment of the College to proceed and facilitate the refurbishment of the building. Removal of the restrictive covenant would enable the successful bidder to recoup their financial commitment to refurbishing the listed building. Legal advice had indicated that the Lands Tribunal would be likely to agree the release of the current covenant, with a nominal level of compensation payable to the Council. The waiver of the Council's right to purchase both the Hall and the adjacent Library site were required for the proposed redevelopment to proceed. The request to permit continued public access to Loughton Hall for a minimum of four days per year had been at the behest of the Loughton and District Historical Society.

Other Options Considered and Rejected:

To take no further action on or to seek payment for the College's request to release the current covenant. However, both courses of action could lead to the Council having to defend its decision at a Lands Tribunal, with the associated risk of costs, and would delay the College's development plans.

86. CAPITAL PROGRAMME REVIEW FROM 2007-08 TO 2011-12

The Finance, Performance Management and Corporate Support Services Portfolio Holder presented a report concerning the review of the Capital Programme from 2007-08 to 2011-12. The Portfolio Holder advised the Cabinet that the Capital Programme would form the basis of the Capital Strategy, to be considered at the next scheduled meeting of the Cabinet. The report had also considered the available funding and had forecast that the level of usable capital receipts on 31 March 2012 would be £17,963,000. As part of the capital review, the progress of each scheme within the Capital Programme had been monitored to reassess the estimated final costs and phasing of the expenditure profiles. Amendments made to the Capital Programme since it had last been approved in February 2007 had been identified and detailed for approval by either the Cabinet or Council as appropriate. The Portfolio Holder reminded the Cabinet that many of the approvals were not new items of expenditure but carry forwards of previously approved expenditure from 2007-08 to 2008-09.

For the General Fund Capital Programme, the Portfolio Holder reported that

supplementary capital in the sum of £13,000 had been requested for approval by the Council to fund a new tractor for the Grounds Maintenance service. In addition, following the agreement of the five-year Civic Offices Maintenance Programme earlier in the meeting, revised Capital growth bids had been proposed for the years 2008-09 to 2011-12. There was one virement proposed from the General Capital Contingency, in the sum of £7,000 to complete the outstanding remedial works at Loughton Leisure Centre. For the Housing Revenue Account Capital Programme, a number of virements had been proposed for approval by the Cabinet, along with estimated expenditure of £4,696,000 in respect of the Council's affordable housing and regeneration projects in 2007-08. It was anticipated that the balance on the Major Repairs Reserve would be £6.291million by 31 March 2012. In order to reduce this balance, it was planned to increase the Housing Revenue Account Capital Programme as part of the Capital Review in 2008-09.

Since the Capital Programme had been previously approved, the Portfolio Holder reported that there had been a single claim made on the General Capital Contingency in the sum of £62,000 to finance the estimated increased costs in respect of the Loughton Broadway Town Centre Enhancement Scheme. It was also proposed that the current policy of capitalising additional pension deficit payments be maintained, with a transfer of £2.5million from the Usable Capital Receipts to the Pension Deficit Reserve. The Council had maintained a prudent policy in forecasting the available capital resources for future years, in order to ensure that any project included in the Capital Programme would be fully funded.

The Portfolio Holder acknowledged that phases III and IV of the Loughton High Road Town Centre Enhancement Scheme had not been included in the Capital Programme, but stated that the current priority was the completion of the Town Centre Enhancement Scheme at Loughton Broadway, following the recent investment in Loughton High Road to complete phases I and II of the project. The Portfolio Holder stated that the use of Capital expenditure to generate revenue for the Council would be a key element of the forthcoming Capital Strategy.

Decision:

- (1) That the latest five-year forecast of capital receipts be noted;
- (2) That the level of usable capital receipts currently predicted to be £17,963,000 at 31 March 2012 be noted;
- (3) That the revised Capital Programme 2007-08 to 2011-12 be approved;
- (4) That the following be approved or, where relevant, be recommended to the Council for approval:
 - (a) a supplementary capital estimate in the sum of £13,000 for a new tractor for the Grounds Maintenance Service (to be partly financed from the capital receipt generated by the sale of the old tractor) and a bring forward in the sum of £3,000 from 2008-09 to 2007-08;
 - (b) revised capital growth bids for Civic Office Works in the sums of:
 - (i) £373,000 for 2008-09;
 - (ii) £86,000 for 2009-10;
 - (iii) £4,000 for 2010-11; and

