

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

CABINET

At: Council Chamber, Guildhall, Swansea

On: Thursday, 21 April 2016

Time: 4.00 pm

Chair: Councillor Rob Stewart

Membership:

Councillors: M C Child, W Evans, R Francis-Davies, J E C Harris, D H Hopkins, A S Lewis, C E Lloyd, J A Raynor and C Richards

The use of Welsh is welcomed. If you wish to use Welsh please inform us by noon on the working day before the meeting.

Mae croeso i chi ddefnyddio'r Gymraeg. Os dymunwch ddefnyddio'r Gymraeg, rhowch wybod i ni erbyn canol dydd ar y diwrnod gwaith cyn y cyfarfod.

AGENDA

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1. **Apologies for Absence.**
2. **Disclosures of Personal and Prejudicial Interests.**
www.swansea.gov.uk/disclosuresofinterests
3. **Minutes.** 1 - 5
To approve and sign as a correct record the Minutes of the previous Cabinet meeting.
4. **Leader of the Council's Report(s).**
5. **Public Question Time.**
6. **Councillors' Question Time.**
7. **Response to the Report of the Scrutiny Programme Committee - Review of The Gypsy Traveller Site Search Process.** 6 - 29
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22. Proposed Disposal of Land Currently Leased by Birchgrove Rugby Football Club (RFC).	166 - 171

Next Meeting: Thursday, 16 June 2016 at 4.00 pm



Patrick Arran
Head of Legal and Democratic Services
Wednesday, 13 April 2016

Contact: Democratic Services – Tel: (01792) 636923

CITY AND COUNTY OF SWANSEA

MINUTES OF THE CABINET

HELD AT COMMITTEE ROOM 5, GUILDHALL, SWANSEA ON
THURSDAY, 17 MARCH 2016 AT 4.00 PM

PRESENT: Councillor R C Stewart (Leader of the Council) Presided

Councillor(s)

M C Child
D H Hopkins
J A Raynor

Councillor(s)

W Evans
A S Lewis

Councillor(s)

R Francis-Davies
C E Lloyd

Also Present: Councillor F M Gordon(Minute No.197)

191. **APOLOGIES FOR ABSENCE.**

An apology for absence was received from Councillor C Richards.

192. **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS.**

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interests were declared:

Councillor D H Hopkins – Minute No.203 - Building Capital Maintenance Programme 2016/17 – Personal as LA Governor.

Councillor C E Lloyd – Minute No.203 - Building Capital Maintenance Programme 2016/17 – Personal as LA Governor.

193. **MINUTES.**

RESOLVED that the Minutes of the meeting(s) listed below be approved as a correct record:

- 1) Special Cabinet held on 15 February 2016.
- 2) Cabinet held on 18 February 2016.
- 3) Special Cabinet held on 3 March 2016.

194. **LEADER OF THE COUNCIL'S REPORT(S).**

The Leader of the Council made no announcements.

195. **PUBLIC QUESTION TIME.**

No questions were asked.

196. **COUNCILLORS' QUESTION TIME.**

No questions were asked.

197. **SCRUTINY INQUIRY INTO SCHOOL GOVERNANCE.**

Councillor F M Gordon, Panel Convenor of the School Governance Scrutiny Inquiry Panel, presented the report which outlined the findings, conclusions and recommendations resulting from the Panel's Inquiry into School Governance.

RESOLVED that

- 1) the report be noted.
- 2) the Cabinet Member for Education present a written response to the Scrutiny recommendations and proposed actions to Cabinet in June 2016.

198. **LOCAL AUTHORITY GOVERNOR APPOINTMENTS.**

The Cabinet Member for Education presented a report which sought approval of the nominations submitted to fill Local Authority (LA) Governor vacancies on School Governing Bodies.

RESOLVED that:

- 1) The following nominations be approved as recommended by the LA Governor Appointments Panel:

1. Bishopston Primary School	Miss Emma Squires
2. Craigfelen Primary School	Mrs Gregg Jones
3. Glyncollen Primary School	Mrs Carole Wright
4. St Illtyd's Primary School	Mr Peter John Richards
5. YGG Tan y Lan	Mrs Charlotte Aull Davies
6. Bishopston Comprehensive School	Mrs Joanna Meller

199. **ESTYN INSPECTION OF LOCAL AUTHORITY EDUCATION SERVICES FOR CHILDREN AND YOUNG PEOPLE 2013 – UPDATE.**

The Cabinet Member for Education presented a report which provided an update on the progress in meeting the five recommendations in the Estyn Inspection Report from 2013.

RESOLVED that the progress update on the five recommendations in the Estyn Inspection Report be noted.

200. **QUARTER 3 2015/16 PERFORMANCE MONITORING REPORT.**

The Cabinet Member for Transformation & Performance presented a report which sought to report Corporate and Service Performance for Quarter 3 of 2015-2016.

RESOLVED that Performance be reviewed to help inform executive decisions on resource allocation and, where relevant, corrective actions to manage and improve performance and efficiency in delivering national and local priorities.

201. **SHOW BULLYING THE RED LIGHT.**

The Cabinet Member for Transformation & Performance presented a report which outlined and sought endorsement for the new 'Show Bullying the Red Light' campaign.

The Chief Executive outlined his and Executive Boards full support for the initiative.

RESOLVED that

- 1) Cabinet endorsed the 'Show Bullying the Red Light' campaign.
- 2) Cabinet agreed to actively support the campaign as detailed in the report.

202. **STRATEGIC EQUALITY PLAN 2016 - 2020**

The Cabinet Member for Transformation & Performance presented a report which outlined the Strategic Equality Plan.

RESOLVED that the Strategic Equality Plan be referred to Council for approval.

203. **BUILDING CAPITAL MAINTENANCE PROGRAMME 2016/17.**

The Cabinet Member for Finance and Strategy presented a report which outlined the schemes to be funded through the Capital Maintenance Programme.

RESOLVED that Cabinet

- 1) approved the proposed capital maintenance schemes as listed in Appendix A of the report.
- 2) authorised the financial implications identified in Appendix B of the report to be included in the capital programme.

204. **CORPORATE PLAN 2016 - 2017.**

The Leader presented a report which sought agreement of the Corporate Plan "Delivering for Swansea 2016-2017".

RESOLVED that the Corporate Plan Delivering for Swansea 2016 -2017 be approved.

205. **FPR7 - CITY CENTRE REGENERATION MATCH FUNDING BUDGET.**

The Cabinet Member for Enterprise, Development and Regeneration presented a report which sought to include the budget within the Capital Programme.

RESOLVED that the budget to the Capital Programme for 2015/16 & 2016/17 be agreed and committed.

206. **EXCLUSION OF THE PUBLIC.**

Cabinet were requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendations to the report(s) on the grounds that it / they involve the likely disclosure of exempt information as set out in the exclusion paragraph of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 relevant to the items of business set out in the report(s).

Cabinet considered the Public Interest Test in deciding whether to exclude the public from the meeting for the item of business where the Public Interest Test was relevant as set out in the report.

RESOLVED that the public be excluded for the following item(s) of business.

(CLOSED SESSION)

207. **LEASE RENEWAL OF THE PETROL FILLING STATION AT MUMBLES ROAD, BLACKPILL.**

The Cabinet Member for Finance & Strategy submitted a report which sought approval for the renewal of the lease at the filling station.

RESOLVED that the recommendation as set out in the report be approved.

208. **OPTIONS FOR THE FUTURE MANAGEMENT AND OPERATION OF SWANSEA AIRPORT.**

The Cabinet Member for Finance & Strategy submitted a report which sought approval for the renewal of the lease at the airport.

RESOLVED that the recommendation as set out in the report be approved.

209. **URGENT ITEM.**

The Leader of the Council stated that pursuant to paragraph 100B (4) (b) of the Local Government Act 1972, he considered that the report of the Cabinet Member for Enterprise, Development and Regeneration "Development of City Centre Sites – St David's Area North & South of Oystermouth Road" should be considered at this meeting as a matter of urgency.

Reason for Urgency

To seek Cabinet agreement to extend the Councils existing financial commitment to work up costs for St David's in the short term until discussions with Welsh Government can be finalised.

210. **DEVELOPMENT OF CITY CENTRE SITES - ST DAVID'S AREA NORTH & SOUTH OF OYSTERMOUTH ROAD**

The Leader presented a report which would allow City Centre regeneration to be progressed, pending a decision on funding from Welsh Government.

The Section 151 Officer indicated that a letter from Welsh Government had been received today confirming support for the funding of the scheme, but further discussions would be required with Ministers both before and after the Welsh Government Elections in May on issues relating to the monies.

RESOLVED that the recommendations as set out in the report be approved.

The meeting ended at 4.55 pm

CHAIR

Published on 21 March 2016.

Agenda Item 7.

Report of the Cabinet Member for Next Generation Services

Cabinet - 21 April 2016

RESPONSE TO THE REPORT OF THE SCRUTINY PROGRAMME COMMITTEE – REVIEW OF THE GYSPY TRAVELLER SITE SEARCH PROCESS

Purpose:	To outline a response to the scrutiny recommendations and to present an action plan for agreement.
Policy Framework:	None
Reason for Decision:	To comply with the requirements of the Council Constitution.
Consultation:	Legal Services, Financial Services, Access to Services
Recommendation(s):	It is recommended that: 1) A response and related action plan be provided at the next available Cabinet.
Report Author:	Martin Nicholls
Finance Officer:	Paul Roach
Legal Officer:	Debbie Smith
Access to Services Officer:	Phil Couch

1.0 Introduction

- 1.1 The scrutiny report into the Gypsy Traveller Site Search Process was submitted to Cabinet on the 17 February 2016. The report presented a number of learning points / recommendations in relation to future work to identify appropriate site provision. The scrutiny report is attached as **Appendix A**.
- 1.2 The Cabinet Member is, at present, still considering the content of the scrutiny report, and specific learning points / recommendations made, in order to advise Cabinet on whether it should agree, or not agree, with each recommendation as detailed in the report. As such, a further report will be provided at the next available Cabinet.

2.0 Equality and Engagement Implications

No Equality and Engagement implications.

3.0 Legal Implications

3.1 No financial implications.

4.0 Financial Implications

4.1 No legal implications.

Background Papers: None

Appendix:

Appendix A - Scrutiny Review – Final Report 17th February 2016

SCRUTINY REVIEW: GYPSY TRAVELLER SITE SEARCH PROCESS

FINAL REPORT

SCRUTINY PROGRAMME COMMITTEE
City and County of Swansea - Dinas a Sir Abertawe

FEBRUARY 2016



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SCRUTINY REVIEW: GYPSY TRAVELLER SITE SEARCH PROCESS

1. Why We Produced This Report

1.1 Overview

1.1.1 This report focuses on the Gypsy Traveller site search process between 2009 and 2013. This process culminated in a meeting of Council on 21 October 2013 which requested that, although the process led to the identification of 2 possible sites, a whole Swansea approach be adopted and all land options within the City & County of Swansea be considered rather than restrict the process to land in the Authority's ownership. On 5 November 2013 Cabinet accepted this approach.

1.1.2 Following a lengthy debate on the site search the view was expressed at Council on 21 October 2013 that a scrutiny review of the process that was followed should be carried out.

1.2 Aim of the Scrutiny Review

1.2.1 The purpose of the scrutiny review was to:

- review the process adopted to date and seek assurance on quality
- identify any learning points as appropriate and recommend any changes for the future

1.2.2 The scrutiny review aimed to address the following question:

Was the process, leading up to the report to Council on 21 October 2013, robust?

1.2.3 The work was carried out via special meetings of the Scrutiny Programme Committee, and commenced in February 2014.

1.3 Intended Contribution

1.3.1 The Committee recognised that this whole matter has been the subject of enormous debate both within and outside of the Council. It is fair to say that it has been a difficult issue to deal with, with emotions running high in some communities. The committee wanted to ensure that everyone who wanted to have a say on this matter had the opportunity to do so.

1.3.2 The review intended to shed light on the process that was followed, identify the main issues arising, and offer a constructive view about learning points that could help future work.

2 The Evidence Collected

2.1 In summary the evidence gathering activities undertaken by the Committee included:

- Officer Evidence:
 - Overview of Gypsy Traveller Site Search - Chronology of Process, Legal Framework/Guidance, Assurance and Outcomes
 - Criteria for Site Selection / Explanation of Site Sieve Process
 - Consultation Process and Outcomes
 - Impact of Economic Regeneration / Development Plans on Site Selection
 - Role of Housing Needs Assessment
 - Q & A with Chief Executive
- Evidence from former Leaders of the Council:
 - Councillor Chris Holley
 - Councillor David Phillips
- Evidence from former Cabinet Member:
 - Councillor June Burtonshaw
- Evidence from Councillors:
 - Councillor Uta Clay
 - Councillor Penny Matthews
 - Councillor Jennifer Raynor
- Evidence from Public:
 - Tony Beddow
 - Keith Jones
 - Hilary Jenkins
 - Tom Jenkins
 - Phillip Robins
 - Lawrence Bailey

NOTE: A number of key officers who gave evidence at the start of the scrutiny process subsequently left the authority during the course of the scrutiny review which had an impact on evidence gathering. This included Reena Owen (former Corporate Director) and Martin Saville (former Head of Service).

2.2 The Committee also had sight of the numerous documents, including:

- Relevant Welsh Government Guidance
- 31 March 2009 Court Judgement in case between CCS and Christine Joyce (and others)
- Welsh Government Circular 30/2007: Planning for Gypsy and Traveller Caravan Sites
- City & County of Swansea Gypsy Traveller Policy – June 2009
- Relevant Cabinet and Council reports and minutes
- Relevant Gypsy Traveller Site Task & Finish Group reports and minutes

- Minutes of a Gypsy Traveller meeting (chaired by Cllr Nick Bradley) – 7 September 2012
- Internal Review: Report of Head of Housing & Community Regeneration – 29 October 2012 – Independent Management Review of the Processes Used to Identify a Shortlist of Potential Locations for a New Gypsy and Traveller Site
- External Review Report: Geoff White, Head of Planning, Neath Port Talbot CBC - Review of the Site Selection Process for Potential Sites for a Gypsy and Traveller Site within the City and County of Swansea
- Accommodation Needs Assessment 2013

2.3 A lengthy evidence pack is available separately which includes all of the information gathered by the Committee through its meetings. (<http://swansea.gov.uk/article/23464/Review-of-Gypsy-Traveller-Site-Search-Process-Evidence-Pack>)

3. Background to the Process

3.1 Specific demands for additional appropriate accommodation

3.1.1 During the evidence sessions the Committee gathered a great deal of detailed information about the background to the Council's search for additional Gypsy Traveller sites. It was therefore able to trace the events from early 2007 when issues arose that led to the discussions between the former Cabinet Member, John Hague and a senior officer of the authority, and the Gypsy Traveller family occupying the Park and Ride facility at Llansamlet that led to the agreement of 2 May 2007: that in return for two families 'moving to the north east corner of the car park situate in the north west of the park, they would be there for six to nine more months, that toilet and washing facilities, electricity, fencing and hardcore would be provided within that time scale' and that Cllr Hague would see what he could do about obtaining permission for a longer period (*paragraph 4 of the Judgement*).

3.1.2 The Council subsequently sought an eviction order from the High Court to remove the family occupying the Park and Ride site. On 31 March 2009, the High Court granted a possession order for the whole of the Enterprise Park, save for the areas occupied by the two families in May 2007.

3.1.3 The judgement was critical of the fact that information about the May Agreement had not been passed to the Cabinet and therefore 'failure to give due weight to the full terms of the May agreement'. This failure made it inappropriate to grant a possession order in respect of the parts of the Park & Ride site that were occupied by the families. The judgement found that the then Cabinet Member had the apparent authority to make certain commitments to the families.

3.1.4 The judgement also made reference to overcrowding at the official site and lack of adequate site provision elsewhere, which was acknowledged by the authority at the time (*paragraphs 44 & 48 of the Judgement*). In the Committee's view this was not a central issue to this court judgement. There was some debate during the Committee's review about the extent to which the judgement became a trigger for subsequent plans and the process to identify additional provision, rather than to specifically deal with the Park & Ride issue and families. Some committee members felt that there was a failure to make any clear distinction between the way to approach the needs of one specific family and a range of wider issues relating to Gypsy Traveller in Swansea. There was also concern at the potential for reputational damage to the authority if a controversial and complex policy was being pursued on account of considerations that were groundless or at least secondary.

3.2 Policy Drivers for Additional Appropriate Accommodation

3.2.1 To understand the process, the issues around the Park and Ride site have to be placed in the context, and took place against a much broader backdrop of discussions about the provision for Gypsy Traveller families in Swansea. Successive local authorities in the Swansea area have sought to address the need to make appropriate provision for Gypsy Traveller families since the duty to do so was enshrined in the Caravan Sites 1968 Act. This led to protracted discussions during the 1970s and subsequently in the 1980s. Swansea's only civic Gypsy Traveller site was established at Pant-y-blawd, Llansamlet, in 1986. The Committee heard references to the 'West Glamorgan agreement' which committed the local authority to ensure that any additional sites were located in wards other than

Llansamlet, as in the community in question there was a widespread view that such an agreement existed and was binding in 2009-2012. This was compounded by the fact that the 'agreement' was referred to in party political election leaflets in 2012. The Committee would suggest that it would be helpful for any process to be clear about the implications of previous policies / decisions and relevant policy framework.

3.2.2 The Authority also had to respond to longstanding issues arising from illegal encampments, particularly in the Llansamlet ward, and policy drivers such as the requirement on the council to make appropriate provision under the Housing Act, 2004, an imperative that was reinforced by subsequent Welsh Government guidance including Welsh Government Guidance on Managing Unauthorised Camping, 2005, Welsh Government Report: Accommodation Needs of Gypsy and Travellers in Wales, 2006, and Circular 30/2007 Planning for Gypsy and Traveller Caravan Sites. The authority was aware of these requirements when it began to address the issues in 2007-10, and later further impetus was given by the provisions of the Equality Act, 2010. Welsh Government Circular 30/2007 reinforced the message that local authorities in Wales should be making appropriate provision. Gypsy Travellers are a recognised ethnic group. In making provision to meet their needs all public authorities are required to take their views into consideration.

3.2.3 In addition, member and officers of the City and County of Swansea have been consistent about the need to maintain and strengthen positive community relationships with the Gypsy Traveller families.

3.2.4 In June 2009 the City and County of Swansea adopted its Gypsy Traveller policy by which it committed itself to making appropriate provision taking account of determinants that included:

- A needs assessment, carried out in accordance with national guidelines, to establish the number of pitches required and type of accommodation, for example the balance between permanent and transient sites
- The physical appropriateness of any proposed accommodation

- The requirements to engage with the Gypsy Traveller community to ensure that their views were taken into account.

3.2.5 It also committed the council to a 'humane and compassionate response to unauthorised encampments' and that 'there will not be an automatic presumption of immediate eviction in every case'. The sense of urgency that was conveyed in this process was apparent: 'the process has to be rapid given the ongoing issues with unauthorised encampments' (*from Minutes of Special Scrutiny Programme Committee – 3 April 2014*).

3.2.6 Paragraph 3.2.5 of the Gypsy Traveller Policy 2009 describes the need for further permanent Gypsy Traveller site provision and need for research and a project plan to help determine location of any new site. It adds that the Gypsy Traveller Liaison Forum would be consulted on the project plan.

3.2.7 These background issues, including the situation in the Swansea Vale and both the Welsh Government and the Council's commitment to ensuring adequate provision for Gypsy Traveller families, resulted in the process to identify additional Gypsy Traveller accommodation.

4. The Process

In response to these drivers, the authority initiated a process working to a set methodology, which is described in the reports to Cabinet on 11 March and 26 August 2010. This would involve the creation of a Member Task & Finish Group by Cabinet to examine potential sites. The Gypsy Traveller Liaison Forum which was formed in 2007 ceased to meet after November 2010.

4.1 Assessing Need

4.1.1 The Accommodation Needs Assessment (2013) concluded that there was a need for an additional 11 pitches rising to 20 over the following five years (*from Council report – 21 October 2013*). This led officers to conclude that there was a pressing need for a permanent site and that a transient site might also be required (*from Minutes of Special*

Scrutiny Programme Committee – 6 March 2014). However, there does not seem to be any consideration of how best to meet the demand for additional pitches, balancing the arguments for one site of 11 pitches or two sites of 5-6 pitches, or other suitable combination. It was not clear whether there was any consideration given as to whether it would be better for additional provision to be concentrated or dispersed (with a number of small sites) around the City and County of Swansea.

4.1.2 When gathering evidence, the Committee was made aware that the Accommodation Needs Assessment is a 'snapshot' of the situation at a particular time and that although it was undertaken in accordance to Welsh Government guidelines, it was not an exact science. The Committee heard evidence which questioned the basis on which the Needs Assessment was conducted, specifically was it undertaken on the basis of a strategic, formula-led basis, or on the reality of the number of families and their distinct needs (a more operational approach). In addition, there was a view on the part of some witnesses that issues at the existing site and at the Park and Ride had created a demand for an additional site and that this had impacted on the Accommodation Needs Assessment. This was not accepted by the officers responsible who maintained that the methodology used in the Accommodation Needs Assessment was robust.

4.2 Role of Cabinet and the Task and Finish Group

4.2.1 By March 2010 the authority was in a position to begin the work of identifying alternative Gypsy Traveller site provision, relevant to this review. The process was to be overseen by a member-led Task and Finish Group that was to work to set criteria. These criteria were based on those of the Welsh Government and differed slightly from those in the Gypsy Traveller Policy (HC9), though they did not contradict each other.

4.2.2 The summary to the Cabinet report of 11th March 2010 referred to the purpose as '*To investigate the provision of an alternative site to accommodate the Gypsy and Traveller families presently occupying the unauthorised site at Swansea Vale*' but by 26th August 2010 this had been amended significantly to read '*To consider the formation of a*

Member led Task & Finish Group to look at Gypsy Traveller site provision', i.e., much broader terms of reference.

- 4.2.3 What was not clear, however, was the extent to which the considerations of one of these drivers (the need to address the situation in Swansea Vale) influenced people's thinking when addressing the broader policy issues, consciously or otherwise.
- 4.2.4 Even so, it is clear that there was a strong feeling among several witnesses outside the council, that officers had been working to obtain a solution to the issue of the Park and Ride site and that this formed an essential backdrop to the search for additional provision Gypsy Traveller site, consciously or otherwise, although officers insisted that they had acted strictly within the criteria set for them, an issue which is discussed below
- 4.2.5 In setting the terms of reference for the Task and Finish Group in August 2010, Cabinet considered two options:

Option 1

- a) Review and update (if necessary) the original criteria based National Guidance and current planning policy*
- b) Review a list of all council-owned and including council-owned land allocated for housing*
- c) Assess the sites against the criteria and rank those sites in order of those best meeting the criteria*
- d) Produce a working list of no more than 10 sites for more detailed assessment*
- e) Complete the detailed assessment and produce an options report*
- f) Task and Finish group to complete this work within 6 months*

Option 2

- a) Complete a review of all council owned land and council land allocated for housing*
- b) Produce a report setting out options.*

The Committee noted that the search was restricted to council owned land as such sites were thought to be more easily deliverable within a relatively short timeframe. The Committee also heard that no interest from other land owners was forthcoming as part of the UDP process (which referred to a need for a Gypsy Traveller site).

4.2.6 It resolved to undertake the less prescriptive of the two options (Option 2), to consult the Gypsy Traveller community on the outcomes and to produce a report setting out the options for moving forward.

4.2.7 It is not clear why Cabinet felt it was necessary to make that change, but it did remove the responsibility for choosing a preferred site from the Task and Finish Group, and in doing so Cabinet increased the opportunity for the Gypsy Traveller community to be consulted.

4.2.8 However, work that became a priority because of a specific issue at the Park and Ride site turned into a much wider undertaking to address the council's responsibility to make appropriate provision for Gypsy Traveller families.

4.2.9 A number of those who gave evidence to the Committee doubted whether the terms of reference given to the Task and Finish Group contained sufficient detail. In addition, some questioned the legality of the use of Task and Finish Groups, maintaining that there was no provision for these structures. It is clear that Cabinet wished to delegate the work to a body of elected members, on the basis that it could do so (as it was the ultimate decision-making body in the matter), and that there was a need for the process to be led by members rather than officers. The Task and Finish Group met on a monthly basis from November 2010 to August 2011 and thereafter met on four occasions in 2012.

4.2.10 The Committee heard evidence from a number of Cabinet Members, including those who had held posts in 2012-14 and during the tenure of the previous administration (2004-12). These included the Leader of the Council (2004-12), the Leader of the Council 2012-14, and the Cabinet Member for Place (2012-14).

4.2.11 Key questions that were put focused on the extent to which the process had been overseen by elected members with executive responsibility and whether their involvement was appropriate. The issues raised included:

- To what extent should elected members with executive responsibility be involved in the process and to what extent should it be left to officers working to agreed criteria and protocols?
- Who had overall responsibility for overseeing the process when a Cabinet Member was unable to take responsibility because one of the sites was in her ward?

4.2.12 It became clear that a combination of factors affected the extent to which Cabinet Members were involved in the work, including a) the fact that the Cabinet Member for Place in 2012-14 had quite rightly declared her interest in the matter because one of the sites under consideration was in her ward and was therefore not in a position to oversee the process and b) the view of both previous Leaders that they were determined to avoid undue political influence on the process. As a consequence, notably since 2012, there has been no identifiable political responsibility in this process. The Committee was made aware of confusion and different perceptions about the role of certain Cabinet Members and leadership. Members recalled that Councillor David Phillips had described the process as 'deeply flawed' but this was not an aspect of the issue that he highlighted in evidence to the committee. It is also unfortunate that former Councillor Nick Bradley (who served on the Cabinet and acted as Chair of the 2nd Task & Finish Group) did not contribute evidence to this review, despite a number of requests.

4.2.13 The Committee felt that there must be clarity about leadership, and the respective roles and responsibilities of those involved in any future search process and relationship, whether member or officer led. This is vital for future accountability, and it is very important that there is transparency about who does what and clear terms of reference so that the purpose of any work is understood.

4.2.14 Furthermore the Committee heard concerns from members involved in the Task & Finish Group about their role in the process and their

inability to discuss their work with others. The Committee's view is that there must be clarity about the establishment and status of future Member Task & Finish Groups, and their appropriateness to assist executive decision-making. It should be clear from the outset whether such method of working is confidential or otherwise, and implications for participating councillors in relation to interests and conduct. Failure to do this puts the authority at risk of reputational damage due to a lack of public trust in policy making and the political process.

4.3 The Site Selection Process

- 4.3.1 An extensive sifting process was undertaken by officers that reduced the potential sites from over 1006 to 19. The evidence offers clear criteria to explain how a list of 19 sites was arrived at. It was less clear how these were reduced to five sites and how the eventual two sites were recommended. The evidence of Emyr Jones (*from Minutes of Gypsy Traveller Site Task and Finish Group – 8 March 2012*) stated 'these sites had been further refined utilising a stringent filtering mechanism based on relevant Welsh Government guidance which resulted in five realistic options being presented'.
- 4.3.2 The Committee heard evidence which questioned the way the sites had been selected, including specific statements questioning whether the expansion of the existing site could not be considered and there was some concern about the application of the site selection criteria. The Committee also heard detailed criticism of the criteria and arguments why certain sites, notably the Llansamlet option, were unsound. It was also noted that there was ambiguity over the exact location of the site being considered at Llansamlet and some witnesses maintained that there were two distinct areas of land included in that option. The committee noted a strong opinion in the Llansamlet area that the process was geared towards locating a second site in the Llansamlet area, and some committee members felt unable to refute such a view in light of their experience and some of the views heard.
- 4.3.3 The officer responsible reiterated that they had worked to the same criteria when judging all sites and had applied them consistently throughout.

- 4.3.4 The Committee was provided with evidence of the discussion between members of the Task and Finish Group and Council officers over members' decision to reject two options, an issue which was linked to the discussion over whether site visits should be undertaken to five sites and evidence was given that suggested that the Task and Finish Group had recommended additional sites but that these did not proceed.
- 4.3.5 According to what was reported to the Committee, the advice of the relevant Director at the time was that the criteria for including the five sites were sound but that the reasons for rejecting two of the options were not sound. Consequently, all five sites were proceeded with, reiterating the need for clarity about how much authority a Task and Finish Group had.
- 4.3.6 The Committee also heard that the members of the Task and Finish Group appointed after the May 2012 election were not informed that the previous Group had wanted to reject two of the five sites. The Committee also could not understand why the Task & Finish Group did not produce a specific report on its work and conclusions of its review of land and setting out options, in accordance with their Terms of Reference as agreed by Cabinet in August 2010. Some committee members had reservations about whether the Task & Finish Group was 'member-led'.
- 4.3.7 It is not clear whether the Task and Finish Group had the authority to reject, restore or add sites for consideration nor was it clear who should be the arbiter of what constituted a sound decision. This reinforces the message that the terms of reference of any member or indeed officer-led group need to be clear, conveyed without ambiguity, and understood by all parties from the outset.

4.4 Consultation with Gypsy Traveller Community

- 4.4.1 As was noted previously, there was a commitment to ensure that the Gypsy Traveller community would be consulted. This was an essential requirement of the Welsh Government's guidance and was enshrined

in the authority's own policy. The City and County of Swansea has an established Gypsy Traveller Liaison Forum which is responsible for discussing council-related issues with representatives of the Gypsy Traveller community. In addition, ad-hoc officer-led discussion also takes place as and when required to ensure that the authority responds appropriately to specific issues (education needs, public health, etc).

4.4.2 Documents headed 'City and County of Swansea Gypsy Traveller Meeting' indicated that a meeting was held with representatives of three main Gypsy Traveller families on the morning of Friday 7th September. Councillor Nick Bradley (chair of the Task & Finish Group) and Councillor Jennifer Raynor (a member of the Task & Finish Group) were present at this meeting along with a number of officers. At this meeting there was discussion with the families on the five sites which had been presented to the Task and Finish Group the previous April and their views. During those discussions it became clear:

- That certain sites were preferred to others
- That the nature of the use of one of the sites (at Gorseinon) meant it was not acceptable to the Gypsy Traveller community
- That certain families were prepared to share a site with other families but not with other families or occupants of a Transient Site
- That the needs assessment may have underestimated the total demand for Gypsy Traveller accommodation.

The status of this meeting is unclear to the Committee (it was not a meeting of the Task & Finish Group), nor was it clear to what extent feedback from this 'consultation' was shared with / discussed by the Task & Finish Group or considered in the assessment process at that time.

4.4.3 While the authority stated that it endeavoured to gather the views of the Gypsy Traveller community as a whole, using surveys and convening meetings with families, it was only able to obtain the views of those who took part in the process, essentially three main families, all of whom occupied pitches within the boundaries of the Llansamlet ward, either at the official site or at the 'tolerated' site. The views of Gypsy Travellers occupying sites elsewhere in Swansea do not appear to

have been obtained. It might also be worth noting that the views of Travelling Showmen on potential new sites were not gathered.

- 4.4.4 There are limits to which it is reasonable for any organisation to take a stakeholder consultation (and officers sought to make the process as inclusive and extensive as possible). Therefore it is clear that it is extremely difficult to ensure that the views of all members of the Gypsy Traveller and other Traveller groups are heard.
- 4.4.5 Although the Committee heard that views would only be weighed up at the point of decision by Cabinet, having reviewed the process the Committee felt that the appropriateness of sites for Gypsy Traveller families should have been considered more significantly, particularly given the time and resources the whole process has taken. In particular it was seen as unfortunate that two of the five sites eventually were regarded as inappropriate and unacceptable by the Gypsy Traveller families. With hindsight such a difficulty could have been anticipated at the start of the process had the views of the consultees been obtained. The effective reduction of a shortlist of five to one of three at the end of the process was felt by the committee to have impacted on public confidence in the process.
- 4.4.6 The Committee suggests that Gypsy Traveller families should be involved at the earliest stage rather than at the end of shortlisting. In addition, the status of any meeting with the Gypsy Traveller community must be clear within the overall process. The Committee heard that the authority would not necessarily be considered to have fulfilled its obligations in respect of additional provision if it chose a site which the Gypsy Traveller community found unacceptable. Therefore this is a fundamental issue. Some members felt strongly about the need for clarity about the weighting that should be given to their views, given the legal advice.
- 4.4.7 The Committee also heard evidence about the wider public consultation process and noted criticism of the purpose of consulting on a general basis when a shortlist of 5 sites was known. Although the Committee acknowledged the public consultation process elicited over 3000 comments there was also concern about the way these were

responded to e.g. points dismissed or not answered at all. The Committee was also disappointed that those submitting a response did not receive an acknowledgement.

5. The Importance of Community Cohesion

- 5.1 As was noted, both members and officers of the City and County of Swansea have emphasised the importance of positive community relationships with the Gypsy Traveller families. This was referred to in the evidence gathering sessions and also when full Council considered the matter in October 2013. It is important that the authority does everything in its power to maintain positive relationships and ensure community cohesion as it moves forward. The Committee felt that more work needed to be done to ensure community awareness and understanding to counter any discrimination.

6. Independent Scrutiny and Assurance

- 6.1 The Committee heard that in order to provide assurance with regard to the process an internal independent management review, and an external professional review was undertaken, prior to the consultation exercise. These reviews examined the criteria set, their links to regulations / policy, and the application of the criteria at each stage.
- 6.2 These reviews concluded that the process followed had been robust and completed in accordance with the criteria agreed by Cabinet. It was stated that 'professional judgement' had been used in narrowing the list to five options, although the exact meaning of this statement was not elaborated.
- 6.3 The Committee also noted that in order to ensure transparency and offer further assurance all of the information available was considered by a Senior Officer Panel in September 2013 who examined the pros and cons for each of the shortlisted sites in depth. The Panel was made up of officers across all major service areas including officers with no prior involvement in the issue.

- 6.4 The committee also heard that during the course of the process Counsel's advice was taken on a number of occasions, most notably prior to the Council meeting in October 2013. It was reported to the committee that this advice confirmed that the Council had acted rationally and lawfully throughout, and that the process was not flawed.
- 6.5 Some committee members questioned the assurance and advice sought and received given the various concerns which have emerged during evidence gathering.

7. Was this a Robust Process?

- 7.1 It is clear that set technical criteria were used against which the merits of individual sites were considered. These related primarily to physical attributes (proximity to other settlements, infrastructure, potential land use etc). However, the authority is committed to ensuring that the view of the Gypsy Traveller community is heard and recognised when making provision. This is both as a matter of principle (recognising the need to be inclusive) and a matter of practice (the authority cannot be put in a position where it provides accommodation that is not going to be used). Put simply, a site that had clear benefits from a physical standpoint might well be rejected because it was not acceptable to the Gypsy Traveller community.
- 7.2 There was, however, no evident formula or weighting that had been applied to balance the physical considerations with those of the views of the Gypsy Traveller community. The Chief Executive, in his evidence, insisted that a final analysis of where to locate additional accommodation was not an exact science, and his views were echoed by other officers, at senior strategic and operational level. This was challenged, notably in Professor Tony Beddow's evidence.
- 7.3 The Committee is not in a position to make a judgement about whether a formula or algorithm could be used and does not propose to take further expert opinion on their use in the formulation of public policy, but notes that they were not used in the consultation used as part of this process.

- 7.4 A similar issue regarding the inexactitudes of the process was heard in relation to the Accommodation Needs Assessment where again a certain amount of judgement was exercised and senior officers reiterated that this again was not an exact science.
- 7.5 Consequently, the exercise became a matter which can be described in terms of taking a balance of the evidence, attempting to marry place (the physical aspect) with people (future demand and the views of the Gypsy Traveller community about where provision should be located). This balance was an aspect of the process that could not be measured objectively. Officers, particularly those at the operational level, sought to make the process as robust and unbiased as possible in the interests of fairness, but this was undermined by the fact that a great deal of judgment had to be exercised in relation to the 'people' aspect.
- 7.6 Until there is a clear understanding of the balance of the issue of 'place' with that of 'people' it is unlikely that the process can be said to be completely scientific and robust. Furthermore, there are serious questions about whether it is realistic for any process to be able to meet both requirements. Ultimately the resolution of this whole matter comes down to a judgement by Cabinet, balancing all the information and potentially conflicting views, and decision, and adherence to the established planning process. Of course the site search process that we reviewed never reached this point.
- 7.7 The Committee acknowledges that the authority has found this a difficult, and emotive, issue to deal with and the process has drawn criticism from councillors and members of the public. The issue has caused a lot of tension and ill-feeling and has likely damaged the reputation of the authority. The Committee found that the authority followed through on the process agreed in 2010 but opinions about whether that process was the best process have been expressed. An illegal but tolerated site still exists in Llansamlet and that will continue to be the case until there is a plan to deal with this whole issue.

8. Summary of Learning Points / Recommendations

The Committee hopes that those determining future work consider the learning points which follow, to help bring about a positive resolution to this long standing issue.

It is recommended to Cabinet that:

- 8.1 The process must be clear about the implications of previous policies / decisions and relevant policy framework.
- 8.2 There must be clarity about leadership, and the respective roles and responsibilities of those involved in any future search process and relationship, whether member or officer led. This is vital for future accountability, and it is very important that there is transparency about who does what and clear terms of reference so that the purpose of any work is understood.
- 8.3 There must be clarity about the establishment and status of future Member Task & Finish Groups, and their appropriateness to assist executive decision-making. The terms of reference of any member (or indeed officer-led group) need to be clear, conveyed without ambiguity, and understood by all parties from the outset. It should be clear from the outset whether such method of working is confidential or otherwise, and implications for participating councillors in relation to interests and conduct.
- 8.4 Gypsy Traveller families should be involved, and views considered more significantly, at the earliest stage rather than at the end of shortlisting. In addition, the status of any meeting with the Gypsy Traveller community must be clear within the overall process.
- 8.5 It is important that the authority does everything in its power to maintain positive relationships and ensure community cohesion as it moves forward. More work needed to be done to ensure awareness and understanding to counter any discrimination.

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- David Evans (Housing Business Manager)
- Dave Turner (Estates)
- Cllr Uta Clay
- Cllr Penny Matthews
- Cllr Jennifer Raynor
- Cllr Chris Holley
- Cllr June Burtonshaw
- Cllr David Phillips
- Tony Beddow
- Keith Jones
- Hilary Jenkins
- Tom Jenkins
- Phillip Robins
- Lawrence Bailey

About the Committee

The following members of the Scrutiny Programme Committee participated in this review:

CLlr Robert Smith (chair)
CLlr Bob Clay
CLlr Anthony Colburn
CLlr David Cole
CLlr Ann Cook
CLlr Jan Curtice
CLlr Nick Davies
CLlr Wendy Fitzgerald
CLlr Terry Hennegan
CLlr Paul Meara
CLlr Gloria Tanner
Sarah Joiner (cooptee)
Dave Anderson-Thomas (cooptee)

The review was supported by Brij Madahar from the Council's Scrutiny Unit.

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Agenda Item 8.

Report of the Cabinet Member for Finance & Strategy.

Cabinet – 21 April 2016

UPDATE OF ASSET MANAGEMENT PLAN 2013/17

Purpose:	To update on progress to date with regards to the Corporate Asset Management Plan for the period 2013/17.
Policy Framework:	Asset Management Plan 2013/2017
Reason for Decision:	Following the recent WAO Corporate Assessment it was an identified action that an update on the 2013/17 AMP was to be reported to Cabinet.
Consultation:	Legal, Finance, Access to Services
Recommendation:	It is recommended that: 1) Cabinet note and endorse the identified actions.
Report Author:	Geoff Bacon
Finance Officer:	Paul Roach / Jayne James
Legal Officer:	Wendy Parkin
Access to Services Officer:	Phil Couch

1.0 INTRODUCTION

- 1.1 By virtue of report to Cabinet on the 25th April 2013, the Asset Management Plan for property assets (AMP) for the City and County of Swansea for the four financial years from 2013/2014 to 2016/2017 was adopted.
- 1.2 The purpose of the Plan was to cover all land and buildings owned by the Council (including operational premises and investment assets) for an extended period allowing longer term planning and more streamlined approach to concentrate on well-established work plans and key priority initiatives.
- 1.3 It was identified that the key priority for the Authority moving forward was in relation to financial efficiency maximising revenue cost and maximising capital receipts.

- 1.4 The relevant priorities attempted to match however possible and were captured under the key headings as follows:-
- Corporate Office Accommodation Strategy
 - Carbon Reduction Strategy
 - Disposal Programme
 - QEd 2020
 - Performance Management
 - Backlog maintenance and condition ratings
 - Investment Portfolio
 - Shared Use of Facilities
- 1.5 Updates on these key priority areas are set out below; however, further activity has also been undertaken as Assets is a stream within the Wider Sustainable Swansea Programme.
- 1.6 Furthermore, as a recommendation of WAO's Corporate Assessment, actions were agreed to report to Cabinet on the Asset Management and to ensure services identified the asset requirements in their Business Plan.
- 1.7 The aim is to align resources around review activities still within the remit of financial efficiency maximising income, reducing cost and maximising capital receipts This report acts as a "midterm review" and sets out below the activities and outcomes achieved to date and also sets out the key actions for information to make sure that these "still hold true" and all aligned to the sustainable Swansea programme and recognise the widening financial challenges both capital and revenue.

2.0 UPDATE ON PROGRESS, OUTCOMES OPPORTUNITIES AND CHALLENGES

A brief summary of the progress against the above key headings is set out below:

2.1 Corporate Office Accommodation Strategy

2.1.1 Progress

The Council's accommodation strategy previously approved is progressing well in relation to rationalising all office accommodation and in line with the completion of the final phases of the refurbishment of the Guildhall. This has led to the release of a number of significant satellite buildings generating capital receipts and meeting targets currently set out within the Wider Sustainable Swansea Programme.

The current activity relates to the decant of the remaining staff within Penllergaer Civic Centre, which is currently being marketed for disposal with key activity during 2015 relating to the relocation of Councillors and support functions to the Guildhall, creation of joint community hubs working with Health colleagues and the relocation of Social Services staff into an agile

environment at the Guildhall enabling the release of three floors of Oldway by June 2015. Beyond that date and to coincide with the marketing of Penllergaer Civic Centre the relocation of Housing and Transportation staff to the remaining accommodation within the Civic Centre and Guildhall has been completed.

All of the above activity is closely linked into the creation of a more agile working environment to assist in reducing cost and also the additional burden created by the limited car parking arrangements. One of the key strands of the Agile Working Project is the reclassification of staff into fixed, flexible and mobile workers.

2.1.2 Outcomes

- The successful relocation of over 1,000 staff
- Increased densities of occupation from 16.65m² per FTE to 8.98m² per FTE and this is continuing to reduce.
- Generation of revenue savings to date of £500,000 with the next expectation of annual revenue savings in excess of £1,000,000 by 16/17.
- Generation of capital receipts to date of £500,000 further expectation of £3m+ by 16/17.
- Acceleration of the programme by 12 months realising earlier savings
- Creation of a single accessible contact centre for all Council services.
- Provision of shared accommodation to a variety of public sector organisations to improve efficiencies and to improve service deliver.
- Reduction of the Council's backlog maintenance by a figure in excess of £100M through the closure and disposal of a range of assets.
- Significant carbon reduction due to reducing the estate referred to below – circa 569 Tonnes.
- The introduction of Agile working, and developing the evolving pattern of work is increasingly mobile, collaborative and technology enabled. The smarter ways of working enabling staff to be more productive.

2.1.3 Opportunities

- Commercial approach taken has freed up space in the Civic Centre due to intensification of occupancy through the Agile Working Programme.
- This has reduced the space requirements for City Centre relocation as part of the wider regeneration, reducing cost but also creating a commercial environment that can be ultimately transferred into a fully-fledged FM "company".

2.1.4 Challenges

- The current programme is a significant resource intensive process that could be reduced if there was a greater understanding from a manager's

perspective of the level of the needs of their services and a greater acceptance of the Corporate programme.

- Any relocation or reorganisation of office accommodation requires input from the same resources identified to deliver the accommodation strategy and therefore risks the delivery of this programme.
- Whilst it is generally accepted that the agile working programme will ease pressure on ICT infrastructure, cost and travel time it seems that many senior managers are still not totally signed up to this change in culture.

2.1.5 Recommendation

- To reinforce the direction of travel in relation to the existing Accommodation Strategy and reiterate the programme with all senior managers.
- To drive further rationalisation as part of sustainable Swansea and any City Centre regeneration proposals and proceed with the release of commercial space in the Civic Centre.
- To pick up the pace of agile working in terms of IT infrastructure and HR policies and procedures minimising dependence on “buildings”
- To ensure the programme is fully embedded and aligned with all assets of Sustainable Swansea.

2.2 **Carbon Reduction Strategy**

2.2.1 Progress

The City & County of Swansea continues to maintain progress on the projects and programmes reported within the Carbon Reduction Strategy (CRS) and Action Plan (2011). The CRS committed the Council to reduce its carbon emissions by 30% over a 10 year period from 2009/10, with results reported annually. Failure to achieve this has significant environmental and financial implications.

The cost of energy for the Council in 2013/14 was £6.86M which included Street Lighting and the operation of non-domestic buildings and facilities. More accurate energy bill payments and energy / carbon data reporting continues to be implemented with the installation of over 500 SMART meters.

2.2.2 Outcomes

- A 17% reduction in total carbon emissions from the 09/10 base years.
- Carbon reduction results from the 09/10 base year are delivering an energy cost avoidance of £1.4M per annum at current electricity, gas and oil charges.
- A reduction in the average Display Energy Certificate score achieving targeted result.
- A £28K direct cost saving with the advanced purchase of 35,000 carbon credits for anticipated carbon emissions during 15/16.
- Installation of Solar PV on four Primary and two Secondary Schools.

2.2.3 Opportunities

- To offset energy cost increases renewable energy opportunities continue to be explored with six Solar Photovoltaic (PV) arrays, generating energy cost savings and FIT income of circa £16K per annum.
- A Solar PV framework contract is currently being developed by the National Procurement Service.

2.2.4 Challenges

- The Council has experienced an 80% increase in overall energy expenditure since 2003 and the further implications of CRC mean that the financial incentives for reducing energy use and carbon emissions are becoming increasingly significant.

2.2.5 Recommendation

- Continued implementation of energy efficiency and carbon management projects and programmes in line with the Council's Carbon Reduction Strategy Action Plan.
- Extend the principles to a wider energy strategy including innovative additions to the programme and commercial opportunities.

2.3 **Disposal Programme**

2.3.1 Progress

- On the 20th February 2013, Cabinet approved the Council's Disposal Strategy which was intended to generate £34m of capital receipt, which in part would support the forward Capital Programme. However, despite approving this ambitious programme there was still a shortfall at the time of circa £7M. However since that time the gap has significantly increased and as such Cabinet has reinforced the need to identify additional sites for inclusion.
- Furthermore, the Disposal Programme has now been widened to include all land including previously ring fenced school sites into a single programme. This has clarified the position but the current gap in the Capital Programme for 2016/17 remains challenging at £30.085m.
- Subsequent management changes within the organisation have enabled the more rapid delivery of the Disposal Programme to ensure less divergence of responsibilities and this has proved successful in meeting expected targets.
- The priority has been on bringing properties to the market quicker, utilising more effective methods of disposal and keeping the consultation process as streamline as is possible. Furthermore, the various strands of activity programmed within the existing Asset Management Plan and as part of the Wider Sustainable Swansea Programme our aim is also to reduce costs and general revenue, but also generate capital receipts through the release of assets.

2.3.2 Outcome

- A more co-ordinated approach to disposals enabling better financial marketing
- The approval by Cabinet of a 4 year disposal programme.
- 500+ assets disposed of over the last 5 years amounting to in excess of £19M.
- The completion of the area review mapping process which has, so far, identified 94 opportunities in ten Wards.
- An additional 15.5 hectares of residential development land identified as candidate sites in the LDP.
- 252 small sites identified through the Universal Review as having development potential.

2.3.3 Opportunities

- There are significant strategic opportunities still under investigation.
- As referred to above other opportunities have been considered as part of the wider investigation work across all Wards through the Area Review linking into emerging sites as part of the LDP process.
- Further work has also been undertaken with regards to analysis of the Investment Portfolio to establish those assets to build on work already undertaken in identifying those assets which do not perform to a sufficient financial level. For example 3 small industrial estates are to be sold as they were showing IRRs between 5-8% over a 10/20 year period due to future cost liabilities.
- To supplement this process consultants have been appointed to undertake a high level analysis of all the income producing assets to establish levels of performance and to consider retention/disposal.

2.3.4 Challenges

- The widening gap in the Capital Programme of £30.085M across general fund and the QED Programme.
- There is a need for clarity as to what extent disposals can contribute to the widening capital deficit and some unrealistic expectations as to some of the likely values realised.
- The £30.085m gap is on the basis of the existing capital programme.
- There is a need to accelerate the process of disposals wherever possible and implement agreed decisions.

2.3.5 Recommendation

- To review the existing portfolio not included in the current disposal programme and identify those additional assets for inclusion in the next iteration of the disposal programme.

- To consider the disposal programme within the context of the wider capital programme as part of future financial reporting.
- To link the single programme to the wider review of commercial assets referred to below.

2.4 QED 2020

2.4.1 Progress

Whilst the QED 2020 Programme exists in its own right and as a strategic programme within the Authority, there is significant property input in particular around analysing land declared surplus to operational requirements and to enable disposal to part fund the Programme.

This has continued to prove contentious and consequently over the last 12 months activity has stalled whilst clarification of instruction and a way forward have been sought. This has now been achieved in a number of cases and discussions continue to be held with Education colleagues around proposed feasibility options.

2.4.2 Outcome

- £1.25M of capital receipts achieved to date.
- Analysis of £12M capital receipts undertaken.
- Previously, delay and confusion around the process stalled any further receipts,, however, this has now been clarified by way of the Updated Disposal Strategy of 17th September 2015.