- (iv) £10,000 in 2011-12;
- (c) a virement in the sum of £7,000 from the General Capital Contingency to finance the outstanding remedial works at Loughton Leisure Centre;
- (d) a virement in the sum of £85,000 from the General IT budget to finance the remaining works on Computer Suite 2 at the Civic Offices;
- (e) a carry forward in the sum of £681,000 from 2007-08 to 2008-09 regarding the works at Bobbingworth Tip due to delays resulting from unfavourable weather conditions;
- (f) a carry forward in the sum of £2,000,000 from 2007-08 to 2008-09 in respect of the Town Centre Enhancement Scheme at Loughton Broadway;
- (g) a carry forward in the sum of £20,000 to be utilised for work at Ongar Leisure Centre in 2008-09, pending a further report;
- (h) a carry forward in the sum of £221,000 from 2007-08 to 2008-09 with regard to parking reviews and associated traffic management schemes;
- (i) a carry forward in the sum of £55,000 from 2007-08 to 2008-09 for flood alleviation schemes due to estimated re-profiling of works;
- (j) carry forwards in the sums of £132,000 and £702,000 from 2007-08 to future years for disabled facilities grants and other private sector grants respectively;
- (k) a carry forward in the sum of £500,000 to 2008-09 for contributions to Housing Associations for the provision of affordable housing ;
- (l) virements within the Housing Revenue Account (HRA) in the sums of £200,000 to heating projects, £893,000 to kitchen and bathroom replacements within the cost reflective repairs category, and £90,000 to estate environmental works within non cost reflective repairs category be approved from windows, roofing and asbestos works (£647,000), structural schemes (£90,000), small capital repairs (£198,000), and other planned maintenance (£248,000) in 2007-08; and
- (m) carry forwards totalling £2,327,000 from 2007-08 to 2008-09 in respect of various categories of work within the HRA;
- (5) That estimated HRA expenditure of £4,696,000, to be spent on the Council's own affordable housing and regeneration projects in 2007-08, be approved; and
- (6) That the policy of capitalising additional pension deficit payments be maintained, and that in order to fund future payments a transfer of £2,500,000 be made from Usable Capital Receipts to the Pension Deficit Reserve.

Reasons for Decision:

The Capital Programme adhered to the decisions that had already been approved by the Cabinet and the actions were intended to make the best use of the capital

resources currently available, and forecast to become available for capital schemes up to 2011-12.

Other Options Considered and Rejected:

To reconsider the inclusion of several new schemes or restrict existing schemes as the reduction in the level of capital receipts over the next five years would reduce the investment income, however the current level of capital resources was predicted to rise to £17,963,000 by 31 March 2012 from the previous prediction of £15,765,000 by 31 March 2011.

To increase the use of usable capital receipts rather than rely upon increased revenue contributions to capital outlay (RCCO) contributions to enhance the Housing Revenue Account Capital Programme, however this would reduce the capital resources available for the General Fund Capital Programme.

87. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12(A) of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item No</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
24	Employer's Liability Claim - Asbestos	1

88. EMPLOYER'S LIABILITY CLAIM - ASBESTOS

The Finance, Performance Management and Corporate Support Services Portfolio Holder presented a restricted report concerning an employer's liability claim against the Council. The Portfolio Holder reported that the claimant had worked for the Council on an ad-hoc basis during the period 1971 to 1979 as a painter, during which time it was alleged that he had come into contact with asbestos and had subsequently developed mesothelioma. Following his employment with the Council, the claimant had performed similar work for a Government department, whom it was understood was also a party to the claim. In normal circumstances, the Council's insurers would settle the claim, with the Council only being liable for any policy excess. However, both the Council's current and former insurers had rejected the claim on the basis that they were not the provider of insurance at the relevant time, which had raised the prospect of the Council taking legal action against either or both insurers to establish legal liability. Consequently, it had been proposed to appoint external solicitors with relevant experience to handle this claim on behalf of the Council, and for any appropriate legal action to be authorised to deal with this and any similar future cases.

The Portfolio Holder further reported that the Council had received a request from the claimant's solicitor to contribute to an interim payment to the claimant, due to his current state of health. However, the Cabinet felt that the advice of the external solicitors should be sought first before the Council contributed to an interim payment;

the Director of Finance and ICT confirmed that a further report would be submitted to the Cabinet to authorise any such payment. The Chief Executive advised the Cabinet that the Council had to resolve the legal situation regarding such claims, but the expectation was that the Council had been covered for such a liability by one or other of the insurance companies, hence it was anticipated that no additional resources would be required as a result of this claim.

Decision:

- (1) That the appointment of external solicitors with relevant experience to handle this claim on behalf of the Council be agreed;
- (2) That this claim could give rise to a significant liability be noted but it was anticipated that no additional resources would be required;
- (3) That, in order to fully recover any costs incurred in dealing with this and any similar future cases, action (including High Court proceedings if appropriate) against either or both Zurich Municipal and Municipal Mutual be authorised; and
- (4) That the possibility of a supplementary estimate in the future to cover the costs of any such action taken as authorised above be noted.

Reasons for Decision:

The Council did not have the necessary expertise to deal with such a complex insurance case, and the appointment of suitably experienced external solicitors should minimise the Council's liability. It might be necessary to take court action against either or both insurance companies in order to establish liability.

Other Options Considered and Rejected:

To contribute to the interim payment requested by the claimant, however it was felt that the advice of the newly appointed external solicitors should be sought first.

CHAIRMAN