2.4.3 Opportunities

- Opportunities still exist with regards to the greater and public use of school buildings to link into the Wider Asset Review.
- There is still an opportunity to realise further significant disposal values from surplus school land

2.4.4 Challenges

- Previously, uncertainty around the ability to proceed with disposals has led to a significant reputational issue for the Council in its ability to deliver what was originally intended.
- There are no easy decisions to be made about the disposal of surplus school land.

2.4.5 Recommendation

- Cabinet have now confirmed that in future there will be no ring fencing of Education disposals. Those areas of school land approved for disposal by

the relevant school governors will proceed to disposal. It is, however, accepted that this is likely to lead to a reduction in overall receipts.

- Future disposal programme will retain a single list including any schools based land and assets.

2.5 Performance Management

2.5.1 Progress

As was outlined in the current AMP, the aim was to streamline Performance Management arrangements in accordance with the previous report on Asset Management from Price Waterhouse Coopers and this has continued to be a key activity in relation to the Technology Forge IT system. Further role out in its use has been ongoing to ensure better mobile working to capture all property data which will enable better reporting on operational assets to assist in relation to a wider review process. This was an issue that was raised during the recent corporate assessment and further justification has been provided to the Auditors.

2.5.2 Outcome

- Technology Forge – Update on key data and rolled out to other service areas.
- The acceptance in principle of the corporate landlord function and assets and not service specific
- Supporting Key PIs for Balanced Scorecard – 20% reduction of operational portfolio; 20% improvement in office occupation densities.
- Link to WG reporting and ePIMS

2.5.3 Opportunities

- Further opportunities to expand the use of Technology Forge to have a full understanding of the Council's asset base and its performance.
- Additional local PIs to identify and analyse performance in particular around investment returns.

2.5.4 Challenges

- The asset needs of the future front line services are still not clear, leading to difficulty in pushing operational efficiency – will need improvement in links to business planning and commissioning reviews.
- Resource requirements are needed for the wider roll out of graphics project and it is not easy to make the direct link between further efficiency and financial benefit.
- There is the need to continue to remind all areas that we have a corporate landlord function and corporate responsibility for assets.
- There is a significant opportunity for agile/mobile working; however, the greatest challenge is the ability of existing ICT policy to match that need.

2.5.5 Recommendation

- Greater visibility of outcomes and improving performance is needed potentially via Sustainable Swansea/Efficiency Board and asset management group.

2.6 Backlog Maintenance and Asset Condition

2.6.1 Progress

There has been significant progress in reducing the overall backlog maintenance and the general condition rating of building assets. This has been through a number of means including:-

- Capital Maintenance Programme
- QED Programme within Education
- Other capital programmes and grants
- Asset sales and disposals

2.6.2 Outcome

- Reduction of school backlog maintenance of 27% from £164,657,000 in 2008 to £118,968,270 in 2015.
- Reduction of non-school assets backlog maintenance of 23% from £193,692,878 in 2008 to £149,424,952 in 2015.
- Although if factoring in inflationary increases the reduction in real terms across the portfolio would equate to over 30% and circa £110M.
- Reduction of 'D' rated assets from 104 assets in 2009 to 15 assets in 2014 (although criteria amended).
- More fit for purpose 21st Century school learning environments
- Reduction in energy and carbon usage.
- Increased longevity of asset and maintained business continuity and service delivery.

2.6.3 Opportunities

- Further opportunities exist as part of the proposed accommodation strategy and wider asset management plan and QED including the following examples.

Asset	Backlog Maintenance Figure (£M)
Penllergaer	£5,356,340
Civic Centre	£26,172,092
Manselton	£6,912,858
Cwmbwrla	£1,868,654
Gowerton	£2,214,439
Lon Las	£2,403,583
Pentrehafod	£3,049,100 (Band A project will help reduce BMF)
Pentre'R Graig	£2,083,127 (Band A project will help reduce BMF)
Gorseinon	£1,736,189

- In addition the continued investment of capital maintenance programme will reduce the figures above but also mitigate H&S and business continuity risks.

2.6.4 Challenges

- It is understood that it may be difficult to maintain the level of future capital investment i.e. capital maintenance budget although if this is reduced that there will need to be a corresponding reduction in the number of assets to avoid a deterioration of the building stock.
- In addition whilst there is a positive impact by way of the QED Programme, this will only affect a small percentage of the overall education asset portfolio and as such only partially reduce the backlog figure.
- Also given the age and current investment within the assets the future deterioration will increase. This will have an impact on the building resilience and the ability for service departments to operate from them.

2.6.5 Recommendation

- Either retain current level of investment or reduce asset base to equate to and reduce level of investment as part of Sustainable Swansea asset strand.

2.7 Investment Portfolio

2.7.1 Progress

The commercial property sector continues to stabilise which has assisted in maintaining income levels for the commercial estate, whilst at the same time ongoing analysis is identifying those assets which are not performing at the

appropriate financial level and where disposal, investment or alternative arrangements could be considered to release value.

2.7.2 Outcome

- Increased income achieved the past five years and amounting to £330k (excluding Quadrant).
- Disposal of underperforming assets has produced capital receipt in excess of £1M.
- Identified further disposals expected to achieve in excess of £3M.

2.7.3 Opportunities

- Opportunities exist around the ability to acquire assets to increase financial performance, however, previously it has not been considered on a more proactive basis.
- The opportunity to consider those assets performing below a certain base level will result either in them “paying their way” or being included in the proposed disposal programme.

2.7.4 Challenges

- The ability to firstly identify those poor performing assets is a significant resource intensive process and subject to subjectivity. This is now to be supplemented through the procurement of “commercial advice” on the portfolio.
- The need for agreement as to what is a sufficient rate of return to maintain the asset as “revenue producing” as opposed to disposals and part of the capital programme.
- The ability to rationalise the investment portfolio is limited to market demand and the responses of those best placed to acquire is often dependent upon timing.
- This assists in terms of the Capital Programme but will have an inevitable knock on effect on revenue generated; however, this is currently being managed through identification of alternative opportunities.

2.7.5 Recommendation

- To consider the proposed “criteria for retention” and as such in principle those assets for inclusion on the disposal programme.
- To consider recently procured external advice to ensure the existing approach is sufficiently robust and to consider any additional opportunities to generate income/capital
- To consider the “corporate” approach to all income producing assets as part of the external advice.
- To consider the opportunities to acquire income producing assets to improve returns to CCS.

2.8 Sharing of Facilities

2.8.1 Progress

A continued attempt to work collectively with public and third sector partners proactively actioned through the Ward/area review. This not only has been used as a catalyst to identify sharing opportunities, but is also to prompt a wider review of the operational estate to ensure maximisation of efficiencies and in many cases to retain services. Continued sharing opportunities exist with Health in relation to Community Hubs, but also through the formulation of a Community Asset Transfer Policy.

The Area Review activity has concluded and ongoing individual opportunities are being identified and actioned wherever possible. This has led to successful proposals in particular in the Gorseinon area.

2.8.2 Outcome

- The Council has moved towards the creation of a corporate landlord function through the centralisation of the Corporate Property functions and budget.
- Mapping of all Wards and Community Councils completed and consultation with Ward Members ongoing.
- Opportunities across all Wards being captured.
- Ongoing support and liaison with public and third sector via Local Property Board.

2.8.3 Opportunities

- A significant opportunity for sharing of assets within the public and third sector.
- Opportunities to utilise the major local assets of schools premises.
- To maximise commercial opportunities and to ensure full cost recovery.

2.8.4 Challenges

- The desire of schools to create more public access for assets is limited.
- The delegation of premises budgets leads to difficulties with regard to the desire of service departments to share assets.
- The fact that the Authority is not in a mature enough position to understand its real service needs as identified in the WA Corporate Assessment leads to a lack of desire to release buildings for sharing.

2.8.5 Recommendation

- Further opportunities to be explored, maximising the financial opportunities and Commercial potential as part of sustainable Swansea programme and to continue with centralisation of all Corporate Property and Facility Management functions and budgets.

- To ensure future asset requirements are clearly identified in the service planning process.

3.0 SUSTAINABLE SWANSEA

It is noted that the Current Asset management plan drafted prior to the 2013/14 financial year was in advance of the formal Sustainable Swansea programme. However there are clear links and expectations that the asset programme is fully embedded within sustainable Swansea under the efficiency strand. As such it is necessary to continually “cross check” the programme and recommendation above with the direction of Sustainable Swansea and although the section below may duplicate some of the above content it is better to ensure that things are included than missed so that the interdependencies are clearly identified.

3.1 Progress

The asset strand of Sustainable Swansea is proceeding well as it encompasses work around the Accommodation Strategy, activities around the review of all assets on an area basis, and specific additional projects such as the Depot Review and other asset related activities around works of art.

It is, therefore, proving successful in that there is a very clear steer in terms of the corporate requirements to make these savings which is reinforcing the desire for the corporate landlord function against the backdrop of specific budget targets.

3.2 Outcomes

- Revenue savings achieved against the Accommodation Strategy are above target expected to be in excess of £1M once closure and disposal of Penllergaer has been affected.
- Savings against ongoing revenue premises costs achieved ahead of target primarily due to the proactive project including NNDR and “appealing” the 2010 rating list. Current savings in excess of £500,000 across schools and non-schools premises, plus one off rates rebates in excess of £1M.
- Mapping of all assets on an area basis has been concluded with consultation with Ward Members. Significant opportunities identified and already being actioned in relation to Gorseinon and other cost cutting opportunities.

3.3 Opportunities

- Further opportunities being made apparent through commissioning review and other specific corporate projects around storage, training and specific Social Services Teams.

3.4 Challenges

- The greatest challenge in relation to producing savings around revenue premises costs is that in almost all situations any revenue savings against

alterations to operation activities will include premises cost. Therefore, there is double counting which will mean that the saving targets already expressed will be affected. This has been evident in for example Library Service Review, Closure of Plantasia, Outdoor Education Centres, Public Toilets, etc.

- There is significant double counting of savings across various initiatives.

3.5 Recommendations

- The corporate focus of the Asset Strand has been critical in reinforcing the corporate landlord approach. There needs to be increased visibility through regular reporting of the outcomes of the strand to ensure continued “buy in” to the corporate message.
- To proceed with the ongoing task of centralising all property/facilities related costs – NNDR, utilities, cleaning, security, postage, etc. with the aim of concluding by the end of 16/17.
- Complete specific work strands around depot rationalisation and area based asset rationalisation.

4.0 SUMMARY

The aim of the proactive Asset Management Plan of the last few years has been to ensure that the Asset Portfolio meets the need of the Authority whilst at the same time saving on revenue costs and generating capital receipts. This has been achieved and can be demonstrated through performance outcome:-

- Accommodation – Increased occupation densities from 16.65m² per FTE to 8.98m² (as at March 2015) and revenue cost savings in excess of £500,000 achieved to date.
- Maintenance Backlog reduced in real terms by £110M with 89 buildings improvement asset categorisation from D to C.
- Capital Receipts generated in excess of £19M of disposals of 500+ individual property interests.
- Reduction of the operational estate of circa 10% through the disposal of surplus and vacant assets, identification of assets for sale and proactive Community Asset Transfer proposals.
- Continued increased income in excess of £0.33M with further additional targets identified for 15/16. Against the backdrop of the disposal of income producing assets to produce capital receipts.

The current challenges faced are to accelerate all review activity concentrating on the widening Capital Programme gap. In addition there is a critical need to meet the operational needs whilst achieving revenue targets of the operational and non-operational estate. This includes:-

- The continued proactive Area Review approach.
- Ongoing cost cutting reviews commissioning etc. and forcing services to challenge their asset holding as part of the Business Planning process.

- Continuing to reinforce the Accommodation Strategy principles further enhancing agile working.
- To proceed with the identified opportunities of the QED Programme.
- To consider selling strategic investment and operational assets and accept the consequential revenue and service impacts.
- To continue with the centralisation of all property related premises costs to ensure the consolidation of the corporate landlord. To include – NNDR, utilities, cleaning, security, postage, etc.

5.0 EQUALITY AND ENGAGEMENT IMPLICATIONS

An EIA screening form has been completed and reviewed. The agreed outcome was that a full EIA report was not required as there are no equalities and engagement implications at this time.

6.0 FINANCIAL IMPLICATIONS

Capital Finance – In accordance with current policy, the capital receipts generated from disposals arising from this asset management plan will contribute towards the Council's overall capital receipt target to fund the capital programme and will not be allocated for any other specific purpose.

Individual FPR7 reports will be prepared as schemes are developed.

7.0 LEGAL IMPLICATIONS

The Council's Land Transaction Procedure Rules will apply to any acquisitions or disposal of land. There is a strict legal obligation under Section 123 of the Local Government Act 1972 to achieve best consideration reasonably obtainable for land. Furthermore, all disposals need to comply with the European Commission's State Aid Rules and it is the Interim Director of Place or his nominee who will need to provide the best consideration certification but if there are situations where officers wish to consider a lower financial bid in terms of overall best consideration, the Head of Legal and Democratic Services or his nominee must be consulted and the appropriate implications advice given. In any dealings with land, proper regard will be had to professional advice from the Interim Director of Place or his nominee and/or the Head of Legal and Democratic Services at all relevant stages during the process. No disposal shall progress except in consultation with the Interim Director of Place or his nominee.

BACKGROUND PAPERS: Asset Management Plan 13/14 - 16/17

Appendices: None

Report of the Cabinet Member for Education

Cabinet – 21 April 2016

LOCAL AUTHORITY GOVERNOR APPOINTMENTS

Purpose of Report:	To approve the nominations submitted to fill L. A. Governor vacancies in School Governing Bodies.
Policy Framework:	Policy and Procedure for Appointment of L. A. Governors as amended by Council on 23 October 2008.
Reason for Decision:	To ensure vacancies are to be filled expeditiously.
Consultation:	Education, Legal, Finance.
Recommendation:	It is recommended that: - 1. The nominations be approved, as recommended by the LA Governor Appointment Panel.
Report Author:	Allison Gough
Finance Officer:	Pini Patel
Legal Officer:	Stephanie Williams
Access to Services Officer:	Sherill Hopkins

1.0 The nominations referred for approval

1.1 At the meeting of the L.A. Governor Appointment Panel held on 24th March 2016, nominations were recommended for approval as follows:

1. Cwmglas Primary School	Mr Kevin Alexander
2. Portmead Primary School	Mr Wynne Griffiths

3. Birchgrove Comprehensive School	Cllr. Penny Matthews
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2.0 Financial Implications

2.1 There are no financial implications for the appointments; all costs will be met from existing budgets.

3.0 Legal Implications

3.1 There are no legal implications associated with this report.

4.0 Equality and Engagement implications

4.1 There are no equality and engagement implications associated with this report.

Background papers: None

Appendices: None

Report of the Cabinet Member for Finance & Strategy

Cabinet – 21 April 2016

UPDATE ON CONTROL OF VISITOR CAR PARKING AT THE CIVIC CENTRE

Purpose:	To update on proposed arrangements for visitor parking at the Civic Centre and introduction of the previously agreed charging regime.
Policy Framework:	Local Transport Plan and Asset Management Plan 2013/17
Reason for Decision:	To update on the introduction of the car parking charging system for visitors in according with the decision agreed by Cabinet on the 17 th November 2011.
Consultation:	Legal, Finance, Highways, Access to Swansea
Recommendations:	It is recommended that Cabinet: 1) Proceed with implementation of Pay and Display system in the Civic Centre Visitors Car Park.
Report Author:	Geoff Bacon
Finance Officer:	Paul Roach / Jayne James
Legal Officer:	Patrick Arran/Wendy Parkin
Access to Services Officer:	Phil Couch

1. Introduction

- 1.1 Following an initial report in 2011 and subsequently in November 2015, it was agreed that a further report be brought back to consider the options available for charging Civic Centre. More specifically that report stated:-

Members are reminded that a proposal was agreed by the previous administration to implement charges for visitors to the Civic Centre to aid congestion. The recommendations of this report dated Thursday 17th November 2011 have not yet been implemented although the TRO process was completed.

Whilst it is understood that the suggested charging of visitors who are often invited to the Civic Centre to access council services may be sensitive this should be considered alongside many of the other council proposals for budget reductions which are likely to be extremely onerous. As such it is recommended that this proposal is “revisited” with a revised report outlining potential income opportunities being considered as part of the “charging and trading” setting during the 2016 budget process

- 1.2 It is apparent that there is continued abuse of the visitors parking arrangements. This has led to long term blocking of spaces which needs to be remedied by way of proper enforcement to ensure the Civic Centre operates effectively not only as a public access building but also as an office base for 1400 staff.

2.0 Options

- 2.1 **Consideration is being given to charging** for visitors to both the East and West Car Parks, although this will rely on enabling works which differ, depending on the chosen option. It is though expected that proposals to charge for visitors in the East car park will be implemented as soon as the Traffic Regulation Order is in place (See Para. 5.0 below) however, implementation at the West will not be brought in until it is considered that it is a viable commercial opportunity. There are two options that can be considered and both are in place at various Council Car Parks.

2.1.1 Option 1 – Pay on Exit.

This would involve visitors collecting a ticket on entry. Once they exit the building, the ticket will need to be validated at a pay station and the appropriate payment made. The ticket will then be endorsed allowing exit. This system is common place in many car parks. The new infrastructure which would be required includes entry ticket machines, pay on foot terminals and new barriers to the East and West Car Parks.

As all individuals have to pay to exit the car park, it is not possible to avoid payment and limited management of the system for compliance is required.

Total Cost Option 1 - £65,000 per car park inclusive of equipment, civils costs and installation.

2.1.2 Option 2 – Pay and Display.

With this option, visitors would pay on entry based on the amount of time they expect to be in the building. As with option 1 above, some infrastructure works would be required, including new pay and display terminals. However, there would not be a requirement for new barriers, as the system would rely on parking enforcement for its “policing”.

This could mean some avoidance and is dependent on the extent of resourcing and enforcement which could also yield fines, in addition to the parking charges themselves.

Total Costs Option 2 - £22,000 per car park inclusive of equipment, civils costs and installation

2.2 Charges

It was previously agreed that rates over this time would be based on other Council car parks in the City Centre, with the equivalent charges being levied in excess of any free period, i.e. up to 3 hours charged at £3.50;

Currently the charges to the City Centres, City and County of Swansea Pay and Display (P&D) Car Parks are as follows:

- Up to 1hour £1.20
- Up to 2 hours £2.40
- Up to 3 hours £3.50
- Up to 4 hours £4.50
- All day £7.00

The previous Cabinet decision in 2011 agreed to allow an initial two hour free parking for visitors with the view that this was to be reviewed after three months of operation to gauge its effectiveness in reducing congestion and any ongoing abuse of the system.

The Council could propose free parking after a certain time, which would be 9.00 p.m. in line with Paxton Street.

3.0 Other Considerations

3.1 Staff Visitors

If charging is to be implemented, a decision will be required on how to deal with staff visiting from other buildings. If they were required to pay for visitor parking, in addition to their permit for another location, then this would seem unreasonable.

The intention is that staff or invited guests would be directed to the West Car Park, so that the visitors car park is used as intended for short stay visitors to the Civic Centre. Arrangements for staff visitor parking will be managed through the Facilities Team.

3.2 Staff permit arrangements

An important consideration that Cabinet need to be aware of is the existing permit arrangement for staff car parking.

Since 2011, in accordance with the agreed accommodation strategy there have been a number of moves in and out of the Civic Centre with little effect on parking. The recent disposal of external office accommodation as a result of the accommodation strategy and the introduction of agile working has resulted in a significant improvement in the efficient use of office accommodation at the building. Consequently more staff will be accommodated at the Civic Centre than previously. The recent relocation of the Housing department has already caused some congestion under the current allocation of spaces.

Furthermore the accommodation team are currently working on a programme to relocate approximately 100 staff from one floor of the Oldway centre and a further 135 Community Hub staff into the Civic Centre by June 2016. This influx of staff will result in the demand for parking exceeding the number of available spaces.

The intention has always been to revisit all permit allocations at the building prior to any further moves to align the parking arrangements with those already in place at the Guildhall. This will mean that staff will be allocated into one of the 3 work style categories (mobile, flexible or static). As a result of this categorisation the assumption will be that only mobile and flexible staff will be allocated a parking space at the building. Those staff allocated as a 'static worker' will not automatically qualify for a permit under the new arrangements but will be offered alternative travel options for example High street car parking or the use of one of the staff travel discount schemes. Any future moves into the Civic Centre (including Oldway and the Community Hub) will be allocated permits under these arrangements.

An Equality Impact Assessment (EIA) has been completed to reflect the changes in the scheme and discussed with the Equalities team, with the details shown in section 4 below. In relation to employees, information on staff currently allocated a permit has been sent to Heads of Service to be assigned into one of the 3 work style categories.

It is aimed to inform staff of their allocation by mid-April to enable staff to make alternative arrangements where needed prior to the go live date in May. A communication plan will be drafted to ensure staff are kept up to date with these changes prior to implementation in May 2016.

4.0 Equality Impact Assessment

A full EIA report has been undertaken with agreed actions implemented. The action plan does include monitoring the effects of the proposal on attendance at the Civic Centre (for whatever reason) and this will need to be undertaken at the relevant time to ensure the implementation is proceeding as expected.

There is dispensation available for Members of the Public and other external visitors who have been invited to attend meetings or events in the Civic Centre as it is the main building with public access and so hosts events, etc which attract People from across our area and beyond.

Publicity and notice should be given to those individuals and groups who are regular visitors - to enable them, if necessary, to make other arrangements.

5.0 Traffic Regulation Orders

In order to enforce the above proposals Traffic Regulation Orders (TROs) would be required. Officers in Highways and Transportation have advised that due to insufficient resources, implementation of updated TROs would not be possible until the end of 2016/17. For this reason it is considered that the previous barrier/token system is reintroduced to gain some form of control in the interim, this can be continually reviewed and monitored for effectiveness up to that point.

6.0 Financial Implications

Capital

- 6.1 The capital cost of the works and traffic regulations cost are estimated to cost £65k or £22k for each car park depending on which option is chosen, a total of £130k or £44k. This will be funded from the unallocated balance in the Building Capital Maintenance budget. Appropriate FPR and CPR procedures will be complied with.

Revenue

- 6.2 The ongoing revenue costs will involve maintenance on the new machines and in the case of option 2 the potential of extra policing costs. These additional costs for administration will be funded by income received. Any income achieved as a result of the proposals will be taken into account as part of the budget setting process.
- 6.3 It is difficult to estimate the income generated from visitors currently using the car park as an analysis of time spent has not been carried out and in any event, charging is likely to reduce overall usage. On the basis that there will be a free period then it is not expected that any significant revenue will be generated.

6.4 It should be noted that any payments received will be inclusive of VAT and as such the income to the Authority would need to reflect the net amount received.

6.5 The cost of reintroducing the barrier/token system to the East Car Park is minimal other than the cost of purchasing tokens.

7.0 Legal Implications

7.1 The Traffic Regulation Orders detailed in paragraph 5.0 of this report would have to be implemented in accordance with Road Traffic Regulation Act 1984

Background Papers: None

Appendices: None

Report of the Cabinet Member for Education

Cabinet – 21 April 2016

REVIEW OF SCHOOL MUSIC SERVICE ARRANGEMENTS

Purpose:	The report seeks a decision following the joint consultation on a proposal with Neath Port Talbot County Borough Council to disaggregate the shared music service and to establish a new music service in Swansea to support Swansea schools from 1 September 2016
Policy framework:	Sustainable Swansea
Reason for decision:	To confirm the disaggregation of the shared music service and to establish a new music service in Swansea to support Swansea schools from 1 September 2016
Consultation:	Legal, Finance, HR, Commercial Services, Sustainable Swansea (Education Strategy)
Recommendation(s):	To agree to disaggregation the shared music service and to establish a new music service in Swansea to support Swansea schools from 1 September 2016
Report author:	Kelly Small
Finance officer:	Ben Smith
Legal officer:	Stephen Holland
Access to Services officer:	Phil Couch

1. Introduction

- 1.1 The West Glamorgan Music Service (WGMS) is a joint-working service between the City and County of Swansea and Neath Port Talbot County Borough Council (NPTCBC). Staff are employed by each of the local authorities but can work across schools in both councils. Staff are on teachers' pay and conditions and the majority are employed to provide peripatetic instrumental music tuition at schools.

- 1.2 It is important to note the proposal is not to end the provision of a music service to schools. The proposal is related to bringing clarity and financial transparency to the business model. Staff need to be clear over who is their employer and which schools they work with. The City and County of Swansea recognises the rich history of WGMS and the excellence of the youth ensembles. These will continue to operate jointly with NPTCBC as they are self-funding but with clear accounting
- 1.3 The WGMS music offer to schools is mainly funded by schools via a service level agreement (SLA) buy-back but there is also a central subsidy provided by each of the local authorities. In Swansea, this subsidy was set at £232k for 2015-2016. Buy-back from schools was budgeted at £720k. However, a number of schools did not buy-back and income is now calculated at £681k. This will place additional pressure on the service and place at risk the opportunity for children and young people to learn a wide range of instruments, and to develop singing so that they can go on to perform in ensembles and choirs
- 1.4 Council had originally proposed to remove the central subsidy on 1 April 2016 but have agreed to continue funding the subsidy for this service into the financial year 2016-2017 (albeit within a still reduced overall level of budgeted core subsidy) while a service review is undertaken. However, in the longer term, the subsidies available from Swansea and NPTCBC are likely to differ, and neither local authority is able to financially subsidise schools in the other local authority. Therefore, NPTCBC officers are also proposing to end the joint-working arrangement. We will though continue to collaborate closely with NPTCBC to ensure the range of staff skills and resources meet need.
- 1.5 Regardless of the level of financial subsidy, there needs to be clarity over the cost of the service to each local authority; particularly in these times of austerity and potentially reducing SLA buy-back from schools. The needs of schools need to be met in the most cost-effective, efficient way to ensure schools can afford music tuition for their pupils without increasing charges to families. The future sustainability of the services in both local authorities requires affordable tuition costs to schools to produce young musicians to join the ensembles

2. Consultation on the proposal to disaggregate the Music Service

- 2.1 Consultation took place with staff, trade unions, schools and other interested parties during the period 9 February 2016 until 10 March 2016. The attached joint local authority consultation paper (Appendix A) was circulated widely and made available on the council's website. Joint meetings were also held with staff employed by both local authorities and also with trade union representatives.
- 2.2 956 response letters were received during the consultation period, as well as two petitions (one with 6090 electronic signatures).

- 2.3 The main points raised by those responding to the consultation related to the financial subsidy for the service or a misconception that the proposal was to end the service completely; however, this was not a part of the consultation. The proposal is to create a music service in each of the local authorities, funded by each respective local authority, with staff employed by that local authority to serve the schools maintained by that council.
- 2.4 A summary of the consultation responses is attached at Appendix B.

3. Equality and engagement implications

- 3.1 A full Equality Impact Assessment has been drafted with no major issues identified.
- 3.2 The EIA will be updated to reflect ongoing developments as the proposal progresses.

4. Financial implications

- 4.1 There should be minimal direct financial implications from this proposal to disaggregate the service alone.
- 4.2 However it should be noted that if schools do not buy back the SLA (regardless of the outcome of the proposal to disaggregate the service) then there could be redundancies in either of the local authorities, as currently, schools in Swansea are serviced by staff employed by NPTCBC and vice-versa. This potential has always been present given that the bulk of the funding has always been generated by schools purchasing the service via SLA, and so a disaggregation of the service does not impact on this.
- 4.3 Furthermore, notwithstanding the council's decision to continue funding whilst the review of the service is undertaken the core annual subsidy provided by the council, as reflected in the budget set, has been reduced from £232k 2015-2016 to £124k in 2016-2017. The service will ultimately have to be structured to live within the overall budget available to it through a combination of the new, lower central subsidy and the total income received from the SLA with schools.

5. Legal implications

- 5.1 Legal support will be provided in relation to any employment issues arising from any transfer of employment contract or if any subsequent restructure involves the potential for redundancies.

Background Paper: None

Appendices: Appendix A – Consultation paper
Appendix B – Summary of consultation responses

**City and County of Swansea
and
Neath Port Talbot County Borough Council**

Consultation document

Proposal

This consultation is a proposal to end the 'West Glamorgan Music Service' (WGMS) with effect from 31 August 2016, and to create a single music service in each local authority under a Service Level Agreement (SLA) with schools (and with the college in Neath Port Talbot).

Introduction

Background

Following local government reorganisation in 1996, a number of educational services continued to function via 'joint working' between Neath Port Talbot County Borough Council (NPTCBC) and the City and County of Swansea (CCS).

The role of the WGMS is to support schools to deliver high-quality music education. The musical instrument and vocal tuition can and does contribute significantly to school culture, cohesion and identity. Access to this provision can enhance skills and life chances, ensuring that learners, particularly those from disadvantaged backgrounds, have opportunities to realise their potential. The music service supports and enhances the teaching of music in our schools (and college in NPTCBC) by providing children and young people with opportunities to learn a wide range of instruments, to develop singing and to perform in ensembles, choirs, and other groups, on school premises, in the wider community, and at regional and national level.

The WGMS is currently funded from a number of sources:

- Service level agreement (SLA) buy back from schools/college
- Additional extra-curricular tuition
- Post-16 funding
- Additional out-of-county income
- Education base budget subsidy

Reason for proposal

Austerity measures implemented by central government are having a devastating impact on local government services with settlements for both NPTCBC and CCS being heavily reduced year on year.

There needs to be clarity over the cost of the service to each local authority, particularly in these times of austerity and potentially reducing SLA buy-back from schools, as well as reducing council financial contributions.

Staff need to be clear over who is their employer and which schools they work with.

The needs of schools need to be met in the most cost-effective way to ensure the future sustainability of the services.

Case for change

The key principles for change are:

- To ensure that children and young people within both local authorities continue to have access to learn a wide range of instruments, to develop singing and to perform in ensembles, choirs, and other groups, on school premises, in the wider community, and at regional and national level.
- The WGMS works with all stakeholders to focus on the most appropriate way to deliver a music service to children and young people.
- To continue supporting the West Glamorgan youth ensembles with clear accounting and cost sharing for this element of the service.
- Clarification for staff with regards to their employer, place/s of work and contract of employment.

Issues to consider

As part of the process, all employees affected will be supported by each local authority's relevant policies and procedures. This will involve consultation and access to the 'at risk register' where they will be placed, should they be at risk of losing their job following consultation. Some employees may wish to take voluntary redundancy. Throughout the process, both local authorities will be working with the teacher/support staff trade unions to secure the employment of any staff at risk, where possible.

All staff employed within the WGMS will potentially be affected.

The proposal will inevitably cause some disruption and uncertainty for a period as potentially all staff could be at risk. Staff are used to working with particular schools under the WGMS but could be required to attend different schools and in a different authority if the proposal goes ahead. This could have an impact on travelling expenses. All assets of the service will need to be shared between the two councils and new locations for the separate offices could be sought.

Both local authorities intend to continue supporting the West Glamorgan youth ensembles with clear accounting and cost sharing for this element of the service.

Staffing

Neath Port Talbot – current staffing

The total hours of music teaching are 538 hrs (19.56 FTE approx.) per week by staff employed by NPT.

The total hours of instructors at the Music Centres are 12hrs per week (0.4 FTE approx.)

The total hours of admin are 36.75 (1FTE approx.) hrs per week by staff employed by NPTCBC.

Neath Port Talbot County Borough Council - proposed staffing

One manager, admin support, a team of peripatetic teachers and a team of instructors (non-peripatetic at Dwr y Felin, Cwmtawe and Pontardawe Brass Centre).

The total amount of teaching hours needed for September 2016 are currently calculated to be 384 hours per week (14 FTE approx). This means that effectively there will be a reduction of 164 hours per week (5.96FTE approx.).

There will be a reduction in hours and/or grade of admin support in line with the duties of the new service.

The total amount of instructor hours needed will be 12hrs per week (0.4FTE approx.).

City and County of Swansea – current staffing

The City and County of Swansea currently employ staff to provide 568.01hrs across the local authorities (21.8 FTE approx.)

City and County of Swansea – proposed staffing

Based on current buy-back levels from schools in Swansea the following hours of peripatetic support are estimated to be needed per week for September 2016:

Curriculum – 58.85

Strings – 204.64

Brass – 93.98

Woodwind – 101.83

Drama – 2.66

Guitar – 47.75

Percussion – 42.08

Keyboard – 7.25

Harp – 23.58

Vocal – 22.08

The total hours required (approx. 604 or 23 FTE) is greater than the current number of staff hours paid by Swansea, although subject specialisms may not match requirements from schools.

Travel time, management and administration will be added to this estimated structure.

Peripatetic staff in both local authorities will continue to be paid under the school teachers' pay and conditions document. With effect from 1 September 2016, their confirmed employing council will issue all staff with a new contract.

Proposed services provided

- To provide regular weekly instrumental/vocal tuition to pupils
- To provide classroom music teaching support – by arrangement
- To provide INSET for schools/college and in-house staff – by arrangement
- To provide pre-inspection advice and guidance
- To serve as a PPA resource for schools
- To continue to provide dance and drama to certain schools – by arrangement.

What do schools say?

“At our school, we feel a deep commitment to the importance of music for children of all abilities and from all backgrounds. Music gives all pupils the ability to express their creativity and has a tremendous impact on self-worth and esteem. Children who experience difficulties at home and/or in school can achieve and get involved in things which they would otherwise have no chance of doing. The educational effect that music has in terms of literacy and numeracy are also immense. I would be extremely reluctant to cut, what is, a truly wonderful and enriching provision.”

“It would deny our pupils, many of whom do not get the opportunity to access private music tuition outside of school due to the geographical location and economic circumstance of many of our families, the opportunity to learn an instrument, to perform in school and community events, to learn how to read music and to widen their appreciation for and knowledge of music, musicians and musical instruments.”

Success

- A strong tradition of an excellent music making
- Comprehensive high-class instrumental/vocal/classroom curriculum provision to schools
- Consistently high standards achieved across all key stages
- Customer satisfaction and buy back
- Friends of West Glamorgan Music Service (FWGYM)

- Internal and external practical examination results
- Youth Arts Wales involvement
- Youth music performance opportunities and annual concert at the Brangwyn Hall and Margam Festival. Tours to Lake Garda with string/wind orchestras and brass band with invitations to return on future dates.
- First class inspection reports with Estyn.
- Workshop days provided to schools and partnership with projects from outside agencies.
- Musical instruments, equipment and library for schools. Under the ERW consortium, joint working systems are being further developed across the consortia including specialist instrument loan, music libraries, and performance opportunities.
- West Glamorgan Music is highly regarded by schools and the new services in each local authority will prioritise maintaining this high standard of delivery.

Equality impact

Each local authority has undertaken the required Equality Impact Assessments.

Consultation

The formal 30-day statutory consultation on this proposal will be undertaken during the period Tuesday 9 February 2016 until Thursday 10 March 2016, with staff, trade unions, relevant headteacher groups and other stakeholders.

Consultation will be facilitated via team and one-to-one meetings where relevant.

The outcome of consultation will be reported through each local authority's relevant HR process.

How to respond

Responses may be made to:

Director of Education, Leisure & Lifelong Learning, c/o Chris Millis, Head of Participation, ELLL Directorate, Civic Centre, Port Talbot, SA13 1PJ.

c.d.millis@npt.gov.uk

Chief Education Officer, c/o Nick Williams, Head of Learner Support Service, Civic Centre, Swansea, SA1 3SN.

education@swansea.gov.uk

Music Service Consultation Exercise 9 February 2016 - 10 March 2016

Number of consultation responses received: 966

Support Proposal/Happy	0
Against Proposal/Unhappy	965
Undecided	1
<i>Responses from:</i>	
Learner	90
Parent/Carer	57
Member of Staff	12
School	2
Elected Member/AM/MP/MEP/Trade Union	5
Other	802

	Point Raised	Local Authority (LA) Response	Number of Written Responses Raising Point	% of Responses Raising Point
1	The respondent makes the point that they do not want the Council to withdraw the subsidy. Some respondents make it clear that they do not want the service to split and some say it may end up costing more.	This proposal is to create new sustainable services for each local authority.	407	42.1%
2	The respondent thinks that the funding subsidy should be phased out over a number of years, giving more time for cost saving strategies.	This proposal is to create new sustainable services for each local authority.	30	3.1%
3	The respondent says that opportunities for learners will be lost (eg making friends, acquiring skills, creativity, travel, concerts and extra-curricular activities). Some respondents have concerns because learners enjoy different subjects.	This was not part of the consultation. The proposal to create new services for each local authority should not affect opportunities for learners. The orchestras and ensembles will continue to operate jointly.	136	14.1%
4	The respondent says that music can support the learner with development including communication, confidence, literacy, numeracy, mental health etc.	This is recognised. This was not part of the consultation. The proposal to create new services for each local authority should not affect opportunities for learners.	724	74.9%
5	The respondent says that the West Glamorgan Music Service (WGMS) is able to provide a bigger orchestra and range of instruments and is afraid that this will be lost if both Council's stop working together.	This was not part of the consultation. The proposal to create new services for each local authority should not affect opportunities for learners. The orchestras and ensembles will continue to operate jointly.	79	8.2%
6	The respondent has concerns regarding staff jobs, future employment and potential redundancies.	If all schools buy back in to the service level agreement there should be minimal impact on staffing. This is a decision for individual governing bodies.	27	2.8%
7	The respondent says that the service is ending and that this means future generations will not be able to access music provision. Sometimes the respondent says that this is because of stretched school budgets and schools being unable to buy back into the Service Level Agreement (SLA).	There is no proposal to end the service, only to have a clearly defined service in each authority with clear financial accounting and staffing.	130	13.5%
8	The respondent has concerns that learners from low-income families will be disadvantaged as they will be unable to afford to pay for music tuition. Some respondents say that music plays a part in fighting poverty.	The local authority is not proposing a charge for learners. Schools that buy into the music service level agreement (or from external providers) decide individually if they wish to charge parents a fee. Schools and governing bodies will, through the flexibility delegated budgets allow, and, in particular, the pupil deprivation grant, can make a decision to prioritise disadvantaged learners.	699	72.4%

9	The respondent says that the staff within the West Glamorgan Music Service are committed, go the extra mile and sometimes work without pay at music centres.	Staff commitment is recognised. This proposal should not affect staffing greatly if schools continue to buy back into the service level agreement. Music centres should always have been self-funding from parental contributions.	32	3.3%
10	The respondent has a concern that disaggregating the West Glamorgan Music Service is taking place before local government reorganisation and is going against Welsh government guidance.	At present there is no clarity about the timing or detail of local government reorganisation. We need a clearly defined service in each authority with strong, unambiguous, transparent staffing and financial accounting. The current arrangement is unsustainable as it is not feasible to correctly cost the service or risks for either local authority and therefore schools.	643	66.6%
11	The respondent is concerned that Swansea is falling behind or will fall behind Neath Port Talbot as they are continuing to support the service short-term.	Local authorities, due to financial pressures, have to make very difficult financial decisions. Swansea has agreed to continue with financial support into the financial year 2016-2017 to allow the service to become more sustainable.	119	12.3%
12	The respondent fears that Welsh culture, heritage and community partnerships through music will be lost	There is no proposal to end the service, only to have clearly defined services in each authority with clear financial accounting and staffing.	650	67.3%
13	The respondent fears that the future careers of learners involved with the West Glamorgan Music Service will be harmed as GCSE or music grades may be affected. Some respondents say that they benefitted from music themselves when in education, others are parents/carers who are concerned about their children.	There is no proposal to end the service, only to have clearly defined services in each local authority with clear financial accounting and staffing.	43	4.5%
14	The respondent is concerned that there will be a period of disruption whilst both services separate and two new services are formed. Some respondents are concerned about the logistics of splitting eg sharing instruments, skilled staff in specific fields of music, cover for maternity and sickness.	There is no proposal to end the service, only to have clearly defined services in each authority with clear financial accounting and staffing.	529	54.8%
15	The respondent makes the point that the West Glamorgan Music Service has already faced severe cuts and cannot sustain any more.	There is no proposal to end the service, only to have clearly defined services in each authority with clear financial accounting and staffing.	595	61.6%
16	The respondent says that the current proposals conflict with the Council commitment to the United Nations Convention on the Rights of the Child (UNCRC).	There is no proposal to end the service, only to have clearly defined services in each authority with clear financial accounting and staffing.	629	65.1%
17	The respondent says that a private provider could not deliver the same high standard of tuition as the WGMS. Some respondents make the point that the pay and terms and conditions of staff would also be reduced if forced to work for a private provider.	There is no proposal to end the service, only to have clearly defined services in each authority with clear financial accounting and staffing.	127	13.1%
18	The respondent suggests that the Council could use income to provide a subsidy to the West Glamorgan Music Service (eg the sale of the Civic Centre, charging for events/concerts, exploring sponsorship, discussing early retirement/voluntary redundancy with staff and reducing working hours to keep costs low).	These suggestions are helpful though it is should be noted that there is no proposal to end the service, only to have clearly defined services in each local authority with clear financial accounting and staffing.	13	1.3%
20	The respondent makes the point that they would like the West Glamorgan Music Service to be enhanced.	Schools are the users of the service and identify the level of support that they require.	17	1.8%
21	The respondent says that consultation and communication on the proposals has been poor. Some respondents say that they wish to see the Equality Impact Assessment (EIA), but have been unable to do so. Some respondents say that the consultation has been different in the both authorities.	Both local authorities have their own guidance on consultation and communication and these have been adhered to.	10	1.0%
22	The respondent makes the point that they are supportive of the opportunity to review, monitor and reform the service so it can become more efficient.	These suggestions are helpful though it is should be noted that there is no proposal to end the service, only to have clearly defined services in each local authority with clear financial accounting and staffing.	2	0.2%

23	The respondent makes the point that the Council is not being supportive of the Donaldson Report (Successful Futures) and is not trying to improve results (eg PISA).	These points are recognised though it is should be noted that there is no proposal to end the service, only to have clearly defined services in each local authority with clear financial accounting and staffing.	5	0.5%
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Conclusion -

Responses include letters from:

National Union of Teachers (NUT)
 NASUWT
 Penclawdd Junior Band
 West Wales Brass Band Association
 Ospreys Supporters Choir
 Neath and District Trades Union Council.
 Suzy Davies AM (Assembly Member, South Wales West)

Petitions

Ysgol Gynradd Gymraeg Y Llogyn Fach (167 signatures).
 Friends of West Glamorgan Music Service (WGMS) (6090 signatures).

Late responses

A petition was received from the parish of Llansamlet (received 11 March 2016 - after closing date). (68 signatures).
 Five email responses as at 17/03/2016.
 Two hard copy responses as at 17/03/2016.

For information

Nine letters were received with no name. These have not been included.
 A letter asking questions was received from Byron Davies MP. Leader of City and County of Swansea responded.
 A letter was received from Swansea headteachers. Chief Education Officer responded.

Report of the Cabinet Member – Next Generation Services

Cabinet – 21 April 2016

DISABLED FACILITIES & IMPROVEMENT GRANT PROGRAMME 2016/17

Purpose:	To provide details of the Disabled Facilities & Improvement Grant Programme and to seek approval to include schemes in the 2016/17 Capital Programme.
Policy Framework:	<ol style="list-style-type: none">1. Local Housing Strategy.2. Private Sector Housing Renewal and Disabled Adaptations: Policy to Provide Assistance 2012-2017.3. Statutory declaration of the Sandfields Renewal Area approved by Cabinet on the 14th January 2014.
Reason for Decision:	To comply with Financial Procedure Rule No.7 (Capital Programming and Appraisals) - to commit and authorise schemes as per the Capital Programme.
Consultation:	Legal, Finance, Access to Services.
Recommendation(s):	It is recommended that: <ol style="list-style-type: none">1. The Disabled Facilities and Improvement Grant Programme as detailed, including its financial implications, are approved and included in the 2016/17 Capital Budget.
Report Author:	Mark Wade
Finance Officer:	Jayne James
Legal Officer:	Debbie Smith
Access to Services Officer:	Phil Couch

1.0 Introduction

- 1.1 The current Private Sector Housing Renewal and Disabled Adaptations Policy was approved by Council on 24th November 2011.

2.0 Capital Programme Process

- 2.1 The Disabled Facilities Grants and Improvement Grant Budget for 2016/17 of £5.2m was agreed by Council on 25th February 2016.

3.0 The Scheme

- 3.1 The current Policy for Private Sector Housing Renewal and Disabled Adaptations sets out the detail of various types of assistance aimed at helping home owners and tenants to carry out essential adaptations and repairs. Assistance is provided on the basis of helping residents, who are often on low incomes and/or vulnerable, carry out essential repairs and maintain independence at home. The Policy also describes the Council's approach to area based housing renewal, bringing empty homes back into use and offering loans for home repairs. In summary, types of assistance include:

- Disabled Facilities Grant (DFG) – Mandatory large scale adaptations for private home owners and tenants of private rented accommodation. For example, level access showers.
- Council House Adaptations – small and large scale adaptations for Council tenants
- Homefix Loans – Recyclable loans for homeowners needing large repairs. For example, roof repairs and damp proofing.
- Emergency Repair Fund – Small repairs of an emergency nature. For example, dangerous electrics.
- Grants for Nominations – For works to bring long term empty properties back into use. Grant is provided in exchange for nomination rights.
- Swansea Care & Repair – Small, rapid adaptations and repairs provided for elderly and disabled residents.
- Houses to Homes Loan Scheme – interest free loans to tackle empty homes. To renovate and improve properties or convert empty properties into a number of units suitable for residential accommodation. Loans to be repaid and recycled as further loans.
- National Home Improvement Loan Scheme – interest free loans for the repair or conversion of properties to make them safe, warm and/or secure. Loans to be repaid and recycled as further loans.

- Renewal Areas – Renewal Area funding to deliver an agreed programme of property repair and environmental improvement works in designated Renewal Areas.

4.0 Financial Implications

- 4.1 The programme for 2016/17 is shown at table 1 below and is fully funded by the General Fund and the Housing Revenue Account (HRA) with the exception of the Sandfields Renewal Area which is funded by Welsh Government Grant, Utility Company funding and the General Fund. The Houses to Homes and National Home Improvement Loan schemes are funded by WG and have been reported separately. An additional amount of £49,979.40 was received from WG for the Houses to Homes and National Home Improvement Loan schemes in 2015/16 following one Local Authority's decision not to take part.
- 4.2 The Swansea Care and Repair handyperson scheme budget has been increased to £0.4m for 2016/17 to reflect increase in demand for minor adaptations. This will be funded by a reduction of £0.2m in the Disabled Facilities Grant (DFG) Budget. Minor adaptations carried out by Swansea Care and Repair are used to delay the need for larger works funded by DFG. The schemes complement each other and as a result there is expected to be no significant customer impact by making this budget amendment. Swansea Care and Repair will become Western Bay Care and Repair during 2016/17 following completion of a merger with Neath Port Talbot Care and Repair. There are no budgetary implications arising from this. Funding provided to Western Bay Care and Repair will only be used for Swansea residents.
- 4.3 The Homefix loans budget was reduced in 2015/16 to fund the estimated level of future loan defaults as per Cabinet Report 18th November 2014 regarding the Houses to Homes and National Home Improvement Loan schemes. No further loan default provision is required so the Homefix loan budget will be £0.415m for 2016/17.
- 4.4 Ring fenced Welsh Government funding for Renewal Areas in Wales comes to an end after the 2016/17 financial year. Funding for the Sandfields Renewal Area for 2017/18 and beyond will be the subject of a future report.

Table 1 details proposed 2016/17 programme and draft programme for 2017/18.

Table 1			
SCHEMES	2015/16	Proposed 2016/17	Draft 2017/18
DFG, mini and fast track adaptations	£4,500,000	£4,300,000	£4,300,000
Tenant adaptations (HRA funded)	£2,750,000	£2,750,000	£2,750,000
Homefix Loans	£377,024	£415,000	£415,000
Emergency Repair fund	£5,000	£5,000	£5,000
Grants for nominations	£80,000	£80,000	£80,000
Swansea Care and Repair Handyperson	£200,000	£400,000	£400,000
Houses to Homes/ National Home Improvement	£1,189,088*		
Sandfields Renewal Area**	£730,000	£729,760	£0
Loan default provision	£37,976	£0	£0
TOTAL PROGRAMME	£9,869,088	£8,679,760	£7,950,000
Funded as follows:			
Total general funded	£5,200,000	£5,200,000	£5,200,000
Total HRA funded	£2,750,000	£2,750,000	£2,750,000
Total Grant funded	£1,919,088	£729,760	£0
* amended amount to reflect additional funding award (see para 4.1)			
** Renewal Area budgets are ring fenced to Sandfields.			
Total funding	£9,869,088	£8,679,760	£7,950,000

4.5 Revenue running costs for 2016/17 are estimated at £1,104,100 and are met from fees of £1,085,400 generated from administering grants. The balance is met from a contribution of £18,700 from the General fund. There are no asset rent charges.

5.0 Equality and Engagement Implications

5.1 The Access to Services Team has advised that an equality impact assessment (EIA) is not required.

6.0 Staffing Implications

None

7.0 IT/Systems Implications

None

8.0 Legal Implications

8.1 The schemes detailed are in line with local authority powers to provide assistance, contained in the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 and the Councils published Policy.

8.2 The Council will need to ensure that it complies with any terms and conditions attached to any Welsh Government grant funding.

Background Papers: Private Sector Housing Renewal and Disabled Adaptations Policy to Provide Assistance 2012-2017

Appendices: None

Agenda Item 13.

Report of the Cabinet Member for Finance and Strategy

Cabinet – 21 April 2016

FPR7 - CAPITAL ALLOCATION TO HIGHWAY INFRASTRUCTURE ASSETS 2016-17

Purpose:	To confirm the Capital work programmes for highway infrastructure assets
Policy framework:	The Revenue and Capital budget as reported to and approved by Council on 25/02/16
Reason for decision:	To comply with Financial Procedure Rule No. 7 (Capital Programming and Appraisals) – to commit and authorise schemes to improve infrastructure assets
Consultation:	Access to Services, Finance, Legal
Recommendation:	It is recommended that the proposed allocations, together with the Financial Implications set out in Appendix A , are approved and included in the Capital Programme.
Report Author:	Bob Fenwick / Stuart Davies
Finance Officer:	Jayne James / Jeffrey Dong
Legal Officer:	Debbie Smith
Access to Services Officer:	Phil Couch

1. Introduction

- 1.1 At its meeting of 25th February 2016, Council approved the Revenue and Capital Budget for 2016/17. The Capital budget included an allocation of £3.476m for highway infrastructure assets.
- 1.2 Furthermore, an additional allocation of £1m for 2016/17 has been made for Invest to Save schemes, by undertaking repairs to reduce the level of third party claims against the Authority.

2. Objectives

- 1.3 The City and County of Swansea's infrastructure is in need of significant investment. The highway capital programme has been put in place to target the worst areas, in line with the Highway Asset Management Plan and Programme 2015-2020. This will ensure spending is targeted based on a whole life cost approach which will minimise financial and service risk.

3. Key Proposals

- 1.4 Investment this year is over £4m. This includes the additional £1m funding and is in response to the identified backlog of repairs required on Swansea's roads. It is critical to ensure that investment in the highway network is sustained in future years to prevent further deterioration.
- 1.5 There is a significant backlog of works to refurbish footways. This also remains a concern as the issue is reflected in the level of third party claims for trip and falls.
- 1.6 There are significant funding challenges for maintaining the bridges as there are 157 bridges, 44 culverts, 13 subways and 3 gantries within highway ownership. The programme to update bridges has been prepared to reflect requirements on strategic routes and those where strengthening is required.
- 1.7 The condition of highway retaining walls continues to give cause for concern. A number of recent collapses have required intervention and have been funded from the urgent infrastructure budget. However, there is a need to take proactive works to prevent others from failing. This budget will also in the future, pick up all retaining walls within Council ownership. There are currently 404 retaining walls on the asset register with an approximate total length of 13km.
- 1.8 The River Tawe barrage infrastructure requires sustained investment to ensure operations associated with Marina and other waterside activities are maintained.
- 1.9 Street lighting infrastructure is still a cause for concern. A testing regime has been put in place to identify lighting columns at risk, and this resulted in a significant number of columns being removed. The majority of these have now been replaced, but further testing will identify more columns that need to be removed and replaced.
- 1.10 The programme to install dropped crossings to meet the requirements of the Equality Act will continue for the foreseeable future.
- 1.11 Longstanding works to reduce flooding on the highway will be implemented across the Authority. This will include specific works on several culverted watercourses.
- 1.12 An allocation has been made to deal with emergency issues on un-adopted highways and infrastructure. This allocation will also cover un-adopted public infrastructure and newly adopted streets that require work to bring them to adopted standard. This is aligned with the move towards a "corporate ownership of assets". Paved and surfaced areas that are not part of the adopted highway but are Authority owned will be managed by Highways & Transportation who will inspect and maintain in accordance with highways standards. A sum is therefore included to allow repair and refurbishment to these areas on a prioritised basis.
- 1.13 The condition of the cycleway network is generally satisfactory but there are sections that are nearing or past the end of their life. An allocation for cycleway surfacing work is included.
- 1.14 A significant percentage of highway safety barriers have been identified as in need of repair or below current standards. The programme to repair and renew the barriers identified will continue for the foreseeable future.
- 1.15 Damaged sections of the costal defences require investment to prevent further damage. The programme includes for investment on the coastal defences along Loughor Foreshore.

4. Allocation

4.1 In the current year the funds will be allocated as follows:

Carriageway Resurfacing	£1,335k
Highways Invest to Save	£1,000k
Footway Renewals	£650k
Bridges and Retaining Walls	£456k
Marina & Barrage	£65k
Street Lighting Refurbishment	£250k
Dropped Crossings	£ 20k
Drainage/Flooding Works	£400k
Council-Owned but Unadopted Areas/Private Streets	£100k
Car Park Resurfacing and Improvements	£20k
Cycleway Surfacing	£30k
Replace Safety Barrier	£50k
Coastal Defence Works	£100k
TOTAL	£4,476K

5. Equality and Engagement Implications

5.1 The Capital investment in Highway and related Infrastructure will assist all road users and the inclusion of funding for dropped crossings will particularly help less mobile pedestrians and wheelchair users. Individual projects will be subject to the EIA process where required.

6. Financial Implications

6.1 **Capital** - The full cost of the Highways and Other Infrastructure works for 2015/16 amounts to £4.476m and will be fully funded by the Authority's own resources. Details are set out in **Appendix A**.

6.2 **Revenue** - Future maintenance expenditure will be met from respective Revenue Service budgets. An effective capital investment programme will help reduce future revenue pressures.

7. Legal Implications

7.1 This investment will assist the Authority in discharging its statutory duty to maintain the Public Highway. All Procurements and Contracts intended to be let in respect of the above Schemes will need to be in accordance with current UK Legislation and EU Directives as well as complying with the Council's Contract Procedure Rules.

Background Papers:

Revenue and Capital Budget approved by Council on 25th February 2016

Appendices:

Appendix A - Financial Implications

FINANCIAL IMPLICATIONS : SUMMARY**Portfolio: PLACE****Service : HIGHWAYS AND OTHER SERVICES****Scheme : HIGHWAYS AND OTHER INFRASTRUCTURE ASSETS CAPITAL MAINTENANCE**

1.1. CAPITAL COSTS	Memo 2015/16 £'000	2016/17 Capital Programme					TOTAL £'000
		2016/17 £'000	2017/18 £'000	2018/19 £'000	2019/20 £'000		
<u>Expenditure</u>							
Highways and Other Infrastructures							
Bridges/Retaining walls	405	456					456
Marina barrage	65	65					65
Street lighting refurbishment	250	250					250
Footways	650	650					650
Dropped crossings	20	20					20
Repairs to Baling plant	100	0					0
Drainage works	375	400					400
Safety barriers	40	50					50
Cycle ways	30	30					30
Carriageway resurfacing	2,125	1,335					1,335
Roads in cemeteries							
Unadopted areas/Private Streets	90	100					100
Car park resurfacing/improvements	20	20					20
Coastal Defence Works	100	100					100
Windblown sand mitigation works	10	0					0
Invest To Save	0	1,000					1,000
EXPENDITURE	4,280	4,476	0	0	0		4,476
<u>Financing</u>							
Own resources	3,280	3,476					3,476
Insurance Fund	1,000	1,000					1,000
FINANCING	4,280	4,476	0	0	0		4,476

1.2. REVENUE COSTS	2015/16 £'000	2016/17 £'000	2017/18 £'000	2018/19 £'000	2019/20 £'000	FULL YEAR £'000
<u>Service Controlled - Expenditure</u>						
Employees)						
Maintenance)						
Equipment)						
Administration)						
NET EXPENDITURE	0	0	0			0

to be met from existing budgets

Agenda Item 14.

Report of the Cabinet Member for Services for Adults and Vulnerable People

Cabinet – 21 April 2016

BACKGROUND TO CHARGING POLICY (SOCIAL SERVICES) - PAYING FOR SOCIAL SERVICES UNDER THE SOCIAL SERVICES AND WELLBEING (WALES) ACT 2014

Purpose:	To introduce the Charging Policy (Social Services) and the reasons for the Policy.
Policy Framework:	The Charging Policy describes how City and County of Swansea will apply charges for Social Services under the Social Services and Wellbeing (Wales) Act 2014 (the Act) that comes into force from 6th April 2016, the list of charges for the year 2016/17 and the annual cycle for reviewing charges.
Consultation:	Access to Services, Finance & Legal Public consultation on the part of the Act relating to Financial Assessment and Charging (Part 5) was undertaken by the Welsh Government, prior to the issuing of the final regulations and code of practice. The Policy itself does not at this stage propose introducing any charges for services that are currently not charged for. There is therefore no requirement to consult on this Policy, as no new charges are proposed. However, if charges are proposed for any new services going forward, decisions surrounding the implementation of these will be subject to public consultation. The Policy does propose some uplifts to existing charges, but there is no requirement to consult on these as there is a clear rationale as to how these uplifts have been calculated, on the basis of striving towards full cost recovery where appropriate.
Recommendation(s):	It is recommended that the: 1.Charging Policy is approved; 2. List of Charges to be applied in 2016/17 is agreed.
Report Author:	Simon Jones
Finance Officer:	Chris Davies
Legal Officer:	Lucy Moore
Access to Services Officer:	Catherine Window

1. Introduction

- 1.1 From 6th April 2016, the Social Services and Well-being (Wales) Act 2014 (henceforth “The Act”), through a set of legislative, regulatory and practice documents, sets out a statutory requirement for one unified charging framework to be represented by each Local Authority within their own Charging Policy for social services.
- 1.2 The purpose of this Charging Policy is to reflect and comply with the requirements of Parts 4 and 5 of the Act, the Care and Support (Financial Assessment) (Wales) Regulations 2015, Care and Support (Charging) (Wales) Regulations 2015, Care and Support (Choice of Accommodation) (Wales) Regulations 2015 and the Care and Support (Review of Charging Decisions and Determinations) (Wales) Regulations 2015.
- 1.3 One of the key drivers behind Parts 4 and 5 of The Act is to introduce one set of financial assessment and charging arrangements and to ensure greater transparency within these arrangements. The Act is intended to be ‘cost neutral’ when implemented, though this clearly requires Local Authorities to consider offsetting losses in income, by considering new discretionary charges.
- 1.4 City and County of Swansea’s Charging Policy (social services) is the product of a Task and Finish group made up of representatives from Social Services, Finance and Corporate Financial Services. This Policy aims to minimise the impact of charging upon care and support recipients with low financial means, while obtaining, where appropriate, a fair and reasonable contribution towards the costs of care and support to ensure its continued provision.
- 1.5 Under The Act, a local authority can only charge:
- up to the cost of providing the service
 - what the person can afford
- 1.6 This is the first overarching Policy that covers all aspects of charging for Social Services that the City and County of Swansea has produced. The intention with this first Policy is to pull together all existing charges into one Policy and set it within the clear legal framework. The Policy will however evolve over time as the potential to introduce new charges are explored. It is therefore anticipated that this Policy will be renewed at least annually, or more frequently as proposed changes emerge.
- 1.7 In determining any charges, the City and County of Swansea will ensure the 6 key principles outlined on page 10 of the Policy are adhered to namely:
- Continuity
 - Fairness
 - Equal
 - Transparency
 - Sustainable
 - Voice and Control.

2. Background to Charging Policy (Social Services)

- 2.1 The Act's regulatory and practice framework allows some discretion to be exercised by local authorities in raising income from charging. Therefore this Charging Policy is an important part of the range of options that help us manage our resources effectively, particularly given the current economic climate and the cuts that local authorities are being asked to make.
- 2.2 City and County of Swansea's charging policy (social services) will use its discretion to ensure continuity in transition from the old arrangements, to minimise the impact on citizens who are in need of managed care and support.
- 2.4 A Financial Assessment will help to calculate how much, if anything, a person can afford to pay towards their own care and support.

3. General Issues

- 3.1 Some important changes to the charging framework under The Act, are worth noting, and each are represented within the attached policy:
- Maximum weekly charge is applied to a greater range of community based services including respite care and short term residential care.
 - Any assessed client contribution will be subject to a protected minimum income threshold or Personal Expenses allowance (see Charging Policy).
 - Charges are applied at the point care and support plan commences, or from the date that the statement of charges is provided, so any delay to that point could cost an authority significant amounts of money
 - Deferred Payments are a clearly defined option under the Act, with some potential for cost recovery (interest/ administrative charges)
 - Discretion to apply charges to assistance, early intervention and preventative services, including services to carers, where citizens obtain care and support in addition to that provided by or arranged by a local authority exercising its duties or powers under the Act. In this situation the financial assessment and charging requirements of the Act, the Code and the Regulations do not apply.
 - Under Parts 2, 4 and 5 of the Act, the local authority must ensure there is information, and advice about the services that are available, and a statement of charges arising from the person's care and support plan is made available in appropriate formats. This statement must be clear and transparent so people know what they will be charged.
- 3.2 Swansea's list of charges for the year ahead as set out within the Policy has to balance the short term need for full cost recovery yet to focus on what is sustainable in the longer term. It is important therefore that these

charges are reviewed annually alongside population need, demand and activity data.

- 3.3 Further work to look at the commissioning costs within services for adults will resume later this year following completion of our commissioning reviews, as part of the Sustainable Swansea Fit for the Future transformation programme. This will build on the work which is being undertaken to introduce differential rates for nursing and dementia nursing care.

4. Equality and Engagement Implications

- 4.1 The Charging Policy has to be applied equally in that all assessed needs for care and support where they are broadly the same are treated as the same.

- 4.2 An EIA Screening Form has been completed with the agreed outcome that a full EIA report was not required at this stage:

- The Charging Policy has been produced as a requirement under The Act which was subject to full public consultation and equalities impact assessment of Parts 4 & 5 was also undertaken:
<http://gov.wales/docs/phhs/publications/151124eia5en.pdf>

- 4.3 The Charging Policy does not propose introducing any charges for services that are currently not charged for at this stage. It purely brings together the existing charges that are already in place. There is therefore no requirement to consult at this stage. However, during the course of the next financial year, it is proposed that the potential to charge in new areas will be explored. Any decision to implement any new charges of this nature will be subject to public consultation and an EIA.

- 4.4 Where there are proposed increases in charges contained within the Policy, there is no requirement to consult as the proposals are within the parameters of the Act and purely allow the Authority to move towards a full cost recovery basis. Any future increases in charges will be implemented in accordance with the Act and the Policy.

5. Financial Implications

- 5.1 Welsh Government has maintained a view that, within local authorities, implementing the Social Services and Well-being (Wales) Act 2014 should be seen as cost neutral. In reality, this is not the case. The Act changes the charging arrangements for respite care as the maximum charge (£60 per week) applies, rather than the standard residential care rate charges which were applied in previous years. In real terms, this will mean a potential loss of income for the Authority of in the region of £200,000 per year.

- 5.2 City and County of Swansea has a corporate Charging Policy based on full cost recovery. The Act does grant further discretionary powers to local authorities, on what services can be charged for and the rates at which these are charged at, provided that these do not exceed the cost of providing the service. It is not proposed at this stage to introduce

charges in these areas, but these will be explored during the course of the next financial year. This will potentially allow the Authority to offset the impact of the loss of income for respite.

- 5.3 It should be highlighted that potential to charge for a Local Authority is limited, due to the maximum weekly charge of £60 per week for some elements of care and the fact that this cap is subject to a Financial Assessment which means in reality many individuals do not pay as much as £60 per week.
- 5.4 Whilst the Policy does not propose any charges for services that are currently not charged for, it does propose an increase in the Lifeline/Telecare charges, on the basis that Careline who provide the call centre function for the Local Authority have substantially increased their charges to the City and County of Swansea. Increasing the charges will allow the Local Authority to therefore operate on a full cost recovery basis.

6. Legal Implications

- 6.1 The new Social Services and Well-being (Wales) Act, associated Regulations and Codes of Practice come into force on 6th April 2016, and include provisions on charging for social care services. The Act, Regulations and Code make it necessary for a local authority to produce a policy in relation to charges it is to make for care and support. The content of that policy is a matter for the local authority.

Background Papers: None

Appendices:

Appendix A Charging Policy (Social Services)



The Council of the City and County of Swansea

People Directorate

Social Services

Charging Policy (Social Services)

**- Paying for Social Services
under the Social Services
and Wellbeing (Wales) Act 2014**

**Issued on behalf of the
Chief Social Services Officer David Howes**

(to come into effect 6th April 2016)

Version 1.6

Charging Policy (Social Services)

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i) Charging Policy Control Sheet

Heading	Version response
<p>Title of Policy: It should be noted that Social Care charging is subject to new statutory guidance under Parts 4 & 5, of the Social Services and Wellbeing (Wales) Act.</p>	<p>Charging Policy (Social Services) - Paying for Social Services under the Social Services and Wellbeing (Wales) Act 2014. This new policy stands alone under this new statutory, legal framework, and, though linked by shared principles, does not form part of the Corporate Charging and Fees policy.</p>
<p>Purpose of Policy:</p>	<p>To describe how City and County of Swansea will apply charges for Social Services under the Social Services and Wellbeing (Wales) Act 2014 (henceforth "the Act") that comes into force from 6th April 2016.</p>
<p>Type of Policy:</p>	<p>This policy takes account of the new changes introduced by the Act. The Welsh Government has stated that 2016/17 is a transitional year. The policy will be updated by the Authority, as necessary, once the Act is fully in force.</p>
<p>This policy replaces:</p>	<ul style="list-style-type: none"> - Fair Charging arrangements - Social Services policy on charging for non-residential services - CRAG regulations
<p>This policy does not cover:</p>	<ul style="list-style-type: none"> - Care and Support Planning (Part 4) - Meeting Needs (Part 4) - Debt recovery (Part 5)
<p>Target Audience:</p>	<ul style="list-style-type: none"> - Child and Family Services, Adult Services, - Corporate Finance, Legal, Revenue, Benefits and Procurement - Partner organisations/ providers, citizens, service users, parent, carers and families. - Elected Members
<p>Author(s):</p>	<p>Task and Finish Group, Part 5 Act Implementation Social Services, Finance and Revenue & Benefits representatives.</p>
<p>Lead Officer:</p>	<p>David Howes, Chief Social Services Officer</p>
<p>Date policy sign off:</p>	<p>Considered at DMT on 29/02/16; Corporate Briefing on 7th April, 2016; Cabinet on 21st April 2016.</p>
<p>Review Date:</p>	<p>31st March 2017</p>
<p>Consultation</p>	<p>National Consultation has taken place on the Act, Regulations and Code of Practice within Parts 4 & 5 of the Act. Consultation is not required at this stage, as the Policy consolidates existing arrangements. However, during the course of this financial year new charges may be proposed. If this is the case, public consultation may be required in due course.</p>

Equalities Impact Assessment needed?	No. An EIA screening exercise has been undertaken and a full EIA is not required at this stage as there are no proposal to introduce charges for services that are not currently charged for. If there are introductions of new charges in the future, a full EIA may be required.
Date/ Version	10 th April 2016 / Draft v1 6 (correction in Appendix 1 table /external young adults following Corporate Briefing)

1. Introduction

1.1 The Social Services and Wellbeing (Wales) Act comes into force on 6th April 2016. This will radically transform the way social services are delivered in Wales to meet the needs of the individual and make services sustainable for the future.

The Act gives people a stronger voice and real control over the support they need to remove barriers to their wellbeing. It focusses on earlier intervention to prevent needs becoming critical, and promotes investment of resources in the short term, to give best value to the public purse overall.

The Act also promotes integration between the health and social care sectors to the greatest extent possible in order to achieve improved wellbeing outcomes.

Under the Social Services and Well-being (Wales) Act 2014 (SSWB Act), a local authority can only charge:

- up to the cost of providing the service
- what the person can afford.

1.2 This policy has been produced in accordance with the legal requirements set out in The Social Services and Well-being (Wales) Act 2014 (**“the Act”**) and sets out City and County of Swansea’s position on charging for social services. **It is effective from 6th April 2016** for all social services clients.

1.3 The new legal framework is intended to cover both Adults and Child social services and requires that the Local Authority replaces the Fair Charging and CRAG regulations under one, single Charging Policy.

City and County of Swansea’s Charging Policy (Social Services) provides detail on:

- i. The changes under the Welsh Government’s national charging framework
- ii. Our approach and the key principles behind the charges
- iii. How different types of services and support are charged/ not charged for
- iv. How changes will impact on community based service, residential care, direct payments, child and family services, respite care and other services
- v. How any discretion given to Local Authorities is applied in practice, including deferred payment agreements
- vi. Financial assessment processes, including reviews and appeals
- vii. List of charges that apply from 6th April 2016 (Appendix 1)

Swansea’s intention is to apply this charging policy to all social services clients, from 6th April 2016.

2. New Legal Framework

2.1 The Social Services and Well-being (Wales) Act 2014, the regulations made under the Act and a code of practice issued by the Welsh Government together set out the requirements that local authorities must follow when determining whether to charge for care and support services and also when assessing the client's contribution towards those costs. For example:

- i. People with care and support needs may have a financial assessment to work out how much they must pay, whatever kind of help they receive
- ii. There is a maximum charge per week for non-residential care and support (including respite stays) and no-one will pay more than this for non-residential care and support
- iii. A person with assets exceeding the set capital threshold, will be liable to pay the full cost if they decide to live in a residential care home
- iv. People can still get 6 weeks of home care for free immediately following a stay in hospital
- v. Exemptions from charging where the services and support are provided under section 117 of the Mental Health Act 1983, and for people with Creutzfeldt-Jacob Disease who receive care and support.
- vi. No-one should be charged for information or advice
- vii. There may be a charge for helping people or carers to find and use certain services
- viii. Local councils must make sure everyone knows what they are being charged, and why (statement of charge)

2.2 Important Links to Act:

- i. **The Care and Support (Direct Payments) (Wales) Regulations 2015**
http://www.legislation.gov.uk/wsi/2015/1815/pdfs/wsi_20151815_mi.pdf
- ii. **The Care and Support (Charging) (Wales) Regulations 2015**
http://www.legislation.gov.uk/wsi/2015/1842/pdfs/wsi_20151842_mi.pdf
- iii. **The Care and Support (Financial Assessment) (Wales) Regulations 2015**
http://www.legislation.gov.uk/wsi/2015/1844/pdfs/wsi_20151844_mi.pdf
- iv. **The Care and Support (Deferred Payment) (Wales) Regulations 2015**
http://www.legislation.gov.uk/wsi/2015/1841/pdfs/wsi_20151841_mi.pdf
- v. **The Care and Support (Review of Charging Decisions and Determinations) (Wales) Regulations 2015**
http://www.legislation.gov.uk/wsi/2015/1842/pdfs/wsi_20151842_mi.pdf
- vi. **The Care and Support (Choice of Accommodation)(Wales) Regulations 2015**
<http://www.legislation.gov.uk/wsi/2015/1840/made>

These regulations have been made and will come in to force on 6 April 2016.

- i. **Parts 4 and 5 Code of Practice (Charging and Financial Assessment)**
<http://gov.wales/docs/phhs/publications/160106pt45en.pdf>

This code of practice was issued under parts 4 and 5 of the Act on 18 December 2015. It is also due to come into effect on 6 April 2016.

2.3 Summary of what is different within the new charging and financial assessment legislative framework from 6th April 2016.

- i. A single financial assessment framework covering both residential and non-residential care and support
- ii. Set information to be provided to a person before they are assessed, with 15 working days for person to provide information and documentation an authority requires.
- iii. Where a person is a short-term resident (i.e. a stay not exceeding eight weeks commonly known as respite care) in a care home and a local authority uses its discretion to charge for this, it must undertake a financial assessment of a person's means to do this as if the person were receiving non-residential care and support, or receiving direct payments for non-residential care and support.
- iv. An increase in the amount of income from a War Disablement Pension that is disregarded.
- v. A requirement to provide a client with a significant amount of information **before** a financial assessment can be made.
- vi. Statement of charge, contribution or reimbursement must be provided before the charge can be collected. A charge will apply from when the person first receives their care and support.
- vii. The ability to suspend a deferred payment agreement if the person's income exceeds their appropriate minimum guarantee.
- viii. The ability to charge interest and administration fees on the amount deferred to make agreements affordable for local authorities.
- ix. The process for reviewing charges and charging decisions for non-residential care is to be extended to residential care.

3. Charging and Financial Assessment Explained

3.1 The intent behind the Social Services and Well-being (Wales) Act, Parts 4 and 5, is to introduce **one set** of financial assessment and charging arrangements, and to ensure greater transparency within these arrangements.

This policy follows Welsh Government guidance by ensuring that the City and County of Swansea implements a single 'charging policy' which complies with the requirements of the Social Services and Wellbeing (Wales) Act 2014.

3.2 The Discretion to Charge:

A local authority has the discretion to impose a charge, or set a contribution towards the costs of social care, or a reimbursement for direct payments.

When doing so, the Authority must follow the requirements set out in the Act, Regulations and Code of Practice.

In imposing these charges a local authority cannot charge certain persons (exemptions) or for certain forms of care and support, and must apply certain financial 'limiters' to ensure the person is reasonably able to meet a charge, whilst retaining a certain amount of their income to meet daily living costs.

These 'limiters' or rules vary depending on whether the person is receiving residential or non-residential care and support, for example:

- i. A person is required to pay no more than a set weekly maximum amount for non-residential care and support.
- ii. A person is able to retain a certain amount of their capital assets which cannot be used towards care and support costs.
- iii. A local authority is now required to provide a statement of a charge, reimbursement or contribution agreed and for this to be revised as necessary.
- iv. A local authority can, in some circumstances, apply a flat rate charge for preventative services and 'assistance'.

3.3. For which care and support services can a local authority impose a charge?

a) Care and Support may include one or more of a range of services, including:

- i. Assistance (Part 2, of The Act: Information, Advice and Assistance)
- ii. Re-ablement - improving daily living skills following a stay in hospital or period of illness
- iii. Non-residential Care (Home Care/ Domiciliary Care)
- iv. Residential Respite Care or Short Breaks
- v. Residential Care
- vi. Day Care, whether the person attends a day centre or other day-time activities
- vii. Flexible Support/ Family Support
- viii. Community equipment and minor adaptations
- ix. Life Lines and other Telecare equipment and services
- x. Supported living arrangements
- xi. Transport
- xii. Community based Respite
- xiii. Jointly funded services

b) Also care and support may be meeting needs within:

- i. Child and Family Services (Section 14 of this policy)
- ii. Direct Payments (Section 15 of this policy)
- iii. Support to carers (Section 16 of this policy)
- iv. Preventative Services (Section 16 of this policy)
- v. Secure Estates (Section 16 of this policy)
- vi. Appointeeship (Section 16 of this policy)

General public information on charging will be made available to citizens, their carers or advocates during the assessment process to ensure they are aware that we charge for social care services and what that means for them.

4. What is a Financial Assessment?

4.1 The Regulations (See point 2.2) set out a series of requirements that a local authority must take into account when undertaking a financial assessment of a person's ability to pay a charge, or when setting a contribution towards their social care costs or reimbursement for a person receiving direct payments.

4.2 The Regulations specify the information that the Authority must provide to a person before undertaking a financial assessment, the timescale for a local authority to request and obtain information from a person, and the processes to follow.

4.3 The Regulations also set out the circumstances where there is no duty to carry out a financial assessment (Exemptions). Regulations contain separate parts on the treatment and calculation of income and capital. Separate schedules identify specific forms of capital assets and forms of income and stipulate how each should be treated in a person's financial assessment.

Once a financial assessment has been carried out, a statement of the assessed charge will be sent to the client (or their financial representative).

4.4 Discretion to apply locally-determined criteria for financial assessments:

Local Authorities must decide what allowances, disregards or other aspects they wish to incorporate within the financial assessments they undertake beyond those required by legislation. Any discretionary allowances say for reasons of hardship can only take place *with the written agreement of the Head of Adult Services or Chief Social Services Officer*, and this agreement is then clearly stated within the financial assessment and care and support plan. If a decision to award allowance is granted by the Head of Adult Services, then this award decision should continue until the care and support plan is reviewed or a new financial assessment takes place.

In the future, under this Charging Policy, the discretionary powers exercised by the Local Authority in respect of what services are charged for, exemptions, contributions or reimbursements should be reviewed annually, alongside the list of charges (**Appendix 1**).

5. The City and County of Swansea's approach to charging

5.1 The City and County of Swansea's approach to charging is that it should support corporate strategic priorities, to be sustainable in the long-term, and that charging arrangements are applied equally e.g. all clients, with broadly the same assessed need for care and support, are treated equally, and therefore the same charges should apply subject to a financial assessment.

The Act allows for local authorities to raise income from charging. This is an important part of the range of options that help us manage our resources effectively. Charging can assist the Council in meeting rising local population needs with reducing resources.

As new models of service delivery are commissioned or provided that empower adults to have more control, supporting people to have greater independence, there may need to be a greater consideration of the full range of charges as set out in this policy.

5.2 Summary of the Charging Regulations under the Act

- i. **Section 59** provides a local authority with the discretion to impose a charge for the care and support, or the support to a carer, it provides or arranges under **sections 35 to 45** of the Act to meet a person's needs.
- ii. **Sections 60 to 62, 66 and 67** set out, or allow to be set out in regulations, how this discretion can be applied including that a determination to impose a charge should be on the basis of a financial assessment undertaken of a person's ability to pay a charge.
- iii. **Sections 63 to 65** allow regulations to be made governing financial assessments.
- iv. **Sections 50, 52 and 53(3)** permit regulations to be made which mirror these charging provisions in relation to contributions or reimbursements for direct payments.
- v. **Section 69** allows regulations to be made about charges for prevention services and assistance provided under **sections 15 and 17** of the Act respectively.

5.3 Swansea's policy ensures that the Authority's **discretionary powers** (highlighted in Tables 3 & 4 on pages 11 to 13) under the Act are applied fairly, and that all charges practices, such as undertaking a *financial assessment* or agreeing a *statement of charges*, are always aimed at reducing any discrepancies or anomalies for each individual's care and support.

5.4 The City and County of Swansea has determined to use its discretion whether to charge for care and support services it provides. The care and support services for which a charge will be made, and the level of those charges, are contained in Appendix 1 of this policy.

Table 1 - Swansea's key Principles

Key Principle	What each citizen expects	What Swansea Council expects
Continuity	I need time to plan for my future, and to find the resources that can meet my own care and support needs	We have a corporate charging policy which seeks to recover the full cost of services where this is legally permitted and appropriate. We will charge for social care services in accordance with the national charging framework (see Appendix 1) and maintain current charges where possible. Interest charges and administrative charges on Deferred Payment agreements in line with the regulations <i>are under consideration (see table 3)</i>
Fairness	I am paying a fair contribution to the cost of my care	We give individuals the right information about charging at the right time. We provide clear explanations of how we charge and what we charge for. We ensure individuals are given clear information about how their contributions have been calculated. We do not charge individuals more than they can afford to pay. We apply the charging rules fairly and transparently.
Equal	I understand that Swansea has a policy of fair charging	We will treat all people with dignity and respect recognising the value of each individual. Swansea is committed to eliminating all forms of

	that complies with national regulations and code of practice	discrimination on grounds of age, gender, disability, marriage or civil partnership, race, religion, beliefs, or sexual orientation. We are working towards Welsh Language standards, and the active offer to carry out services in Welsh. Public information can be requested in other formats which can be arranged on request.
Transparency	I understand my statement of charges and how they have been calculated	We give clear and simple information about charging. We give clear information about financial assessment before and during the process. We give clear explanations about how an individual contribution has been calculated. We give clear information before and during a review.
Sustainable	I expect the Council to look towards the future, as I am considering my own care and support needs and financial situation	We ensure we make full use of the range of universal services, as well as preventative and early intervention services to meet a person's own well-being outcomes. We agree to a care and support plan that is appropriate and proportionate to meet the eligible assessed need for care and support within the resources we have available. We ensure that care and support plans are reviewed regularly, and within each year, to ensure appropriateness and effectiveness is achieved as well value for money.
Voice and Control	I expect to have voice and control over decisions on my care and support plan	Where someone lacks capacity to make a decision, we will work with an agreed representative, or offer an advocate where appropriate and will act in his or her best interests in line with Part 10 of the Act

6. Charges for care and support services

The Act and Regulations specify circumstances when the authority can and cannot charge for care and support services.

The City and County of Swansea will not charge for services where it is either:

- i. Not permitted to do so by the new regulations or advised not to do so by the Welsh Government code of practice.
- OR
- ii. Where it has chosen to exercise its discretionary powers not to do so after taking into account corporate strategic priorities and population wellbeing outcomes.

All directly provided or commissioned social services, whether community based or residential, will be subject to charging, unless specifically excluded by the Act and Regulations or by the authority using its discretionary powers not to charge.

6.1 The following table details charges that cannot be made from April 2016.

Table 2 - Charges that cannot be made from April 2016.

Name of Service	Charged prior to April 2016	Chargeable under the Act/ Regulations	Charge to apply in 2016/17
Intermediate Care / Reablement – First 6 weeks after leaving hospital	No	No	No
Social Work practice	No	No	No
Assessment of care and support needs, care and support planning or conducting a review of this plan, provision of care and support plans, provision of statements of a charge, undertaking a review of a determination of a charge or a charge itself	No	No	No
Carry out a financial assessment	No	No	No
Nursing forms of care	No	No	No
Independent Advocacy (provided under Part 10 of the Act)	No	No	No
Care and support provided to those with Creutzfeldt-Jacob Disease	No	No	No
After-care services/support provided under section 117 of the Mental Health Act 1983	No	No	No
Transport to a day centre where the transport is provided by the local authority as part of meeting a person's care and support needs	No	No	No
Care and support provided to a child.	No	No	No
Care and support provided to a child who is a carer	No	No	No

6.2 The following table (table 3) details when the authority has made a discretionary decision not to impose a charge.

Table 3 – The City and County of Swansea has decided not to impose a charge from April 2016

Name of Service	Charged prior to April 2016	Chargeable under Act / Regulations Yes/ No / Discretionary	Flat Rate/ Means Tested if applied	Charge to apply in 2016/17 Yes/ No
Provision of Information and Advice	No	No	N/A	No
Assistance	No	Discretionary	Flat rate	No

Preventative Services	No	Discretionary	Flat rate	No
Day Services	No	Discretionary	Flat rate	No
Flexible Support Work	No	Discretionary	Flat rate	No
Night Time Care	No	Discretionary	Means tested	No
Carers	No	Discretionary	Means tested	No
Appointeeship	No	Discretionary	Flat rate with exemptions	Under Consideration
Transport <i>E.g. Transport costs for transport needs not included in a client's care plan</i>	No	Discretionary	Flat rate with exemptions	Under Consideration
Administrative Costs relating to Deferred Payments	No	Discretionary	Flat rate	Under Consideration
Direct Payments	No	Discretionary	Flat rate	No

6.3 The following table (Table 4) details when the authority has made a decision to impose a charge.

Table 4 - The City and County of Swansea has made a decision to impose a charge from April 2016.

Name of Service	Charged prior to April 2016	Chargeable under SSWB Act Yes/ No / Discretionary	Flat Rate/ Means Tested if applied	Charge to apply in 2016/17 Yes/ No
Residential care	Yes	Discretionary	Means tested	Yes
Home Care/ Domiciliary	Yes	Discretionary	Means tested Up to maximum charge	Yes
Respite (short term resident)	Yes	Discretionary Up to 8 weeks / episode	Means tested Up to maximum charge	Yes
Temporary resident	Yes	Discretionary Up to 52 weeks	Means tested	Yes
Reablement – 7 th week onwards	Yes	Discretionary	Means tested (temporary residential care financial assessment)	Yes

Telecare	Yes	Discretionary	Flat rate	New charges to apply subject to business case
Lifelines	Yes	Discretionary	Flat rate	New charges to apply subject to business case

Decisions to charge or not to charge under the authority's discretionary powers will be reviewed annually when setting the budget for the next financial year, or more regularly if required, and within corporate governance arrangements. These revised charges will, in normal circumstances, be applied at the start of the next financial year.

There may be circumstances, such as during 2016/17 as a transitional year under the Act, in which a new charge or change to the existing charge are required to take place during a financial year.

Any changes to charges will be subject to the normal processes of business case review, public consultation, and equalities impact assessment as required.

7. Working out how much a person will pay towards their care

7.1 The overarching principle is that people who are asked to pay a charge must only be required to pay what they can afford. The Authority must take into account, when deciding whether to charge and in setting the level of any charge, contribution or reimbursement they require to be paid or made, the principles upon which this policy is based.

People who require care and support will be entitled to financial support from the Council in certain circumstances based on their financial means and some will be entitled to care and support at no charge.

A list of City and County Swansea social care fees and charges is reviewed and published annually.

<http://www.swansea.gov.uk/socialcare>

There are three charging categories for social services:

- i. Means tested charging following financial assessment
- ii. Flat-rate charges payable without a financial assessment;
- iii. Care and support provided free of charge (exempt from charging or where discretionary powers are exercised).

A financial assessment will be carried out for all care and support that is subject to means-tested charging, provided or arranged by the Authority.

To make a financial assessment, the authority will inevitably have to ask the person subject to the financial assessment to provide detailed information about their personal and financial circumstances and will allow 15 working days for them to do so.

The Council will consider and decide cases where a service user makes a reasonable request for an extension of time i.e. longer than 15 days, giving reasons why the extension of time is required and, if refused, will give the reasons for the refusal.

7.2 No requirement for a financial assessment

There are some circumstances where a Local Authority is not required to undertake a financial assessment. They include situations where:

- i) We charge a flat rate charge for particular care and support (including for preventative services and assistance (not currently charged for)) and as such, carrying out a financial assessment would be disproportionate to the charge levied.
- ii) The person fails or declines to provide information and/or documentation reasonably required to undertake the assessment. In such circumstances we can charge the service user up to the weekly maximum charge where it applies.

NB: where only partial information is received, we can charge on the basis of available information / documentation if we consider that we have sufficient information to do so.

- iii) The person is receiving care and support for which no charge can be made

8. How a financial assessment is carried out

A financial assessment will calculate how much, if anything, a person can afford to pay towards the cost of their care (or contribute towards their personal budget) on a weekly basis.

The financial assessment should only take into account the income and capital of the person being assessed. If any type of capital is jointly held (other than land), the capital will be treated as if an equal share is held i.e. 50%, unless the authority is satisfied a greater or lesser percentage of capital is held by the person being assessed.

i) Treatment of Capital

A person's capital is taken into account in the financial assessment unless it is subject to one of the disregards. Detailed information on the treatment and calculation of capital when making financial assessments is provided in:

- **Part 4 - Care and Support (Financial Assessment) (Wales) Regulations 2015**
- **Annex A - Parts 4 and 5 Code of Practice (Charging and Financial Assessment)**

ii) Treatment of Income

In assessing how much a person can afford to pay, the authority will take into account their income. In the main, income is treated the same, whether a person is in a care home or in receipt of care and support in the community. However there are some differences between the two as to how income is treated.

Detailed information on the treatment and calculation of income when making financial assessments is provided in:

- **Part 3 - Care and Support (Financial Assessment) (Wales) Regulations 2015**
- **Annex B - Parts 4 and 5 Code of Practice (Charging and Financial Assessment)**

Some items to note:

- i. Income must be considered as net of any tax or national insurance.
- ii. The earnings of service users and their partners will be disregarded in the assessment of financial means.
- iii. Similarly the earnings of other household members whose income forms part of the assessment of financial means will also be disregarded.
- iv. Tax credits will be treated as income and will be disregarded in the assessment of financial means.
- v. Income from pensions will be taken into account in assessing service user's financial means.
- vi. Any benefits not specifically disregarded will be taken into account in determining a service user's financial means.
- vii. Partial disregards now apply to War Widows / War Widowers pensions and War Disablement pensions.

Where a service user or their representative advises the Authority of any expenses that can be disregarded as income, they will be required to provide reasonable documentary evidence of those expenses before they can be disregarded as income.

If no such evidence is provided, or the evidence provided is held to be not of a satisfactory standard by this Authority, the financial assessment will be made without disregarding the expense in question.

iii) Protected Minimum Income Threshold

Service users' contributions will be subject to a protected minimum income threshold, which is set at a level intended to safeguard their independence and social inclusion.

The calculation of the protected minimum income threshold is set out in the Regulations.

The value of the threshold is set out in List of Charges (Appendix 1 of this Policy).

8.2 Changes in Financial Circumstances

Where there is a change in a service user's financial circumstances, the service user or their representative is required to notify the Authority, so that their entitlement to financial assistance can be reassessed. Where a re-assessment changes the service user's contribution, the service user will be advised of the amended contribution to be payable from the new effective date in a revised Statement of Charges.

The effective date of the new charge will normally be the date on which the change in their circumstances occurred.

8.3 Changes in the Level of Service Provided

Where there is a change in the level of service provided, the charge for the services received may need to be reassessed.

Where a re-assessment changes the service user's contribution, the service user will be advised of the amended contribution to be payable from the new effective date in a revised Statement of Charges.

The effective date of the new charge will normally be the date on which the change in the service provision occurred.

9. Rights of citizens

This policy seeks to promote the independence and social inclusion of care and support recipients, citizens and carers.

As such due regard has been given to:

- United Nations Principles for Older Persons
- United Nations Convention on the Rights of the Child
- UN Convention on the Rights of Persons with Disabilities

as included within the Social Services and Well-being (Wales) Act 2014.

Accountability

In implementing this policy, the City and County of Swansea has put forward the legal context for this approach, our key principles for managing the changes and what is expected in terms of practice.

These charging arrangements are backed by clear lines of accountability and responsibility through the Council's corporate governance arrangements and within the social services and financial functions.

Empowerment

Each person can expect fairness, equal treatment and transparency in their journey through these charging arrangements, and where this is a human rights or mental capacity issue, they can expect to be offered advocacy to help negotiate their way through to a satisfactory conclusion.

Welfare Benefits Advice

Swansea will provide appropriate welfare benefits advice to those who receive care and support to aid them in their understanding as to the benefits to which they may be entitled. This should normally be provided by means of a personal discussion with the person in their own home by appropriately skilled staff with, if the person requests one, their representative. This advice will be extended to carers of those who receive care when requested.

Information gathered as part of the Financial Assessment can be shared with the Benefits Advice Team in order to provide welfare advice that would be beneficial to the service user.

10. Statement of Charges

The way people pay for care if they have the financial means to do so will now be uniform across Wales - there will be one set of assessment and charging arrangements for all adults who are required to pay for their care. This national charging framework will apply

to both residential and non-residential care. There are a few discretionary areas available to local authorities and these are outlined in this local policy.

The Care and Support (Charging) (Wales) Regulations 2015 require a local authority that makes a determination about the amount which it is reasonably practicable for a person to pay for care and support and to provide a statement setting out the calculation of the payment that must be made.

The regulations do not specify the exact content / format of the statement to be issued.

11. Uplifts to Charges

The Council has the flexibility to consider potential uplifts to charges on a regular basis, to take account of inflationary costs to expenditure services and where possible to operate on a full cost recovery basis.

The calculation of uplifts will as a consequence take account of amongst other things:

- Staffing costs
- Administrative costs
- Increases to rates
- Costs imposed on the Authority by external service providers.

Where appropriate a clear methodology will be used to determine uplifts, and where necessary an Equality Impact Assessment will be undertaken and public consultation as required.

12. Non-residential care

The term “**Non Residential Care**” applies to the following services:

- a) Community Based Services ie. Domiciliary / Home Care Services and Domiciliary Respite Care Services
- b) Day Care
- c) Telecare and Lifelines

Service Users who are in receipt of the services listed in points b) and/or c) in addition to the services mentioned in point a) will require a single financial assessment based on the total cost of all the services provided to determine if the person is entitled to assistance with the cost of the service.

If the services user is only receiving any of the services mentioned in b) and / or c), no financial assessment is required as flat rate charges apply.

Service Users who do not wish to take part in a financial assessment will be required to pay the full cost of the services provided, subject to a weekly maximum where applicable.

In 2011, Welsh Government announced a cap or **maximum weekly charge** on the amount councils can charge for non-residential care and support. Under section 59 of the Act, or under sections 50-53 of the Act in connection with direct payments, local authorities must not charge more than a weekly maximum charge to a person in receipt of non-residential care and support (the maximum amount is specified in Appendix 1).

The charge for care provided will be calculated as follows:

i) Community Based Services

The weekly assessed charge for Domiciliary Care is calculated by multiplying the actual hours of care by the agreed notional hourly rate. There will be no enhancement to the number of hours to reflect double manning, weekend work or out of hours visits. Likewise time spent travelling to and from a service user's home will be disregarded in arriving at the number of hours of care received. The notional hourly rate that will apply in any one year will be set by the Council.

The Hourly Rates are set out in Appendix 1 of this policy. Exceptionally, there may be a need to revise the rate during the year. The hourly rate will be no more than the full cost of the service, and will not necessarily reflect the actual cost to the Council of providing or commissioning domiciliary care services. This service is the subject of a commissioning review within the Sustainable Swansea –fit for the future programme. Any changes to charges would be considered as part of an annual review of charges.

ii) Day Services

Day services take place in a location other than a person's home. A timetable of attendance at a local authority day service for a part or whole day or number of days may be set out in the care and support plan agreed with the service user. There are no charges for day services provided for citizens within the City and County of Swansea. This service is the subject of a commissioning review within the Sustainable Swansea –fit for the future programme. Any changes to charges would be considered as part of an annual review of charges.

iii) Telecare and Lifelines

Telecare is a term used to describe a range of electronic, electrical and other devices which help to maintain an individual's independence, safety and health and wellbeing, usually, but not exclusively, within their own homes.

The most familiar example of this is the Lifeline Telephone used by many thousands of Swansea citizens to provide an immediate link to a continuously staffed call centre in an emergency.

This range of provision sometimes operates below the thresholds of current social care eligibility with a more preventative focus with a flat rate charge for lifelines to cover only part of the costs of equipment, installation and call response. Telecare for eligible people will continue to be subject to charging arrangements already in place.

13. Residential Care

For more detail refer to:

- **The Care and Support (Charging) (Wales) Regulations 2015**
- **Care and Support (Financial Assessment) (Wales) Regulations 2015**
- **Parts 4 and 5 Code of Practice (Charging and Financial Assessment)**
 - Chapter 9 Charging for care and support in a care home
 - Annex D: Deferred Payment Agreements.

a) Long Term Residential Care

When a decision is taken to charge for residential care, as with all charging, a financial assessment is then undertaken. The Authority aims to support the person to identify options of how best to pay any charge. Where a decision is taken that a person has **long term** care and support needs which are best met within residential care, then property is taken into account within the financial assessment.

The main examples of capital considered are the value of property and savings a person holds.

A person's financial circumstances may lead to the offer of a deferred payment agreement (DPA) against the value of a property taken into account within the financial assessment. Deferred Payments are described in more detail in Annexe D of the code of practice.

The Act states that a local authority **must** ensure that the person has a genuine choice and must ensure that more than one option is available within its usual commissioning rate (standard rate) for a care home of the type a person has been assessed as requiring. However, a person **must** also be able to choose alternative options, including a more expensive home.

Where a home costs a local authority more than it would usually pay, a person **must** be able to be placed there if certain conditions are met and where a third party (or in certain circumstances the resident) is willing and able to pay the additional cost.

However, an additional cost payment **must** always be optional and never as a result of a shortfall in the funding a local authority is providing to a care home to meet a person's assessed care needs. Local authorities must follow the Care and Support (Choice of Accommodation) (Wales) Regulations 2015.

This service is the subject of a commissioning review within the Sustainable Swansea –fit for the future programme. Any changes to charges would be considered as part of an annual review of charges. **Commissioning (standard) rate is also subject to annual review, as with all charges.**

b) Short Term Residential Placements (commonly known as respite care) and Temporary Residential Placements

In each case the charge will be no more than the full cost of the service, and will not necessarily reflect the actual cost to the Council of providing or commissioning domiciliary respite services.

i) Short-term residential placements (Respite Care) are those which are generally up to 8 weeks only, and in practice is likely to be 1, 2 or in exceptions 3 or 4 weeks. Persons are now to be subject to the maximum weekly charge, for short term placements, with a financial assessment. The guidance has taken into consideration that for a non-permanent resident, such an individual would still have outside daily living costs to meet (such as a mortgage) and a desire to support carers.

Where a person is a short-term resident in a care home (Respite Care) the local authority must undertake any financial assessment of a person's means as if the person were receiving non-residential care and support, or receiving direct payments for non-

residential care and support.

ii) Community Based Respite Services (Domiciliary Care and Domiciliary Respite Services)

The weekly assessed charge for Domiciliary Care and Domiciliary Respite Services will be calculated by multiplying the *actual hours* of care by the agreed notional hourly rate. Persons are subject to the maximum weekly charge, with a financial assessment. The notional hourly rate that will apply in any one year will be agreed by the Council. The hourly rates are set out in Appendix 1 of this Policy.

iii) Temporary residential placements are those where the stay is for up to 52 weeks (or in exceptional circumstances is unlikely to substantially exceed 52 weeks) and therefore fees should be charged at the residential rate with a financial assessment. If it is known from the outset that a stay will exceed 8 weeks, this should be considered a temporary placement from the outset and not a short term (respite) period.

14. Child and Family Services

The Act prevents local authorities from charging a child for the care and support they receive, or for support provided to a child who is a carer.

While the Act contains a provision to allow a parent or guardian to be charged, the Regulations and code currently preclude this on the grounds that this provision was included in the Act to “future proof” it and not by a desire to introduce such charging at this time.

The Authority must not therefore charge for care and support to a child, or for support to a child who is a carer, provided under Part 4 of the Act (Meeting needs), nor must authorities seek payment of a contribution or a reimbursement towards such costs when direct payments are being made to secure such care and support.

15. Direct Payments

See Care and Support (Direct Payments) (Wales) Regulations 2015

15.1 Under the Act it is expected that more people will be able to receive Direct Payments if preferred. This means citizens will be given the money to organise the care and support needed to meet their own agreed, well-being outcomes.

15.2 The most significant new provision of the Act is that it enables direct payments to be used to purchase care and support from the authority which made the payment as well as other providers. Also the Regulations allow direct payments to be used to cover residential care costs, for example short periods of reablement, or longer term periods.

15.3 Where direct payments are not made to the service user direct, additional conditions must be satisfied. For example, whether the payment can be used to pay relatives, where vetting is required or conditions on how the payment can be used.

15.4 In respect of direct payments, the Authority must decide whether to make net payments or gross payments. Prior to April 2016 the authority made net payments for Direct Payments and will continue to do so.

15.5 The weekly assessed charge for care and support facilitated by a Direct Payment will be calculated by multiplying the assessed hours of care set out in the care package by the agreed notional hourly rate for personal assistance. The notional hourly rate that will apply in any one year will be agreed by the Council.

15.6 Any determination of contribution towards a direct payment will be set out within the person's statement of charge.

15.7 The City and County of Swansea will seek to protect public funds from fraud, misuse, or wilful mismanagement of money or assets, and will take action to recover any monies lost as a result of such activity.

16. Other Services

Local authorities have a duty to arrange care and support for those with eligible needs, and a power to meet non-eligible needs should it wish to do so. They also now have more discretionary powers, for example:

To impose charges in relation to care and support it provides or arranges (under section 59 of the Act) See section 6 of this policy.

i) Assistance or Preventative Services

Under the Act (section 69) a local authority has discretion to choose whether or not to charge for preventative services and assistance. At present Swansea does not charge for this range of services as they are an important driver in managing future demand and building up citizens, families and communities capacity to manage their own care and support.

See Section 6 of this policy

ii) Services to Carers

City and County of Swansea commissions a ranges to services to support carers and young carers. Carers are vital in maintaining care and support at home, promoting independence and well-being. At present Swansea does not charge for the provision of support to carers.

See Section 6 of this policy

iv) Secure Estates

The charging framework also applies to people who are detained in the secure estate. Whilst detainees have restricted access to paid employment and welfare benefits (and earnings are disregarded for the purposes of financial assessments), any capital assets, savings, income and pensions will need to be considered when undertaking a financial assessment as with any other person in receipt of care and support.

v) Appointeeship

A weekly administration charge could be made in future against the income and capital assets for some service users who receive support from Social Services to manage their financial affairs where they have been assessed as lacking the mental capacity to do so (See Table 3).

17. Mental Capacity

The charging policy takes into consideration the capacity of the person as well as any medical condition or impairment they might have.

Where a person is assessed as lacking capacity to manage their own financial affairs they may still be assessed as being able to contribute towards the cost of their care and support.

Under the Act, the Authority is putting into place additional support to improve access to representation and advocacy, to enhance how they communicate, and participate in decisions, how they are involved in activities such as financial assessments and how they agree to any charges.

Swansea will work with the individual who has the legal authority to make financial decisions on behalf of the person who lacks capacity.

For example:

- a. Enduring or Lasting Power of Attorney (EPA or LPA);
- b. Department of Works and Pensions appointee;
- c. Court of Protection Deputy for property and affairs

If a person is found to lack the mental capacity to manage their financial affairs and there is no-one who has the legal authority to make financial decisions on their behalf, then an application as appointee or Court of Protection Deputy may be made by the Local Authority, if there is found to be no other suitable third party willing or able to act.

Where a person has mental capacity, they may still give their consent for another person to act as their financial representative. Where consent has been given, the Authority will work with the financial representative on matters concerning the person's (client's) financial affairs

18. Deferred Payment Agreements (DPA)

See Care and Support (Deferred Payment) (Wales) Regulations 2015

Also refer to Parts 4 & 5 Code of Practice Annex D.

The new regulations set out the conditions a person and their property must meet in order to be eligible for a deferred payment agreement, the level of a deferred payment a local authority can enter into and the arrangements regarding administration costs and interest which may be charged for setting up and operating a deferred payment agreement.

The Authority can under the regulations agree to enter into a deferred payment agreement where the person and their property meet certain conditions prescribed. Principally these are where a person has an eligible property but whose other forms of capital are under the level of the capital limit and they do not have sufficient income to meet their care costs in full.

A deferred payment agreement enables a local authority to meet the cost of a person's residential care in whole or part while placing a charge on their property as security against the deferment. As a property is not taken into account when undertaking a financial assessment for a charge for non-residential care and support, deferred payments

are only applicable in relation to residential care. A property would be included as an asset within the financial assessment based upon a professional valuation of the current sale value (this value may be subject to future revaluation).

The overall purpose of a deferred payment is to enable a person who enters a care home, and who has a property which has been taken into account in their financial assessment to set a charge for this, to exercise choice as to when or whether they sell their property to meet this charge. The aim of a deferred payment is to afford a person time to get their financial affairs in order, or time to arrange for the sale of their property where this is to occur, and to provide them flexibility as to when they sell the property.

Agreements can be for the duration of a person's stay in a care home, much shorter period as they wish, or until they decide to sell their property to pay for their residential care. The agreement may state the actual date of sale or disposal of the property, set a period such as **90 days** after the date of death of the person with whom the Authority has made the agreement, or such longer time as appropriate.

Before entering into a DPA, the Authority will provide a person with a statement of charges which will include an estimate of the administrative charges required for setting up the agreement and for the whole period when the agreement remains in force.

Termination of a Deferred Payment Arrangement- The person may terminate the agreement at any time prior to the specified time, by giving the Authority reasonable notice, in writing and paying any outstanding amounts.

19. Reviews

Parts 4 & 5 Code of Practice Annex E – Review of Charging Decisions and Determinations.

19.1 Section 73 of the Act requires the Authority to make provision for reviews of charging decisions and determinations made. The principles and requirements in place prior to April 2016 for reviews in relation to non-residential care determinations and charging decisions now apply to both residential and non-residential care determinations and charging decisions.

19.2 A person receiving care and support, either in the community or in a care home, has the right to request a review of a decision to impose a charge. Where a person feels an inappropriate decision has been made, either in the level of the charge, reimbursement or contribution or in relation to the basis upon which the decision to impose this was made, the person will be able to request the local authority to review the decision. This initial review should involve the authority itself reassessing the decision made and deciding whether its original decision was correct, particularly where further information was now available.

19.3 The review process is also extended for reviews of situations where a person has been deemed to be a liable transferee, having received an asset with the intention of avoiding or reducing charges for a person deemed to be liable for a charge. This process will provide a consistent review process for such decisions so that where a person wishes a determination in relation to charging, or the level of a charge, reviewed, they will be able to ask an authority to do this in a relatively straight forward

way and in doing so, potentially obviate the need for a person to make a formal complaint to the authority.

19.4 We will operate a review process as set out in the Regulations and code of practice to enable reviews to be sought of a determination of a charge, contribution or reimbursement, or the level of these, or where a person has been deemed to be a liable transferee.

19.5 It is hoped the vast majority of these requests would be satisfactorily resolved through the review process. However, if a service user or their representative remains unhappy with the decision after it has been reviewed then they have the opportunity to follow the complaints procedure as detailed in The Social Services Complaints Procedure (Wales) Regulations 2014.

19.6 Welsh Government Guidance on these regulations (A guide to handling complaints and representations by local authority social services) advises that a complaint or representation may be made up to 12 months after the date on which the matter which is the subject of a complaint or representation occurred. Alternatively, if later, the date on which the matter which is the subject of the complaint or representation came to the notice of the complainant or the person making the representation. However, this time limit will not apply if the local authority is satisfied that there are good reasons for a complaint or representation not being made within the time limit and, despite the delay, it is still possible to investigate the complaint effectively and fairly.

Appendix 1 - List of Charges (2016-2017)

To be reviewed annually

Charges for Services	Current charges in 2015-16	Charges to apply in 2016-17	Impact on Customer
ADULT SERVICES LONG TERM RESIDENTIAL CARE (PER WEEK)			
Council owned care homes	Means tested – up to the maximum standard charge as outlined in the categories below	Means tested – up to the maximum standard charge as outlined in the categories below	No change
• Elderly care	– £520.13	– £520.13	
• Dementia care	£520.13	£520.13	
• Learning Disability Short Term	– £1,528.49	– £1,528.49	
• Learning Disability Long Term	– £1,431.07	– £1,431.07	
• Mental Health	– £784.49	– £784.49	
• Young Adults	– £1,277.02	– £1,277.02	
Privately owned care homes	Means tested – up to the maximum standard rate charge as outlined in the categories below	Means tested – up to the maximum standard rate charge as outlined in the categories below	Change to cover uplift in fee levels chargeable by private care home providers
• Residential Care/LD Residential Care	- £495	- £511	
• Nursing Care/LD Nursing Care/Mentally Ill Nursing Care	- £510	- £527	
• Dementia Nursing Care	- £525	- £542	
• Mentally Ill Residential Care	- £489	- £505	
• YPD Residential Care	- £554	- £572	
• YPD Nursing Care	- £549	- £567	
ADULT SERVICES SHORT TERM RESIDENTIAL CARE (PER WEEK)			
Short term residential care - up to 8 weeks (known as Respite care)	Means tested, banded fee rates	Means tested – maximum contribution of £60 per week, or part thereof, per episode of respite care	Decrease in charge
Temporary residential care - up to 52 weeks, including reablement beds from week 7	Means tested, at short term residential rates: – £520.13	Means tested - up to £520.13.	No change

CHARGES TO OTHER LOCAL AUTHORITIES PER WEEK			
All Residential Care	Full cost recovery applied to charges, as allowed under CRAG regulations	Full cost recovery applied to charges under Policy key principles	No change
• Elderly care	– £520.13	– £520.13	
• Respite	– £809.55	– £809.55	
• Learning Disabilities – short term	– £1,528.49	– £1,528.49	
• Learning Disabilities– long term	– £1,431.07	– £1,431.07	
• Mental Health	– £784.49	– £784.49	
• Young Adults	– £1,277.02	– £1,277.02	
• Children’s Residential Care	– £2,708.40	– £2,708.40	
All Day Services	Contribution to full cost recovery	Contribution to full cost recovery applied to charges under Policy key principles	No change
• Elderly Services	– £38.31	– £38.31	
• Swansea Vale Resource Centre	– £101.40	– £101.40	
• Fforestfach Day Services	– £38.11	– £38.11	
• Alternative Day Services	– £31.42	– £31.42	
• Special Needs Day Services	– £92.71	– £92.71	
• Cwmbwrla Day Centre	– £35.13	– £35.13	
• Whitehorns Intensive Day Services	– £90.13	– £90.13	
CHARGES TO ABMUHB PER HOUR			
Local Authority Home Care Service	- £29.35	- £29.35	No change
ADULT SERVICES NON- RESIDENTIAL (COMMUNITY BASED) SERVICE			
Homecare / Domiciliary care	Means tested – max. charge £60 per week or part thereof, using maximum standard charges of £10 per hour	Means tested – max. charge £60 per week, or part thereof, using maximum standard charges of £10 per hour	No change
Community Care Respite Services	Means tested – max. charge £60 per week or part thereof, per episode of respite care	Means tested – maximum contribution of £60 per week or part thereof, per episode of respite care	No change

Telecare/Category 3	£5.50/week	£6.58/week - uplift due to changes in supply contract	Increase in charge to reflect increase in supply contract
Home Safety/Category 2	£3.75/week	Charges under review	No change
Lifeline/Category 1	£2.50/week	£3.58/ week –uplift due to changes in supply contract	Increase in charge to reflect increase in supply contract

Standards Rates (Direct Payments)

Personal Assistants (PA's) = £8.20 per hour

The following items have been set by Welsh Government for 2016/17 and will be used when the authority makes a financial assessment in accordance with the Act and regulations.

- **Threshold on Capital:**
£24,000.
- **Maximum weekly charge for non-residential care charges**
£60.00/week
- **Personal Allowance (Minimum Income Amount)** to people in care homes =
£26.50/ week
- **Minimum Income Amount** for a person being provided with non-residential care and support

Under this Charging Policy, the discretionary powers exercised by the Local Authority in respect of what services are charged for, exemptions, contributions or reimbursements should be reviewed annually, alongside the list of charges, for example:

- Power to impose charges (under Regulation 59);
- Whether contributions or reimbursements to charges are applicable (e.g. under Regulations 17 & 18 relating to direct payments).

Agenda Item 15.

Report of the Cabinet Member for Enterprise Development & Regeneration

Cabinet - 21 April 2016

REVIEW OF THE CITY CENTRE CUMULATIVE IMPACT POLICY

Purpose:	To seek agreement for the draft of the revised Cumulative Impact Policy/Special Policy (CIP) contained within the Council's Statement of Policy for Licensing to be issued for consultation
Policy Framework:	The Council's Statement of Policy for Licensing (July 2013)
Reason for Decision:	To enable the Authority to consult on the proposed amendments to the CIP and to comply with the requirements of the Licensing Act 2003.
Consultation:	Legal, Finance, Access to Services
Recommendation:	It is recommended that: The proposed amendments to CIP are agreed to be issued for consultation
Report Author:	Lynda Anthony
Finance Officer:	Aimee Dyer
Legal Officer:	Lyndsay Thomas
Access to Services Officer:	Phil Couch

1.0 Background

- 1.1 Under the Licensing Act 2003 (The Act) a Licensing Authority must produce and publish a statement of its licensing policy (the Policy) at least once every 5 years and the Policy must be published before it carries out any of its licensing functions.
- 1.2 During the five year period the Policy must be kept under review and subject to the requirements of the legislation, the Council can make any appropriate revisions. Any revisions to the Policy must be issued for consultation before they can be introduced.
- 1.3 The Policy was last reviewed in 2013 and as permitted under the provisions of the statutory guidance issued by the Home Office under

Section 182 of the Act (the Guidance) the Council resolved to adopt a Cumulative Impact Policy/Special Policy (CIP) for the city centre to be included in the Policy.

- 1.4 This was based on evidence provided by South Wales Police on the levels of crime and disorder in the area together with evidence from departments within the authority, including complaints relating to public nuisance. There are currently 3 areas covered by the CIP and these are:
- Wind street and the surrounding area
 - Kingsway and surrounding area
 - High Street and College Street
- 1.5 Members have requested that the CIP is now reviewed.

2.0 Cumulative Impact

- 2.1 Cumulative Impact is not mentioned specifically in the Act but it is referred to in the Guidance and is considered to be a proper matter for a licensing authority to consider in developing its licensing policy statement.
- 2.2 In the Guidance cumulative impact means *“the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area”*. Cumulative impact can occur where there is a significant number, type or density of licensed premises in an area which are causing serious problems of nuisance or disorder outside or some distance from the premises
- 2.3 The licensing objectives referred to in paragraph 2.2 are the four licensing objectives contained in the Act and these are:
- The prevention of crime and disorder;
 - Public Safety;
 - The prevention of public nuisance; and
 - The protection of children from harm

3.0 Effect of a Cumulative Impact Policy

- 3.1 The effect of a CIP is that in respect of premises located in the area covered by the CIP there is a presumption that applications for the grant or variation of premises licences or club premises certificates, which are likely to add to the existing cumulative impact, will normally be refused or will be subject to certain limitations, if relevant representations are received.
- 3.2 Refusal is normally the case unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives as a result of their application and the Authority would therefore be justified in departing from their policy in light of the individual circumstances of the case.

- 3.3 A CIP does not mean that applications will automatically be refused and “responsible authorities”, which includes the Police, Environmental Health, Fire Service, Trading Standards and the Licensing Authority or “other persons”, which includes Ward Members and members of the public, need to make relevant representations. If there are no relevant representations the licence must be granted.
- 3.4 In summary where a CIP has been adopted, for a licence to be granted, the onus is on the applicant to demonstrate that their application will not add to the existing cumulative impact in an area. Where a CIP has not been introduced/exemptions apply, a licence must be granted unless there is evidence provided by a responsible authority or other person that supports a decision to refuse the application.

4.0 Review of the CIP

- 4.1 Concern has been expressed that due to the presumption that licences will be refused in the CIP area, reputable operators of well- run licensed premises, which potentially could have a positive effect on the area, will not be attracted to the city or could be prevented from obtaining a licence due to the process involved .
- 4.2 As a result of these concerns a review of the city centre CIP was requested.
- 4.3 The review has now been completed. Officers have considered the differing impacts different types of premises could potentially have on the surrounding area and have also identified types of premises/activities that could be exempt from the CIP.

5.0 The Proposed Changes

- 5.1 To reflect the review undertaken changes have been made to the section of the policy that relates to the CIP. The review has also provided the opportunity to include other minor changes that reflect the current Guidance, changes in legislation and also to provide clarification in respect of specific matters.
- 5.2 A draft of the proposed changes to the extract of the policy that relates to the CIP is attached at Appendix A to this report. The proposed changes are identified in bold italic type and where it is proposed to remove information, this is shown by striking through the text. The reason for the change is also indicated in brackets.
- 5.3 The proposed changes to the policy are detailed below:
- A paragraph has been added at 6.1 detailing the premises the CIP may relate to;
 - Paragraph 6.3.1 has been removed and the information included in paragraph 6.3;

- Paragraph 6.6 has been amended to replace the term “interested parties” with the term “other persons”;
- Paragraph 6.7 has been amended to include details of the four licensing objectives and to provide clarification in respect of the steps to be followed when considering the adoption of a CIP.
- Paragraph 6.8 has been amended to clarify that applications will normally be refused where a special policy is in place;
- Paragraph 6.13 has been amended to include reference to all licensing objectives;
- An additional paragraph has been added at paragraph 6.22 to include details of the premises and activities that are exempt from the CIP, these are:
 - Non- alcohol led premises;
 - Theatres, where the main purpose of the premises is the performance of plays;
 - Cinemas, where the main purpose of the premises is the exhibition of films;
 - Premises where the main purpose is the provision of substantial table meals;
 - Premises where the sale/supply of alcohol is by waiter or waitress service only.
- The existing paragraph 6.22 is renumbered to 6.23 and information has been added to clarify the effect of the special policy on applications that fall within the exemptions of the CIP;
- The existing paragraph 6.23 has been renumbered to 6.24 and clarifies the procedure to be followed where relevant representations are made.
- The existing paragraph 6.24 has been renumbered to 6.25 and minor amendments have been made to clarify boundaries of the special policy areas.

6.0 Equality and Engagement Implications

- 6.1 An Equality Impact Assessment Screening form has been completed with the agreed outcome that a full Equalities Impact Assessment report is not required.

7.0 Legal Implications

- 7.1 The following are in addition to the legal implications set out in the report.
- 7.2 A special policy represents a restrictive approach to the granting of licences.

- 7.3 Under a special policy the presumption is to refuse an application / variation unless an applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the Licensing Objectives.
- 7.4 A special policy cannot be rigidly applied and each application must be dealt with on its own merits.
- 7.5 It is not sufficient simply that there is a heavy concentration of licensed premises in the area, there needs to be an evidential basis demonstrating the cumulative impact of the concentration. An authority needs to consider the evidence and be satisfied that the inclusion of a special policy is both appropriate and necessary.
- 7.6 A special policy has to be reviewed regularly to assess whether it is needed any longer or there is a need to expand .Special policies can create a stagnant pool of premises which remain largely unchanged and which are immune from competition.
- 7.7 Deficiencies in the consultation process and /or the adoption of a special policy can be challenged by way of Judicial Review. Any refusal of application pursuant to a special policy can be appealed to the Magistrates Court.

8.0 Financial Implications

- 8.1 There are no financial implications.

Background Papers: Council's Statement of Licensing Policy;
Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 – March 2015

Appendix A: Proposed amendments to the extract of the Statement of Policy for Licensing in respect of the CIP

Extract from Statement of Policy for Licensing

6. CUMULATIVE IMPACT AND SPECIAL POLICY

- 6.1 Cumulative impact means, for the purposes of this policy, the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. ***Cumulative Impact Policies (CIP) may relate to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on or off the premises and the provision of late night refreshment. This includes late night fast food outlets which are not licensed to sell alcohol. (Changes to reflect current Guidance)***
- 6.2 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. The Council when acting as a Licensing Authority will not take into consideration “need”. This is a matter for the Council in its role as a Planning Authority and for the market.
- 6.3 When acting as a Licensing Authority the Council will consider representations from a “responsible authority” or “Other Persons” regarding cumulative impact. ***A list of Responsible Authorities can be found at paragraph 20 of this policy.***
- ~~6.3.1 A list of Responsible Authorities can be found at paragraph 20~~
- 6.4 A relevant representation from a “responsible authority” or “Other Person” regarding cumulative impact must provide clear evidence that there will be exceptional problems of disorder and nuisance over and above the impact of the individual premises itself.
- 6.5 The Licensing Authority will in such cases, take into account the issue of cumulative impact but this will be addressed in the context of the individual merits of any application. Where it is considered that a licence or certificate is unlikely to add to the cumulative impact on the licensing objectives the application will be granted.
- 6.6 The Licensing Authority after considering the available evidence will consult the individuals and organisations listed in 5.1 and 5.2 above. If it determines that attaching conditions to a licence is unlikely to address the problems identified, it will consider adopting a special policy of refusing new licences. This would apply whenever relevant representations are received about the cumulative impact on the licensing objectives from responsible authorities and ***other persons*** ~~interested parties~~, which the Licensing Authority consider after hearing those representations should lead to refusal. **(Change to reflect change in legislation)**

- 6.7 The steps detailed below will be followed in considering whether to adopt ~~and subsequent adoption of~~ a special policy within the licensing policy:
- ~~Identify~~ **Identify** ~~Identification of~~ concern about crime and disorder, **public safety, protection of children from harm** or public nuisance from a “responsible authority” or “Other Person”.
 - Consideration ~~of whether it can be demonstrated that crime and disorder and nuisance are arising~~ **occurring or whether there are activities which pose a threat to public safety or protection of children from harm**
 - **If such problems are occurring, identify whether they are being** caused by the customers of licensed premises and if so identifying ~~the area from which problems are arising and the boundaries of that area;~~ or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent.
 - Consultation with those specified in paragraph 5 above.
 - Subject to the consultation, **include inclusion and publish details of the a special policy in the statement of licensing policy.** ~~about future premises licence or club premises certificate applications from that area.~~
 - Publication of the special policy as part of the statement of licensing policy.
(Changes to reflect current guidance)
- 6.8 **Where a special policy is in place** applications for new premises licences, club premises certificates or material variations will normally be refused if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants will need to address the special policy issues in the operating schedule submitted with their application to rebut the presumption of refusal of the application. If no relevant representations are received the application will be granted in accordance with the operating schedule submitted. **(Change to reflect current review of CIP)**
- 6.9 Any special policy adopted will be reviewed following a maximum period of five years to determine its effectiveness and whether or not its continued use is required.
- 6.10 The absence of a special policy will not prevent a responsible authority or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 6.11 The effect of all licensed premises in an area will be taken into account when considering a special policy.
- 6.12 A special policy will not be used to revoke a licence for a premises if representations are received regarding problems with an existing licence. Cumulative impact on the promotion of the licensing objectives will only be considered as a relevant representation when an application for the grant or variation of a licence or certificate is being considered.

- 6.13 Where it is evident that there is a problem in an area after a licence or certificate has been granted and it is clear that an individual premises is undermining the promotion of **one or more of the licensing objectives** ~~the prevention of crime and disorder objective~~ in that area, the licence will only be reviewed if representations are made about that objective by a responsible authority or other person. **(Change to provide clarification)**
- 6.14 A special policy will not be used to justify rejecting an application for variation of an existing licence or certificate except where the variation is directly relevant to the policy and is necessary for the promotion of the licensing objectives e.g. increase in capacity of a venue.
- 6.15 A special policy relating to cumulative impact will not include provisions for a terminal hour in an area.
- 6.16 A special policy will not impose quotas on the number or capacity of premises or in relation to any matter which would restrict the consideration of any application on its individual merits.
- 6.17 The Licensing Authority will have regard to the individual characteristics of each premises and the differing impact they will have on the promotion of the licensing objectives.
- 6.18 The Licensing Authority recognises that there are other mechanisms available for controlling cumulative impact once customers have left licensed premises. These include:
- Planning controls;
 - Positive measures to create a safe and clean city centre environment in partnership with local businesses, transport operators and other local authority departments;
 - Provision of CCTV, adequate taxi rank space, provision of late night public conveniences, street cleaning;
 - Powers of local authorities to designate and control areas where alcohol cannot be consumed;
 - Police enforcement in relation to disorder and anti-social behaviour;
 - Prosecution for alcohol related offences ;
 - Police powers of closure of a premises;
 - The provision to review a licence or certificate.
- 6.19 On 30th July 2013 the Council resolved to adopt a Cumulative Impact Special Saturation Policy for the following areas:
- i) Wind Street and the surrounding area as defined
 - ii) The Kingsway and the surrounding area as defined
 - iii) High Street and College Street as defined

- 6.20 The Special Policies for i) Wind Street and the surrounding area, ii) The Kingsway and the surrounding area and iii) High Street and College Street were introduced because the Authority was satisfied that it was appropriate and necessary to do so given the number of premises licensed to supply alcohol for consumption on and off the premises in these streets and the incidence of crime, disorder and public nuisance attributable to customers of such premises.
- 6.21 This action followed a report to the Cabinet of this Council on 1st November 2012. The report included crime and disorder statistics from South Wales Police, together with public nuisance statistics from the Environment Department of this Authority. The special policy was introduced following a comprehensive consultation process which was carried out between February and May 2013.
- 6.22 ***Following a review of the Special Policy in DATE TO BE ADDED it is now recognised that pubs, nightclubs, restaurants, hotels, theatres and other types of premises sell alcohol, serve food and provide entertainment but with different styles and characteristics and due to the nature of the premises will not add to existing cumulative impact. Having regard to those differences and the impact they are likely to have on the local area the following types of premises, providing certain licensable activities between the hours of 10.00am and 1.00am are exempt from the requirements of the special policy:***
- ***Non – alcohol led premises;***
 - ***Theatres, where the main purpose of the premises is the performance of plays;***
 - ***Cinemas, where the main purpose of the premises is the exhibition of films;***
 - ***Premises where the main purpose is the provision of substantial table meals;***
 - ***Premises where the sale/supply of alcohol is by waiter or waitress service only.***

(Changes to reflect current review of CIP)

- 6.23 The effect of the special policy is that ***applications for premises that are located within the special policy areas but fall within the exemptions detailed in paragraphs 6.22. of the policy, will generally be granted, subject to consideration of any relevant representations made.*** In respect of ***all other*** premises located in ~~this~~ ***the special policy*** areas, there is a presumption against granting that any application for a premises licence, club premises certificate or a variation that is likely to add to the existing cumulative impact ***will be refused***. This presumption is only relevant

to applications which trigger a relevant representation from a responsible authority or other person ~~referring~~ **which refers** to one or more of the licensing objectives ~~which~~ **that** gave rise to the **introduction of the** special policy ~~being introduced~~. If there are no such representations the Authority **MUST** grant the application in terms that are consistent with the operating schedule submitted. **(Changes to reflect current review of CIP)**

- 6.24 ~~If such~~ **Where relevant** representations are made, a Licensing Sub Committee of the Authority will hear those representations and **determine the application**. ~~conclude whether or not the presumption against granting should apply or if the application should be subject to certain limitations.~~ **For applications that fall within the requirements of the special policy,** refusal will normally be the case UNLESS the applicant can demonstrate in their operating schedule that the application will not add to the **existing** cumulative impact on one or more of the licensing objectives and that the Authority would therefore be justified in departing from the special policy in the light of the individual circumstances of the case. **(Changes to provide clarification)**
- 6.25 ~~The premises that are affected by these~~ special policy **areas** are those within the boundary defined on the plans attached at appendix A, B and C and **include premises that** have accessible entrances onto the streets within the boundary, including the streets listed in the following schedules – **(Changes to provide clarification)**

i) Wind Street and the surrounding area

- Wind Street
- The Strand to the junction with Welcome Lane
- Worcester Place
- Castle Street
- Castle Gardens
- Castle Square
- Green Dragon Lane
- Little Wind Street
- Salubrious Place
- Salubrious Passage
- Caer Street
- Princess Way
- St Mary's Street
- St Mary's Square
- St David's Place
- York Street
- Victoria Road

ii) The Kingsway and the surrounding area

- The Kingsway

- Dillwyn Street from the junctions with The Kingsway and Oxford Street
- Oxford Street from the junctions with Dillwyn Street and Princess Way
- Picton Lane
- Union Street from the junctions of The Kingsway and Oxford Street
- Park Street
- Portland Street
- Bellvue Way
- Dynevor Place
- Horton Street
- Pell Street
- Cradock Street
- Northampton Lane
- Christina Street
- Newton Street

iii) High Street and College Street

- High Street
- College Street

Report of the Cabinet Member for Environment & Transportation

Cabinet – 21 April 2016

FINANCIAL PROCEDURE RULE 7 LOCAL TRANSPORT FUND GRANT 2016-2017

Purpose:	To confirm the bid for Local Transport Fund (LTF) Grant and seek approval for expenditure on the proposed schemes and projects in 2016/17.
Policy Framework:	Local Transport Plan 2015 – 2020
Reason for Decision:	To comply with Financial Procedure Rule No. 7 (Capital Programming and Appraisals): to commit and authorise schemes in the Capital Programme.
Consultation:	Legal & Democratic Services and Finance.
Recommendation(s):	That the LTF schemes, together with their financial implications, are approved.
Report Author:	Ben George
Finance Officer:	Jayne James
Legal Officer:	Debbie Smith
Access to Services Officer:	Phil Couch

1.0 Introduction / Background

- 1.1 A funding bid for the Local Transport Fund (LTF) was submitted to the Welsh Government on 29th January 2016 in accordance with guidance from the Welsh Government. The guidance stated that there was a total funding pot of £15.7m and this would be allocated to schemes across Wales; each scheme could not bid for more than £1.5m. Whilst match funding was not a requirement of the funding bids, it was made clear that those schemes which benefited from match funding, would be more likely to receive an LTF allocation. Existing multi-year schemes, approved in 2015-16, were required to submit an updated application and for new capital schemes only one new application per local authority was permitted.

- 1.2 This report seeks approval to commit projects that are successful in securing LTF funding to the capital programme of the City & County of Swansea, in accordance with Financial Procedure Rules.

2.0 Submitted Bids

- 2.1 A total of £1,682,100 was bid for by the City & County of Swansea and the Welsh Government has subsequently allocated funding for the totality of the bid for 2016/17. The schemes and their allocations are shown in the table below:

Table One – Summary of LTF Allocation 2016/17

Scheme	Total LTF (£)	Match funding (£)	Total project cost (£)
Morfa Distributor Road	1,146,100	735,000	1,881,000
Fabian Way	453,000	0	453,000
Kingsbridge Cycle Link	65,000	0	65,000
Active Travel Mapping (see 3.3)	18,000	0	18,000
Total	1,682,100	735,000	2,417,000

- 2.2 The match funding requirements for these schemes will come from existing corporate funds and/or S106 Developer Contributions (as shown in the attached appendices).
- 2.3 In addition to the schemes for which the City & County of Swansea submitted a bid, the Welsh Government made a further allocation of £18k in support of the work required to conform to the statutory duties of the Active Travel (Wales) Act. All Welsh Local Authorities are required to prepare an Integrated Network Map for walking and cycling routes by 24th September 2017. These funds will be used to offset the cost of staff time, consultation and the preparation and printing of the maps.

3.0 Details of approved schemes

- 3.1 The projects approved for funding are summarised below.
- 3.2 Morfa Distributor Road – A £1.146m bid was submitted to facilitate the ongoing delivery of this project.

Cabinet approved a full Morfa Road programme of works on 11th February 2014. The LTF allocation will allow for the continuation of the construction. A revised schedule of the Morfa Road works and funding is set out in Appendix A.

The allocation of this funding will allow the completion of the scheme by the end of FY2016/17.

3.3 Fabian Way: This corridor has been the focus of a number of strategies and infrastructure investments in recent years in recognition of the high levels of development and growth that are being realised and forecast over the coming years. The planned works for 2016/17 will deliver two distinct bodies of work:

1. *Fabian Way Corridor Infrastructure Business Case*: Whilst the Fabian Way Corridor Study (2010) and its revision in 2013 set out the infrastructure requirements for the corridor to cater for future growth and development, the Welsh Government is keen to develop a full business case for the transport infrastructure for the corridor in order to seek a large funding allocation in partnership with the Welsh Government and South Wales Trunk Roads Agency in future years. This business case will therefore be undertaken in partnership with these two agencies, and also with Neath Port Talbot County Borough Council.
2. *Baldwins Bridge Detailed Design*: This work will build upon the options appraisal undertaken in 2015/16 to determine how this junction might be improved. The detailed design will bring this improvement to a position where the infrastructure could be delivered once a funding package is secured.

3.4 Kingsbridge Link: The delivery of the Kingsbridge Cycle Link will provide an off-road connection for the communities of Kingsbridge, Gorseinon and Grovesend to the National Cycle Network Route 4. This link is considered to be the most evident missing link in the strategic walking & cycling network within the City & County of Swansea, and would connect a substantial population to the benefits of the existing National Cycle Network Route 4. The proposed 1.4km route would link with an existing 4.9km section in the north, which links Kingsbridge, Gorseinon and Grovesend. At its southern point it would connect with National Cycle Network Route 4, which runs for a great distance to many onward destinations such as Swansea, Llanelli and Port Talbot.

Of particular significance is a recent challenge raised by parents and pupils of nearby Ysgol Gyfun Gwyr with regards to the available walking route between Kingsbridge and Gowerton. The route has subsequently been designated as an 'unavailable' walking route, which has resulted in the provision of free school transport for 140 pupils costing over £80k per year. The provision of the Kingsbridge Cycle Link would ultimately facilitate an alternative route away from the busy highways which run alongside the existing provision for pedestrians, allowing the bus services to be withdrawn.

This funding will be used to secure the land required to deliver the scheme and to undertake the detailed design of the route, such that it will be in a state of readiness for construction in the following financial year.

4.0 Equality and Engagement Implications

4.1 Equality Impact Assessments will be undertaken in line with the Council's Legislative duties.

4.2 All schemes will be designed in accordance with the national design guidance and will be compliant with the Equality Act 2010.

5.0 Financial Implications

5.1 Morfa Distributor Road (see Appendix A)

The remaining Stages will be delivered in 2016/17. The total cost of these works will be £1,881,000. The works will be funded by LTF grant of £1,146,100 and a further £735,000 from Corporate match funding.

5.2 Fabian Way (see Appendix B):

The scheme is comprised of two distinct bodies of work.

- Fabian Way Infrastructure Business Case: This is estimated to cost £200,000, which is wholly funded by LTF.
- Baldwins Bridge Detailed Design: This is estimated to cost £253,000 and will be wholly funded by LTF.

5.3 Kingsbridge Link (see Appendix C):

The scheme will deliver three elements.

- Securing the purchase of the land required for the scheme and commencing the Commons Deregistration Process: £5k
- Detailed Design of the Kingsbridge Link: £50k
- An options appraisal to consider extending the existing route from Grovesend to Pontarddulais: £10k

This scheme is wholly funded by LTF.

5.4 Active Travel Mapping (see Appendix D)

£18k has been allocated to meeting the requirements of the Active Travel Act. This scheme is wholly funded by LTF.

5.5 Claims are to be made to the Welsh Government on a quarterly basis. The grant must be claimed in full by 31 March 2016 otherwise it will be lost.

5.6 Any revenue costs arising from capital schemes will be met by existing revenue budgets.

6.0 Staffing / IT Implications

There are none.

7.0 Legal / Procurement Implications

- 7.1 The grant funding will contain terms and conditions which are legally binding. The Council will need to ensure that it is able to comply with the same.
- 7.2 All works and services required to deliver the schemes must be procured in accordance with the Council's Contract Procedure Rules and European procurement legislation as appropriate.

Background Papers: Local Transport Fund Bid Documents

Appendices:

- Appendix A – Morfa Distributor Road Financial Summary
- Appendix B – Fabian Way Financial Summary
- Appendix C – Kingsbridge Financial Summary
- Appendix D – Active Travel Mapping Financial Summary

APPENDIX A – MORFA DISTRIBUTOR ROAD FINANCIAL SUMMARY

Portfolio: PLACE

Service: HIGHWAYS AND TRANSPORTATION

Scheme : MORFA DISTRIBUTOR ROAD

1. CAPITAL COSTS	Actual 2011/13 £'000	Actual 2013/14 £'000	Actual 2014/15 £'000	Estimated Actual 2015/16 £'000	Budget 2016/17 £'000	Budget 2017/18 £'000	TOTAL £'000
Stage 1							
Design Works	34 35	36 420					70 455
Stage 2							
Design Works	110	200 40	1040	15 795			325 1875
Stage3							
Design Works	15	15	70		30 739		130 739
Stage 4							
Design Works	15		48	45 100	35 1033		143 1133
Stage 5							
Design Works	15		80	25 774	44		120 818
Contingency							
EXPENDITURE	224	711	1,238	1,754	1881	0	5,808
<u>Financing</u>							
<i>Funding acquired</i>							
WG grant LTF approved	224	580	1,100	1554	1146		4604
Addition WG Grant		131	138	100	231		600
Bus Station capital receipts				100	132		232
S106 Developer Contribution (Watkin Jones 278)					247		247
<i>Funding not acquired (Persimmon S106)</i>					125		125
WG grant RTP required Developer Contribution required							
FINANCING	224	711	1,238	1,754	1881	0	5,808

<u>2. REVENUE COSTS</u>	2011/13 £'000	2013/14 £'000	2014/15 £'000	2015/16 £'000	2016/17 £'000	2017/18 £'000	FULL YEAR £'000
<u>Service Controlled - Expenditure</u>							
Employees	)						0
	)						0
	ongoing						
	Revenue						
	costs						
	will be						
	met by						
	existing						
Maintenance	budgets						0
Equipment	)						0
Administration	)						0
NET EXPENDITURE	0	0	0	0	0	0	0

APPENDIX B – FABIAN WAY FINANCIAL SUMMARY

Portfolio: PLACE
Service : HIGHWAYS
Scheme : LTF - FABIAN WAY

<u>1. CAPITAL COSTS</u>	2016/17 £'000				TOTAL £'000
<u>Expenditure</u>					
Business Case	200				200
Baldwins Bridge	253				253
EXPENDITURE	453	0	0	0	453
<u>Financing</u>					
LTF grant	453				453
FINANCING	453	0	0	0	453

<u>2. REVENUE COSTS</u>	2016/17 £'000				FULL YEAR £'000
<u>Service Controlled - Expenditure</u>					
Employees	)				0
Maintenance	) To be met from existing budgets				0
Equipment	)				0
Administration	)				0
NET EXPENDITURE	0	0	0	0	0

**APPENDIX C – KINGSBRIDGE LINK
FINANCIAL SUMMARY**

Portfolio: PLACE
Service : HIGHWAYS
Scheme : LTF – KINGSBRIDGE LINK

<u>1. CAPITAL COSTS</u>	2016/17 £'000	2017/18 £'000	2018/19 £'000s		TOTAL £'000
<u>Expenditure</u>					
Kingsbridge Link	65				
EXPENDITURE	65				65
<u>Financing</u>					
LTF grant	65				
FINANCING	65				65

<u>2. REVENUE COSTS</u>	2016/17 £'000	2017/18 £'000			FULL YEAR £'000
<u>Service Controlled - Expenditure</u>					
Employees	)				0
	) To be met from existing budgets				0
Maintenance	)				0
Equipment	)				0
Administration	)				0
NET EXPENDITURE	0	0	0	0	0

APPENDIX D – ACTIVE TRAVEL MAPPING

Portfolio: PLACE

Service : HIGHWAYS

Scheme : LTF – ACTIVE TRAVEL MAPPING

<u>1. CAPITAL COSTS</u>	2016/17 £'000				TOTAL £'000
<u>Expenditure</u>					
Active Travel Mapping	18				18
EXPENDITURE	18	0	0	0	18
<u>Financing</u>					
LTF grant	18				18
Own resources	0				0
FINANCING	18	0	0	0	18

<u>2. REVENUE COSTS</u>	2016/17 £'000				FULL YEAR £'000
<u>Service Controlled - Expenditure</u>					
Employees	)				0
Maintenance	) To be met from existing budgets				0
Equipment	)				0
Administration	)				0
NET EXPENDITURE	0	0	0	0	0

Report of the Cabinet Member for Transformation & Performance

Cabinet – 21 April 2016

UNESCO LEARNING CITY CONFERENCE 2017

Purpose:	To seek Cabinet approval to underwrite the costs of the proposed UNESCO Learning City 2017 Conference to enable the Swansea Bay City Region to submit a bid to be the host city
Policy Framework:	Medium Term Financial Plan; <i>Sustainable Swansea – fit for the future</i> <i>Corporate Priorities</i>
Reason for Decision:	To enable the Learning City partnership to submit a bid to act as host city
Consultation:	Finance, Legal, Access to Services.
Recommendation(s):	It is recommended that Cabinet: <ol style="list-style-type: none">1. Approve the underwriting of the potential conference costs to enable a bid to be submitted to become the host city of this international conference2. Delegate officers to work with other partners to submit the bid to host the conference3. Delegate officers to seek sponsorship and grant support to reduce the financial liability to the Council.
Report Author:	Chris Sivers
Finance Officer:	Mike Hawes
Legal Officer:	Tracey Meredith
Access to Services Officer:	Sherill Hopkins

1. Introduction

- 1.1 Swansea Council has been working with Swansea University to develop a Learning City approach to encourage learning and raise aspirations.

The aim is to create lifelong learning which develops creativity, innovation and entrepreneurial skills – from pre-primary school to university and throughout life. Embedding entrepreneurial learning in schools and further and higher education was the focus of the initiative.

- 1.2 The partnership has developed over the last three years, and now also includes Gower College Swansea and the University of Wales Trinity St David's. A number of schools are also involved in the direct delivery of enterprise education.
- 1.3 In Mexico City in September 2015, Swansea received the UNESCO Learning City Award for building a Learning City, the only one in the UK, one of only three in Europe and only 12 world-wide. Other UNESCO Learning Cities include Mexico City and Beijing, so this is a significant group for Swansea to be a part of. In February 2016, Swansea Bay City Region was accepted as a member of the UNESCO Global Network of Learning Cities. Swansea has recently had visitors from Ireland, Japan and Uganda on study visits to learn more about the work taking place locally.

2. UNESCO Learning City Conference 2017

- 2.1 UNESCO Learning City holds an international conference every two years – the first being held in Beijing in 2013 and the second in Mexico City in 2015. They are currently advertising for a host city for the 2017 conference and have issued a call for invitations.
- 2.2 Initial conversations with the partners involved have scoped the provision in Swansea against the UNESCO requirements. With support from all partners and particularly Swansea University, Swansea has the capacity and capability to host this conference. Initial costs are in the region of £350,000. These will be subject to change, depending upon requirements unknown at this stage including security arrangements. The main costs are associated with transport (including airport transfer), translation, and the costs of the study visits to share good practice. Delegates themselves pay for air fares, accommodation and any additional stays.

3. Process

- 3.1 The business case application must be submitted to UNESCO by the end of April. Partners are confident at this stage that additional financial support in the form of grants and sponsorship will be forthcoming, although it is not yet in place.
- 3.2 In order to ensure that the application for host city is sound, it is prudent for the partnership to seek support to underwrite the conference. On this basis, agreement is sought for the Council to underwrite the conference costs which are currently projected as £350,000. Officers will undertake risk analysis to seek to contain future rises.

3.3 Officers will seek to negotiate and lobby other organisations across South West Wales to take part in this conference, and to provide financial support.

4. Potential benefits

4.1 The conference will be the third international UNESCO Learning City conference. The 2015 conference in Mexico City drew more than 600 delegates from over 100 countries. Delegates included:

- Minister of Education, Mexico City
- Vice Minister of Education, Mexico
- Vice Minister of Education, Brazil
- Assistant Director-General for Education, UNESCO
- Deputy Secretary General, Beijing
- Mayor of Mexico City
- Deputy Mayor of Espoo, Finland
- President of International Council of Adult Education
- Director of Education, Microsoft Mexico
- Director for Education and Skills, Organisation for Economic Cooperation and Development (OECD)
- Lord Mayor of Dublin, Ireland
- Mayor of Okayama, Japan
- Mayor of Sorocaba, Brazil
- Lord Mayor of Gaziantep, Turkey
- Mayor of Siheung City, Republic of Korea
- Deputy Mayor of Larissa, Greece
- Executive Vice President of Shanghai Academy of Educational Sciences
- Public Policy Director for Intel Mexico
- Managing Director of Kings Group of Companies, India
- Pro-Rector, Polytechnic University, Mozambique
- Permanent Technical Secretary, Ministry of Education, Benin
- Vice President, Bahir Dar University, Ethiopia
- Mayor of Balanga, Phiippines
- Chairman of Advisors to the Governor of Bangkok, Thailand
- Mayor of Matale, Sri Lanka
- Superintendent of Education, San Francisco, USA
- Mayor of Ybycui, Paraguay
- Deputy Mayor of Medellin, Colombia.

4.2 The delegates would be in Swansea for the conference which lasts three days, though many will wish to stay longer. Hotels and student accommodation will be utilised. The majority of the proceedings will take place at the Bay Campus of Swansea University, with the Gala Dinner at Brangwyn Hall.

4.3 Benefits to Swansea are many and include:

- Opportunity for Swansea to demonstrate the City and County as an opportunity for inward investment
- Significant reputational enhancement within Wales, the UK and internationally
- Opportunity to showcase excellence in practice within Swansea schools and businesses
- Spin-off expenditure of a large number of international visitors
- Identification of Swansea as a 'safe' place to send international students
- Identification of Swansea, Gower and Wales as a significant tourist destination
- Opportunities for the further and higher education institutions to demonstrate their offer to international students.

5. Equality & Engagement Implications

There are no Equality and Engagement Implications at this stage of the proposal.

6. Financial Implications

- 6.1 The proposal is for the Council to initially guarantee to underwrite the costs of the conference, estimated at £350,000, with an intention to seek support from other partners to play their part in generating income and supporting the conference. The intention between now and the conference date (summer 2017) is to attract sponsorship, income and grants from third parties to offset the conference costs.
- 6.2 Current costs are estimated and, as with any event planned this far ahead, may be subject to change as more detailed proposals are developed.
- 6.3 Any cost to the Council will have to be met from the 2017/18 budget and, as such, provision will have to be made for such costs during the annual budget cycle for that year by which time the level of residual cost to be covered will be clearer. Preferably the Council should seek to meet any costs from within existing service budgets which, given the lead in time of 15 months, should be feasible in terms of financial and operational planning.
- 6.4 Cabinet will be kept informed of any developments which might materially affect the financial data given in this report.

7. Legal Implications

- 7.1 In order to protect the Council's interests, it will be prudent for the partners to enter into a MOU or inter agency agreement which will provide clarity in relation to such matters as identifying a host partner to lead the bid on behalf of the other partners and to clarify the extent of the liabilities and indemnities between the partners in relation to the share of the projected costs; any increases in projected or actual costs; withdrawal of a partner from the bid.

Background Papers: None.

Appendices: None

Agenda Item 18.

Report of the Head of Legal & Democratic Services

Cabinet – 21 April 2016

EXCLUSION OF THE PUBLIC

Purpose:	To consider whether the Public should be excluded from the following items of business.	
Policy Framework:	None.	
Reason for Decision:	To comply with legislation.	
Consultation:	Legal.	
Recommendation(s):	It is recommended that:	
1)	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.	
	Item Nos.	Relevant Paragraphs in Schedule 12A
	19-22	13,14 & 15
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	Patrick Arran – Head of Legal & Democratic Services (Monitoring Officer)	

1. Introduction

- 1.1 Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, allows a Principal Council to pass a resolution excluding the public from a meeting during an item of business.
- 1.2 Such a resolution is dependant on whether it is likely, in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 100I of the Local Government Act 1972.

2. Exclusion of the Public / Public Interest Test

- 2.1 In order to comply with the above mentioned legislation, Cabinet will be requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendation(s) to the report on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Exclusion Paragraphs of Schedule 12A of the Local Government

Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.

- 2.2 Information which falls within paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 2.3 The specific Exclusion Paragraphs and the Public Interest Tests to be applied are listed in **Appendix A**.
- 2.4 Where paragraph 16 of the Schedule 12A applies there is no public interest test. Councillors are able to consider whether they wish to waive their legal privilege in the information, however, given that this may place the Council in a position of risk, it is not something that should be done as a matter of routine.

3. Financial Implications

- 3.1 There are no financial implications associated with this report.

4. Legal Implications

- 4.1 The legislative provisions are set out in the report.
- 4.2 Councillors must consider with regard to each item of business set out in paragraph 2 of this report the following matters:
 - 4.2.1 Whether in relation to that item of business the information is capable of being exempt information, because it falls into one of the paragraphs set out in Schedule 12A of the Local Government Act 1972 as amended and reproduced in Appendix A to this report.
 - 4.2.2 If the information does fall within one or more of paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended, the public interest test as set out in paragraph 2.2 of this report.
 - 4.2.3 If the information falls within paragraph 16 of Schedule 12A of the Local Government Act 1972 in considering whether to exclude the public members are not required to apply the public interest test but must consider whether they wish to waive their privilege in relation to that item for any reason.

Background Papers: None.

Appendices: Appendix A – Public Interest Test.

Public Interest Test

No.	Relevant Paragraphs in Schedule 12A
12	Information relating to a particular individual.
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 12 should apply. His view on the public interest test was that to make this information public would disclose personal data relating to an individual in contravention of the principles of the Data Protection Act. Because of this and since there did not appear to be an overwhelming public interest in requiring the disclosure of personal data he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
13	Information which is likely to reveal the identity of an individual.
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. His view on the public interest test was that the individual involved was entitled to privacy and that there was no overriding public interest which required the disclosure of the individual's identity. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
14	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. His view on the public interest test was that:</p> <p>a) Whilst he was mindful of the need to ensure the transparency and accountability of public authority for decisions taken by them in relation to the spending of public money, the right of a third party to the privacy of their financial / business affairs outweighed the need for that information to be made public; or</p> <p>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</p> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

No.	Relevant Paragraphs in Schedule 12A
15	<p>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 15 should apply. His view on the public interest test was that whilst he is mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them he was satisfied that in this case disclosure of the information would prejudice the discussion in relation to labour relations to the disadvantage of the authority and inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
16	<p>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>
	<p>No public interest test.</p>
17	<p>Information which reveals that the authority proposes: (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) To make an order or direction under any enactment.</p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 17 should apply. His view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by the public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
18	<p>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 18 should apply. His view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

Agenda Item 19.

By virtue of paragraph(s) 14 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

Agenda Item 20.

By virtue of paragraph(s) 14, 15 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

By virtue of paragraph(s) 14, 15 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

Agenda Item 21.

By virtue of paragraph(s) 13, 14 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

Agenda Item 22.

By virtue of paragraph(s) 14 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

By virtue of paragraph(s) 14 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

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